




Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
www.mass.gov/masshealth

MassHealth
Adult Foster Care Bulletin 29
April 2023

TO: Adult Foster Care Providers Participating in MassHealth

FROM: Mike Levine, Assistant Secretary for MassHealth 

RE: **COVID 19 Flexibilities and Telehealth Guidance after the End of the Federal Public Health Emergency**

Background

On January 31, 2020, the United States Secretary of Health and Human Services determined that a nationwide public health emergency had existed since January 27, 2020. The Secretary renewed the Federal Public Health Emergency (FPHE) on April 21, 2020, July 23, 2020, October 2, 2020, January 7, 2021, April 15, 2021, and July 19, 2021. On January 30, 2023, the Secretary announced that the FPHE will end on May 11, 2023.

Due to the decision by the Secretary to end the FPHE, MassHealth is issuing this bulletin, effective May 12, 2023. It will replace all prior FPHE-related bulletins, specifically Adult Foster Care (AFC) Bulletins 18, 19, and 21.

Introduction

This bulletin communicates provider requirements that were suspended during the FPHE and that will be enforced after the FPHE ends. It also communicates changes in requirements implemented during the FPHE that will continue past the end of the FPHE.

This bulletin applies to members receiving adult foster care (AFC)/group adult foster care (GAFC) services on a fee-for-service basis, including members enrolled in the Primary Care Clinician (PCC) Plan who receive AFC/GAFC services.

Flexibilities Ending May 11, 2023

PCP Physical Examination Requirements

Physical examinations of members performed on and after May 12, 2023, must be done in person by the member's Primary Care Provider (PCP) to meet requirements for AFC or GAFC initial evaluations or reassessments, in accordance with 130 CMR 408.431(B), 408.430(C), 408.521(C), and 408.522(B), and related recordkeeping requirements.

Waiver of Caregiver and Employee Physical Examinations and Tuberculosis Screenings Before the Start of Services or Employment

For members starting services on and after May 12, 2023, and employees hired on and after May 12, 2023, physical examinations and tuberculosis screenings of AFC caregivers and AFC and GAFC staff must be done before the start of services (for an AFC caregiver) or before employment (for GAFC direct care aides and AFC and GAFC provider employees) in accordance with 130 CMR 408.433(A), 408.434(A), 408.524(A), and related recordkeeping requirements.

Waiver of PCP and Member Signatures

Physician summary forms and PCP order forms submitted on and after May 12, 2023, must be signed by a MassHealth actively enrolled ordering and referring provider.

Flexibilities Continuing with Modification on May 12, 2023

Telehealth

MassHealth AFC providers and GAFC providers may deliver clinically appropriate, medically necessary MassHealth-covered AFC/GAFC services to eligible MassHealth members via telehealth (including telephone or live video), in accordance with the standards in this bulletin and notwithstanding any regulation to the contrary, including physical presence requirements in regulation at 130 CMR 408.000.

The Executive Office of Health and Human Services (EOHHS) is not imposing specific requirements for technologies used to deliver services via telehealth and will allow reimbursement for MassHealth-covered AFC/GAFC services delivered via telehealth, as long as such services are medically necessary and clinically appropriate and delivered in accordance with this bulletin. Providers are encouraged to use appropriate technologies to communicate with individuals and should, to the extent feasible, ensure the same rights to confidentiality and security as provided in in-person services. Providers must inform members of any relevant privacy considerations.

EOHHS does not require providers to deliver AFC/GAFC services via telehealth and may continue to provide services in-person as necessary or appropriate. AFC/GAFC providers must clearly document in the member record if the member refuses an in-person visit.

AFC and GAFC providers may use telehealth for

- Level I AFC home visit structure – telehealth may be used for up to three nonconsecutive visits in a 12-month period;
- Level II AFC home visit structure – telehealth may be used for up to six nonconsecutive visits in a 12-month period;
- GAFC home visit structure – telehealth may be used for up to three nonconsecutive visits in a 12-month period;
- Level I AFC admission visit – may be done in person/on-site or via telehealth;

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- Level II AFC admission visits - for the first month of service, the first and last admission visits must be done in person/on-site, the two weekly visits in between may be conducted via telehealth;
- GAFC admission visits –for the first month of service, the first and last admission visits must be done in person/on-site, the two weekly visits in between may be conducted via telehealth; and
- Extraordinary circumstances resulting from unusual and unavoidable circumstances that substantially impede the ability of the provider to conduct a visit or other AFC/GAFC program requirement in person that can be directly addressed by use of telehealth. This may include, but is not necessarily limited to, staffing shortages due to illness and/or medical leave (such as Family Medical Leave Act absences). In these limited instances, the AFC/GAFC program director must document the approved temporary telehealth use. Further, for each use of telehealth for extraordinary circumstances, the AFC/GAFC provider must document the description of the extraordinary circumstance, the timeframe during which the extraordinary circumstances necessitated the telehealth visits, which types of visits are permitted to be conducted by telehealth, and how the use of telehealth is narrowly tailored to address this extraordinary circumstance. Such documentation must be made available upon request by EOHHS or other appropriate auditor. The AFC/GAFC provider must also document in the relevant member record each visit that occurred via telehealth in accordance with this bulletin. If telehealth use extends past three months, the AFC/GAFC provider must contact MassHealth for approval and must provide a deadline by which the use of telehealth for extraordinary circumstances will conclude. Such use of telehealth to address extraordinary circumstances cannot be used for caregiver or direct care aide assistance with activities of daily living or instrumental activities of daily living, including cueing and supervision of such activities.

Adult foster care and group adult foster care providers may not use telehealth for

- Caregiver or direct care aide assistance with activities of daily living or instrumental activities of daily living, including cueing and supervising such activities; and
- Initial evaluations and reassessments, including reassessments based on significant change.

AFC/GAFC providers must conduct both initial and annual member home inspections in person/on-site.

Member Consent

Providers must get verbal consent from a member, and the member's caregiver/legal guardian if applicable, before beginning AFC/GAFC services via telehealth. Providers must also document the consent in the member's record.

In obtaining the member's consent, providers must provide the member with a statement explaining

- what telehealth involves;
- what is expected from the member, as well as the AFC/GAFC provider;

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- any relevant privacy considerations; and
- that the member may revoke, at any time, their consent to receive services via telehealth.

Documentation Requirements and Billing Instructions

All relevant documentation requirements of 130 CMR 408.000 and 130 CMR 450.000 apply when AFC and GAFC services are delivered via telehealth. In addition to such requirements, the visit note must include

- that the service was provided via telehealth; and
- the rationale for service via telehealth.

Providers must bill the same procedure codes for services delivered via telehealth as appropriate for services delivered in person.

Failure to maintain documentation requirements for services delivered via telehealth may result in sanctions pursuant to 130 CMR 450.238-450.240.

MassHealth Website

This bulletin is available on the [MassHealth Provider Bulletins](#) web page.

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Questions

If you have questions about the information in this bulletin, please contact the Long Term Services and Supports (LTSS) Provider Service Center.

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