



Provider Forum

February 10, 2015

1:00 PM

Agenda

Welcome and Updates	Beth Lackey, Provider Network Director
Telepsychiatry and Telemedicine Parameter	
Performance Contract Measures Changes in Eligibility Requirements	
Partners Training Academy	Janet Noblett, Training Coordinator
Community Needs Assessment	Jamie Sales, Network Development
Provider Council	Margaret Mason
Western Regional Partnership Miscellaneous/Wrap Up	Beth Lackey, Provider Network Director



Domain	Outcome	Measures		
		Mental Health	Substance Abuse/Use	I-DD
1. Claims Accuracy	Increase Provider Claims Approval Rate	Provider must have a claims approval rate at or above 80% in each quarter of the fiscal year per funding source. (applies to provider specific denial reasons, not LME/MCO issues)		
2. UM Authorizations Approval	Increase Authorization Approval Rates	Provider must demonstrate an authorization approval rate on service requests is at or above 75% during the Partners' identified quarter of each fiscal year (example, July, August, September 2015) –across all services and all providers		
3. NCTOPPs Compliance	Increased timeliness of 3 month interview submissions	95% of all Provider 3 month interview submissions will be in compliance with timely submission requirements. (for all providers required to submit NCTOPPs)		
4. Access to Care	Increase access to care	<ul style="list-style-type: none"> • 97% of consumers in crisis receive a face to face assessment based on presentation and acuity if Emergent within 2 hours • 90% of consumers in crisis receive face to face based on presentation and acuity if Urgent within 48 hours • 80% of consumers will be seen for services that are referred for routine needs within the following timeframes, but at least within 7 days of referral <ul style="list-style-type: none"> ○ Open access – same day/next day for assessment ○ Non open access – within 7 days of referral consumer is seen for assessment 		

Domain	Outcome	Mental Health	Substance Abuse/Use	I-DD
5. Timeliness of Care and Engagement	Increased timeliness of care	60% of consumers will receive 2 visits in 14 days including intake/assessment appointment	60% of consumers will receive 2 visits in 14 days including intake/assessment appointment	60% of consumers will receive their 1 st visit within 30 days of authorization

Provider Contracts Performance Measures Approved December 9, 2014 – Baseline Tracking begins in January 2015

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Communication Bulletin #40

CUSTOMER SERVICE

CHANGES IN ELIGIBILITY REQUIREMENTS - REVISED

CONSUMERS WITH THIRD PARTY LIABILITY (PRIVATE INSURANCE) EFFECTIVE IMMEDIATELY

1. Consumers with Private Insurance (regardless of policy coverage) are not eligible for State funded services and will not be enrolled to a State Benefit Plan unless they are emergent and in need of Mobile Crisis.
2. Exceptions to #1 **may** be made **on a case by case basis for IDD consumers only** who have Private Insurance, are ineligible for Medicaid, and are in need of a service funded only by a State Benefit Plan.

CONSUMERS WITH MEDICARE ONLY EFFECTIVE MARCH 1, 2015

1. Customer Service will enroll a Medicare only consumer to a State Benefit Plan **only** if they are triaged as emergent and in need of a Mobile Crisis service.
2. Customer Service **may** approve an Enrollment Request, submitted by a provider, for a Medicare only consumer, if the consumer meets medical necessity for a service not covered by their Medicare benefit plan and there is not a comparable service available that is reimbursable by Medicare. **(FACILITY BASED CRISIS EXCLUDED)**

REVISION - CONSUMERS WITH MEDICARE ONLY

1. A consumer with Medicare only should **never** be enrolled to a State Benefit Plan or authorized to receive a State funded service when there is a comparable service available that is reimbursable by Medicare. **Example: A consumer with Medicare only is not eligible to receive Facility Based Crisis** and will not be enrolled to a State Benefit Plan for this purpose, because they have a payer source (Medicare) that will cover hospital level inpatient services and they should be referred to that level of inpatient care when necessary.

2. **#1 does NOT apply for Medicare/Medicaid consumers**

CHANGES IN CUSTOMER SERVICES PRACTICES

1. As of Friday, January 26, 2015, Customer Service stopped dispatching Mobile Crisis to the local County Jails to provide crisis services.

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Telepsychiatry: The Perils of Using Skype

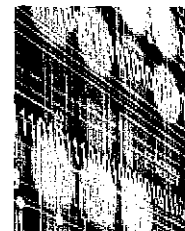
Blog | [March 28, 2013](#) | [Telepsychiatry](#)

By [Marlene M. Mahou, PhD](#) and [Joseph Mcmenamin, MD, JD](#)

First released in 2003, Skype offers free, worldwide video access to any patient with an Internet connection, either by mobile device or desktop computer. What it does not offer, however, is a means of communication clearly suitable for clinical services—especially in mental health. According to estimates reported by groups such as the Institute for Healthcare Consumerism, telehealth is poised to grow by 55% in 2013 alone, and 6-fold by 2017.^{1,2} Wisely or otherwise, some of this growth will likely occur via Skype. Thus, it is prudent to consider the issues.

