EM - Emergency Message                      Effective Date: 12/17/2021

A. Purpose

This Emergency Message (EM) temporarily expands the use of video teleconferencing technology for consultative examinations (CEs) during the COVID-19 national public health emergency. In addition, this EM now permits limited use of telehealth consultative examinations (THCEs) for speech and language CEs during the COVID-19 national public health emergency. This EM replaces EM-20015 SEN REV 2.

B. Background

1. Expanding platforms for telehealth technology

During the COVID-19 national public health emergency, the Department of Health and Human Services (HHS) has temporarily modified enforcement of the Health Insurance Portability and Accountability Act (HIPAA) Rules in connection with the good faith provision of telehealth using non-public facing audio or video communication products. HHS is temporarily allowing use of popular applications that allow for video chats to
provide telehealth services. For more information, see Notification of Enforcement Discretion for Telehealth Remote Communication During the COVID-19 Nationwide Public Health Emergency (HHS Notification).

Consistent with the HHS Notification mentioned above, we are issuing these emergency procedures for Disability Determination Services (DDS) to temporarily permit CE providers to use video technology to conduct certain CEs if the claimant or beneficiary (or, as applicable, parent of a minor child or legal guardian) voluntarily agrees to accept the associated privacy risk.

**IMPORTANT:** The HHS Notification regarding enforcement of HIPAA Rules and this EM does NOT permit the use of public facing applications such as Facebook Live, Twitch, TikTok, and similar, public facing video communication applications to conduct THCEs. For a list of some non-public facing video application sites that may be HIPAA-compliant, see the HHS website.

2. Limited authority for speech and language CEs using video technology

We currently allow psychiatric CEs and psychological CEs that do not require standardized testing using audio and video equipment within the SSA network (DI 22510.012). To assist in providing timely CEs to our claimants and beneficiaries during the COVID-19 national public health emergency, beginning in May 2020, we allowed psychiatric THCEs and psychological THCEs that do not require standardized testing to be completed using video technology applications outside of the Social Security Administration (SSA) network.

We are working diligently to expand THCEs so we can continue to adjudicate claims efficiently, and we granted limited use of alternative video technology for speech and language CEs as outlined in Section C.2.c.

C. Policy

1. General guidelines
a. **Definition of a telehealth consultative examination (THCE)**

A THCE is a consultative examination that uses audio and video technology to allow remote interaction between a CE provider and a claimant or beneficiary.

**NOTE:** For the remainder of this EM, we will use "claimant" to refer to both claimants and beneficiaries.

b. **Temporarily approved video technologies and locations during COVID-19 national public health emergency**

During the COVID-19 national public health emergency, a THCE may be conducted with a claimant at a residence or other private location using alternative video technologies. Specifically, DDS may permit the use of non-public facing audio or video applications allowed by the HHS Notification during the COVID-19 national public health emergency only if:

- All guidance in the HHS Notification is followed,
- The HHS Notification remains in effect,
- CE providers enable all available encryption and privacy modes when using such applications, and
- The claimant (or, as applicable, the parent of a minor child or legal guardian) voluntarily accepts the privacy risks associated with use of the application.

**NOTE:** Even though under the HHS Notification CE providers may use non-public facing but potentially non-secure applications, CE providers should use more secure video options, if possible.

**IMPORTANT:** The HHS Notification regarding enforcement of HIPAA Rules does NOT permit the use of public facing applications, such as Facebook Live, Twitch, TikTok, and similar, public facing video communication applications to conduct CEs. For a descriptive list of non-public facing video applications that are permitted, see
c. **Claimant minimum technology and environment requirements**

For THCEs, the claimant must:

- Have a reliable internet connection,
- Use a camera-enabled device with a microphone, such as a smartphone, tablet, laptop, or desktop computer, and
- Participate from a private, quiet environment conducive to the examination.

**NOTE:** For specific speech and language THCE technology requirements, see Section C.3.a.

**IMPORTANT:** If the claimant is not able to meet the minimum technology and environment requirements, DDS will schedule an in-person CE.

