Tracking Ongoing Federal and State Telehealth Policy Changes

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New Federal Developments

New Item	Activity
H.R. 2573: To express the Sense of Congress with respect to Federal preemption of State restrictions on dispensing medication abortion, and for other purposes. *Introduced April 10, 2023*	• This bill would express that it is the sense of Congress that: ○ Medication abortion was appropriately approved, and regulated, under the Food, Drug, and Cosmetic Act; and, ○ Approval of medication abortion under the Food, Drug, and Cosmetic Act preempts any state law establishing, implementing, or enforcing: (1) any requirement that medication abortion be dispensed in-person; (2) any prohibition or restriction on prescribing or dispensing medication abortion via telehealth.
H.R. 1843 / **S. 1001:** Telehealth Expansion Act of 2023	• This bill would amend the Internal Revenue Code of 1986 to ensure that "a plan shall not fail to be treated as a high deductible health plan by reason of failing to have a deductible for telehealth and other remote care services".

New Item	Activity
Introduced March 28, 2023	

New State-Level Developments

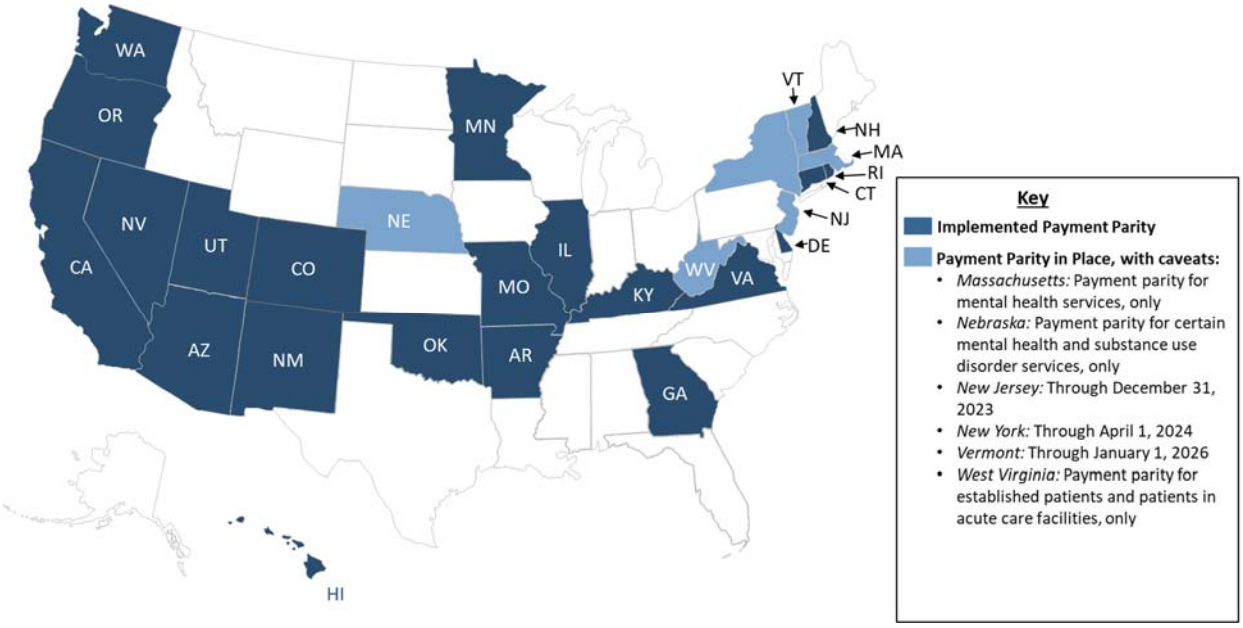
State	Activity
Arkansas	• Arkansas passed S.B. 91, which enters the state into the Audiology and Speech-Language Pathology Interstate Compact, which permits licensed audiologists and speech-language pathologists to practice in member states via telehealth..
Florida	• Florida passed S.B. 300, which prohibits the use of telehealth to perform an abortion, and mandates that any medications intended for use in a medical abortion must be dispensed in person by a physician.
Hawaii	• Hawaii passed S.Res. 118, which requests the Hawaii State Center for Nursing to convene a working group to study the feasibility and impact of the State adopting the Nurse Licensure Compact.
Kentucky	• Kentucky passed H.B 311, which requires Medicaid and Medicaid Managed Care Organizations to allow telehealth-only providers and provider groups who do not maintain a physical presence in Kentucky to be eligible for enrollment in Medicaid.
North Dakota	• North Dakota passed H.B. 1095, which requires health plan coverage of comprehensive medication management services, and allows the delivery of comprehensive care management services via telehealth to a beneficiary located at home.
Washington	• Washington passed H.B. 1001, which enters the state into the Audiology and Speech-Language Pathology Interstate Compact, which permits licensed audiologists and speech-language pathologists to practice in member states via telehealth. • Washington passed H.B. 1069, which enters the state into the interstate Counseling Compact and allows professional counselors who are licensed and residing in compact states to practice via telehealth in other compact states without the need for multiple licenses.

Payment Parity: Permanent State Laws and Statues

Payment Parity requires that health care providers are reimbursed the same amount for telehealth visits as in-person visits. During the COVID-19 pandemic, many states implemented temporary payment parity

through the end of the public health emergency. Now, many states are implementing payment parity on a permanent basis. As portrayed in Figure 1, as of April 2023, 21 states have implemented policies requiring payment parity, 6 states have payment parity in place with caveats, and 23 states have no payment parity.

Figure 1. Map of States With Laws Requiring Insurers to Implement Payment Parity *(as of April 2023)*



Federal Developments More than One Month Old

Executive Branch Activity

Policy	Details
DEA Proposed Rules Regarding Prescribing of Controlled Substances via Telemedicine (here and here) *Released February 24, 2023*	• The DEA released two proposed rules regarding telemedicine prescribing of controlled substances. The rules would require patients being newly prescribed a Schedule II-IV medication following the end of the COVID-19 PHE to have an in-person evaluation prior to obtaining a prescription via telemedicine. Patients who accessed these medications via telemedicine during the COVID-19 PHE will have 180 days following the final rule to have an in-person visit. *For more information on these proposed rules, please see our March 1 newsletter.*

Policy	Details
CMS Guidance on Interprofessional Consultations (eConsults) *Released January 3, 2023*	• The Centers for Medicare & Medicaid Services (CMS) issued guidance to clarify that interprofessional consultations (eConsults) can be reimbursed by Medicaid and CHIP, even when the beneficiary is not present. *For more information on the CMS Interprofessional Consultation Guidance, please see our January 19 newsletter.*
CMMI Report on Value-Based Care Strategic Vision *Released November 7, 2022*	• The Center for Medicare and Medicaid Innovation (CMMI) at CMS released a report on its updated strategic vision for "high quality, affordable, person-centered care". The report focuses on several strategies, including enhancing care coordination between primary care doctors and specialists, noting that the Innovation center could consider expanding tools to promote data exchange between providers, such as e-consults.
Final CY 2023 Medicare Physician Fee Schedule *Released November 2, 2022*	• The Center for Medicare & Medicaid Services (CMS) released its final rule, updating the Medicare Physician Fee Schedule for CY 2023. Changes in the fee schedule to telehealth services include: ○ Extending some "Category 3" telehealth service coverage; ○ Adding permanent coverage for prolonged services in some settings; ○ Adding permanent coverage for chronic pain therapy and management; and, ○ Ending coverage for some temporarily-covered telehealth services after 151 days after the end of the COVID-19 public health emergency (PHE). *For more information on the Final Rule for the CY 2023 Physician Fee Schedule, please see our November 10 newsletter.*
HRSA Draft Telehealth Policy Guidance *Released September 15, 2022*	• The Health Resources & Services Administration released a Draft Policy Information Notice (PIN) that established policy guidance for health centers that receive federal award funds through the Health Center Program project (authorized Section 330 of the Public Health Services Act), and outlines key considerations and criteria that health centers must meet when providing telehealth services to patients within the Health Center program project. ○ Key considerations that health centers are responsible for addressing include: ○ Ensuring that patients who receive telehealth also have access to other services;

Policy	Details
	○ Delineating responsibilities of staff as related to telehealth provision; ○ Providing ways to bill directly for services provided through telehealth; and, ○ Ensuring compliance with federal, state, and local requirements and standards relating to licensure, scope of practice, and delivery of services. ○ Criteria that health centers must meet when delivering service via telehealth include: ○ Individuals receiving services via telehealth undergo an intake process; ○ Individuals receiving services via telehealth receive an "in-scope required or additional health service"; ○ Individuals receiving services via telehealth are located within the health center's service area; ○ Providers deliver in-scope services on behalf of the health center (but do not have to be located at the health center); and, ○ The health center keeps a patient record for the services delivered via telehealth. • The PIN also addresses health center eligibility for other federal programs.
NIH to Fund Four Telehealth Cancer Centers of Excellence *Announced August 18, 2022*	• The National Cancer Institute (NCI) of the National Institute of Health (NIH) announced it will award $23 million to establish telehealth cancer centers of excellence at NYU Grossman School of Medicine, Northwestern University, University of Pennsylvania, and Memorial Sloan Kettering Cancer Center as part of its Telehealth Research Centers of Excellence (TRACE) Initiative. • These centers will research how telehealth affects the delivery of cancer-related care and explore innovations in service delivery.
Proposed Medicare Physician Fee Schedule for CY 2023 *Released July 7, 2022*	• The proposed rule updating the Medicare Physician Fee Schedule (MPFS) for calendar year (CY) 2023 proposes: ○ Changes to implement telehealth provisions included within the Consolidated Appropriations Act, 2022; ○ Extending coverage through the end of CY 2023 for some telehealth services that have been enabled during the PHE; and, • Adding four new codes to address concerns about access to remote therapeutic monitoring services and supervisory requirements. *For more information regarding the Proposed Medicare Physician Fee Schedule, please see our August 2 newsletter.*

Policy	Details
Guidance on How the HIPAA Rules Permit Covered Health Care Providers and Health Plans to Use Remote Communication Technologies for Audio-Only Telehealth *Issued June 13, 2022*	• HHS Office for Civil Rights (OCR) has created new guidance for providers and health plans regarding the provision of audio-only telehealth and HIPAA compliance. • The guidance, in FAQ format, outlines steps that covered entities can take to ensure that audio-only telehealth services are delivered in a HIPAA compliant manner after the end of the PHE.
HHS Announces $16.3 Million to Expand Telehealth Care in the Title X Family Planning Program *Announced May 10, 2022*	• On May 10, 2022, the United States Department of Health and Human Services announced that the Department will leverage American Rescue Plan Act funding to award $16.3 million in grants to support 31 Title X family planning grantees in efforts to expand telehealth infrastructure and capacity. Funds will be available for a 12-month project period, starting on May 15, 2022.
In January 2022, CMS released "Changes in Access to Medication Treatment during COVID-19 Telehealth Expansion and Disparities in Telehealth Use for Medicare Beneficiaries with Opioid Use Disorder"	• This data highlight provided information on access to medication treatment for Medicare beneficiaries with opioid use disorder (OUD) as a result of COVID-19 telehealth expansions. • Data suggests that telehealth expansions improved access to medication treatment and contributed to lower use of inpatient and/or emergency department visits among beneficiaries with OUD. ◦ The study found that the majority of Medicare beneficiaries with OUD who used outpatient telehealth services were <65 years old and disabled, non-Hispanic White, dually-eligible for Medicare and Medicaid, and lived in urban areas.
In January 2022, CMS released "CARES Act Telehealth Expansion: Trends in Post-Discharge Follow-Up and Association with 30-Day Readmissions for Hospital Readmissions Reduction Program Health Conditions"	• This report assessed the impact of telehealth on post-discharge follow-up and hospital readmission rates among Medicare beneficiaries based on claims data from April 1, 2019 – September 30, 2020. • The report found that: ◦ Telehealth utilization varied based on beneficiaries' socioeconomic characteristics, with higher utilization for post-discharge telehealth visits among dually eligible beneficiaries or those living in areas with greater social deprivation. • Use of telehealth for post-discharge follow-up contributed to lower 30-day readmissions when compared to beneficiaries who had no post-discharge follow-up visit, but slightly higher readmission rates relative to those who had an in-person follow-up visit.

Policy	Details
CY2022 Telehealth Update Medicare Physician Fee Schedule *Released on Jan. 14, 2022*	• This update to the Medicare Physician Fee Schedule primarily covers recent expansions to mental health treatment via telehealth, which will activate at the end of the federal public health emergency (PHE) when temporary PHE waivers expire.
Two Letters Sent to Congress Urging Telehealth Reform *Released on Jan. 28 and 31, 2022*	• A group of 45 legislators, led by US Sens. Brian Schatz and Roger Wicker, sent a letter to the leaders of the Senate and House urging them to include an extension of the telehealth authorities enacted during the COVID-19 pandemic in the government funding legislation in February. • "A second letter that was sent to Congressional leaders on Jan. 31, was signed by 336 organizations (co-led by Alliance for Connected Care, ATA, and HIMSS) that urged federal lawmakers to undertake permanent telehealth reform. This letter urges Congress to: 1) extend all current telehealth waivers through Dec. 31, 2024; 2) require HHS complete telehealth-related evaluations by fall 2023 and combine findings into a single overarching dashboard with recommendations to inform permanent telehealth legislation by Congress; and, 3) pass permanent telehealth legislation for implementation in 2024."
On December 6, CMS released updates to the State Medicaid & CHIP Telehealth Toolkit: Policy Considerations for States Expanding Use of Telehealth, COVID-19 Version.	• The update clarifies that state Medicaid programs may opt to cover and pay for Medicaid telehealth services provided via audio-only technologies during and after the COVID-19 PHE
On December 3, the Patient-Centered Outcomes Research Institute (PCORI) Board of Governors approved $23.5 million to focus on telehealth and mobile health strategies.	• Funding will support clinical effectiveness research (CER) studies that explore the effectiveness of telehealth for a wide range of conditions and situations, such as: the effectiveness of mHealth technology in smoking cessation, managing chronic pain through online classes, and treating depression through remote yoga classes
On November 23, HHS announced $35 million in funding for telehealth in the Title X Family Planning Program.	• $35 million of American Rescue Plan funding will be used to enhance and expand the telehealth infrastructure and capacity of Title X family planning providers • HHS will award 60 one-time grants to active Title X grantees

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On November 12, CMS released a Preliminary Medicaid & CHIP Data Snapshot.	• Includes information on services delivered from the beginning of the PHE through May 31, 2021, including a snapshot of services delivered via telehealth among Medicaid and CHIP beneficiaries.
On November 11, CMS finalized the Physician Fee Schedule Rule.	• The Medicare Physician Fee Schedule (MPFS) finalizes the extension of coverage of certain Medicare telehealth services through calendar year (CY) 2022, permanently extends coverage of tele-behavioral health services delivered to patients in their homes and via audio-only technology, and finalizes changes that would allow for rural health centers (RHCs) and federally qualified health centers (FQHCs) to deliver mental health visits virtually *For more information regarding the Final CY2022 Physician Fee Schedule, please see our Manatt Insights summary.*
On November 9, the FCC approved 75 new projects funded under the COVID-19 Telehealth Program.	• FCC approved 75 projects totaling $42.1 million for Round 2 of the COVID-19 Telehealth Program. The funding will be used to provide reimbursement for telecommunication services, information services, and connected devices necessary to enable telehealth
On October 15, HHS announced the renewal of the Public Health Emergency (PHE).	• The COVID-19 PHE will be renewed for another 90 days. It is now extended, through January 15, 2022 • This update enumerates the key regulatory flexibilities and funding sources that are linked to the PHE, as well as key emergency measures with independent timelines that are not directly affected by the PHE renewal
On August 26, the FCC approved 62 new projects funded under the COVID-19 Telehealth Program.	• The projects total $41.98 million for Round 2 of the COVID-19 Telehealth Program. The funding will be used to provide reimbursement for telecommunication services, information services, and connected devices necessary to enable telehealth.
On August 18, the Biden Administration invested over $19M to expand telehealth for rural and underserved communities.	• The Biden Administration announced a series of key investments -- totaling $19 million -- that will strengthen telehealth services in rural and underserved communities and expand telehealth innovation and quality nationwide. The Health Resources and Services Administration (HRSA) will invest in the following programs: ○ Telehealth Technology-Enabled Learning Program (TTELP): ~$4.28M will be awarded to 9 organizations to develop sustainable tele-mentoring programs and networks in rural and medically underserved communities. This program will utilize to help academic medical centers train and support providers in rural areas treat patients with complex conditions.

Policy	Details
	○ Telehealth Resource Centers (TRCs): $4.55M will be awarded to 12 regional and 2 national telehealth resource centers that provide information, assistance and education on telehealth to providers seeking to deliver care via telehealth. ○ Evidence-Based Direct to Consumer Telehealth Network Program (EB TNP): ~$3.85M will be awarded to 11 organizations to help health networks improve access to telehealth services and assess its effectiveness. ○ Telehealth Centers of Excellence (COE) Program: $6.5M will be awarded to 2 organizations to evaluate telehealth strategies and services to improve care for rural medically underserved communities with high rates of chronic disease and poverty.
On July 23, the Centers for Medicare and Medicaid Services (CMS) released the proposed CY 2022 Physician Fee Schedule proposing to extend telehealth benefits.	• CMS is proposing to: ○ Extend coverage of certain Medicare telehealth services through calendar year (CY) 2023, ○ Permanently extend coverage of tele-behavioral services delivered to patients in their homes and via audio-only technology, and ○ Make changes that would allow for rural health centers (RHCs) and federally qualified health centers (FQHCs) to deliver mental health visits virtually. *For more information regarding the Final CY2022 Physician Fee Schedule, please see our Manatt Insights summary.*
On June 17, the Federal Communications Commission (FCC) Commission issued updated guidance on the Connected Care Pilot Program.	• The FCC released further guidance on eligible services, competitive bidding, invoicing, and data reporting for selected participants, which will enable applicants selected for the Pilot Program to begin their projects. • The $100 million program will support Connect Care Services focusing on low-income and veteran patients over a three-year period. • The FCC approved 36 additional pilot projects for a total of over $31 million in funding.
On May 26, the Department of Justice (DOJ) announced several criminal charges for fraudulently using COVID-19 flexibilities, including those related to telehealth.	The charges are against 14 defendants for their alleged participation in various health care fraud schemes that exploited the COVID-19 pandemic and resulted in $143 million in false billings. The Center for Program Integrity, Centers for Medicare & Medicaid Services (CPI/CMS) separately announced it took adverse administrative action against over 50 medical providers for their involvement in health care fraud schemes relating to COVID-19.

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On May 11, the U.S. Department of Health & Human Services (HHS) awarded funding to the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program.	Appropriated by the American Rescue Plan, the $40 million in emergency home visiting funds awarded to states and territories will support the delivery of evidence-based home visiting services to children and families living in communities at risk for poor maternal and child health outcomes. Families unable to access home visiting services will be provided technology to participate in virtual home visiting. Funds will also be used to train home visitors on how to safely conduct virtual intimate partner violence screenings.
On May 6, the Centers for Medicare & Medicaid Services (CMS) updated the Risk Adjustment Telehealth and Telephone Services During COVID-19 FAQs.	The updated FAQs clarify which telehealth services and telephone services are valid for data submissions for the HHS-operated risk adjustment program. HHS also clarified which telehealth service codes will be valid for inclusion for the 2021 benefit year HHS-operated risk adjustment program.
On May 20, the U.S. Department of Health & Human Services (HHS) announced the expansion of Pediatric Mental Health Care Access Programs.	Appropriated by the American Rescue Plan, the $14.2 million will expand pediatric mental health access by integrating telehealth services into pediatric primary care. The funds will expand the projects into new states and tribal areas to provide teleconsultations, training, technical assistance, and care coordination for pediatric primary care providers to treat and refer children and youth with mental health conditions and substance use disorder. Applications are due by July 6, 2021.
On May 19, the Government Accountability Office (GAO) released Medicare and Medicaid COVID-19 Program Flexibilities and Considerations for Their Continuation.	The report includes preliminary observations from ongoing work related to telehealth in the Medicaid and Medicare program. The GAO's preliminary analysis indicated Medicare fee-for-service telehealth waivers increased utilization and access, but full effects of the waivers are not yet known. Temporary state Medicaid flexibilities effects are not yet fully known.
On April 15, the Federal Communications Commission (FCC) announced the second round of the COVID-19 Telehealth funding will open April 29th.	Appropriated by the Consolidated Appropriations Act, the $250 million reimbursement program will support projects aimed at boosting access to connected health services through better broadband resources. In an effort to promote transparency on how the funds are distributed, the FCC is seeking comment on changes to the Program, including the metrics used to evaluate applications for funding, and how to treat applications filed in Round 1 of the program.

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On April 12, the FDA lifted restrictions on telehealth abortions during the PHE.	Healthcare providers will be allowed to prescribe abortion-inducing medication via telehealth, without the usual required in-person examination until the end of the PHE.
On April 12, HHS announced the Rural Maternity and Obstetrics Management Strategies (RMOMS) program.	The $12 million program will fund three projects over four years to allow awardees to test models to address unmet needs for underserved populations in rural America. One of the focus areas for the program includes telehealth and specialty care.
On April 5, the U.S. Department of Agriculture (USDA) began accepting applications for the USDA Distance Learning & Telemedicine Grant Program (DLT).	The program makes $44.5 million available to helps rural communities acquire the technology and training needed to connect medical professionals with patients in rural areas. Awards can range from $50,000 to $1 million. Applications must be received by June 4, 2021.
On March 30, the Centers for Medicare & Medicaid Services (CMS) expanded Medicare coverage for certain services delivered via telehealth.	CMS added several audiology and speech-language pathology related services to the list of authorized telehealth services to Medicare Part B beneficiaries during the PHE. The PHE is expected to last through at least the end of 2021.
On February 26, HHS Office of the Inspector General (OIG) released a statement clarifying "telefraud" schemes and telehealth fraud.	OIG clarified in a letter the difference between 'telefraud' and 'telehealth fraud'. Nothing that much of its focus has been in the former which generally combine sham phone calls to fraudulently prescribe durable medical equipment or high-cost diagnostic tests. OIG noted that it is continuing work to ensure telehealth delivers quality, convenient care for patients and is not compromised by fraud.
On February 25, the USDA announced it is investing $42.3 million in distance learning and telemedicine infrastructure.	USDA announced an investment of $42.3 million ($24 million provided through the CARES Act) to help rural residents gain access to health care. The funding is expected to benefit five million rural residents.
On February 25, the FCC approved the Emergency Broadband Benefit.	The FCC approved a new program which will provide discounts of up to $50 per month towards broadband service for low-income households, and up to $75 per month for households on Tribal lands. There will also be a one-time discount of up to $100 on a computer, laptop, or tablet. The start date for the program has not yet been established.
On January 19, HHS' OIG released an updated list of its Active Work Plan Items.	HHS OIG announced it is conducting the Audit of Home Health Services Provided as Telehealth During the COVID-19 Public Health Emergency

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	and the Audits of Medicare Part B Telehealth Services During the COVID-19 Public Health Emergency.
On January 15, the FCC announced the first round of grants for the Connected Care Pilot Program.	The FCC has awarded a total of $26.6 million to 15 pilot projects with over 150 treatment sites in 11 states. The Pilot aims to award $100 million over three years to improve broadband connectivity in underserved parts of the country where access is limited.
On January 15, CMS released a Preliminary Medicaid & CHIP Data Snapshot.	It includes information on services delivered from the beginning of the PHE through July 31, 2020, including a snapshot of services delivered via telehealth among Medicaid and CHIP beneficiaries.
On January 12, HHS invested $8 million in a new Telehealth Broadband Pilot Program.	$6.5 million was awarded to the National Telehealth Technology Assessment Resource Center and $1.5 million was awarded to the Telehealth-Focused Rural Health Research Center. The program is aimed at expanding broadband connectivity in rural parts of Alaska, Michigan, Texas, and West Virginia where lack of resources is a major barrier to telehealth adoption.
On December 29, the Department of Labor's Wage and Hour Division issued guidance for Telemedicine and Serious Health Conditions under the Family and Medical Leave Act (FMLA).	Employees can permanently use telehealth to establish a serious health condition that would qualify them for taking time off from work under the FMLA. The Wage and Hour Division (WHD) will consider telemedicine an "in-person" visit.
On December 3, HHS issued an amendment to the Public Readiness and Preparedness (PREP) Act.	The fourth amendment makes two important changes, the first of which implements another nationwide change regarding licensure: any licensed healthcare provider who is permitted to order and administer a Covered Countermeasure in any one state may now order and administer that Covered Countermeasure in any other state via telehealth, even if the provider is not licensed in the other state (subject to compliance with any rules established by the practitioner's state of licensure). A provider may now provide qualifying COVID-19-related telehealth services to patients in multiple states without needing to confirm each state's laws regarding practice across state lines (some of which may require out-of-state practitioners to register or otherwise seek authorization from the state). Second, the fourth amendment broadens the scope of protection afforded to all "covered persons" who manufacture, test, develop, distribute, administer, or use Covered Countermeasures (including those who provide telehealth services).

Policy	Details
On December 1, CMS finalized the Physician Fee Schedule Rule (previously proposed on August 4) which make certain Medicare telehealth flexibilities permanent and extend others for the remainder of the year in which the public health emergency (PHE) ends. Note: On January 19, CMS published clarifications to its 2021 Physician fee schedule.	**Initial Rule**: CMS finalized several changes to the Medicare telehealth covered services list. First, CMS is adding permanent coverage for a range of services, including group psychotherapy, low-intensity home visits, and psychological and neuropsychological testing, among others. Second, CMS has finalized temporary coverage for certain services through the end of the calendar year in which the COVID-19 PHE ends, including high-intensity home visits, emergency department visits, specialized therapy visits, and nursing facility discharge day management, among others. Finally, CMS is indicating which services that have been covered on a temporary basis during the PHE it will not to cover on a permanent basis once the PHE ends. This includes services such as telephonic evaluation and management services, initial nursing facility visits, radiation treatment management services, and new patient home visits, among others. Notably, after significant public comment supporting the addition of more services to the list of services covered through the calendar year in which the PHE ends, CMS included extended coverage for several additional services that it had proposed ending coverage for at the end of the PHE. Prior to the PHE, given statutory restrictions that telehealth services must be delivered via a "telecommunications system," which CMS has long-interpreted to preclude audio-only technology, CMS only covered certain audio-only services defined as communication technology-based services (CTBS), which are not considered Medicare telehealth services. During the PHE, recognizing that in-person visits posed a high risk of infection exposure and that not all providers and patients had access to video technology, CMS established temporary coverage for audio-only telephone (E/M) visits (CPT codes 99441-3). CMS is finalizing that at the end of the PHE, coverage for these audio-only telephone (E/M) visits will end given the statutory restrictions on "telecommunications systems." However, recognizing that audio-only visits could still be beneficial, for CY 2021, CMS is establishing on an interim basis a HCPCS code, G2252, for CTBS audio-only services of 11–20 minutes of medical discussion. This code supplements existing code G2012 which is a CTBS audio-only service of 5–10 minutes of medical discussion. In addition to the changes to the telehealth covered services list, CMS is finalizing that the 30-day frequency limit for subsequent nursing facility visits provided via telehealth be revised to a 14-day frequency limit. CMS is also finalizing that additional types of providers—including licensed clinical social workers, clinical psychologists, physical therapists, occupational therapists, and speech-language pathologists—be permitted to bill for brief online assessment and management

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	services, virtual check-ins, and remote evaluations and has added new codes for these services. On a temporary basis, CMS finalized a policy to allow for virtual supervision using "interactive audio/visual real-time communications technology" (i.e. two-way live video), by revising the definition of "direct supervision" to include virtual presence. This will allow "incident to" services to be provided if furnished under the supervision of a virtually present physician or nonphysician practitioner in order to reduce infection exposure risk. CMS will continue allowing virtual supervision through the later of the end of the calendar year in which the PHE ends or December 31, 2021. CMS finalized as proposed several changes to coverage of remote physiologic monitoring (RPM) services. CMS finalized that at the conclusion of the PHE, it will once again require that practitioners have an established patient relationship in order to initiate RPM services and that 16 days of data for each 30 days must be collected in order to meet the requirements of CPT codes 99453 and 99454. CMS also finalized that practitioners may furnish RPM services to beneficiaries with acute conditions—previously coverage had been limited to beneficiaries with chronic conditions. In addition, CMS finalized that consent may be obtained at the time the RPM service is furnished; that auxiliary personnel (including contracted employees) may furnish certain RPM device setup and supply services; that data from the RPM device must be automatically collected and transmitted rather than self-reported; and that for the purposes of discussing RPM results, "interactive communication" includes real-time synchronous, two-way interaction such as video or telephone. In addition, Medicare Diabetes and Prevention Program (MDPP) providers who use telehealth will continue to be reimbursed through Medicare during the remainder of the COVID-19 PHE and any future applicable 1135 waiver event when in-person care delivery is disrupted. Coverage for virtual-only DPPs will not continue after the PHE. **January 2021 Update**: Clarifies that the 20-minutes of intra-service work associated with CPT codes 99457 and 99458 includes a practitioner's time engaged in "interactive communication" and time engaged in non-face-to-face care management services during a calendar month. Additionally, only one practitioner can bill CPT codes 99453 and 99454 during a 30-day period and only when at least 16 days of data have been collected on at least one medical device. *For more information regarding the Final CY2021 Physician Fee Schedule, please see our Manatt Insights summary.*

Policy	Details
On November 20, HHS published two rules that finalize reforms to the regulatory framework that governs fraud and abuse in Medicare and Medicaid programs.	HHS's newly finalized regulations remove historical barriers to collaboration between providers and health tech companies on digital health initiatives, including those that promote care coordination and drive value-based efficiencies. Specifically, the regulations include several new and modified "safe harbor" arrangements that would allow providers and health IT companies to collaborate on initiatives that would previously have created risks under the Anti-Kickback Statute. Critically, these safe harbors allow parties to exchange health IT technology and other in-kind benefits at *less than fair market value*, as long as certain requirements are met. Depending on the circumstances, the recipient may be able to receive the benefit for free, or may be required to contribute at least 15% of the total cost. If a given arrangement meets all the criteria for a safe harbor, then the parties are shielded from liability even if they are exchanging "remuneration" within the meaning of the Anti-Kickback Statute. Because violations of the Anti-Kickback Statute can result in substantial civil and criminal penalties, providers often avoid arrangements that do not fit squarely within a safe harbor. *For more information regarding the Anti-Kickback and Stark Reforms, please see our Manatt Insights summary.*
In early November, CMS published a new final rule that enables health home agencies (HHAs) to use telecommunications technology or audio-only services.	Services provided to patients must be included in the plan of care and not substituted for or considered a home visit for eligibility or payment purposes.
On October 14, CMS expanded the list of telehealth services Medicare Fee-For-Service will pay for during the PHE.	CMS added 11 new services to the Medicare telehealth service list, adding to the over 80 additional eligible telehealth services outlined in the May 1 COVID-19 IFC. The new telehealth services include certain neurostimulator analysis and programming services, and cardiac and pulmonary rehabilitation services.
On October 14, CMS released a Preliminary Medicaid and CHIP Data Snapshot to provide information on telehealth utilization during the PHE.	This data shows more than 34.5 million services were delivered to Medicaid and CHIP beneficiaries via telehealth between March and June of this year—an increase of 2,600% when compared to the same period in 2019. Additionally, CMS updated its State Medicaid & CHIP Telehealth Toolkit: Policy Considerations for States Expanding Use of Telehealth, COVID-19 Version to help providers and other stakeholders understand which policies are temporary or permanent, and to communicate telehealth access and utilization strategies to providers.

Policy	Details
On August 4, CMS released a proposed Physician Fee Schedule Rule which would make certain Medicare telehealth flexibilities permanent and extend others for the remainder of the year in which the public health emergency (PHE) ends.	For CY 2021, CMS is proposing several changes to the Medicare telehealth covered services list. First, CMS is proposing to add permanent coverage for a range of services, including group psychotherapy, low-intensity home visits, and psychological and neuropsychological testing, among others. Second, CMS is proposing to add extended temporary coverage for certain services through the end of the calendar year in which the COVID-19 PHE ends, including high intensity home visits, low-intensity emergency department visits, and nursing facility discharge day management, among others. Finally, CMS is indicating which services that have been covered on a temporary basis during the PHE it does not propose to cover on a permanent basis once the PHE ends. This includes a wide range of more than 70 services such as telephonic evaluation and management services, nursing facility visits, specialized therapy services, critical care services, end stage renal disease dialysis-related services, and radiation management services, among others. *For a summary of the proposed Physician Fee schedule Rule, please see the August 7 Manatt Insights summary.*
On May 1, CMS released a second IFR with comment period (IFC), "Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program," outlining further flexibilities in Medicare, Medicaid, and health insurance markets as a result of COVID-19.	• **Section D.** Opioid Treatment Programs (OTPs) – Furnishing Periodic Assessments via Communication Technology (42 CFR 410.67(b)(3) and (4)): Temporary change to allow periodic assessments of individuals treated at OTPs to occur during the PHE by two-way interactive audio-video or audio-only communication • **Section N.** Payment for Audio-Only Telephone Evaluation and Management Services: Temporary increase in the reimbursement rates for telephonic care • **Section AA.** Updating the Medicare Telehealth List (42 CFR 410.78(f)): Temporary change to remove Medicare regulations that require amendments to the list of covered telehealth services be made through the physician fee schedule (PFS) rulemaking process and allow changes to be made to the list of covered telehealth services through subregulatory guidance only *For a summary of the second IFR, please see the May 5 Manatt Insights summary.*
On April 17, CMS released Frequently Asked Questions (FAQs) on Medicare Fee-for-Service Billing and highlighted several changes to RHC and	New Payment for Telehealth Services (real-time, audio visual): • Section 3704 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act authorizes RHCs and FQHCs to provide distant site telehealth services to Medicare beneficiaries. Services can be provided by any health practitioner working for the RHC or the FQHC as long as the service is within their scope; there is no

Policy	Details
FQHC requirements and payments.	restriction on locations where the provider may be to furnish telehealth services. • FQHCs and RHCs are paid a flat fee of $92 when they serve as the distant site provider for a telehealth visit. • CMS will pay for all reasonable costs for any service related to COVID-19 testing, including relevant telehealth services. RHCs and FQHCs must waive the collection of co-insurance for COVID-19 testing-related services. Expansion of Virtual Communication Services (telephone, online patient communication): • Virtual communication services now include online digital evaluation and management services. CPT codes 99421–23 have been added for non-face-to-face, patient-initiated, digital communications using a secure patient portal. *For more information on Expanded Telehealth Reimbursement for FQHCs and RHCs, see our June 9 Manatt newsletter.*
On April 2, CMS issued an informational bulletin regarding Medicaid coverage of telehealth services to treat substance use disorders (SUDs)—one of many guidance documents required by the October 2018-enacted Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act.	This guidance provides states options for federal reimbursement for "services and treatment for SUD under Medicaid delivered via telehealth, including assessment, medication-assisted treatment, counseling, medication management, and medication adherence with prescribed medication regimes." *For a summary of this bulletin, please see the April 6 Manatt Insights summary.*
On March 30, CMS released an interim final rule (IFR) outlining new flexibilities to preexisting Medicare and Medicaid payment policies in the midst of the COVID-19 public health emergency (also, PHE).	These provisions include adding over 80 additional eligible telehealth services, giving providers flexibility in waiving copays, expanding the list of eligible types of providers who can deliver telehealth services, introducing new coverage for remote patient monitoring services, reducing frequency limitations on telehealth utilization, and allowing telephonic and secure messaging services to be delivered to both new and established patients. The provisions listed in this rule are effective March 31, with applicability beginning on March 1. *For more information on the IFR, see our April 9 Manatt newsletter.*

Policy	Details
On March 18, the HHS and the Office for Civil Rights (OCR) issued a public notice stating that OCR will not impose penalties for noncompliance with regulatory requirements under the HIPAA rules "against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency."	This will allow providers to communicate with patients through telehealth services and remote communications technologies during the COVID-19 national emergency. Providers may use any non-public-facing remote communication product that is available to communicate to patients; these applications can include Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, Zoom, and Skype. *For more information on our HIPAA summary, see our April 23 Manatt newsletter.*
On March 10, CMS introduced significant new flexibilities for Medicare Advantage (MA) and Part D plans to waive cost-sharing for testing and treatment of COVID-19, including emergency room and telehealth visits during the crisis.	MA plans are required to: • Cover Medicare Parts A and B services and supplemental Part C plan benefits furnished at noncontracted facilities; this means that facilities that furnish covered A/B benefits must have participation agreements with Medicare. • Waive, in full, requirements for gatekeeper referrals where applicable. • Provide the same cost-sharing for the enrollee as if the service or benefit had been furnished at a plan-contracted facility. • Make changes that benefit the enrollee effective immediately without the 30-day notification requirement at 42 § 422.111(d)(3). Such changes could include reductions in cost-sharing and waiving of prior authorizations. *For more information on Medicare changes, see our March 17 Manatt newsletter.*

Legislative Activity

Bill/Activity	Key Proposed Actions
Activity	
In March 2021, MedPAC issued a report entitled "Medicare Payment Policy."	The report included a chapter that proposes how Medicare may cover telehealth services for a limited duration of time after the end of the COVID-19 PHE; the commission noted that more time and data are needed prior to recommending permanent coverage and reimbursement changes. Specifically, MedPAC proposes

Bill/Activity	Key Proposed Actions
	temporarily continuing the following flexibilities for a limited duration of time after the end of the PHE: • Providing reimbursement for specific telehealth services to all beneficiaries, regardless of their location; • Covering certain telehealth services (in addition to those covered prior to the PHS), if there is potential clinical benefit; and, • Covering certain telehealth services delivered via audio-only modalities if there is potential clinical benefit. After the PHE ends, MedPAC proposes: 1) returning to the fee schedule's facility rate for telehealth services and collecting data on the cost to deliver telehealth services; and, 2) reintroducing cost sharing for telehealth services. In addition, MedPAC suggests implementing the following safeguards to prevent unnecessary spending and fraud: • Requiring clinicians to have an in-person visits with a patient prior to ordering high-cost durable medical equipment or laboratory tests; • Monitoring outlier clinicians who bill more telehealth services per beneficiary relative to other clinicians; and, • Prohibiting "incident to" billing for telehealth services provided by any clinician who can bill Medicare directly. Notably, the path forward proposed by MedPAC in this report does not ensure long-term permanent coverage for telehealth for all Medicare members regardless of where they are located (e.g., patients in non-rural areas, patients located in their home), or for telehealth services delivered via audio-only modalities.
On March 5, the House Energy & Commerce Health Subcommittee held a hearing, The Future of Telehealth: How COVID-19 is Changing the Delivery of Virtual Care to discuss the future of telehealth in Medicare.	Members of the sub-committee were not aligned on a timeline for adopting permanent telehealth reimbursement policies in Medicare, but generally voiced support for continuing many of the flexibilities that have been implemented during the public health emergency. While acknowledging the value that telehealth has demonstrated during the pandemic, many members continue to express long-standing concerns about the potential for increased fraud and abuse of telehealth services.
On January 14, MedPAC hosted a meeting to discuss whether and how to permanently expand telehealth in fee-for-service Medicare.	The Commissioners largely supported the policy options outlined by MedPAC staff to maintain on a permanent basis some of the temporary policy changes made during the PHE. Several commissioners noted that given the pace of change with respect to telehealth adoption during the COVID-19 pandemic and the lack of concrete evidence to support permanent expansion of certain

Bill/Activity	Key Proposed Actions
	policies, they would be more comfortable supporting expansion on a more time-limited basis (e.g., 1–2 years) than permanently. In addition, the Commissioners identified several areas that will require continued discussion in order to balance access, cost and quality imperatives. The policy options will be incorporated into MedPAC's upcoming report to Congress expected in March 2021. *For more information regarding the MedPAC meeting, please see our Manatt Insights* Newsletter.
On November 9, MedPac issued a report on the expansion of telehealth in Medicare.	The presentation highlights permanent (post-PHE) policy options that CMS may consider when expanding Medicare telehealth coverage. *For more information, please see our Manatt* Newsletter.
Introduced Legislation	
H.R. 12: Women's Health Protection Act of 2023 *Introduced March 30, 2023*	• This bill would prohibit limitations on a provider's ability to deliver or a patient's ability to receive telemedication abortion services that are not otherwise applied to other "medically comparable services via telemedicine.
S. 731: TELEHEALTH HSA Act of 2023 / Telemedicine Everywhere Lifting Everyone's Healthcare Experience And Long Term Health HSA Act of 2023 *Introduced March 9, 2023*	• This bill would amend the Internal Revenue Code of 1986 to "make permanent the permissible first dollar coverage of telehealth services for purposes of health savings accounts."
S. 730: Enhance Access to Support Essential (EASE) Behavioral Health Services Act *Introduced March 9, 2023*	• This bill removes restrictions that require the originating site (i.e., the location of the beneficiary) to be in a rural area, and allows the home of a beneficiary to serve as the originating site, for behavioral health telehealth services under Medicare. The bill applies to services provided on or after January 1, 2025. • The bill also expands the scope of required guidance, studies, and reports to address the provision of such services under Medicaid.
S. 729: Audio-Only Telehealth for Emergencies Act	• This bill would ensure payment parity of audio-only services in Medicare during an emergency declaration.

Bill/Activity	Key Proposed Actions
Introduced March 9, 2023	
S. 701: Women's Health Protection Act of 2023 *Introduced March 8, 2023*	• This bill would prohibit limitations on a provider's ability to deliver or a patient's ability to receive telemedication abortion services that are not otherwise applied to other "medically comparable services via telemedicine."
H.R. 1114: Department of Veterans Affairs Telehealth Strategy Act *Introduced February 21, 2023*	• This bill would direct the Secretary of Veterans Affairs to develop a telehealth strategy for services furnished by the Veterans Health Administration and submit a report on end-user devices that facilitate telehealth services.
H.R. 1110: KEEP Telehealth Options Act of 2023 / Knowing the Efficiency and Efficacy of Permanent Telehealth Options Act of 2023 *Introduced February 21, 2023*	• This bill would require the Secretary of Health and Human Services, the Medicare Payment Advisory Commission, and the Medicaid and CHIP Payment and Access Commission to conduct studies on actions to expand access to telehealth services under Medicare, Medicaid, and CHIP during the COVID-19 Public Health Emergency.
H.R. 833: Save America's Rural Hospitals Act *Introduced February 6, 2023*	• This bill would make permanent the Medicare telehealth service enhancements for federally qualified health centers and rural health clinics permanent listed under Paragraph (8) of section 1834(m) of the Social Security Act.
H.R. 824: Telehealth Benefit Expansion for Workers Act of 2023 *Introduced February 2, 2023*	• This bill would treat telehealth services offered under a group health plan or other group health insurance coverage as excepted benefits.
H.R. 767 / **S. 237:** To preserve access to abortion medications. *Introduced February 2, 2023*	• This bill would ensure that the FDA risk evaluation and mitigation strategies applied to mifepristone: ○ Do not have an in-person dispensing requirement; ○ Allow for patient access via telehealth; and, ○ Allow all pharmacies that are certified to dispense mifepristone to, at a minimum, dispense and mail the medication to patients.
H.R. 635: Expanding Access to Mental Health Services Act *Introduced January 30, 2023*	• This bill would allow certain HCPCS codes for behavioral health counseling and other services to covered via audio-only telehealth within the Medicare program.

Bill/Activity	Key Proposed Actions
H.R. 134: To amend title XVIII of the Social Security Act to remove geographic requirements and expand originating sites for telehealth services. *Introduced January 9, 2023*	• This bill would extend COVID-19 PHE Medicare geographic flexibilities for originating sites permanently.
H.R. 197: Rural Telehealth Expansion Act *Introduced January 9, 2023*	• This bill would enable coverage and reimbursement for store-and-forward telehealth under the Medicare program.
H.R. 207: Advanced Safe Testing at Residence Telehealth Act of 2023 *Introduced January 9, 2023*	• This bill would amend Title XVII of the Social Security act to provide payment for cover certain tests (e.g., serology tests for COVID-19, diagnostic tests or screenings for certain types of cancer, Haptoglobin genetic tests, prediabetes and diabetes screenings, etc.) and assistive telehealth consultations (e.g., an evaluation and management service; the ordering of a diagnostic test or screening; an assessment of an individual succeeding the delivery of a diagnostic test or screening; etc.) under state programs.
S. 4965: A bill to amend title XCIII of the Social Security Act to remove in-person requirements under Medicare for mental health services furnished through telehealth and telecommunications technology. *Introduced September 27, 2022*	• This bill would permanently remove in-person requirements for mental health services delivered via telehealth to Medicare beneficiaries after the end of the COVID-19 public health emergency.
H.R. 8976: Protecting Reproductive Freedom Act *Introduced September 22, 2022*	• This bill would prevent states from placing restrictions on the prescription of mifepristone and misoprostol, two abortifacient medications, via telehealth.
S. 4747: Investing in Kids' Mental Health Now Act of 2022 *Introduced August 2, 2022*	• This bill would direct the Secretary of Health and Human Services to provide states with guidance to improve the availability of mental, emotional, and behavioral telehealth services covered by Medicaid State Plans.

Bill/Activity	Key Proposed Actions
H.R. 8650 / S. 4723: Let Doctors Provide Reproductive Health Care Act *Introduced August 2, 2022*	• This bill would prevent states and other entities from placing restrictions on the provision of reproductive health care services, including abortion services, through telehealth.
H.R. 8588: Fair Care Act of 2022 *Introduced July 28, 2022*	• This bill would: ○ Expand Medicare coverage to include remote patient monitoring and additional telehealth services; ○ Allow the Secretary of Health and Human Services to waive Medicare telehealth requirements, including those related to originating sites, technology, and allowed services, to reduce spending or improve access to services in high-needs areas; ○ Remove Medicare restrictions on originating sites for mental health services and emergency medical care provided through telehealth; ○ Remove Medicare restrictions on originating/distant sites for federally qualified health centers, rural health clinics, and facilities operated by the Indian Health Service; ○ Allow under Medicare the use of telehealth to conduct face-to-face encounters prior to recertification of eligibility for hospice care; ○ Direct MedPAC to conduct a study on the use of telehealth in the home by Medicare beneficiaries; and, ○ Allow the Secretary of Health and Human Services to test models of telehealth use and delivery under Medicare.
H.R. 4040: Advancing Telehealth Beyond COVID-19 Act of 2021 *Engrossed July 27, 2022*	• This legislation seeks to extend many of the key Medicare telehealth flexibilities associated with the COVID-19 public health emergency (PHE) included in the Consolidated Appropriations Act, 2022 (CAA), enacted in March (for more on the CAA, see the Manatt on Health analysis). The House-passed legislation would further extend the following flexibilities through December 31, 2024: ○ Removing geographic requirements and expanding originating sites for telehealth services to enable beneficiaries in both rural and non-rural communities to receive telehealth services from their home or any other location;

Bill/Activity	Key Proposed Actions
	○ Expanding the list of telehealth eligible providers include qualified occupational therapists, physical therapists, speech-language therapists, and audiologists. ○ Delaying in-person visit requirements for the delivery of mental health services via telehealth, including those furnished by rural health clinics and federally qualified health clinics; ○ Including audio-only as a covered telehealth modality; and, ○ Allowing the use of telehealth to conduct a face-to-face encounter prior to recertification of eligibility for hospice care. *For more information regarding H.R. 4040, please see our August 1 newsletter.*
H.R. 8489: Greater Access to Telehealth Act *Introduced July 26, 2022*	• This bill would: ○ Remove geographic requirements and expand originating sites for telehealth services; ○ Expand practitioners eligibility to furnish telehealth services through December 31, 2026; ○ Extend telehealth services for federally qualified Health Centers and Rural Health Clinics to end before December 31, 2026; ○ Delay the in-person requirements under Medicare for mental health services furnished through telehealth and telecommunications technology; ○ Allow for the furnishing of Audio-Only telehealth services through December 31, 2026; and, ○ Allow the use of telehealth to conduct face-to-face encounter prior to recertification of eligibility for hospice care during the emergency period through December 31, 2026.
H.R. 8506: To amend title XVIII of the Social Security Act to extend telehealth services for federally qualified health centers and rural health clinics. *Introduced July 26, 2022*	• This bill would permanently extend Medicare coverage for telehealth services provided by federally qualified health centers and rural health clinics beyond the end of the COVID-19 public health emergency.

Bill/Activity	Key Proposed Actions
H.R. 8505: To amend title XVIII of the Social Security Act to permit the use of telehealth for purposes of recertification of eligibility for hospice care. *Introduced July 26, 2022*	• This bill would allow under Medicare the use of telehealth to conduct face-to-face encounters prior to recertification of eligibility for hospice care.
H.R. 8515: To amend title XVIII of the Social Security Act to allow for the furnishing of audio-only telehealth services. *Introduced July 26, 2022*	• This bill would permanently extend Medicare coverage of audio-only telehealth services beyond the end of the COVID-19 public health emergency.
H.R. 8493: To amend title XVIII of the Social Security Act to remove geographic requirements and expand originating sites for telehealth services. *Introduced July 26, 2022*	• This bill would permanently expand Medicare flexibilities regarding originating sites and geographic requirements beyond the end of the COVID-19 public health emergency.
H.R. 8491: To amend title XVIII of the Social Security Act to expand eligible practitioners to furnish telehealth services. *Introduced July 26, 2022*	• This bill would permanently allow occupational therapists, physical therapists, speech-language pathologists, and audiologists to practice via telehealth beyond the end of the COVID-19 public health emergency.
H.R. 8497: To amend title XVIII of the Social Security Act to remove in-person requirements under Medicare for mental health services furnished through telehealth and telecommunications technology. *Introduced July 26, 2022*	• This bill would permanently remove in-person requirements for telehealth services provided to Medicare beneficiaries beyond the end of the COVID-19 public health emergency.
H.R. 8405 / **S. 4467:** Protecting Access to Medication Abortion Act	• This bill would protect access to medication abortion via telehealth and certified pharmacies, including mail-order pharmacies, by codifying current the current FDA mifepristone Risk Evaluation and Mitigation Strategy (REMS).

Bill/Activity	Key Proposed Actions
H.R. 8405 Introduced July 18, 2022 *S.4467 Introduced June 23, 2022*	
H.R. 8296: Women's Health Protection Act of 2022 *Engrossed July 15, 2022*	• This bill would limit government restrictions on the provision of abortion services, including medication abortion services delivered via telehealth.
H.R.7900: National Defense Authorization Act for Fiscal Year 2023 *Engrossed July 14, 2022*	• This bill will expand access to behavioral health care under the military health system using telehealth. • This bill will also introduce the Telehealth Pilot Program on Sexual Health, which would: ○ Direct the Defense Health Agency to carry out a five-year telehealth pilot program for sexual health for members of the uniformed services on active duty enrolled in TRICARE Prime; and, ○ Extend telehealth screenings and assessment of the participant's sexual health, comprehensive counseling on a full range of methods of contraception, diagnostic services, prescription medications as appropriate, laboratory diagnostic services, and follow up remote appointments.
S. 4498: Kids' Mental Health Improvement Act *Introduced June 23, 2022*	• This bill would direct the Secretary of Health and Human Services to publish guidance for states to improve the availability of telehealth services covered by Medicaid State Plans.
S. 4486: Health Equity and Accountability Act of 2022 *Introduced June 23, 2022*	• This bill would direct the Secretary of Health and Human Services to: ○ Work with state representatives, physician and non-physician health care practitioners, and advocates to promote telehealth provisions that allow practitioners to provide services across state lines; and, ○ Publish guidance for states to improve telehealth accessibility under Medicaid and CHIP. • This bill would also: ○ Direct the Comptroller General to report to Congress on the use of telehealth by State Medicaid programs to improve maternity care access; ○ Direct the Secretary of Veterans Affairs to develop pilot projects to evaluate the cost-effectiveness of telehealth and how it impacts health outcomes in rural areas and those with medically underserved populations; and,

Bill/Activity	Key Proposed Actions
	○ Amend the Social Security Act to remove restrictions on and allow the home and other locations to be considered geographic originating sites for telehealth.
H.R. 8169: Rural Telehealth Access Task Force Act *Introduced June 22, 2022*	• This bill would create a Rural Telehealth Access Task Force for the purpose of improving access to broadband internet and the use of telehealth services in rural areas.
H.R. 8180: Undertaking Needed Investments in Therapy, Education, and De-Escalation Act of 2022 *Introduced June 22, 2022*	• This bill would extend authorized emergency telehealth services two years following the end of the COVID-19 emergency.
H.R. 7878: Kidney Health Connect Act of 2022 *Introduced May 24, 2022*	• This bill would allow for renal dialysis facilities to serve as originating sites for telehealth services under the Medicare program.
H.R.7876: Connecting Rural Telehealth to the Future Act *Introduced May 24, 2022*	• This bill would extend Medicare telehealth flexibilities implemented during the COVID-19 Public Health Emergency and would: ○ Extend all temporary telehealth provisions included in the FY2022 omnibus through December 31, 2024; ○ Permanently allow the use of audio-only telehealth flexibilities for two years; and, ○ Permanently allow audio-only technologies when providers are evaluating or managing patient health or providing behavioral health services.
H.R. 7666: Restoring Hope for Mental Health and Well-Being Act of 2022 *Introduced May 6, 2022*	• This bill would provide grant support to schools and emergency departments to establish or expand existing pediatric mental health care telehealth access programs.
H.R. 7585: Health Equity and Accountability Act of 2022 *Introduced April 26, 2022*	• This bill would direct the Secretary of Health and Human Services to: ○ Work with state representatives, physician and non-physician health care practitioners, and advocates to promote telehealth provisions that allow practitioners to provide services across state lines; and, ○ Publish guidance for states to improve telehealth accessibility under Medicaid and CHIP.

Bill/Activity	Key Proposed Actions

	• This bill would also:
	  ○ Direct the Comptroller General to report to Congress on the use of telehealth by State Medicaid programs to improve maternity care access;
	  ○ Direct the Secretary of Veterans Affairs to develop pilot projects to evaluate the cost-effectiveness of telehealth and how it impacts health outcomes in rural areas and those with medically underserved populations; and,
	  ○ Amend the Social Security Act to remove restrictions on and allow the home and other locations to be considered geographic originating sites for telehealth.

H.R. 7573: Telehealth Extension and Evaluation Act
 	
Introduced April 26, 2022
	• This bill would extend certain telehealth flexibilities enabled by Medicare for two years following the COVID-19 pandemic. It would allow:
	  ○ Limitation on payment for high-cost medical equipment via telehealth;
	  ○ Limitation on payment for high-cost laboratory tests via telehealth;
	  ○ A telehealth service provided by a Federally Qualified Health Center or Rural Clinic to be reimbursed as an outpatient service;
	  ○ Telehealth flexibilities at critical access hospitals, including payment for telehealth services that are furnished via a telecommunications system; and,
	  ○ The use of telehealth for the dispensing of controlled substances by means of the internet.
	• This act would also fund a study on the effects of changes to telehealth under the Medicare and Medicaid programs during the COVID–19 emergency.

S. 4132: Women's Health Protection Act of 2022 *Introduced May 3, 2022* *(Note: Failed to pass the Senate on May 11, 2022)*	• This bill would protect a provider's ability to perform and a patients ability to receive abortion services, including via telehealth.
Telehealth Extension and Evaluation Act *Introduced on Feb. 7, 2022*	• This bill would allow Centers for Medicare and Medicaid Services (CMS) to extend Medicare payments for a variety of telehealth services, and commission a study on the impact of the pandemic telehealth flexibilities.

