



**Bureau of Early Intervention  
Technical Assistance**

April 1, 2020

**Additional Frequently Asked Questions Related to Virtual Early Intervention Visits  
During COVID-19 Declared State of Emergency**

**Updated March 30, 2020: Telehealth/virtual early intervention (EI) services may be provided until further notice during the declared state of emergency for COVID-19.**

**Essential Services**

23. Are early intervention (EI) services considered essential services?

Response: Early Intervention (EI) has been deemed an essential service and it is expected that EI services will be delivered using teletherapy, to the maximum extent possible. However, Local Health Department (LHD) directives can be more stringent. If the LHD has suspended EI service provision in the county, or only allows for virtual services, providers must comply with this directive.

**Qualified Personnel – Occupational Therapy Assistants and Physical Therapy Assistants**

**Updated March 30, 2020**

24. Are Occupational Therapy Assistants (OTA) and Physical Therapy Assistants (PTA) allowed to provide telehealth services during the COVID-19 emergency?

Response: Yes. The Bureau of Early Intervention consulted with the State Education Department, Office of the Professions. OTAs and PTAs are permitted to provide virtual early intervention services during the declared state of emergency. Virtual services furnished by OTAs and PTAs must meet the customary supervision requirements under the practice acts for occupational therapy and physical therapy. Services delivered by OTAs and PTAs must also meet the “under the direction of” (UDO) requirements of the Centers for Medicare and Medicaid Services (CMS) outlined below.

“Under the Direction Of” (UDO) Requirements

“Under the direction of” means that the qualified practitioner (that is, the supervising occupational therapist for OTAs and the supervising physical therapist for PTAs):

- Sees the student at the beginning of, and periodically during, treatment;

- Is familiar with the treatment plan as recommended by the referring physician, or other licensed practitioner of the healing arts practicing under State law;
- Has input into the type of care provided;
- Has continued involvement in the care provided and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time, as necessary, directly supervising services to ensure students are receiving services in a safe and efficient manner, in accordance with accepted standards of practice;
- Ensures that providers working under his or her direction have contact information to permit them direct contact with the supervising therapist, as necessary, during the course of treatment; and
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment of each student.

## **Platform**

25. Can telehealth/virtual services be delivered by telephone only or a combination of telephone and text message?

Response: No. Providers and their families must have the necessary platform to conduct virtual therapy services. This means that the service must include both video (visual) and audio components for the entire duration (minimum of 30 minutes) of the authorized visit. If the technology fails and the full authorized session is not delivered, it is not billable.

26. How will telehealth/virtual services be provided if families do not have internet access?

Response: Please be aware that not all platforms require internet access. Any non-public facing remote communication product that is available to communicate with families for the entire duration of the authorized EI visit is permissible during this state of emergency. Please see the following link for guidance from the U.S. Department of Health and Human Services (HHS) -- <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>. Families can also check with their local internet service providers on how to obtain internet service.

The following options may be helpful to support families with limited or lack of access to devices and services:

### **Free Wi-Fi/Internet**

Charter Communications (Spectrum) and Comcast are giving households with K-12 and college students, and those who qualify as low-income, complimentary Wi-Fi for 60 days. Families who do not have the service will also receive free

installation. Both companies are expanding Wi-Fi hotspots to the public within the company's available regions.

Call (844) 488-8395 (Charter/Spectrum) or (855) 846-8376 (Comcast) to enroll. Individuals must call the company after 60 days to cancel, or they will be automatically billed.

### **Unlimited Data**

Charter, Comcast, AT&T, and Verizon are offering unlimited data plans to customers until May 13, for no additional charge.

### **Safelink Wireless**

Eligibility requirements must be met, which are set by each State where the service is provided. To qualify for Lifeline, subscribers must either have:

- An income that is at or below 135% of the federal Poverty Guidelines, **or**
- Participate in one of the following assistance programs:
  - Medicaid;
  - Supplemental Nutrition Assistance Program (SNAP) (formerly known as food stamps);
  - Supplemental Security Income (SSI);
  - Federal Public Housing Assistance (Section 8); or
  - Veterans and Survivors Pension Benefit.