2. **Types of THCEs:**

DDS may schedule a THCE for the following types of examinations:

a. **Psychiatric CEs**

b. **Psychological CEs without standardized testing**

c. **Speech and language CEs**

For children, we are authorizing speech and language THCEs with standardized testing for claimants who are at least 5 years old and whose:

- Primary language is English, or
- Primary language is Spanish in accordance with the requirements in Section C.3.b.

For adults, we are authorizing speech and language THCEs for claimants whose:

- Primary language is English, or
- Primary language is Spanish in accordance with the requirements in Section C.3.b.

3. **Specific speech and language THCE requirements**

a. **Claimant minimum technology and environment requirements**

For the speech-language pathologist (SLP) to obtain accurate test data, the claimant must use a tablet, laptop, or desktop computer because a smartphone screen is too small for standardized tests.
b. **Speech and language THCEs in Spanish**

When scheduling a speech and language THCE with a claimant whose primary language is Spanish, the CE provider must:
- Be fluent in Spanish, and
- Use standardized tests published in Spanish when evaluating children.

**NOTE:** Standardized tests published in Spanish are not required when evaluating adults.

4. **Conducting a THCE**  
   a. **Proper identification (ID)**

   The CE provider must verify the identity of the claimant.

   If the claimant is an adult or a child with a government-issued photo ID, the claimant must show the ID over the video connection as evidence of identity.

   If the claimant is a child without a government-issued photo ID:
   - The claimant must show, over the video connection, an original ID document as evidence of age and identity, such as a government-issued non-photo ID (e.g., birth certificate) or a nongovernment-issued photo ID (e.g., student ID), or
   - The CE provider must include a physical description of the claimant in the CE report.

   **NOTE:** If the claimant is an adult and does not have the required ID, DDS will schedule an in-person CE.

   **IMPORTANT:** If the CE provider is unable to verify the identity of the claimant, the CE provider will terminate the THCE and DDS will schedule an in-person CE.

b. **Technology and environment permit proper evaluation**

   The CE provider must confirm that both he or she and the claimant can adequately see, hear, and participate in the THCE.
IMPORTANT: If the claimant or CE provider is unable to adequately see, hear, or participate, the CE provider will terminate the THCE and DDS will schedule an in-person CE.

5. Specific CE report content for THCEs

Follow existing policy for CE report content guidelines for all CEs (DI 22510.015) and the type of examination (DI 22510.048, DI 22510.060, DI 22510.102, or DI 22510.112). In addition, the CE report must include:

- A statement that the CE was conducted using video technology, and
- The name of the video application used.

D. Business Process

1. Before scheduling the THCE

a. Requirement to consent to participate in a THCE

DDS or Office of Hearings Operations (OHO) must contact the claimant (or, as applicable, the parent of a minor child or legal guardian) to do the following:

- Explain the need for a CE and obtain consent to participate in a THCE by technology that may not be secure, and
- Obtain or confirm the claimant’s (or, as applicable, parent of a minor child or legal guardian’s) email address if the THCE appointment information is sent by email.

IMPORTANT: DDS may make this contact by telephone or by letter. However, OHO must make this contact by telephone.

b. Requirements for who must consent

For adults, the claimant (or, if applicable, legal guardian) must consent to participate in a THCE.

For children under age 12, the parent or legal guardian must consent to participate in a THCE.

For children age 12 until attainment of age 18,
both the claimant and the parent or legal guardian must consent to participate in a THCE.

**IMPORTANT:** Do not schedule the THCE unless the appropriate individuals consent to participate. If the claimant is unable to consent due to limitations in mental capacity, DDS will schedule an in-person CE.

c. **Obtaining consent in cases with an appointed representative (AR)**

If the claimant has an appointed representative (AR), DDS and OHO must contact the AR to obtain permission to contact the claimant (or, as applicable, parent of a minor child or legal guardian) directly before contacting by telephone.

If the AR refuses to allow direct contact by telephone:
- DDS will send the letter with a copy to the AR.
- OHO will request an in-person CE for case types allowed under EM-20019 SEN REV 4. OHO will hold other case types until in-person CEs are resumed.