Bill/Activity	Key Proposed Actions
S. 150: Ensuring Parity in MA for Audio-Only Telehealth Act of 2021 *Reintroduced Feb. 2, 2021*	• Requires Medicare to factor certain qualifying diagnosis obtained through telehealth during the PHE when setting risk adjustment payments in Medicare Advantage plans in future years • Requires any payment made for a telehealth service during the PHE under the new risk adjust to be the same as the in-person rate
S. 155: Equal Access to Care Act *Reintroduced Feb. 2, 2021*	• Allows licensed health care providers to provide health care services in a secondary state under the rules and regulations that govern them in their primary state • If passed, the bill would remain in effect for up to 180 days after the PHE ends
S. 340: Telehealth Response for E-prescribing Addiction Therapy Services (TREATS) Act *Reintroduced Feb. 22, 2021*	• Extends ability to prescribe Medication Assisted Therapies (MAT) and other necessary drugs without needing a prior in-person visit • Enables Medicare to cover audio-only telehealth services for substance use disorder services in a case where a provider has already conducted an in-person or telehealth evaluation
S. 368: Telehealth Modernization Act *Reintroduced Feb. 23, 2021*	• Remove geographic barriers for originating site • Require telehealth services to be covered by Medicare at FQHCs and RHCs • Direct HHS to permanently expand the telehealth services covered by Medicare during the PHE • Require Medicare to cover additional telehealth services for hospice and home dialysis care
S. 445: Mainstreaming Addiction Treatment Act of 2021 *Introduced Feb. 25, 2021*	• Allows community health practitioners to dispense narcotic drugs in schedule III, IV, or V, to an individual for maintenance treatment or detoxification through the practice of telemedicine
S. 620: KEEP Telehealth Options Act of 2021 *Reintroduced Mar. 9, 2021*	• Directs the HHS Secretary and the Comptroller General of the United States to conduct studies and report to Congress on actions taken to expand access to telehealth services under the Medicare, Medicaid, and Children's Health Insurance programs during the COVID-19 emergency
S. 660: Tele-Mental Health Improvement Act *Introduced March 10, 2021*	• A bill to require parity in the coverage of mental health and substance use disorder services provided to enrollees in private insurance plans, whether such services are provided in-person or through telehealth

Bill/Activity	Key Proposed Actions
S. 801: Connected MOM Act *Introduced Mar. 17, 2021*	• Requires Health and Human Services to identify and address barriers to coverage of remote physiologic devices under State Medicaid programs to improve maternal and child health outcomes for pregnant and postpartum women
S. 1309: Home Health Emergency Access to Telehealth (HEAT) Act *Introduced Apr. 28, 2021*	• Gives the Centers for Medicare & Medicaid Services (CMS) the authority to issues waivers to allow payments for home health services furnished via visual or audio telecommunication systems during an emergency period
S. 1704/H.R.5981: Telehealth Expansion Act *S. 1704 introduced May 19, 2021* *H.R. 5981 introduced November 15, 2021*	• Permanently allows first-dollar coverage of virtual care under high-deductible health plans (HDHPs) • Allows access to a wider variety of telehealth services without first meeting a deductible
S. 2061: Telemental Healthcare Access Act of 2021 *Introduced June 15, 2021*	• Expands access to telemental health services by removing statutory requirement that Medicare beneficiaries be seen in-person within six months of being treated for mental health services through telehealth
S. 2097: Telehealth Health Savings Account (HSA) Act *Introduced June 17, 2021*	• Allow employers to offer high-deductible health plans that include telehealth services without limiting employees' ability to use health savings accounts
S. 2110: Increasing Rural Telehealth Access Act of 2021 *Introduced June 17, 2021*	• Expands access to health care by improving remote patient monitoring technology for individuals in rural areas
S. 2111: Audio-Only Telehealth for Emergencies Act *Introduced June 17, 2021*	• Allow physicians delivering care during a public health emergency or a major disaster declaration to receive the same compensation for audio-only telehealth visits as they would receive for in-person appointments
S. 2173: Promoting Responsible and Effective Virtual Experiences through Novel Technology to Deliver Improved Access and Better Engagement with Tested	• Enables Medicare coverage of connected health services in the MDPP (Medicare Diabetes Prevention Program)

Bill/Activity	Key Proposed Actions
and Evidence-based Strategies (PREVENT DIABETES) Act *Reintroduced June 22, 2021*	
S. 2197: Rural and Frontier Telehealth Expansion Act *Introduced June 23, 2021*	• Amends title XIX of the Social Security Act to increase the Federal medical assistance percentage for States that provide Medicaid coverage for telehealth services
H.R. 318: Safe Testing at Residence Telehealth Act of 2021 *Reintroduced Jan. 13, 2021*	• Provides Medicare payment of telehealth assessments provided in relation to COVID-19 • Requires Medicare payment of COVID-19 blood tests ordered via telehealth during the PHE • Requires practitioners to report demographic data with respects to tests and services ordered via telehealth
H.R. 341: Ensuring Telehealth Expansion Act of 2021 *Reintroduced Jan. 15, 2021*	• Extend telehealth provisions in the CARES Act through December 31, 2025 • Require payment parity for telehealth services furnished at FQHCs and RHCs • Allows the use of telehealth to conduct a face-to-face encounter for recertification of eligibility for hospice care
H.R. 366: Protecting Access to Post-COVID-19 Telehealth Act of 2021 *Reintroduced Jan. 19, 2021*	• Eliminate most geographic and originating site restrictions in Medicare and establish the patient's home as an eligible distant site • Authorize CMS to continue reimbursement for telehealth for 90 days beyond the end of the PHE • Allow HHS to expand telehealth in Medicare during all future emergencies • Require a study on the use of telehealth during COVID-19
H.R. 596: The Advancing Connectivity During the Coronavirus to Ensure Support for Seniors (ACCESS) Act *Reintroduced Jan. 28, 2021*	• Allows HHS Telehealth Resource Center to allocate $50 million to expand Medicare and Medicaid coverage of telehealth services in nursing facilities • Creates a grant for nursing homes to offer virtual visits
H.R. 708: Temporary Reciprocity to Ensure Access to Treatment (TREAT) Act	• Note: H.R. 708 is nearly identical in scope to the Equal Access to Care Act (see S.155 above), with the exception that H.R. 708 would grant HHS authority to unilaterally create similar

Bill/Activity	Key Proposed Actions
Reintroduced Jan. 19, 2021	temporary licensure regulations in the event of future public health or other emergencies
H.R. 726: COVID–19 Testing, Reaching, And Contacting Everyone (TRACE) Act *Introduced Feb. 2, 2021*	• Authorizes the Secretary of Health and Human Services to award grants to eligible entities to conduct diagnostic testing for COVID-19, and related activities
H.R. 937: Tech To Save Moms Act *Introduced Feb. 8, 2021*	• Amends title XI of the Social Security Act to integrate telehealth models in maternity care services, and for other purposes
H.R. 1149: Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT) for Health Act of 2021 *Reintroduced for fourth time on Apr. 29, 2021 with overwhelming support (sponsored by 50 bi-partisan senators)*	• Permanently removes the Medicare geographic restrictions and allow the home to be an originating site for mental telehealth services • Remove the geographic and distant site restrictions for federally qualified health centers (FQHCs) and rural health clinics (RHCs) • Allows the HHS secretary to waive telehealth restrictions • Encourages CMS Innovation Center to test more payment models that include telehealth
H.R. 1397: Telehealth Improvement for Kids' Essential Services (TIKES) Act *Reintroduced Feb. 26, 2021*	• Provide states with guidance and strategies to increase telehealth access for Medicaid and Children's Health Insurance Program (CHIP) populations. Guidance and strategies will include: ○ Delivery of covered telehealth services ○ Recommended voluntary billing codes, modifiers, and place-of-service designations ○ Simplifications or alignment of provider licensing, credentialing, and enrollment ○ Existing strategies States can use to integrate telehealth into value-based health care models ○ Examples of States that have used waivers under the Medicaid program to test expanded access to telehealth ○ Require a Medicaid and CHIP Payment and Access Commission (MACPAC) study examining data and information on the impact of telehealth on the Medicaid population

Bill/Activity	Key Proposed Actions
	○ Require a Government Accountability Office (GAO) study reviewing coordination among federal agency telehealth policies and examine opportunities for better collaboration, as well as opportunities for telehealth expansion into early care and education settings
H.R. 1406: COVID-19 Emergency Telehealth Impact Reporting Act *Reintroduced Feb. 26, 2021*	• Require HHS to study telehealth use during the pandemic and impact on care delivery
H.R. 2166: Ensuring Parity in MA and PACE for Audio-Only Telehealth Act *Introduced Mar. 23, 2021*	• Requires the inclusion of certain audio-only diagnoses in the determination of risk adjustment for Medicare Advantage plans and PACE programs, and for other purposes
H.R. 2168: Expanded Telehealth Access Act *Introduced Mar. 23, 2021*	• Allows on a permanent basis the HHS Secretary to expand the list of healthcare providers who would be able to use the connected health program including: physical and occupational therapists, audiologists, and speech and language pathologists
H.R. 2228: Rural Behavioral Health Access Act *Introduced Mar. 26, 2021*	• Allows for payment of outpatient critical access hospital services furnished through telehealth under the Medicare program, including behavioral health services such as psychotherapy
H.R. 2903: CONNECT for Health Act *Introduced Apr. 28, 2021*	• Amends title XVIII of the Social Security Act to expand access to telehealth services
H.R. 3371: Home Health Emergency Access to Telehealth (HEAT) Act *Reintroduced May 20, 2021*	• Gives the Centers for Medicare & Medicaid Services (CMS) the authority to issues waivers to allow payments for home health services furnished via visual or audio telecommunication systems during an emergency period
H.R. 3447: Permanency for Audio-Only Telehealth Act *Introduced May 20, 2021*	• Allows Medicare coverage of audio-only telehealth services after the COVID-19 public health emergency

Bill/Activity	Key Proposed Actions
H.R. 3755: Women's Health Protection Act of 2021 *Reintroduced June 8, 2021*	• Allows health care providers to provide abortion services via telemedicine
H.R. 4012: Expanding Access to Mental Health Services Act *Introduced June 17, 2021*	• Permanently broadens mental health options, including intake examinations and therapy, via telehealth for Medicare members
H.R. 4036/S.2112: Enhance Access to Support Essential Behavioral Health Services (EASE) Act *S. 2112 introduced June 17, 2021* *H.R. 4036 Introduced June 22, 2021*	• Permanently allows Medicare and Medicaid to reimburse for all behavioral health services for children, seniors and those on disability
H.R. 4058/S.2061: Telemental Health Care Access Act of 2021 *S. 2061 introduced June 15, 2021* *H.R. 4058 introduced June 22, 2021*	• Expands access to telemental health services by removing statutory requirement that Medicare members be seen in-person within six months of being treated for mental health services through telehealth
H.R. 4437: HEALTH Act of 2021 *Introduced July 16, 2021*	• Amends title XVIII of the Social Security Act to permanently provide reimbursement to Federally qualified health centers (FQHCs) and rural health clinics (RHCs) under the Medicare program for services delivered via telehealth
H.R. 4480: Telehealth Coverage and Payment Parity Act *Introduced July 16, 2021*	• Requires group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage for services furnished via telehealth if such services would be covered if furnished in-person
H.R. 4670: Advanced Safe Testing at Residence Telehealth Act (A-START) *Introduced July 22, 2021*	• Enables individuals who receive care through Medicare Advantage, Medicaid, and the Veterans Affairs to receive FDA-approved at-home tests at home in conjunction with an assistive telehealth consultations

Bill/Activity	Key Proposed Actions
H.R. 4748: Helping Every American Link To Healthcare Act of 2021 *Introduced July 28, 2021*	• Allows providers to furnish telehealth services using any non-public facing audio or video communication product during the 7-year period beginning the last day of the public health emergency
H.R. 4770: Evaluating Disparities and Outcomes of Telehealth (EDOT) During the COVID-19 Emergency Act of 2021 *Introduced July 28, 2021*	• Requires the Secretary of HHS to conduct a study evaluating the effects of changes to telehealth under Medicare and Medicaid during the COVID-19 emergency
H.R. 4918: Rural Telehealth Expansion Act *Introduced Aug. 3, 2021*	• Amends the Social Security Act to include store-and- forward technologies as telecommunications systems through which telehealth services may be furnished for payment under the Medicare program.

H.R. 5248: Temporary Responders for Immediate Aid in Grave Emergencies Act of 2021
 	
Introduced Sept. 14, 2021
	• Authorizes the HRSA Provider Bridge Program to:
	  ○ Streamline the process for mobilizing health care professionals during the COVID-19 pandemic and future public health emergencies, including by utilization communications pathways and new technologies; and,
	  ○ Connect health care professionals with state agencies and health care entities to quickly increase access to care for patients via telehealth.

H.R. 5425: Protecting Rural Telehealth Access Act *Introduced Sept. 29, 2021*	• Amends title XVIII of the Social Security Act to protect access to telehealth services under the Medicare program • Eliminates geographic requirements for originating sites • Requires reimbursement for telehealth services provided in a critical access hospital • Requires a telehealth payment rate for telehealth services furnished by a FQHC or RHC • Allows the use of audio-only technology for certain telehealth services including: E/M services, behavioral health counseling and education services, and other services determined appropriate by the secretary
H.R. 5506: Rural Telehealth Access Task Force Act *Introduced October 8, 2021*	• Establishes a Rural Telehealth Access Task Force to determine how to address barriers to the adoption of telehealth technology and access to broadband internet access service in rural areas, and for other purposes

Bill/Activity	Key Proposed Actions
H.R. 5541: Primary and Virtual Care Affordability Act *Introduced October 8, 2021*	• Amends the Internal Revenue Code to extend the exemption for telehealth services from certain high deductible plan rules
H.R. 5837: To amend title XVIII of the Social Security Act to expand access to telehealth services relating to substance use disorder treatment, and for other purposes. *Introduced November 3, 2021*	• Eliminates requirement within Medicare for an in-person medical evaluation by a physician or practitioner prior to furnishing substance abuse disorder services through audio or telephone only technologies • Requires the Secretary of HHS to establish a task force to collect and assess data relating to the utilization rates of medications for opioid use disorder and the number of practitioners furnishing SUD prescriptions through telehealth
H.R. 6000: CURES Act 2.0 *Introduced November 16, 2021*	• Requires HHS to disseminate guidance and strategies to states on effectively integrating telehealth into Medicaid and CHIP programs • Eliminates geographic and originating site restrictions within Medicare that require patients to live in a rural area and physically travel to a doctor's office or clinic in order to receive care via telehealth. • Allows the HHS secretary to permanently expand the types of health providers who can offer telehealth and the scope of telehealth services that can be reimbursed under Medicare
H.R. 6202: Telehealth Extension Act *Introduced Dec. 9, 2021*	• Permanently eliminates geographic and site restrictions for telehealth services for Medicare beneficiaries • Extends select COVID-19 emergency telehealth waivers for two years, including (but not limited to) permitting Medicare coverage for telehealth services provided by specialty providers (e.g., speech language pathologists, occupational therapists, and physical therapists) • Allows critical access hospitals to keep providing behavioral therapy via telehealth and ensures proper reimbursement for audio-only telehealth services
Passed Legislation	
H.R. 2617: Consolidated Appropriations Act, 2023 *Passed December 29, 2022*	• This bill will, among other provisions, extend the following COVID-19 PHE flexibilities for Medicare beneficiaries to December 31, 2024: ○ Removing specific telehealth geographic requirements and expanding originating sites;

Bill/Activity	Key Proposed Actions
	○ Expanding practitioners allowed to practice telehealth; ○ Telehealth service provision by FQHCs; ○ Delaying in-person requirements for mental health services; ○ Allowing audio-only telehealth service provision; and, ○ Allowing the use of telehealth to conduct face-to-face encounters prior to recertification of eligibility for hospice care.
S. 2938: Bipartisan Safer Communities Act *Passed June 25, 2022*	• This bill would direct the Secretary of Health and Human Services to publish guidance for states to improve telehealth accessibility under Medicaid and CHIP.
Omnibus FY 2022 Spending Bill *Passed March 15, 2022*	• Temporarily extends the following Medicare telehealth flexibilities, which are central to enabling Medicare beneficiaries to access a broad range of services via telehealth from any location, for 151 days beginning on the first day after the end of the public health emergency (PHE) period: ○ Any site in the United States, including a patient's home, will be considered an eligible originating site for the delivery of telehealth services. ○ Facility fees will not be paid to newly covered originating sites (e.g., patient's home). ○ Eligible telehealth practitioners will continue to include qualified occupational therapists, physical therapists, speech-language therapists, and audiologists. ○ Federally qualified health centers and rural health clinics may serve as originating or distant sites for the delivery of telehealth services. ○ Providers will not be required to meet in-person visit requirements in order to deliver mental health services via video or audio-only visit. This applies to all sites of care, including Federally Qualified Health Centers and Rural Health Clinics (except in the case of hospice patients). ○ Coverage of telehealth services delivered via audio-only format will continue for specific service codes identified by Medicare as being eligible for delivery via audio only. ○ Practitioners will be able to use telehealth to conduct face-to-face encounters prior to recertification of eligibility for hospice care. ○ Allows health savings account-eligible plans to provide pre-deductible coverage for telehealth services through the end of 2022.

Bill/Activity	Key Proposed Actions
	○ Establishes telehealth reporting requirements for the Medicare Payment Advisory Commission (MedPAC) and the HHS related to telehealth utilization under the Medicare program.
H.R. 6074: Coronavirus Preparedness and Response Supplemental Appropriations Act	• Allows CMS to extend coverage of telehealth services to beneficiaries regardless of where they are located • Allows CMS to extend coverage to telehealth services provided by "telephone" but only those with "audio and video capabilities that are used for two-way, real-time interactive communication" (e.g., smartphones) *For more information on Medicare changes, see our March 17 Manatt newsletter.*
H.R. 748: Coronavirus Aid, Relief, and Economic Security (CARES) Act	• Telehealth Provisions include: ○ Telehealth Network and Telehealth Resource Centers Grant Programs ○ Exemption for Telehealth Services ○ Increasing Medicare Telehealth Flexibilities During Emergency ○ Enhancing Medicare Telehealth Services for Federally Qualified Health Centers and Rural Health Clinics During Emergency Periods ○ Temporary Waiver of Requirement for Face-to-Face Visits Between Home Dialysis Patients and Physicians ○ Use of Telehealth to Conduct Face-to-Face Encounter Prior to Recertification of Eligibility for Hospice Care During Emergency Period ○ Encouraging Use of Telecommunications Systems for Home Health Services Furnished During Emergency Period *For more information on the CARES Act, see our March 27 Manatt newsletter.*
H.R. 133: Consolidated Appropriations Act, 2021	• Telehealth provisions include: ○ Expanding Access to Mental Health Services Furnished through Telehealth ○ Funding for Telehealth and Broadband Programs including: ○ An additional $250M to the FCC COVID-19 Telehealth Program ○ $285M for a pilot program to award grants to Historically Black Colleges or Universities, tribal

Bill/Activity	Key Proposed Actions
	colleges and universities, and other minority-serving institutions ○ $3.2B to establish an Emergency Broadband Benefit program at the FCC ○ $1B at the NTIA support broadband connectivity on tribal lands to be used for broadband development, telehealth, distance learning, affordability and digital inclusion ○ $300M for broadband development program targeted towards rural areas to support broadband infrastructure development *For more information on the Consolidated Appropriations Act, see our December 23 Manatt newsletter.*
H.R. 1319: American Rescue Plan Act of 2021	• Includes funding for the following opportunities that would expand access to telehealth, including: ○ Emergency Grants to help Rural Health Care facilities increase telehealth capabilities ○ Funding to support information technology infrastructure for telehealth at Indian Health Services Centers ○ Funding to support behavioral and mental health professionals who utilize telehealth to deliver care via telehealth ○ Support and training for home care visiting entities that conduct virtual home visits ○ Assistance for rape crisis centers transitioning to virtual services

Other Information of Interest

In February 2023, the American Medical Association CPT Editorial Panel added 17 new CPT codes that can be used to report telemedicine E/M office visits. The Panel also removed three codes for billing telephonic E/M office visits. These changes will be effective January 2025.

In November 2022, CTeL published a legislative memo that provides summary of active congressional bills that address Remote Patient Monitoring (RPM) services and devices. Most active RPM bills require government agencies to conduct an evaluation of the devices, and report back to Congress on its use and effectiveness. Other active RPM legislation would provide grants to states of providers to initiate pilot programs and expand RPM services.

In June 2022, medRxiv published an article titled "Trends in telehealth use by Medicare fee-for-service beneficiaries and its impact on overall volume of healthcare services". Telehealth outpatient Evaluation & Management (E&M) service usage among Medicare fee-for-service beneficiaries declined between

April 2020 and December 2021, falling to 8.5-9.5% of all E&M service usage. The total usage of E&M services was lower in 2020 and 2021 than in 2019, implying that expansions to telehealth coverage under Medicare during the public health emergency did not necessarily increase the use of E&M services by Medicare beneficiaries.

In June 2022, The White House Office of National Drug Control Policy (ONDCP) published a report titled "Telehealth and Substance Use Disorder Services in the Era of COVID-19: Review and Recommendations", which identified issues and benefits with health care service for substance use disorder (SUD)-affected populations. Recommendations for future policy about and investment in telehealth include federally supporting or mandating interstate licensure reciprocity, permanently expanding the telehealth regulatory changes enacted during the public health emergency (PHE), increasing funding for apps and other telehealth services, and appraising and anticipating ethical and privacy issues about telehealth.

In June 2022, FAIR published an article titled "In March 2022, Telehealth Utilization Fell Nationally for Second Straight Month". Telehealth utilization, as measured by telehealth's share of all medical claim lines, fell nationally for the second straight month, according to FAIR Health's Monthly Telehealth Regional Tracker. Researchers suggest the decline in telehealth use was due to an ongoing reduction in the severity and prominence of COVID-19, encouraging more patients to attend in-person visits. The article also states that despite the decline in overall telehealth usage, mental health conditions remain at the top of the list of telehealth diagnoses.

In May 2022, The National Committee for Quality Assurance (NCQA) released a report titled "The Future of Telehealth Roundtable," which highlights strategies that could help close care gaps as telehealth usage continues to grow. In October 2021, NCQA hosted a roundtable discussion to facilitate dialogue on the future of telehealth delivery in a post-pandemic world; the three following strategies were identified to promote equitable access in telehealth delivery:

- Creating telehealth services that cater to personal patient preferences and needs, as some individuals may face struggles due to their primary language and socioeconomic status
- Addressing regulatory barriers to access and changing regulations to allow expanded provider eligibility for licensure
- Leveraging Telehealth and Digital Technologies to Promote Equitable Care Delivery

The report suggests that as telehealth becomes the new "normal", it is important to prevent inequitable gaps in telehealth delivery.

In May 2022, JAMA Pediatrics published a research letter titled, "Association of Race and Socioeconomic Disadvantage With Missed Telemedicine Visits for Pediatric Patients During the COVID-19 Pandemic." The letter highlights how pediatric patients are more likely to miss telehealth visits if they are low-income. Specifically, a higher probability of economic disadvantage was associated with a greater likelihood of missing a telehealth visit as compared to an in-person visit across racial groups. Additionally, telehealth visits were associated with lower no-show rates for future clinical appointments, but only for those with lower economic disadvantage.

In May 2022, Health Affairs published a study titled, "Medicare Beneficiaries In Disadvantaged Neighborhoods Increased Telemedicine Use During The COVID-19 Pandemic." The study found that Medicare beneficiaries living in disadvantaged areas had the greatest odds of expanded telehealth utilization as a result of emergency federal telemedicine coverage expansions during the COVID-19 pandemic. However, odds of increased telehealth access dropped as age increased.

In May 2022, Harvard Business Review released an article titled "The Telehealth Era Is Just Beginning," which explored the current landscape and evidence around telehealth, and discussed future trends in telehealth utilization and policy coming out of the COVID-19 pandemic. Using internal data from Kaiser Permanente and Intermountain Healthcare, combined with National Committee for Quality Assurance outcomes data and health plan member satisfaction surveys, the authors outline five opportunities that broader telehealth utilization could provide:

- A reduction in expensive, unnecessary ER visits
- An improvement in timeliness and efficiency of specialty care
- Access to the best doctors
- A reversal of America's chronic-disease crisis
- Mitigation of health care disparities

The report also suggested that further integration among care team members and adoption of capitated payment models may expedite the implementation of telehealth among providers.

RAND Corporation released a report titled "Experiences of Health Centers in Implementing Telehealth Visits for Underserved Patients During the COVID-19 Pandemic", which evaluated the progress of FQHCs that participated in the Connected Care Acceleration (CCA) initiative by investigating changes in telehealth utilization and health center staff experiences with implementation. The study found that although overall visit volumes remained about the same from the pre-pandemic to the pandemic study periods, the share of audio-only and video visits dramatically increased during the pandemic, and audio-only visits were the leading modality for primary and behavioral health. The study recommends continued study of telehealth trends, particularly regarding equitable access to telehealth.

In March 2022, the American Medical Association released their 2021 Telehealth Survey Report, which aimed to gather insights on the experiences of current and expected future use to inform ongoing telehealth research and advocacy, resource development, and continued support for physicians, practices, and health systems. Data was collected from individuals, state and specialty medical organizations, and members of the American Medical Association Telehealth Immersion Program. The survey indicated that 85% of physicians currently use telehealth, and over 80% of patients said that they receive better access to care since using telehealth. In addition, 54.2% of respondents indicated that telehealth has improved the satisfaction of their work, and 44% said that telehealth has lowered costs.

In March 2022, GAO published a report titled "CMS Should Assess Effect of Increased Telehealth Use on Beneficiaries' Quality of Care", which examined the use of telehealth among Medicaid beneficiaries before and during the COVID-19 pandemic across six select states: Arizona, California, Maine, Mississippi, Missouri, Tennessee. The report also explored the states' experiences with telehealth during the pandemic, future plans for post-PHE telehealth coverage, and CMS' oversight of quality of care for services delivered via telehealth. GAO found that five of the selected states delivered 32.5 million

services via telehealth to approximately 4.9 million beneficiaries between March 2020 and February 2021, up from 2.1 million services delivered to about 455,000 beneficiaries during the same time period in the previous year. Notably, the report highlighted the need for improved data collection and analysis related to the quality of care delivered via telehealth. Based on the results of the study, GAO issued two recommendations to CMS: (1) collect and analyze information about the effect delivering services via telehealth has on the quality of care Medicaid beneficiaries receive, and (2) determine any next steps based on the results of the analysis.

In March 2022, the HHS-OIG released a data brief titled "Telehealth Was Critical for Providing Services to Medicare Beneficiaries During the First Year of the COVID-19 Pandemic," which examined trends in telehealth utilization among Medicare fee-for-service and Medicare Advantage beneficiaries from March 2020 to February 2021. The data brief indicated that more than 40% of Medicare beneficiaries utilized telehealth during the first year of the pandemic, with use remaining high through early 2021. Beneficiaries used 88 times more telehealth services during the first year of the pandemic as compared to the prior year.

In March 2022, the American Medical Association (AMA) released a physician survey examining experiences with and perceptions of telehealth. Of the 2,232 provider respondents, nearly 85% indicated they currently use telehealth to deliver care to patients, while 70% indicated they plan to continue offering telehealth services. Moreover, 60% of providers surveyed felt telehealth enabled them to provide high quality care, while 80% of respondents indicated patients received better access to care since using telehealth.

In February 2022, the American Medical Association (AMA), in collaboration with Manatt Health, published a report titled "Accelerating and Enhancing Behavioral Health Integration Through Digitally Enabled Care," which used findings from a diverse working group to highlight solutions that industry stakeholders can apply to address gaps hindering the equitable and sustainable adoption of digitally-enabled behavioral health integration (BHI). Solutions included: increasing BHI training for primary care and behavioral health providers through the incorporation of digitally enabled BHI into standard curricula, encouraging the incorporation of telehealth into BHI by implementing payment parity for behavioral health services delivered via video or audio-only modalities, and passing legislation to remove originating site and geographic restrictions for all telehealth services in Medicare that limit access to care.

In February 2022, Doximity, a provider networking and digital health service, published the second edition of its "State of Telemedicine Report," which highlighted findings in patient and provider perceptions of telehealth based on surveys conducted between January 2020 and June 2021. Patients overall showed growing trust in telehealth as a mechanism for high-quality care, with 55% reporting that they felt telemedicine provided equal or greater quality of care than in-person visits in 2021, compared to 40% in 2020. In addition, approximately two thirds of physicians indicated that using telemedicine allowed them to build or preserve trust with their patients.

In February 2022, The U.S. Government Accountability Office (GAO) released a report titled, "Defense Health Care: DOD Expanded Telehealth for Mental Health Care during the COVID-19 Pandemic," which focused on telehealth use in the military. Among active duty servicemembers, pre-pandemic telehealth visits made up 15% of mental health care visits, compared to 33% in April 2021. Department of Defense

(DOD) officials highlighted the value of telehealth and its ability to improve access and continuity of care. In addition, officials suggested that telehealth may reduce the stigma of seeking mental health treatment by allowing servicemembers to receive care more privately without the risk of being seen in military treatment facilities.

In February 2022, the HHS Office of the Assistant Secretary for Planning and Evaluation released an issue brief titled "National Survey Trends in Telehealth Use in 2021: Disparities in Utilization and Audio vs. Video Services," which compared differences in telehealth access for audio-only and video visits between April and October 2021. While overall telehealth utilization was similar across demographic groups, except among the uninsured, there were significant differences in video telehealth use. Rates of video telehealth use were lowest among Latino, Asian and Black individuals, those without a high school degree and adults ages 65 and older.

In October 2021, the HHS-OIG released a data snapshot report titled "Most Medicare beneficiaries received telehealth services only from providers with whom they had an established relationship," which evaluated the relationship between providers and Medicare patients utilizing telehealth between March and December 2020. Notably, the data snapshot found that 84% of Medicare beneficiaries received telehealth services only from providers with whom they had an established relationship.

In October 2021, JAMA published an study titled "Changes in Virtual and In-Person Health Care Utilization in a Large Health System During the COVID-19 Pandemic," which sought to assess the association between the growth of virtual care and health care utilization in an integrated delivery network. The study found that while COVID-19 caused in-person visits to decline and virtual services to increase, there was no significant change in the overall volume of healthcare utilization, suggesting that virtual care was substitutive, rather than additive in the ambulatory care setting.

In September 2021, the HHS-OIG released two telehealth reports "States Reported Multiple Challenges With Using Telehealth To Provide Behavioral Health Services to Medicaid Enrollees" and "Opportunities Exist To Strengthen Evaluation and Oversight of Telehealth for Behavioral Health in Medicaid" based on surveys conducted in early 2020. The surveys focused around telemental health delivery though managed care organizations.

In July 2021, AAMC in in partnership with Manatt Health published "Sustaining Telehealth Success: Integration Imperatives and Best Practices for Advancing Telehealth in Academic Health Systems", conducting extensive interviews with many leading telehealth AMCs across the country (Ochsner, VA, Kaiser, MUSC, UMMC, Intermountain, Jefferson, etc.) and synthesizing best practices through this report.

In July 2021, The National Association of Community Health Centers (NACHC) published "Telehealth During COVID-19 Ensured Patients Were Not Left Behind," which explores how health centers have utilized telehealth and the implications for health center patients should the PHE flexibilities not be extended.

In June 2021, the Lucile Packard foundation published "COVID-19 Policy Flexibilities Affecting Children and Youth with Special Health Care Needs" to identify key flexibilities enacted during the PHE related to children and youth with special health care needs (CYSHCN) and summarize stakeholders' perspectives about the impact of policy flexibilities on CYSHCN and their families and providers.

In June 2021, the Commonwealth Fund published "States' Actions to Expand Telemedicine Access During COVID-19 and Future Policy Considerations," which examined state actions to expand individual and group health insurance coverage of telemedicine between March 2020 and March 2021 in order to better understand the changing regulatory approach to telemedicine in response to COVID-19. Notably, the report found that twenty-two states "changed laws or policies during the pandemic to require more robust insurance coverage of telemedicine." Three policy flexibilities that states focused on included: requiring coverage of audio-only services; requiring payment parity between in-person and telemedicine services; and, waiving cost sharing for telemedicine or requiring cost sharing equal to in-person care.

In June 2021, the Substance Abuse and Mental Health and Services Administration (SAMHSA) released "Telehealth for the Treatment of Serious Mental Illness and Substance Use Disorders," a guide supporting the implementation of telehealth across diverse mental health and substance use disorder treatment settings. The guide examines the current telehealth landscape and includes guidance and resources for evaluating and implementing best practices that will continue to assist treatment providers and organizations seeking to increase access to mental health services via telehealth.

In May 2021, the National Academy for State Health Policy (NASHP) released "States Expand Medicaid Reimbursement of School-Based Telehealth Services" exploring how states are increasing Medicaid coverage of school-based telehealth services during COVID-19, determining which services can effectively be delivered through telehealth, and supporting equitable access to telehealth services for students.

In May 2021, the Kaiser Family Foundation published "Medicare and Telehealth: Coverage and Use During the COVID-19 Pandemic and Options for the Future" analyzing Medicare beneficiaries' utilization of telehealth using CMS survey data between summer and fall of 2020.

In May 2021, the American Medical Association in partnership with Manatt Health published "Return on Health: Moving Beyond Dollars and Cents in Realizing the Value of Virtual Care" to articulate the value of digitally enabled care that accounts for ways in which a wide range of virtual care programs can increase the overall health and generate positive impact for patients, clinicians, payors and society.

In March 2021, the Journal of the American Medical Association (JAMA) published "In-Person and Telehealth Ambulatory Contacts and Costs in a Large US Insured Cohort Before and During the COVID-19 Pandemic," highlighting existing disparities related to the digital divide.

FAIR Health publishes a Monthly Telehealth Regional Tracker to track how telehealth is evolving comparing telehealth: volume of claim lines, urban versus rural usage, the top five procedure codes, and the top five diagnoses.

In February 2021, the Commonwealth Fund published "The Impact of COVID-19 on Outpatient Visits in 2020: Visits Remained Stable, Despite a Late Surge in Cases" tracking trends in outpatient visit volume through the end of 2020 hoping to track what the clinical impacts of the pandemic are and how accessible has outpatient care been, if there are new policies encouraging greater use of telemedicine, and what has been the financial impact of the pandemic on health care providers.

In February 2021, the California Health Care Foundation in partnership with Manatt Health published "Technology Innovation in Medicaid: What to Expect in the Next Decade," a survey of 200 health care

thought leaders in order to learn where health technology in the safety net is expected to go over the next decade.

In February 2021, Health Affairs published "Variation In Telemedicine Use And Outpatient Care During The COVID-19 Pandemic In The United States," which examined outpatient and telemedicine visits across different patient demographics, specialties, and conditions between January and June 2020. The study found that 30.1% of all visits were provided via telemedicine, and usage was lower in areas with higher rates of poverty.

On December 29, JAMA published an article evaluating whether inequities are present in telemedicine use during the COVID-19 pandemic. The study found that older patients, Asian patients, and non–English-speaking patients had lower rates of telemedicine use, and older patients, female patients, Black, Latinx, and poorer patients had less video use. The authors conclude that there are inequities that exist and the system must be intentionally designed to mitigate inequity.

Payment Parity State-by-State Tracker

The tracker below includes state law, statute, or regulatory requirements relevant to insurers (Commercial, Medicaid, Others) requiring payment parity for services delivered via telehealth.

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Alabama	**No.** *No relevant policy or statue reference found.*
Alaska	**No, mental health coverage parity only.** "A health care insurer that offers, issues for delivery, or renews in the state a health care insurance plan in the group or individual market [THAT PROVIDES MENTAL HEALTH BENEFITS] shall provide coverage for [MENTAL HEALTH] benefits provide through telehealth by a health care provider licensed in this state and may not require that prior in-person contact occur between a health are provider and a payment before payment is made for covered services." – AK Statute, Sec. 21.42.422 (HB 29 – 2020 Session). Accessed May 2021)
Arizona	**Yes.** "2. Except as otherwise provided in this paragraph, a corporation shall reimburse health care providers at the same level of payment for equivalent services as identified by the healthcare common procedure coding system, whether provided through telehealth using an audio-visual format or in-person care. A corporation shall reimburse health care providers at the same level of payment for equivalent in-person behavioral health and substance use disorder services as identified by the healthcare common procedure coding system if provided through telehealth using an audio-only format. This paragraph does not apply to a telehealth encounter provided through a telehealth platform that is sponsored or provided by the corporation." – Arizona House Bill No. 2454 (Accessed May 2021)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Arkansas	**Yes.** "(2) (A) "Health benefit plan" means: (i) An individual, blanket, or group plan, policy, or contract for healthcare services issued or delivered by an insurer, health maintenance organization, hospital medical service corporation, or self-insured governmental or church plan in this state; and (ii) Any health benefit program receiving state or federal appropriations from the State of Arkansas, including the Arkansas Medicaid Program, the Health Care Independence Program, commonly referred to as the "Private Option", and the Arkansas Works Program, or any successor program. (1) A health benefit plan shall provide coverage and reimbursement for healthcare services provided through telemedicine on the same basis as the health benefit plan provides coverage and reimbursement for health services provided in person, unless this subchapter specifically provides otherwise. (2) A health benefit plan is not required to reimburse for a healthcare service provided through telemedicine that is not comparable to the same service provided in person." – AR Code 23-79-1601 & 1602 (Accessed May 2021)
California	**Yes, except for Medi-Cal managed care plans.** "(a) (1) A contract issued, amended, or renewed on or after January 1, 2021, between a health care service plan and a health care provider for the provision of health care services to an enrollee or subscriber shall specify that the health care service plan shall reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an enrollee or subscriber appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment. (f) This section shall not apply to Medi-Cal managed care plans that contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) of, Chapter 8 (commencing with Section 14200) of, or Chapter 8.75 (commencing with Section 14591) of, Part 3 of Division 9 of the Welfare and Institutions Code." – CA Health & Safety Code Sec. 1374.14 (Accessed May 2021)
Colorado	**Yes.** "(b) (I) Subject to all terms and conditions of the health benefit plan, a carrier shall reimburse the treating participating provider or the consulting participating provider for the diagnosis, consultation, or treatment of the covered person delivered through telehealth on the same basis that the carrier is responsible for reimbursing that provider for the provision of the same service through in-person consultation or contact by that provider." – CO Rev Stat § 10-16-123 (2017) (Accessed May 2021)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Connecticut	**Yes, for Medicaid services only.** "(b) Notwithstanding the provisions of section 17b-245c, 17b-245e or 204 19a-906 of the general statutes, as amended by this act, or any other section of the general statutes, regulation, rule, policy or procedure governing the Connecticut medical assistance program, the Commissioner of Social Services shall, to the extent permissible under federal law, provide coverage under the Connecticut medical assistance program for audio-only telehealth services when (1) clinically appropriate, as determined by the commissioner, (2) it is not possible to provide comparable covered audiovisual telehealth services, and (3) provided to individuals who are unable to use or access comparable, covered audiovisual telehealth services. (c) To the extent permissible under federal law, the commissioner shall provide Medicaid reimbursement for services provided by means of telehealth to the same extent as if the service was provided in person." – CT House Bill No. 6470 (passed 6/8/21) (Accessed June 2021)
Delaware	**Yes.** "(e) An insurer, health service corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer, health service corporation, or health maintenance organization is responsible for coverage for the provision of the same service through in-person consultation or contact. Payment for telemedicine interactions shall include reasonable compensation to the originating or distant site for the transmission cost incurred during the delivery of health-care services." – DE Title 18, Sec. 3370 (Accessed May 2021)
District of Columbia	**No.** "(b) A health insurer shall reimburse the provider for the diagnosis, consultation, or treatment of the insured when the service is delivered through telehealth." – DC Code Sec. 31-3862 (Accessed May 2021)
Florida	**No.** "(45) A contract between a health maintenance organization issuing major medical individual or group coverage and a telehealth provider, as defined in s. 456.47, must be voluntary between the health maintenance organization and the provider and must establish mutually acceptable payment rates or payment methodologies for services provided through telehealth. Any contract provision that distinguishes between payment rates or payment methodologies for services provided through telehealth and the same services provided without the use of telehealth must be initialed by the telehealth provider." – FL Statute 641.31(45) (Accessed May 2021)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Georgia	**Yes.** "(3) 'Insurer' means an accident and sickness insurer, fraternal benefit society, hospital service corporation, medical service corporation, health care corporation, health maintenance organization, provider sponsored health care corporation, managed care entity, or any similar entity authorized to issue contracts under this title or to provide health benefit policies. (f) An insurer shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer is responsible for coverage for the provision of the same service through in-person consultation or contact; provided, however, that nothing in this subsection shall require a health care provider or telemedicine company to accept more reimbursement than they are willing to charge. Payment for telemedicine interactions shall include reasonable compensation to the originating or distant site for the transmission cost incurred during the delivery of health care services." – Official Code of GA Annotated Sec. 33-24-56.4 (Accessed May 2021)
Hawaii	**Yes.** "(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary." – HI Revised Statutes § 431:10A-116.3(c) (Accessed May 2021)
Idaho	**No.** *No relevant policy or statue reference found.*
Illinois	**Yes.** "(d) For purposes of reimbursement, an individual or group policy of accident or health insurance that is amended, delivered, issued, or renewed on or after the effective date of this amendatory Act of the 102nd General Assembly shall reimburse an in-network health care professional or facility, including a health care professional or facility in a tiered network, for telehealth services provided through an interactive telecommunications system on the same basis, in the same manner, and at the same reimbursement rate that would apply to the services if the services had been delivered via an in-person encounter by an in-network or tiered network health care professional or facility. This subsection applies only to those services provided by telehealth that may otherwise be billed as an in-person service. This subsection is inoperative on and after January 1, 2028, except that this subsection is operative after that date with respect to mental health and substance use disorder telehealth services." – IL House Bill No. 3308 (Accessed August 2021)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Indiana	**No, coverage parity only.** "Sec. 6. (a) A policy must provide coverage for telemedicine services in accordance with the same clinical criteria as the policy provides coverage for the same health care services delivered in person." – IN Code, 27-8-34-6 (Accessed May 2021)
Iowa	**No, not explicitly.** "2. Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy, contract, or plan providing for third-party payment or prepayment of health or medical expenses shall not discriminate between coverage benefits for health care services that are provided in person and the same health care services that are delivered through telehealth." – IA Code 514C.34(3) (Accessed May 2021)
Kansas	**No, not explicitly.** " (d) Payment or reimbursement of covered healthcare services delivered through telemedicine may be established by an insurance company, nonprofit health service corporation, nonprofit medical and hospital service corporation or health maintenance organization in the same manner as payment or reimbursement for covered services that are delivered via in-person contact are [is] established." – KS Statute Ann. § 40-2,213 (Accessed May 2021)
Kentucky	**Yes.** "(1) (a) A health benefit plan shall reimburse for covered services provided to an insured person through telehealth as defined in KRS 304.17A-005. Telehealth coverage and reimbursement shall be equivalent to the coverage for the same service provided in person unless the telehealth provider and the health benefit plan contractually agree to a lower reimbursement rate for telehealth services. – KY Revised Statutes § 304.17A-138 (Accessed May 2021)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Louisiana	**No.** "Notwithstanding any provision of any policy or contract of insurance or health benefits issued, whenever such policy provides for payment, benefit, or reimbursement for any health care service, including but not limited to diagnostic testing, treatment, referral, or consultation, and such health care service is performed via transmitted electronic imaging or telemedicine, such a payment, benefit, or reimbursement under such policy or contract shall not be denied to a licensed physician conducting or participating in the transmission at the originating health care facility or terminus who is physically present with the individual who is the subject of such electronic imaging transmission and is contemporaneously communicating and interacting with a licensed physician at the receiving terminus of the transmission. The payment, benefit, or reimbursement to such a licensed physician at the originating facility or terminus shall not be less than seventy-five percent of the reasonable and customary amount of payment, benefit, or reimbursement which that licensed physician receives for an intermediate office visit." – LA Revised Statutes 22:1821(F) (2012) (Accessed May 2021)
Maine	**No.** "A carrier offering a health plan in this State may not deny coverage on the basis that the health care service is provided through telehealth if the health care service would be covered if it were provided through in-person consultation between an enrollee and a provider. Coverage for health care services provided through telehealth must be determined in a manner consistent with coverage for health care services provided through in-person consultation… A carrier may offer a health plan containing a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to a comparable service provided through in-person consultation." – Maine Revised Statutes Annotated, Title 24-A, Sec. 4316. (Accessed May 2021)
Maryland	**No.** "An entity subject to this section: (1) shall reimburse a health care provider for the diagnosis, consultation, and treatment of an insured patient for a health care service covered under a health insurance policy or contract that can be appropriately provided through telehealth." – MD Insurance Code Annotated Sec. 15-139(c)(1). (Accessed May 2021)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Massachusetts	**Yes, but only for mental health services.** "Insurance companies organized under this chapter shall ensure that the rate of payment for in-network providers of behavioral health services delivered via interactive audio video technology and audio-only telephone shall be no less than the rate of payment for the same behavioral health service delivered via in-person methods; provided, that this subsection shall apply to providers of behavioral health services covered as required under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O." "Medical service corporations shall ensure that the rate of payment for in-network providers of behavioral health services delivered via interactive audio-video technology and audio-only telephone shall be no less than the rate of payment for the same behavioral health service delivered via in-person methods." – Massachusetts Senate No. 2984. Section 47 (Accessed May 2021) *The same language is repeated for hospital service corporations and health maintenance organizations for behavioral health services delivered via telehealth.*
Michigan	**No, not explicitly.** "Telemedicine services are subject to all terms and conditions of the health insurance policy agreed upon between the policy holder and the insurer, including, but not limited to, required copayments, coinsurances, deductibles, and approved amounts." – MI Compiled Law Services Sec. 500.3476 (Accessed May 2021).
Minnesota	**Yes.** " "Health carrier" means an insurance company licensed under chapter 60A to offer, sell, or issue a policy of accident and sickness insurance as defined in section 62A.01; a nonprofit health service plan corporation operating under chapter 62C; a health maintenance organization operating under chapter 62D; a fraternal benefit society operating under chapter 64B; or a joint self-insurance employee health plan operating under chapter 62H. – MN Statute Sec. 62A.011 Subd 3 (Accessed May 2021) (a) A health carrier shall reimburse the distant site licensed health care provider for covered services delivered via telemedicine on the same basis and at the same rate as the health carrier would apply to those services if the services had been delivered in person by the distant site licensed health care provider." – MN Statute Sec. 62A.672 Subd 3 (Accessed May 2021)
Mississippi	**No, coverage parity only.** "All health insurance and employee benefit plans in this state must provide coverage for telemedicine services to the same extent that the services would be covered if they were provided through in-person consultation." – MS Code Sec. 83-9-351. (Accessed May 2021)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Missouri	**Yes.** " (22) "Health carrier", an entity subject to the insurance laws and regulations of this state that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services; except that such plan shall not include any coverage pursuant to a liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy" – MO Statute § 376.1350 (Accessed May 2021) "Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2014, shall not deny coverage for a health care service on the basis that the health care service is provided through telehealth if the same service would be covered if provided through face-to-face diagnosis, consultation, or treatment. "A health carrier shall not be required to reimburse a telehealth provider or a consulting provider for site origination fees or costs for the provision of telehealth services; however, subject to correct coding, a health carrier shall reimburse a health care provider for the diagnosis, consultation, or treatment of an insured or enrollee when the health care service is delivered through telehealth on the same basis that the health carrier covers the service when it is delivered in person." – MO Revised Statutes § 376.1900 (Accessed May 2021)
Montana	**No, coverage parity only.** "Each group or individual policy, certificate of disability insurance, subscriber contract, membership contract, or health care services agreement that provides coverage for health care services must provide coverage for health care services provided by a health care provider or health care facility by means of telehealth if the services are otherwise covered by the policy, certificate, contract, or agreement." – HB 43 (2021 Session) (Accessed May 2021)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Nebraska	**Yes, but only for certain mental health and substance use disorder services.** "Any health insurance plan delivered, issued, or renewed in this state if coverage is provided for treatment of mental health conditions other than alcohol or substance abuse, shall provide a reimbursement rate for accessing treatment for a mental health condition using telehealth services that is the same as the rate for a comparable treatment provided or supervised in person." – NE Revised Statute Section 44-793 (Accessed March 2022) "3)(a) Any insurer offering any policy, certificate, contract, or plan described in subsection (2) of this section for which coverage of benefits begins on or after January 1, 2021, shall not exclude from coverage telehealth services provided by a dermatologist solely because the service is delivered asynchronously. (b) An insurer shall reimburse a health care provider for asynchronous review by a dermatologist delivered through telehealth at a rate negotiated between the provider and the insurer." – NE Revised Statute. Sec. 44-7, 107 (Accessed May 2021)
Nevada	**Yes.** "A policy of health insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2021, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void. A policy of health insurance must include coverage for services provided to an insured through telehealth to the same extent and, except for services provided through audio-only interaction, in the same amount as though provided in person or by other means." – NV Senate Bill No. 5 (Accessed August 2021)
New Hampshire	**Yes.** "An insurer offering a health plan in this state shall provide coverage and reimbursement for health care services provided through telemedicine on the same basis as the insurer provides coverage and reimbursement for health care services provided in person." – NH Revised Statutes Annotated, 415-J:3 (Accessed May 2021)
New Jersey	**Yes, through December 31, 2023.** "For the period beginning on the effective date of P.L.2021, c.310 and ending on December 31, 2023, a health benefits plan in this State shall provide coverage and payment for health care services delivered to a covered person through telemedicine or telehealth at a provider reimbursement rate that equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered by the health benefits plan when delivered through in-person contact and consultation in New Jersey." – P.L. 2021, CHAPTER 310 (Accessed March 2022)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
New Mexico	**Yes.** "An insurer shall reimburse for health care services delivered via telemedicine on the same basis and at least the same rate that the insurer reimburses for comparable services delivered via in-person consultation or contact." – NM Statutes Annotated. Sec. 59A-22-49.3(I) (Accessed May 2021)
New York	**Yes, through April 1, 2024.** "(2) An insurer that provides comprehensive coverage for hospital, medical or surgical care shall reimburse covered services delivered by means of telehealth on the same basis, at the same rate, and to the same extent that such services are reimbursed when delivered in person; provided that reimbursement of covered services delivered via telehealth shall not require reimbursement of costs not actually incurred in the provision of the telehealth services, including charges related to the use of a clinic or other facility when neither the originating site nor distant site occur within the clinic or other facility." – NY Insurance Law Article 32 Section 3217-h (Accessed January 2023) "7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022; provided, however, this act shall expire and be deemed repealed on and after April 1, 2024." – NY Assembly Bill No. 9007C (Accessed January 2023)
North Carolina	**No.** *No relevant policy or statue reference found.*
North Dakota	**No, not explicitly.** "Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the insurer with the health services providers in the same manner as the insurer with the health services providers in the same manner as the insurer establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means." – ND Century Code Sec. 26.1-36-09.15(3) (Accessed May 2021)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Ohio	**No, coverage parity only.** "A health benefit plan shall provide coverage for telemedicine services on the same basis and to the same extent that the plan provides coverage for in-person health care services. Plans cannot exclude coverage for a service solely because it is provided as a telemedicine service." – OH Revised Code Annotated, 3902.30 (Accessed May 2021) "(D) This section shall not be construed as doing any of the following: […] (3) Requiring a health plan issuer to reimburse a telemedicine provider for telemedicine services at the same rate as in-person services. (E) This section applies to all health benefit plans issued, offered, or renewed on or after January 1, 2021." – OH Revised Code Annotated, 3902.30 (Accessed May 2021)
Oklahoma	**Yes.** ""Insurer" means any entity providing an accident and health insurance policy in this state including, but not limited to, a licensed insurance company, a not-for-profit hospital service and medical indemnity corporation, a fraternal benefit society, a multiple employer welfare arrangement or any other entity subject to regulation by the Insurance Commissioner; […] An insurer shall reimburse the treating health care professional or the consulting health care professional for the diagnosis, consultation or treatment of the patient delivered through telemedicine services on the same basis and at least at the rate of reimbursement that the insurer is responsible for coverage for the provision of the same, or substantially similar, services through in-person consultation or contact. This act shall become effective January 1, 2022." – Oklahoma Senate Bill 674 (Accessed May 2021)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Oregon	**Yes.** "(2) To encourage the efficient use of resources and to promote cost-effective procedures in accordance with ORS 413.011 (1)(L), the Oregon Health Authority shall reimburse the cost of health services delivered using telemedicine, including but not limited to: (a) Health services transmitted via landlines, wireless communications, the Internet and telephone networks; (b) Synchronous or asynchronous transmissions using audio only, video only, audio and video and transmission of data from remote monitoring devices; and (c) Communications between providers or between one or more providers and one or more patients, family members, caregivers or guardians. (3)(a) The authority shall pay the same reimbursement for a health service regardless of whether the service is provided in person or using any permissible telemedicine application or technology. […] (8)(a) A health benefit plan and dental-only plan must pay the same reimbursement for a health service regardless of whether the service is provided in person or using any permissible telemedicine application or technology." – Oregon House Bill 2508 (Accessed June 2021)
Pennsylvania	**No.** *No relevant policy or statue reference found.*
Rhode Island	**Yes, bill passed July 2021.** "(2) All such medically necessary and clinically appropriate telemedicine services delivered by in-network primary care providers, registered dietitian nutritionists, and behavioral health providers shall be reimbursed at rates not lower than services delivered by the same provider through in-person methods." – Rhode Island House Bill No. 6032 (Accessed July 2021)
South Carolina	**No.** *No relevant policy or statue reference found.*

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
South Dakota	**No, coverage parity only.** "No health insurer may exclude a service for coverage solely because the service is provided through telehealth and not provided through in-person consultation or contact between a health care professional and a patient. Health care services delivered by telehealth must be appropriate and delivered in accordance with applicable law and generally accepted health care practices and standards prevailing at the time the health care services are provided, including rules adopted by the appropriate professional licensing board having oversight of the health care professional providing the health care services. Health insurers are not required to provide coverage for health care services that are not medically necessary." – SD Codified Laws Ann. § 58-17-168 & 169 (Accessed May 2021)
Tennessee	**No, coverage parity only.** "(e) A health insurance entity shall provide coverage for healthcare services provided during a provider-based telemedicine encounter in a manner that is consistent with what the health insurance policy or contract provides for in-person encounters for the same service, and shall reimburse for healthcare services provided during a provider-based telemedicine encounter without distinction or consideration of the geographic location, or any federal, state, or local designation or classification of the geographic area where the patient is located. (f) This section does not require a health insurance entity to pay total reimbursement for a provider-based telemedicine encounter in an amount that exceeds the amount that would be paid for the same service provided by a healthcare services provider for an in-person encounter. (g,4) This section does not require a health insurance entity to reimburse a healthcare services provider for healthcare services delivered by means of provider-based telemedicine if the applicable health insurance policy would not reimburse that healthcare services provider if the same healthcare services had been delivered by in-person means." – Tenn. Code Ann. § 56-7-1003 (Accessed May 2021)
Texas	**No, coverage parity only.** "(a) A health benefit plan: (1) must provide coverage for a covered health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service or telehealth service on the same basis and to the same extent that the plan provides coverage for the service or procedure in an in-person setting; and (2) may not: (A) exclude from coverage a covered health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service or a telehealth service solely because the covered health care service or procedure is not provided through an in-person consultation" – TX Insurance Code 1455.004(a) (Accessed May 2021)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Utah	**Yes.** "(2) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market, the small group market, or the large group market shall: (a) provide coverage for: (i) telemedicine services that are covered by Medicare; and (ii) treatment of a mental health condition through telemedicine services if: (A) the health benefit plan provides coverage for the treatment of the mental health condition through in-person services; and (B) the health benefit plan determines treatment of the mental health condition through telemedicine services meets the appropriate standard of care; and (b) reimburse a network provider that provides the telemedicine services described in Subsection (2)(a) at a negotiated commercially reasonable rate." – UT Code Title 31A, Ch. 22, Part 6, Section 649.5 (Accessed May 2021)
Vermont	**Yes, through January 1, 2026.** ""(a)(1) All health insurance plans in this State shall provide coverage for health care services and dental services delivered through telemedicine by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation. [Subdivision (a)(2) repealed effective January 1, 2026.] (2)(A) A health insurance plan shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telemedicine." – VT Statutes Annotated, Title 8 Sec. 4100k (Accessed Feb. 2021)
Virginia	**Yes.** "An insurer, corporation, or health maintenance organization shall not be required to reimburse the treating provider or the consulting provider for technical fees or costs for the provision of telemedicine services; however, such insurer, corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis that the insurer, corporation, or health maintenance organization is responsible for coverage for the provision of the same service through face-to-face consultation or contact." VA Code 38.2-3418.16 (Accessed April 2022)

State	**Payment Parity:** Does state law, statute, or regulatory requirements require that insurers (Commercial, Medicaid, Others) reimburse for services delivered via video visit at the same rate as those delivered in-person?
Washington	**Yes.** "(b)(i) Except as provided in (b)(ii) of this subsection, for health plans issued or renewed on or after January 1, 2021, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine at the same rate as if the health care service was provided in person by the provider. (ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate a reimbursement rate for telemedicine services that differs from the reimbursement rate for in-person services. – WA RCW 48.43.735 & Sec. 41.05.700 as amended by House BIll 1196 (2021 Session) (Accessed May 2021)
West Virginia	**Yes, for established patients and patients in acute care facilities.** The insurer shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company for virtual telehealth encounters. The plan shall provide reimbursement for a telehealth service for an established patient, or care rendered on a consulting basis to a patient located in an acute care facility whether inpatient or outpatient on the same basis and at the same rate as if the service were provided through an in-person encounter. - WV Statute Sec. 5-16-7b (Accessed March 2022)
Wisconsin	**No.** *No relevant policy or statue reference found.*
Wyoming	**No.** *No relevant policy or statue reference found.*

State Profiles

Manatt Health has continued to track State telehealth activity since March 2020. Entries in state profiles are categorized into: Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance; State Licensure Laws, Policy, and Guidance; and Medicaid Law, Policy and Guidance Related to Telehealth. Red text indicates new information.

ALABAMA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Alabama Senate Bill No. 272 (enrolled 4/6/22)

- "It is the intent of the Legislature to expand access to safe, effective health care services for the residents of this state through the use of various electronic devices and technologies. The Legislature finds and declares the following:
    - (1) Telehealth has proven to be a viable tool to supplement traditional, in-person services and provides additional ways for individuals to access medical care.
    - (2) Allowing physicians to utilize telehealth medical services and other electronic devices to provide care will positively impact residents of this state.
    - (3) Telehealth should be promoted as sound public policy and should be available to every Alabama resident, irrespective of their race, identity, age, income, socioeconomic class, or geographic location.
- Physicians who engage in the provision of telehealth medical services to any individual in this state must possess a full and active license to practice medicine or osteopathy issued by the Medical Licensure Commission."

