



COVID-19 GUIDANCE FOR PROVIDERS OF IMPAIRED DRIVER SCREENING AND ASSESSMENT SERVICES

November 17, 2020

Dear Providers of Impaired Driver Screening and Assessment Services:

New York State's reopening occurred in phases, on a regional basis, based on specifically defined data metrics. Please familiarize yourselves with the plan, New York Forward (<https://forward.ny.gov/>), as well as the Regional Monitoring Dashboard.

Telehealth

Tele-practice is still the preferred method of providing treatment, whenever possible.

In-person individual sessions may occur with masks/face coverings and while maintaining social distancing, but providers should still consider the risks vs benefits of in-person sessions for each client in the context of continued COVID-19 infection risk.

On March 17, 2020, the Office for Civil Rights (OCR) in the US Department of Health and Human Services published a Notification of Enforcement Discretion for telehealth remote communications during the COVID-19 nationwide public health emergency. The notification is effective immediately and remains in place for the duration of the COVID-19 national emergency.

The notice grants providers flexibility to use certain videoconferencing technologies, even if not fully compliant with HIPAA. OCR announced that it will not penalize providers for noncompliance with applicable HIPAA requirements based on providing telehealth services in good faith using any non-public facing remote communication product.

Healthcare providers may use any non-public-facing remote communication product to communicate with patients (e.g., Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, Skype for Business / Microsoft Teams, Updox, Vsee, Zoom for Healthcare, Doxy.me, Google G Suite Hangouts Meet or Skype are all explicitly permitted). Until further notice, OASAS-approved providers of impaired driver services are encouraged to continue to use these remote means of communication rather than meeting with clients face-to-face. Providers should advise patients of the potential privacy risks with using such interfaces, and they should use all encryption and privacy modes, to the extent available. Public-facing video applications are not permitted (e.g., Facebook Live, Twitch, Tik Tok are expressly excluded).

The requirement for face-to-face screenings and assessments in Section 5(B) and Section 5(G) of the OASAS Standards for Clinical Services Provided to Individuals Arrested for an Impaired Driving Offense (the "Standards") is waived during the current public health emergency.

Consent

Consistent with OCR's guidance on March 19, 2020, SAMSHA issued guidance advising providers subject to 42 CFR Part 2 that with the increased need for telehealth services in some

situations, providers may not be able to initially obtain written client consent for disclosure of substance use disorder records. Providers may use e-mail, fax machines, or US mail to send consent forms to clients and to receive signed consent forms back from clients. Alternatively, providers initially may obtain consent verbally from clients, document the client's verbal consent in the client's record, and then obtain written consent as soon as practical. Providers must still comply with Section 8(A)(6) of the Standards, by obtaining a signed and dated IDS-specific consent form (a signed form transmitted via e-mail or fax is acceptable).

Toxicology Testing

For outpatient programs, toxicology testing can resume but should occur only in the context of an in-person program visit for another reason, and the risks vs benefits of in-person procedures (including risk to clients during transport to/from the program) should be considered for each client in the context of continued COVID-19 infection risk. In general, toxicology should not be frequent and for some clients may still not occur at all.

Private practitioners can now send clients to approved labs to complete the required toxicology testing. As a reminder, to the extent that you are able to determine if a client has a diagnosis of substance use disorder based upon the criteria *other than* toxicology testing results, you may do so. You will need to document this in the client's chart.

IDS System

The IDS System remains operational. Providers must continue to enter all required information into the IDS System. Please note, however, that auto-drop processes will be suspended until further notice during the current public health crisis.

DMV

DMV has resumed select services. You can make reservations for limited in-person transactions at state-run DMV offices in regions that are in at least Phase 3 of reopening. Reservations will be required and will only be offered for a limited number of critical services that cannot be done online or by mail or via dropbox. For more information, see <https://dmv.ny.gov/more-info/dmv-reopening-guidance>. Questions regarding DMV should be directed to: <https://dmv.ny.gov/contact-dmv>.