For more information on contacting a represented claimant, see DI 31001.010 and GN 03910.050.

**NOTE:** Document the telephone conversation (i.e., consent or lack of consent to contact the claimant) in an SSA-5002 (Report of Contact). DDS will upload the SSA-5002 to the certified electronic folder (CEF) for electronic cases and file in Section E - Disability Related Developments (Blue) for paper cases. OHO will upload the SSA-5002 to the CEF for electronic cases and to the Electronic Non-Medical (ENM) application for paper cases. Disability Case Processing System (DCPS) users may document the telephone conversation using Case Notes and should ensure it is copied to the Case Development Worksheet, which is the official record of all development activities and is uploaded to the CEF. Electronic Claims Analysis Tool (eCAT) users may document the telephone conversation using Claims...
Communications and should ensure it is signed and applied so that it is displayed in the Disability Determination Explanation (DDE).

d. **Contact by telephone - DDS and OHO**

When contacting the claimant (or, as applicable, parent of a minor child or legal guardian) by telephone, DDS and OHO will:

- Verify the individual's identity consistent with existing policy for disclosure and identity (DI 39567.210 and GN 00203.020),
- Advise the individual that personal information will be collected during this telephone call, and
- Ask the individual to take steps to ensure privacy before proceeding with the script.

Read aloud the following script, which provides required information for the claimant (or, as applicable, parent of a minor child or legal guardian) to determine his or her willingness to participate in a THCE, and solicits consent needed to proceed with scheduling the CE by a technology means that may not be secure. In addition, answer questions, if applicable.

**SCRIPT:**

<Claimant, Parent of Minor Child, or Legal Guardian Name>

- I am contacting you because we need additional medical information for your (or your child or a person for whom you serve as a legal guardian’s) disability claim with the Social Security Administration. We are requesting that you (or the person for whom you are acting) attend a consultative examination to help us make a decision on your (or his or her) claim.
- The Social Security Act allows us to collect the information you provide, which we will use to schedule the consultative examination. Providing this information is voluntary, but not providing such may prevent an accurate and timely decision on your (or the person for whom you are acting’s) claim. As law permits, we may disclose your information per routine uses in
our Electronic Disability Folder System of Records Notice, all available at www.ssa.gov/privacy. We may also use it in computer matching programs to establish or verify eligibility for Federal benefit programs and debts under these programs. You may locate the full Privacy Act statement on the Telehealth Consultative Examination Agreement Form.

- Due to the COVID-19 national public health emergency, it is difficult to provide in-person consultative examinations. We are allowing some types of consultative examinations to be conducted by video technology instead of in person. A telehealth examination allows you (or the person for whom you are acting) to attend the appointment from your home or other private location using a camera-enabled device with microphone, such as a smartphone, tablet, laptop, or desktop computer.

- Before you agree to attend the telehealth consultative examination, we want to make sure you know that some of the video technologies currently used for these exams may not be secure, which could put your (or the person for whom you are acting’s) personal information at risk by allowing unauthorized third parties to access personal information.

- We will notify you prior to the examination which video technology the examination provider will use. You (or the person for whom you are acting) may be asked to agree to third-party terms and privacy policies of the video technology provider. Neither the State Disability Determination Services (DDS) nor the Social Security Administration control the terms of service or privacy policies of the third party technology.

- You can opt out of a telehealth examination at any time if you have any privacy concerns.

- You (or the person for whom you are acting) must present a government-issued photo identification (ID) over the video
connection. You (or the person for whom you are acting) can provide ID documents, such as a United States (U.S.) State-issued driver's license, U.S. State-issued ID card, U.S. passport, U.S. military ID, or U.S. tribal ID. For a child who does not have a government-issued photo ID, you may present an original government-issued non-photo ID document, such birth certificate, or a nongovernment-issued photo ID, such as a student ID.