Alabama Senate Bill No. 423 (introduced 3/1/22)

- "(a) Physicians who engage in the provision of telehealth medical services to any individual in this state must possess a full and active license to practice medicine or osteopathy issued by the Medical Licensure Commission.
- (b) Notwithstanding subsection (a), a physician who engages in the provision of telehealth medical services to any individual in this state is not required to possess a license issued by the Medical Licensure Commission, if either of the following apply:
    - (1) The services are provided on an irregular or infrequent basis. The term "irregular or infrequent" refers to telehealth medical services occurring less than 10 days in a calendar year or involving fewer than 10 patients in a calendar year.
    - (2) The services are provided in consultation, as further provided by Section 34-24-74, with a physician licensed to practice medicine or osteopathy in this state."

Alabama House Bill No. 222 (introduced 2/16/22)

- "The purpose of this compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure."

State of Alabama Proclamation by the Governor (10/21/21)

- "Now, therefore, I, Kay Ivey, Governor of the State of Alabama, on the recommendation of the State Health Officer and pursuant to relevant provisions of the Alabama Emergency Management Act of 1955, as amended, Ala. Code§§ 31-9-1 et seq., do hereby declare that a state public health emergency exists in the State of Alabama for the disease referenced as "COVID-19" in my March 13, 2020 proclamation and which reference has and continues to include all existing and future variants, mutations, and forms of the virus (SARS-CoV-2) throughout this pandemic, as well as all existing or future variants, mutations, or forms of COVID-19 that are not considered to have been included in that reference, if any. I direct the appropriate state agencies to exercise their statutory and regulatory authority to assist the communities and entities affected. I also direct the Alabama Department of Public Health and the Alabama Emergency Management Agency to seek federal assistance as may be available and appropriate… do hereby extend the state public health emergency proclamation on August 13, 2021, through 11:59 p.m. on Sunday, October 21, 2021, unless otherwise terminated or extended in writing."

State of Alabama Proclamation by the Governor (7/6/21)

- "Many of the telehealth flexibilities enjoyed over the last year are no longer available in the state such as:

Alabama residents can no longer receive medical care by an out-of-state practitioner via telehealth.

Alabama Board of Medical Examiners will begin re-enforcing the rules on controlled substances, which had been relaxed to allow prescribing over telehealth."

ALDOI COVID-19 Testing and Treatment For The Uninsured (5/5/20)

- "Reimbursement will be made for qualifying testing for COVID-19 and treatment services with a primary COVID-19 diagnosis, including the following:

"Testing-related visits including in the following settings: office, urgent care or emergency room or via telehealth."

"Treatment, including office visit (including via telehealth), emergency room, inpatient, outpatient/observation, skilled nursing facility, long-term acute care (LTAC), acute inpatient rehab, home health, DME (e.g., oxygen, ventilator), emergency ground ambulance transportation, non-emergent patient transfers via ground ambulance, and FDA approved drugs as they become available for COVID-19 treatment and administered as part of an inpatient stay."

ALDOI Issues COVID-19 Guidance to Health Insurance Carriers (3/13/20)

- "The department asks that insurance carriers review their telehealth programs to ensure they're equipped to meet demand amid any increased need for services."

State Licensure Laws, Policy, and Guidance
Alabama House Bill No. 219 (introduced 2/2/2022) • "This bill would allow the practice of professional counseling using telehealth technologies by licensed professional counselors among compact states." Alabama Senate Bill No. 130 (passed 3/11/21) • "This compact is designed to achieve the following objectives: Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services. • The application of telecommunication, audio-visual, or other technologies that meets the applicable standard of care to deliver audiology or speech-language pathology services at a distance for assessment, intervention, or consultation. • Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 and under rules adopted by the commission, to practice audiology or speech-language pathology in any member state through telehealth under a 4 privilege to practice as provided in this compact and rules adopted by the commission." Alabama Senate Bill No. 102 (passed 3/11/21) • "This bill would establish the Psychology Interjurisdictional Compact (PSYPACT). • This bill would allow day-to-day psychological practice using telecommunication technologies by licensed psychologists among compact states. • A licensed psychologist's authority to practice telepsychology, within the limits authorized under this compact, in another compact state." Temporary Emergency License (3/23/20) • Physicians: "Effective March 23, 2020: The Board and Commission have established temporary emergency licensure processes to authorize assistants to physicians to provide health care to Alabamians suffering from and affected by SARS-CoV-2 and the disease known as COVID-19. It is anticipated that licenses should be issued within 48 hours of receipt of the application." • "A temporary emergency license shall expire on July 21, 2020, or when the Governor proclaims the termination of the state's public health emergency, whichever is sooner." • "The effectiveness of this rule, and any licenses issued under it, may be extended by order of the Governor." • "A physician who is issued a temporary emergency license shall also be issued a limited Alabama Controlled Substances Certificate for the sole purpose of treating patients suffering from and affected by SARS-CoV-2 and the disease known as COVID-19. The certificate shall not authorize the physician to prescribe controlled substances via telemedicine." • "There is no fee for a temporary emergency license." Declaration for the Reentry of Select Retired Physicians (3/13/20)

- "The State Board of Medical Examiners hereby finds that the need for qualified physicians to provide medical services in Alabama warrants the emergency issuance of this declaration to reactivate retired physicians' medical licenses to full and unrestricted status, subject to the following terms and conditions:

1. "A physician with an active medical license who has executed a retirement waiver in the last twenty four (24) months and who now desires to reenter the practice of medicine for the limited purpose of treating patients suffering from and affected by SARS-CoV-2 shall have his or her medical license reactivated to full and unrestricted status upon submission of the following:
    - a. An application including the following information:
        - i. the physician's name;
        - ii. the physician's Alabama medical license number;
        - iii. current mailing address and contact information;
        - iv. proposed practice location;
        - v. intended type of medical practice; and
        - vi. any other medical licenses held.
    - b. Certification that his or her license to practice medicine or osteopathy is not currently under investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction;
    - c. Certification that his or her license to practice medicine or osteopathy has never been subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to the non-payment of fees related to a license.

2. In signing this declaration, the Board waives its enforcement of Ala. Admin. R. 540- X-14.04 for one hundred twenty (120) days after the effective date of this declaration, or when the Governor proclaims the termination of the state's public health emergency, whichever is sooner.

3. The reactivation of a retired physician's license shall expire one hundred twenty (120) days after the effective date of this declaration, or when the Governor proclaims the termination of the state's public health emergency, whichever is sooner. The effectiveness of this declaration, and any licenses reactivated under it, may be extended by the Board.

4. A retired physician whose license is reactivated by this Declaration and who possesses a current, unrestricted DEA registration shall also be issued a restricted Alabama Controlled Substance Certificate ("ACSC") for the purpose of treating patients suffering from and affected by SARS-CoV-2 and the disease known as COVID-19. The ACSC shall not authorize the physician to prescribe controlled substances via telemedicine.

5. A physician applying for the reactivation of his or her license to practice medicine or osteopathy shall certify to the State Board of Medical Examiners that the physician intends to practice medicine to provide health care to citizens of Alabama suffering from and affected by SARS-CoV-2 and the disease known as COVID-19.

6. Retired physicians who apply for the reactivation of his or her license to practice medicine or osteopathy shall not be required to pay a fee.

7. Retired physicians who apply for the reactivation of his or her license to practice medicine or osteopathy shall be entitled to have his or her license reactivated upon certification of the applicant's satisfaction of this rule by the Executive Director or Associate Executive Director of the State Board of Medical Examiners, or his or her designee.

8. The reactivated medical license shall clearly indicate that it is an emergency medical license.

AL Code § 31-9-16 (2016)

- "Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker who shall, in the course of performing his duties as such, practice such professional, mechanical, or other skill during an emergency management emergency."

Medicaid Law, Policy and Guidance Related to Telehealth

Telemedicine Origination Site Facility Fee for Outpatient Clinic Services (7/21/20)

- "During the identified COVID-19 public health emergency, hospitals will be able to bill Q3014 for the telemedicine origination site facility fee on an UBO4 claim type for outpatient clinic services provided via telemedicine to a Medicaid recipient in their home. G0463 must not be billed for outpatient clinic telemedicine services."
- "This extension is effective March 16, 2020, with an expiration date of the earlier of August 31, 2020, the conclusion of the COVID-19 National emergency, or any expiration date noticed by the Alabama Medicaid Agency through a subsequent ALERT. It will be reevaluated for a continuance as needed."

Alabama Approved Appendix K (6/3/20)

- Services: Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management (EDW, ACT, SAIL)

Personal care services that only require verbal cueing (EDW, ACT, SAIL, TA)

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers). (EDW, ACT, SAIL, TA)

Alabama Medicaid Extends Additional Behavioral Health Procedure Code Coverage via Telemedicine (5/21/20)

- "As Medicaid continues to monitor the outbreak of the Coronavirus Disease 2019 (COVID-19) in Alabama, we are updating the procedure codes which may be billed via telemedicine to include the following:

90791 - Psychiatric diagnostic evaluation

96130, 96131, 96136, 96137, 96138, 96139 - Psychological testing evaluation services by physician or other qualified health care professional, including integration of patient data, interpretation of standardized test results and clinical data, clinical decision making, treatment planning and report and interactive feedback to the patient, family member(s) or caregiver(s), and test administration and scoring by technician

96116, 96121, 96132, 96133 - Neuropsychological testing evaluation services by physician or other qualified health care professional, including integration of patient data, interpretation of standardized test results and clinical data, clinical decision making, treatment planning and report and interactive feedback to the patient, family member(s) or caregiver(s), and test administration and scoring by technician

96146 - Psychological or neuropsychological test administration, with single automated instrument via electronic platform, with automated result

- "The effective dates for this Alert are March 16, 2020 - June 30, 2020, or at the conclusion of the COVID-19 National emergency, whichever occurs first. Providers can begin submitting claims on May 21, 2020."

Alabama Medicaid Updates Policies for Well Child Screenings and Other Services (5/8/20)

- Medicaid is allowing the following EPSDT periodic screenings (well child checkups) codes to be billed via telemedicine, knowing not all components of the screening may be completed via telemedicine but will be completed in person when appropriate with no additional payment. Providers should bill with place of service 02 and modifiers CR and 52.

99381EP – 99385EP; 99391EP – 99395EP

- ** Follow up visits in-person should occur as soon as possible to complete the remaining exam screening components. These exam visits can be billed for tracking purposes utilizing CPT 99201EP-99205 EP and 99211EP – 99215EP with modifier 52.

Alabama Medicaid Agency Alert, Alabama Medicaid Extends Additional Procedure Code Coverage via Telemedicine (5/1/20)

- "As Medicaid continues to monitor the outbreak of the Coronavirus Disease 2019 (COVID-19) in Alabama, we are updating the procedure codes which may be billed via telemedicine to include the following: 99201-99205 99214-99215 99218-99220 99241-99245 99224-99226 99217 99234-99236 99221-99223 99231-99233 99251-99255 99238-99239 99451-99452 99446-99449"

Alabama Medicaid Authorizes Telemedicine for Prenatal Visits During COVID-19 (4/30/20)

- "Prenatal visits may be documented as telemedicine visits when delivered via telecommunication services including telephone visits during the emergency period. This applies to services provided March 16, 2020 until May 30, 2020, or until the conclusion of the COVID-19 emergency, whichever occurs first. These visits are included in the global payment."

Tip Sheet, Temporary Telemedicine Services (4/8/20)

- "Effective for dates of service March 16, 2020 – April 30, 2020, the Alabama Medicaid Agency is allowing the delivery of mental health services via telemedicine/telepsychology/telehealth."
- "For the purposes of this telemedicine/telepsychology/telehealth provision, telecommunications include synchronous (live) services via a real-time audio and video telecommunication system or the use of audio-only telephone (if that is the only option available—i.e. recipient only has land line, flip phone, etc.)."

AL Medicaid Temporarily Allowing Physical Therapy Services Through Telemedicine during COVID-19 Emergency (4/3/20)

- "In response to the Coronavirus Disease 2019 (COVID-19) pandemic, Medicaid is temporarily allowing covered physical therapy to be performed via telemedicine. This allowance should only be used for medically necessary services that can be appropriately delivered in a

secure, confidential location. The therapy provider and recipient/caregiver must use an interactive audio/video telecommunications system."

Temporary Changes to Allow Reimbursement for Telephonic Postpartum Visits (3/27/20)

- "Due to concerns with the Coronavirus pandemic, the Alabama Medicaid Agency (Medicaid) is making temporary changes to allow reimbursement of telephonic postpartum visits provided during dates of service March 16, 2020 through April 16, 2020. These actions will be effective for one month, expiring on dates of service April 16, 2020."
- "Payments for telephonic visits for postpartum care are subject to recoupment if the face-to-face postpartum visit is not performed at a later date."

Temporarily Allowing Speech and Occupational Therapy Services through telemedicine during COVID-19 Emergency (3/27/20)

- "In response to the Coronavirus Disease 2019 (COVID-19) pandemic, for dates of service on or after March 16, 2020, Medicaid is temporarily allowing covered speech and occupational services to be performed via telemedicine. This allowance should only be used for medically necessary services that can be appropriately delivered in a secure, confidential location. The therapy provider and recipient/caregiver must use an interactive audio/video telecommunications system. These actions will be effective for one month, expiring on dates of service April 16, 2020. Alabama Medicaid will reevaluate for continuance as needed."

Alabama Medicaid Extends Temporary Telemedicine Coverage for Speech and Occupational Therapy Providers (3/24/20)

- "In response to the Coronavirus Disease 2019 (COVID-19) pandemic, the Agency is extending telemedicine services to ease access to appropriate medical services for certain procedure codes for established patients who are recipients of Alabama Medicaid."

Temporary Emergency license – physician assistant and anesthesiologist (3/23/20)

- "Effective March 23, 2020: The Board and Commission have established temporary emergency licensure processes to authorize assistants to physicians to provide health care to Alabamians suffering from and affected by SARS-CoV-2 and the disease known as COVID-19."
- "It is anticipated that licenses should be issued within 48 hours of receipt of the application."

Alabama Medicaid Extends Temporary Telemedicine Coverage for Optometrists (3/20/20)

- "The extension of telemedicine services is effective March 16, 2020. This extension allows Optometrists to provide medically necessary services that can be appropriately delivered via telecommunication services including telephone consultations. These actions will be effective for one month, expiring on dates of service April 16, 2020. It will be reevaluated for a continuance as needed."

Alabama Medicaid Extends Temporary Telemedicine Coverage (3/18/20)

- "The extension of telemedicine services is effective March 16, 2020. This extension allows clinicians to provide medically necessary services that can be appropriately delivered via telecommunication services including telephone consultations. The extension also allows some behavioral health services to be appropriately delivered via telecommunication services including telephone consultations. These actions will be effective for one month, expiring on dates of service April 16, 2020. It will be reevaluated for a continuance as needed."

- "Recipient copayments will apply according to the Medicaid recipient handbook. A provider may not deny services to an eligible recipient due to the recipient's inability to pay the copayment amount imposed."
- "Effective for dates of service March 16, 2020 – April 16, 2020 the telemedicine services agreement and recipient consent forms will be waived. However, the provider must receive verbal consent from the recipient, and the provider must document that consent in the medical record."

Telemedicine Origination Site Facility Fee (3/13/20)

- "Effective April 1, 2020, the Alabama Medicaid Agency (Agency) will begin paying an origination site facility fee of $20.00."

ALASKA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Alaska Senate Bill No. 91 (introduced 4/14/23)

- "Section 1. AS 08.02.130(b) is amended to read:
  - (b) A physician licensed in another state or an out-of-state member of the physician's multidisciplinary care team may provide health care services through telehealth to a patient located in the state as provided in this subsection, subject to the investigative and enforcement powers of the department under AS 08.01.087. A member of a physician's multidisciplinary care team may provide a health care service through telehealth to a patient located in this state only if the health care service is not reasonably available in the state. A physician shall be [, AND] subject to disciplinary action by the State Medical Board under AS 08.64.333, and a member of the physician's multidisciplinary care team shall be subject to disciplinary action by the department under AS 08.02.140. The privilege to practice under this subsection extends only to […]"

Alaska Senate Bill No. 3006 (engrossed 9/10/21)

- "Notwithstanding any other provision of law, the provisions of AS 08.64.170 and AS 08.68.160 do not apply to a health care provider that is providing treatment, rendering a diagnosis, or prescribing, dispensing, or administering a prescription, excluding a controlled substance listed in AS 11.71.140 - 11.71.190, through telehealth as defined in AS 47.05.270(e), without first conducting an in-person physical examination, if
  - (1) the health care provider is licensed, permitted, or certified to provide health care services in another jurisdiction and is in good standing in the jurisdiction that issued the license, permit, or certification;
  - (2) the health care services provided without an in-person physical examination are within the health care provider's authorized scope of practice in the jurisdiction that issued the health care provider's license, permit, or certification;

- (3) in the event that the health care provider determines that the encounter will extend beyond the scope of practice or scope of services described in this section, the health care provider advises the patient that the health care provider is not authorized to provide the services to the patient, recommends that the patient contact a health care provider licensed in the state, and terminates the encounter."

Alaska House Bill No. 76 (passed 5/1/21)

- TELEMEDICINE AND TELEHEALTH. Notwithstanding any other provision of law, during the novel coronavirus disease (COVID-19) public health disaster emergency declared by the governor under AS 26.23.020 on January 15, 2021, as extended by sec. 2 of this Act, the provisions of AS 08.64.170 and AS 08.68.160 do not apply to a health care provider who is providing treatment, rendering a diagnosis, or prescribing, dispensing, or administering a prescription, excluding a controlled substance listed under AS 11.71.140 - 11.71.190, through telehealth as defined in AS 47.05.270(e), without first conducting an in person physical examination, if

(1) the health care provider is licensed, permitted, or certified to provide health care services in another jurisdiction and is in good standing in the jurisdiction that issued the license, permit, or certification;

(2) the health care services provided without an in-person physical examination are within the provider's authorized scope of practice in the jurisdiction that issued the provider's license, permit, or certification;

(3) in the event that the health care provider determines that the encounter will extend beyond the scope of practice or scope of services described in this section, the health care provider advises the patient that the health care provider is not authorized to provide the services to the patient, recommends that the patient contact a health care provider licensed in the state, and terminates the encounter.

Alaska ends State of Emergency (4/30/21)

- "Now therefore, I, Mike Dunleavy, governor of the state of Alaska, under the authority granted by the Alaska State Legislature in HB76 CH No.2, SLA 2021, which ratified the Disaster Declaration issued on January 14, 2021 do hereby proclaim the Disaster Declaration shall end, effective immediately."

Alaska Senate Bill No. 56 (referred to Health & Social Services 1/25/21)

- "(a) Notwithstanding any other provision of law, during the novel coronavirus disease (COVID-19) public health disaster emergency declared by the governor under AS 26.23.020 on January 15, 2021, as extended by sec. 2 of 14 this Act, the provisions of AS 08.64.170 and AS 08.68.160 do not apply to a health care provider who is providing treatment, rendering a diagnosis, or prescribing, dispensing, or administering a prescription, excluding a controlled substance listed under AS 11.71.140 -11.71.190, through telehealth as defined in AS 47.05.270(e), without first conducting an in person physical examination, if

(1) the health care provider is licensed, permitted, or certified to provide health care services in another jurisdiction and is in good standing in the jurisdiction that issued the license, permit, or certification;

(2) the health care services provided without an in-person physical examination are within the provider's authorized scope of practice in the jurisdiction that issued the provider's license, permit, or certification

(3) in the event that the health care provider determines that the encounter will extend beyond the scope of practice or scope of services described in this section, the health care provider advises the patient that the health care provider is not authorized to provide the services to the patient, recommends that the patient contact a health care provider licensed in the state, and terminates the encounter."

Division of Insurance Bulletin 20-18 (10/2/20)

- The legislation revised Alaska Statute 21.42.422 to expand telehealth coverage to all covered services of health care insurance plans in the individual and group markets subject to Title 21. Services must be provided by a health care provider licensed in Alaska. A prior in-person visit must not be required.
- Insurers are reminded of the following:

AS 21.07.030 requires that if a health care insurer provides for services through a network, the health care insurer shall also offer a non-network option to covered persons. This requirement is applicable to telehealth. Consumers must be able to access telehealth services from both network and non-network providers.

The statute does not limit the location of services for telehealth. Within reason, if a service is covered when in-person the service should also be covered when performed via telehealth.

Division of Insurance Bulletin B 20-11 (3/27/20)

- "Bulletin 20-07 notified insurers providing health care insurance plans of their obligation to comply with the revised AS 21.42.422. Insurers are further called upon to provide greater flexibility and coverage during the COVID-19 pandemic. Medicare and Alaska Medicaid have expanded services and liberalized benefits. For private insurers services that can appropriately be offered through telehealth in order to avoid unnecessary exposure to the virus and prevent regression of symptoms must be covered. Insurers should communicate these expanded coverages to providers and consumers as soon as possible."

Division of Insurance Bulletin 20-09 (3/19/20)

- "Given that COVID-19 is a communicable disease, some insureds may be using telehealth services instead of in-person health care services. Health insurers are encouraged to liberalize telehealth benefits during this period of increased infection. In addition to contracted telehealth services, insurers are reminded that group insurance contracts cannot contain a provision requiring services to be provided by a particular provider or facility under AS 21.54.020. Consumers should have access to telehealth benefits through their current health care provider. Health insurers are asked to review and ensure their telehealth programs are robust and will be able to meet any increased demand."

Division of Insurance Bulletin 20-07 (3/17/20)

- The bill revises AS 21.42.422 to expand telehealth coverage to all covered services of health care insurance plans in the individual and group markets subject to Title 21. Services must be provided by a health care provider licensed in Alaska. A prior in-person visit must not be required.

- Insurers are required to implement the requirements of AS 21.42.422 immediately. The division expects insurers to review their insurance contracts and make the necessary form filings to implement these changes by May 17, 2020 or as soon as practicable. Insurers are reminded of the following:

AS 21.07.030 requires that if a health care insurer provides for services through a network, the health care insurer shall also offer a non-network option to covered persons. This requirement is applicable to telehealth. Consumers must be able to access telehealth services from both network and non-network providers.

AS 21.42.422 does not require health care providers to use a particular technology platform, such as an insurer's proprietary software for services to be covered. Health care providers must use a HIPAA compliant service to protect consumer privacy.

The statute does not limit the location of services for telehealth. Within reason, if a service is covered when in-person the service should also be covered when performed via telehealth.

The federal Mental Health Parity and Addiction Equity Act requires that quantitative and nonquantitative elements must be comparative between medical/surgical and behavioral health services.

House Bill 29, a telemedicine bill, was signed to law on 3/17/20, this bill requires state-regulated private insurers to cover telehealth services immediately.

- HB 29: An Act relating to insurance coverage for benefits provided through telehealth; and providing for an effective date.

Division of Insurance issued a bulletin promoting utilization of telemedicine (3/3/2020)

State Licensure Laws, Policy, and Guidance

Alaska Senate Bill No. 175 (introduced 4/15/22)

- "(a) A health care provider other than a physician licensed in another state may provide health care services within the health care provider's authorized scope of practice to a patient in this state through telehealth without first conducting an in-person visit.
- (b) A physician licensed in another state may provide health care services within the physician's authorized scope of practice through telehealth to a patient located in the state if
  - (1) the physician and the patient have an established physician-patient relationship;
  - (2) the physician has previously conducted a physical examination of the patient in person; and
  - (3) the health care services provided through telehealth consist of ongoing treatment or follow-up care related to health care services previously provided by the physician to the patient.
- (a) An individual certified or licensed under this chapter may practice within the individual's authorized scope of practice under this chapter through telehealth with a patient in this state if the individual's certification or license is in good standing.
- (b) If an individual certified or licensed under this chapter determines in the course of a telehealth encounter with a patient that some or all of the encounter will extend beyond the individual's authorized scope of practice, the individual shall advise the patient that the individual is not authorized to provide some or all of the services to the patient, recommend that the patient contact an appropriate provider for the services the individual is not authorized to provide, and limit the encounter to only those services the individual is

authorized to provide. The individual certified or licensed under this chapter may not charge for any portion of an encounter that extends beyond the individual's authorized scope of practice.

- (c) A fee for a service provided through telehealth under this section must be reasonable and consistent with the ordinary fee typically charged for that service and may not exceed the fee typically charged for that service.
- (d) An individual certified or licensed under this chapter may not be required to document a barrier to an in-person visit to provide health care services through telehealth. The department or the council may not limit the physical setting from which an individual certified or licensed under this chapter may provide health care services through telehealth.
- (e) Nothing in this section requires the use of telehealth when an individual certified or licensed under this chapter determines that providing services through telehealth is not appropriate or when a patient chooses not to receive services through telehealth.
- (a) The department shall pay for services covered by the medical assistance program provided through telehealth in the same manner as if the services had been provided in person
- (b) The department shall adopt regulations for services provided by telehealth, including setting rates of payment. The department may set a rate of payment for a service provided through telehealth that is different from the rate of payment for the same service provided in person."

Alaska House Bill No. 265 (passed 7/14/22)

- "Section 1. AS 08.01 is amended by adding a new section to read: Sec. 08.01.085. Telehealth.
  - (a) A health care provider may provide health care services within the health care provider's authorized scope of practice to a patient in this state through telehealth without first conducting an in-person examination if the health care provider holds a license in good standing. If a health care provider is licensed in another state, the health care provider may provide services under this section only to a patient who is referred by a health care provider licensed under this title or a federal or tribal health care program.
- * Sec. 3. AS 18.08 is amended by adding a new section to read: Sec. 18.08.100. Telehealth.
  - (a) An individual certified or licensed under this chapter may practice within the individual's authorized scope of practice under this chapter through telehealth with a patient in this state if the individual's certification or License is in good standing.
- Sec. 47.07.069. Payment for telehealth. (a) The department shall pay for 21 services provided through telehealth in the same manner as if the services had been provided in person. Except as provided in (b) of this section, the department shall pay for all services covered by the medical assistance program, including
  - (1) behavioral health services;
  - (2) services covered under federal waivers or demonstrations;
  - (3) services provided by a community health aide or a community health practitioner certified by the Community Health Aide Program Certification Board;

- (4) services provided by a behavioral health aide or behavioral health practitioner certified by the Community Health Aide Program Certification Board;
- (5) services provided by a dental health aide therapist certified by the Community Health Aide Program Certification Board;
- (6) services provided by a chemical dependency counselor certified by the Alaska Commission for Behavioral Health Certification;
- (7) services provided by a rural health clinic or a federally qualified health center;
- (8) services provided by an individual or entity that is required by statute or regulation to be licensed or certified by the department or that is eligible to receive payments, in whole or in part, from the department;
- (9) services provided through audio, visual, or data communications, alone or in any combination, or through communications over the Internet or by facsimile, telephone, including a telephone that is not part of a dedicated audio conference system, electronic mail, text message, or two-way radio; and
- (10) assessment, evaluation, consultation, planning, diagnosis, 14 treatment, case management, and the prescription, dispensing, and administration of medications, including controlled substances."

Emergency Medical Courtesy License, (revised 5/7/20)

- "Due to the COVID-19 emergency and in line with SB241, the State Medical Board has developed a process for Medical Courtesy Licenses."

Medical Emergency Courtesy License, Paper Application
#08-4735, Revised 5/07/2020

Physician Assistant Emergency Courtesy License, Paper Application
#08-4736, Revised 5/07/2020

Mobile Intensive Care Paramedic Emergency Courtesy License, Paper Application
#08-4737, Revised 5/07/2020

Telehealth & Licensing During COVID-19 (Issued 3/18/20, updated 4/20/20)

- What are the state laws regarding prescribing via telecommunications?

Licensees of the State Medical Board:

- "May prescribe a drug that is not a controlled substance without conducting a physical examination as described in AS 08.64.364(a) below"
- "May prescribe a controlled substance without conducting a physical examination as described in AS 08.64.364(b) below"

Courtesy License Application (March 2020)

- Alaska law provides for the issuance of a courtesy license to a physician for specific, limited purposes. The board has approved the following purposes for the use of the courtesy license:

1. Physicians who will be working in a supervised hospital fellowship;

2. Physicians who will be working in a specialty clinic where there is no fee or other remuneration paid by the patients for

the service;

3. Physicians who will be working in specialty clinics under formal contract to a state office;

4. Sports team physicians who are accompanying their teams to this state for competition;

5. Physicians who will be accompanying their employer/patient to the state;

6. Physicians who will be providing emergency medical care or emergency mental health care, as part of an organize response to a state declared disaster that resulted in injuries or death. The courtesy license is valid only for the duration of the activity but may not exceed one year in length.

Passed Senate Bill: Extending COVID-19 Disaster Emergency Bill Version CSSB 241(RLS) AM (3/25/20)

- "PROFESSIONAL AND OCCUPATIONAL LICENSING. (a) "Notwithstanding any other provision of law, during the public health disaster emergency declared by the governor under AS 26.23.020 on March 11, 2020, as extended by sec. 2 of this Act, a professional or occupational licensing board listed in AS 08.01.010, or the director, with respect to a profession regulated by the Department of Commerce, Community, and Economic Development, may grant a license, permit, or certificate on an expedited basis to an individual who holds a corresponding license, permit, or certificate in good standing in another jurisdiction to the extent necessary to respond to the public health disaster emergency. A license expedited under this section expires on the earlier of

(1) September 1, 2020; or

(2) the date the governor determines, under sec. 2 of this Act, that the public health disaster emergency no longer exists."

Division of Corporations, Business and Professional Licensing: Telehealth & Licensing During COVID-19 (3/18/20)

- "For as long as the Secretary's designation of a public health emergency remains in effect, DEA-registered practitioners may issue prescriptions for controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided all of the following conditions are met:

"The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice"

"The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system."

"The practitioner is acting in accordance with applicable federal and state law."

- "Anyone providing telehealth must hold an Alaska license to perform those services. Full applications and requirements can be found online."

Medicaid Law, Policy and Guidance Related to Telehealth

Telehealth Coverage during COVID-19 Public Health Emergency Frequently Asked Questions (4/13/21; supersedes 3/9/21)

- Q35: "Do school districts and targeted case management providers need to add a telehealth modifier (GT, GQ, or 95) when billing a telehealth service?"

A: "Yes, effective for dates of service on or after 5/15/2021, school districts and targeted case management providers must bill with the appropriate telehealth modifier."

Temporary Expansion of Medicaid Telehealth Coverage: Updated FAQs (3/9/21; supersedes 3/2/21)

- Q10: "What type of informed consent is required when providing services via telehealth?"

A: "Members must be informed of the type of connection being used during the telehealth visit (secure of unsecure) and give oral or written consent to move forward with the visit once informed. Documentation on file must indicate that informed consent was given orally."

- Q13: "added guidance for the use of G0 modifier"
- Q32: "revised the guidance for licensing requirements of out-of-state providers providing services via telehealth to a member physically located in Alaska."
- Q34: "Can vision services be performed via telehealth?"

A: Effective for dates of service on and after 12/16/2020, Alaska Medicaid will temporarily cover vision evaluation and management service performed via a live interactive mode of delivery.

Only problem focused evaluation and management services are reimbursable via a telehealth mode; routine evaluations must be done in-person to be covered."

Temporary Expansion of Medicaid Telehealth Coverage: Guidance for Coverage during COVID-19 Public Health Emergency (1/29/21)

- "For as long as the U.S. Department of Health and Human Services Secretary's public health emergency remains in effect, Alaska Medicaid is expanding Medicaid telehealth coverage.
- Expanded Provider Types Authorized to Provide Telehealth

Autism services providers, Direct-Entry Midwife, ESRD service providers, Federally Qualified Health Centers and Rural Health Clinics, Home health and hospice providers, Vision providers

- Expanded Coverage of Telehealth Services

Professional services performed in a hospital such as observation, inpatient, discharge, consultation, emergency room department, and critical care services

Telephone and online digital services, Nursing facility services, Case management services, Therapy services, Behavioral health services, Ventilator management, Radiation treatment management

- Member and Provider Location

The location of the member and provider for live interactive, telephone, and online digital modes of delivery are unrestricted to allow for multiple patient and provider settings such as home or facility.

- Live Interactive Mode of Delivery

Applications such as Zoom, Skype, and Facetime are allowable."

- More information on telephone and online digital check-ins and provider specific services performed via telehealth can be found in the guidance document.

Update to Temporary Telehealth Services Fee Schedule (12/8/20)

Temporary Coverage of Telehealth for Vision Services (12/8/20)

- "Effective for dates of service on and after 12/16/2020, Alaska Medicaid will temporarily cover vision evaluation and management service performed via a live interactive mode of delivery.
- Only problem focused evaluation and management services are reimbursable via a telehealth mode; routine evaluations must be done in-person to be covered."

Medicaid Telehealth Coverage (10/6/20)

- "the Division of Health Care Services confirms that no changes have been made regarding Medicaid coverage of services delivered via telehealth. Unless otherwise notified via Remittance Message, current Medicaid telehealth coverage will continue through the duration of the COVID-19 public health emergency."

Effective 8/1/2020, Telehealth Audio Only Delivery Covered for FQHC Behavioral Health (8/20/20)

- "Effective 8/1/2020, Telehealth Audio Only Delivery Covered for FQHC Behavioral Health"
- The following documents have been updated to include information on the expanded telehealth coverage for FQHCs performing Telehealth services:

FQHC Billing Manual

Temporary Expansion of Medicaid Telehealth Coverage

Telehealth Coverage during COVID-19 Public Health Emergency: Updated FAQs"

Alaska Medical Assistance Letter (8/13/20)

- "Effective 8/1/2020, Telehealth Audio Only Delivery Covered for FQHC Behavioral Health"
- "Run Length: 8 weeks"

Telehealth Coverage during COVID-19 Public Health Emergency Frequently Asked Questions (Updated 5/7/20)

- Q: "What are the recognized methods of telehealth services?"

A: "Live Interactive (Synchronous): Use of camera, video, or dedicated audio conference equipment on a real-time basis; a telephone call alone does not meet the definition of live interactive

Store and Forward (Asynchronous): The transfer of digital images, sounds, or previously recorded video

Self-Monitoring or Testing: Monitoring devices in a member's home with only indirect involvement of the provider"

- Q: "Does Medicaid cover telephone and online digital check-ins?"

A: "Yes. Medicaid has expanded services to cover both telephone and online digital check-ins for established patients. Refer to the Telehealth Services Temporary Fee Schedule, effective March 20, 2020, for more information on who can be reimbursed for telephone and online digital check-ins."

- Q: "Does Alaska Medicaid pay differently for a service provided via telehealth versus an in-person visit?"

A: "No, providers are reimbursed at the rate indicated on the fee schedule specific to their provider type, whether the service is provided in-person or via a telehealth mode."

- Q: "Are physical therapy assistants, occupational therapy assistants, speech pathology assistants authorized to provide telehealth services?

A: "Yes, Services provided by enrolled physical and occupational therapy assistants and speech language pathology assistants are authorized for reimbursement of approved telehealth services."

- Q: "Must out-of-state providers be licensed in Alaska to provide services via telehealth to a member who is located in Alaska?"

A: "Typically the provider must be licensed in Alaska. However, during the COVID-19 public health emergency however, physicians, APRNs, and PAs may provide services via telehealth without an Alaskan License. Please see Telehealth & Licensing During COVID-19 for more information."

Telehealth Services, Alaska Medical Assistance: Temporary Fee Schedule (5/1/2020)

- This is a temporary fee schedule and is in effect for as long as the U.S. Department of Health and Human Services Secretary's public health emergency remains in effect. Providers may be reimbursed for procedure codes indicated on this fee schedule via a telehealth mode of delivery

Alaska Medicaid Policy Clarification, Office Consultations via Telemedicine Applications (3/30/20)

- "Medically necessary office consultations (CPT 99241, 99242, 99243, 99244, 99245, and HCPCS D9310) provided via telemedicine may be covered only when used as a second opinion."
- "Office consultations provided via telemedicine may be reimbursed only if the consulting provider is of a different specialty than the requesting provider (e.g., a primary care medical provider requesting a consultation from an ENT; a pediatrician requesting a consultation from a cardiologist)."
- "Office consultations performed by a provider of the same specialty within the same organization as the requesting provider are not covered."

Division of Health Care Services: Temporary Expansion of Medicaid Telehealth Coverage, Guidance for Coverage during COVID-19 Public Health Emergency (3/30/20, supersedes 3/20/30)

- "For as long as the U.S. Department of Health and Human Services Secretary's public health emergency remains in effect, Alaska Medicaid is expanding Medicaid telehealth coverage. The expansion of telehealth is effective immediately however new procedure codes are currently being implemented systematically with an expected completion date of April 1, 2020."

"The location of the member and provider for live interactive, telephone, and online digital modes of delivery are unrestricted to allow for multiple patient and provider settings such as home or facility."

"Applications such as Zoom, Skype, and Facetime are allowable."

"Provider inclusions: Providers enrolled as Physician, Advanced Practice Registered Nurse, Physician Assistant, Podiatrist, Community Health Aide, Optometrist, Audiologist, and Direct-Entry Midwife."

"Federally Qualified Health Centers and Rural Health Clinic may be reimbursed at their encounter rate for services provided by a rendering provider listed as an included provider in this section"

"Case management services are authorized to be performed via telephone, online digital, or live interactive mode in lieu of a face to face visit…Provider Inclusions: Providers enrolled as Care Coordinators and Targeted Case Managers."

"Physical, Occupational, and Speech Therapy services are authorized to be performed via live interactive modes of delivery…Provider Inclusions: Provider enrolled as physical therapist, physical therapy assistant, occupational therapist, occupational therapy assistant, speech therapist, speech therapy assistant, and school-based services provider."

Alaska Appendix K Approval (3/25/20)

- The Senior and Disabilities Service Divisions expects to see changes to services delivery with services "being provided telephonically or via telemedicine to minimize the need for unnecessary in-person contact."
- "Care coordinators are required to conduct at least one face-to-face or remote, such as telephonic or video messaging service, visit per month with participants."

Division of Behavioral Health, Telemedicine Emergency Response Policy Guidance (3/20/20)

- "Telephonic is an acceptable form of services; however, only utilize telephonic delivery if Level 1 in person or Level 2 video is not an option. Providers must be cognizant of time based billing requirements per 7 AAC 105.230."
- "Texting will be an expected extension of telephone contact with a recipient when no other communication modality is available. Web-based interactions would include Q&A between providers and recipients via website, providing instruction, encouragement, etc. thru a website platform. Online screening tools will also be accepted as a valid telemedicine interaction. Following the end of the State of Alaska's Declaration of Emergency, providers will be notified when the Emergency Telemedicine Provisions will end."
- "The location of the member and provider for telehealth services including telephone and online digital services is unrestricted to allow for multiple patient and provider settings such as home or facility."
- This notice provides a list of services available via telehealth

Policy Clarification: Medicaid Telemedicine Coverage (3/20/20)

- Covered Telemedicine Modes of Delivery:

"Live or interactive; to be eligible for payment under this paragraph, the service must be provided through the use of camera, video, or dedicated audio conference equipment on a real-time basis; medical services provided by a telephone that is not part of a dedicated audio conference system or by a facsimile machine are not eligible for payment under this paragraph;

Store-and-forward; to be eligible for payment under this paragraph, the service must be provided through the transference of digital images, sounds, or previously recorded video from one location to another to allow a consulting provider to obtain information, analyze it, and report back to the referring provider;

Self-monitoring or testing; to be eligible for payment under this paragraph, the services must be provided by a telemedicine application based in the recipient's home, with the provider only indirectly involved in the provision of the service."

- Allowed Services Through Telemedicine:

"Evaluation and management services for initial and follow up exams

Consultations made to confirm a diagnosis

Diagnostic, therapeutic, or interpretive services

Psychiatric or substance abuse assessment

Psychotherapy

Pharmacological management services on an individual recipient basis"

- Services Excluded from Telemedicine:

"Home and community-based waiver services

Pharmacy services

Durable medical equipment services

Transportation services

Accommodation services

End-stage renal disease services

Direct-entry midwife services

Private-duty nursing services

Personal care assistant services

Visual care, dispensing, or optician services"

ARIZONA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Arizona House Bill No. 2558 (engrossed 3/8/2023)

- "Sec. 5. Title 36, Arizona Revised Statutes, is amended by adding chapter 42, to read: CHAPTER 42 - DIETITIAN NUTRITIONISTS - ARTICLE 1. GENERAL PROVISIONS - 36-4201. Definitions.
    - In this chapter, unless the context otherwise requires:
        - 12. "Practice of dietetics and nutrition" MEANS:
            - (a) INTEGRATING and APPLYING scientific principles derived from the study of food, nutrition, biochemistry, metabolism, nutrigenomics, physiology AND food management and from behavioral and social sciences TO ACHIEVE and maintain health throughout the life span and TO PROVIDE nutrition care services in person and by telehealth.
        - 14. "Telehealth" MEANS USING electronic information and telecommunications technologies to provide services under this chapter to support clinical health care, patient and professional health-related education, public health and health administration between a licensee in one location and an individual in another location.

Arizona House Bill 2583 (introduced 2/7/2023)

- "Section 1. Title 36, Arizona Revised Statutes, is amended by adding chapter 33, to read: CHAPTER 33 - MEDICAL AID IN DYING""36-3311. Oral request; written request; waiting period; waiver
    - A. TO RECEIVE A PRESCRIPTION FOR MEDICATION THAT A QUALIFIED INDIVIDUAL MAY SELF-ADMINISTER UNDER THIS ARTICLE, THE QUALIFIED INDIVIDUAL MUST MAKE AN ORAL REQUEST TO THE ATTENDING PHYSICIAN EITHER IN PERSON OR BY TELEMEDICINE, IF THE ATTENDING PHYSICIAN DETERMINES THE USE OF TELEMEDICINE IS CLINICALLY APPROPRIATE, AND A WRITTEN REQUEST WITH TWO WITNESSES AT LEAST FIFTEEN DAYS AFTER MAKING THE INITIAL ORAL REQUEST. A PRESCRIPTION FOR MEDICATION MAY NOT BE WRITTEN BEFORE RECEIPT OF THE QUALIFIED INDIVIDUAL'S WRITTEN REQUEST."

Arizona House Bill 2687 (introduced 2/8/2023)

- "A. THE PURPOSE OF THIS COMPACT IS TO FACILITATE INTERSTATE PRACTICE OF LICENSED PROFESSIONAL COUNSELORS WITH THE GOAL OF IMPROVING PUBLIC ACCESS TO PROFESSIONAL COUNSELING SERVICES. THE PRACTICE OF PROFESSIONAL COUNSELING OCCURS IN THE STATE WHERE THE CLIENT IS LOCATED AT THE TIME OF THE COUNSELING SERVICES. THE COMPACT PRESERVES THE REGULATORY AUTHORITY OF STATES TO PROTECT PUBLIC HEALTH AND SAFETY THROUGH THE CURRENT SYSTEM OF STATE LICENSURE.
- 6. ALLOW FOR THE USE OF TELEHEALTH TECHNOLOGY TO FACILITATE INCREASED ACCESS TO PROFESSIONAL COUNSELING SERVICES."
- "SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

- A. MEMBER STATES SHALL RECOGNIZE THE RIGHT OF A LICENSED PROFESSIONAL COUNSELOR WHO IS LICENSED BY A HOME STATE IN ACCORDANCE WITH SECTION 3 OF THIS COMPACT AND UNDER RULES PROMULGATED BY THE COMMISSION TO PRACTICE PROFESSIONAL COUNSELING IN ANY MEMBER STATE VIA TELEHEALTH UNDER A PRIVILEGE TO PRACTICE AS PROVIDED IN THE COMPACT AND RULES PROMULGATED BY THE COMMISSION."

Arizona House Bill No. 2093 (introduced 6/23/22)

- 3. An ultrasound evaluation for all patients WHO ARE EXPECTED TO BE AT LEAST ELEVEN WEEKS' GESTATION BY MEDICAL HISTORY AND LAST MENSTRUAL PERIOD, EXCEPT IN THE CASE OF A PATIENT USING A TELEHEALTH ENCOUNTER FOR A MEDICATION ABORTION OR A DETERMINATION OF LAST MENSTRUAL PERIOD. The rules shall require that if a person who is not a physician performs an ultrasound examination, that person shall have documented evidence that the person completed a course in operating ultrasound equipment as prescribed in rule. The physician or other health care professional shall review, at the request of the patient, the ultrasound evaluation results with the patient before the abortion procedure is performed, including the probable gestational age of the fetus.
- A. An abortion shall not be performed or induced without the voluntary and informed consent of the woman on whom the abortion is to be performed or induced. Except in the case of a medical emergency OR A TELEHEALTH ENCOUNTER FOR A MEDICATION ABORTION
- EXCEPT IN THE CASE OF A TELEHEALTH ENCOUNTER FOR A MEDICATION ABORTION, a person shall not knowingly perform an abortion after ELEVEN weeks' gestation unless the person estimates the gestational age of the fetus based on biparietal diameter and femur length according to the hadlok measurement system or other equivalent measurement systems using ultrasound examination as provided in rule.
- EXCEPT IN THE CASE OF A TELEHEALTH ENCOUNTER FOR A MEDICATION ABORTION, a person shall not knowingly perform an abortion after ELEVEN weeks' gestation unless the person ensures that a copy of each ultrasound result taken of a fetus of a woman as a result of a second or third trimester abortion is sent to persons or corporations contracted pursuant to this section. The person performing the abortion shall ensure that the ultrasound result or results from the woman ARE sent in a manner that is distinguishable from, and not mixed with, any other set of ultrasound results and ARE accompanied with a copy of any report that notes the estimate of the fetus' gestational age that was made before the abortion.

Arizona Senate Bill No. 1390 (passed 3/23/22)

- "A. The telehealth advisory committee on telehealth best practices is established…
- 1. Shall review national and other standards for telehealth best practices and relevant peer-reviewed literature.
- 2. May conduct public meetings at which testimony may be taken regarding the efficacy of various communications media and the types of services and populations for which telehealth is appropriate.
- 3. Shall adopt telehealth best practice guidelines and recommendations regarding the health care services that may be appropriately provided through an audio-only telehealth format and make updates, when applicable. Before making its recommendations, the advisory committee shall analyze medical literature and national practice guidelines, consider the comparative effectiveness and safety and the

benefit to the patient of performing a service through an audio-only telehealth format instead of in person or through an audio-visual telehealth format, and the appropriate frequency and duration of audio-only telehealth encounters.

- 4. May authorize subcommittees to address select issues or services and report to the advisory committee as directed.
- 5. On or before December 1, 2021, shall submit a report to the governor, the president of the senate and the speaker of the house of representatives with the advisory committee's recommendations regarding the specific health care services that are appropriate to provide through an audio-only telehealth format as a substitute for an in-person or audio-visual telehealth encounter.
- 6. On or before June 30, 2022, shall submit a report to the governor, the president of the senate and the speaker of the house of representatives with the advisory committee's recommendations regarding telehealth best practice guidelines for health care providers."

Arizona Executive Order 2021-16: Rescinding Executive Orders (7/2/21)

- "Effective July 1, 2021, the following Executive Orders related to the public health emergency will be rescinded:

Executive Order 2020-17 deferred requirements to renew state agency and board licenses that had an expiration date between March 1, 2020 and September 1, 2020 by six months from the expiration date, unless those requirements could be completed online. The timeframe for the deferrals lapsed on March 1, 2021.

- Effective July 9, 2021, the following Executive Orders related to the public health emergency will be rescinded:

Executive Order 2020-20 allowed pharmacists to dispense emergency refills of maintenance medications for up to 180 days, minimizing unnecessary trips to the doctor. With legislation expanding availability of telemedicine, obtaining refills is now more accessible."

Arizona Executive Order 2021-13: Rescinding Telemedicine Executive Order Due to Passage of Permanent Legislation (5/5/21)

- "Now, therefore, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and law of the State, including but not limited to A.R.S.Section 26-303 and 36-787, herby as follows: …

Executive Order 2020-15, *Expansion of Telemedicine*, is rescinded

Executive Order 2020-29, *Increased Telemedicine Access for Worker's Compensation*, is rescinded

Claims filed under the provision of these executive orders for healthcare services provided on or before May 5, 2020 shall survive their recession."

Arizona House Bill No. 2454: Telehealth; health care providers; requirements (passed 5/5/21)

- "All contracts issued, delivered or renewed in this state must provide coverage for health care services that are provided through telehealth if the health care service would be covered were it provided through an in-person encounter between the subscriber and a health care provider and provided to a subscriber receiving the service in this state.
- Except as otherwise provided in this paragraph, a corporation shall reimburse health care providers at the same level of payment for equivalent services as identified by the healthcare common procedure coding system, whether provided through telehealth using an audio-visual format or in-person care. A corporation shall reimburse health care providers at the same level of payment for equivalent in-

person behavioral health and substance use disorder services as identified by the healthcare common procedure coding system if provided through telehealth using an audio-only format. This paragraph does not apply to a telehealth encounter provided through a telehealth platform that is sponsored or provided by the corporation. A corporation may not require a health care provider to use a telehealth platform that is sponsored or provided by the corporation as a condition of network participation.

- Before January 1, 2022, a health care services organization shall cover services provided through an audio-only telehealth encounter if that service is covered by Medicare or the Arizona health care cost containment system when provided through an audio-only telehealth encounter. Beginning January 1, 2022, a health care services organization shall cover services provided through an audio-only telehealth encounter if the telehealth advisory committee on telehealth best practices established by section 36-3607 recommends that the services may appropriately be provided through an audio-only telehealth encounter."

Frequently Asked Questions (FAQs) Regarding Coronavirus Disease 2019 (COVID-19) Telehealth Delivery & Billing (updated 2/17/21)

- Q: During the COVID-19 emergency period, how do providers handle the informed consent requirements and treatment plan agreements/signatures that require a member or guardian's written consent, agreement and/or signature if they are providing services via telehealth or telephone?

A: During the COVID-19 emergency, providers delivering services through telehealth and telephonic means can obtain verbal consent and verbal service or treatment plan agreements and document the Member's/Guardian's verbal consent and verbal agreement in the Electronic Medical Record (EMR). It will not be necessary to gather retroactive signatures once the COVID-19 emergency period ends provided the documentation is in the EMR.

Arizona Senate Bill No. 1088 (passed 3/18/21)

- "Prescribing, dispensing or furnishing a prescription medication or a prescription-only device as prescribed section 32-1901 to a person unless the licensee first conducts a physical or mental health status examination of that person or has previously established a doctor-patient relationship. The physical or mental health status examination may be conducted during a real-time telemedicine encounter with audio and video capability, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1"

Governor Ducey Expands Telemedicine Coverage for Arizonans (Executive Order 2020-15) (Extended on 5/11/20, original date 3/25/20)

- "Governor Ducey today issued an Executive Order requiring health care insurance companies to expand telemedicine coverage for all services that would normally be covered for an in-person visit…It remains in effect until the termination of the declared public health emergency."
- "Today's Executive Order prevents insurers from charging more for a telemedicine visit than they would for an in-person visit. In addition, the order:

"Requires all Medicaid plans in the State of Arizona to cover all health care services that are covered benefits to be accessible by telemedicine to AHCCCS members, while prohibiting those plans from discounting rates for services provided via telemedicine;"

"Includes all electronic means of delivering telehealth including telephone and video calls;"

"Ensures that a patient's home is considered an approved location to receive telemedicine services;"

"And prohibits a regulatory board from requiring a medical professional who is authorized to write prescriptions to conduct an in-person examination of a patient prior to the issuance of a prescription."

Executive Order 2020-29, Increased Telemedicine Access for Workers' Compensation (4/14/20)

- "Beginning on April 14, 2020 and continuing for the duration of the Public Health Emergency declared in Arizona on March 11, 2020, all workers' compensation insurance plans regulated by the Arizona Department of Insurance, self-insurance plans regulated by the Industrial Commission of Arizona, and the Special Fund are required to provide coverage for all healthcare services that can be provided through telemedicine if the healthcare service would be covered were it provided through an in-person visit between the injured worker and a healthcare provider."
- "Workers' compensation insurance plans, self-insurance plans and the Special Fund may establish reasonable requirements and parameters for telehealth services, including documentation and recordkeeping, but such requirements and parameters may not be more restrictive or less favorable to providers or injured workers than are required for healthcare services delivered in-person."
- "Workers' compensation insurance plans, self-insurance plans and the Special Fund must allow all electronic means of delivering telehealth, including telephone and video calls."
- "To enable individuals to remain in their homes, workers' compensation insurance plans, self-insurance plans and the Special Fund shall allow a patient's home to be an approved location to receive telemedicine services."

Arizona Department of Insurance & Financial Institutions, Regulatory Bulletin 2020-02 (4/3/20)

- "Insurer plans issued in this state must provide coverage for telemedicine services consistent with the terms of Executive Order 2020-07 and Executive Order 2020-15. This includes short-term limited duration plans and limited benefit plans. Telemedicine coverage must be provided for all health care services that would be covered if provided through an in-person visit. The Orders do not expand the covered services offered by any health insurance plan, but they do require that, if a health care service would be covered if provided in-person, it must be covered if provided via telemedicine. This is true for all healthcare services covered by a health insurance plan, whether or not such a visit is related to COVID-19."
- All telemedicine visits for the duration of the public health emergency, whether or not such a visit is related to COVID-19, must be offered at a lower cost-sharing point than the same in-office service. This includes services rendered by individual providers, such as PCPs and specialists, not just those rendered by telemedicine vendors. Insurers are urged to help promote their members' continuing relationship with their PCPs and treating physicians by reminding members that their PCPs and other treating physicians may be able to provide services via telemedicine. Members may wish to contact PCPs and other treating physicians rather than, or prior to, a telemedicine vendor. HCSO plans may limit the provision of lower cost-share telemedicine services to those offered through in-network providers and telemedicine vendors (unless none are accessible, in which case they must provide a network exception). PPO plans must continue to cover both in- and out-of-network physician services, including via telemedicine, however PPO plans may limit telemedicine vendor

services to in-network vendors. PPO plans should consider urging members to utilize in-network providers to ensure they receive services at a lower cost-share and are not balance billed by the out-of-network providers."

Governor Ducey issued a Declaration of Emergency (3/11/20)

- "Requires insurance companies and health plans to cover out of network providers, including out of plan laboratories and telemedicine providers."
- "Waives all copays, coinsurance, and deductibles for consumers related to COVID-19 diagnostic testing and decreases co-pays for telemedicine visits."

Governor Ducey issued an executive order 2020-07 to provide health officials and administrators with tools and guidance to combat COVID-19 (3/11/20)

- "The Department of Health Services in conjunction with the Department of Insurance shall require that all insurers regulated by the State cover telemedicne visits at a lower cost-sharing point for consumers than same in-office service to encourage utilization of telemedicine for the duration of the state's public health emergency"

Arizona Department of Insurance (3/11/20)

- "The Executive Order instructs the Department of Health Services and the Department of Insurance to cover telemedicine visits at a lower cost-sharing point for consumers than the same in-office service to encourage utilization of telemedicine for the duration of the state's public health emergency."

The Arizona DHS issued the following recommendations (March 2020):

- "All outpatient providers to move to telemedicine for chronic or well visits."
- "All healthcare providers, facilities, and partners promote the availability of covered telehealth, telemedicine, or nurse advice line services."
- "All health plans to message beneficiaries to promote the availability of covered telehealth, telemedicine, or nurse advice line services."
- For personal protective equipment, "explore alternatives to face-to-face triage and visits, in order to not use up protective equipment including: identify staff to conduct telephonic and telehealth interactions with patients and determine algorithms to identify which patients can be managed by telephone and advised to stay home and which patients will need to be sent for emergency care to come to your facility."

State Licensure Laws, Policy, and Guidance

Frequently Asked Questions (FAQs) Regarding Coronavirus Disease 2019 (COVID-19) TELEHEALTH DELIVERY & BILLING (updated 1/20/21)

- Q: Are telehealth services covered by AHCCCS?

A: Yes, AHCCCS covers all forms of telehealth services including asynchronous (store and forward), remote patient monitoring, teledentistry, and telemedicine (interactive audio and video).

Frequently Asked Questions (FAQs) Regarding Coronavirus Disease 2019 (COVID-19) TELEHEALTH DELIVERY & BILLING (updated 6/24/20)

- Q: Is there an AHCCCS Fee Schedule rate difference for services provided "in-person" versus services offered via telehealth and/or telephonically?

A: The rates on the AHCCCS fee schedule for services offered via telehealth and/or telephonically are not lower than the published rates for "in-person" services.

- Q: Are AHCCCS health plans required to reimburse at the same rate for services provided "in-person" and services provided via telehealth and/or telephonically?

A: Yes, effective March 18, 2020 until the end of the COVID-19 emergency declaration, AHCCCS health plans shall not discount rates for services provided via telehealth and telephonically as compared to contracted rates for "in-person" services.