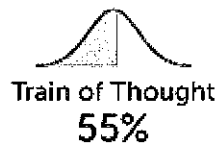
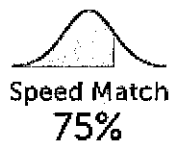
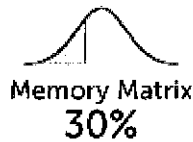
The Health Insurance Portability and Accountability Act

Ordinarily, neither federal nor state law is designed to regulate specific proprietary



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entities such as Skype and its competitors. Video-chat platforms were developed for marketing to the general consumer, and not for health care. The Health Insurance Portability and Accountability Act (HIPAA) holds professionals responsible for conducting their own internal risk assessments regarding their chosen technologies. Before using any equipment, the professional should require documentation that explicitly promises "HIPAA compliance" or "HIPAA compatibility." One could take further comfort in a designation of Federal Information Processing Standard (FIPS) certification, a standard that may meet and exceed HIPAA standards.³

HIPAA requires the use of equipment that allows for audit trails. According to the American Health Information Management Association, audit trails allow breaches to be traced.⁴ Like other proprietary platforms, Skype makes it impossible to conduct approved security audits via audit trails. Skype itself is not covered by HIPAA. HIPAA's scope is restricted to providers, insurers, and health care clearinghouses that bill any patient's health insurance electronically (or use a billing service that submits claims electronically), even if the client in question is self-pay.⁵

It is not certain that HIPAA applies to clinical use of Skype. If Skype were strictly a conduit for information, it might not satisfy the definition of a business associate. Text-based messages exchanged by parties using Skype, however, are stored for at least 6 months, likely making Skype more than a "simple conduit."

Furthermore, as soon as one opens his computer or smart device, Skype's settings allow it to automatically issue a real-time notice to everyone in one's contact list, announcing that the person is now online. Skype also has had a problem with recurring hacks, such as the breach reported on November 14, 2012.⁶ Considering all these problems, whether HIPAA strictly applies to Skype becomes academic: the risks are not to be ignored.

Legislation

In light of newly enacted, sweeping changes in privacy law, technology choice is more of a concern. Under these updated HIPAA rules, a professional's "business associates" also have direct specific compliance obligations.⁷ Even if Skype is not a business associate, imposing compliance requirements directly on business associates, and not just indirectly through business associate agreements, implies renewed emphasis on enforcement.

In response to alleged physician violations of norms of online professionalism, state regulators have recently stepped up their enforcement. The HHS Office for Civil Rights (OCR) has also been hard at work. Since OCR publishes monthly, enforcement of HIPAA has been sharply increasing,⁸ with private practices being the primary target for scrutinizing HIPAA violations. [Subscribe to OCR's listserve to

stay informed, OCR-Privacy-List.]

If a particular state law privacy or security requirement is more restrictive than HIPAA, then state law trumps HIPAA and the Health Information Technology for Economic and Clinical Health ("HITECH") Act. Among other provisions, HITECH increases the penalties that may be imposed for HIPAA violations and makes business associates directly liable for HIPAA violations. In some states (eg, Texas, California), privacy and security regimens are quite sophisticated and detailed. Issues related to privacy and security potentially involve jurisdiction of 3 sovereigns—the US federal government in Washington, DC; the practitioner's state capital; and, maybe the patient's state capital.

In a noteworthy statement regarding Skype, the National Association of Social Workers (NASW)⁹ has stated:

Following the recommendations and protocols suggested by professional and security experts is valuable to reduce the risks of inadvertent disclosure of confidential mental health information when using Skype to provide confidential mental health services; however, use of Skype or similar VoIP communications systems still presents some privacy risks. Expanding access to mental health services in rural or underserved areas is an important value fostered by the availability of Skype services, but professional social work standards for security and privacy of data at this time are better supported by the use of electronic services and communications programs that are dedicated to the delivery of secure telemental health services and that offer detailed HIPAA compliance information and/or HIPAA Business Associate agreements.^{9(p2),10}

Disclosure

A well-crafted informed consent document, combined with well-considered intake procedures, may diminish exposure to tort liability on consent theories. Considerations for such documents may include a discussion of power outages, for example, including their

unpredictability. Whether the exchange will be recorded is pertinent to the informed consent process. Accurate documentation of informed consent demonstrates that after the provider disclosed the inherent risks, the patient said, "I understand and I still want to proceed." In some states, however, this approach can fall short with vulnerable populations: the mentally ill, minors, those with protected conditions such as HIV, and other groups.

No informed consent process or agreement with a patient who will be using technology to mediate care will be adequate for all situations in all states of the US or foreign countries. Choosing technology wisely is of importance to mental health professionals, not only as we practice, but also as we make referrals to colleagues.

Professionals should inquire whether they might be held responsible for referrals to practitioners who are not informed of the risks of using consumer-grade as opposed to health-grade technology for care. Some HIPAA compatible platforms are available for \$30 to \$150 per month for unlimited use. [Note: A list of over 50 HIPAA compatible video teleconferencing (VTC) platforms is maintained at the TeleMental Health Institute.]

Conclusion

This area of the law is still in a relatively primitive state. It is apt to change considerably over time. Practitioners offering services at a distance are well advised to keep abreast of developments in the field, and to adapt their practices accordingly

It would be entirely possible to comply perfectly with applicable federal and state regulations and statutes and still face liability exposure as a result of using Skype or competing Web-based platforms. If an expert (this can merely be "someone in your field") is prepared to say that in spite of compliance with applicable, positive law, statutes, and regulations, your decisions represented a departure from what reasonable people in your field would do under similar circumstances, and if someone can make a colorable claim of having been harmed as a result of this alleged departure from accepted practice, nothing else may be required to create a jury issue and thus liability exposure.

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What are the risks, relative to iCloud technology when using Skype? In that there exists the ability for hackers/government security to access all IT exchanged. Is there really any strong guards in place anywhere that protect consumers 100%? I don't think so. Measures can be taken but guarantees cannot be made. Professional liability insurance is as important as the required HIPAA disclosures.

Cynthia @ Fri, 2014-04-18 14:06

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