- While we cannot guarantee complete privacy for these exams, are you willing to participate (or have the person for whom you are acting participate) in a consultative examination voluntarily using video technology?
- Do you acknowledge and accept that there may be a privacy risk to your (or the person for whom you are acting’s) personal information if you (or the person for whom you are acting) attend a consultative exam using video technology?
- If at any time you change your mind about attending a consultative examination using video technology, you may ask us to postpone the examination by calling the DDS at <XXX-XXX-XXXX>. If you ask us to postpone the examination, there may be a delay, but it will not otherwise affect our decision on your (or the person for whom you are acting's) claim.

If the claimant (or, as applicable, the parent of a minor child or legal guardian) consents to attend, and the THCE appointment is sent by email, read the following:

- We must confirm or obtain your email address for the DDS or the CE provider to send you the telehealth consultative examination appointment information.
- What is your email address or can you confirm your email address if already provided?

**NOTE:** Document the telephone conversation (i.e., consent or lack of consent to attend the
THCE) in an SSA-5002 (Report of Contact), including the date and time of the conversation, along with a copy of the script. DDS will upload the SSA-5002 to the CEF for electronic cases and file in Section E - Disability Related Developments (Blue) for paper cases. OHO will upload the SSA-5002 to the CEF for electronic cases and to the ENM application for paper cases. DCPS users may document the telephone conversation using Case Notes and should ensure it is copied to the Case Development Worksheet, which is the official record of all development activities and is uploaded to the CEF. eCAT users may document the telephone conversation using Claims Communications and should ensure it is signed and applied so that it is displayed in the DDE.

**IMPORTANT:** If the claimant (or, as applicable, the parent of a minor child or legal guardian) does not have internet access or requests a copy the full Privacy Act statement for his or her records, send the full Privacy Act statement by letter.

e. **Contact by letter - DDS**

When contacting the claimant (or, as applicable, the parent of a minor child or legal guardian) by letter, DDS will send the Telehealth Consultative Examination Agreement Form in the enclosed template. OHO must contact the claimant (or, as applicable, the parent of a minor child or legal guardian) by telephone.

[Telehealth Consultative Examination.pdf](Telehealth%20Consultative%20Examination.pdf)

If the claimant (or, as applicable, parent of a minor child or legal guardian), completes, signs, dates, and returns the form acknowledging potential risks and agreeing to proceed, DDS may schedule the THCE without contacting the claimant (or, as applicable, parent of a minor child or legal guardian) by telephone and documenting the conversation per Section D.1.c. For guidelines on who must consent, see Section D.1.b.
If the claimant (or, as applicable, the parent of a minor child or legal guardian) does not respond to the letter, follow existing policy for requesting evidence or action (DI 22505.014, DI 25205.020, and EM-20019 SEN REV 4).

**REMINDER:** Fax or scan the signed acknowledgement form into the CEF.

**NOTE:** If the claimant (or, as applicable, parent of a minor child or legal guardian) contacts DDS by telephone after receiving the letter, answer questions, if applicable, and document the conversation per Section D.1.c. If DDS obtains the required information by telephone, there is no need for the claimant (or, as applicable, parent of a minor child or legal guardian to return the form.

2. **Scheduling the THCE**

If the claimant (or, as applicable, parent of a minor child or legal guardian) consents to participate in a THCE, and the consent is documented in accordance with Section D.1., DDS will proceed with scheduling the THCE.

a. **CE appointment notice from the DDS by letter**

Follow existing policy for the CE appointment notice and confirmation (DI 22510.016).

In addition, the CE appointment notice must include the name of the specific video technology to be used, and either:

- The instructions for how to use the chosen technology, and
- The web address for the appointment, or
- A statement that the CE provider will send the instructions for how to use the chosen technology and the hyperlink for the appointment.