Temporary emergency licensure for physicians during the COVID-19 State of Emergency and extension of timeframe for licensure renewal (4/10/20)

- The Arizona Medical Board announces the following available temporary emergency licenses for Physicians (MDs) to practice in Arizona and the extension of the timeframe for renewal of MD license during the COVID-19 State of Emergency:

MDs licensed in another state are eligible to apply for temporary licensure in the State of Arizona using the emergency temporary licensure application.

MDs with inactive Arizona licenses are eligible for temporary reactivation if they have been on an inactive status for less than 4 years.
The Board will convert an inactive license to a temporary active license using the temporary emergency license application if:
1. The physician has been on an inactive status for 4 years or less.
2. The physician submits an attestation that they have the physical and mental capability to safely practice medicine.

Retired MDs who no longer hold any state license are eligible for the Board's temporary emergency license, if the physician has been out of practice for four years or less.
Retired MDs with no state license shall provide to the Board:
1. Their last date of practice, and date of license inactivation or expiration, and
2. An attestation that they have the physical and mental capability to safely practice medicine.

Medical school graduates of an approved school of medicine who have completed twelve months of post-graduate training within the last 6 months, or during the State of Emergency are eligible for a temporary emergency license.

The Medical Board has extended the timeframe to renew medical licenses that have expiration dates between March 1, 2020 and September 1, 2020 by six months from the renewal date.

For all temporary emergency medical license applications there is no application fee and no fingerprint requirement. All MD temporary emergency licenses expire after 90 days, or at the time the State of Emergency is declared to be over whichever shall occur first. A renewal process may be established if the State of Emergency continues beyond 90 days.

Section 1135 Flexibilities Requested in March 17, 2020 Communications (3/23/20)

- "Arizona currently has the authority to rely upon provider screening that is performed by other State Medicaid Agencies (SMAs) and/or Medicare. As a result, Arizona is authorized to provisionally, temporarily enroll providers who are enrolled with another SMA or Medicare for the duration of the public health emergency."
- "If a certified provider is enrolled in Medicare or with a state Medicaid program other than Arizona, Arizona may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency."
- "With respect to providers not already enrolled with another SMA or Medicare, CMS will waive the following screening requirements under 1135(b)(1) and (b)(2) of the Act, so the state may provisionally, temporarily enroll the providers for the duration of the public health emergency:

1. Payment of the application fee - 42 C.F.R. §455.460

2. Criminal background checks associated with Fingerprint-based Criminal Background Checks - 42 C.F.R. §455.434

3. Site visits - 42 C.F.R. §455.432

4. In-state/territory licensure requirements - 42 C.F.R. §455.412"

- "CMS is granting this waiver authority to allow Arizona to enroll providers who are not currently enrolled with another SMA or Medicare so long as the state meets the following minimum requirements:"

1. "Must collect minimum data requirements in order to file and process claims, including, but not limited to NPI."

2. "Must collect Social Security Number, Employer Identification Number, and Taxpayer Identification Number (SSN/EIN/TIN), as applicable, in order to perform the following screening requirements:
    - a. OIG exclusion list
    - b. State licensure – provider must be licensed, and legally authorized to practice or deliver the services for which they file claims, in at least one state/territory"

3. "Arizona must also:
    - a. Issue no new temporary provisional enrollments after the date that the emergency designation is lifted,
    - b. Cease payment to providers who are temporarily enrolled within six months from the termination of the public health emergency, including any extensions, unless a provider has submitted an application that meets all requirements for Medicaid participation and that application was subsequently reviewed and approved by Arizona before the end of the six month period after the termination of the public health emergency, including any extensions, and
    - c. Allow a retroactive effective date for provisional temporary enrollments that is no earlier than March 1, 2020."

- "Under section 1135(b)(1)(B), CMS is also approving Arizona's request to temporarily cease revalidation of providers who are located in Arizona or are otherwise directly impacted by the emergency."
- "These provider enrollment emergency relief efforts also apply to CHIP to the extent applicable."

Arizona Department of Health Services Administrative Order 2020-01 (3/20/20)

- "A healthcare profession regulatory board that meets the definition set forth in A.R.S. 32-3201 shall identify any professional licensure requirements under its regulatory authority for which a temporary waiver is necessary to adequately address the State of Emergency, provide a justification for state licenses who will be permitted to provide services in Arizona under their out-of-state licenses, and notify the Director of the Arizona Department of Health Services in writing of the professional licensure requirements that if has identified and its justification for waiving those professional licensure requirements."
- "After providing the Director of the Arizona Department of Health Services with its notification, a health care profession regulatory board that meets the definition set forth in A.R.S. 32-3201 or its Executive Director may temporarily waive the identified professional licensure requirements to address the State of Emergency and mitigate the spread of COVID-19."

Executive Order 2020-17 (3/17/20)

- "Unless prohibited by federal law or regulation, if an examination cannot be provided via electronic or remote format, the state agency or board shall issue a provisional license to an applicant who has met all other requirements of Arizona statute and administrative code, but who is unable to take the required examination due to the current closure of private testing centers and unavailability of an electronic or remote testing option…"

Osteopathic Board Staff's Commitment to the Executive Order 2020-07 (3/13/20)

- "As it becomes increasingly important to have an abundant and licensed healthcare profession to aid in the COVID-19 situation, the Arizona Osteopathic Board staff wishes to highlight the paths to temporary licensure that exist in statute. In accordance with A.R.S.§32-3124, A.R.S. §32-1834, and A.A.C. R4-22-201, 202 and 206, individuals can apply for a temporary license with the Board to aid in the diagnosis and treatment of COVID-19 in Arizona. Board staff has updated the application and made it available online for expedited processing."

Governor Ducey issued a Declaration of Emergency (3/11/20)

- "Allows ADHS to waive licensing requirements to provide healthcare officials with assistance in delivering services during times of heightened demand."

Medicaid Law, Policy and Guidance Related to Telehealth

Telehealth Delivery & Billing Q&A (updated 5/14/21)

- Q: "When are the AHCCCS telehealth policy flexibilities offered during the COVID-19 pandemic, including the use of the temporary telephonic code set, due to expire?"

"The AHCCCS telehealth COVID-19 policy coverage flexibilities have been extended through 12/31/2021. If the public health emergency (PHE) continues beyond 12/31/21, AHCCCS will re-evaluate this end date."

COVID-19 Emergency Medical Coding Guidance Updated Temporary Code List (updated 7/14/20)

- "In response to the COVID-19 emergency declaration, AHCCCS is providing emergency medical coding guidance related to applicable diagnosis and procedures codes and use of modifiers. This guidance is effective immediately and is anticipated to remain in effect for the period of the emergency. For changes that are temporary in nature, further guidance will be provided to indicate when those changes are no longer in effect."
- AHCCCS has established two telephonic code sets that are available for use:

a. "Table I, AHCCCS Telephonic Code Set (Temporary) provides the lists of codes available on a temporary basis to be provided telephonically starting on dates of service March 17, 2020 until the end of the COVID-19 declared emergency.

  - i. The UD modifier must be used when billing the applicable CPT or HCPCS code to designate telephonic service.
  - ii. The Place of Service (POS) is the originating site (ie, where the member is located at the time of the telephonic service delivery)." Telehealth Code List can be found here

b. "Table II, AHCCCS Telephonic Code Set (Permanent) are codes that have been available for use telephonically prior to the COVID-19 declared emergency and will continue to be available after the end of the emergency. There is no change to the coding standards for these codes. When providing these services telephonically, please continue to utilize POS 02 telehealth."

Telehealth Delivery & Billing Q&A (updated 5/6/20)

- Q: "Can telehealth be utilized for initial appointments (i.e. when members that have not been seen face-to-face previously)?"

"Yes, telehealth can be utilized for initial appointments when clinically appropriate. For Medication Assisted Treatment (MAT), SAMHSA guidance has indicated telehealth for initial appointments can only be used for buprenorphine products. Telehealth for initial appointments for methadone is unallowable. For more information see SAMHSA guidance, issued March 19, 2020, on the provision of methadone and buprenorphine for the treatment of Opioid Use Disorder during the COVID-19."

- Q: "Are telehealth services covered by AHCCCS?"

A: "Yes, AHCCCS covers all forms of telehealth services including asynchronous (store and forward), remote patient monitoring, teledentistry, and telemedicine (interactive audio and video)… There are no AHCCCS restrictions for where the provider is located when providing services via telehealth… In addition to utilizing current AHCCCS registered providers, Arizona was authorized by CMS on March 23rd to provisionally and temporarily enroll providers who are enrolled with another State Medicaid Agency or Medicare for the duration of the public health emergency."

- Q: "Can all AHCCCS covered services be delivered via telehealth (including telephonic) and reimbursed by AHCCCS?"

A: "All services that are clinically able to be furnished via telehealth modalities will be covered by AHCCCS throughout the course of the COVID-19 emergency. Ultimately, it is up to the treating provider to follow clinical best practices and use clinical judgement to determine

what services can reasonably be provided via telehealth versus what services must be provided in-person. All scope of practice, coding, and documentation requirements still apply to services delivered via telehealth."

- Q: "For members who have been receiving behavioral health services through the AHCCCS Behavioral Health in Schools Initiative, can telephone and telehealth be leveraged to provide these services in the member's home and/or community while school is closed?"

A: "Yes, AHCCCS strongly encourages Behavioral Health Providers to continue to provide behavioral health services to children and their families in their home and community while schools are closed."

- Q: "Is there an AHCCCS Fee Schedule rate difference for services provided "in-person" versus services offered via telehealth and/or telephonically?"

A: "No, there is no rate difference in the AHCCCS Fee Schedule between services provided "in-person" and services offered via telehealth and/or telephonically."

- Q: "Are AHCCCS health plans required to reimburse at the same rate for services provided "in-person" and services provided via telehealth and/or telephonically?"

"A: Yes, effective March 18, 2020 until the end of the COVID-19 emergency declaration, AHCCCS health plans shall not discount rates for services provided via telehealth and telephonically as compared to contracted rates for "in-person" services."

- Q: "Are there any AHCCCS restrictions on the AHCCCS provider types that are permitted to provide services via telehealth (including telephonic) modalities?"

"As per Governor Ducey's Executive Order 2020-15 effective March 25, 2020 through the end of the COVID-19 declared emergency, telehealth services may be provided by any Arizona licensed healthcare provider type, including but not limited to, physicians, physicians assistants, advanced practice nurses, optometrists, psychologists, dentists, occupational therapists, physical therapists, pharmacists, behavioral health providers, chiropractors, athletic trainers, hearing aid dispensers, audiologists, and speech-language pathologists."

- Q: "Typically providers require in-person visits for controlled substance refills. Can these services be provided via telehealth or telephone during the COVID-19 emergency?"

A: "AHCCCS has updated its telephonic and telehealth code sets to enable providers to be able to conduct visits remotely, including for controlled and non-controlled substance medication refills when clinically appropriate."

- Q: "Can LOCAL EDUCATION AGENCIES (LEAs) receive reimbursement for Medicaid-covered medical services provided to eligible students through telehealth and telephonic means during school closures due to COVID-19?"

A: "AHCCCS, working in conjunction with the Arizona Department of Education and Public Consulting Group (AHCCCS' third party administrator for the Medicaid School Based Claiming program), have updated their systems to allow LEAs to bill for telehealth services for the Medicaid in Schools program for Dates of Service (DOS) March 30, 2020 and later."

- Q: "How does the "Four Walls" apply to IHS/638 free-standing clinics?"

A: "In March 2020, AHCCCS requested flexibility from CMS to reimburse free-standing clinics at the All Inclusive Rate for telehealth and telephonic services during the COVID-19 emergency, even if neither the member nor the clinician was within the "Four Walls" but a clinic visit/facility defined service had been provided."

- Q: "Can primary care physicians and pediatricians outreach to their patients to provide preventive medicine counseling via telehealth (including telephonic) during the COVID-19 emergency?"

A: "Yes, providers are encouraged to outreach to patients to ensure their care needs are being met during the emergency. Information on what billing codes can be used for preventive medicine counseling are listed on the Medical Coding Resource web page."

Arizona Appendix K Approval (4/3/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation"

Governor Ducey Expands Telemedicine Coverage for Arizonans (3/25/20)

- "Today's Executive Order prevents insurers from charging more for a telemedicine visit than they would for an in-person visit. In addition, the order:

"Requires all Medicaid plans in the State of Arizona to cover all health care services that are covered benefits to be accessible by telemedicine to AHCCCS members, while prohibiting those plans from discounting rates for services provided via telemedicine;"

Frequently Asked Questions (3/19/20)

- "AHCCCS covers all forms of telehealth services including asynchronous (store and forward), remote patient monitoring, teledentistry, and telemedicine (interactive audio and video). As per AHCCCS Medical Policy Manual 320-I:"

"There are no AHCCCS restrictions for where the provider is located when providing services via telehealth.

  - Non-IHS/638 providers must currently be licensed in the State of Arizona to provide services to AHCCCS members via telehealth. AHCCCS has sought permission from CMS to utilize out of state licensed providers and will update FAQs once this permission is granted.
  - IHS/638 licensure requirements remain the same."

"Many telehealth services can be provided when the member is at home. Place of service (POS) 12 is Home."

"AHCCS has established temporary codes to be used when services are provided telephonically starting on dates of service March 17, 2020 until the end of the COVID-19 declared emergency."

"AHCCS will now pay an FQHC/RHC for services delivered via telehealth. In accordance with the March 18, 2020 guidance from CMS, for services offered via telehealth within the scope of the FQHC/RHC benefit, health plans and AHCCCS FFS programs will pay the established PPS rate. For services offered via telehealth that are not covered as part of the FQHC/RHC benefit, health plans will reimburse FQHCs/RHCs at contracted rates and AHCCCS FFS programs will reimburse FQHCs/RHCs consistent with the AHCCCS fee schedule."

ARKANSAS

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Arkansas Senate Bill No. 465 (engrossed 4/4/23)

- "SECTION 4. Arkansas Code Title 20, Chapter 8, Subchapter 10, is amended to add additional sections to read as follows:
  - 20-8-1003. Continuum of Care Program.
    - (b)(1) The purpose of the program is to facilitate the operation of a statewide telemedicine support network that provides community outreach, consultations, and care coordination for women who are challenged with unexpected pregnancies.
    - (c)(1) The program shall utilize a statewide telemedicine support network to facilitate the services and resources described under subsection (e) of this section.
      - (2) The department shall provide by rule for the functions and administration of the telemedicine support network."

Arkansas Executive Order 21-14 (7/29/21)

- "Now, therefore, I, Asa Hutchinson, Governor of the State of Arkansas, acting under the authority vested in me by Ark. Code Ann. §§ 12-75-101, et seq. hereby declare a statewide state of disaster emergency related to public health, resulting from the catastrophic statewide impact of the Delta Variant of COVID-19 on the healthcare system of Arkansas. This emergency shall expire sixty (60) days from the signing of this order, unless the emergency is terminated at an earlier date, or it is approved for renewal by the Arkansas Legislative Council."

Arkansas Executive Order 21-07 (5/30/21)

- "Now, therefore, I, Asa Hutchinson, Governor of the State of Arkansas, acting under the authority vested in me by Ark. Code Ann. §§ 12-75-101, et seq. in consultation with Secretary of Health, do hereby declare upon the signing of this Executive Order that the emergency declared pursuant to Executive Order 20-37, and renewed by Executive Orders 20-45, 20-48 20-_s, and 21-0 is again renewed pursuant to Ark. Code Ann. r 12-75-107, and the public health and disaster emergency and declaration of the State of Arkansas as a disaster area resulting from the state-wide impact of COVID-19 shall continue until May 30, 2021. The emergency shall expire at 11:59pm on May 30, 2021."

Arkansas House Bill No. 598: To amend the definitions within the Telemedicine Act; to authorize additional insurance reimbursement for telemedicine; to prohibit health benefit plan financial incentives; and to declare an emergency (passed 4/21/21)

- Arkansas Code § 23-79-1601(7), concerning the definition of "telemedicine", is amended to read as follows:

(A) "Telemedicine" means the use of electronic information and communication technology to deliver healthcare services, including without limitation the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient.

"Telemedicine" includes store-and-forward technology and remote patient monitoring.

(C) For the purposes of this subchapter, "telemedicine" does not include the use of:

  - (a) Audio-only communication unless the audio-only communication is real time, interactive, and substantially meets the requirements for a healthcare service that would otherwise be covered by the health benefit plan.

Arkansas House Bill No. 1063: An Act to amend the Telemedicine Act; to authorize additional reimbursement for telemedicine via telephone; to declare an emergency; and for other purposes. (passed 4/21/21)

- "(4) "Professional relationship" means at a minimum a relationship established between a healthcare professional and a patient when:

(A) The healthcare professional has previously conducted an in-person examination of the patient and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals."

- "(c) "Professional relationship" does not include a relationship between a healthcare professional and a patient established only by the following: (1) An internet questionnaire; (2) An email message; (3) Patient-generated medical history; (4) Text messaging; (5) A facsimile machine; or (6) Any combination of means in subdivisions (c)(1)-(5) of this section."
- "For the purposes of this subchapter, "telemedicine" does not include the use of:

Audio-only communication unless the audio-only communication is real time, interactive, and substantially meets the requirements for a healthcare service that would otherwise be covered by the health benefit plan.

As with other medical services covered by a health benefit plan, documentation of the engagement between patient and provider via audio-only communication shall be placed in the medical record addressing the problem, content of conversation, medical decision-making, and plan of care after the contact."

- "A health benefit plan shall not impose on coverage for healthcare services provided through telemedicine: …

A requirement for a covered person to choose any commercial telemedicine service provider or a restricted network of telemedicine-only providers rather than the covered person's regular doctor or provider of choice; or

A copayment, coinsurance, or deductible that is not equally imposed upon commercial telemedicine providers as those imposed on network providers."

Executive Order 21-07 to Renew the Disaster and Public Health Emergency to Mitigate the Spread and Impact of COVID-19 (3/31/21)

- "… the public health and disaster emergency and declaration of the State of Arkansas as a disaster area resulting from the state-wide impact of COVID-19 shall continue for an additional sixty (60) days from the signing of this order."
- "The emergency shall expire at 11:59pm on May 30, 2021."
- "The following executive orders are adopted and incorporated herein, as if set out word by word, and shall remain in effect until the expiration of this order or its renewal:

a. Executive Order 20-05, regarding telehealth."

- It is found and determined by the General Assembly of the State of Arkansas that due to the coronavirus 2019 (COVID-19) pandemic, the Governor removed barriers to the use of telemedicine in an attempt to combat the coronavirus 2019 (COVID-19) pandemic; that these emergency actions will expire when the emergency proclamation expires, which could occur quickly; that on February 26, 2021, the Governor announced that the public health emergency was extended but that the Governor was going to lift some regulations related to the pandemic; that removing barriers to the use of telemedicine ensured that the citizens of Arkansas had the services that they needed, and removing these emergency proclamations regarding telemedicine would greatly disadvantage and harm the citizens of Arkansas who are utilizing telemedicine for healthcare services; that this bill maintains the policy changes allowed under the emergency proclamation, which would allow the citizens of Arkansas greater access to the use of telemedicine for healthcare services; and that this act is immediately necessary to ensure that the citizens of Arkansas have access to healthcare services provided via telemedicine. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is 34 overridden, the date the last house overrides the veto.

Arkansas Senate Concurrent Resolution No. 2: To terminate the public health and disaster emergency and declaration of the state of Arkansas as a disaster area under Executive Order 20-37 and Executive Order 21-03 (engrossed 3/11/21)

- BE IT FURTHER RESOLVED that the termination of the public health and disaster emergency and declaration of the State of Arkansas as a disaster area under Executive Order 20-37 and Executive Order 21-03 shall terminate all executive orders issued in response to the emergency renewed under 2 Executive Order 21-03, including without limitation:

(1) Executive Order 20-05, regarding telehealth

Governor Hutchinson's Weekly Address, New Initiatives to Aid in the COVID-19 Crisis (3/27/20)

- "We will provide assistance to expand and upgrade telemedicine so that doctors can treat patients from their homes, and we will fund telemedicine training."

Arkansas Insurance Department (3/27/20) Bulletin No. 13-2020

- "Recognizing the importance of telemedicine to mitigate the spread of COVID-19 as described by Executive Order 20-05, the Commissioner reminds all health insurance carriers offering health insurance plans, including short-term limited-duration insurance plans,

regulated by the Department that they must comply with the reimbursement requirements for healthcare services provided through telemedicine found in Ark. Code Ann. § 23-79-1602(c) and (d)."

Executive Order 20-05 to Amend Executive Order 20-03 Regarding the Public Health Emergency Concerning COVID-19 for the Purpose of Encouraging Treatment and Communication by Technology (3/13/20)

- "To fully leverage telehealth in Arkansas and mitigate the spread of COVID-19, I am suspending the provisions the Telemedicine Act at Ark. Code Ann. 17-80-401, et seq., requiring an in-person encounter, or a face to face examination using real time audio and visual means to establish a professional relationship. Physicians licensed in Arkansas who have access to a patient's personal health record maintained by a physician may establish a professional relationship with a patient using any technology deemed appropriate by the provider, including any technology deemed appropriate, prescribe a non-controlled drug to that patient;"

Governor Hutchinson signed an executive order to declare a public health emergency (3/11/20)

- "Executive order lifts requirement of a personal visit before telemedicine services can be used."

State Licensure Laws, Policy, and Guidance

Arkansas Senate Bill 91 (passed 3/24/23)

- "SECTION 1. Arkansas Code Title 17, Chapter 100, is amended to add an additional subchapter to read as follows:
  - Subchapter 4 — Audiology and Speech-Language Pathology Interstate Compact

    SECTION 2: DEFINITIONS

    "Telehealth" means the application of telecommunication technology to deliver audiology or speech-language pathology services at a distance for assessment, intervention and/or consultation.
- SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
  - Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission."

Arkansas House Bill 1082 (engrossed 3/6/23)

- "SECTION 1. Arkansas Code Title 17, Chapter 88, is amended to add an additional subchapter to read as follows
  - Subchapter 4 — Occupational Therapy Licensure Compact

    SECTION 2. DEFINITIONS

    Z. "Telehealth" means the application of telecommunication technology to deliver Occupational Therapy services for assessment, intervention and/or consultation."

Arkansas Senate Bill 91 (engrossed 3/2/23)

- "SECTION 1. Arkansas Code Title 17, Chapter 100, is amended to add an additional subchapter to read as follows:
  - Subchapter 4 — Audiology and Speech-Language Pathology Interstate Compact

    SECTION 2: DEFINITIONS

    "Telehealth" means the application of telecommunication technology to deliver audiology or speech-language pathology services at a distance for assessment, intervention and/or consultation.
- SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
  - Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission."

Telemedicine-Controlled Substances, April meeting of the Arkansas State Medical Board (April 2020)

- "At the April meeting of the Arkansas State Medical Board, the Board voted to allow prescribers to see patients and prescribe controlled substance medications via telemedicine for a six-month period during the current Covid-19 health crisis, so long as the prescription is a refill only and not a change of any kind to the current medication the patient receives."

Arkansas State Medical Board Application for COVID-19 Emergency Temporary License (March 2020)

- "In an effort to assist with the COVID-19 health crisis, the Arkansas State Medical Board votes to grant emergency temporary licenses to Arkansas medical residents who have completed at least one year of postgraduate training and have the written recommendation of their program director. Verification of standard qualifications and identification will be fathered by the Board staff from the American Medical Association or American Osteopathic Association and the Federation of State Medical Board websites."

Medicaid Law, Policy and Guidance Related to Telehealth

Arkansas House Bill 1129 (engrossed 2/20/23)

- "SECTION 1. Arkansas Code Title 20, Chapter 77, Subchapter 1, is amended to add an additional section to read as follows:

  20-77-148. Coverage for screening for behavioral health conditions and for behavioral health services.
  - (a) The Arkansas Medicaid Program shall reimburse for screening for behavioral health conditions and behavioral health services provided in:
    - A hospital outpatient clinic; or
    - A physician clinic.
  - (b) The Department of Human Services shall apply for any federal waiver, Medicaid state plan amendment, or other authority necessary to implement this section.
  - (c) Screening for behavioral health conditions and behavioral health services as described in subsection (a) of this section may be provided via telemedicine and reimbursed by the Arkansas Medicaid Program as required under § 20-77-141."

Arkansas House Bill No. 1176: An ACT to ensure that reimbursement in the Arkansas Medicaid program for certain behavioral and mental health services provided via telemedicine continues after the Public Health Emergency cause by Coronavirus 2019 (COVID-19); and for other purposes. (passed 4/8/21)

- "(2) It is the intent of the General Assembly to make the authorization for certain reimbursement for behavioral and mental health services provided via telemedicine permanent.
- (b) The Arkansas Medicaid Program shall reimburse for the following behavioral and mental health services provided via telemedicine:

(1) Counseling and psychoeducation provided by a person licensed as: (A) A psychologist; (B) A psychological examiner; (C) A professional counselor; (D) An associate counselor; (E) An associate marriage and family therapist; (F) A marriage and family therapist; (G) A clinical social worker; or (H) A master social worker;

(2) Crisis intervention services;

(3) Substance abuse assessments;

(4) Mental health diagnosis assessments for an individual under 19 twenty-one (21) years of age; and

(5) Group therapy for individuals who are eighteen (18) years of 21 age or older under the current service definition determined by the Arkansas Medicaid Program and when provided via audio-visual technology that is compliant with the Health Insurance Portability and Accountability Act of 24 1996, Pub. L. No. 104-191, and composed of beneficiaries of similar age and clinical presentation to qualified beneficiaries.

- (c) The Arkansas Medicaid Program shall reimburse for supplemental support services provided in-person or via audio-visual technology or telephone that is compliant with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, within the managed care program in the same manner as provided by risk-based provider organizations under the Medicaid Provider-Led Organized Care Act, § 20-77-2701 et seq., through the later of:

(1) The end of the public health emergency that began on March 11, 2020, by Executive Order 20-03; or

(2) December 31, 2021.

- (d) The department shall apply for any federal waiver, Medicaid state plan amendment, or other authorization necessary to implement this section.
- (e) This section applies to Medicaid beneficiaries in the fee-for service Arkansas Medicaid Program and the managed care Arkansas Medicaid Program."

Telemedicine Requirements for Nurse Practitioners during the COVID-19 Public Health Emergency (updated 5/19/20)

- "DMS is lifting the requirement to have an established professional relationship before utilizing telemedicine for nurse practitioners (NP) under the following conditions for the duration of the emergency declaration."

- "Additionally, DMS is waiving the originating site requirement for evaluation and management (E&M) services provided to established patients by NPs. This will allow the NP to utilize telemedicine technology, including telephone, when appropriate, to diagnose, treatment and prescribe to patients as allowed by their scope of practice, and while the patient remains in their home."
- "Medicaid is opening the virtual check-in CPT (code G2012) described below for thirty (30) days from March 17, 2020 pursuant to Executive Order 20-06. The suspension can be extended for additional thirty-day periods, as required to address the public health emergency."
- "To ensure quality and consistency of care to Medicaid beneficiaries, DMS will coordinate with the Office of the Medicaid Inspector General (OMIG) to conduct retrospective reviews and audits of telemedicine services during this time. Please keep all records of services as required by Medicaid physician billing and telemedicine rules."

Use of Telemedicine to Provide Applied Behavior Analysis (ABA) Therapy by a BCBA during COVID-19 Outbreak (5/7/20)

- "In response to the COVID-19 outbreak in Arkansas and consistent with CMS's coverage and payment for COVID-19, DMS is suspending the prohibition on use of telemedicine technology for limited Applied Behavior Analysis Therapy services provided to established patients during the COVID-19 outbreak and the declaration of public health emergency. This addendum expands allowable telemedicine services to include services provided by licensed BCBA or BCBA-D."

Behavioral Health Well-Check Service (5/6/20)

- "Behavioral Health Well-Check Service may be done via telemedicine or by telephone without visual contact. Any necessary therapy service identified by this encounter would then be performed by a licensed professional and subject to existing rules for telemedicine."
- "In order to provide this service, the provider must have an established professional relationship with the individual prior to April 5, 2020."

Use of Telemedicine to Provide Marital/Family Behavioral Health Counseling Services during COVID-19 Outbreak (updated 4/15/20)

- "The Governor declared a public health emergency on March 12, 2020, due to the Coronavirus (COVID-19) outbreak in Arkansas. In response to this declaration, DMS is suspending the rules prohibiting telemedicine for Marital/Family Behavioral Health Counseling with or without the Beneficiary being present. By suspending this rule, licensed behavioral health professionals will be able to provide Marital and Family Therapy Services via telemedicine. Any technology deemed appropriate may be used, including telephones, but technology must utilize direct communication that takes place in real-time."

Telemedicine for RHCs and FQHCs (4/24/20)

- "In response to the COVID-19 outbreak in Arkansas and consistent with CMS guidance, DMS is suspending the following rules to allow for telemedicine services to be provided by Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC).

Medicaid Provider Manual for RHCs § 211.300

Medicaid Provider Manual for FQHCs §§ 252.140(B) and 262.120"

- "This suspension will go into effect on April 28, 2020, and last until the Governor ends the public health emergency in Arkansas."

Use of Telemedicine to Provide Occupational, Physical, and Speech Therapy during COVID-19 Outbreak (4/24/20)

- To allow for continued therapy services for established patients during this time of social distancing, DMS is lifting the requirement that the beneficiary be located at a healthcare facility (originating site) to receive telemedicine services for the following services only:

Individual Physical Therapy provided by a licensed Physical Therapist

Individual Occupational Therapy provided by a licensed Occupational Therapist

Individual Speech Therapy provided by a licensed Speech-Language Pathologist

Use of Telemedicine to Provide Mental Health Diagnosis to Persons under Twenty-One (21) Years of Age during COVID-19 Outbreak (4/7/20)

- "The Governor declared a public health emergency on March 12, 2020, due to the Coronavirus (COVID19) outbreak in Arkansas. In response to this declaration, DMS is suspending the rule limiting Mental Health Diagnosis be conducted via telemedicine to only the adult population over age 21. By suspending this rule, licensed behavioral health professionals will be able to use telemedicine as an allowable mode of service delivery to beneficiaries under the age of 21."

Use of Telemedicine for Crisis Intervention Services during COVID-19 Outbreak (4/7/20)

- "The Governor declared a public health emergency on March 12, 2020, due to the Coronavirus (COVID19) outbreak in Arkansas. In response to this declaration, DMS is suspending the rule prohibiting telemedicine for Crisis Intervention Services. By suspending this rule, licensed behavioral health professionals will be able to provide Crisis Intervention Services via telemedicine. Technology must utilize direct communication that takes place in real-time."

Memorandum (DMS-01) Telemedicine Requirements for Physicians during the COVID-19 Public Health Emergency (3/18/20)

- "Generally, a provider must have an established relationship with a patient before utilizing telemedicine to treat a patient. See Medicaid Provider Manual § 105.190. However, DMS has the authority to relax this requirement in case of an emergency. Pursuant to Executive Order 20-05 and as allowed under current Medicaid policy, DMS is lifting the requirement to have an established professional relationship before utilizing telemedicine for physicians under the following conditions for the duration of the emergency declaration:

"The physician providing telehealth services must have access to a patient's personal health record maintained by a physician."

"The telemedicine service may be provided by any technology deemed appropriate, including telephone, but it must be provided in real time (cannot be delayed communication)."

"Physicians may use telemedicine to diagnose, treat, and, when clinically appropriate, prescribe a non-controlled drug to the patient."

- "Additionally, DMS is waiving the originating site requirement for evaluation and management (E&M) services provided to established patients by primary care providers. This will allow the physician to utilize telemedicine technology, including telephone, when appropriate, to diagnose, treatment and prescribe non-controlled substances to patients while the patient remains in their home. In order to use telemedicine technology to provide services without an originating site, the following requirements must be met:"

"The technology must be real-time (cannot be delayed communications)."

"The physician must have access to the patient's medical records."

- "This requirement is waived for sixty (60) days. The waiver can be extended as required to address the public health emergency."
- "Additionally, to prevent unnecessary travel and office visits, Medicaid is opening the virtual check-in CPT (code G2012) described below for sixty (60) days. The code can be extended as required to address the public health emergency."
- "The code will be turned on April 1, 2020 and will be retroactive to date of service March 18, 2020."
- "To use the Code G2012 to provide virtual check-in services, please meet the following requirements: …Can be any real-time audio (telephone), or '2-way audio interactions that are enhanced with video or other kinds of data transmission.' "

Memorandum (DMS-02) Telemedicine Requirements for Certain Behavioral Health Providers during the COVID-19 Public Health Emergency (3/18/20)

- "As you know, the Governor declared a public health emergency on March 12, 2020, due to the Coronavirus (COVID-19) outbreak in Arkansas. In response to this declaration and the need for social distancing, DMS is suspending the rule related to originating site requirements for certain behavioral health providers to provide certain counseling services. By suspending this rule, these licensed behavioral health professionals will be able to continue to provide critical services to established patients while they remain in their homes. Any technology deemed appropriate may be used, including telephones, but technology must utilize direct communication that takes place in real-time."

CALIFORNIA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

California Assembly Bill No. 1369 (introduced 3/27/23)

- "SECTION 1. Section 2052.5 is added to the Business and Professions Code, to read:
  - 2052.5. (a) For purposes of this section, the following definitions apply:
    - (3) "Telehealth" has the same meaning as provided in Section 2290.5.
  - (b) Notwithstanding any other law, an eligible out-of-state physician and surgeon may practice medicine in the state if the practice is limited to delivering health care via telehealth to an eligible patient."

California Senate Bill 11 (introduced 3/1/23)

- "SEC. 2. Article 6 (commencing with Section 89360) is added to Chapter 3 of Part 55 of Division 8 of Title 3 of the Education Code, to read:
- Article 6. Mental Health Counseling

- 89362. (a) (1) Commencing on January 1, 2024, the trustees shall develop a telehealth mental health counseling service that provides students on each CSU campus with mental health counseling 24 hours per day, seven days per week in order to provide real-time mental health counseling and significantly reduce wait times for students.
- (2) On or before January 1, 2026, the CSU telehealth mental health service shall be fully operational and serving students on each CSU campus.
- (3) Mental health counseling services provided through the telehealth mental health counseling service shall be fully staffed by mental health counselors employed by the CSU in accordance with the applicable collective bargaining agreement with the exclusive representative.
- (b) (1) Commencing on January 1, 2024, all CSU contracts with telehealth mental health counseling organizations shall be phased out over a two-year period, and shall be discontinued on January 1, 2026.
- (2) Commencing on January 1, 2024, all CSU contracts with telehealth mental health providers shall be revised and shall include explicit language that ensures that current contractors adhere to the same transparency, accountability, and outcome measure standards that apply to CSU employees and upholds California values of equity, inclusion, and diversity.
- (4) All contracts between the CSU and the telehealth mental health provider shall adhere to all provisions of Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code and be approved, in writing, by the exclusive bargaining unit representing CSU counselors."

California Senate Bill 43 (introduced 2/28/23)

- "SECTION 1. Section 1799.111 of the Health and Safety Code is amended to read:
  - (d) Notwithstanding any other law, an examination, assessment, or evaluation that provides the basis for a determination or opinion of a physician and surgeon or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5 that is specified in this section may be conducted using telehealth."

California Assembly Bill 282 (introduced 2/9/23)

- "(iv) In addition to any existing law requiring beneficiary consent to telehealth, including, but not limited to, subdivision (b) of Section 2290.5 of the Business and Professions Code, all of the following shall be communicated by an FQHC or RHC to a Medi-Cal beneficiary, in writing or verbally, on at least one occasion ~~prior to~~, before, or concurrent with, initiating the delivery of one or more health care services via telehealth to a Medi-Cal beneficiary: an explanation that beneficiaries have the right to access covered services that may be delivered via telehealth through an in-person, face-to-face visit; an explanation that use of telehealth is voluntary and that consent for the use of telehealth can be withdrawn at any time by the Medi-Cal beneficiary without affecting their ability to access covered Medi-Cal services in the future; an explanation of the availability of Medi-Cal coverage for nonmedical transportation services to in-person visits when other

available resources have been reasonably exhausted; and the potential limitations or risks related to receiving services through telehealth as compared to an in-person visit, to the extent any limitations or risks are identified by the FQHC or RHC."

California Assembly Bill 48 (introduced 12/06/22)

- "This bill would add to these rights the right of every resident to receive the information that is material to an individual's informed consent decision concerning whether to accept or refuse the administration of psychotherapeutic drugs, as specified."
- "The bill would permit the use of remote technology, including telehealth, to allow a prescriber to examine and obtain informed written consent."

California Assembly Bill 1759 (passed 9/25/22)

- "This bill would include associate professional clinical counselor trainees in the definition of health care provider for purposes of the provisions authorizing the delivery of telehealth."
- "The bill would authorize associate clinical social workers, associate professional clinical counselors, and clinical counselor trainees to provide services via telehealth within their scope of practice."
- "The bill would require an applicant for licensure as a marriage and family therapist, a licensed educational psychologist, a licensed clinical social worker, or a licensed professional clinical counselor to show, as part of their application, that they have completed 3 hours of training of coursework in the provision of mental health services via telehealth, including law and ethics relating to telehealth."

California Assembly Bill 1982 (passed 9/25/22)

- "Existing law requires contract between a health care service plan or health insurer and a health care provider to require the plan or insurer to reimburse the provider for the diagnosis, consultation, or treatment of an enrollee, subscriber, insured, or policyholder appropriately delivered through telehealth services on the same basis and to the same extent as the same service through in-person diagnosis, consultation, or treatment.
- Existing law requires a health care service plan or health insurer that offers a service via telehealth to meet specified conditions, including, that the health care service plan or health insurer disclose to the enrollee or insured the availability of receiving the service on an in-person basis or via telehealth.
- This bill would require a health care service plan or health insurer covering dental services that offers a service via telehealth through a third-party corporate telehealth provider, as defined, to disclose to the enrollee or insured the impact of third-party telehealth visits on the patient's benefit limitations, including frequency limitations and the patient's annual maximum."

California Assembly Bill No. 2275 (passed 9/30/22)

- "Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of persons with specified mental disorders for the protection of the persons committed. Under the act, when a person, as a result of a mental health disorder, is a danger to others, or to themselves, or gravely disabled, the person may, upon probable cause, be taken into custody and placed in a facility

designated by the county and approved by the State Department of Health Care Services for up to 72 hours for evaluation and treatment."

- "This bill would, among other things, specify that the 72-hour period of detention begins at the time when the person is first detained."
- "Prior to admitting a person to the facility for treatment and evaluation pursuant to Section 5150, the professional person in charge of the facility or a designee shall assess the individual to determine the appropriateness of the involuntary detention. This assessment shall be made face-to-face either in person or by synchronous interaction through a mode of telehealth that utilizes both audio and visual components."

California Senate Bill No. 1438 (passed 9/23/22)

- "This bill would authorize a physician and surgeon or podiatrist to conduct either an in-person or telehealth patient examination and evaluation of the patient's condition in connection with their approval of the physical therapist's plan of care. The bill would also make conforming changes to the required patient notice."

California Senate Bill No. 966 (enrolled 9/6/22)

- "An FQHC patient who receives telehealth services shall otherwise be eligible to receive in-person services from that FQHC pursuant to HRSA requirements."
- "An FQHC patient who receives telehealth services shall otherwise be eligible to receive in-person services from that FQHC pursuant to HRSA requirements."
- "In addition to any existing law requiring beneficiary consent to telehealth, including, but not limited to, subdivision (b) of Section 2290.5 of the Business and Professions Code, all of the following shall be communicated by an FQHC or RHC to a Medi-Cal beneficiary, in writing or verbally, on at least one occasion prior to, or concurrent with, initiating the delivery of one or more health care services via telehealth to a Medi-Cal beneficiary: an explanation that beneficiaries have the right to access covered services that may be delivered via telehealth through an in-person, face-to-face visit; an explanation that use of telehealth is voluntary and that consent for the use of telehealth can be withdrawn at any time by the Medi-Cal beneficiary without affecting their ability to access covered Medi-Cal services in the future; an explanation of the availability of Medi-Cal coverage for nonmedical transportation services to in-person visits when other available resources have been reasonably exhausted; and the potential limitations or risks related to receiving services through telehealth as compared to an in-person visit, to the extent any limitations or risks are identified by the FQHC or RHC."

California Assembly Bill No. 32 (enrolled 9/2/22)

- The bill would authorize the department to authorize a health care provider to establish a new patient relationship using an audio-only synchronous interaction when the visit is related to sensitive services, as defined, and authorize a health care provider to establish a new patient relationship using an audio-only synchronous interaction when the patient requests an audio-only modality or attests they do not have access to video.

California Assembly Bill No. 1940 (enrolled 8/29/22)

- "The bill would authorize a school-based health center to provide primary medical care, behavioral health services, or dental care services onsite or through mobile health or telehealth."

Executive Order N-16-21 (9/27/21)

- "Paragraph 48 of Executive Order N-08-21 is hereby rescinded.
- Paragraph 1 of Executive Order N-43-20 is hereby rescinded effective September 30, 2021. The remaining provisions of Executive Order N-43- 20 will remain in full force and effect until the State of Emergency proclamation is terminated, or Executive Order N-43-20 is modified or rescinded, whichever occurs first."

California Assembly Bill No. 457: Protection of Patient Choice in Telehealth Provider Act. (passed 10/1/21)

- "(2) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a contract issued, amended, or renewed on or after January 1, 2021, between a health care service plan or health insurer and a health care provider to require the plan or insurer to reimburse the provider for the diagnosis, consultation, or treatment of an enrollee, subscriber, insured, or policyholder appropriately delivered through telehealth services on the same basis and to the same extent as the same service through in-person diagnosis, consultation, or treatment.
- This bill would delete that date restriction, thereby extending the telehealth reimbursement parity requirement for all contracts between a health care service plan or a health insurer and a health care provider. The bill would provide that these provisions are severable.
- The bill would also enact the Protection of Patient Choice in Telehealth Provider Act, and would require a health care service plan and a health insurer to comply with specified notice and consent requirements if the plan or insurer offers a service via telehealth to an enrollee or an insured through a third-party corporate telehealth provider, as defined. For an enrollee or insured that receives specialty telehealth services for a mental or behavioral health condition, the bill would require that the enrollee or insured be given the option of continuing to receive that service with the contracting individual health professional, a contracting clinic, or a contracting health facility. The bill would exempt specified health care service plan contracts and Medi-Cal managed care plan contracts from those provisions. The bill would require the State Department of Health Care Services to consider the appropriateness of applying those requirements to the Medi-Cal program, as specified. Because a willful violation of the bill's requirements relative to health care service plans would be a crime, the bill would impose a state-mandated local program."

California Senate Bill No. 171 (passed 9/23/21)

- "The department shall seek any federal approvals it deems necessary to extend the approved waiver or flexibility implemented pursuant to subdivision (a), as of July 1, 2021, that are related to the delivery and reimbursement of services via telehealth modalities in the Medi-Cal program. Subject to subdivision I, the department shall implement those extended waivers or flexibilities for which federal approval is obtained, to commence on the first calendar day immediately following the last calendar day of the federal COVID-19 public health emergency period, and through December 31, 2022."

California Assembly Bill No. 523 (enrolled 9/9/21)

- "(B) A PACE organization may use telehealth, as defined in Section 2290.5 of the Business and Professions Code, to conduct assessments for eligibility for enrollment in the PACE program, or for service modifications, subject to the federal waiver process.
- (B) A PACE organization that exclusively serves PACE participants shall not be required to provide all nursing services, as defined in Section 14550.6, at the center. The PACE interdisciplinary team shall have flexibility to determine how to provide those nursing services to participants. Services may be provided via telehealth or other remote methods, including, but not limited to, check-in calls, health screening calls, and video conferencing, taking into account the participant's medical, physical, emotional, and social needs."

California Senate Bill No. 365 (enrolled 9/1/21)

- "I In-person contact between a health care provider and a patient shall not be required under the Medi-Cal program for services appropriately provided through telehealth, subject to reimbursement policies adopted by the department to compensate a licensed health care provider who provides health care services through telehealth that are otherwise reimbursed pursuant to the Medi-Cal program. This section and the Telehealth Advancement Act of 2011 do not conflict with or supersede former Section 14091.3 or any other existing state laws or regulations related to reimbursement for services provided by a noncontracted provider.
- (d) The department shall not require a health care provider to document a barrier to an in-person visit for Medi-Cal coverage of services provided via telehealth.
- (e) For the purposes of payment for covered treatment or services provided through telehealth, the department shall not limit the type of setting where services are provided for the patient or by the health care provider.
- (f) (1) An e-consult service shall be reimbursable under the Medi-Cal program for an enrolled provider, as described in subdivision (h) of Section 14043.1, including a federally qualified health center or rural health clinic, as defined in subsection (aa) of Section 1395x of Title 42 of the United States Code, and described in Section 14132.100, if a provider renders that service.

(2) The department shall seek any federal waivers and approvals necessary to implement this subdivision.

(3) This subdivision shall only be implemented to the extent that the department obtains necessary federal approval of federal matching funds.

- (g) This section does not authorize the department to require the use of telehealth when the health care provider has determined that it is inappropriate."

California Senate Bill No. 306 (engrossed 6/2/21)

- "(c) Subject to an appropriation by the Legislature and any potential draw down of federal matching funds, reimbursement shall be provided for services related to the prevention and treatment of sexually transmitted diseases, including counseling, screening, testing, follow-up care, prevention and treatment management, and drugs and devices outlined as reimbursable in the Family PACT Policies, Procedures and Billing Instructions manual, to uninsured, income-eligible patients or patients with health care coverage who are income-eligible and have confidentiality concerns, including, but not limited to, lesbian, gay, bisexual, and transgender patients and other individuals who are not at risk for experiencing or causing an unintended pregnancy, and who are not in need of contraceptive services.

These office visits, including in person and visits through telehealth modalities, shall be reimbursed at the same rate as those office visits specified in subdivision (b)."

California Assembly Bill No. 457: An act to add Section 1374.141 to the Health and Safety Code, and to add Section 10123.856 to the Insurance Code, relating to telehealth. (engrossed 5/28/21)

- "This bill would enact the Protection of Patient Choice in Telehealth Provider Act, which would require a health care service plan and a health insurer to arrange for the provision of a service via telehealth to an enrollee or an insured through a third-party corporate telehealth provider, as defined, only if specified notice conditions are met and the enrollee or insured, once notified as specified, elects to receive the service via telehealth through a third-party corporate telehealth provider. For an enrollee or insured that is currently receiving specialty telehealth services for a mental or behavioral health condition, the bill would require that the enrollee or insured be given the option of continuing to receive that service with the contracting individual health professional, a contracting clinic, or a contracting health facility. Because a willful violation of the bill's requirements relative to health care service plans would be a crime, the bill would impose a state-mandated local program."

California Assembly Bill No. 32 (introduced 4/28/21)

- (a) (1) A contract between a health care service plan and a health care provider for the provision of health care services to an enrollee or subscriber shall specify that the health care service plan shall reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an enrollee or subscriber appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment.

(3) This section does not require telehealth reimbursement to be unbundled from other capitated or bundled, risk-based payments.

- (b) (1) A health care service plan contract shall specify that the health care service plan shall provide coverage for health care services appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for coverage for the same service through in-person diagnosis, consultation, or treatment. Coverage shall not be limited only to services delivered by select third-party corporate telehealth providers.

(3) This section does not require a health care service plan to cover telehealth services provided by an out-of-network provider, unless coverage is required under other law.

- (b) (1) A policy of health insurance that provides benefits through contracts with providers at alternative rates of payment shall specify that the health insurer shall provide coverage for health care services appropriately delivered through telehealth services on the same basis and to the same extent that the health insurer is responsible for coverage for the same service through in-person diagnosis, consultation, or treatment. Coverage shall not be limited only to services delivered by select third-party corporate telehealth providers…

(3) This section does not require a health insurer to deliver health care services through telehealth services.

(4) This section does not require a health insurer to cover telehealth services provided by an out-of-network provider, unless coverage is required under other law.

California Senate Bill No. 86 (approved by Governor 4/16/21)

- "(b) Reassessments for In-Home Supportive Services recipients required pursuant to Section 12301.1 on or before December 31, 2020, may be conducted remotely using telehealth, including by video conference or telephone, subject to continuing federal approval."

California Assembly Bill No. 691: An act to amend Section 3041 of, and to add Section 3041.5 to, the Business and Professions Code, relating to healing arts. (introduced 3/8/21)

- "An optometrist licensed under this chapter is subject to the provisions of Section 2290.5 for purposes of practicing telehealth."

California Assembly Bill No. 32 (re-referred to Committee on Health 2/16/21)

- "(a) (1) A contract, between a health insurer and a health care provider for an alternative rate of payment pursuant to Section 10133 shall specify that the health insurer shall reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an insured or policyholder appropriately delivered through telehealth services on the same basis and to the same extent that the health insurer is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment."

California Assembly Bill No. 1544 (approved by Governor 9/29/20)

- "(a) It is the intent of the Legislature to establish state standards that govern the implementation of community paramedicine or triage to alternate destination programs by local EMS agencies in California.
- (i) It is the intent of the Legislature that local EMS agencies be authorized to develop a community paramedicine or triage to alternate destination program to improve patient care and community health. A community paramedicine or triage to alternate destination program should not be used to replace or eliminate health care workers, reduce personnel costs, harm the working conditions of emergency medical and health care workers, or otherwise compromise the emergency medical response or health care system. The highest priority of any community paramedicine or triage to alternate destination program shall be improving patient care.
- On or before March 1, 2021, the director of the Emergency Medical Services Authority shall establish a community paramedicine and triage to alternate destination oversight advisory committee pursuant to Section 1797.133, to advise the authority on the development and oversight of community paramedicine program and triage to alternate destination program specialties described in Sections 1815 and 1819, respectively."

Department of Managed Health Care, Letter to All Commercial Health Care Service Plans (4/7/20)

- "During the COVID-19 State of Emergency, a health plan may not exclude coverage for certain types of services or categories of services simply because the services are rendered via telehealth, if the enrollee's provider, in his/her professional judgment, determines the services can be effectively delivered via telehealth. For example, a health plan may not categorically exclude coverage for Applied Behavioral Analysis services delivered via telehealth (video or telephone) during the State of Emergency."
- "Likewise, during the COVID-19 State of Emergency a health plan may not place limits on covered services simply because the services are provided via telehealth if such limits would not apply if the services were provided in-person. For example, if a health plan allows an

enrollee to receive a particular covered service up to three times per week if the enrollee receives the service in-person, the health plan may not limit the service to only once per week if the service is delivered via telehealth."

Executive Order N-43-20 (4/3/20)

- "The requirements specified in Business and Professions Code section 2290.5(b), related to the responsibility of a health care provider to obtain verbal or written consent before the use of telehealth services and to document that consent, as well as any implementing regulations, are suspended."
- "To the extent any provision of this Order suspends any penalty or other enforcement mechanism associated with the violation of any statute where such violation arises out of the good faith provision of telehealth services, such violation shall not constitute unprofessional conduct within the meaning of Article 10.5 of the Business and Professions Code or any other applicable law, or otherwise be cause for professional discipline."
- "Where the provision of telehealth services is conducted by a "covered health care provider" subject to the HIPAA Rules and described in the "Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency" ("Notification") issued by the Office for Civil Rights in the U.S. Department of Health and Human Services on March 17, 2020, that covered health care provider shall ensure that its delivery of telehealth services is consistent with that Notification. This paragraph does not impose any mandatory requirements beyond any mandatory requirements imposed by the Notification itself, except that where the Notification encourages particular measures to safeguard patient privacy, but does not require such measures, covered health care providers shall give due consideration to such measures and shall endeavor to adopt them to the extent possible."
- "For purposes of this Order, "telehealth services" includes the use of telehealth services to engage in the provision of behavioral or mental health services, in addition to the use of telehealth services to engage in the provision of medical, surgical, or other health care services. This paragraph should be construed to ensure that the provisions of this Order apply to the provision of behavioral or mental health services the same extent that those paragraphs apply to other forms of health care."

Commissioner Lara directs health insurance companies to provide increased telehealth access during COVID-19 emergency (3/30/20)

- "The Notice from Commissioner Lara directs that health insurance companies provide increased access to health care services through telehealth and encourages patients to use telehealth delivery options, so as to limit the amount of in-person health care they seek while continuing to receive the essential care that they need during this challenging time. Cost-sharing requirements for services delivered via telehealth should be consistent with, or no greater than, the cost-sharing requirement for services delivered through in-person settings."
- "The Notice also provides that insurance companies should:

"Allow all network providers to use all available and appropriate modes of telehealth delivery including, but not limited to, synchronous video, and telephone-based service delivery"

"Immediately implement reimbursement rates for telehealth services that mirror payment rates for an equivalent office visit"

"Eliminate barriers to providing medically and clinically appropriate care using appropriate telehealth delivery models"

"Use telehealth service delivery methods to enable consumers to have access to mental health and substance use disorder services, family therapy, and behavioral health services, including services to treat autism, among others"

Department of Health Care Services Behavioral Health Information Notice No 20-009 (3/19/20)

- "DHCS strongly encourages all counties to work with providers to maximize the number of services that can be provided by telephone and telehealth, to minimize community spread of COVID-19, as well as to protect the behavioral health workforce from illness."
- "DMC-ODS counties that have NOT previously included services via telehealth in their program should allow providers to bill for services via telehealth during the period of heightened COVID-19 concern. County approval of services via telehealth is sufficient; contract changes are not required."

Department of Managed Health Care, Letter to All Health Care Service Plans (3/18/20)

- "Pursuant to the authority granted in the California Emergency Services Act (Gov. Code sections 8566, et seq.), all health plans shall, effective immediately, comply with the following:

1. Health plans shall reimburse providers at the same rate, whether a service is provided in-person or through telehealth, if the service is the same regardless of the modality of delivery, as determined by the provider's description of the service on the claim. For example, if a health plan reimburses a mental health provider $100 for a 50-minute therapy session conducted in-person, the health plan shall reimburse the provider $100 for a 50-minute therapy session done via telehealth.

2. For services provided via telehealth, a health plan may not subject enrollees to cost-sharing greater than the same cost-sharing if the service were provided in-person.

3. Health plans shall provide the same amount of reimbursement for a service rendered via telephone as they would if the service is rendered via video, provided the modality by which the service is rendered (telephone versus video) is medically appropriate for the enrollee."

COVID-19 State of Emergency Notification Filing Requirements from Insurance Commissioner (3/17/20)

- "The insurer's plan to maximize the use of telehealth in all appropriate settings, including waiving, or expediting, any network provider credentialing, certification, or pre-authorization requirements. This plan should reflect the federal government's request on March 17 that private insurers remove barriers to telehealth, consistent with the federal government's actions in Medicare. The plan must address:

Whether the insurer permits telehealth use by all types of providers, particularly and expressly as to providers of medical/surgical services, and, separately, as to providers of mental health and substance use disorder services.

For any service for which telehealth is not permitted, describe how access to the service is provided in a way that avoids unnecessary exposure of insured persons and providers to COVID-19 infection.

Facilitation of telehealth as an infection control measure through waiver of applicable cost-sharing for services provided via telehealth, even for services for which a cost-sharing amount might apply if provided in-person, and describing the permitted technological methods of accessing covered telehealth services, as well as any limitations on location of service, technology method, or similar limitations."

AB-1494 Medi-Cal: Telehealth: State of Emergency (10/14/19)

- Last year, California passed a bill that removed barriers to Medicaid reimbursement for community health clinics (CHCs) during states of emergency for telephonic services, and when services are provided in the beneficiary's home.

State Licensure Laws, Policy, and Guidance

Order Extending Three April 14, 2020, Orders Relating to Physician Assistant, Nurse Practitioner, and Nurse-Midwife Supervision by 60 Days (8/11/20)

- "On April 14, 2020, the Director issued the following three orders: (1) Order Waiving Physician Assistant Supervision Requirements; (2) Order Waiving Nurse Practitioner Supervision Requirements; and, (3) Order Waiving Nurse-Midwife Supervision Requirements. Each order was scheduled to expire on June 13, 2020, but on June 11, 2020, the Director extended each order to August 12, 2020."
- "The Director hereby further extends each order to October 11, 2020, unless further extended."

Emergency Medical Services Authority, Letter from Director Dave Duncan (3/24/20)

- "Pursuant to the Emergency Proclamation of the 4th day of March 2020 by Governor Gavin Newsom, and Business and Professions Code Section 900, the following procedure shall be followed to implement subsection 3 of the Order concerning allowing the use of out-of-state medical personnel to respond to the COVID-19 outbreak."
- "Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding, to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for nonmedical personnel and shall be in effect for a period of time not to exceed the duration of this emergency."
- "The EMS Authority will only accept requests for out of state medical personnel approval from a California medical facility, telehealth agency contracted with a California medical facility or a staffing agency providing staffing to California medical facilities, that intends to utilize these resources."

Section 1135 Flexibilities Requested in March 16, 2020 and March 19, 2020 Communications (3/23/20)

- "California currently has the authority to rely upon provider screening that is performed by other State Medicaid Agencies (SMAs) and/or Medicare. As a result, California is authorized to provisionally, temporarily enroll providers who are enrolled with another SMA or Medicare for the duration of the public health emergency."
- "If a certified provider is enrolled in Medicare or with a state Medicaid program other than California, California may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency."

