

For Historical Reference Only

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**EM -
Emergency
Message**

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Identification Number: EM-20015 SEN REV 2
Intended Audience: RO/DDS/DPU/DPB/ESTs/ODP/OHO/OQR/CPO
Originating Office: DCO ODD
Title: Scheduling Video Consultative Examinations during the Coronavirus Disease 2019 (COVID-19) National Public Health Emergency – Revised 2
Type: EM - Emergency Messages
Program: Title II (RSI); Title XVI (SSI); Disability
Link To Reference: See **References** at the end of this EM

SENSITIVE - NOT TO BE SHARED WITH THE PUBLIC

Retention Date: 07/31/2021

Revisions:

- **Scheduling the CE:**
(#4) Updated to include an option for mailing an Agency Video CE Risk Acknowledgement Form in lieu of calling the claimant and reading the script.
- **Script:**
Multiple language changes to be consistent with template letter.
- **Assistance Requests:**
Updated final bullet to add the option of mailing an Agency Video CE Risk Acknowledgement Form in lieu of calling the claimant and reading the script.

A. Purpose

During the COVID-19 nationwide public health emergency, we are temporarily expanding the use of video telehealth technology for psychiatric consultative examinations (CE) and psychological CEs that do not require testing.

B. Background

Due to the COVID-19 nationwide 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 video chats to provide telehealth services. See [HHS's Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#).

Consistent with the HHS Notification mentioned above, we are issuing these emergency procedures for the Disability Determination Services (DDS) to temporarily permit CE providers to use video technology to conduct any psychiatric or psychological examination that does not require testing if the claimant voluntarily agrees to accept the associated privacy risk.

DDSs may permit the use of non-public facing audio or video applications allowed by the HIPAA Notification during the COVID-19 national public health emergency only if all guidance in the HHS Notification is followed, CE providers enable all available encryption and privacy modes when using such applications, and the claimant voluntarily accepts the privacy risks associated with use of the application. 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.

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. See the [HHS website](#) for a descriptive list of non-public facing video applications that are permitted.

Business Process:

The following guidelines apply to DDSs that use the HHS Notification for temporary expansion of telehealth options for video CEs:

Scheduling the CE:

1. The DDS will contact CE providers who are interested in performing psychiatric CEs and psychological CEs that do not require testing and confirm they are able and willing to perform a CE via a telehealth option under the HHS Notification that may not be compliant with HIPAA Rules but would not result in penalty under the HHS guidance.

Note: As a best practice, we recommend keeping a list of willing CE providers and the specific technologies the provider agrees it will use for exams.

2. The DDS has two options for contacting claimants about whether they agree to participate in a CE using video technology that may not be secure: (1) call the claimant and read the script below or (2) send the information in the letter embedded below to the claimant.

OPTION 1

The DDS will call claimants who need this type of CE and will read aloud the following script, which provides required information for the claimant, determines the claimant's willingness to participate in a video CE, and solicits consent needed to proceed with scheduling the examination. During the call, also answer any questions and provide clarification as needed.

Script:

<Claimant Name>

- I am contacting you because we need additional medical information for your disability claim with the Social Security Administration. We request that you attend a consultative examination with a psychiatrist or psychologist to help us make a decision on your case.*
- The COVID-19 national public health emergency is making it hard to provide in-person consultative examinations. We are allowing psychiatrists and psychologists to do consultative examinations by video instead of in-person. A video examination allows you to attend the appointment from your home or other private location using a camera-enabled smart phone, tablet, or computer.*
- I am calling to ask if you are willing to attend a consultative examination by video. First, I want to make sure you know that some of these video technologies may not be secure, which could put your personal information at risk by allowing unauthorized third parties to access your personal information.*
- You are not required to attend the exam by video. You can wait until you can be seen in person. If you do not agree to attend a video consultative examination, there may be a delay in processing your claim.*

- *If you agree to attend a video consultative examination, we will notify you prior to your examination which video technology the psychiatrist or psychologist will use. You can opt out of a video examination at that time.*
- *If you agree to participate in a video consultative examination, you must present government-issued photo identification (ID) over the video connection to confirm your identity. You can provide ID documents like a United States (U.S.) State-issued driver's license, U.S. State-issued ID card, U.S. passport, U.S. military ID, or student or school ID.*
- *You might be asked or required 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 video technology.*
- *If at any time you change your mind about attending a video consultative examination, you may ask us to postpone the examination by calling the DDS at xxx-xxx-xxxx. If you ask us to postpone your examination, there may be a delay in the processing of your claim.*
- *With that information in mind, are you willing to participate in a consultative examination using video technology?*
- *Do you understand that you may change your mind about attending a consultative examination using video technology, and that doing so may delay but will not otherwise affect our determination on your claim?*
- *Do you acknowledge and accept that there may be a privacy risk to your personal information if you attend a consultative examination using video technology?*

DDS will document this phone conversation in an SSA-5002 (Report of Contact), including the date and time of the conversation, along with a copy of the script read to the claimant. Disability Case Processing System users may document this phone conversation using Case Notes and should ensure the note is written to the Case Development Worksheet, which is the official record of all development activities and is uploaded to the Electronic Folder (EF).

OPTION 2

DDSs may send the claimant the Agency Video CE Risk Acknowledgment form on the enclosed template. If a claimant completes, signs, and returns the form, acknowledging potential risks and agreeing to proceed, the DDS may schedule the exam without calling the claimant and documenting the script as noted above. The DDS must scan the signed acknowledgement form into the EF before scheduling a video CE.



[Acrobat Document.pdf](#)

3. If the claimant agrees to proceed with the examination, the DDS may schedule the CE using videoconferencing technology.

4. The CE appointment notice provided to the claimant must identify the specific videoconferencing technology to be used and include instructions for using the chosen technology. The instructions should also include the following statement:

- *If you are concerned about the selected video technology for your appointment, you may ask us to postpone the examination. Asking us to reschedule the examination will delay but will not otherwise negatively affect your determination. If you ask to reschedule, we will hold your claim until we can reschedule your examination in person, or using video technology you agree to, or until we receive adequate evidence to make a determination.*

Conducting the CE:

1. The CE source must request the claimant show a photo identification over the video connection to confirm identity.
2. CE sources must follow the guidance in [DI 22510.021](#) - Consultative Examination (CE) Report Content Guidelines - Mental Disorders when conducting the exam.
3. The CE report should acknowledge that the CE Provider completed the exam using an alternate telehealth application and list which application was used.
4. As a best practice, the DDS should consider following up with

both the claimant and the CE source to ensure the successful completion of the exam.

Assistance Requests (AR):

DDSs should process assistance requests for CEs that meet **all** of the following conditions:

- The request is for a psychiatric CE or a psychological CE that does not require testing.
- The requesting office has contacted the claimant, and the claimant has voluntarily agreed to participate in a video CE.
- The claimant's agreement is memorialized in: (1) an SSA-5002 (Report of Contact), that documents the requesting office's phone conversation with the claimant, including the date and time of the conversation, along with a copy of the script read to the claimant; or (2) a signed Agency Video CE Risk Acknowledgement Form that is already scanned into the electronic folder prior to sending an AR to the DDS.

If the AR does not meet all of the above conditions, the DDS may reject the AR.

References:

[DI 22510.012 Use of Video Teleconferencing Technology for Psychiatric and Psychological Consultative Examinations](#)

[DI 22510.015 Information for Consultative Examination \(CE\) Source](#)

Disability Case Development Information Collections (OMB No. [0960-0555](#))

HHS [Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#).

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Link to this document:

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