Service is limited to one person per household. Call 1-800-SafeLink (723-3546) for enrollment and plan changes support.

Subscribers can use their own phones:

- SafeLink Keep Your Own Smartphone plan requires a compatible or unlocked Smartphone. Most GSM Smartphones are compatible.
- Subscribers can get up to 350 minutes and 3GB of data, which includes voice minutes and unlimited texts, voicemail, nationwide coverage and 4G LTE on 4G LTE compatible devices.

Source: *Medicaid Update Special Edition*, issued on March 21, 2020 by the New York State Department of Health.

## **Parental Consent Documentation/Service Log Documentation**

27. What is the difference between a session note and a service log?

Response: Session notes and service logs are two different things. Early Intervention Program regulations at 10 NYCRR section 69-4.26(c) – which are referenced in the response and pasted here for convenience – explain that providers must maintain original signed and dated session notes and a service log signed by the parent or caregiver which documents that the service was received by the child on the date and

during the period of time as recorded by the provider. Service logs are not a recommendation, they are a requirement in EIP regulations.

#### 10 NYCRR section 69-4.26

(c) Individual providers who directly render services to a child and family, or an approved provider agency, shall maintain original signed and dated session notes, following each child and family contact, which shall include the recipient's name, date of service, type of service provided, time the provider began delivering therapy to child and end time, brief description of the recipient's progress made during the session as related to the outcome contained in the individualized family service plan, name, title, and signature of the person rendering the service, and date the session note was created; and a service log signed by the parent or caregiver which documents that the service was received by the child on the date and during the period of time as recorded by the provider.

28. What is the recommended approach to obtain signatures on the NYS EIP "Consent for the use of Telehealth during Declared State of Emergency for COVID-19" documentation, if the family does not have a printer and is unable to sign the consent document and email it back to the provider?

Response: During this declared state of emergency, if the parent is unable to print and sign the document, it is sufficient for the parent to email the provider with the following statement "this email serves as my written consent to utilize telehealth to receive Early Intervention services during the COVID-19 Declared State of Emergency" (insert name of parent/guardian) (insert date). Upon receipt of this email consent statement, telehealth services can be initiated. However, it is the expectation of BEI that the parent's signature be obtained on the "Consent for the use of Telehealth during Declared State of Emergency for COVID-19" document as soon as possible via the US Mail, fax or email to ensure that there are no billing or audit issues. For audit purposes, the provider should retain both the signed consent document and the email from the parent consenting to utilize telehealth.

#### **Individualized Family Service Plan (IFSP)/Session Length/Makeup Sessions**

29. If consent is obtained from parents/guardians, can IFSPs that are expiring/ending during the dates of the state of emergency be extended until the end of the emergency timeline? If so, can "family/child illness" be the reason choice?

Response: During the declared state of emergency, an IFSP may be extended with appropriate consent from the parent and the early intervention official/designee (EIO/D). Such extension will only be valid for the duration of the declared state of emergency.

## **Operational/Logistical Questions**

30. If a child who resides in New York is temporarily out of state due to the COVID-19 emergency, can early intervention services be provided remotely?

Response: Yes. According to State statute, the municipality where the child resides is responsible for providing services. In the case where a child and family's residence has not changed, virtual EI services may be provided in accordance with the services included in the child's IFSP during the declared state of emergency.

31. Current guidance states that virtual services are allowed until April 6, 2020. Will this date be extended if the state of emergency is extended?

Response: The Department will communicate any changes to the issued emergency telehealth/virtual services guidance, including any extension of such guidance.

### **Updated March 30, 2020**

#### **Telehealth/virtual early intervention (EI) services may be provided until further notice during the declared state of emergency for COVID-19.**

32. Can providers deliver telehealth/virtual sessions with an individual-facility Service Authorization (SA)? What about performing telehealth/virtual sessions with a group service SA? It seems that any SA for a service that is center-based would require a SA change on the IFSP to home-based first. Some agencies do not have state approval for home/community service. Is there an expedited way to add that to an agency approval?