Emergency Medical Services Authority (3/17/20)

- "Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding, to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for nonmedical personnel and shall be in effect for a period of time not to exceed the duration of this emergency."

Executive Order (3/4/20)

- "Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5 with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency."

Medicaid Law, Policy and Guidance Related to Telehealth

California Assembly Bill No. 32 (passed 9/25/22)

- "This bill would authorize the department to take into consideration the availability of broadband access when providing those specific exceptions. The bill would authorize the department to authorize a health care provider to establish a new patient relationship using an audio-only synchronous interaction when the visit is related to sensitive services, as defined, and authorize a health care provider to establish a new patient relationship using an audio-only synchronous interaction when the patient requests an audio-only modality or attests they do not have access to video."

California Assembly Bill No. 133 (passed 7/27/21)

- "(19) Existing law requires, for the duration of the COVID-19 emergency period, the State Department of Health Care Services to implement any federal Medicaid program waiver or flexibility approved by the federal Centers for Medicare and Medicaid Services related to that emergency.

This bill would require the department to seek any federal approvals it deems necessary to extend the approved waiver or flexibility implemented pursuant to those provisions as of July 1, 2021, that are related to the delivery and reimbursement of services via telehealth modalities in the Medi-Cal program, and, subject to approval by the Department of Finance, would require the department to implement those extended waivers or flexibilities for which federal approval is obtained for a specified period of time ending December 31, 2022. The bill would also require the department to convene an advisory group to provide recommendations to inform the department in establishing and adopting billing and utilization management protocols for telehealth modalities to increase access and equity and reduce disparities in the Medi-Cal program. The bill would authorize the department to enter into contracts, or amend existing contracts, for the purposes of implementing these provisions and would exempt those contracts or amendments from specified provisions of law."

Post-COVID-19 Public Health Emergency Telehealth Policy Recommendations: Public Document (updated 6/10/21)

- "DHCS' temporary policy changes during the COVID-19 PHE include:

Expanding the ability for providers to render all applicable Medi-Cal services that can be appropriately provided via telehealth modalities – including those historically not identified or regularly provided via telehealth such as home and community-based services, Local Education Agency (LEA) and Targeted Case Management (TCM) services.

Allowing most telehealth modalities to be provided for new and established patients.

Allowing many covered services to be provided via telephone/audio-only for the first time.

Allowing payment parity between services provided in-person face-to-face, by synchronous telehealth, and by telephonic/audio only when the services met the requirements of the billing code by various provider types, including Federal Qualified Health Centers (FQHCs)/Rural Health Centers (RHCs) in both FFS and managed care.

Waiving site limitations for both providers and patients for FQHC/RHCs, which allows providers and/or beneficiaries to be in locations outside of the clinic to render and/or receive care, respectively.

Allowing for expanded access to telehealth through non-public technology platforms. This "good faith" exemption was granted by the federal Office for Civil Rights, which would otherwise not be allowed under federal Health Insurance Portability and Accountability Act (HIPAA) requirements."

- "DHCS is looking to modify or expand the use of synchronous telehealth, asynchronous telehealth, telephonic/audio-only, other virtual communication systems and to add remote patient monitoring to create greater alignment and standardization across delivery systems. This would include advancing the following telehealth policy recommendations effective July 1, 2021 (or in accordance with federal approvals):

Allow specified FQHC and RHC providers to establish a new patient, located within its federal designated service area, through synchronous telehealth.

Make permanent the removal of the site limitations on FQHCs and RHCs, for example, allowing them to provide services to beneficiaries in the beneficiary's home.

Expand synchronous and asynchronous telehealth services to 1915(c) waivers, the TCM Program and the LEA Medi-Cal Billing Option Program (LEA BOP).

Add synchronous telehealth and telephonic/audio-only services to State Plan Drug Medi-Cal.

Require payment parity between in-person face-to-face visits and synchronous telehealth modalities, when those services meet all of the associated requirements of the underlying billing code(s), including for FQHC/RHCs. Payment parity is required in both FFS and managed care delivery systems, unless a managed care plan and a network provider mutually agree to another reimbursement methodology.

Expand the use of clinically appropriate telephonic/audio-only, other virtual communication, and remote patient monitoring for established patients. These modalities would be subject to a separate fee schedule.

Provides that the TCM Program and the LEA BOP will follow traditional certified public expenditure (CPE) cost-based reimbursement methodology when rendering services via applicable telehealth modalities."

- "DHCS is not recommending continuation of the following temporary COVID-19 PHE flexibilities:

Telephonic/audio-only modalities as a billable visit for FQHC/RHCs reimbursed at PPS rate

Telephonic/audio-only modalities to establish a new patient for delivery systems allowed to bill such services

Payment parity for telephonic/audio-only modalities and virtual communications for delivery systems allowed to bill such services

Various temporary COVID PHE flexibilities for Tribal 638 clinics as the federal government sets policy for Indian Health Services. DHCS will revert to pre-PHE policies."

Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to the 2019-Novel Coronavirus (COVID-19) (1/5/21, supersedes 6/23/20 Guidance)

- "Medi-Cal providers may bill DHCS or their managed care plan as appropriate for any covered Medi-Cal benefits or services using the appropriate procedure codes, i.e., Current Procedural Terminology (CPT) or Health Care Procedures Coding System (HCPS) codes, as defined by the American Medical Association (AMA) in the most current version of the billing manual that are appropriate to be provided via a telehealth modality. The CPT or HCPCS code(s) must be billed using Place of Service Code "02" as well as the appropriate telehealth modifier, as follows:

Synchronous, interactive audio and telecommunications systems: Modifier 95

Asynchronous store and forward telecommunications systems: Modifier GQ"

- "Behavioral health exception: As described in Behavioral Health Information Notice 20-009, Specialty Mental Health providers should add the modifier GT for SMHS services provided via a telehealth or telephone modality. Drug Medi-Cal Organized Delivery System (DMC-ODS) services provided via a telehealth or telephone modality do not require a modifier"
- "The treating health care practitioner at the distant site believes that the Medi-Cal benefits or services being provided are clinically appropriate based upon evidence-based medicine and/or best practices to be delivered via telehealth, subject to oral or written consent by the beneficiary. Below are some examples (not exhaustive) of benefits or services that would not be appropriate for a delivery via a telehealth modality:

Benefits or services that are performed in an operating room or while the patient is under anesthesia

Benefits or services that require direct visualization or instrumentation of bodily structures

Benefits or services that involve sampling of tissue or insertion/removal of medical devices

Benefits or services that otherwise require the in-person presence of the patient for any reason"

- "For Medi-Cal dental benefits or services, Medi-Cal enrolled dentists and allied dental professionals (under the supervision of a dentist) may render limited services via synchronous/live transmission teledentistry, so long as such services are within their scope of practice,

when billed using Current Dental Terminology (CDT) code D9999 for dates of service on or before May 15, 2020. For dates of service on or after May 16, 2020, CDT code D9999 is being replaced with CDT code D9995. The following is Medi-Cal's teledentistry policy for synchronous/live transmissions."

- "Medi-Cal benefits or services including, but not limited to, teleophthalmology, teledermatology, teledentistry, and teleradiology, may be provided via asynchronous store and forward, including E-Consults, when all of the following criteria are satisfied:

Health care practitioners must ensure that the documentation, typically images, sent via store and forward be specific to the patient's condition and adequate for meeting the procedural definition and components of the CPT or HCPCS code that is billed."

- "Effective January 1, 2021, and consistent with a CMS final rule (CMS-1730-F), Medi-Cal will expand how home health agencies (HHA) can use telehealth to care for patients. Details will be published in the Medi-Cal Provider Bulletin and NewsFlash in mid-to-late January.
- "Effective January 1, 2021, the American Medical Association will implement changes to a series of E/M codes used by providers to bill for an office or outpatient visit and prolonged services. These changes will not impact Medi-Cal's telehealth billing policies, providers will continue to bill telehealth as they do today. DHCS will release additional information in mid-to-late January 2021 with the annual code update."
- "Effective March 6, 2020, CMS provided blanket approval to for the patient's home to serve as originating site during the COVID-19 PHE. Medi-Cal is adhering to this flexibility. Transmission costs incurred from providing telehealth services via audio/video communication is reimbursable when billed with HCPCS code T1014 (telehealth transmission, per minute, professional services bill separately)."
- "For FQHCs, RHCs, and Tribal 638 Clinics, billable providers may provide Medi-Cal covered benefits or services via synchronous telehealth (audio-visual, two-way communication) to "established" patients. Please note that services rendered via telehealth must be FQHC, RHC, or Tribal 638 covered services."

Approved COVID-19 Appendix K, Approval Letter 2 (5/27/20)

- The amendments that the state has requested in the Appendix K are additive to the Appendix K approved April 2, 2020 and are effective from March 1, 2020, through February 28, 2021, and apply in all locations served by the individual waivers for anyone impacted by COVID-19."
- This approval letter is for the Home and Community Based Alternative Waiver, Multipurpose Senior Services Program Waiver, HIV/AIDS Waiver, HCBS Waiver for Californians with Developmental Disabilities, California Assisted Living Waiver, and California Self-Determination Program Waiver for Individuals with Developmental Disabilities. These waivers seek to "Modify licensure or other requirements for settings where waiver services are furnished – specifically, allowing telehealth (telephonic, or virtual live video conferencing) as an alternative option to face-to-face interactions." The full list of waivers can be found here.

Local Educational Agency Medi-Cal Billing Option Program (LEA BOP) Telehealth Policy Relative to the 2019-Novel Coronavirus (COVID-19) (5/11/20)

- "The purpose of this Policy and Procedure Letter (PPL) is to provide guidance to LEA Providers participating in the LEA BOP regarding covered direct medical services provided to Medi-Cal enrolled students via telehealth during the national emergency due to COVID-19."
- "In light of the federal HHS Secretary's January 31, 2020, public health emergency declaration, the President's March 13, 2020, national emergency declaration and the Governor's state of emergency declaration relative to COVID-19, the Department of Health Care Services (DHCS) is directing LEA Providers to provide covered direct medical services to Medi-Cal enrolled students via telehealth whenever possible, except as described below. This policy has a retroactive effective date of March 1, 2020 and will be in effect until the national emergency is terminated."
- "During the national emergency, LEA Providers may bill for covered direct medical services provided via telehealth under the LEA BOP, except for services, such as specialized medical transportation services, that preclude a telehealth modality. LEAs may utilize any appropriate non-public facing remote communication products available in their delivery of billable telehealth services during this period. DHCS will reimburse for covered services provided via telehealth in the same manner and at the same rate as for face-to-face services. Consistent with current policy for existing LEA BOP telehealth speech services, DHCS will not pay for ancillary costs, such as technical support, transmission charges, and equipment."

Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to the 2019-Novel Coronavirus (COVID-19) (4/30/20, supersedes 3/24/20 guidance)

- For enrolled Medi-Cal providers, including, but not limited to physicians, nurses, mental health practitioners, substances use disorder practitioners, dentists, etc., the below policy applies. Please note that this does not apply to FQHCs, RHCs, and Tribal 638 Clinics, for which the policy is described below.

Medi-Cal providers may bill DHCS or their managed care plan as appropriate for any covered Medi-Cal benefits or services using the appropriate procedure codes, i.e., Current Procedural Terminology (CPT) or Health Care Procedures Coding System (HCPS) codes, as defined by the American Medical Association (AMA) in the most current version of the billing manual that are appropriate to be provided via a telehealth modality. The CPT or HCPCS code(s) must be billed using Place of Service Code "02" as well as the appropriate telehealth modifier, as follows:

  - Synchronous, interactive audio and telecommunications systems: Modifier 95
  - Asynchronous store and forward telecommunications systems: Modifier GQ

- "For Medi-Cal dental benefits or services, Medi-Cal enrolled dentists and allied dental professionals (under the supervision of a dentist) may render limited services via synchronous/live transmission teledentistry, so long as such services are within their scope of practice, when billed using Current Dental Terminology (CDT) code D9999 for dates of service on or before May 15, 2020. For dates of service on or after May 16, 2020, CDT code D9999 is being replaced with CDT code D9995. The following is Medi-Cal's teledentistry policy for synchronous/live transmissions."

- "The originating site facility fee is reimbursable only to the originating site when billed with HCPCS code Q3014 (telehealth originating site facility fee). Transmission costs incurred from providing telehealth services via audio/video communication is reimbursable when billed with HCPCS code T1014 (telehealth transmission, per minute, professional services bill separately."
- "Virtual/telephonic communication includes a brief communication with another practitioner or with a patient, who in the case of COVID-19, cannot or should not be physically present (face-to-face). Medi-Cal providers may be reimbursed using the below Healthcare Common Procedure Coding System (HCPCS) codes G2010 and G2012 for brief virtual communications."
- "DHCS has requested additional flexibilities in terms of the available modalities for delivering Medi-Cal covered benefits and services, as part of its Section 1135 Waiver. DHCS recognizes that in addition to traditional telehealth/telemedicine modalities (i.e., synchronous two-way interactive, audio-visual communication, and/or asynchronous store and forward/e-consults), as outlined in existing Medi-Cal coverage policy and above, there are extraordinary circumstances under which both face-to-face visits as well as traditional telehealth modalities are not an option."
- "Unless otherwise agreed to by the Managed Care Plans (MCP) and provider, DHCS and MCPs must reimburse Medi-Cal providers at the same rate, whether a service is provided in-person or through telehealth, if the service is the same regardless of the modality of delivery, as determined by the provider's description of the service on the claim. DHCS and MCPs must provide the same amount of reimbursement for a service rendered via telephone or virtual communication, as they would if the service is rendered via video, provided the modality by which the service is rendered (telephone versus video) is medically appropriate for the member."

Well-Child Visits During Coronavirus (COVID-19) Pandemic (4/24/20)

- "Medi-Cal's telehealth policies allow providers the flexibility to provide medical care by telehealth/virtual telephonic telecommunication and bill Medi-Cal when the visit is done via this modality. Providers should inform beneficiaries/parent caregivers of their option to have some elements of a comprehensive well-child visit completed through telehealth and explain that certain parts of the exam can occur through telehealth and some parts of the physical exam and/or immunizations must be completed in person. To the extent there are components of the comprehensive well-child visit provided inperson due to those components not being appropriate to be provided via telehealth (e.g., those requiring direct visualization and/or instrumentation of bodily structures, or that otherwise require the in-person presence of the patient for any reason) and those components are a continuation of companion services provided via virtual/telephonic communication, the provider should only be billing for one encounter/visit."

Smile California, Provider Bulletin Volume 36, Number 10 (April 2020)

- "Effective March 25, 2020, DHCS will allow a temporary teledentistry exception for consultation services by telephone or video to be provided to remote Medi-Cal members. This policy will be in effect until further notice."

Update to Information on Coronavirus (COVID-19) for Family PACT (3/26/20)

- "Family PACT providers may utilize existing telehealth policies as an alternative modality for delivering Family PACT covered services when medically appropriate, as a means to limit patients' exposure to others who may be infected with COVID-19, and to increase provider capacity."

- "Due to the nature of telehealth and telephonic modalities, the provider must arrange for the client to receive their HAP card/number to ensure a client has continued access to pharmacy, laboratory services, or other Family PACT covered benefits. Options may include, but is not limited, to in-person pick up of the HAP card or mailing the HAP card to the client's address. If the HAP card is mailed to the client's address, the provider must receive the express consent of the client to mail it, and must ensure that the address is verified."

DHCS Memo, Behavioral Health Information Notice No: 20-0009 (3/19/20)

- "Telehealth is not a distinct service, but an allowable mechanism to provide clinical services. The standard of care is the same whether the patient is seen in-person, by telephone, or through telehealth."
- "Telehealth is reimbursable in Medi-Cal managed care (physical health care),1 Specialty Mental Health Services (SMHS), and the Drug Medi-Cal Organized Delivery System (DMC-ODS)."
- "DHCS strongly encourages all counties to work with providers to maximize the number of services that can be provided by telephone and telehealth, to minimize community spread of COVID-19, as well as to protect the behavioral health workforce from illness."

Department of Managed Health Care All Health Care Service Plan Letter (3/18/20)

- "Health plans shall reimburse providers at the same rate, whether a service is provided in-person or through telehealth, if the service is the same regardless of the modality of delivery, as determined by the provider's description of the service on the claim. For example, if a health plan reimburses a mental health provider $100 for a 50-minute therapy session conducted in-person, the health plan shall reimburse the provider $100 for a 50-minute therapy session done via telehealth."
- "For services provided via telehealth, a health plan may not subject enrollees to cost-sharing greater than the same cost-sharing if the service were provided in person."
- "Health plans shall provide the same amount of reimbursement for a service rendered via telephone as they would if the service is rendered via video, provided the modality by which the service is rendered (telephone versus video) is medically appropriate for the enrollee."

Department of Health Care Services All Medi-Cal Managed Care Health Plans (3/18/20)

- "Pursuant to the authority granted in the California Emergency Services Act, all MCPs must, effective immediately, comply with the following:

Unless otherwise agreed to by the MCP and provider, MCPs must reimburse providers at the same rate, whether a service is provided in-person or through telehealth, if the service is the same regardless of the modality of delivery, as determined by the provider's description of the service on the claim. For example, if an MCP reimburses a provider $100 for an in-person visit, the MCP must reimburse the provider $100 for an equivalent visit done via telehealth unless otherwise agreed to by the MCP and provider.

MCPs must provide the same amount of reimbursement for a service rendered via telephone as they would if the service is rendered via video, provided the modality by which the service is rendered (telephone versus video) is medically appropriate for the member."

California Requests Federal Government Waiver to Cover Medi-Cal Recipients and Expand Tele-Health Options (3/17/20), specific changes include:

- "Flexibility for telehealth and virtual communications to make it easier for providers to care for people in their homes. Specifically, flexibility to allow telehealth and virtual/telephonic communications for covered State plan benefits, including but not limited to, behavioral health treatment services, waiver of face-to-face encounter requirements for Federally Qualified Health Centers, Rural Health Clinics, and Tribal 638 Clinics relative to covered services via telehealth, allowance for reimbursement of virtual communication and e-consults for FQHCs, RHCs and Tribal 638 clinics and waiver of limitations around virtual/telephonic communications prior to or after an in office visit."
- "Changes to allow telephonic or live video interactions for individual with development disabilities."

DHCS Memo to All Medi-Cal Managed Care Health Plans (3/16/20)

- Offering members and providers the option to utilize telehealth services to deliver care when medically appropriate, as a means to limit members' exposure to others who may be infected with COVID-19. Please refer to DHCS All Plan Letter 19-009 (REVISED) for clarification on the Medi-Cal telehealth policy.

In addition to existing Medi-Cal telehealth policies, DHCS also allows reimbursement for virtual communication, which includes a brief communication with another practitioner or with a patient, and in the case of COVID-19, who cannot or should not be physically present (face-to-face). For encounter reporting purposes, Medi-Cal providers should use Healthcare Common Procedure Coding System (HCPCS) codes G2010 and G2012 for brief virtual communications.

DHCS is continuing to work with our federal partners on other options and flexibilities relative to telehealth and virtual communication policies, procedure codes, and reimbursement rates, particularly related to the use of telephonic/virtual procedure codes in clinics, and to address the evolving COVID-19 outbreak. DHCS will issue additional guidance as those options and flexibilities are finalized, as needed."

DHCS Medi-Cal Payment for Medical Services Related to the 2019-Novel Coronavirus (COVID-19) (3/16/20)

- "Medi-Cal providers may utilize existing telehealth policies as an alternative modality for delivering Medi-Cal covered health care services when medically appropriate, as a means to limit patients' exposure to others who may be infected with COVID-19, and to increase provider capacity."
- "As a reminder, Medi-Cal's telehealth policy gives Medi-Cal providers broad flexibility to determine if a particular Medi-Cal covered service or benefit is clinically appropriate based upon the individual needs of their patients on a case-by-case basis pursuant to evidence-based medicine and/or best practices."

COLORADO

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Colorado Senate Bill No. 189 (enrolled 4/4/23)

- "SECTION 2. In Colorado Revised Statutes, 10-16-104, amend (18)(a)(I) introductory portion, (18)(b)(X)(A), and (18)(e)(I); and add (18)(b.3) and (26) as follows:
    - (b.3) (I) THE COVERAGE FOR SEXUALLY TRANSMITTED INFECTION COUNSELING, PREVENTION, AND SCREENING REQUIRED IN SUBSECTION (18)(b)(XI) OF THIS SECTION MUST INCLUDE COVERAGE FOR HIV PREVENTION DRUGS AND THE SERVICES NECESSARY FOR INITIATION AND CONTINUED USE OF AN HIV PREVENTION DRUG BASED ON THE MOST RECENT CDC GUIDELINES AND CLINICAL GUIDANCE AND AS DETERMINED BY THE INDIVIDUAL'S HEALTH-CARE PROVIDER, INCLUDING:
        - (A) PROVIDER OFFICE AND TELEHEALTH VISITS FOR PRESCRIBING AND MEDICATION MANAGEMENT;"

Colorado House Bill No. 1256 (introduced 3/26/23)

- "SECTION 1. In Colorado Revised Statutes, add 12-30-120 as follows:
    - 12-30-120. Health-care professional authority to practice telehealth in other states - interstate compacts - authorization from other state - definitions.
        - (1) A LICENSEE, CERTIFICATE HOLDER, OR REGISTRANT MAY PROVIDE HEALTH CARE THROUGH TELEHEALTH TO A PATIENT OR CLIENT WHO IS LOCATED IN ANOTHER STATE IF THE LICENSEE, CERTIFICATE HOLDER, OR REGISTRANT IS: […]
        - (2) A LICENSEE, CERTIFICATE HOLDER, OR REGISTRANT WHO PROVIDES HEALTH CARE THROUGH TELEHEALTH TO A PATIENT OR CLIENT WHO IS LOCATED IN ANOTHER STATE IS SUBJECT TO THE JURISDICTION AND LAWS OF THE STATE WHERE THE PATIENT OR CLIENT RECEIVING THE HEALTH CARE IS LOCATED, AND NOTHING IN THIS SECTION RELIEVES A LICENSEE, CERTIFICATE HOLDER, OR REGISTRANT FROM THE REQUIREMENTS IMPOSED BY THAT STATE.
        - (3) AS USED IN THIS SECTION:
            - (a) (I) "INTERSTATE COMPACT" MEANS AN AGREEMENT BETWEEN COLORADO AND OTHER STATES TO ALLOW, IF THE CONDITIONS OF THE AGREEMENT ARE OTHERWISE SATISFIED:
                - (A) AN INDIVIDUAL LICENSED, CERTIFIED, OR REGISTERED IN THIS STATE TO PRACTICE A PARTICULAR HEALTH-CARE PROFESSION TO PRACTICE THAT PROFESSION IN OTHER STATES THAT ARE PARTIES TO THE AGREEMENT; AND
                - (B) AN INDIVIDUAL LICENSED, CERTIFIED, OR REGISTERED TO PRACTICE A PARTICULAR HEALTH-CARE PROFESSION IN A STATE THAT IS A PARTY TO THE AGREEMENT TO PRACTICE THAT PROFESSION IN COLORADO.
            - (II) "INTERSTATE COMPACT" INCLUDES A COMPACT RATIFIED BY THE GENERAL ASSEMBLY AND ENTERED INTO BY THE GOVERNOR PURSUANT TO ARTICLE 60 OF TITLE 24.
            - (b) "TELEHEALTH" HAS THE SAME MEANING AS SET FORTH IN SECTION 10-16-123 (4)(e) AND INCLUDES TELEMEDICINE, AS DEFINED IN SECTION 12-240-104 (6)."

Colorado House Bill No. 1215 (introduced 3/24/23)

- "SECTION 1. In Colorado Revised Statutes, add 6-20-102 as follows:
    - 6-20-102. Limits on facility fees - rules - definitions.
        - (1) Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:
            - (p) "TELEHEALTH" HAS THE MEANING SET FORTH IN SECTION 10-16-123 (4)(e).
        - (2) Limitations on charges.
            - (a) ON AND AFTER JULY 1, 2024, A HEALTH-CARE PROVIDER OR HEALTH SYSTEM SHALL NOT CHARGE, BILL, OR COLLECT A FACILITY FEE THAT IS NOT COVERED IN FULL BY A PATIENT'S INSURANCE, REGARDLESS OF PAYER TYPE, FOR:
                - (II) HEALTH-CARE SERVICES PROVIDED THROUGH TELEHEALTH;"

Colorado House Bill No. 1076 (passed 4/4/22)

- "12-230-104. Scope of practice. (1) The scope of practice for a hearing aid provider includes:
    - (e) Prescribing, selecting, and fitting appropriate hearing instruments and assistive devices, including appropriate technology, electroacoustic targets, programming parameters, and special applications, as indicated, WHETHER IN PERSON OR THROUGH THE USE OF TELEHEALTH"

Executive Order D 2021 122 Colorado COVID-19 Disaster Recovery Order (7/8/21)

- "I, Jared Polis, Governor of the State of Colorado, hereby rescind Executive Order D 2020 003, as amended and extended, which declared a state of disaster emergency due to the presence of coronavirus disease 2019 (COVID-19) and issue this Colorado COVID-19 Disaster Recovery Executive Order."

Colorado House Bill No. 1258: A Bill for an Act concerning establishing a temporary program to facilitate youth mental health services in response to identified needs, and, in connection therewith, making an appropriation (sent to Governor 6/11/21)

- "(a) There is established in the office the temporary youth mental health services program to facilitate access to mental health services, including substance use disorder services, for youth to respond to mental health needs identified in an initial mental health screening through the portal, including those needs that may have resulted from the COVID-19 pandemic. The program reimburses providers for up to three mental health sessions with a youth.
- (b) The office shall reimburse providers who participate in the program for each mental health session with a youth, either in-person or by telehealth, up to a maximum of three sessions per youth client; except that subject to available money, the state department may reimburse a provider for additional sessions. To be eligible for reimbursement from the program, a provider must be available to provide three mental health sessions to each youth the provider accepts as a client."

Colorado House Bill No. 1021 (sent to Governor 6/9/21)

- "A peer support professional may provide services for a recovery support services organization in various clinical and nonclinical settings, including but not limited to:

Services delivered via telehealth"

Colorado Executive Order D 2020 249 - Amending and Restating Executive Orders D 2020 045, D 2020 080, D 2020 114, D 2020 145, D 2020 169, D 2020 198, and D 2020 225 Permitting the Limited Recommencement of Voluntary or Elective Surgeries and Procedures in Colorado (11/13/20)

- "Best practices recommended to all Facilities, including any specific best practices recommended for medical or hospital settings, based on the voluntary or elective surgeries and procedures provided, including:

Prescreening patients or pets and their owners for COVID-19 symptoms by telehealth if possible"

Executive Order D 2020 116 - Extending Executive Orders D 2020 020, D 2020 046, and D 2020 082 Concerning the Temporary Suspension of Certain Statutes to Expand the Use of Telehealth Services Due to the Presence of COVID-19 (6/27/20)

- "Telehealth services remain essential to ensure that health care providers and veterinarians can provide needed services to patients while also minimizing the risk of spread of COVID-19. This Executive Order extends Executive Orders D 2020 020, D 2020 046, and D 2020 082, for an additional thirty (30) days so that telehealth services can continue throughout the State."

Reimbursement for Telehealth Services SB20-212 (6/1/2020)

- SB 20-212: Concerning reimbursement for health care services provided through telehealth, and, in connection therewith, making an appropriation.
- "The bill prohibits a health insurance carrier from:

Imposing specific requirements or limitations on the HIPAA-compliant technologies used to deliver telehealth services;

Requiring a covered person to have a previously established patient-provider relationship with a specific provider in order to receive medically necessary telehealth services from the provider; or

Imposing additional certification, location, or training requirements as a condition of reimbursement for telehealth services."

- "The bill specifies that, to the extent the state board of health adopts rules addressing supervision requirements for home care agencies, the rules must allow for supervision in person or by telemedicine or telehealth."
- "For the purposes of the Medicaid program, the bill:

Requires the department of health care policy and financing (state department) to allow home care agencies to supervise services through telemedicine or telehealth;

Clarifies the methods of communication that may be used for telemedicine;

Requires the state department to reimburse rural health clinics, the federal Indian health service, and federally qualified health centers for telemedicine services provided to Medicaid recipients and to do so at the same rate as the department reimburses those services when provided in person;

Requires the state department to post telemedicine utilization data to the state department's website no later than 30 days after the effective date of the bill and update the data every other month through state fiscal year 2020-21; and

Specifies that health care and mental health care services include speech therapy, physical therapy, occupational therapy, hospice care, home health care, and pediatric behavioral health care."

Extending Executive Orders D 2020 020 and D 2020 046 Concerning the Temporary Suspension of Certain Statutes to Expand the Use of Telehealth Services Due to the Presence of COVID-19 (5/29/20)

- Telehealth services remain essential to ensure that health care providers and veterinarians can provide needed services to patients while also minimizing the risk of spread of COVID-19. This Executive Order extends Executive Orders D 2020 020 and D 2020 046 for an additional thirty (30) days so that telehealth services can continue throughout the State.

Telemedicine Grant Opportunities Through COVID-19 Emergency Funding (5/12/20)

- "The Centers for Medicare & Medicaid Services (CMS) approved $7.9M COVID-19 Emergency Funding to the Office of eHealth Innovation (OeHI) in the Lt. Governor's Office and the Department of Health Care Policy & Financing (the Department). This CMS Federal Fund match leverages Health IT Roadmap funds to support Colorado's emergency response efforts through telemedicine innovations, technical connectivity/technical assistance to health information exchanges, COVID-19 reporting and analytics, and safety net provider public health reporting and surveillance. This funding, established through the American Recovery and Reimbursement Health Information Technology Act, is intended to support the meaningful use of electronic health records by eligible Medicaid providers."
- "Up to $2 million of this funding will go toward grants for existing and new telemedicine projects. This new funding will increase access to health care and slow the spread of COVID-19 through coordinated access and use of telemedicine. Lessons learned from these funded projects will inform longer-term telemedicine policies and infrastructure to emergency response and coordinated care."
- "OeHI's goal is to disperse telemedicine grant funding for select projects that advance the state's immediate COVID emergency response needs via telemedicine and inform longer term telemedicine infrastructure and policy efforts. We consider telemedicine to include all forms of communication…"
- "Entities eligible for consideration include local public health agencies, health care providers, state or county health and human services departments, and community health and tech organizations (not-for-profit) that support Medicaid and Uninsured populations. In addition to funding, selected organizations will be part of a learning collaborative and have an opportunity for additional technical assistance"

Executive Order D 2020 046 (4/30/20)

- "On April 1, 2020, I issued Executive Order D 2020 020 ordering the temporary suspension of certain statutes to extend the use of telehealth services due to the presence of COVID-19 in Colorado. Telehealth services remain essential to ensure that health care providers and veterinarians can provide needed services to patients while also minimizing the risk of spread of COVID-19."
- "this Executive Order extends Executive Order D 2020 020 for an additional thirty (30) days so that telehealth services can continue throughout the State."

Office of Health Innovation Advancing Governor (4/30/20)

- "As part of Colorado's response to COVID-19, Colorado's Office of eHealth Innovation (OeHI) is expanding access to telehealth resources for Coloradans. The state is developing a coordinated and collaborative approach to health information technology and digital health solutions in partnership with the Innovation Response Team (IRT). OeHI and the eHealth Commission are moving forward critical and strategic infrastructure projects to support Coloradans through the COVID-19 emergency response and beyond."
- "As part of the Innovations Response Team (IRT) Telemedicine effort, OeHI set up a leadership team to drive telemedicine technology, policy, and communications efforts during COVID-19…The goal of this effort is to ensure access and use of telemedicine for both patients and health providers."
- "To guide this work in the coming days, weeks, and months, Governor Polis and Lt. Governor Primavera are relying on the OeHI and eHealth Commission to oversee, coordinate, and strategize health IT policy, infrastructure and innovation in a way that leverages the lessons learned through the innovation response, as well as existing foundational efforts established through Colorado's Health IT Roadmap, which focuses on leveraging Colorado's health information exchanges (Colorado Regional Health Information Organization and Quality Health Network) to provide trusted infrastructure. As part of this work, OeHI and the eHealth Commission have launched a Statewide Data/Information Governance on Health Committee facilitated by the Colorado Health Institute to develop a flexible framework for the use and access of health information."

Colorado Division of Insurance FAQs on COVID-19 Telehealth Services (April 2020)

- Q: "What is telehealth? How has it changed based on the Governor's Executive Order and DOI emergency regulation 20-E-05?"

A: "On April 1, 2020, Governor Polis issued Executive Order D 2020 020, temporarily suspending certain statutes to expand the use of telehealth services for both COVID-19 related care and non-COVID-19 related care due to the presence of COVID-19 in Colorado. The Division's emergency regulation 20-E-05, effective on April 4, 2020 directs health insurance companies in Colorado to take the following actions during the COVID-19 public health emergency:

  - "Provide coverage of all medically necessary health care services that can be appropriately provided through telehealth, not just services related to COVID-19;
  - Allow the use of additional technologies for telehealth, including phone-only communication, during the COVID-19 emergency;
  - Reimburse providers using telehealth services at rates no lower than what they would be paid if the services were delivered in-person;

- Suspend or waive restrictions on provider location, certification, or training as a condition for payment;
- Provide clear instructions to providers to facilitate telehealth billing and reimbursement; and
- Allow for the provision of telehealth services by out-of-network service providers in in-network providers are not available."

Department of Regulatory Agencies, Emergency Regulation 20-E-05 (4/3/20)

- "This regulation shall apply to all carriers offering individual, small group, large group plans, managed care plans, and student health insurance coverage subject to the insurance laws of Colorado and the requirements of the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, 124 Stat. 119 (2010), and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010), together referred to as the "Affordable Care Act" (ACA)."
- "A carrier offering a health benefit plan in this state shall reimburse providers for the provision of medically necessary covered health care services that are appropriately provided through telehealth, including but not limited to behavioral health, mental health, substance use disorder, occupational therapy, speech therapy, and physical therapy services as well as remote monitoring of patients. Carriers shall not deny payment for the use of remote communications technologies that do not fully comply with HIPAA requirements in connection with the good faith provision of telehealth services during the COVID-19 emergency."
- "Telehealth services delivered by providers shall be reimbursed at rates not lower than in-person services delivered by providers and in compliance with state behavioral health parity laws."
- "Carriers shall not impose specific requirements or limitations on the technologies used to deliver telehealth services, including any limitations on audio only or live video technologies."
- "Carriers shall not require a covered person have a previously established patient/provider relationship with a specific provider in order for that covered person to receive medically necessary health care services via telehealth from that provider."

Regional Accountable Entity Behavioral Health Telemedicine Services During COVID-19 State of Emergency (4/3/20)

- "For behavioral health providers, telemedicine is covered under the capitated behavioral health benefit administered by the Regional Accountable Entities (RAEs). Behavioral health providers should contact their RAE for guidance. For RAE contact information, see www.colorado.gov/hcpf/accphase2."
- "In an effort to remove administrative and regulatory barriers to delivering remote services during the COVID-19 state of emergency, all RAEs are currently allowing outpatient treatment services listed in the Uniform Services Coding Standards Manual (USCSM) to be delivered via audiovisual, telephone, or live chat modalities, when it is clinically viable and appropriate. The Department and the RAEs have NOT changed USCSM requirements, priorauthorization policies, or payment rules. Providers must follow each individual RAE's billing policies."

Executive Order D 2020-020 Ordering the Temporary Suspension of Certain Statutes to Expand the Use of Telehealth Services Due to the Presence of COVID-19 (4/1/20)

- "I temporarily suspend the definition of "telehealth" in C.R.S. § 10-16-123(4)(e)(I)."

- "I temporarily suspend the exclusions from the definition of "telehealth" in C.R.S. § 10-16-123(4)(e)(II)."
- "I temporarily suspend the requirement in C.R.S. § 10-16-123(2)(a) that services appropriately provided through telehealth are subject to all terms and conditions of the health benefit plan."
- "I temporarily suspend the requirement in C.R.S. § 10-16-123(2)(b)(I) that carrier reimbursements to a provider for telehealth services are subject to all terms and conditions of the health benefit plan."
- "I temporarily suspend the provision in C.R.S. § 10-16-123(3) that health benefit plans are not required to pay for consultation provided by a provider by telephone or facsimile unless the consultation is provided through Health Insurance Portability and Accountability Act (HIPAA) -compliant interactive audio-visual communication or the use of a HIPAA-compliant application via a cellular telephone."
- "I temporarily suspend the requirement in C.R.S. § 12-245-217(2)(e)(II) that a person residing in and licensed or certified in another state as a psychologist, marriage and family therapist, clinical social worker, professional counselor, or addiction counselor does not exceed twenty (20) days per year of performing activities or services in Colorado."
- "I temporarily suspend the requirement in C.R.S. § 12-315-104(19)(b) that a veterinarian-client patient relationship is established when the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept."
- "I direct the Colorado Department of Regulatory Agencies' (DORA) Division of Insurance (DOI) to promulgate and issue emergency rules requiring health insurance carriers regulated by the State to permit providers to deliver clinically appropriate, medically necessary covered services using telehealth services. I also direct DOI to promulgate and issue emergency rules aimed at expanding the use of telehealth services, including by broadening the definition of "telehealth," during the COVID-19 outbreak in the State."

Department of Insurance Emergency Regulation 20-E-01 (3/17/20)

- "Carriers shall provide coverage for COVID-19-related in-network telehealth services with no cost share for the covered person."

COVID-19 State of Emergency Changes to Telemedicine Services (March 2020)

- "To facilitate the safe delivery of health care services to members throughout the COVID-19 state of emergency, the Department is authorizing three temporary changes to the existing telemedicine policy. See Temporary Authorization of Telemedicine Services During COVID-19 State of Emergency and Health First Colorado Announces Telemedicine Changes for more information.

Telephone and Live Chat Modalities – Services that are allowed to be provided by telemedicine under the existing policy will no longer be restricted to an interactive audiovisual modality only. Providers may deliver the allowable telemedicine services by telephone or via live chat. All other general requirements for telemedicine services, such as documentation and meeting same standard of care, still need to be met (see below for more details).

Federally Qualified Health Centers, Rural Health Clinics, and Indian Health Services – For the duration of the COVID-19 state of emergency, Health First Colorado is allowing telemedicine visits to qualify as billable encounters for Federally Qualified Health Centers (FQHCs), Rural

Health Clinic (RHCs), and Indian Health Services. Services allowed under telemedicine may be provided via telephone, live chat, or interactive audiovisual modality for these provider types.

Physical Therapy, Occupational Therapy, Home Health, Hospice and Pediatric Behavioral Health Providers – Health First Colorado has expanded the list of providers eligible to deliver telemedicine services to include physical therapists, occupational therapists, hospice, home health providers and pediatric behavioral health providers. Services allowed under telemedicine may be provided via telephone or interactive audiovisual modality for these provider types."

Department of Regulatory Agencies Bulletin No. B-4.104 (3/9/20)

- "The division is directing carriers to conduct an outreach and education campaign to remind individuals of their telehealth coverage options."
- "In addition, the Division is directing carriers to provide telehealth services to cover COVID-19-related in-network telehealth services at no cost share, including co-pays, deductibles, and coinsurance that would normally apply to the telehealth visit."

State Licensure Laws, Policy, and Guidance

Colorado House Bill No. 77 (introduced 2/16/22)

- "The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure."

Guidance for Healthcare Professionals Not Currently Licensed in Colorado (3/13/20)

- "A provider with an expired or lapsed license, registration, or certification may operate within a 60 day grace period without being subject to penalties or fines under C.R.S. §12-20-202(1)"
- "A physician or physician in training may temporarily practice without a Colorado license or physician training license under the following provisions of C.R.S. §12-240-107(3)"
- "A nurse who is part of the Enhanced Nurse Licensure Compact (eNLC) can work in Colorado without the need to obtain a license. The eNLC nurse must notify the board within 30 days of their arrival, but can still work without a Colorado license as long they're a member of the eNLC compact"
- "Psychologists, social workers, addiction counselors, marriage family therapists, psychotherapists and professional counselors may practice in Colorado for a cumulative period of 20 days under C.R.S. §12-245-217(2), as long as the services performed meet the individual's scope of practice."

Medicaid Law, Policy and Guidance Related to Telehealth

Completing Colorado Indigent Care Program (CICP) Applications During the COVID-19 Pandemic: Telehealth/Co-Pay (Updated April 2021)

- Q: "Are telehealth visits (both screen-to-screen and over the phone) eligible for discount under CICP?"

A: "Yes, providers are allowed to discount telehealth visits under CICP and report them in the annual data."

- Q: "Are providers allowed to create a lower co-pay structure or even waive co-pay amounts for telehealth visits?"

A: "Yes, providers are allowed to charge a lower co-pay or waive co-pay amounts for telehealth visits for CICP clients. However, providers must inform the Department of what the co-pay structure will be or if co-pay amounts will be waived and what dates those lower or waived co-pay amounts will be applied to the telehealth visits. Failure to inform the Department of the altered telehealth co-pay amounts will result in the provider being responsible for reporting the full CICP co-pay as the co-pay collected for those visits even if a lower co-pay was collected, per CICP rules."

MSB 20-05-21-A, Revision to the Medical Assistance Act Rule concerning Telemedicine Extension, Section 8.200.3.B and .3.D, 8.520.4.B, 8.700.1, 8.730.3.B, 8.740.1, 8.750.3.B (9/30/20)

- "This rule revision makes permanent the expanded telemedicine authorized during the Coronavirus Disease 2019 (COVID-19) public health emergency, and as authorized for permanent adoption in Senate Bill 20-212, for select physician services, home health, Federally-Qualified Health Center, Family Planning, Rural Health Clinic, and Community Mental Health Centers/Clinic services. The expanded telemedicine modalities include interactive audio, interactive video, or interactive data communication in lieu of face-to-face visits between clients and health professionals. The purpose of the rule revision is to present the Telemedicine emergency rule for permanent adoption. The Department will work with stakeholders to study the rule's implementation and prepare a report for the SMART Government Act hearing, as required by legislation."

Telemedicine Provider Information (Updated April 2020)

- Q: "If my patient has private insurance (third party liability, TPL) that doesn't cover the telemedicine visit, will Health First Colorado (Colorado Medicaid) still cover it?"

A: "Yes. Standard TPL policy still applies"

- Q: "How does telemedicine work for Early Intervention therapies?"

A: "Telemedicine is a method of delivering services remotely. Is it not a distinct service itself, therefore it does not have a distinct billing CPT code. In order to bill a CPT which is delivered using telemedicine the service should meet the same standard of care as if it were delivered in-person."

- Q: For Indian Health Services: "Do telephone-only visits qualify as an encounter claim submission?"

A: "Yes"

- Q: Can physical, occupational, and speech therapy assistants provide telemedicine?

A: "Yes, however DORA supervision rules are still applicable to telemedicine visits."

Colorado Department of Health Care Policy & Financing, Regional Accountable Entity Behavioral Health Services During COVID-19 State of Emergency (4/3/20)

- "On March 18, 2020, the Department announced a temporary expansion of telemedicine services throughout the COVID-19 state of emergency (see the Department's Telemedicine— Provider Information website).
- For behavioral health providers, telemedicine is covered under the capitated behavioral health benefit administered by the RAEs. Behavioral health providers should contact their RAE for guidance. For RAE contact information, see www.colorado.gov/hcpf/accphase2."
- "In an effort to remove administrative and regulatory barriers to delivering remote services during the COVID-19 state of emergency, all RAEs are currently allowing outpatient treatment services listed in the Uniform Services Coding Standards Manual (USCSM) to be delivered via audiovisual, telephone, or live chat modalities, when it is clinically viable and appropriate. The Department and the RAEs have NOT changed USCSM requirements, prior authorization policies, or payment rules. Providers must follow each individual RAE's billing policies."

Telehealth and Telemedicine Guidance for HCBS Providers and Case Managers (4/2/20)

- Q: "What changes have been made to telehealth and telemedicine policies?"

A: "Throughout the COVID-19 pandemic, Health First Colorado (Colorado's Medicaid program) is temporarily expanding its telemedicine policy to authorize the following:

  - Expanding the definition of telemedicine services to include telephone only and live chat modalities.
  - Authorizing Federally Qualified Health Centers (FQHCs), Rural Health Clinic (RHCs) and Indian Health Services to bill encounters for telemedicine visits.
  - Adding specified Physical Therapy, Occupational Therapy, and Home Health, Hospice and Pediatric Behavioral Therapy services to the list of eligible telemedicine services."

Colorado Department of Health Care Policy & Financing Operational Memo for Telemedicine in Nursing Facilities, Alternative Care Facilities, and Intermediate Care Facilities for COVID-19 (4/1/20)

- "It is acceptable to use telemedicine to facilitate live contact directly between a member and a provider. Additionally, the distant provider may participate in the telemedicine interaction from any appropriate location."
- "Other standard requirements for telemedicine services include:

Providers may only bill procedure codes which they are already eligible to bill.

Any health benefits provided through telemedicine shall meet the same standard of care as in-person care.

Providers must document the member's consent, either verbal or written, to receive telemedicine services.

The availability of services through telemedicine in no way alters the scope of practice of any health care provider; nor does it authorize the delivery of health care services in a setting or manner not otherwise authorized by law.

Services not otherwise covered by Health First Colorado are not covered when delivered via telemedicine.

The use of telemedicine does not change prior authorization requirements that have been established for the services being provided.

Record-keeping and patient privacy standards should comply with normal Medicaid requirements and HIPAA."

Colorado Appendix K Approval Letter (3/26/20)

- "Temporarily modify processes for level of care evaluations or re-evaluations (within regulatory requirements)

"The initial Level of Care (LOC) assessment and yearly re-assessment requirement will be modified to include the option for a telephone or other technological contact for participants of the HCBS waiver in accordance with HIPAA requirements."

- "Other Changes Necessary

"Temporarily allow HCBS members to receive one service per month for the length of the State Disaster Plan without being subject to discharge via telephonically or monthly monitoring by telehealth in accordance with HIPAA requirements."

"Temporarily allow all CMA required face-to-face activities to be completed via phone or other technology-based methods with HCBS members in accordance with HIPAA requirements."

COVID-19 Guidance for Dental Providers (3/23/20)

- "Existing Teledentistry Policy: Health First Colorado currently allows teledentistry services only for registered dental hygienists in consultation with a supervising dentist to perform limited procedures pertaining to Interim Therapeutic Restorations (ITR). For existing policy information, refer to the DentaQuest Office Reference Manual."
- "COVID-19 State of Emergency Changes to Telemedicine Services: Dentists – Health First Colorado will allow reimbursement for an emergency dental consultation to a member that is conducted via interactive audiovisual connection. This consultation is only for emergency conditions and is used to determine if the member requires in-person emergency dental services (as defined by the American Dental Association), antibiotics, or other urgent recommendations that may be delivered via teledentistry."

Temporary Authorization of Telemedicine Services During COVID-19 (3/18/2020)

- "Throughout the COVID-19 state of emergency, Health First Colorado (Colorado's Medicaid Program) is temporarily expanding its telemedicine policy to authorize the following:

1. Expanding the definition of telemedicine services to include telephone only and live chat modalities.

2. Authorizing Federally Qualified Health Centers (FQHCs), Rural Health Clinic (RHCs), and Indian Health Services to bill encounters for telemedicine visits

3. Adding specified Physical Therapy, Occupational Therapy, and Home Health, Hospice and Pediatric Behavioral Therapy services to the list of eligible interactive audiovisual telemedicine services."

- "To facilitate the safe delivery of health care services to members throughout the COVID19 state of emergency, the Department is authorizing three temporary changes to the existing telemedicine policy.

1. Telephone and Live Chat Modalities - Services that are allowed to be provided by telemedicine under the existing policy will no longer be restricted to an interactive audiovisual modality only. Providers may deliver the allowable telemedicine services by telephone or via live chat. All other general requirements for telemedicine services, such as documentation and meeting same standard of care, still need to be met (see below for more details).

2. Federally Qualified Health Centers, Rural Health Clinics, and Indian Health Services - For the duration of the COVID-19 state of emergency, Health First Colorado is allowing telemedicine visits to qualify as billable encounters for Federally Qualified Health Centers (FQHCs), Rural Health Clinic (RHCs), and Indian Health Services (IHS). Services allowed under telemedicine may be provided via telephone, live chat, or interactive audiovisual modality for these provider types.

3. Physical Therapy, Occupational Therapy, Home Health, Hospice and Pediatric Behavioral Health Providers - Health First Colorado has expanded the list of providers eligible to deliver telemedicine services to include physical therapists, occupational therapists, hospice, home health providers and pediatric behavioral health providers. Services delivered by these provider types require an interactive audiovisual connection to the member; they cannot be provided using telephone only or live chat."

Letter to Providers from Colorado Department of Health Care Policy and Financing (March 2020)

- "Throughout the COVID-19 state of emergency, Health First Colorado (Colorado's Medicaid Program) is temporarily expanding its telemedicine policy to authorize the following:

"Telephone and Live Chat Modalities - Services that are allowed to be provided by telemedicine under the existing policy will no longer be restricted to an interactive audiovisual modality only. Providers may deliver the allowable telemedicine services by telephone or via live chat. All other general requirements for telemedicine services, such as documentation and meeting same standard of care, still need to be met (see below for more details)."

"Federally Qualified Health Centers, Rural Health Clinics, and Indian Health Services - For the duration of the COVID-19 state of emergency, Health First Colorado is allowing telemedicine visits to qualify as billable encounters for Federally Qualified Health Centers (FQHCs), Rural Health Clinic (RHCs), and Indian Health Services (IHS). Services allowed under telemedicine may be provided via telephone, live chat, or interactive audiovisual modality for these provider types."

"Physical Therapy, Occupational Therapy, Home Health, Hospice and Pediatric Behavioral Health Providers - Health First Colorado has expanded the list of providers eligible to deliver telemedicine services to include physical therapists, occupational therapists, hospice, home health providers and pediatric behavioral health providers. Services allowed under telemedicine may be provided via telephone or interactive audiovisual modality for these provider types."

CONNECTICUT

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Connecticut Senate Bill No. 1075 (introduced 3/28/23)

- "AN ACT CONCERNING HOSPICE AND PALLIATIVE CARE.
  - Be it enacted by the Senate and House of Representatives in General Assembly convened:
    - Section 1. (NEW) (Effective July 1, 2023)
      - (b) Not later than January 1, 2024, the Department of Public Health shall establish, in collaboration with a hospital in the state and the Department of Social Services, a Hospice Hospital at Home pilot program to provide hospice care to patients in the home through a combination of in-person visits and telehealth. The pilot program shall provide the following to such patients:
        - (1) A daily telehealth visit by a physician or an advanced practice registered nurse that the patient may attend using the patient's computer or mobile device or, if the patient does not have access to a computer or mobile device in the home, using a tablet provided through the program;"

Connecticut Senate Bill 1176 (introduced 3/3/23); Connecticut House Bill 6562 (introduced 1/27/23)

- "Section 1. Section 17b-245e of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2023):
  - (b) The department shall provide coverage under the Connecticut medical assistance program for telehealth services, including, on and after July 1, 2023, audio-only telehealth services, for categories of health care services that the commissioner determines are (1) clinically appropriate to be provided by means of telehealth, (2) cost effective for the state, and (3) likely to expand access to medically necessary services where there is a clinical need for those services to be provided by telehealth or for medical assistance recipients for whom accessing appropriate health care services poses an undue hardship. To the extent permissible under federal law, the commissioner shall provide reimbursement for services provided by means of telehealth to the same extent as if the service was provided in person.
  - (d) Not later than January 15, 2024, the commissioner shall submit a report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to human services and public health on (1) the categories of health care services in which the department is utilizing telehealth services and the percentage of such telehealth services offered in audio-only format, (2) in what cities or regions of the state such services are being offered, and (3) any cost savings realized by the state by providing telehealth services.
- Sec. 2. Section 19a-906 of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2023):
  - (b) (1) A telehealth provider shall only provide telehealth services to a patient when the telehealth provider: (A) Is communicating through real-time, interactive, two-way communication technology or store and forward technologies; (B) has determined whether the patient has health coverage that is fully insured, not fully insured or provided through the Connecticut medical assistance program, and whether the patient's health coverage, if any, provides coverage for the telehealth service.

- (i) (1) No telehealth provider shall provide health care or health services to a patient through telehealth prior to determining whether or not the patient has health coverage for such health care or health services.

  (2) Notwithstanding any provision of the general statutes, a telehealth provider who provides health care or health services to a patient through telehealth shall accept as full payment for such health care or health services:

  (A) An amount that is equal to the amount that Medicare reimburses for such health care or health services if the telehealth provider determines that the patient does not have health coverage for such health care or health services; or

  (B) The amount that the patient's health coverage reimburses and any coinsurance, copayment, deductible or other out-of-pocket expense imposed by the patient's health coverage for such health care or health services if the telehealth provider determines that the patient has health coverage for such health care or health services.

  (3) If a telehealth provider determines that a patient is unable to pay for any health care or health services described in subdivisions (1) and (2) of this subsection, the provider shall offer financial assistance to the patient if such provider is required to offer to the patient such financial assistance under any applicable state or federal law
- (j) Subject to compliance with all applicable federal requirements, state licensing standards or any regulation adopted thereunder, a telehealth provider may provide telehealth services pursuant to the provisions of this section from any location.
- (k) Any Connecticut entity, institution or health care provider, that engages or contracts with a telehealth provider who is licensed, certified or registered in another state or territory of the United States or the District of Columbia to provide health care or other health services, shall (1) verify the credentials of such telehealth provider in the state in which such provider is licensed, certified or registered, (2) ensure that such telehealth provider is in good standing in such state, and (3) confirm that such telehealth provider maintains professional liability insurance or other indemnity against liability for professional malpractice in an amount that is equal to or greater than that required for similarly licensed, certified or registered health care or other services health provider in the state."

Connecticut House Bill 5901 (introduced 1/18/2023)

- "AN ACT ALLOWING OUT-OF-STATE BEHAVIORAL HEALTH PROVIDERS TO PROVIDE TELEHEALTH SERVICES TO A RESIDENT OF ANOTHER STATE WHILE SUCH RESIDENT IS IN THIS STATE."

Connecticut Senate Bill 424 (introduced 1/18/23)

- "That section 17b-245g of the general statutes be amended to require the Commissioner of Social Services, to the extent permissible under federal law, to permanently provide Medicaid reimbursement for telehealth services to the same extent as such reimbursement for in person services."

Connecticut House Bill No. 5811 (introduced 1/18/23); Connecticut House Bill 5236 (Introduced 1/12/2023)

- "That the general statutes be amended to remove the sunset date of June 30, 2023, for the health insurance coverage mandate for qualified telehealth services."

Connecticut Senate Bill No. 547 (introduced 1/18/23)

- "AN ACT ALLOWING CERTAIN OUT-OF-STATE HEALTH CARE PROVIDERS TO PROVIDE TELEHEALTH SERVICES IN THE STATE ON A PERMANENT BASIS.
    - That the general statutes be amended to implement, on a permanent basis, the provisions of public act 21-9 that (1) allow certain out-of-state health care providers to provide telehealth services in the state for a limited duration, and (2) require coverage of such services by such providers by certain health insurance policies for a limited duration"

Connecticut House Bill No. 5480 (introduced 3/17/22)

- "(B) Any person who is enrolled in a doctorate degree program in psychology approved under section 20-189 at an institution of higher education in the state who is providing, under the supervision of a psychologist licensed under chapter 383, professional psychological services, as defined in section 20-187a, as amended by this act, through the use of telehealth within a psychologist's scope of practice and in accordance with the standard of care applicable to the profession of psychology"

Connecticut House Bill No. 5450 (introduced 3/14/22)

- "Telehealth means"… **dental hygienist** licensed under chapter 379a who is providing health care or other health services through the use of telehealth within such person's scope of practice and in accordance with the standard of care applicable to the profession
- (2) The coverage requirements set forth in subdivision (1) of this subsection shall apply to residents of the state who temporarily reside outside of the state.
- The Psychology Interjurisdictional Compact is hereby enacted into law and entered into by the state of Connecticut with any and all states legally joining therein in accordance with its terms."

Connecticut House Bill No. 412 (introduced 3/9/22)

- "(h) No telehealth provider or hospital shall charge a facility fee for telehealth services. Such prohibition shall apply to hospital telehealth services whether provided on-campus or otherwise. For purposes of this subsection, "hospital" has the same meaning as provided in section 19a-490 and "campus" has the same meaning as provided in section 19a-508c."

