



Kevin Corbett | Chief Executive Officer

J. Kevin Stitt | Governor

OHCA 2023-10

May 19, 2023

RE: Post-PHE HIPAA Compliancy for Telehealth & Audio-only Services

Dear Provider,

When the public health emergency (PHE) ends on May 11, 2023, the U.S. Department of Health and Human Services' Office for Civil Rights (OCR) stay of enforcement for using HIPAA-compliant platforms and devices for telehealth will lift. Providers using non-HIPAA-secure platforms will need to transition to a platform for healthcare use.

On April 11, 2023, OCR [announced](#) that it is providing a 90-calendar day transition period for covered health care providers to come into compliance with the HIPAA Rules with respect to their provision of telehealth. The transition period will be in effect beginning on May 12, 2023 and will expire at 11:59 p.m. on August 9, 2023. OCR will continue to exercise its enforcement discretion and will not impose penalties on covered healthcare providers for noncompliance with the HIPAA Rules that occurs in connection with the good faith provision of telehealth during the 90-calendar day transition period.

In June 2022, OCR issued [FAQs](#) on healthcare services delivered via telehealth (audio/video) and audio-only telecommunication to provide additional clarification, including how you can continue to use audio-only modalities after the PHE. HIPAA-covered entities can use remote communication technologies to provide telehealth services, including audio-only services, in compliance with the HIPAA Privacy Rule.

- Providers should offer telehealth services, including audio-only services, in private settings to the extent possible.
- If providers cannot offer telehealth or audio-only services in a private setting (e.g., a provider shares an office with a colleague or family member), the provider should implement reasonable safeguards such as avoiding speakerphones and lowering their voice to reduce disclosures of Protected Health Information (PHI).



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- If the individual is not known to the covered entity, the entity must verify the identity of the individual either orally or in writing (which may include using electronic methods).
 - The U.S. Department of Health and Human Services does not specify how this should be done, but any identity verification tools must be accessible to those with disabilities and/or individuals with limited English proficiency.
- The HIPAA security rule does not apply to landline telephones, as they do not create electronic (PHI); however, cellular technology and Voice over Internet Protocol (VoIP) are rapidly replacing landlines; the security rule does apply to these forms of communication.
 - Business associate agreements with telecommunication service providers may be required. (See question 2 of the FAQs for more information).

Thank you for your continued service to Oklahoma's SoonerCare members.

Sincerely,

A handwritten signature in black ink, appearing to read "Traylor Rains". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Traylor Rains
State Medicaid Director