In addition, the CE appointment notice must include the following statement:

*If you are concerned about the selected video technology for your (or the person for whom you are acting’s) appointment, you may ask us to*
reschedule the examination. Asking us to reschedule the examination may delay but will not otherwise negatively affect our decision on your (or the person for whom you are acting's) claim. If you ask to reschedule, we will hold your (or the person for whom you are acting's) claim until we can reschedule the examination in person, or using video technology you agree to, or until we receive adequate evidence to make a decision.

b. CE appointment reminder from the DDS by telephone or by letter

Follow existing policy for CE appointment notice follow up and reminders (DI 22510.019).

c. CE appointment information from the DDS or CE provider by email

The email for the THCE may include:
· The name of the claimant (or, as applicable, parent of a minor child or legal guardian),
· The appointment date and time,
· The hyperlink to the appointment, and
· The instructions for how to use the chosen technology.

The email cannot mention the appointment is for a disability claim, the type of appointment, or include any personally identifiable information (PII) (e.g., SSN or date of birth) about the claimant other than that authorized in the bullets above. For more information on using email to send PII, see AIMS GAM 15.04.07.

3. Assistance requests (AR)

DDS will process ARs submitted by OHO (or, if applicable, other adjudicating components) for THCEs that meet all of the following conditions:
· The request is for a psychiatric CE, a psychological CE without testing, or speech and language CE in accordance with the requirements in Section C.2.c.
· The requesting office has contacted the claimant (or, as applicable, parent of a minor child or legal guardian) and has obtained consent in accordance with the requirements in Section D.1.,
The requesting office has documented the claimant’s (or, as applicable, parent of minor a child or legal guardian) agreement in accordance with requirements in Section D.1.

**NOTE:** If the AR does not meet all of the above requirements, DDS may reject the AR. For OHO instructions on submitting the AR, see [CJB 19-04 SEN REV 4](#).

Direct all program-related and technical questions to your Regional Office (RO) support staff or Processing Service Center (PSC) Operations Analysis (OA) staff. RO support staff or PSC OA staff may refer questions or problems to their Central Office contacts.

Office of Quality Review (OQR) personnel should direct questions to their local management.

OHO personnel should direct questions to local management. OHO managers may seek guidance from the RO. RO managers may refer questions or unresolved issues to the Division of Field Procedures in the Office of the Chief Administrative Law Judge.

**References:**

- [DI 22505.014](#) Requesting Evidence or Action from the Claimant or Third Party
- [DI 22510.012](#) Use of Video Teleconferencing Technology for Psychiatric and Psychological Consultative Examinations
- [DI 22510.015](#) Information for Consultative Examination (CE) Source
- [DI 22510.016](#) Claimant Consultative Examination (CE) Notice and Confirmation Procedures
- [DI 22510.019](#) Consultative Examination (CE) Appointment Notice Follow up and Reminder
- [DI 22510.048](#) Pediatric Consultative Examination (CE) Report Content Guidelines for Mental Disorders
- [DI 22510.060](#) Pediatric Consultative Examination (CE) Report Content Guidelines for Speech and Language (SL) Impairments in Children Age 3 and Older
- [DI 22510.102](#) Adult Consultative Examination CE Report Content Guidelines for Special Senses and Speech Disorders
- [DI 22510.112](#) Adult Consultative Examination (CE) Report Content Guidelines for Mental Disorders
- [DI 25205.020](#) Failure to Cooperate and Insufficient Evidence in
Title XVI Disabled Child (DC) Cases

**DI 31001.010** Disability Determination Services (DDS) Responsibilities When an Appointed Representative is Involved

**DI 39567.210** DDS Disclosure of SSA Information

**GN 00203.020** Identity of Claimants

**GN 03910.050** Contacting a Represented Claimant

**EM-20015 SEN REV 2** Scheduling Video Consultative Examinations during the Coronavirus Disease 2019 (COVID-19) National Public Health Emergency – Revised 2

**EM-20019 SEN REV 4** Disability Determination Services (DDS) Procedures – Coronavirus Disease 2019 (COVID-19) Crisis

OMB No. **0960-0555** Disability Case Development Information Collections

**AIMS GAM 15.04.07** Additional Procedures Related to Using Email (or Other Approved Methods) to send PII

**CJB 19-04 SEN REV 4** Changes to the Hearing Process Due to the Coronavirus Disease 2019 (COVID-19) Pandemic