Connecticut Senate Bill No. 375 (introduced 3/8/22)

- "(1) Notwithstanding the provisions of section 19a-906 of the general statutes, during the period beginning on [the effective date of this section] May 20, 2021, and ending on June 30, [2023] 2024, a telehealth provider may only provide a telehealth service to a patient when the telehealth provider:
- (A) Is communicating through real-time, interactive, two-way communication technology or store and forward transfer technology;
- (B) Has determined whether the patient has health coverage that is fully insured, not fully insured or provided through [Medicaid or the Children's Health Insurance Program] the Connecticut medical assistance program, and whether the patient's health coverage, if any, provides coverage for the telehealth service;

- (C) Has access to, or knowledge of, the patient's medical history, as provided by the patient, and the patient's health record, including the name and address of the patient's primary care provider, if any;
- (D) Conforms to the standard of care applicable to the telehealth provider's profession and expected for in-person care as appropriate to the patient's age and presenting condition, except when the standard of care requires the use of diagnostic testing and performance of a physical examination, such testing or examination may be carried out through the use of peripheral devices appropriate to the patient's condition; and
- (E) Provides the patient with the telehealth provider's license 115 number, if any, and contact information…"

Connecticut Executive Order No. 10 C: Protection of Public Health and Safety During COVID-19 Extension of Expanded Access to Telehealth Services (3/14/21)

- Extension of Legislative Action to Expand Access to Telehealth Services.
- The provisions of Public Act 20-2 of the July 2020 Special Session of the General Assembly that are designated to end on March 15, 2021 are hereby extended and shall remain in effect until April 20, 2021, unless earlier modified or terminated by me or superseded by law. Nothing herein shall be construed to repeal Executive Order No. 7F, Section 3, Executive Order No. 7G, Section 5, Executive Order No. 7L, Section 4, Executive Order No. 7DD, Sections 1 and 2, or Executive Order No. 7FF, Section 1, or any agency order issued pursuant thereto, provided that where any provision of an executive order or agency order conflicts with a provision of Public Act 20-2 of the July 2020 Special Session, the provision of Public Act 20-2, as extended by this order, shall govern.
- Unless otherwise provided herein, this order shall take effect immediately and remain in effect for the duration of the public health and civil preparedness emergencies declared on March 10, 2020, September 1, 2020, and January 26, 2021

Insurance Department Bulletin No. HC-128, All Health Insurance Companies and Health Care Centers Authorized to Conduct Business in Connecticut (8/25/20)

- "This Bulletin clarifies Connecticut's mandated coverage for telehealth under Conn. Gen. Stat. § 38a-499a and § 38a-526a in relation to changes under Public Act 20-02. The telehealth services and insurance coverage requirements under this Public Act are effective until March 15, 2021."
- "Public Act 20-02 revised the definitions of "telehealth" and "telehealth provider" to the following:

(12) "Telehealth" means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management, and self-management of a patient's physical, oral, and mental health, and includes interaction between the patient at the originating site and the telehealth provider at a distant site, synchronous interactions, asynchronous store and forward transfers, or remote patient monitoring, but does not include interaction through (A) facsimile, texting or electronic mail, or (B) audio-only telephone unless the telehealth provider is (i) in-network, or (ii) a provider enrolled in the Connecticut Medical Assistance Program (CMAP) providing such health care or other health services to a CMAP recipient.

(13) "Telehealth provider" means any person who is (A) an in-network provider for a fully insured health plan or a provider enrolled in the CMAP providing health care or other health services to a CMAP recipient through the use of telehealth within such person's scope of practice and in accordance with the standard of care applicable to such person's profession, and (B) (i) the following providers are added to all previously named providers; nurse-midwife licensed under chapter 377 of the general statutes, dentist licensed under chapter 379 of the general statutes, behavior analyst licensed under chapter 382a of the general statutes, genetic counselor licensed under chapter 383d of the general statutes, music therapist certified in the manner described in chapter 383f of the general statutes, art therapist certified in the manner described in chapter 383g of the general statutes, or athletic trainer licensed under chapter 375a of the general statutes, or (ii) an appropriately licensed, certified or registered physician, physician assistant, physical therapist, physical therapist assistant, chiropractor, naturopath, podiatrist, occupational therapist, occupational therapy assistant, optometrist, registered nurse, advanced practice registered nurse, psychologist, marital and family therapist, clinical social worker, master social worker, alcohol and drug counselor, professional counselor, dietitian-nutritionist, speech and language pathologist, respiratory care practitioner, audiologist, pharmacist, paramedic, nurse-midwife, dentist, behavior analyst, genetic counselor, music therapist, art therapist, or athletic trainer, in another state or territory of the United States or the District of Columbia, that provides telehealth services pursuant to his or her authority under any relevant order issued by the Commissioner of Public Health and maintains professional liability insurance or other indemnity against liability for professional malpractice in an amount that is equal to or greater than that required for similarly licensed, certified, or registered Connecticut health care providers."

- "Since this change was effective from passage (July 31, 2020), the following items must be addressed.

A) For contracts currently out for the 2020 year the carrier must notify members immediately of the change in the telehealth benefit and the effective date and sunset date. The Carrier must administer any telehealth claims within the designated period to comply with the changes made in Public Act 20-02.

B) For the contracts currently under review with the Insurance Department, if the contract includes language that audio-only telephone are excluded from telehealth, or that the telehealth provider is more restrictive than the new definition then the carrier must either;

  - 1) Remove the reference to audio-only telephone from the exclusions and the definition of telehealth provider or,
  - 2) Include language similar to 'paid if compliant with Public Act 20-02.'"

Connecticut House Bill No. 6001 (signed by Governor 7/31/20)

- Cements Emergency telehealth orders into state law until March 15, 2021
- Requires payment parity for telehealth services until March 15, 2021

Executive Order No. 7DD, Protection of Public Health and Safety During COVID-19 Pandemic and Response—Expansion of Healthcare Workforce (4/22/20)

- "Additions to Definition of Telehealth Provider. Section 19a-906(a)(12) of the Connecticut General Statutes is modified to add any dentist licensed under Chapter 379, behavior analyst licensed under Chapter 382a, genetic counselor licensed under Chapter 383d, music

therapist licensed under Chapter 383f, art therapist licensed under Chapter 383g, and veterinarian licensed under Chapter 384 to the definition of telehealth provider."

- "Flexibility for Medicaid-Enrolled Providers and In-Network Providers for Commercial Fully Insured Health Insurance to Perform Telehealth Through Additional Methods. Section 5 of Executive Order No. 7G issued on March 21, 2020, and the provisions of Section 19a-906 of the Connecticut General Statutes and any associated regulations, rules and policies regarding the delivery of telehealth are modified or suspended as follows:

"The definition of "telehealth" in Section 19a-906(a)(11) is modified to provide that telehealth providers that are Medicaid-enrolled providers providing covered telehealth services to established patients who are Medicaid recipients, or telehealth providers that are in-network providers for commercial fully-insured health insurance providing covered telehealth services to patients, may engage in telehealth through the use of audio-only telephone;"

"The requirements of Section 19a-906(a)(12) for the licensure, certification, or registration of telehealth providers are suspended for such telehealth providers that are Medicaid-enrolled providers or innetwork providers for commercial fully-insured health insurance providing telehealth services to patients, in accordance with any related orders issued by the Commissioner of Public Health pursuant to her established authority as a result of this declared public health and civil preparedness emergency and in accordance with Sections 19a-131a and 28-9."

"The requirement in Section 19a-906(f) that the provision of telehealth services and health records maintained and disclosed as part of a telehealth interaction shall comply with the provisions of the Health Insurance Portability and Accountability Act of 1996 P.L.104-191, as amended from time to time (HIPAA), is modified to permit telehealth providers that are Medicaid enrolled providers or in-network providers for commercial fully insured health insurance providing telehealth services to patients to utilize additional information and communication technologies consistent and in accordance with any direction, modification or revision of requirements for HIPAA compliance as related to telehealth remote communications as directed by the United States Department of Health and Human Services, Office of Civil Rights during the COVID-19 pandemic."

"Notwithstanding paragraphs a through c herein, a provider who elects to provide telehealth services for a patient who is not a Medicaid beneficiary or a member covered by a fully-insured commercial plan, may engage in "telehealth" services as defined in such paragraphs for such patient, provided that any provider engaging in telehealth services under this section must, prior to engaging in such services, determine whether a patient is covered by a health plan other than Medicaid or a fully-insured commercial plan, and whether such plan provides coverage for such telehealth services. A provider who receives payment under such health plan shall not bill a patient for any additional charges beyond the reimbursement received under such health plan. A provider who determines that payment or coverage for telehealth services as described in this order is not available under a health plan other than Medicaid or a fully-insured commercial plan or who determines a patient is uninsured, shall accept as reimbursement for any telehealth service as payment in full, the amount that Medicare reimburses for such service, provided that if the provider determines that the patient is uninsured or otherwise unable to pay for such services, the provider shall offer financial assistance, if such provider is otherwise required to provide financial assistance under state or federal law."

"Any related regulatory requirement that any telehealth services described herein be provided from a provider's licensed facility is hereby waived."

Connecticut Medical Assistance Program Provider Bulletin 2020-24 (3/20/20)

- "Effective for dates of service March 20, 2020 until DSS has notified providers in writing that the state has deemed COVID-19 to no longer to be a public health emergency (the "Temporary Effective Period"), specified PT, OT and SLP services will be permissible to be rendered via synchronized telemedicine to established patients."

Governor Lamont Provides Update on Connecticut's Coronavirus Response efforts, signed Executive Order No. 7g (3/19/20)

- "Expands telehealth services for Connecticut residents: The order allows patients and healthcare providers, consistent with federal revisions to HIPAA, to communicate over a broad range of platforms. Those platforms can include audio-only telephone calls for patients and providers with a prior relationship. In addition, it allows patients to access out-of-state telehealth providers, allows commercial health insurers and Medicaid to cover telehealth services for all in-network providers, regardless of communication platform or the provider's state of practice, and it allows providers to offer telehealth services from a location other than their licensed facility. Finally, the order also caps the amount providers availing themselves of this new flexibility may charge patients for telehealth services in Connecticut when providers are out-of-network or when patients are uninsured."

Connecticut Medical Assistance Program Provider Bulletin 2020-14 (3/18/20)

- "Effective March 18, 2020, authorization of use of audio/video conferencing for additional specified codes for:

"all children's behavioral health rehabilitation services"

"autism spectrum disorder treatment services"

"targeted case management"

"standard case management"

"family therapy without the patient"

Connecticut Department of Social Services, Division of Health Provider Bulletin 2020-10 (3/13/20)

- DSS "is temporarily expanding portions of telemedicine coverage effective from March 13 until the Department has notified providers in writing that the state has deemed COVID-19 no longer to be a public health emergency".

State of Connecticut Insurance Department (3/10/20)

- "Health insurers and health care centers are encouraged to offer and waive cost-sharing for medical advice and treatment of COVID-19 via telehealth services."

State Licensure Laws, Policy, and Guidance

Executive Order No. 7DD, Protection of Public Health and Safety During COVID-19 Pandemic and Response—Expansion of Healthcare Workforce (4/22/20)

- "Additions to Permissible Out-of-State Healthcare Providers. Section 19a131j(a) of the Connecticut General Statutes is modified to additionally allow the Commissioner of Public Health to issue an order to suspend, for a period not to exceed sixty consecutive days, the requirements for licensure, certification or registration, pursuant to chapters 376a (occupational therapist), 376b (alcohol and drug counselor), 376c (radiographer, radiologic technologist, radiologist assistant and nuclear medicine technologist), 379 (dentist), 379a (dental hygienist), 382a (behavior analyst), 383d (genetic counselor), 383f (music therapist). 383g (art therapist), 384b (dietician-nutritionist), and 399 (speech and language pathologist)."

Connecticut Department of Health, letter from Commissioner Renee D. Coleman (3/23/20)

- "I hereby order the temporary suspension for a period of sixty consecutive days, of the requirements for licensure, certification, or registration…to allow persons who are appropriately licensed, certified or registered in another state or territory of the United States or the District of Columbia, to render temporary assistance in Connecticut within the scope of the profession for which a provider is licensed, certified of registered…"

Medicaid Law, Policy and Guidance Related to Telehealth

Connecticut House Bill No. 6470: An act concerning home health, telehealth and utilization review (passed 6/8/21)

- "(b) Notwithstanding the provisions of section 17b-245c, 17b-245e or 204 19a-906 of the general statutes, as amended by this act, or any other section of the general statutes, regulation, rule, policy or procedure governing the Connecticut medical assistance program, the Commissioner of Social Services shall, to the extent permissible under federal law, provide coverage under the Connecticut medical assistance program for audio-only telehealth services when

(1) clinically appropriate, as determined by the commissioner,

(2) it is not possible to provide comparable covered audiovisual telehealth services, and

(3) provided to individuals who are unable to use or access comparable, covered audiovisual telehealth services.

- (c) To the extent permissible under federal law, the commissioner shall provide Medicaid reimbursement for services provided by means of telehealth to the same extent as if the service was provided in person."

Connecticut House Bill No. 5596: An Act Concerning Telehealth (passed 5/13/21)

- "Notwithstanding the provisions of section 19a-906 of the general statutes, during the period beginning on the effective date of this section and ending on June 30, 2023, a telehealth provider may only provide a telehealth service to a patient when the telehealth provider:

(A) Is communicating through real-time, interactive, two-way communication technology or store and forward transfer technology;

(B) has determined whether the patient has health coverage that is fully insured, not fully insured or provided through Medicaid or the Children's Health Insurance Program, and whether the patient's health coverage, if any, provides coverage for the telehealth service;

- (2) Notwithstanding the provisions of section 19a-906 of the general statutes, if a telehealth provider provides a telehealth service to a patient during the period beginning on the effective date of this section and ending on June 30, 2023, the telehealth provider's first telehealth interaction with a patient, the telehealth provider shall inform the patient concerning the treatment methods and limitations of treatment using a telehealth platform and, after providing the patient with such information, obtain the patient's consent to provide telehealth services. The telehealth provider shall document such notice and consent in the patient's health record. If a patient later revokes such consent, the telehealth provider shall document the revocation in the patient's health record."

Responses to Frequently Asked Questions (FAQs) About CMAP's Response to COVID-19 (Coronavirus) (Updated 7/10/20)

- Q: "For methadone maintenance services, providers are required to provide at least one counseling session per month. Can we do the required monthly counseling session via telemedicine or telephone?"

A: "Yes."

- "How will inpatient behavioral health admissions be reimbursed for admission dates April 1, 2020 until the Temporary Effective Period is over?"

"As described in PB 20-33 - CMAP COVID-19 Response – Bulletin 23: Changes to the Prior Authorization Requirements for Specified Services, any BH inpatient admission that is billed with Revenue Center Code (RCC) 124 or 126 and/or assigned a DRG of 740-776 (behavioral health) will pay at the hospital's behavioral health per-diem rate."

Executive Order No. 7FF, Protection of Public Health And Safety During COVID-19 Pandemic and Response—Expansion of Telehealth Availability (4/24/20)

- "Additional Flexibility for Medicaid-Enrolled Providers to Perform Telehealth Through Audio-Only Methods for New Patients. Section 5 of Executive Order No. 7G, issued on March 19, 2020, Section 2 of Executive Order No. 7DD, issued on April 22, 2020, and Section 19a-906 of the Connecticut General Statutes and any associated regulations, rules and policies regarding the delivery of telehealth are further modified to expand the definition of "telehealth" in Section 19a-906(a)(11) to permit telehealth providers who are Medicaid-enrolled providers providing covered telehealth services to "new or established patients" who are Medicaid recipients to engage in telehealth through the use of audio-only telephone."

Executive Order No. 7DD, Protection of Public Health and Safety During COVID-19 Pandemic and Response—Expansion of Healthcare Workforce (4/22/20)

- "The requirements of Section 19a-906(a)(12) for the licensure, certification, or registration of telehealth providers are suspended for such telehealth providers that are Medicaid-enrolled providers or innetwork providers for commercial fully-insured health insurance providing telehealth services to patients, in accordance with any related orders issued by the Commissioner of Public Health pursuant to her established authority as a result of this declared public health and civil preparedness emergency and in accordance with Sections 19a-131a and 28-9."

Bulletin 26: Additional Changes to the Synchronized Telemedicine Program (April 2020)

- "During the Temporary Effective Period, the following providers are authorized to render synchronized telemedicine and telephonic services as outlined below:

School Based Health Centers enrolled as free-standing clinics (not operated by a parent organization) are permitted to render:

  - synchronized telemedicine (audio and visual)
  - telephonic services (please refer to PB 2020-14 for the list of procedure codes eligible as telephonic services)

Family Planning Clinics are permitted to render:

  - synchronized telemedicine (audio and visual) (Family Planning clinics are already permitted to render telephonic services as outlined in PB 2020-14).

Local Health Departments are permitted to render:

  - synchronized telemedicine only for the following TB related services:
    - 99202 – New patient office or other outpatient visit typically 20 minutes
    - 99212 – Established patient office or other outpatient visit typically 10 minutes
    - G0493 – Skilled services of a registered nurse (RN) for the observation and assessment
    - G0494 – Skilled services of a licensed practical nurse (LPN) for the observation and assessment
    - G9012 – Other specified case management service not elsewhere classified"

Home Health Agencies, Access Agencies and Hospice Agencies, Provider Bulletin 2020-28 (April 2020)

- As an interim measure in response to the Governor's recent declaration of a public health emergency as the result of the outbreak of COVID-19 (coronavirus), the Department of Social Services (DSS) is temporarily expanding telemedicine to cover specified home health and hospice services."
- "Effective for dates of service March 27, 2020 until DSS has notified providers in writing that the state has deemed COVID-19 to no longer be a public health emergency (the "Temporary Effective Period"), specified physical therapy (PT), occupational therapy (OT) and speech & language pathology (SLP), medication administration, and hospice services will be permissible to be rendered via telemedicine to established patients as specified for each service below."

Special information and resources for HUSKY Health members about coronavirus (COVID-19) (updated 3/26/20)

- "HUSKY members can receive medical and behavioral health services from their health care providers by audio-only telephone or videoconferencing."

Connecticut Appendix K Approval Letter (3/26/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

"Case management"

"Personal care services that only require verbal cueing"

"In-home habilitation"

Behavioral Health Clinicians, Behavioral Health Clinics, Outpatient Hospitals and Autism Spectrum Disorder Providers, Provider Bulletin 2020-25 (March 2020)

- "Effective for dates of service from March 23, 2020 until DSS has notified providers in writing that the state has deemed COVID-19 no longer to be a public health emergency (the "Temporary Effective Period"), the following group therapy and ASD services will be permissible to be rendered via synchronized telemedicine, which is defined as an audio and video telecommunication system with real-time communication between the patient and practitioner. These services cannot be rendered using audio-only (telephone)."

Services include: group therapy, multi-family group psychotherapy, intensive outpatient program-psychiatric, intensive outpatient program-chemical dependency, partial hospitalization program, adult day treatment

Rehabilitation Clinics, Provider Bulletin 2020-24 (3/20/20)

- "Effective for dates of service March 20, 2020 until DSS has notified providers in writing that the state has deemed COVID-19 to no longer to be a public health emergency (the "Temporary Effective Period"), specified PT, OT and SLP services will be permissible to be rendered via synchronized telemedicine to established patients."

CMAP COVID-19 Response-Bulletin 4: Expanded Telemedicine and New Audio-Only (Telephonic) Services (3/18/20)

- "Effective for dates of service March 18, 2020 and forward, the following services may be provided via telemedicine by providers that are currently authorized to perform these services in accordance with all existing CMAP and other federal and state requirements. All of these services will be paid at the same rate as the equivalent inperson services when rendered as a telemedicine service:

All of the following children's behavioral health (BH) rehabilitation services:

  - Home-based models (codes H2019 & T1017 and modifiers for Intensive In-Home Child and Adolescent Psychiatric Services (IICAPS));
  - Emergency Mobile Psychiatric Services (EMPS) (codes S9484 & S9485); and
  - Extended Day Treatment (EDT), non-group services (code H2012)

Autism spectrum disorder treatment services (97153 & H2014)

Targeted case management (T1017)

Case management (T1016)

Family therapy without the patient (90846)

- "Also effective for dates of service March 18, 2020 and forward, to the extent permitted by other applicable federal and state requirements, Opioid Treatment Programs (OTPs) can fulfill the face-to-face requirement with a physician, Advance Practice Registered

Nurse (APRN) or Physician Assistant (PA) seeing the individual via telemedicine as part of the induction services, as long as there is a Registered Nurse in the same location as the individual when the telemedicine service is initiated and the qualified healthcare professional and the physician, APRN or PA are employed by the same OTP."

State of Connecticut Executive Order No. 7F (3/18/20)

- "Expansion of Medicaid Telehealth Coverage to Audio-Only Telephone. Section 17b-262 of the Connecticut General Statutes and any implementing regulations, policies rules or other directives related to the Connecticut Medical Assistance Program, whether or not specifically adopted pursuant to said statute, are modified to authorize the Commissioner of Social Services to temporarily waive any requirements contained therein as the Commissioner deems necessary to enable the Connecticut Medical Assistance Program to cover applicable services provided through audio-only telehealth services. The Commissioner may issue any order and take other action that she deems necessary to implement this order."

Birth to Three Providers, Remote Early Intervention Treatment Services, Provider Bulletin 2020-16 (3/16/20)

- "Effective for dates of service March 18, 2020 and forward, the following services may be provided via telemedicine by providers that are currently authorized to perform these services in accordance with all existing CMAP and other federal and state requirements. All of these services will be paid at the same rate as the equivalent inperson services when rendered as a telemedicine service:

"All of the following children's behavioral health (BH) rehabilitation services:

  - Home-based models (codes H2019 & T1017 and modifiers for Intensive In-Home Child and Adolescent Psychiatric Services (IICAPS));
  - Emergency Mobile Psychiatric Services (EMPS) (codes S9484 & S9485); and
  - Extended Day Treatment (EDT), non-group services (code H2012)

Autism spectrum disorder treatment services (97153 & H2014)

Targeted case management (T1017)

Case management (T1016)

Family therapy without the patient (90846)"

- "Also effective for dates of service March 18, 2020 and forward, to the extent permitted by other applicable federal and state requirements, Opioid Treatment Programs (OTPs) can fulfill the face-to-face requirement with a physician, Advanced Practice Registered Nurse (APRN) or Physician Assistant (PA) seeing the individual via telemedicine as part of the induction services, as long as there is a Registered Nurse in the same location as the individual when the telemedicine service is initiated and the qualified healthcare professional and the physician, APRN or PA are employed by the same OTP."

Connecticut Medical Assistance Program, Provider Bulletin 2020-17, (3/15/20)

- "During the Temporary Effective Period, DSS is authorizing Connecticut Medical Assistance Program (CMAP) coverage of remote Early Intervention Services (EIS) to the full extent authorized in the Office of Early Childhood (OEC) COVID-19 Interim Remote Early Intervention

(EI) Procedure, which is attached to this bulletin and is also posted at this link: https://www.birth23.org/providers/providerresources/procedures. OEC's Interim Remote EI Procedure substantially expands coverable Remote EIS during the Temporary Effective Period."

New Coverage of Specified Telemedicine Services Under the Connecticut Medical Assistance Program, Provider Bulletin 2020-09 (3/13/20)

- "Effective for dates of service March 13, 2020 and forward, in accordance with section 17b245e of the 2020 supplement to the Connecticut General Statutes, the Department of Social Services (DSS or Department) will implement full coverage of specified synchronized telemedicine, which is defined as an audio and video telecommunication system with real-time communication between the patient and practitioner. The coverage of specified synchronized telemedicine services will be covered under both Connecticut's Medicaid Program and Children's Health Insurance Program (CHIP)."

Connecticut takes steps to manage disruptions during coronavirus outbreak (3/13/20)

- "The Department of Social Services is making changes to Medicaid and Husky Health Program to offer more services, specifically focusing on telemedicine services, including real-time video conferencing with health care providers for medical and behavioral health services. This will affect some 850,000 people enrolled."

DELAWARE

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Delaware House Bill No. 455 (passed 6/29/22)

- "Section 5. Amend Chapter 25, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:
    - § 2535. Adverse actions on policies relating to provision of medical care for termination of pregnancy.
    - No insurer may, in issuing or renewing an insurance policy to a health care professional or health care organization, increase the premium on such policy or take other adverse action against any health care professional or health care organization who performs or assists in the provision of reproductive health services, as that term is defined in § 1702 of Title 24, that is legal in this State to an individual who is from out of the state. This section applies to a policy that covers any medical professional who prescribes medication for the termination of human pregnancy to an out-of-state patient by means of telehealth."

Delaware Extension of Public Health Emergency (updated on 1/10/22)

- "NOW, THEREFORE, I, JOHN C. CARNEY, pursuant to Title 20, Chapter 31 of the Delaware Code, to control and prevent the spread of COVID-19 within the State of Delaware, do hereby order that the following provisions shall become effective January 11, 2022 at 8:00 a.m. E.S.T., and shall continue until terminated as provided under state law:

- 1. The Public Health Authority is authorized to make, amend, and rescind orders, rules and regulations under Title 16 necessary for emergency management purposes."

Delaware Extension of Public Health Emergency (8/10/21)

- "Now therefore, I, John C. Carney, hereby declare:

1. The Public Health Emergency effective as of July 13, 2021 is extended, effective immediately.

2. Pursuant to Title 20, Chapter 31 of the Delaware Code, all provisions of the Public Health Emergency currently in place shall remain in full force and effect until terminated in accordance with state law."

Termination Of State Of Emergency For The State Of Delaware Due To A Public Health Threat (7/12/21)

- "I, John C. Carney, do hereby declare that: My declaration of a State of Emergency for the State of Delaware dated March 12, 2020 to become effective on March 13, 2020 at 8:00 a.m. E.D.T., including all its related orders, is hereby terminated as of Tuesday, July 13, 2021 at 12:01 a.m. E.D.T. approved this 12th day of July 2021 at 1:00 p.m."

Delaware House Bill No. 348: AN ACT TO AMEND TITLES 18 AND 24 OF THE DELAWARE CODE RELATING TO TELEMEDICINE SERVICES (signed by Governor 7/21/20)

- " 'Distant site' means a site at which a health care provider legally allowed to practice in the state or at which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if licensed under this title is located while providing health care services by means of telemedicine or telehealth."
- " 'Originating site' means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties"
- " 'Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation, which may not require the use of technology permitting visual communication"
- " 'Telemedicine' means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a health care provider practicing within his or her scope of practice as would be practiced in-person with a patient, and legally allowed to practice in the state, or other jurisdiction when treating a Delaware resident, while such patient is at an originating site and the health care provider is at a distant site."

Second Modification of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat (3/18/20)

- "Effective on March 18, 2020 at 8:00 pm E.D.T., all Title 24 statutory requirements that patients present in-person before telemedicine services may be provided are suspended. Further requirements that the patient must be present in Delaware at the time the telemedicine services are provided are suspended, so long as the patient is a Delaware resident."

State of Delaware Insurance Department Bulletin (3/9/20)

- "Testing for COVID-19 is a covered essential health benefit and access to telehealth and telemedicine services should be made available"
- "Carriers are directed to ensure that, as applicable, their telehealth and telemedicine programs with participating providers are robust and will be able to meet any increased demand. Services may be provided through a variety of platforms, including telephones, remote patient monitoring devices, and other electronic means such as web cameras and mobile facetime."

State Licensure Laws, Policy, and Guidance

Delaware House Bill No. 334 (passed 10/21/2022)

- "(c) A health-care provider licensed in a state that has not adopted an interstate compact applicable to the health-care provider may only provide telehealth under this chapter if the health-care provider obtains an interstate telehealth registration from the Division of Professional Regulation. A health-care provider is eligible for an interstate telehealth registration only if all of the following requirements are continuously met:
    - (1) The health-care provider holds a valid, active license issued by another state's licensing authority or board.
    - (2) The health-care provider is licensed in good standing in all states in which the health-care provider is licensed.
    - (3) The health-care provider is not the subject of an administrative complaint which is currently pending before another state's licensing authority or board.
    - (4) The health-care provider is not currently under investigation by another state's licensing authority or board, or any authority in this State.
    - (d) A health-care provider who obtains an interstate telehealth registration under subsection (c) of this section consents and agrees to be subject to all of the following:
    - (1) The law of this State regarding the health-care provider's profession in this State, including all provisions of Title 11, Title 16, and Title 24, and all regulations of this State.
    - (2) The judicial system of this State, which includes consenting and agreeing to be subject to the personal jurisdiction of the courts of this State under Chapter 31 of Title 10.
    - (3) All profession conduct rules and standards incorporated into the practice act for the health-care provider's profession.
    - (4) The jurisdiction of the applicable licensing board in this State, including the board's complaint, investigation, and hearing process. Any discipline imposed by a licensing board in this State may be reported to the applicable National Practitioner Database, as well as to every jurisdiction in which the health-care provider holds a license."

Delaware Senate Bill No. 247 (passed 8/4/22)

- "The State hereby enters into the Interstate Occupational Therapy Licensure Compact ("Compact") as set forth in the chapter. The text of the Compact is as set forth in this chapter."
- "This Compact is designed to facilitate the use of Telehealth technology in order to increase access to Occupational Therapy services."
- ""Telehealth" means the application of telecommunication technology to deliver Occupational Therapy services for assessment, intervention and/or consultation."

Delaware Senate Bill No. 257 (passed 8/4/22)

- "The purpose of this Compact is to facilitate interstate practice of Licensed Professional Counselors with the goal of improving public access to Professional Counseling services. The practice of Professional Counseling occurs in the state where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure."
- "This Compact is designed to achieve the following objectives…allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services;"
- "Telehealth" means the application of telecommunication technology to deliver Professional Counseling services remotely to assess, diagnose, and treat behavioral health conditions."
- "Member states shall recognize the right of a Licensed Professional Counselor, licensed by a Home state in accordance with § 3003A of this title and under Rules promulgated by the Commission, to practice Professional Counseling in any Member state via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission."

Delaware Senate Bill No. 272 (passed 8/4/22)

- "The State hereby enters into the Audiology and Speech-Language Pathology Interstate Compact ("Compact") as set forth in this chapter."
- "This Compact is designed to achieve the following objectives…allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology"
- "Telehealth" means the application of telecommunication, audio-visual, or other technology that meets the applicable standard of care to deliver audiology or speech-language pathology services at a distance for assessment, intervention and/or consultation."
- "Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with § 3704A of this Title and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission."

Delaware House Bill No. 160: Telehealth Access Preservation and Modernization Act of 2021 (passed 6/23/21)

- "Health-care providers licensed by the following professional boards existing under this title are authorized to deliver health-care services by telehealth and telemedicine subject to the provisions of this chapter:

(1) The Board of Podiatry created pursuant to Chapter66 5 of this title. (2) The Board of Chiropractic created pursuant to Chapter 7 of this title. (3) The Board of Medical Practice created pursuant Chapter 17 of this title. (4) The State Board of Dentistry and Dental Hygiene created pursuant to Chapter 11 of this title. (5) The Delaware Board of Nursing created pursuant to Chapter 19 of this title. (6) The Board of Occupational Therapy Practice created pursuant to Chapter 20 of this title. (7) The Board of Examiners in Optometry created pursuant to Chapter 21 of this title. (8) The Board of Pharmacy created pursuant to Chapter 25 of this title. (9) The Board of Mental Health and Chemical Dependency Professionals created pursuant to Chapter 30 of this title. (10) The Board of Examiners of Psychologists created pursuant to Chapter 35 of this title. (11) The State Board of Dietetics/Nutrition created pursuant to Chapter 38 of this title. (12) The Board of Social Work Examiners created pursuant to Chapter 39 of this title.

- Health-care services delivered by telehealth and telemedicine may be synchronous or asynchronous using store-and-forward technology. Telehealth and telemedicine services may be used to establish a provider-patient relationship only if the provider determines that the provider is able to meet the same standard of care as if the health-care services were being provided in-person.
- Treatment and consultation recommendations delivered by telehealth and telemedicine shall be subject to the same standards of appropriate practice as those in traditional (in-person encounter) settings. In the absence of a proper health-care provider-patient relationship, health-care providers are prohibited from issuing prescriptions solely in response to an Internet questionnaire, an Internet consult, or a telephone consult."

Delaware Executive Order C20-5: JOINT ORDER OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES AND THE DELAWARE EMERGENCY MANAGEMENT AGENCY (12/1/20)

- "All out of state mental health providers with an active license in good standing in any United States jurisdiction, including psychologists, mental health counselors, clinical social workers, chemical dependency counselors, and marriage and family therapists are hereby authorized to provide in-person and telemedicine mental health services in Delaware."

Division of Medicaid and Medical Assistance (DMMA) Changes to Telehealth Policies to Respond to COVID-19 (4/29/20)

- "In response to COVID-19, effective 3/18/2020 until further notice provided by Governor John Carney, DMMA relaxed eligibility requirements for providers providing Telehealth Services."
- "For services delivered through telehealth technology from DMAP or MCOs to be covered, healthcare practitioners must:

Act within their scope of practice;

Be licensed for the service for which they bill DMAP;

Any out of state healthcare provider who would be permitted to provide telemedicine services in Delaware if they were licensed under Title 24 may provide telemedicine services to a Delaware resident if they hold an active license in another jurisdiction.

*Be enrolled with, or have engaged in the process to become enrolled with, DMAP/MCOs (note: Providers must be free of any federal sanctions, adverse actions, and encumbrances); and

Be located within the continental United States. Additionally, Title 24 requirements that patients present in person before telemedicine services may be provided are suspended."

Delaware Health & Social Services (DHSS)/Division of Medical Assistance (DMMA) Telehealth & COVID-19 FAQs (updated 4/23/20)

- "Q: What types of providers are eligible to provide Telehealth?"

"A: In response to COVID-19, Effective 3/18/2020 until further notice provided by Governor John Carney, DMMA relaxed eligibility requirements for providers providing Telehealth Services. For services delivered through telehealth technology from DMAP or MCOs to be covered, healthcare practitioners must:

  - Act within their scope of practice;
  - Be licensed for the service for which they bill DMAP;

- Any out of state healthcare provider who would be permitted to provide telemedicine services in Delaware if they were licensed under Title 24 may provide telemedicine services to a Delaware resident if they hold an active license in another jurisdiction.

Be enrolled with, or have engaged in the process to become enrolled with, DMAP/MCOs; and

Be located within the continental United States."

Joint Order of the Department of Health and Social Services and the Delaware Emergency Management Agency (3/24/20)

- "1. Out of state health care providers, including physicians, pharmacists, respiratory therapists, physician assistants, paramedics, emergency medical technicians, practical nurses, professional nurses, advanced practice registered nurses, and nursing assistants with an active license or certification in good standing in any United States jurisdiction are hereby authorized to provide healthcare services in Delaware; and
- "2. All physicians, pharmacists, respiratory therapists, physician assistants, paramedics, emergency medical technicians, practical nurses, professional nurses, advanced practice registered nurses, and nursing assistants who have held an active Delaware license or certification within the last five years, which is now inactive, expired, or lapsed, may provide healthcare services in Delaware, so long as that license was active and in good standing for the duration of the five-year period prior to the date it went inactive, expired or lapsed; and
- "3. All out of state mental health providers with an active license in good standing in any United States jurisdiction, including psychologists, mental health counselors, clinical social workers, chemical dependency counselors, and marriage and family therapists are hereby authorized to provide in-person and telemedicine mental health services in Delaware; and
- "4. All psychologists, mental health counselors, clinical social workers, chemical dependency counselors, and marriage and family therapists who have held an active Delaware license within the last five years, which is now inactive, expired, or lapsed, may provide mental healthcare services in Delaware, so long as that license was active and in good standing for the duration of the five-year period prior to the date it went inactive, expired or lapsed; and

- "5. Students currently enrolled in a Delaware Board of Nursing approved nursing school are hereby authorized to conduct medical examinations and tests, and perform administrative duties, so long as any such student is supervised by a nurse, physician assistant, advanced practice registered nurse, or physician with an active Delaware license; and
- "6. Students currently seeking a degree that will meet the requirements of 24 Del. C. § 1720(b)(2) when the degree is conferred, are hereby authorized to conduct medical examinations and tests, and perform administrative duties, so long as any such student is supervised by a physician with an active Delaware license; and
- "7. Any out-of-state health care provider, inactive health care provider, or qualified person appointed pursuant to this order shall be considered a public employee under §§4001- 4002 of Title 10."

Second Modification of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat (3/18/20)

- "Any out of state healthcare provider who would be permitted to provide telemedicine services in Delaware if they were licensed under Title 24 may provide telemedicine services to a Delaware resident if they hold an active license in another jurisdiction. The Delaware Board of Medical Licensure and Discipline's Regulation 19 regarding restrictions on the use of telemedicine is suspended."

Medicaid Law, Policy and Guidance Related to Telehealth

Telehealth Letter to Pharmacists (May 2020)

- "The amendment allows practitioners licensed in other states to practice telehealth with Delaware residents, conditional upon several requirements. The amendment also lifts all in-person requirements for telehealth during the State of Emergency. Finally, if a practitioner is otherwise authorized to prescribe controlled substances, i.e. they have prescriptive authority, hold an active DEA number, including an XDEA number, they may prescribe controlled substances through telehealth during the State of Emergency. The Board of Medical Licensure & Discipline's Regulation 19, prohibiting the prescribing of controlled substances by telehealth, has been suspended during the State of Emergency."

Division of Medicaid and Medical Assistance (DMMA) Changes to Telehealth Policies to Respond to COVID-19 (4/29/20)

- "DMMA has a longstanding Telehealth Policy that allows for all State Plan Services to be provided via Telehealth. In response to COVID-19, DMMA has expanded the methods that Telehealth may be delivered to include:

Interactive Communication – Provider and patient interact in "real-time" using an interactive telecommunications system that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient, at the originating site, and the physician or practitioner at the distant site; or

Telephonic Services – In addition to Interactive Telehealth Services, telephones are an acceptable mode to deliver telehealth if the following conditions are met:

  - It is determined that Interactive Telehealth Services are unavailable, and
  - Telephonic Services are medically appropriate for the underlying covered service."

"Chart reviews, electronic mail messages, facsimile transmissions or internet services for online medical evaluations are not coverable telehealth services."

"In response to COVID-19, effective 3/18/2020 until further notice provided by Governor John Carney, Title 24 requirements that patients be present in Delaware at the time the telemedicine service is provided are suspended, so long as the patient is a Delaware resident."

- "Prior authorization for telehealth-delivered services is not required, but the Distant Site provider must obtain prior approval for any other covered services which would normally require prior authorization."

Delaware Health & Social Services (DHSS)/Division of Medical Assistance (DMMA) Telehealth & COVID-19 FAQs (updated 4/23/20)

- "Q: Will DMMA be following CMS Guidance to expand Telehealth Services to Include Telephonic Services?"

"A: Yes. In response to COVID-19, DMMA has expanded the methods that Telehealth may be delivered to include Telephonic Services in addition to Interactive Telehealth, if it is determined that Interactive Telehealth Services are unavailable, and Telephonic Services are medically appropriate for the underlying covered service."

"Additionally, Effective 3/18/2020 until further notice, Title 24 requirements that patients present in person before telemedicine services may be provided are suspended."

- "Q: Can we do telehealth visits with patients who reside in PA and MD?"

"A: In response to COVID-19, Effective 3/18/2020 until further notice provided by Governor John Carney, Title 24 requirements that patients be present in Delaware at the time the telemedicine service is provided are suspended, so long as the patient is a Delaware resident"

- "Q: Are there any restrictions on where the patient is located when receiving Telehealth Services?"

"A: No. Two distinct sites are necessary for delivering telehealth services. The Originating Site refers to the location of the patient during the telehealth encounter. An approved originating site may include the DMAP member's place of residence or any alternate location in which the member is physically present and telehealth can be effectively utilized."

"Additionally, effective 3/18/2020 until further notice, Title 24 requirements that patients be present in Delaware at the time the telemedicine service is provided are suspended, so long as the patient is a Delaware resident."

- "Q: Are there restrictions on where the rendering/distant site provider is located when providing Telehealth Services? Is a physician's residence allowed as a Distant Site?"

"A: No. Two distinct sites are necessary for delivering telehealth services. The Distant Site, refers to the site at which the physician or other licensed practitioner delivering the service is located at the time the telehealth service is provided. Generally, providers are not required to be physically present at a specific site, in which case the physician's residence is an acceptable site, as long as the provider is making good faith efforts to protect the patient's privacy rights. However, some state plan services may have site restrictions that do require this. DMMA is working to identify any of these services and lift this requirement where necessary and allowable to maximize telehealth flexibilities during this response and ensure necessary care is delivered."

- "Q: Will DMMA enforce an established relationship requirement?"

"A: No. In response to COVID-19, Effective 3/18/2020 until further notice provided by Governor John Carney, Title 24 requirements that patients present in person before telemedicine services may be provided are suspended.

It is imperative during this public health emergency that patients avoid travel, when possible, to physicians' offices, clinics, hospitals, or other health care facilities where they could risk their own or others' exposure to further illness."

Division of Medicaid and Medical Assistance Changes to Telehealth Policies to Response to COVID-19 (updated 4/23/20)

- "DMMA has a longstanding Telehealth Policy that allows for all State Plan Services to be provided via Telehealth. In response to COVID-19, DMMA has expanded the methods that Telehealth may be delivered to include:

"Interactive Communication – Provider and patient interact in "real time" using an interactive telecommunications system that includes, at a minimum, audio and video equipment permitting two-way, real time interactive communication between the patient, at the originating site, and the physician or practitioner at the distant site; or

"Telephonic Services – In addition to Interactive Telehealth Services, telephones are an acceptable mode to deliver telehealth if the following conditions are met:

  - It is determined that Interactive Telehealth Services are unavailable, and
  - Telephonic Services are medically appropriate for the underlying covered service.

"Chart reviews, electronic mail messages, facsimile transmissions or internet services for online medical evaluations are not coverable telehealth services."

- "In response to COVID-19, Effective 3/18/2020 until further notice provided by Governor John Carney, Title 24 requirements that patients be present in Delaware at the time the telemedicine service is provided are suspended, so long as the patient is a Delaware resident."
- "In response to COVID-19, Effective 3/18/2020 until further notice provided by Governor John Carney, DMMA relaxed eligibility requirements for providers providing Telehealth Services. For services delivered through telehealth technology from DMAP or MCOs to be covered, healthcare practitioners must:

Act within their scope of practice;

Be licensed for the service for which they bill DMAP;

  - Any out of state healthcare provider who would be permitted to provide telemedicine services in Delaware if they were licensed under Title 24 may provide telemedicine services to a Delaware resident if they hold an active license in another jurisdiction.

Be enrolled with, or have engaged in the process to become enrolled with, DMAP/MCOs; and

Be located within the continental United States."

- "Additionally, Title 24 requirements that patients present in person before telemedicine services may be provided are suspended."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/7/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Other [Describe]:
Nurse Consultation - During the declared State of Emergency, Nurse Consultants will be allowed to remotely perform monitoring activities that would normally be performed in a provider-managed setting. Nurse Consultants will endeavor to perform as many of the duties specified in Appendix C that can be done remotely using telephonic and video technology.
Behavior Consultation - During the declared State of Emergency, the Behavior Analyst must have direct observation of the waiver member in order to develop the Functional Behavior Assessment. The development of the Behavior Support Plan, the training of Direct Support Professionals on how to execute the plan and monitoring of the participant's response to the plan may be done remotely using telephonic and video technology whenever practicable. If the provider can document that a Behavior Support Plan continues to meet the needs of the individual, the state may allow the BSP to remain in effect for up to 90 day after the renewal date. The state will ensure that the BSP is modified if it no longer meets the needs of the member. If psychiatric appointments can be held via telehealth, the Behavior Analyst must join the session via electronic means if their attendance is requested by the waiver member."

Delaware State Medicaid Policies Related to COVID-19 (revised 3/19/20)

- "To the extent it is practical, DMMA encourages the use of telehealth to provide COVID–19 related services to Medicaid members. In accordance with the Governor's amended Executive Order, CMS guidance for Medicaid telehealth services, and the Office for Civil Rights Notification of Enforcement Discretion for telehealth remote applications, DMMA is revising telehealth policies to remove barriers created by requirements that patients present in-person before telehealth services may be provided and allow out of state healthcare providers to provide services if they hold an active license in another jurisdiction. DMMA will also expand allowable interfaces. (Additional guidance regarding telehealth is under review and will be issued shortly)"

FLORIDA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Florida Senate Bill No. 300 (passed 4/14/23)

- "Section 4. Subsections (1), (2), (10), and (13) of section 390.0111, Florida Statutes, are amended to read:
    - 390.0111 Termination of pregnancies.—

- (2) IN-PERSON PERFORMANCE BY PHYSICIAN REQUIRED.--Only a physician may perform or induce a ~~No~~ termination of pregnancy ~~shall be performed at any time except by a physician as defined in s. 390.011~~. A physician may not use telehealth as defined in s. 456.47 to perform an abortion, including, but not limited to, medical abortions. Any medications intended for use in a medical abortion must be dispensed in person by a physician and may not be dispensed through the United States Postal Service or by any other courier or shipping service.

- Section 7. Paragraph (f) is added to subsection (2) of section 456.47, Florida Statutes, to read:
  - 456.47 Use of telehealth to provide services.--
    - (2) PRACTICE STANDARDS.--
      - (f) A telehealth provider may not use telehealth to perform an abortion, including, but not limited to, medical abortions as defined in s. 390.011."

Florida Senate Bill No. 1232 (introduced 3/22/23) / House Bill No. 997 (introduced 3/7/23)

- "An act relating to telehealth prescribing; amending s. 456.47, F.S.; revising the circumstances under which a telehealth provider may use telehealth to prescribe certain controlled substances; providing an effective date."
  - Section 1. Paragraph (c) of subsection (2) of section 456.47, Florida Statutes, is amended to read:
    - 456.47 Use of telehealth to provide services.
      - (2) PRACTICE STANDARDS.
        - (c) A telehealth provider may not use telehealth to prescribe a controlled substance listed in Schedule II of s. 893.03 unless the controlled substance is prescribed for the following:
          - 1. The treatment of a psychiatric disorder;
          - 2. Inpatient treatment at a hospital licensed under chapter 395;
          - 3. The treatment of a patient receiving hospice services as defined in s. 400.601; or
          - 4. The treatment of a resident of a nursing home facility as defined in s. 400.021;
          - 5. The treatment of a terminal condition as defined in s. 456.44(1)(a)2.; or
          - 6. The treatment of cancer.
  - Section 2. This act shall take effect July 1, 2023.

Florida Senate Bill No. 298 (introduced 3/16/23) / House Bill No. 267 (introduced 3/7/23)

- "An act relating to telehealth practice standards; amending s. 456.47, F.S.; revising the definition of the term "telehealth"; providing an effective date."
  - Section 1. Paragraph (a) of subsection (1) of section 456.47, Florida Statutes, is amended to read:
    - 456.47 Use of telehealth to provide services.--
      - (1) DEFINITIONS.--As used in this section, the term:
        - (a) "Telehealth" means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional

health-related education; public health services; and health administration. The term does not include ~~audio-only telephone calls~~, e-mail messages~~,~~ or facsimile transmissions.
    - Section 2. This act shall take effect July 1, 2023.

Florida Senate Bill 218 (introduced 2/21/23)

- "An act relating to genetic counselors using telehealth; amending s. 456.47, F.S.; revising the definition of the term "telehealth provider" to include persons licensed as genetic counselors; providing an effective date."

Florida House Bill 169 (introduced 1/17/23)

- "(7)(a) An employing agency of a first responder, including volunteer first responders, must pay for up to 12 hours of licensed counseling for a first responder who experiences an event listed in subparagraph (5)(a)2. in the course of his or her employment."
- "The licensed counseling may be in person or via telehealth in accordance with s. 456.47."

Florida House Bill No. 117 (introduced 1/10/23)

- "An act relating to genetic counselors using telehealth; amending s. 456.47, F.S.; revising the definition of the term "telehealth provider" to include persons licensed as genetic counselors; providing an effective date."

Florida House Bill No. 79 (withdrawn 1/18/23)

- "Telehealth" means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include ~~audio-only telephone calls~~ e-mail messages, or facsimile transmissions. Section 2. For the purpose of incorporating the amendment made by this act to section 456.47, Florida Statutes, in a reference thereto, subsection (47) of section 394.455, Florida Statutes, is reenacted to read:
    - 394.455 Definitions.—As used in this part, the term: (47) "Telehealth" has the same meaning as provided in s. 456.47."

Florida Senate Bill No. 312 (passed 1/31/22)

- "(a) "Telehealth" means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages, or facsimile transmissions."

Florida House Bill No. 1087 (introduced 1/11/22)

- "Section 1. Paragraph (c) of subsection (2) of section 409.967, Florida Statutes, is amended to read: 409.967 Managed care plan accountability.— (2) The agency shall establish such contract requirements as are necessary for the operation of the statewide managed care program. In addition to any other provisions the agency may deem necessary, the contract must require:
    - (c) Access.—
    - 1. The agency shall establish specific standards for the number, type, and regional distribution of providers in managed care plan networks to ensure access to care for both adults and children. Each plan must maintain a regionwide network of providers in

sufficient numbers to meet the access standards for specific medical services for all recipients enrolled in the plan. A plan may not use providers who provide services exclusively through telehealth as defined in s. 456.47(1) to meet this requirement.

- Section 2. Section 627.42396, Florida Statutes, is amended to read: 627.42396 Requirements for reimbursement by health insurers for telehealth services.—
  - (1) An individual, group, blanket, or franchise health insurance policy delivered or issued for delivery to any insured person in this state on or after January 1, 2023, may not deny coverage for a covered service on the basis of the service being provided through telehealth if the same service would be covered if provided through an in-person encounter.
  - (2) A health insurer may not exclude an otherwise covered service from coverage solely because the service is provided through telehealth rather than through an in-person encounter.
  - (3) A health insurer shall reimburse a telehealth provider for the diagnosis, consultation, or treatment of any insured person provided through telehealth on the same basis and at least at the same rate that the health insurer would reimburse the provider if the covered service were delivered through an in-person encounter. However, a health insurer may not require a health care provider or telehealth provider to accept a reimbursement amount greater than the amount the provider is willing to charge.
  - (4) A health insurer shall reimburse a telehealth provider for reasonable originating site fees or costs for the provision of telehealth services.
  - (5) A covered service provided through telehealth may not be subject to a greater deductible, copayment, or coinsurance amount than would apply if the same service were provided through an in-person encounter.
  - (6) A health insurer may not impose upon any insured person receiving benefits under this section any copayment, coinsurance, or deductible amount or any policy-year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services provided through telehealth which is not equally imposed upon all terms and services covered under the policy.
  - (7) A health insurer may not require an insured person to obtain a covered service through telehealth instead of an in person encounter.
  - (8) This section does not preclude a health insurer from conducting a utilization review to determine the appropriateness of telehealth as a means of delivering a covered service if such determination is made in the same manner as would be made for the same service provided through an in-person encounter.
  - (9) A health insurer may limit the covered services provided through telehealth to providers who are in a network approved by the insurer
- Section 5. Section 641.31093, Florida Statutes, is created to read: 641.31093 Requirements for reimbursement by health maintenance organizations for telehealth services.—
  - (1) A health maintenance organization that offers, issues, or renews a major medical or similar comprehensive contract in this state on or after January 1, 2023, may not deny coverage for a covered service on the basis of the covered service being provided through telehealth if the same service would be covered if provided through an in-person encounter.
  - (2) A health maintenance organization may not exclude an otherwise covered service from coverage solely because the service is provided through telehealth rather than through an in-person encounter.

- (3) A health maintenance organization shall reimburse a telehealth provider for the diagnosis, consultation, or treatment of any subscriber provided through telehealth on the same basis and at least the same rate that the health maintenance organization would reimburse the provider if the service were provided through an in-person encounter. However, a health maintenance organization may not require a health care provider or telehealth provider to accept a reimbursement amount greater than the amount the provider is willing to charge.
- (4) A health maintenance organization shall reimburse a telehealth provider for reasonable originating site fees or costs for the provision of telehealth services.
- (5) A covered service provided through telehealth may not be subject to a greater deductible, copayment, or coinsurance amount than would apply if the same service were provided through an in-person encounter.
- (6) A health maintenance organization may not impose upon any subscriber receiving benefits under this section any copayment, coinsurance, or deductible amount or any contract year, calendar-year, lifetime, or other durational benefit limitation or maximum for benefits or services provided through telehealth which is not equally imposed upon all services covered under the contract.
- (7) A health maintenance organization may not require a subscriber to obtain a covered service through telehealth instead of an in-person encounter.
- (8) This section does not preclude a health maintenance organization from conducting a utilization review to determine the appropriateness of telehealth as a means of delivering a covered service if such determination is made in the same manner as would be made for the same service provided through an in person encounter.
- (9) A health maintenance organization may limit covered 258 services provided through telehealth to providers who are in a network approved by the health maintenance organization.

- Section 6. This act shall take effect July 1, 2022"

Florida House Bill No. 1459 (introduced 1/16/22)

- "Section 6. (1) Effective September 1, 2022, a Telehealth Pilot Program is created within the Department of Children and Families to provide services to Hillsborough, Leon, and Miami Dade Counties for 1 year. The purpose of this pilot program is to assess whether the use of involuntary examination of a minor is appropriate before the minor is transported for an involuntary examination."

Florida Senate Bill No. 164 (introduced 1/11/22)

- "Section 1. Paragraphs (a) and (g) of subsection (4) of section 381.986, Florida Statutes, are amended to read: 381.986 Medical use of marijuana.—
- (4) PHYSICIAN CERTIFICATION.—
- (a) A qualified physician may issue a physician certification only if the qualified physician:
  - 1. Conducted an a physical examination of while physically present in the same room as the patient and a full assessment of the medical history of the patient. For an initial certification, the examination must be a physical examination conducted while physically present in the same room as the patient. For a certification renewal, the examination may be conducted through telehealth as defined in s. 456.47."

Florida Senate Bill No. 768 (introduced 1/21/22)

- "When a registered intern provides clinical services through telehealth, a licensed mental health professional must be accessible by telephone or electronic means."

Florida Senate Bill No. 726 (introduced 11/2/21)

- "Managed care plan accountability. The agency shall establish such contract requirements as are necessary for the operation of the statewide managed care program. In addition to any other provisions the agency may deem necessary, the contract must require:
    - (c) Access.— 1. The agency shall establish specific standards for the number, type, and regional distribution of providers in managed care plan networks to ensure access to care for both adults and children. Each plan must maintain a regionwide network of providers in sufficient numbers to meet the access standards for specific medical services for all recipients enrolled in the plan. A plan may not use providers who exclusively provide services through telehealth as defined in s. 456.47 to meet this requirement.
- Requirements for reimbursement by health insurers for telehealth services.—
    - (1)An individual, group, blanket, or franchise health insurance policy delivered or issued for delivery to any insured person in this state on or after January 1, 2023, may not deny coverage for a covered service on the basis of the service being provided through telehealth if the same service would be covered if provided through an in-person encounter.
    - (2) A health insurer may not exclude an otherwise covered service from coverage solely because the service is provided through telehealth rather than through an in-person encounter.
    - (3) A health insurer shall reimburse a telehealth provider for the diagnosis, consultation, or treatment of any insured person provided through telehealth on the same basis and at least at the same rate that the health insurer would reimburse the provider if the covered service were delivered through an in-person encounter. However, a health insurer may not require a health care provider or telehealth provider to accept a reimbursement amount greater than the amount the provider is willing to charge.
    - (4) A health insurer shall reimburse a telehealth provider for reasonable originating site fees or costs for the provision of telehealth services.
    - (5) A covered service provided through telehealth may not be subject to a greater deductible, copayment, or coinsurance amount than would apply if the same service were provided through an in-person encounter.
    - (6) A health insurer may not impose upon any insured person receiving benefits under this section any copayment, coinsurance, or deductible amount or any policy-year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services provided through telehealth which is not equally imposed upon all terms and services covered under the policy.
    - (7) A health insurer may not require an insured person to obtain a covered service through telehealth instead of an in person encounter.
    - (8) This section does not preclude a health insurer from conducting a utilization review to determine the appropriateness of telehealth as a means of delivering a covered service if such determination is made in the same manner as would be made for the same service provided through an in-person encounter.

- (9) A health insurer may limit the covered services provided through telehealth to providers who are in a network approved by the insurer

- This act shall take effect July 1, 2022."

Florida Senate Bill No. 358 (introduced 9/27/21)

- "Compact privilege to practice telehealth
- (1) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with article III and under rules adopted by the commission, to practice professional counseling in any member state through telehealth under a privilege to practice as provided in the compact and rules adopted by the commission.
- (2) A licensee providing professional counseling services in a remote state through telehealth under the privilege to practice must adhere to the laws and rules of the remote state."

Florida Senate Bill No. 312 (introduced 9/22/21)

- "(c) A telehealth provider may not use telehealth to prescribe a controlled substance listed in Schedule II of s. 893.03 unless the controlled substance is prescribed for the following:
  - 1. The treatment of a psychiatric disorder;
  - 2. Inpatient treatment at a hospital licensed under chapter 395;
  - 3. The treatment of a patient receiving hospice services as defined in s. 400.601; or
  - 4. The treatment of a resident of a nursing home facility as defined in s. 400.021.
- This act shall take effect July 1, 2022."

Florida House Bill No. 17 (introduced 8/2/21)

- "(c) A telehealth provider may not use telehealth to prescribe a controlled substance listed in Schedule II of s.893.03 unless the controlled s substance is prescribed for the following:

1. The treatment of a psychiatric disorder;

2. Inpatient treatment at a hospital licensed under chapter 395;

3. The treatment of a patient receiving hospice services as defined in s. 400.601; or

4. The treatment of a resident of a nursing home facility as defined in s. 400.021.

- This act shall take effect July 1, 2022."