Response: During the declared state of emergency, it is permissible to use an individual facility-based service authorization for billing purposes when furnishing individual telehealth/virtual EI sessions, if all other requirements have been met, including consent from the parent/guardian for delivery of telehealth services. The session would be billed as a facility-based visit at the facility rate.

As noted in the initial guidance, group services cannot be delivered utilizing telehealth/virtual sessions. However, the child's IFSP may be amended to reflect individual services, if appropriate. When determining if changing to individual service delivery is appropriate, the IFSP team should give consideration to the outcomes being addressed utilizing group services and how/if those outcomes could be achieved by modifying the service from a group model to a telehealth/virtual individual model. For example, if the group service is to address outcomes related to socialization skills development, peer interaction, etc., an individual telehealth/virtual session may not be appropriate to address those outcomes and an IFSP amendment is not advisable.

Please be aware that in some municipalities EI staff may be deployed to work on COVID-19 activities, which may affect the timeliness and feasibility of modifying IFSPs and service authorizations during this declared state of emergency.

If an agency needs to amend their provider approval during the current declared state of emergency, they may email the Provider Approval Unit at [provider@health.ny.gov](mailto:provider@health.ny.gov).

33. Is the EI number on the “Consent for the use of Telehealth during Declared State of Emergency for COVID-19” document the NYEIS reference number?

Response: Yes, the “EI Number” field on the sample “Consent for the use of Telehealth during Declared State of Emergency for COVID-19” template is to record the child’s NYEIS reference number.

34. What service authorization number should go on the “Consent for the use of Telehealth during Declared State of Emergency for COVID-19” documentation?

Response: The service authorization (SA) number on the Consent for the use of Telehealth during Declared State of Emergency for COVID-19” documentation should reflect the SA number of the service being delivered as a telehealth/virtual EI service. New service authorizations are not required if there is a current service authorization for an EI service that will now be delivered virtually, and such service is included in a child’s current IFSP.

35. When entering claims for telehealth/virtual sessions, is billing the same as for a face to face session? Which location code should be used?

Response: Yes, providers should continue entering bills/claims as normal including location codes. Providers must document in session notes that the visit was delivered using telehealth.

36. With closures and/or ongoing rolling decisions on closures, will payments made for invoiced EI services maintain as per the current schedule of payments?

Response: The Department does not anticipate any delays in the processing of claims as per the regular schedule.

## **Transition from Early Intervention**

### **Updated March 30, 2020**

37. Some children who are currently in the evaluation process with the Committee on Preschool Special Education (CPSE) have not had their initial Individualized Education Program (IEP) meeting to determine eligibility. These children may not be able to sit for their eligibility meeting or be able to complete evaluations prior to their third birthday, due to the state of emergency. What will happen with EI services in these situations?

Response: It is anticipated that in some instances, parental consent to refer their child to the Part B preschool special education program may be in place and that some children currently receiving EI services who are turning three may receive their evaluation for preschool special education services virtually during this declared state of

emergency. If these conditions are met, children found ineligible for Part B preschool education services must be discharged from the EIP timely (the day before their third birthday). Those children found eligible for Part B services would either continue receiving EI services or transition to preschool special education services at age three years, in accordance with Public Health Law section 2541(8)(a)(i) and (ii).

If the parent consents to referral of their child who is currently receiving EI services and turning age three to determine eligibility for preschool special education services, but obtaining an evaluation and Part B eligibility determination is not feasible prior to the child's third birthday due to the COVID-19 emergency, such child may remain in the EIP until a Part B eligibility determination can be made or June 30, 2020, whichever comes first. As always, children who receive preschool special education services under section 4410 of the education law may not also receive EI services. Additional guidance will be forthcoming on virtual transition conferences.