Emergency Order 20-007, Extension of Suspension of Statutes, Rules, and Orders, Made Necessary by COVID-19 (5/9/20)

- This order extends Emergency Order 20-002 to May 31, 2020, which expanded telehealth during COVID.

Florida Office of Insurance Regulation OIR-20-06M Telehealth and Pharmacy Audit Guidance (4/6/20)

- "In response to Governor Ron DeSantis' Executive Orders 20-51 and 20-52 establishing COVID-19 response protocols and declaring a state of emergency in the state of Florida, OIR issued Informational Memorandum OIR-20-06M to all health insurers, and other health entities regulated by OIR, and all Pharmacy Benefit Managers registered to do business in Florida to encourage the use of technology to help combat the spread of COVID-19."
- "All health insurers, health maintenance organizations, and other health entities are encouraged to broaden access to care for telehealth services to help alleviate hurdles for Floridians attempting to utilize telehealth services to receive needed care."
- "All registered Pharmacy Benefit Managers are requested to transition to an electronic audit process in order to avoid unnecessary risk and maintain social distancing, and extended audit deadlines when possible."

OIR-20-06M: Telehealth and Pharmacy Audit Guidance (4/6/20)

- "All health insurers, health maintenance organizations, and other health entities are encouraged to broaden access to care for telehealth services to help alleviate hurdles for Floridians attempting to utilize telehealth services to receive needed care."

Executive Order Number 20-85 (3/26/20)

- "A. I suspend the relevant portions of section 110. 123, Florida Statutes, and direct the Secretary of the Department of Management Services to amend the state employee health benefits plan documents effective immediately through the expiration of Executive Order 20-52, including any extensions, to include telehealth services at no additional cost to employees."
- "B. I suspend the relevant portions of section 110.12315, Florida Statutes, and direct the Secretary of the Department of Management Services to amend the state employee pharmacy benefits plan documents effective immediately through the expiration of Executive Order 20-52, including any extensions, to include telehealth services, as appropriate, to employees participating in the SOI plan."
- "C. I hereby direct the Department of Management Services, Division of State Group Insurance, to ensure that all state employees have access to telehealth services through the state's contracted HMO plans and PPO organization plan without cost sharing effective immediately through the expiration of Executive Order 20-52, including any extensions."

Governor DeSantis signs an executive order directing the state health officer to declare a public health emergency and take any actions needed to protect the public (3/1/20)

Governor DeSantis issues Executive Order 20-52 (3/12/20)

- "Medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by states other than the State of Florida may render such services in Florida during this emergency for persons affected by this emergency with the condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross or the Florida Department of Health."

State Licensure Laws, Policy, and Guidance

Florida House Bill No. 1521 (passed 4/8/22)

- "The compact is designed to achieve the following purposes and objectives:

- (1) Facilitate interstate practice of licensed professional counseling to increase public access to professional counseling services by providing for the mutual recognition of other member state licenses."

Florida Health: Important Updates for Health Care Providers Regarding Expiration of Emergency Orders (6/29/21)

- "Florida's Emergency Order 20-002 and Emergency Order 20-003 related to COVID-19 expired on June 26, 2021. The expiration of these orders impacts the following services that were temporarily authorized in the state of Florida:

Out-of-state health care practitioners are no longer authorized to render services for patients in Florida unless they become licensed to practice in Florida, except as specified in the HHS Guidance Memorandum Dated 3/12/2021, regarding vaccine administration.

Out-of-state health care practitioners are no longer authorized to perform telehealth services for patients in Florida unless they become licensed or registered in Florida.

Qualified physicians are required to conduct an in-person physical examination to issue a physician certification for any patient.

Controlled substance prescribers are required to conduct an in-person physical examination to issue a renewal prescription for a controlled substance."

Florida Board of Medicine Out-of-State Telehealth Provider Registration (2021)

- "The out-of-state telehealth provider registration is for health care practitioners licensed outside of Florida ONLY. Florida licensees can already provide telehealth services to patients in Florida that they can treat in person.
- Health care practitioners with an out-of-state license or certification that falls under section 456.47(1)(b), F.S, qualify for an out-of-state telehealth provider registration number when they meet the following requirements:

Submit the completed Application for Out-of-State Telehealth Provider Registration;

Maintain an active, unencumbered license from another state, the District of Columbia, or a possession or territory of the United States (license verification is required);

Not have a pending investigation, discipline, or revocation on your license within the last five years;

Designate a duly appointed registered agent for service of process in Florida (see Application for Out-of-State Telehealth Provider Registration)

Maintain liability coverage or financial responsibility for telehealth services provided to patients in Florida in an amount equal to or greater than Florida health care practitioner requirements

Not open a Florida office or provide in-person health care services to Florida patients

Only use a Florida-licensed pharmacy, registered nonresident pharmacy, or outsourcing facility to dispense medicinal drugs to patients in Florida (pharmacists only)."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/17/20)

- Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Public Health Emergency License Reactivation (4/13/20)

- "In an effort to ensure that all Floridians have access to licensed health care providers the Florida Department of Health will temporarily reactivate unencumbered inactive licenses for those who make a request through the Department as provided for in section 381.00315(1)(c)3., Florida Statutes."
- "Inactive medical doctors, osteopathic physicians, physician assistants, licensed practical nurses, registered nurses, advanced practice registered nurses, respiratory therapist, emergency medical technicians, and paramedics will have the option to temporarily reactive their inactive license for a period of 90 days to assist during the public health emergency due to COVID-19."

Suspension of Statues, Rules, and Orders Made Necessary by COVID-19, DOH No, 20-003 (3/21/20)

- "For purposes of preparing for, responding to, and mitigating any effect of COVID-19, any upcoming licensure renewal deadlines between March 21 and April 30, 2020, for any professional license issued by the Department or a Department board or council are extended until May 31, 2020. Any statute and/or rule to the contrary is hereby suspended until May 31, 2020, unless extended by order of the State Surgeon General."

State of Florida Department of Health DOH No, 20-002 (3/16/20)

- "For purposes of preparing for, responding to, and mitigating any effect of COVID-19, health care professionals, advanced life support professionals, and basic life support professionals holding a valid, unrestricted, and unencumbered license in any state, territory, and/or district may render such services in Florida during a period not to exceed thirty days unless extended by order of the State Surgeon General, if such health care practitioner does not represent or hold themselves out as a health care practitioner licensed to practice in Florida. The permitted provision of health care services and treatment by such persons is limited to those licensees as defined in section 456.001(4), part III of chapter 401, and part W of chapter 468, Florida Statutes, or licensees whose licenses are of a type that is commensurate with such Florida licenses. Any statute and/or rule to the contrary is hereby suspended for a period of thirty days, unless extended."

Medicaid Law, Policy and Guidance Related to Telehealth

Florida Medicaid Health Care Alert, iBudget Telemedicine ADT Services (7/31/20)

- "The purpose of this alert is to inform Developmental Disabilities Individual Budgeting (iBudget) Waiver adult day training (ADT) providers of the parameters for performing telemedicine ADT services. The Agency for Persons with Disabilities (APD), in conjunction with the Agency for Health Care Administration (AHCA), has been working on implementing strategies for meeting the needs of individuals who are

approved for ADT services while mitigating the spread of the novel coronavirus (COVID-19). This alert describes the requirements for telemedicine ADT service delivery."

- "Providers will be reimbursed for telemedicine ADT services at the same rate as listed on the iBudget Waiver rate table for on-site services."
- "The daily reimbursement for telemedicine ADT services is limited as follows:

Telemedicine ADT services that utilize visual communication will be reimbursed up to two, three-hour sessions per day.

Audio-only telemedicine ADT services will be reimbursed up to one hour per day.

Medicaid reimbursement will only be provided for time spent by a tele-presenter with participants."

Florida Medicaid Health Care Alert, Continuation of Florida Medicaid Flexibilities Implemented During the COVID-19 State of Emergency (7/1/20)

- "The purpose of this alert is to inform providers that flexibilities enacted under the Medicaid program during the COVID-19 state of emergency will continue until the Agency notifies providers that the flexibility is ending. At this time, the Agency has only discontinued the waiver of prior authorization requirements, which was detailed in the Agency's June 12, 2020 provider alert. This means that all other flexibilities remain in effect until further notice, including those related to telemedicine services."

Appendix K Amendment Approved: Telehealth (6/15/20)

- "On June 12, 2020, DCH submitted an Appendix K Amendment application to the Centers for Medicare and Medicaid Services (CMS) proposing to allow telehealth for delivery of community access and prevocational services otherwise provided in centers. DCH received CMS approval of the Amendment on June 15th."

Well-Child Visits Provided Via Telemedicine During the COVID-19 State of Emergency (5/29/20)

- "To assist with the response efforts to the 2019 novel coronavirus (COVID-19) state of emergency, the Agency for Health Care Administration (Agency) has provided additional flexibilities for providers via telehealth to ensure continuity of care for recipients. This provides flexibility for well-child visits using telemedicine during the state of emergency for medical providers to ensure continued care."
- "Providers may render a well-child visit using telemedicine (live/two-way communication that includes audio and video) during the state of emergency for children older than 24 months through 20 years for the following procedure codes: 99382-99385; 99392-99395"
- "In accordance with the American Academy of Pediatrics guidance, providers should prioritize in-person newborn care, newborn well-visits, and immunization of infants and young children through 24 months of age. Therefore, Florida Medicaid will not reimburse for well-child visits performed via telemedicine for children ages 24 months and younger."

Florida Medicaid Telemedicine Guidance for Therapy Services and Early Intervention Services (4/27/20, replaces 3/20/20 provider alert)

- "To ensure that Florida Medicaid providers can maintain continuity of care during the state of emergency, the Agency is expanding coverage of early intervention services provided through telemedicine. These flexibilities apply to services provided through both the Statewide Medicaid Managed Care program and the fee-for-service delivery system when the provider is unable to provide care physically

face-to-face on that date of service (e.g. the provider is diagnosed with COVID-19, community or home-based care was not an option, etc.)."

- "Florida Medicaid will reimburse for the delivery of early intervention screenings and evaluations (initial and follow-up) via telemedicine when the service is delivered in accordance with federal and state law requirements (e.g., multidisciplinary team requirements can be met through live, two-way audio and video capabilities). The service must be completed in its entirety, as detailed in the EIS coverage policy and fee schedule."
- "Florida Medicaid will reimburse for the delivery of early intervention sessions via telemedicine when performed by an eligible EIS provider (as defined in the Medicaid coverage policy) to provide family training designed to support the caregiver in the delivery of care. The provider must guide the caregiver in the implementation of certain components of the recipient's individualized family support plan to promote carryover of treatment gains. Providers are required to ensure caregivers can perform the tasks."

Statewide Medicaid Managed Care (SMMC) Policy Transmittal: 2020-25, applicable to Managed Medical Assistance (MMA) and MMA Specialty (4/21/20)

- "At a minimum, the managed care plan must cover behavioral health services delivered via telemedicine/telehealth, as directed by the Agency, during the state of emergency."
- "The managed care plan must reimburse behavioral health providers for the following services if video capability is not availability and the services can only be provided telephonically. This modality must be used as a last resort, and the provider must document that the enrollee did not have access to audio and video technology necessary for the service to be fully provided via telemedicine."

Medicaid Telemedicine Flexibilities for Behavioral Health Providers During the COVID-19 State of Emergency (4/16/20)

- "Florida reimburses behavioral health providers for the services listed in the table below when provided via telemedicine (live, two-way communication). Providers must perform all service components designated for the procedure code billed."
- Therapeutic behavior on-site (TBOS) "Florida Medicaid will reimburse for up to two (2) hours of parent training per day, per recipient, for the purposes of caregiver training when services cannot be delivered in the home and the caregiver needs to be supported in the delivery of care. The provider must guide the caregiver in the implementation of certain components of the recipient's treatment plan to promote carryover of treatment gains."
- Psychosocial Rehabilitation (PSR) "Florida Medicaid will reimburse for up to two (2) hours per day, as detailed in the coverage policy and on the recipient's treatment plan"
- "Florida Medicaid will reimburse behavioral health providers for the following services if video capability is not availability and the services can only be provided telephonically. This modality must be used as a last resort, and the provider must document that the enrollee did not have access to audio and video technology necessary for the service to be fully provided via telemedicine."

COVID-19: Florida Medicaid Frequently Asked Questions (updated 4/10/20)

- Q: "Will AHCA allow telemedicine for delivery of medical and behavioral health services to my existing patients?"

A: "Yes. The Agency for Health Care Administration (Agency) covers telemedicine for medical and behavioral health services, including evaluation, diagnostic, and treatment services. In addition, the Agency is expanding coverage to include telephone communications for physicians and physician extenders. The Agency recently issued guidance on the provision of medical and behavioral health services through telemedicine during the state of emergency."

- Q: "Will AHCA allow telemedicine for therapy services? "

A: "Yes. The Agency covers telemedicine for therapy services (occupational, speech, and physical therapy), including evaluation, diagnostic, and treatment services as long as services can be delivered in a manner that is consistent with the standard of care. The Agency recently issued guidance on the provision of therapy services through telemedicine during the state of emergency."

- Q: "Will AHCA allow telemedicine for behavior analysis services?"

A: "Yes. The Agency recently issued guidance on the provision of behavior analysis services through telemedicine for the purpose of providing caregiver training during the state of emergency when providers are not able to deliver services because the center is closed (when care is delivered in a center and home-based care is not an option) or when services cannot be delivered in the home because the provider or recipient met one or more of the self-screening criteria developed by the Centers for Disease Control and the Department of Health."

- Q: "Can I get paid the same for a session using telemedicine as I would get paid if the service was face-to-face?"

A: "Yes. In the fee-for-service delivery system, Florida Medicaid reimburses at the same rate that is listed on the EIS fee schedule for sessions. During this state of emergency, the Agency is requiring Medicaid health plans to also pay the same rate for services that are provided via telemedicine as those that are provided through a face-to-face encounter."

- Q: "Can all early intervention services (EIS) such as, evaluations, screenings, and sessions be provided using telemedicine?

A: "Yes. Florida Medicaid will reimburse for EIS sessions for the purpose of delivering family training designed to support the caregiver when the provider is not able to perform services in-person. In addition, Florida Medicaid will reimburse for screening and evaluation early intervention services when the service is delivered in accordance with federal and state law requirements (e.g., multidisciplinary team requirements can be met through audio and video capabilities)."

- Q: "Can federally qualified health centers (FQHCs) receive the PPS rate for services provided via telemedicine, including those that are provided telephonically?"

"Yes. FQHCs will be reimbursed at the PPS rate for services provided via telemedicine, including services provided by telephone only (audio-only)."

Statewide Medicaid Managed Care (SMMC) Policy Transmittal 2020-20 (4/3/20)

- This guidance is applicable to Managed Medical Assistance (MMA) and MMA Specialty, Long Term Care, and Dental contracts
- "During the state of emergency, the managed care plan must reimburse services provided via telemedicine at the same rate that is paid if the services were delivered through a face-to-face encounter (i.e., payment parity). This provision only applies when the encounter includes a two-way live audio and video link between the enrollee and health care provider for the duration of the service."

- "The managed care plan must expand its coverage of telehealth services to include coverage of the telephone communications, only when rendered by licensed physicians (includes psychiatrists), physician extenders, and licensed behavioral health practitioners:"
- "The managed care plan must provide coverage for the delivery of therapy services (speechlanguage pathology, physical, and occupational therapy) via telemedicine (audio and video) to the extent that services can be delivered in a manner that is provided consistent with the standards of care and all service components designated in the American Medical Association's Current Procedural Terminology code set and the Florida Medicaid coverage policy."

Florida Medicaid Health Care Alert: UPDATE: COVID-19 Telemedicine Guidance for Behavior Analysis Services (4/3/20)

- "The purpose of this alert is to provide additional flexibility for Medicaid providers of behavior analysis services during the COVID-19 state of emergency to ensure continuity of care. This alert replaces the alert published on March 18, 2020 titled "Telemedicine Guidance for Behavior Analysis Services."
- "Behavior analysis services may be provided via telemedicine for the purposes of caregiver training when the caregiver needs to be supported in the delivery of care because the provider is unable to provide care on that date of service (e.g., provider is diagnosed with COVID-19, the center is closed and home-based care was not an option, etc.). The provider must guide the caregiver in the implementation of certain components of the recipient's behavior plan to promote carryover of treatment gains."
- "During the state of emergency, providers may utilize the currently approved Lead Analyst or Board Certified Assistant Behavior Analyst (BCaBA) hours (procedure codes H2019 BA or H2012 BA) to render services using telemedicine in order to promote in-home training and direct observation of the registered behavior technician (RBT) on the implementation of the behavior plan and intervention strategies. Lead analysts or BCaBA providers rendering services using telemedicine must continue to implement behavior analysis interventions, including monitoring and assessing the recipient's progress towards goals in the behavior plan."

Florida Medicaid, Medicaid Telemedicine Guidance for Medical and Behavioral Health Providers (3/18/20)

- "Medicaid health plans have broad flexibility in covering telemedicine services, including remote patient monitoring and store-and-forward services. The Agency has encouraged plans to ensure the use of services via telemedicine is maximized (as appropriate and allowable with the practitioner's scope of practice) to be responsive to workforce shortages or to meet the needs of enrollees who are homebound or are being monitored in the home. Please contact the health plans directly to inquire about their telemedicine requirements and reimbursement rates."
- "During the state of emergency, the Agency is expanding services provided through telemedicine (live, two-way communication) through the fee-for-service delivery system to include the below treatment services, as medically necessary:" Services include:

Brief individual medical psychotherapy, mental health

Brief individual medical psychotherapy, substance abuse

Individual Therapy

Family Therapy

Medication Management

Behavioral health-related medical services: verbal interaction, mental health

Behavioral health-related medical services: verbal interaction, substance abuse

Medication-assisted treatment services

Face-to-face contact prior to SIPP discharge and the home visit interview requirement components of Mental Health Targeted Case Management

- "For certain evaluation and management services provided during the state of emergency period, the Agency is expanding telehealth to include store-and-forward and remote patient monitoring modalities rendered by licensed physicians and physician extenders (including those operating within a clinic) functioning within their scope of practice."

GEORGIA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Georgia Senate Bill No. 20 (enrolled 4/5/23)

- "SECTION 2. Chapter 20E of Title 33 of the Official Code of Georgia Annotated, the "Surprise Billing Consumer Protection Act," is amended by adding new Code sections to read as follows:
    - (e) An insurer shall not:
        - (1) Require prior authorization, medical review, or administrative clearance for a telehealth service that would not be required if such service were provided in person;
        - (2) Require demonstration that it is necessary to provide a service to a covered person through telehealth;
        - (3) Require a provider to be employed by another provider or agency in order to provide a telehealth service that would not be required if such service were provided in person;
        - (4) Restrict or deny coverage of a telehealth service based solely on the communication technology or application used to deliver such service;
        - (5) Require a provider to be part of a telehealth network;
        - (6) Require a covered person to utilize telehealth or telemedicine in lieu of a nonparticipating provider accessible for in-person consultation or contact; or
        - (7) Be required to pay a facility fee to a hospital for telehealth services unless the hospital is the originating site as defined in subsection (b) of Code Section 33-24-56.4."

Georgia House Bill No. 839 (introduced 3/29/23)

- "SECTION 2. Said chapter is further amended by adding a new article to read as follows:

- ARTICLE 3
  - 43-10A-61.
    - The Social Work Licensure Compact is enacted into law and entered into by the State of Georgia with any and all other states legally joining therein in the form substantially as follows:
      - SECTION 1: PURPOSE
        - The purpose of this Compact is to facilitate interstate practice of Regulated Social Workers by improving public access to competent Social Work Services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure. This Compact is designed to achieve the following objectives:
          - I. Allow for the use of telehealth to facilitate increased access to regulated Social Work Services."

Georgia House Bill No. 844 (introduced 3/29/23)

- "SECTION 1-1. Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by repealing and reenacting Chapter 11A, the "Dietetics Practice Act," as follows:
  - 43-11A-19.
    - (b) A licensed dietitian nutritionist or licensed nutritionist may:
      - (8) Provide services constituting the practice of nutrition and dietetics via telehealth; provided, however, that such services shall be appropriate for the individual or group receiving such services and the level of care provided shall meet the required level of care for such individual or group."

Georgia Senate Bill 20 (engrossed 3/6/23)

- "Chapter 20E of Title 33 of the Official Code of Georgia Annotated, the "Surprise Billing Consumer Protection Act," is amended by adding new Code sections to read as follows:

  "33-20E-24.
  - (e) An insurer shall not
    - (1) Require prior authorization, medical review, or administrative clearance for a telehealth service that would not be required if such service were provided in person;
    - (2) Require demonstration that it is necessary to provide a service to a covered person through telehealth;
    - (3) Require a provider to be employed by another provider or agency in order to provide a telehealth service that would not be required if such service were provided in person;
    - 4) Restrict or deny coverage of a telehealth service based solely on the communication technology or application used to deliver such service;

- (5) Require a provider to be part of a telehealth network;
- (6) Require a covered person to utilize telehealth or telemedicine in lieu of a nonparticipating provider accessible for in-person consultation or contact; or
- (7) Be required to pay a facility fee to a hospital for telehealth services unless the hospital is the originating site as defined in subsection (b) of Code Section 33-24-56.4."

Georgia House Bill No. 215 (introduced 2/3/21)

- "The department shall take all reasonable and necessary steps to obtain permanent federal approval and to permanently implement the state's authorization through an Appendix K submission for a temporary waiver modification due to the COVID-19 pandemic emergency to utilize telehealth options in accordance with federal Health Insurance Portability and Accountability Act (HIPAA) requirements where clinically appropriate as a modification to in-person service delivery settings.
- The department shall authorize and implement a system of certification, recertification, and training of providers of medical assistance via telehealth options where appropriate, in lieu of in-person observation models."

Insurance and Safety Fire Commissioner: Commissioner King: Utilize Telemedicine Over In-Person Doctor Visits (3/25/20)

- "On Wednesday, Georgia Insurance and Safety Fire Commissioner John F. King urged Georgians who believe they may have been exposed to COVID-19 and/or are showing related symptoms to take advantage of the telemedicine options available to them from their health insurers instead of showing up in-person to emergency rooms or their doctor's office."
- This news release outlines telemedicine resources for commercial carries and Medicaid managed care organizations

Georgia Department of Public Health issues guidance for healthcare professionals: COVID-19 Health Care Providers, Hospitals, & Laboratories (March 2020)

- "Consider using telemedicine, nurse triage lines and other options to prevent people with mild illnesses from coming to clinics and emergency rooms."

State Licensure Laws, Policy, and Guidance

Executive Order 06.22.21.01 (6/22/21)

- "Governor Brian P. Kemp issued the final executive order extending the public health state of emergency, which will now expire on Thursday, July 1 at 12:00 AM."

GCMB Notice of Intent to Amend and Adopt Rules (10/21/20)

- "Rule 360-2-.17. Requirements for Telemedicine Licensure

(1) Must meet the requirements of Rule 360-2-.01 and hold a full and unrestricted license to practice medicine in another state.

(2) Telemedicine License will be limited to the practice of telemedicine and shall not be used to practice medicine physically in this state on a patient that is in this state, unless an emergency.

(7) The denial of a telemedicine license is not a contested case, but the applicant shall be entitled to an appearance before the Board."

GCMB Emergency Practice Permit/Temp License in response to COVID-19 (3/16/20)

- "The Georgia Composite Medical Board announced today that it may approve and issue 'emergency practice permits' to physicians, physician assistants, advanced practice registered nurses, and respiratory care professionals who wish to practice medicine during the public health emergency response to novel coronavirus, known as 'COVID-19.'"

Medicaid Law, Policy and Guidance Related to Telehealth

Department of Community Health (DCH) Frequently Asked Questions (FAQs) for Medicaid/PCK COVID-19 Response (Updated 5/15/20)

- Q: "Who is eligible to provide telehealth services?"
- A: "Qualified providers permitted to furnish Medicaid-reimbursed telehealth services during the coronavirus national health emergency include physicians and certain non-physician providers such as nurse practitioners, physician assistants and certified nurse midwives. Other practitioners enrolled in Georgia Medicaid such as certified nurse anesthetists, licensed clinical social workers, clinical psychologists and therapists (PT, ST and OT) may also deliver services within their scope of practice, consistent with Medicaid reimbursement rules, and in the category of service in which they are enrolled."
- Q: "Will members have to pay a copay for care during the coronavirus national health emergency?"
- A: "During the coronavirus emergency period, DCH is suspending the collection of all Medicaid copayments for dates of service on or after May 1, 2020. The suspension of copayments will remain in effect through the duration of the coronavirus national health emergency. The suspension applies to all fee-for-service and managed care services. For more information, please see the memo from DCH"

Georgia Department of Community Health, Letter to Medicaid/PeachCare for Kids Providers (4/13/20)

- "Providers that were billing for telemedicine codes prior to the health emergency will continue to use the designated codes associated with the service(s) rendered and the GT modifier. Codes that have been recently approved for telehealth for use during the health emergency will only need to use the POS 02 code. Providers should always verify which modifiers are applicable to the code for their category of service(s) by accessing the Provider Portal within the GAMMIS system and selecting the Procedure Search Tab."

Appendix K Approval (4/9/20)

- "Georgia will utilize telehealth resources as much as possible and where clinically appropriate as a modification to service delivery areas. Georgia is requesting statewide modification through this Appendix K submission."

Georgia Medicaid-Enrolled Opioid Treatment Programs (4/1/20)

- "For the period of the official declaration of State of Public Health Emergency in Georgia for COVID-19, telemedicine/ telephonic supervision (video-enabled only) of the individual's self-administration of take home medication will be allowed to be billed as either

Medication Administration or Opioid Maintenance in accordance with those definitions. This is only for individuals receiving Opioid Maintenance treatment and who have been clinically allowed take-home medications due to the emergency. Documentation must include all checks of physical and mental responses/symptoms which would generally occur in a face-to-face intervention."

Updated Telehealth Guidance for Medicaid/PeachCare for Kids Providers (3/26/20)

- "Qualified providers permitted to furnish Medicaid-reimbursed telehealth services during the Public Health Emergency include physicians and certain non-physician providers such as nurse practitioners, physician assistants and certified nurse midwives. Other practitioners enrolled in Georgia Medicaid such as certified nurse anesthetists, licensed clinical social workers, clinical psychologists and therapists (PT, ST and OT) may also deliver services within their scope of practice, consistent with Medicaid reimbursement rules, and in the category of service in which they are enrolled."
- "The Coronavirus Preparedness and Response Supplemental Appropriations Act as signed into law by the President on March 6, 2020 allows states broad authority to waive limitations on settings where members are eligible to receive telehealth and where telehealth services can be delivered during the emergency. All members with access to video or telephone communication may receive services in their homes to reduce exposure to themselves and others. Under the emergency declaration and waivers, these services may be provided by professionals regardless of patient location. The services must meet established medical necessity criteria relevant to the procedure or treatment."
- "During the COVID-19 state of emergency, providers may deliver medically necessary services in various settings including their homes or other settings in which the privacy and confidentiality of the member can be assured."

Telehealth guidance for Medicaid/PeachCare for Kids/Fee-for-service Providers (3/18/20)

- "In response to the COVID-19 State of Emergency, the Department of Community Health is waiving certain policies related to telehealth/telemedicine to support the use of telehealth in diagnosis and treatment. This is in response to the viral pandemic and to provide continuity of services and treatment with reduced risk of exposure to Medicaid/PeachCare for Kids members and providers."
- "Expansion of the use of telehealth will be supported in the following manner:

1. Waiving the telehealth services originating site limitations. Originating sites are listed below.
2. Allowing telehealth services to be provided by the following modalities:
    - Telephone communication
    - Use of webcam or other audio and video technology
    - Video cell phone communication"

HAWAII

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Hawaii Senate Resolution No. 118 (passed 4/5/23) / Hawaii Senate Concurrent Resolution No. 112 (engrossed 4/17/23)

- "BE IT RESOLVED by the Senate of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2023, that the Hawaii State Center for Nursing is requested to convene a working group to study the feasibility and impact of the State adopting the Nurse Licensure Compact; and
- BE IT FURTHER RESOLVED that the study is requested to identify and assess the Nurse Licensure Compact's potential impacts relating to:
  - (3) The potential for workforce migration into and out of the State, including job transfers, travel nursing, and telehealth nursing;"

Hawaii Senate Resolution No. 169 (passed 4/5/23) / Hawaii Senate Concurrent Resolution No. 185 (engrossed 4/5/23)

- "BE IT RESOLVED by the Senate of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2023, that the Executive Office on Aging is urged to develop a standard training workshop for kupuna and caregivers on how to select and purchase appropriate broadband connectivity equipment, audio visual equipment such as tablets, and how to operate equipment to access telehealth services; and"

Hawaii House Bill No. 650 (engrossed 3/30/23)

- "SECTION 2. Section 327L-1, Hawaii Revised Statutes, is amended as follows:
  - 3. By amending the definitions of "consulting provider" and "counseling" to read:
  - "Counseling" means one or more consultations, which may be provided through telehealth, as necessary between a psychiatrist licensed under chapter 453, psychologist licensed under chapter 465, ~~or~~ clinical social worker licensed pursuant to chapter 467E, advanced practice registered nurse or clinical nurse specialist licensed under chapter 457 with psychiatric or mental health training, or marriage and family therapist licensed pursuant to chapter 451J, and a patient for the purpose of determining that the patient is capable , and that the patient does not appear to be suffering from undertreatment or nontreatment of depression or other conditions ~~which~~ that may interfere with the patient's ability to make an informed decision pursuant to this chapter."

Hawaii House Bill No. 907 (engrossed 3/29/23)

- "SECTION 2. Section 346-59.1, Hawaii Revised Statutes, is amended as follows:
  - By amending subsection (b) to read:
    - (b) Reimbursement for services provided through telehealth via an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

- By amending subsection (g) to read:
  - (g) For the purposes of this section:
    - "Interactive telecommunications system" has the same meaning as the term is defined in title 42 Code of Federal Regulations section 410.78(a), as amended; provided that, as used in the definition of "interactive telecommunications system", "two-way, real-time audio-only communication" is subject to the same meaning and conditions as in title 42 Code of Federal Regulations section 410.78, as amended.
    - "Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. ~~Standard~~ Except as otherwise provided in this section, standard telephone contacts, facsimile transmissions, or e-mail text, in combination or ~~by itself, does~~ alone, do not constitute ~~a~~ telehealth ~~service for the purposes of this section.~~ services.

- SECTION 3. Section 431:10A-116.3, SECTION 4. Section 432:1-601.5, and SECTION 5. Section 432D-23.5, Hawaii Revised Statutes, is amended to read as follows:
  - 1. By amending subsection (c) to read:
    - (c) Reimbursement for services provided through telehealth via an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient~~.~~ ; provided that reimbursement for two-way, real-time audio-only communication technology for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in their home shall be equivalent to eighty per cent of the reimbursement for the same services provided via face-to-face contact between a health care provider and a patient; provided further that the health care provider has conducted an in-person or telehealth visit with the patient no longer than six months prior to the audio-only service and at least twelve months prior to any subsequent audio-only visit. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary."
- SECTION 6. Section 453-1.3, Hawaii Revised Statutes, is amended to read as follows:
  - 1. By amending subsection (h) to read:
    - (h) Reimbursement for behavioral health services provided through telehealth via an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient~~.~~; provided that reimbursement for two-way, real-time audio-only communication technology

for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in their home shall be equivalent to eighty per cent of the reimbursement for the same services provided via face-to-face contact between a health care provider and a patient; provided further that the health care provider has conducted an in-person or telehealth visit with the patient no longer than six months prior to the audio-only service and at least twelve months prior to any subsequent audio-only visit."

Hawaii House Bill No. 1442 (engrossed 3/24/23)

- "SECTION 2. Chapter 704, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:
    - §704- Examination of defendants via telehealth.
        - (1) The director of health shall prescribe by rule the requirements, terms, conditions, and circumstances under which examinations of defendants conducted pursuant to this chapter may be administered via telehealth.
        - (2) With regard to examinations of defendants conducted via telehealth and pursuant to this chapter:
            - (a) The director of health, in the case of any facility under the jurisdiction of the director of health;
            - (b) The director of public safety, in the case of any facility under the jurisdiction of the director of public safety; and
            - (c) The chief justice, in the case of any facility under the jurisdiction of the chief justice, shall establish procedures regarding the provision and use of telehealth resources at appropriate facilities. The procedures shall comply with the rules prescribed by the director of health pursuant to subsection (1) and ensure the widest availability of telehealth resources feasible at appropriate facilities.
        - (3) For the purposes of this section, "telehealth" means health care services provided through telecommunications technology by a health care professional who is at a location other than where the defendant is located.

Hawaii House Resolution No. 208 (introduced 3/15/23) / Hawaii House Concurrent Resolution No. 204 (introduced 3/15/23)

- "BE IT RESOLVED by the House of Representatives of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2023, that the Hawaii State Center for Nursing is requested to convene a working group to study the potential impacts to the State of joining the multi-state Nurse Licensure Compact; and
- BE IT FURTHER RESOLVED that the working group is requested to investigate the feasibility and impacts of adopting the multi-state Nurse Licensure Compact, including:
    - (1) Identification of possible impacts to in- and out-migration of registered nurses, including migration related to job transfers, travel nursing, and telehealth nursing;"

Hawaii Senate Resolution No. 169 (introduced 3/21/23) / Hawaii Senate Concurrent Resolution No. 185 (introduced 3/21/23)

- "BE IT RESOLVED by the Senate of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2023, that the Executive Office on Aging is urged to develop a standard training workshop for kupuna and caregivers on how to select and purchase appropriate broadband connectivity equipment, audio visual equipment such as tablets, and how to operate equipment to access telehealth services; and
- BE IT FURTHER RESOLVED that curriculum topics for the standard training workshop are requested to include:
  - (1) Establishing a reasonable budget related to broadband access; and
  - (2) Identifying reputable contractors in the area to install and maintain broadband equipment; and
- BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to the Director of the Executive Office on Aging."

Hawaii House Resolution No. 99 (introduced 3/15/23) / Hawaii House Concurrent Resolution No. 92 (introduced 3/15/23)

- "BE IT RESOLVED by the House of Representatives of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2023, that the Department of Health is urged to perform a feasibility study of the benefits of authorizing reimbursement for services provided through telehealth by way of audio-only telephonic communication; and
- BE IT FURTHER RESOLVED that the Department of Health is urged to report to the Legislature with the results of its feasibility study, including any proposed legislation, no later than twenty days prior to the Regular Session of 2024; and
- BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to the Director of Health."

Hawaii House Concurrent Resolution No. 49 (introduced 3/10/23)

- "BE IT RESOLVED by the House of Representatives of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2023, the Senate concurring, that a Telehealth Working Group is requested to be established to examine the impact of widespread telehealth adoption during the COVID-19 pandemic and identify public policy initiatives at the federal and state level to optimize telehealth utilization as the State transitions out of the COVID-19 pandemic;"

Hawaii Senate Resolution No. 31 (introduced 3/17/23) / Hawaii Senate Concurrent Resolution No. 37 (introduced 3/17/23)

- "BE IT RESOLVED by the Senate of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2023, that the Department of Health is urged to perform a feasibility study of the benefits of authorizing reimbursement for services provided through telehealth by way of audio-only telephonic communication; and"

Hawaii Senate Bill 1038 (introduced 2/17/23)

- "(b) Reimbursement for services provided through telehealth via an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

- "Interactive telecommunications system" has the same meaning as the term is defined in title 42 Code of Federal Regulations section 410.78(a), as amended; provided that, as used in the definition of "interactive telecommunications system", "two-way, real-time audio-only communication" is subject to the same meaning and conditions as in title 42 Code of Federal Regulations section 410.78, as amended."

Hawaii Senate Bill 684 (introduced 2/15/23)

- "2. By amending subsection (b) to read: "(b) Reimbursement for services provided through telehealth, including by way of an interactive telecommunications system, shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary."
- "Interactive telecommunications system" means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner; provided that, for services furnished for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in their home, interactive telecommunications may include two-way, real-time audio-only communication technology if the distant site physician or practitioner is technically able to use an interactive telecommunications system but the patient is not capable of, or does not consent to, the use of video technology; and provided further that the term shall have the same meaning as the term is defined in title 42, Code of Federal Regulations section 410.78, as amended."

Hawaii House Bill 693 (introduced 1/30/23)

- ""(b) Reimbursement for services provided through telehealth via an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary."
- ""Interactive telecommunications system" means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communications between the patient and distant site physician or practitioner; provided that, for services furnished for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in the patient's home, interactive telecommunications may include two-way, real-time audio-only communication technology if the distant site physician or practitioner is technically capable of using an interactive telecommunications system but the patient is not capable of, or does not consent to, the use of video technology; provided further that the term shall have the same meaning as the term is defined in title 42 Code of Federal Regulations section 410.78, as amended."

Hawaii House Bill 907 (introduced 1/25/23)

- "The purpose of this Act is to authorize reimbursement services provided through telehealth by way of an interactive telecommunications system."
- "SECTION 2. Section 346-59.1, Hawaii Revised Statutes, is amended as follows:

- 1. By amending subsection (b) to read:
  - (b) Reimbursement for services provided through telehealth by way of an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient[-]; provided that reimbursement for the diagnosis, evaluation, or treatment of a mental health disorder delivered through an interactive telecommunications system shall meet the requirements of title 42 Code of Federal Regulations section 410.78. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary."

Hawaii House Resolution No. 60 (passed 4/7/22)

- "BE IT RESOLVED by the House of Representatives of the Thirty-first Legislature of the State of Hawaii, Regular Session of 2022, that the Director of Health is requested to establish a telehealth and telephonic services working group to address the complexities surrounding the appropriate use of telehealth and telephonic services, by specialty care area, and coverage of these services by health insurance; and
- BE IT FURTHER RESOLVED that the working group is requested to include:
  - (1) A representative of the House of Representatives, to be appointed by the Speaker of the House of Representative
  - (2) A representative from the Senate, to be appointed by the President of the Senate;
  - (3) The Director of Health, or the Director's designee;
  - (4) The Administrator of the Med-QUEST Division of the Department of Human Services, or the Administrator's designee
  - (5) The Insurance Commissioner, or the Insurance Commissioner's designee; and
  - (6) A representative from the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs, to be appointed by the Director of Commerce and Consumer Affairs"

Hawaii House Bill No. 1980 (engrossed 4/19/22)

- SECTION 1. Section 346-59.1, Hawaii Revised Statutes, is amended to read as follows:
- "[]§346-59.1[] Coverage for telehealth. (a) The State's Medicaid managed care and fee-for-service programs shall not deny coverage for any service provided through telehealth that would be covered if the service were provided through in person consultation between a patient and a health care provider
  - (b) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.
  - (c) There shall be no geographic restrictions or requirements for telehealth coverage or reimbursement under this section
  - (d) There shall be no restrictions on originating site requirements for telehealth coverage or reimbursement under this section.

- (e) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.
- (f) Notwithstanding any other law to the contrary, the provisions of this section shall comply with the applicable federal requirements related to utilization, coverage, and reimbursement for telehealth services.
- (g) Telephonic behavioral health services may be covered, including when:
  - (1) Telehealth services are technologically unavailable at the time the patient is scheduled to receive a behavioral health service;
  - (2) The behavioral health service is a medically necessary, covered health care service; an
  - (3) The health care provider has provided the patient with an in-person behavioral health service within the twelve months preceding the telephonic service."

Hawaii Senate Bill No. 2624 (passed 6/27/22)

- "SECTION 2. (a) The department of health shall implement a telehealth pilot project.
- (b) The telehealth pilot project shall:
  - (1) Assist residents at two distinct project sites, both of which shall have a medically underserved area designation by the United States Department of Health and Human Services; provided that one site shall be located in a rural county and the other site shall be located in an urban county;
  - (2) Utilize telehealth as the primary means to deliver healthcare; and
  - (3) Include at least one federally qualified health center or rural health clinic in each project site.
- (c) Within six months of the exhaustion of all telehealth pilot project funds, the department of health shall make available to the public an evaluation report on telehealth pilot project outcomes, including the quality of care, patient satisfaction, training and workforce development issues, and financial sustainability of telehealth activities.
- (d) Chapters 103D and 103F, Hawaii Revised Statutes, shall not apply to procurements made pursuant to this Act for a period of twelve months following the effective date of this Act; provided that the department of health shall only obtain goods and services for the telehealth pilot project:
  - (1) In a manner that is cost-effective and provides the most benefit to the telehealth pilot program on contractual terms that are most advantageous to the State; and
  - (2) If the execution period of all procurements does not exceed the term of the telehealth pilot project."

Hawaii Senate Bill No. 2073 (introduced 1/21/22)

- "Telehealth" means the use of telecommunications services, as defined in section 269 1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time

video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. Facsimile transmissions[,] or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this section."

Hawaii Emergency Proclamation related to the COVID-19 Delta Response (extension added 11/30/21)

- "Whereas, COVID-19 continues to directly and indirectly cause fiscal and economic catastrophe not previously experienced by the State;
- Now, therefore, I, David Y. Ige, Governor of the State of Hawai'i, hereby authorize and invoke the following as set forth herein…."

Hawaii Senate Bill No. 970: A Bill for an ACT relating to telehealth. (passed 6/10/21)

- "A physician-patient relationship may be established via a telehealth interaction; provided that the physician has a license to practice medicine in the State.
- Once a physician-patient relationship is established, a patient or physician licensed in this State may use telehealth for any authorized purpose, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law.
- This Act shall take effect on July 1, 2021"

Hawaii Senate Bill No. 1258: A Bill for an ACT relating to telehealth. (engrossed 3/5/21)

- (g) For the purposes of this section:

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. Facsimile transmissions or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this section."

Eighteenth Proclamation Related to the COVID-19 Emergency (reissued 2/12/21)

- "Sections 346-59.1, 431:10A-116.3, 432:1-601.5, and 432D-23.5, HRS, coverage for telehealth, to the extent that the definitions of "telehealth" in each section shall exclude the use of standard telephone contacts."
- "Section 453-1.3, HRS, practice of telehealth, to the extent necessary to allow individuals currently and actively licensed pursuant to Chapter 453, HRS, to engage in telehealth without an in-person consultation or a prior existing 21 of 29 physician-patient relationship; and to the extent necessary to enable out-of-state physicians, osteopathic physicians, and physician assistants with a current and active license, or those who were previously licensed pursuant to Chapter 453, HRS, but who are no longer current and active, to engage in

telehealth in Hawai'i without a license, in-person consultation, or prior existing physician-patient relationship, provided that they have never had their license revoked or suspended and are hired by a state or county agency or facility or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, clinical laboratory, or other health care entity."

- "Section 453D-5, HRS, prohibited acts, and section 453D-7, HRS, application for licensure as a mental health counselor, to the extent necessary to waive the licensure and accompanying requirements so as to permit mental health counselors licensed in their state, but not licensed in Hawai'i, who have pre-established relationships with a patient or client currently residing in the State of Hawai'i, to engage in telehealth practices with these patients. This shall not authorize out-of-state mental health professionals who are not licensed in Hawai'i to solicit or establish new relationships with clients or patients located in Hawaii.
- The provisions of these rules shall take effect nunc pro tunc to March 4, 2020, and shall remain in effect for the emergency period, unless terminated by separate proclamation, whichever shall occur first."

Executive Order No. 20-04 (4/16/20)

- "Sections 346-59.1, 431:10A-116.3, 432:1-601.5, and 432D-23.5, HRS, relating to coverage for telehealth, to the extent that the definitions of "telehealth" in each section shall exclude the use of standard telephone contacts."

COVID-19 Health Insurance FAQs (4/3/20)

- Q: "Will my commercial health insurance plan cover telehealth services?"

A: "Yes, commercial health insurance plans are required to provide coverage for telehealth services by state law. Please contact your insurer to discuss coverage."

Hawaii Department of Health issues Resources for Healthcare Providers (3/17/20)

- Ensure appropriate triage policies are in place for ALL patients with symptoms of acute respiratory illness, including:

Consider nurse advice lines and telemedicine for initial assessment of patients not requiring emergency care.

State Licensure Laws, Policy, and Guidance

Hawaii House Bill No. 1406 (introduced 2/3/22)

- "(b) Required coverage for services under subsection (a) includes psychiatric services provided to a patient by a collaborative care team consisting of a primary care provider and behavioral health care manager, who shall be present in the primary care provider's office, in conjunction with a psychiatric consultant whose services may be delivered remotely through telehealth; provided that the psychiatric consultant shall be a licensed psychiatrist in the State."

Hawaii House Bill No. 473: A bill for an act relating to telehealth (introduced 2/18/21)

- A physician-patient relationship may be established via a telehealth interaction; provided that the physician has a license to practice medicine in Hawaii.

- Once a physician-patient relationship is established, a patient or physician licensed in this State may use telehealth for any allowable purpose in accordance with the law, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law."

Hawaii House Bill No. 576: A Bill for an ACT relating to health care (introduced 1/25/21)

- "(a) Practice as an advanced practice registered nurse means the scope of nursing in a category approved by the board, regardless of compensation or personal profit, and includes the registered nurse scope of practice. The scope of an advanced practice registered nurse includes but is not limited to advanced assessment; telehealth; and the diagnosis, prescription, selection, and administration of therapeutic measures including over the counter drugs, legend drugs, and controlled substances within the advanced practice registered nurse's role and specialty-appropriate education and certification."

Executive Order No. 20-02 (3/29/20)

- "Section 453-1.3, HRS, practice of telehealth, to the extent necessary to allow individuals currently and actively licensed pursuant to chapter 453, HRS, to engage in telehealth without an in-person consultation or a prior existing physician-patient relationship; and to the extent necessary to enable out-of-state physicians, osteopathic physicians, and physician assistants with a current and active license, or those who were previously licensed pursuant to chapter 453, HRS, but who are no longer current and active, to engage in telehealth in Hawai'i without a license, in-person consultation, or prior existing physician-patient relationship, provided that they have never had their license revoked or suspended and are hired by a state or county agency or facility or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, or clinical laboratory."

Office of the State of Hawai'i Supplementary Proclamation (3/16/20)

- "Chapter 453, HRS, medicine and surgery, and chapters 16-85 and 16-93, HAR, medical examiners and osteopaths, to the extent necessary to allow out-of-state physicians, osteopathic physicians, and physician assistants with a current and active license, or those previously licensed pursuant to chapter 453, HRS, but who are no longer current and active, to practice in Hawai'i without a license; provided that they have never had their license revoked or suspended and are hired by a state or county agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, or clinical laboratory."
- "Chapter 457, HRS, nurses, and chapter 16-89, HAR, nurses, to the extent necessary to allow out-of-state licensed practical nurses, registered nurses, advanced practice registered nurses, and advance practice registered nurses with prescriptive authority with a current and active license, or those previously licensed pursuant to chapter 457, HRS, but who are no longer current and active, to practice in Hawai'i without a license; provided that they have never had their license revoked or suspended and are hired by a state or county agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, or clinical laboratory."

Medicaid Law, Policy and Guidance Related to Telehealth

Telehealth Guidance During the Public Health Emergency Related to EPSDT Visits (10/30/20)

- "This memorandum is being issued to provide guidance on the provision of EPSDT services that, as an additional option for health plans and providers, allows EPSDT visits utilizing telehealth during the public health emergency (PHE) period to improve access to care and maintain healthy child development as much as possible. "
- "EPSDT telehealth visits for all ages should include documentation that consent was obtained from the parent or guardian to conduct the visit using a telehealth modality and also include any limitations or components that could not be completed during the telehealth visit.
- Providers will need to complete the components, that were not able to be done during a telehealth visit, as soon as possible after the end of the PHE. A recommended guideline is for the follow-up visit to occur within six (6) months from the end of the PHE."

Memo QI-2028: Clarification on Applied Behavior Analysis (ABA) Services Through Telehealth (7/21/20)

- "In Provider Memo QI-2020, MQD approved CPT-97156- Family Adaptive Behavior Treatment Guidance, to be provided via telehealth. In considering other codes to be covered by the health plans, MQD recognizes that telehealth could be used to allow remote supervision by the Board Certified Behavior Analyst (BCBA) when the Registered Behavior Technician (RBT) is face-to-face with the individual receiving an ABA service."

Memo QI-2020: Coverage of Services for Autism Spectrum Disorder via Telehealth (6/17/20)

- "For Applied Behavior Analysis (ABA) services, Med-QUEST (MQD) is allowing CPT 97156 – Family Adaptive Behavior Treatment Guidance, to be provided via telehealth. Service delivery using only a telephone is not approved for ABA service delivery for CPT 97156 and shall be provided via a real-time two-way audio and video modality.
- Guidelines for CPT 97156 will remain the same as outlined in QI-1908 with the exception that the code will be allowable by telehealth at the same rate of reimbursement.
- The requirement, as stated in QI-1908, is for the service to be provided by a BCBA or BCBA-D."

Telehealth Guidance for Public Health Emergency – Telephonic Services and Services Billable by Qualified Non-Physician Health Care Professionals Memo No. Qi-2013 FFS 20-06 (4/15/20)

- "In additional to traditional telehealth modalities (synchronous, audio-visual and asynchronous), the MQD understands the extraordinary circumstances we are all under in which traditional telehealth modalities of audio and visual do not apply. In keeping with recent CMS guidelines, MQD will allow telephonic (audio-only) "visits, in addition to other telehealth modalities, to provide medically necessary health care services (e.g. medical, behavioral health, substance abuse disorders, occupational therapy (OT), physical therapy (PT), speech therapy (ST) during the PHE. In alignment with CMS guidelines (CMS-1744-IFC), these will be retroactive to March 1, 2020. The codes below are not exclusive and may include other procedures that can be provided via telehealth as designated by a QI health plan. FQHCs/RHCs will be able to receive PPS reimbursement as long as conditions below are met."

Telehealth Guidance During Public Health Emergency Related to COVID 19, Memo No. QI-2010 FFS 20-05 (3/30/20)

- "Due to the unprecedented need to provide care for individuals due to State actions taken to address COVID-19 in Hawaii, the MDQ will be covering additional codes that may be used to deliver services through telehealth technology during and through the public health

emergency that was declared by the secretary of the Department of Health and Human Services on January 31, 2020. When the public health emergency period ends, those codes will no longer be covered by MDQ."

- "Telehealth services, except for virtual check-ins that allow for telephone contacts, shall be provided using telehealth or everyday communication technologies that include video chats (e.g. Facetime or Skype). If the Centers for Medicare and Medicaid Services (CMS) should allow other services to be provided telephonically, MDQ will also allow the flexibility."

Hawaii Appendix K Approval Letter (3/27/20)

- "Temporarily modify provider qualifications:

"Providers may choose to provide training on-line in lieu of in-person training. Trainings may also be conducted by telehealth. Telehealth that meets privacy requirements must be used to conduct participant-specific training in the ISP."

"Adult Day Health (ADH), Personal Assistance/Habilitation (PAB), Individual Employment Supports (IES), Discovery & Career Planning (D&CP), Training & Consultation (T&C), Waiver Emergency Services – Emergency Outreach: These services may be provided through telehealth that meets privacy requirements when the type of supports meets the health and safety needs of the participant."

- Temporarily modify processes for level of care evaluations or re-evaluations (within regulatory requirements).

"Allow the initial level of care evaluation to be conducted using telehealth, in accordance with HIPAA requirements, in lieu of face-to-face visits."

- "Temporarily modify person-centered service plan development process and individual(s) responsible for person-centered service plan development, including qualifications."

"Case Managers may use telehealth that meets privacy requirements in lieu of face-to-face meetings to conduct Individualized Service Plan (ISP) meetings, assessments, individual monitoring and check-ins."

- "Temporarily modify incident reporting requirements, medication management or other participant safeguards to ensure individual health and welfare, and to account for emergency circumstances"

"Permit the case manager assessment and 24 hour face-to-face visits for instances of suspected abuse or neglect to be conducted using telehealth that meets privacy requirements unless an onsite assessment is deemed necessary by DOH-DDD."

- "Other Changes Necessary"

"Allow participants to receive fewer than one waiver service per month for a period of 120 days without being subject to discharge. The case manager will provide monthly monitoring to ensure the plan continues to meet the participant's needs. Monitoring may be done using telehealth that meets privacy requirements."

Federally Qualified Health Center Telehealth Guidance During Public Health Emergency Period in Response to COVID-19 Memo No. QI-2008 FFS 20-04 (3/20/20)

- "Under current policy, telehealth is allowed if an individual is at their residence. Med-QUEST Division has determined that eligible FQHC services provided to a houseless individual via telehealth that is within the FQHC's designated HRSA approved area, will be eligible for PPS reimbursement."

Tele-Health Payment Guidance for Federally Qualified Health Centers (FQHC) QI-2007 FFS 20-03 (3/16/20)

- "Specifically, this memorandum provides additional guidance on Hawaii Medicaid policy regarding Prospective Payment System (PPS) payments for tele-health services."
- "Providers who are eligible to bill for Hawaii Medicaid services are also eligible providers who can bill for tele-health. Please refer to Hawaii Provider Manual Chapter 21 (21.2.1) for the list of providers who may provide PPS services."
- "The criteria for sites eligible to receive PPS payment is the same regardless whether or not tele-health is utilized."
- "For tele-health dental claims, please follow instruction in Provider Memo FFS 19-01."

IDAHO

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Idaho House Bill No. 162 (enrolled 3/17/23)

- SECTION 1. That Section 54-1733, Idaho Code, be, and the same is hereby amended to read as follows:
  - 54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) A prescription drug order for a legend drug is valid only if it is issued by a prescriber for a legitimate medical purpose arising from a prescriber-patient relationship ~~which~~ that includes a documented patient evaluation adequate to establish diagnoses, if applicable, and identify underlying conditions and/or contraindications to the treatment. A valid prescriber-patient relationship may be established through virtual care technologies, provided that the applicable Idaho community standard of care must be satisfied. […]
- SECTION 3. That Section 54-5701, Idaho Code, be, and the same is hereby amended to read as follows:
  - 54-5701. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho ~~Telehealth~~ Virtual Care Access Act."
- SECTION 5. That Chapter 57, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-5702, Idaho Code, and to read as follows:
  - 54-5702. LEGISLATIVE FINDINGS. The legislature finds that virtual care provides an additional setting for the delivery of health care that maximizes the capacity and geographic reach of health care providers and limited health care resources. When practiced safely, virtual care enhances access to health care services and allows for a more cost-effective delivery system for the people of Idaho. Citizens with limited access to traditional health care settings may be diagnosed and treated sooner through virtual care than through in-person care, resulting in improved health outcomes due to early detection and prevention. […]

- SECTION 8. That Section 54-5704, Idaho Code, be, and the same is hereby amended to read as follows:
  - 54-5704. SCOPE OF PRACTICE. A provider ~~offering telehealth services~~ delivering health care services via virtual care must at all times act within the scope of the provider's license and according to all applicable laws and rules, including, but not limited to, this chapter and the Idaho community standard of care.
- SECTION 10. That Chapter 57, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-5705, Idaho Code, and to read as follows:
  - 54-5705. PROVIDER-PATIENT RELATIONSHIP. A provider may provide virtual care to a patient if such provider has first established a provider-patient relationship with the patient, the patient has a provider-patient relationship with another provider in the provider group, the provider is covering calls for a provider with an established relationship with the patient, or the provider is performing any activities set forth in section 54-1733(2), Idaho Code. A provider-patient relationship may be established by use of virtual care technologies, provided that the applicable Idaho community standard of care is satisfied
- SECTION 11. That Section 54-5706, Idaho Code, be, and the same is hereby amended to read as follows:
  - 54-5706. EVALUATION AND TREATMENT. ~~Prior to providing treatment~~ When delivering health care services via virtual care, including a prescription drug order or prescription medical device order, a provider shall obtain and document a patient's relevant clinical history and current symptoms to establish the diagnosis and identify underlying conditions and contraindications to the treatment recommended. ~~Treatment recommendations provided through telehealth services~~ A provider delivering health care services via virtual care has a duty to practice in a manner consistent with the provider's scope of practice and shall be held to the applicable Idaho community standard of care that applies in an in-person setting. Treatment based solely on ~~an~~ a static online questionnaire does not constitute an acceptable standard of care.
- SECTION 12. That Section 54-5707, Idaho Code, be, and the same is hereby amended to read as follows:
  - 54-5707. PRESCRIPTIONS. (1) A provider with an established provider-patient relationship, including a relationship established pursuant to section 54-5705, Idaho Code, may issue prescription drug orders ~~using telehealth services~~ and prescription medical device orders via virtual care within the scope of the provider's license and according to any applicable state and federal laws, rules, and regulations, including the Idaho community standard of care~~; provided however, that~~. However, the prescription drug shall not be a controlled substance unless prescribed in compliance with ~~title~~ 21 U.S.C. A prescription drug order and prescription medical device order must be issued for a legitimate medical purpose by a provider acting in a manner consistent with the provider's scope of practice. […]
- SECTION 14. That Section 54-5709, Idaho Code, be, and the same is hereby amended to read as follows:
  - 54-5709. CONTINUITY OF CARE. A provider ~~of telehealth services~~ delivering health care services via virtual care or a provider who is a member of the same provider group as the provider delivering health care services via virtual care shall be available for follow-up care or to provide information to patients who make use of such services. Patients receiving care virtually shall be provided a method to contact the provider of record.

- SECTION 16. That Section 54-5711, Idaho Code, be, and the same is hereby amended to read as follows:
  - 54-5711. MEDICAL RECORDS. A provider ~~offering telehealth services shall generate and maintain medical records for each patient using telehealth services~~ delivering health care services via virtual care must document in the patient's medical record the health care services rendered via virtual care according to the same standard used for equivalent in-person services. All virtual care medical records must be maintained in compliance with any applicable state and federal laws, rules, and regulations, including the health insurance portability and accountability act (HIPAA), P.L. 104-191 (1996), and the health information technology for economic and clinical health act (HITECH), P.L. 111-115 (2009). Such records shall be accessible to other providers, if the patient has given permission, and to the patient in accordance with applicable laws, rules, and regulations."

Idaho House Bill No. 61 (introduced 2/1/23)

- "RELATING TO TELEHEALTH ACCESS; AMENDING CHAPTER 57, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-5714, IDAHO CODE, TO PROVIDE FOR INTER4 STATE MENTAL AND BEHAVIORAL TELEHEALTH; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE."
- "INTERSTATE TELEHEALTH -- MENTAL AND BEHAVIORAL HEALTH.
  - For purposes of this section, a mental or behavioral health provider is a provider pursuant to section 54-5703(4), Idaho Code, who is licensed or registered in another state, district, or territory of the United States to practice mental or behavioral health care.
  - (2) A mental or behavioral health provider who is not licensed in Idaho may provide telehealth services to an Idaho resident or person located in Idaho, notwithstanding any provision of law or rule to the contrary, pursuant to the requirements and limitations of this section."
  - "(3) In addition to the other requirements of this section, a mental or behavioral health provider who engages in interstate telehealth services pursuant to this section must [...]"

Idaho Senate Bill No. 1328 (introduced 2/15/22)

- "54-5705. PROVIDER-PATIENT RELATIONSHIP. (1) If a provider offering telehealth services does not have an established provider-patient relation-ship with a person seeking such services, the provider shall take appropriate steps to establish a provider-patient relationship by use of two-way audio, or audio-visual, or asynchronous interaction; provided however, that the applicable Idaho community standard of care must be satisfied. Nothing in this section shall prohibit electronic communications:
  - (a) Between a provider and a patient with a preexisting provider-patient relationship;
  - (b) Between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;
  - (c) Between a provider and a patient where the provider is taking call on behalf of another provider in the same community who has a provider-patient relationship with the patient; or

- (d) In an emergency.

- (2) As used in this section, "emergency" means a situation in which there is an occurrence that poses an imminent threat of a life-threatening condition or severe bodily harm."

Idaho Proclamation P21-02 (2/26/21)

- "That the appended list of regulations is hereby suspended for the duration of the declared state of emergency, including extensions, in order to ensure these regulations do not in any way prevent, hinder, or delay necessary action in coping with the emergency."

Chapter 57 - Idaho Telehealth Access Act

- 54-5703(4) and 54-5712 that require out-of-state providers have an Idaho license. Out-of-state providers can provide care as long as they are "licensed and in good standing in their state of residence, practice in good faith, and exercise reasonable care".
- 54-5705 that require a provider to "take appropriate steps to establish a provider-patient relationship by use of two-way audio or audio-visual interaction" if the provider offering telehealth services does not have an established provider-patient relationship with a person seeking such services".

Executive Order No. 2020-13, Regulatory Relief to Support Economic Recovery (6/22/20)

- This executive order will make the temporarily waived restrictions around telemedicine (outlined in the April 2 entry) permanent.
- "WHERAS, Idaho's state agencies rose to this challenge, waiving more than 150 regulations in order to move more quickly, efficiently, and safely respond to the declared emergency. These rules focused on reducing barriers to economic recovery, waiving licensing provisions, increasing telehealth access, and augmenting healthcare capacity…"
- "NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of the state, do hereby order that:

This executive order applies to the following regulations:

- a. All regulations listed as temporarily suspended in the Appendix to Proclamation Signed by Governor Little on June 11, 2020; and
- b. All additional regulations waived, suspended, or otherwise altered by stale agencies using the existing authority listed within their current administrative rules from March 1, 2020, through June 11, 2020.
- c. This executive order does not apply to regulations that were waived to facilitate a onetime delay to a deadline that occurred during the declared emergency, such as temporary delay to a license renewal deadline, or those that have an adverse fiscal impact on the state 's General Fund."

Idaho Department of Insurance, Bulletin No. 20-03 (4/6/20)

- "Therefore, pursuant to authority in Idaho Code section 41-210(2) and 41-210(5), the Department hereby authorizes health insurance carriers under Department jurisdiction to:

Immediately allow for provider-patient relationships to be established over two-way audio or audio-visual interaction;

Provide coverage of telehealth visits for all in-network providers, if the visit would be reimbursable telehealth under the Secretary of the Department of Health and Human Services 1135 waiver published March 13, 2020;

Allow in-network providers to use non-HIPAA compliant communication platforms (such as Skype, Facebook Messenger, or Apple Facetime) to provide patient care, to the extent that the provider does not already have access to a HIPAA compliant platform; and

Allow healthcare service providers to waive or pay all or part of a claimant's deductible or cost-sharing for COVID-19 related testing, diagnosis, and treatment."

Idaho Department of Insurance, DOI to release bulletins regarding COVID-19 (4/3/20)

- "Temporary waiver of certain policy and enforcement requirements: This bulletin applies to health insurance carriers offering telehealth benefits through individual or employer sponsored group major medical health insurance policies. Flexibility is granted to expand telehealth access to all in-network providers and expand how telehealth services can be received."

Governor Little suspends more rules to increase telehealth access, ease licensing for medical professionals fighting coronavirus (4/2/20)

- "Governor Brad Little announced today the suspension of an additional 18 regulations to more quickly, efficiently, and safely respond to Idaho's coronavirus emergency, adding to the 125 regulations he suspended in March."
- "The appended list of state regulations is hereby suspended for the duration of the declared state of emergency in order to ensure these regulations do not in any way prevent, hinder, or delay necessary action in coping with the emergency."
- See appended list here

State Licensure Laws, Policy, and Guidance

Idaho House Bill No. 760 (engrossed 3/17/22)

- (1) For purposes of this section, a mental or behavioral health provider pursuant to section 54-5703(4), Idaho Code, excluding a physician, who is licensed or registered in another state, district, or territory of the United States to practice mental or behavioral health care.
- (2) A mental or behavioral health provider who is not licensed in Idaho may provide telehealth services to an Idaho resident or person located in Idaho, notwithstanding any provision of law or rule to the contrary, pursuant to the requirements and limitations of this section.

Spring Renewal Cycle Postponed to October 2020 (June 2020)

- "For all medical licenses expiring on June 30th, 2020, the expiration date has been extended to October 31st, 2020 as part of the Board's response to the COVID-19 pandemic."

Idaho Board of Medicine, Frequently Asked Questions (April 2020)

- Out-of-state practice of telemedicine: "Pursuant to the Board's Proclamation, issued March 18, 2020, out-of-state physicians and physician assistants with a license in good standing in another state will not need an Idaho license to provide telehealth to patients located in Idaho during the response to COVID-19."

- Out-of-state supervision of Pas: "Out-of-state physicians wishing to supervise PA practice in Idaho may do so. They simply complete the COVID-19 Modified Supervising Physician Attestation form found on the Board website and maintain the form along with COVID-19 Modified DOS form at their place of practice."
- Prescribing controlled substances: "Prescribing controlled substances via telehealth must always comply with Federal law and HHS guidance related to COVID-19."
- Telehealth Access Act and Rules: "Any physician or PA who is practicing telemedicine for Idaho patients must follow the Idaho Telehealth Access Act and rules except for any provisions suspended for the COVID-19 crisis."

Governor Little rolls out latest actions to further prepare Idaho for coronavirus, ease burdens on citizens (3/23/20)

- "The waivers will increase the capacity of Idaho's healthcare system by broadening the use of telehealth and removing barriers on out-of-state providers treating Idaho patients through telehealth technology. They streamline the licensure of nurses and physicians, allowing inactive or retired providers to come back into the profession more quickly and easily. They also remove restrictions so that physician assistants can be fully engaged as part of the medical team."

Idaho State Board of Medicine COVID-19 Response (3/18/20)

- Out of state practitioners

During the public health state of emergency, MDs. DOs, and PAs holding a license in good standing from another state or country are permitted to treat patients in Idaho without an Idaho license. This is permitted until the Governor declares that the public health emergency is over. Out-of-state practitioners treating Idaho patients are encouraged to notify the Board of their intent to practice in Idaho.

- Retired or Inactive practitioners

Retired or inactive practitioners whose license was in good standing when they retired or went inactive, AND who retired or went inactive less than 5 years ago, may apply for a temporary license to practice in Idaho. Such licensure will be valid for 120 days, unless extended by the Board. Applications for temporary licensure can be found on the Board's website. Applications for temporary license for MDs, DOs, PAs, and RTs will receive expedited processing.

Administrative Rules Temporarily Suspended by the Idaho State Board of Medicine in Response to COVID-19 (no date)

Medicaid Law, Policy and Guidance Related to Telehealth

COVID-19 Guidance for Therapy Services: Occupational, Physical and Speech-Language (Amended 4/9/20)

- "To reduce barriers to medical services for Medicaid participants and administrative burden for providers during this public health emergency, Idaho Medicaid is temporarily implementing the following changes to telehealth for therapy service providers:

Orders and plans of care do not have to specify that services are provided through telehealth.

Evaluations may be provided through telehealth.

Occupational and Physical Therapy Assistants may provide services via telehealth in accordance with the supervision and service requirements of their licensure board.

Participants may receive telehealth services in any place of service.

Providers may provide telehealth services from any place of service.

Idaho Department of Health & Welfare, Medicaid Provider Information Regarding Telehealth (Updated 4/7/20, released 3/17/20)

- "Slowing the progression of the virus will help ensure the healthcare system does not get overwhelmed. During this time, it is vitally important that Medicaid participants receive services and get their needs met. To inhibit the spread of the virus, and to respond to the societal disruptions taking place, Idaho Medicaid is immediately moving to reimburse for a wide array of services under a telehealth option, and expand providers authorized under our telehealth policy. Information Release MA18-007 on Medicaid telehealth policy is temporarily rescinded."
- "Typically, the standard for provision of telehealth is an electronic real-time (synchronized), or uninterrupted, audio-visual contact between a qualified professional and a participant for the purpose of treatment. The professional and participant interact as if they were having a face-to-face service. Services that can be provided effectively telephonically without real-time video may also be covered via telehealth. Services that cannot be effectively completed without visual interaction are not included in this modification and continue to require a video component."
- "Claims for services delivered via telehealth will be reimbursed at the same rate as face-to-face services. As is generally standard for the provision of Medicaid services, administrative services from the provider, such as scheduling, registration, etc. are not covered as."
- "When providing Telehealth, the participant and the provider are in two physically different locations. These two locations can be nearly anywhere, with the critical location being that of the participant. This combination of locations can be the participant's home and the provider's facility. The combination can also be the participant's home and the provider's home."
- "An Idaho Medicaid provider that wants to use audio or video communication technology to provide telehealth to participants during the COVID-19 public health emergency can use any non-public facing remote communication product that is available to communicate with participants. This applies to telehealth provided for any reason, regardless of whether the telehealth service is related to the diagnosis and treatment of health conditions related to COVID-19."

COVID-19 Telehealth HIPPA Guidance (3/25/20)

- "Idaho Medicaid wants to empower providers to serve participants wherever they are during this public health emergency. To that end, Idaho Medicaid expanded the number of codes reimbursable via telehealth (see Information Release MA20-07)."
- "During the COVID-19 public health emergency, Idaho Medicaid Providers subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Rules may seek to communicate with participants, and provide telehealth services, through remote communications technologies. Some of these technologies, and the manner in which they are used, may not fully comply with the requirements of the HIPAA Rules."

ILLINOIS

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Illinois Senate Bill No. 2057 (engrossed 3/31/23)

- "Section 10. The Illinois Occupational Therapy Practice Act is amended by changing Sections 2, 3, 3.1, 5, 6.5, 7, 11, 12, 15, 16, 19, 19.2, 19.6, 19.7, 19.9, 19.15, 20, and 21 and by adding Section 2.5 as follows:
    - Sec. 2. Definitions. In this Act:
        - (7) "Occupational therapy services" means services that may be provided to individuals, groups, and populations, when provided to treat an occupational therapy need, including the following:
            - (q) virtual interventions, including simulated, real-time, and near-time technologies, consisting of telehealth and mobile technology;"

Illinois House Bill No. 559 (engrossed 3/30/23)

- "Section 55. The Illinois Speech-Language Pathology and Audiology Practice Act is amended by changing Section 8.8 as follows:
    - Sec. 8.8. Supervision of speech-language pathology assistants.
        - (e) For purposes of this Section, "direct supervision" means on-site, in-view observation and guidance by a speech-language pathologist while an assigned activity is performed by the speech-language pathology assistant or supervision by a speech-language pathologist by way of video conferencing technology during telehealth practice."

Illinois House Bill No. 2550 (engrossed 3/27/23)

- "Section 5. The Telehealth Act is amended by changing Section 10 as follows:
    - An out-of-state health care professional may treat a patient located in this State through telehealth if the patient is a student attending an institution of higher education in this State, but is otherwise not a resident of the State when not attending the institution of higher education."

Illinois Senate Bill 1509 (introduced 2/15/23)

- "Provides that a person who provides teledentistry is considered to practice dentistry under the Act.
- Provides that a dentist practicing teledentistry is subject to the same standard of care as if those services were being delivered in a clinic or office setting.
- Provides that a patient receiving dental services through teledentistry shall be provided with the name, direct telephone number, and physical practice address of the treating dentist who will be involved in the teledentistry services."

Illinois Senate Bill 1404 (introduced 2/6/23)

- "Amends the Medical Assistance Article of the Illinois Public Aid Code. Requires the Department of Healthcare and Family Services to file an amendment to the Home and Community-Based Services Waiver Program for Adults with Developmental Disabilities authorized under the Social Security Act to incorporate telehealth services administered by a provider of telehealth services that demonstrates knowledge and experience in providing medical and emergency services for persons with intellectual and developmental disabilities.
- Sec. 5-5a.1. Telehealth services for persons with intellectual and developmental disabilities. The Department shall file an amendment to the Home and Community-Based Services Waiver Program for Adults with Developmental Disabilities authorized under Section 1915(c) of the Social Security Act to incorporate telehealth services administered by a provider of telehealth services that demonstrates knowledge and experience in providing medical and emergency services for persons with intellectual and developmental disabilities. The Department shall pay administrative fees associated with implementing telehealth services for all persons with intellectual and developmental disabilities who are receiving services under the Home and Community-Based Services Waiver Program for Adults with Developmental Disabilities."

Illinois Executive Order 2023-02 (issued 2/3/23)

- "Part 1: Re-Issue of Executive Orders.
    - Executive Orders 2020-09, 2020-20, 2020-23, 2021-12, 2021-18, 2021-22, and 2021-31, are hereby re-issued as follows:
        - Executive Order 2020-09 (Telehealth):
        - Section 9 and 10 of Executive Order 2020-09, as amended by Executive Order 2021-15, is re-issued and extended through March 4, 2023."

Illinois Public Act 102-1117 (Enrolled, 1/13/2023)

- "Section 1-5. The Reproductive Health Act is amended by changing Sections 1-10 and 1-20 as follows:
    - A health care professional with a temporary permit for full practice advanced practice registered nurse for health care, a temporary permit for advanced practice registered nurse for health care, or a temporary permit for health care may treat a patient located in this State through telehealth services in a manner consistent with the health care professional's scope of practice and agreement with a sponsoring entity."
- "Sec. 15. Use of telehealth services.
    - (c) A health care professional with a temporary permit for full practice advanced practice registered nurse for health care, a temporary permit for advanced practice registered nurse for health care, or a temporary permit for health care may treat a patient located in this State through telehealth services in a manner consistent with the health care professional's scope of practice and agreement with a sponsoring entity."
- "Sec. 49.5. Telemedicine.

- (b) A person who engages in the practice of telemedicine without a license or permit issued under this Act shall be subject to penalties provided in Section 59. A person with a temporary permit for health care may treat a patient located in this State through telehealth services in a manner consistent with the person's scope of practice and agreement with a sponsoring entity."

Illinois Executive order 2023-01 (issued 1/6/2023)

- "Section 9 and 10 of Executive Order 2020-09, as amended by Executive Order 2021-15, is re-issued and extended through February 4, 2023."
- Executive Order 2020-09: "Executive Order to Expand Telehealth Services and Protect Health Care Providers In Response To Covid-19"

Illinois Executive Order 22-23 (reissued 12/8/22)

- "Section 9 and 10 of Executive Order 2020-09, as amended by Executive Order 2021-15, is re-issued and extended through January 6, 2023."

Illinois Executive Order 22-22 (reissued 11/10/22)

- "Executive Order 2020-09 (Telehealth): Section 9 and 10 of Executive Order 2020-09, as amended by Executive Order 2021-15, is re-issued and extended through December 9, 2022."

Illinois Gubernatorial Disaster Proclamation (renewed 7/22/22)

- "Now, therefore, in the interest of aiding the people of Illinois and the local governments responsible for ensuring public health and safety, I, JB Pritzker, Governor of the State of Illinois, hereby proclaim as follows:
- Section 1. Pursuant to the provisions of Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, I find that a disaster exists within the State of Illinois and specifically declare all counties in the State of Illinois as a disaster area. The proclamation authorizes the exercise of all of the emergency powers provided in Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, including but not limited to those specific emergency powers set forth below…
- This proclamation shall be effective immediately and remain in effect for 30 days."

Illinois Executive Order 22-13 (renewed 5/27/22)

- "THEREFORE, by the powers vested in me as the Governor of the State of Illinois, pursuant to the Illinois Constitution and Sections 7(1), 7(2), 7(3), 7(8), 7(9), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, and consistent with the powers in public health laws, I hereby order the following, effective March 4, 2022: Part 1: Re-Issue of Executive Orders.
    - Executive Orders 2020-04, 2020-09, 2020-11, 2020-12, 2020-15, 2020-20, 2020-21, 2020-23, 2020-24, 2020-26, 2020-27, 2020-30, 2020-36, 2020-45, 2020-50, 2020-68, 2021-03, 2021-12, 2021-18, 2021-22, 2021-28, 2021-31, and 2022-06 are hereby re-issued as follows:
    - Executive Order 2020-09 (Telehealth): Sections 9 and 10 of Executive Order 2020-09, as amended by Executive Order 2021-15, are re-issued and extended through June 25, 2022."

Illinois House Bill No. 4797 (passed 5/13/22)

- "1. This Act does not prohibit any of the following:
    - (e) A person, who is not a resident of this State, from performing social work via telehealth in this State for a nonresident of this State for not more than 5 days in any one month or more than 15 days in any one calendar year, had a previous established therapeutic relationship with the nonresident, and the person is authorized to perform such services under the laws of the state or country in which the person resides.
    - (f) A person, who is not a resident of this State, from performing social work via telehealth in this State for a nonresident of this State currently attending a university or college in this State, had a previous established therapeutic relationship with the nonresident, and the person is authorized to perform such services under the laws of the state or country in which the person resides."

Illinois House Bill No. 5711 (introduced 3/1/22)

- "Section 5. The sum of $9,000,000, or so much of that amount as may be necessary, is appropriated from the General Revenue Fund to the Department of Human Services for administrative fees associated with implementing emergency telehealth services for all persons with intellectual and developmental disabilities who are receiving services under the Home and Community-Based Services Waiver Program for Adults with Developmental Disabilities.
- Section 99. Effective date. This Act takes effect July 1, 13 2022"

Illinois Gubernatorial Disaster Proclamation (renewed 2/4/22)

- "Now, therefore, in the interest of aiding the people of Illinois and the local governments responsible for ensuring public health and safety, I, JB Pritzker, Governor of the State of Illinois, hereby proclaim as follows:
- Section 1. Pursuant to the provisions of Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, I find that a disaster exists within the State of Illinois and specifically declare all counties in the State of Illinois as a disaster area. The proclamation authorizes the exercise of all of the emergency powers provided in Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, including but not limited to those specific emergency powers set forth below…
- This proclamation shall be effective immediately and remain in effect for 30 days."

Illinois House Bill No. 3168 (introduced 1/24/22)

- "(12) Who uses teledentistry: A dentist may utilize and delegate dental services to a dental hygienist or dental assistant using telehealth only under the supervision requirements as specified in this Act for in-person patient care."

Illinois House Bill No. 4412: Amends the Telehealth Act. Provides that the definition of "health care professional" includes athletic trainers (engrossed 3/1/22)

- "Be it enacted by the People of the State of Illinois, represented in the General Assembly: Section 5. The Telehealth Act is amended by changing Section 5 as follows: (225 ILCS 150/5) Sec. 5. Definitions. As used in this Act: "Asynchronous store and forward system" means

the transmission of a patient's medical information through an electronic communications system at an originating site to a health care professional or facility at a distant site that does not require real-time or synchronous interaction between the health care professional and the patient… "Health care professional" includes, but is not limited to, physicians, physician assistants, optometrists, advanced practice registered nurses, clinical psychologists licensed in Illinois, prescribing psychologists licensed in Illinois, dentists, occupational therapists, pharmacists, physical therapists, clinical social workers, speech-language pathologists, audiologists, hearing instrument dispensers, athletic trainers, licensed certified substance use disorder"

Illinois Executive Order 2021-30 (reissued 12/10/21)

- "Executive Orders 2020-04, 2020-09, 2020-11, 2020-12, 2020-15, 2020-20, 2020-21, 2020-23, 2020-24, 2020-27, 2020-30, 2020-36, 2020-40, 2020-45, 2020-50, 2020-68, 2021-03, 2021-12, 2021-13, and 2021-18 are hereby re-issued through January 8, 2022.

Illinois House Bill No. 3308 (passed 7/22/21)

- (b) "An individual or group policy of accident or health insurance that is amended, delivered, issued, or renewed on or after the effective date of this amendatory Act of the 102nd General Assembly shall cover telehealth services, e-visits, and virtual check-ins rendered by a health care professional when clinically appropriate and medically necessary to insureds, enrollees, and members in the same manner as any other benefits covered under the policy. An individual or group policy of accident or health insurance may provide reimbursement to a facility that serves as the originating site at the time a telehealth service is rendered."
- (c) "To ensure telehealth service, e-visit, and virtual check-in access is equitable for all patients in receipt of health care services under this Section and health care professionals and facilities are able to deliver medically necessary services that can be appropriately delivered via telehealth within the scope of their licensure or certification, coverage required under this Section shall comply with all of the following:

(1) An individual or group policy of accident or health insurance shall providing telehealth services may not:

  - (A) require that in-person contact occur between a health care professional provider and a patient before the provision of a telehealth service;
  - (B) require patients, the health care professionals, or facilities provider to prove or document a hardship or access barrier to an in-person consultation for coverage and reimbursement of telehealth services, e-visits, or virtual check-ins to be provided through telehealth;
  - (C) require the use of telehealth services, e-visits, or virtual check-ins when the health care professional provider has determined that it is not appropriate; or
  - (D) require the use of telehealth services when a patient chooses an in-person consultation;
  - (E) require a health care professional to be physically present in the same room as the patient at the originating site, unless deemed medically necessary by the health care professional providing the telehealth service;
  - (F) create geographic or facility restrictions or requirements for telehealth services, e-visits, or virtual check-ins;
  - (G) require health care professionals or facilities to offer or provide telehealth services, e-visits, or virtual check-ins;

- (H) require patients to use telehealth services, e-visits, or virtual check-ins, or require patients to use a separate panel of health care professionals or facilities to receive telehealth service, e-visit, or virtual check-in coverage and reimbursement; or
- (I) impose upon telehealth services, e-visits, or virtual check-ins utilization review requirements that are unnecessary, duplicative, or unwarranted or impose any treatment limitations, prior authorization, documentation, or recordkeeping requirements that are more stringent than the requirements applicable to the same health care service when rendered in-person, except procedure code modifiers may be required to document telehealth.

(2) Deductibles, copayments, or coinsurance, or any other cost-sharing applicable to services provided through telehealth shall not exceed the deductibles, copayments, or coinsurance, or any other cost-sharing required by the individual or group policy of accident or health insurance for the same services provided through in-person consultation."

- "For purposes of reimbursement, an individual or group policy of accident or health insurance that is amended, delivered, issued, or renewed on or after the effective date of this amendatory Act of the 102nd General Assembly shall reimburse an in-network health care professional or facility, including a health care professional or facility in a tiered network, for telehealth services provided through an interactive telecommunications system on the same basis, in the same manner, and at the same reimbursement rate that would apply to the services if the services had been delivered via an in-person encounter by an in-network or tiered network health care professional or facility. This subsection applies only to those services provided by telehealth that may otherwise be billed as an in-person service. This subsection is inoperative on and after January 1, 2028, except that this subsection is operative after that date with respect to mental health and substance use disorder telehealth services."
- "A health care professional may engage in the practice of telehealth services in Illinois to the extent of his or her scope of practice as established in his or her respective licensing Act consistent with the standards of care for in-person services. This Act shall not be construed to alter the scope of practice of any health care professional or authorize the delivery of health care services in a setting or in a manner not otherwise authorized by the laws of this State."
- ""Interactive telecommunications system" means an audio and video system, an audio-only telephone system (landline or cellular), or any other telecommunications system permitting 2-way, synchronous interactive communication between a patient at an originating site and a health care professional or facility at a distant site.""
- "There shall be no restrictions on originating site requirements for telehealth coverage or reimbursement to the distant site under this Section other than requiring the telehealth services to be medically necessary and clinically appropriate."

Illinois Executive Order 2021-15 (7/23/21)

- "In response to the epidemic emergency and public health emergency described above, I find it necessary to re-issue Executive Orders 2020-04, 2020-09, 2020-11, 2020-12, 2020-15, 2020-20, 2020-21, 2020-23, 2020-24, 2020-27, 2020-29, 2020-30, 2020-36, 2020-40, 2020-45, 2020-50, 2020-68, 2021-03, 2021-12, and 2021-13 and hereby incorporate the whereas clauses of those Executive Orders."

Illinois Executive Order 2021-14 (6/25/21)

- "Executive Order 2020-09 (Telehealth):Sections 9 and 10 of Executive Order 2020-09 are re-issued and extended through July 24, 2021."

Illinois House Bill No. 3308: An ACT concerning regulation (engrossed 5/3/21)

- "Health care services that are covered under an individual or group policy of accident or health insurance must be covered when delivered via telehealth when clinically appropriate in the same manner as any other benefits covered under the policy. Coverage required under this Section shall comply with all of the following:

(1) An individual or group policy of accident or health insurance

  - (A) require that in-person contact occur between a health care provider and a patient; (B) require the health care provider to document a barrier to an in-person consultation for coverage of services to be provided through telehealth; (C) require the use of telehealth when the health care provider has determined that it is not appropriate; (D) require the use of telehealth when a patient chooses an in-person consultation or require patients to use a separate panel of health care providers to receive telehealth service coverage and reimbursement; (E) create geographic or facility restrictions or requirements for telehealth services; (F) require covered individuals or health care providers to prove a hardship or access barrier before the approval of telehealth services for coverage or reimbursement; (G) impose upon telehealth services utilization review requirements that are unnecessary, duplicative, or unwarranted or impose any treatment limitations, prior authorization, documentation, or recordkeeping requirements that are more stringent than the requirements applicable to the same health care service when rendered in-person; or (H) require prior authorization for telehealth services related to COVID-19 delivered by a netwok provider.

2) Patient cost-sharing may be no more than if the health care service were delivered in person. Deductibles, copayments, or coinsurance applicable to services provided through telehealth shall not exceed the deductibles, copayments, or coinsurance required by the individual or group policy of accident or health insurance for the same services provided through in-person consultation.

(3) Subject to all terms and conditions of the policy, a health insurer shall reimburse a network provider for behavioral health services, including mental health treatment and substance use disorder treatment, delivered through telehealth on at least the same basis and at the same rate as would be applied for the same services if they had been delivered in-person and shall include reasonable compensation to a facility that serves as the originating site at the time a telehealth service is rendered.

Illinois House Bill No. 3657: Amends the Health Facilities Planning Act (engrossed 4/28/21)

- "The Department, in consultation with the Maternal Mortality Review Committee, shall make available to all birthing facilities best practices for timely identification of all pregnant and postpartum women in the emergency department and for appropriate and timely consultation of an obstetric provider to provide input on management and follow-up. Birthing facilities may use telemedicine for the consultation."

Illinois House Bill No. 3759: Telehealth Parity Act (referred to Rules Committee 2/22/21)

- "All health insurance issuers regulated by the Department of Insurance shall cover the costs of all telehealth services rendered by in-network providers to deliver any clinically appropriate, medically necessary covered services and treatments to insureds, enrollees, and members under each policy, contract, or certificate of health insurance coverage."

- In order to ensure that health care is quickly and efficiently provided to the public, health insurance issuers shall not impose upon telehealth services utilization review requirements that are unnecessary, duplicative, or unwarranted nor impose any treatment limitations that are more stringent than the requirements applicable to the same health care service when rendered in-person.
- Health insurance issuers shall not impose any cost-sharing (copayments, deductibles, or coinsurance) for telehealth services provided by in-network providers."

Executive Order 2020-09 (Telehealth) (5/29/20)

- "Executive Order 2020-09 is re-issued in its entirety and extended through June 27, 2020."

Illinois Department of Insurance Company Bulletin 2020-04, Requirements for Telehealth Services Under Executive Order 2020-09 (3/25/20)

- "While a disaster proclamation remains in effect, the EO requires a health insurance issuer "to cover the costs of all Telehealth Services rendered by in-network providers to deliver any clinically appropriate, medically necessary covered services and treatments to insureds, enrollees, and members under each policy, contract, or certificate of health insurance coverage." Under this EO, telehealth services are not expressed as a separate covered benefit or set of benefits, but rather a delivery method for covered health care services. To the extent that a covered service or treatment may be delivered in a clinically appropriate manner via telehealth instead of in-person, the policy must cover it when medically necessary for the insured."
- "While the EO is in effect, prior authorization requirements are not allowed for telehealth services related to COVID-19 when delivered by in-network providers. In the corollary for an indemnity policy with no network, if the policy normally would have prior authorization requirements, the EO would not allow them to apply with respect to any telehealth services related to COVID-19 that are delivered by any provider duly authorized to practice in Illinois."
- "One noteworthy area where the EO supersedes some provisions of the Medicaid emergency rule is with respect to "distant sites." An issuer may not strictly limit the providers eligible to deliver telehealth services to the list of "distant sites" in the Medicaid emergency rule where the EO allows additional providers to deliver telehealth services. Under the terms of the order, where applicable insurance laws require a policy to cover a benefit for services delivered by health care professionals with certain licensures, the EO requires that those laws supersede the Medicaid emergency rule."

Executive Order to Expand Telehealth Services and Protect Health Care Providers in Response to COVID-19 (COVID-19 Executive Order No. 7) (3/19/20)

Gov. Pritzker Announces Series of New Measures to Help Illinoisans Affected by COVID-19 (3/19/20)

- "Through emergency rules and an executive order, the Pritzker administration has significantly relaxed rules around telemedicine for both Medicaid and private insurers, allowing more providers to get reimbursed for these services that allow patients more flexibility and safety. For plans regulated by the Department of Insurance, the executive order calls for providers to be reimbursed at the same rate at which they are reimbursed for in-person visits and prohibits private health insurers from imposing any cost-sharing for in-network providers. For Medicaid, the emergency rules also require providers to be reimbursed at the same rate at which they are reimbursed for in-person visits."

State Licensure Laws, Policy, and Guidance

Illinois House Bill No. 158: AN ACT concerning health. (passed 4/27/21)

- The Behavioral Health Workforce Education Center of Illinois shall perform the following duties:

Focus on the training of behavioral health professionals in telehealth techniques, including taking advantage of a telehealth network that exists, and other innovative means of care delivery in order to increase access to behavioral health services for all persons within this State.

Health Care Temporary Practice Application (March 2020)

- "Only Licensed Practical Nurses (LPN), Registered Nurses (RN), Advanced Practice Registered Nurses (APRN), Physician Assistants (PA), Respiratory Care Practitioner (RCP) and Physicians (MD) may use this form to apply for a Temporary Practice Permit, which will be valid through September 30, 2020. Physician applicants ONLY are required to complete the personal history questions on this form."
- "All approved Temporary Practice Permits will have an expiration date of 9/30/2020 and a $0 fee."

Illinois Department of Financial and Professional Regulation (3/20/20)

- "The requirements for permanent licensure of physicians, nurses, physician assistants, and respiratory care therapists who are licensed in another state, are in good standing, and working under the direction of IEMA and IDPH (hereinafter "licensees") in response to the public health emergency declared by the Governor, are suspended. Out-of-state licensees working in Illinois pursuant to this Order must hold a license from another U.S. jurisdiction and must be in good standing. Such licensees, while working in Illinois, are subject to all provisions of the Medical Practice Act and its Rules, the Nurse Practice Act and its Rules, the Physician Assistant Practice Act and its Rules, or the Respiratory Care Practice Act and its Rules, as applicable, relating to the standards of care."

Medicaid Law, Policy and Guidance Related to Telehealth

Illinois Senate Bill No. 1913 (engrossed 4/4/23)

- "Section 5. The Illinois Public Aid Code is amended by adding Section 5-47 as follows:
    - Sec. 5-47. Coverage for mental health and substance use disorder telehealth services.
        - (b) The Department and any managed care plans under contract with the Department for the medical assistance program shall provide for coverage of mental health and substance use disorder treatment or services delivered as behavioral telehealth services as specified in this Section. The Department and any managed care plans under contract with the Department for the medical assistance program may also provide reimbursement to a behavioral health facility that serves as the originating site at the time a behavioral telehealth service is rendered.
        - (c) To ensure behavioral telehealth services are equitably provided, coverage required under this Section shall comply with all of the following: […]
        - (d) For purposes of reimbursement, the Department and any managed care plans under contract with the Department for the medical assistance program shall reimburse a behavioral health care professional or behavioral health facility for

behavioral telehealth services on the same basis, in the same manner, and at the same reimbursement rate that would apply to the services if the services had been delivered via an in-person encounter by a behavioral health care professional or behavioral health facility. This subsection applies only to those services provided by behavioral telehealth that may otherwise be billed as an in-person service.

- (e) Behavioral health care professionals and behavioral health facilities shall determine the appropriateness of specific sites, technology platforms, and technology vendors for a behavioral telehealth service, as long as delivered services adhere to all federal and State privacy, security, and confidentiality laws, rules, or regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996, 42 CFR Part 2, and the Mental Health and Developmental Disabilities Confidentiality Act.
- (f) Nothing in this Section shall be deemed as precluding the Department and any managed care plans under contract with the Department for the medical assistance program from providing benefits for other telehealth services.
- (g) There shall be no restrictions on originating site requirements for behavioral telehealth coverage or reimbursement to the distant site under this Section other than requiring the behavioral telehealth services to be medically necessary and clinically appropriate.
- (h) Nothing in this Section shall be deemed as precluding the Department and any managed care plans under contract with the Department for the medical assistance program from establishing limits on the use of telehealth for a particular behavioral health service when the limits are consistent with generally accepted standards of mental, emotional, nervous, or substance use disorder or condition care.
- (i) The Department may adopt rules to implement the provisions of this Section."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (5/12/20)

- Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Provider Notice, Dental Providers, Federally Qualified Health Centers (FQHCs), Encounter Rate Clinics (ERCs), Rural Health Clinics (RHCs) (5/5/20)

- "this notice serves to inform dental providers that in response to the current COVID-19 crisis, the Illinois Department of Healthcare and Family Services (HFS) will be temporarily reimbursing dental providers for dental evaluations that occur virtually through a combination of

audio and video means. This change applies to claims billed for participants covered under fee-for-service as well as a HealthChoice Illinois managed care plan."

Temporary Guidelines to allow designated Assisters to assist clients telephonically during the COVID-19 emergency (4/23/20)

- "Typically, assistance happens face-to-face because a client signature is required. However, during the COVID-19 emergency, face-to-face interactions are not possible. To allow these agencies to continue to help clients, HFS is allowing telephonic assistance under the following circumstances:

1. The client is on the phone providing the information to the Assister.

2. The Assister reads the disclaimer and the client gives verbal consent authorizing the Assister to submit, on behalf of the client: an application (regular or MPE), renewal, or other action through MMC, or a Request for State ID Proofing.

3. The Assister must complete and include the attached Model ABE Assister Consent Form for Assistance by Phone with any allowable submissions made on behalf of the client.

4. Prior to signing the application, MMC submission or request for State ID proofing on behalf of the client, the Assister must read the Rights and Responsibilities on the form to the client and receive an affirmative verbal consent that the client understands and agrees with them.

5. The attached Model ABE Assister Consent Form for Assistance by Phone must be: 1) on the letterhead of the Assister's organization, 2) signed and dated by the Assister, and 3) uploaded as part of the application, redetermination, MPE application, MMC submission - under "other" (with a note in comments) and included with the Request for Manual ID proofing. The Assister must keep a copy in their records and make it available to the State upon request.

Illinois Part C Early Intervention Live Video Visits (i.e. Teletherapy) during COVID-19 Pandemic (4/6/20)

- "As result of the Illinois state of emergency and the World Health Organization's pandemic assignment over the outbreak COVID-19, The Illinois Early Intervention (EI) Program will institute the use of Live Video Visits, or teletherapy, as a temporary measure to comply with the services mutually agreed upon and deemed necessary under the current Individualized Family Service Plans (IFSP) developed for any Individuals with Disabilities Education Act (IDEA) Part C eligible child and the child's family. Live Video Visit services will be provided through the use of the internet with both video and audio features and with the EI provider and family both present in real time."
- "The use of Illinois Live Video Visits during COVID-19 Pandemic will go into effect April 7, 2020 and will continue only until the Illinois state of emergency is lifted following guidance from the Centers for Disease Control as well as the World Health Organization's pandemic restrictions are officially lifted. Families will be notified of changes or termination of this policy via their local Child and Family Connections (CFC) offices and EI direct service providers/Payees will be notified via posting on the EI Provider Connections website as well as notification from the various EI Program's partners."

Message to Early Intervention Providers—Teletherapy Update (4/5/20)

- "The Illinois Telehealth workgroup members developed Guidance (policy/procedure) and Training for the implementation and practice of the first-ever Illinois EI Teletherapy. The Bureau has cleared all Illinois Department of Healthcare and Family Services requisites to put this

into motion. The necessary system change requests have been submitted and are currently being processed. It is anticipated to be ready for release Monday evening. You are encouraged to begin communicating with families in preparation of engaging them and preparing them for this option for EI services beginning this week."

Telehealth Expansion Billing Instructions (3/30/20)

- "Sites approved as valid originating facility sites were expanded. The March 20, 2020 notice contained a list of sites that included "providers who receive reimbursement for a patient's room and board, including nursing facilities and Intermediate Care Facilities for the Developmentally Disabled." For further clarification, this category would also include Family Support Program residential providers, Medically Complex Facilities for Persons with Developmental Disabilities, and Specialized Mental Health Rehabilitation Facilities."
- "In situations where a hospice patient in a long term care facility is in need of a telehealth service, the hospice may submit charges for the facility fee as an originating telehealth site."
- "The Department will allow medical/dental/behavioral health encounters with new or existing patients using audio only telephonic equipment to be reimbursed at the medical/dental/behavioral health encounter rate, as long as the encounter is of an amount and nature that would be sufficient to meet the key components of a face-to-face encounter."

Provider Notice for All Medical Assistance Program Providers (3/20/20)

- "To protect the public health in connection with the present public health emergency, the Department will reimburse medically necessary and clinically appropriate telehealth services with dates of service on or after March 9, 2020 until the public health emergency no longer exists, that meet the following requirements:

To be eligible for reimbursement, the telehealth service must be delivered using:

  - 1. an "interactive telecommunication system" or "telecommunication system" as described in 89 Ill. Admin. Code Section 140.403(a), or;
  - 2. a communication system where information exchanged between the physician or other qualified health care practitioner and the patient during the course of the synchronous telehealth service is of an amount and nature that would be sufficient to meet the key components and requirements of the same service when rendered via face-to-face interaction."

Provider Notice for Long Term Care Providers (3/20/20)

- "This notice informs Long Term Care (LTC) providers that revisions are being made on a temporary basis to the processes for conducting required pre-admission screenings. The Pre-admission Screening and Resident Review (PASRR) assessment, the Specialized SLP Mental Health assessment, and the Determination of Need (DON) assessment will incorporate the following process revisions:

Screenings can be conducted telephonically instead of in-person."

Provider Notice for All Medical Assistance Program Providers (3/16/20)

- "HFS is working as quickly as possible to understand the new flexibilities to the Medicaid program authorized by the federal Centers for Medicare and Medicaid and/or the national emergency declaration. We believe these flexibilities will broaden coverage and encourage

increased access to care, such as remote monitoring and other telehealth and telepsychiatry options. We are instructing MCO partners to immediately notify providers of policy and process changes related to COVID-19. These flexibilities under emergency waivers or state plan amendments are expected to allow HFS and our MCOs to reimburse our partners in the health care system as they respond in the most appropriate fashion to keep members safe and in accordance with social distancing recommendations."

"Utilizing telehealth and telepsychiatry options in all available circumstances and sites (including non-traditional sites)."

"Effective immediately and through at least June 1, 2020, telehealth rules will be significantly broadened and will accommodate new places of service and means of engagement and communication. We recommend all providers utilizing telehealth of any kind to continue practicing the same level of documentation as for in person visits."

INDIANA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Indiana Senate Bill No. 73 (enrolled 4/17/23)

- "SECTION 1. IC 25-43 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:
    - ARTICLE 43. OCCUPATIONAL THERAPY LICENSURE COMPACT
        - Chapter 1. Purpose
            - Sec. 1. (b) This compact is designed to achieve the following objectives:
                - (7) Facilitate the use of telehealth technology to increase access to occupational therapy services."

Indiana House Bill No. 1352 (enrolled 4/12/23)

- "SECTION 1. IC 12-15-11-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]:
    - Sec. 10. The office may not require the following:
        - (1) A provider that is licensed, certified, registered, or authorized with the appropriate state agency or board and exclusively offers telehealth services (as defined in IC 12-15-5-11(a)) to maintain a physical address or site in Indiana to be eligible for enrollment as a Medicaid provider.
        - (2) A telehealth provider group with providers that are licensed, certified, registered, or authorized with the appropriate state agency or board to have an in-state service address to be eligible to enroll as a Medicaid vendor or Medicaid provider group."

Indiana House Bill 1252 (introduced 2/1/23)

- "Telehealth services. Provides that the office of Medicaid policy and planning may not require: (1) a provider that is licensed, certified, registered, or authorized with the appropriate state agency or board and exclusively offers telehealth services to maintain a physical address or site in Indiana to be eligible for enrollment as a Medicaid provider; or (2) a telehealth provider group with providers that are licensed, certified, registered, or authorized with the appropriate state agency or board to have an in-state service address to be eligible to enroll as a Medicaid vendor or Medicaid provider group."

Indiana Senate Bill 190 (introduced 1/10/23)

- "Amends the definition of "prescriber" for purposes of electronically transmitted prescriptions for controlled substances, overdose intervention drugs, and telehealth services and prescriptions."
- "Sec. 1. As used in this chapter, "prescriber" means any 4 of the following:
    - (1) A physician licensed under IC 25-22.5.
    - ~~o~~ (2) A physician assistant licensed under IC 25-27.5. ~~and granted the authority to prescribe by the physician assistant's collaborating physician and in accordance with IC 25-27.5-5-4.~~
    - (3) An advanced practice registered nurse licensed and granted 10 the authority to prescribe drugs under IC 25-23.
    - (4) The state health commissioner, if the state health 12 commissioner holds an active license under IC 25-22.5.
    - (5) A public health authority"

Indiana Executive Order 22-01 (renewed 2/1/2022)

- "The directives in this Executive Order become effective February 2, 2022, and continue through Friday, March 4, and all Hoosiers, Hoosier businesses, and other individuals in the state must adhere to the directives set forth in this Executive Order unless rescinded, modified, or extended by me.
    - As previously extended in Executive Order 21-19, 21-23, 21-24, 21-27, 21-29 & 21-32, the directives in Executive Order 21-17 as modified below and as summarized below, will remain in effective for the duration of this Executive Order."

Indiana Senate Bill No. 36 (introduced 1/6/22)

- "The purpose of this compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This compact is designed to achieve the following objectives:
    - (7) Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

- (a) Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with section 3 of this chapter and under rules 9 promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission."

Indiana Senate Bill No. 284 (passed 3/14/22)

- The office shall reimburse the following Medicaid providers for medically necessary telehealth services:
  - (1) A federally qualified health center (as defined in 42 U.S.C.1396d(l)(2)(B)).
  - (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).
  - (3) A community mental health center certified under 12 IC 12-21-2-3(5)(C).
  - (4) A critical access hospital that meets the criteria under 42 CFR 14 485.601 et seq.
- (a) As used in this chapter, "practitioner" means an individual who holds an unlimited license to practice as any of the following in Indiana:
  - (B) An occupational therapy assistant licensed under IC 25-23.5.
  - (22) A school psychologist licensed by the department of education.
- (b) The term includes the following:
  - (1) A developmental therapist enrolled by the bureau of child development services to provide special instruction, as defined in 34 CFR 303.13(b)(14), to infants and toddlers receiving early intervention services.
  - (2) A peer as defined in IC 12-21-8-5 and certified by the division of mental health and addiction.
  - (3) A clinical fellow in speech language pathology.
  - (4) A student who:
    - (A) is pursuing a course of study in, or is a graduate from, a program in a profession specified in subsection (a)(1) through (a)(22); and
    - (B) is providing services directed by an individual who holds a license in Indiana for that profession
  - (5) The following providers within a community mental health center:
    - (A) A qualified behavioral health professional.
    - (B) Other behavioral health professional.
    - (6) A physical therapist assistant certified under IC 25-27-1-6.3.
- (c) The term includes a behavior analyst during the time in which the professional licensing agency is preparing to implement licensure of behavioral analysts under IC 25-8.5. This subsection expires January 1, 2025.

Indiana Executive Order 21-22 (8/30/21)

- "Now, Therefore, I, Eric J. Holcomb, by virtue of the authority vested in me as Governor by the Indiana Constitution and the laws of the State of Indiana, do hereby order that:
    - The declaration of a public health disaster emergency set forth in Executive Order 20-02 as renewed in Executive Orders 20-17, -25, -30, -34, -38, -41, -44, -47, -49, -52, 21-03, 21- 05, -08, -11, 14, -16 & -18 is hereby renewed for an additional thirty (30) day period beyond its current expiration date of August 30, 2021.
    - This renewal of the COVID-19 public health emergency shall become effective on August 31, 2021, and shall now expire on September 30, 2021, unless further renewed."

Indiana Executive Order 21-18 (7/29/21)

- "Now, therefore, I, Eric J. Holcomb, by virtue of the authority vested in me as Governor by the Indiana Constitution and the laws of the State of Indiana, do hereby order that:
    - 1. The declaration of a public health disaster emergency set forth in Executive Order 20-02 as renewed in Executive Orders 20-17, 20-25, 20-30, 20-34, 20-38, 20-41, 20-44, 20-47, 20-49, 20-52, 21-03, 21-05, -08, -11, 14 & -16 is hereby renewed for an additional thirty (30) day period beyond its current expiration date of July 31, 2021.
    - 2. This renewal of the COVID-19 public health emergency shall become effective on August 1, 2021, and shall now expire on August 30, 2021, unless further renewed."

Indiana House Bill No. 1468 (passed 1/14/21)

- "The office shall reimburse a Medicaid provider who is licensed as a home health agency under IC 16-27-1 for telehealth activities.
- The office shall reimburse the following Medicaid providers for medically necessary telehealth services:
    - (1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)). (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)). (3) A community mental health center certified under IC 12-21-2-3(5)(C). (4) A critical access hospital that meets the criteria under 42 CFR 485.601 et seq. (5) A provider, as determined by the office to be eligible, providing a covered telehealth service.
- The office may not impose any distance restrictions on providers of telehealth activities or telehealth services.
- For purposes of a community mental health center, telehealth services satisfy any face to face meeting requirement between a clinician and consumer."

Indiana House Bill No. 1002 (passed 4/29/21)

- "(b) This subsection applies during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared after February 29, 2020, and before April 1, 2022. Except as provided in section 2 of this chapter, the following apply to the provision of health care services arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19:
    - 1) A person providing health care services or emergency medical services, whether in person or through telemedicine services permitted by IC 25-1-9.5, at a facility or other location where health care services or emergency medical services are provided

may not be held civilly liable for an act or omission relating to the provision or delay of health care services or emergency medical services arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19.

  - (2) An employer (A) the provision or delay of health care services in response to or arising from a state disaster emergency declared under IC 10-14-3-; and

- b) This subsection applies during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared after February 29, 2020, and before April 1, 2022. A facility or other location, including a location used to provide emergency medical services or used to provide telemedicine services permitted under IC 25-1-9.5, that provides health care services or emergency medical services in response to or arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19 may not be held civilly liable for an act or omission relating to the provision of health care services with respect to which an individual providing health care services, a provider, an agent, or an employee are not liable under this chapter."

Executive Order 20-38, Fifth Renewal of the Public Health Emergency Declaration for the COVID-19 Outbreak (7/30/20)

- "The declaration of a public health disaster emergency set forth in Executive Order 20-02 as renewed in Executive Orders 20-17, 20-25, 20-30, & 20-34 is hereby renewed for an additionally thirty (30) day period beyond its current expiration date of August 3, 2020."
- "All other Executive Orders issued since March 6, 2020, which provide they are supplements to Executive Order 20-02, state they will continue for the duration of the public health emergency, or state they continue until rescinded, are hereby renewed for the same 30-day period as provided in Paragraph 1 of this Executive Order, except to the extend those Executive Orders or any provision therein have been rescinded, superseded or specify they extend to or expire at another specific date. The above-referenced Executive Orders are numbered 20-03 through 20-37."

IHCP Bulletin BT202049 (4/21/20)

- Q: "Is prior authorization needed for rendering telemedicine services?"
  - A: "Prior authorization (PA) is required for the service, not the mode of service delivery (telemedicine). If a service definition requires PA for face-to-face encounters, the service will still require PA for telemedicine encounters. The requirement for PA for a service does not change based on the mode of service delivery."
- Q: "What is the guidance for providing physical, speech, or occupational therapy services via telemedicine?"
  - A: "Speech therapy (ST), physical therapy (PT), and occupational therapy (OT) can be provided via telemedicine; however, there must be a video component. Executive Order 20-13 excludes these services from audio-only telemedicine. Because these services are not listed on Telemedicine Services Codes (accessible from the Code Sets page at in.gov/medicaid/providers), but are IHCP covered codes, providers should bill with the place of service most relevant to the patient's location and are encouraged to use the GT modifier. Providers should keep documentation of what services were rendered via telemedicine in the patient's medical file. The IHCP asks that providers use their professional discretion when deciding what services are suitable for telemedicine."
- Q: "Are evaluation and management codes (including well-child visits) allowed under the expanded telemedicine guidelines?"

- "Yes. It is IHCP's intent to allow providers to continue any service that can be reasonably provided via telemedicine. These codes should be billed as described in BT202022 with the place of service most relevant to the patient's location and the GT modifier."

- Q: "Can the IHCP clarify how providers should perform well-child visits through telemedicine during the emergency declaration?"
  - A: "The IHCP encourages in-person well visits and immunization of infants and young children through 24 months of age. The IHCP considers telemedicine appropriate for well-child visits for children age 24 months and older. These visits should be billed using the appropriate procedure code and will be reimbursed at the same rate as in-office visits. For well-child checks handled via telephone or video, providers need to complete the visit components that were unable to be done by telemedicine in a follow-up visit within 6 months of the end of the public health emergency. This follow-up visit should be billed using the evaluation and management (E/M) code that is most appropriate for the complexity of the follow-up visit. For children age 24 months and younger, providers should use professional discretion regarding how to most safely deliver this care. Office modifications to consider include: dedicated space for well-child checks, drive-through immunizations, or special sessions for well-child care only. For additional information, see the Guidance on Providing Pediatric Ambulatory Services via Telehealth During COVID-19 page at aap.org."

Indiana Department of Insurance Bulletin 253 (4/21/20)

- "The IDOI provides further guidance to supplement section two of bulletin 252…the ODOI encourages the use of telemedicine in all reasonable instances in connection with testing, screening, and treatment of COVID-19, and to waive any cost-sharing for the use of telemedicine related to testing and screening of COVID-19 to ensure policyholders have access to this critical preventive care. Furthermore, the IDOI encourages Insurers to promote and support the use of telehealth and not to limit remote care to COVID-19-related services. The CARES Act allows for high deductible health plans ("HDHP") with health savings accounts("HSA") to cover telehealth services before a patient reaches his or her deductible amount. Furthermore, the Centers for Medicare and Medicaid Services ("CMS"), under the authority of the Coronavirus Preparedness and Response Supplemental Appropriations Act (Public Law 116-123), the FFCRA, CARES Act, and Subsequent CMS guidance expanded the use of telemedicine services for Medicare beneficiaries, including the use of audio-only services."

Indiana Department of Insurance Bulletin 252 (3/26/20)

- "the IDOI encourages the use of telemedicine in all reasonable instances in connection with testing, screening, and treatment of COVID-19, and to waive any cost-sharing for the use of telemedicine related to testing, screening, and treatment of COVID-19 to ensure policyholders have access to this critical preventive care."

State Licensure Laws, Policy, and Guidance

Indiana Senate Bill 160 (enrolled 4/13/23)

- "Professional counselors licensure compact. Requires the behavioral health and human services licensing board to administer the professional counselors licensure compact (compact)."

- "Sec. 2. This compact is designed to achieve the following 25 objectives:"
    - "(6) Allow for the use of telehealth technology to facilitate increased access to professional counseling services."

Indiana Senate Bill 73 (introduced 1/9/23)

- "Sec. 1. (a) The purpose of this compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
    - (7) Facilitate the use of telehealth technology to increase access to occupational therapy services."

Indiana Senate Bill 198 (introduced 1/10/23)

- Chapter 7. Compact Privilege to Practice Telehealth
    - "Sec. 1. Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with IC 25-43-3 and under rules promulgated by the commission, to 33 practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission."

Appendix K Approval (5/28/20)

- Add an electronic method of service delivery (e.g. telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Other [Describe]:

- For the non-personal care activities performed by the Structured Family Caregiving service.
- Screening of COVID-19 prior to in-home visits by any home-based provider.

State of Indiana Executive Order 20-13 (3/30/20)

- "In the event the Commissioner of ISDH determines patient capacity at any or all of Indiana's hospitals exceeds what is available or needed, the Commissioner is authorized to direct the opening, staffing, equipping and use of a temporary facility for patient care."
- "To effectuate this Executive Order, the following provisions of Indiana Code are suspended for any temporary facility authorized by the Commissioner of ISDH:

"Ind. Code 16-21-2-10 requiring a license from the Commissioner of ISDH before establishing, conducting, operating or maintaining a hospital or other covered facility;"

- "Individuals who seek to provide health care in the State of Indiana in response to this public health emergency who are not currently licensed to practice in the state, may obtain temporary authorization to provide health care services as outlined below"

Retired health care professionals

Medical students

Medical residents

Physician assistant students

Nursing students

Respiratory care practitioner students

Out-of-state health care professionals

- Professionals who do not currently hold an active license to practice in the State of Indiana and are granted a temporary license to provide health care services in the state in response to this public health emergency must register with the PLA via their website at www.in.gov/pa"

State of Indiana Executive Order 20-05 (3/19/20)

- "Suspend the Indiana licensure requirement under the Indiana Medical Malpractice Act to permit health care providers licensed by another state to provide care in Indiana and be eligible for coverage from the Indiana Patient Compensation Fund."

Medicaid Law, Policy and Guidance Related to Telehealth

Indiana Senate Bill No. 3 (passed 4/20/21)

- "(c) The office shall reimburse a Medicaid provider who is licensed as a home health agency under IC 16-27-1 for telehealth activities.
- (d) The office shall reimburse the following Medicaid providers for medically necessary telehealth services:

(1) A federally qualified health center (as defined in 42 U.S.C.1396d(l)(2)(B)).

(2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

(3) A community mental health center certified under IC 12-21-2-3(5)(C).

(4) A critical access hospital that meets the criteria under 42CFR485.601 et seq.

(5) A provider, as determined by the office to be eligible, providing a covered telehealth service.

- (e)The office may not impose any distance restrictions on providers of telehealth activities or telehealth services.

- (f) Subject to federal law, the office may not impose any location requirements concerning the originating site or distant site in which a telehealth service is provided to a Medicaid recipient.
- Telehealth may not be used to provide any abortion, including the writing or filling of a prescription for any purpose that is intended to result in an abortion.
- A health care provider (as defined in IC16-18-2-163(a)) may not be required to obtain a separate additional written health care consent for the provision of telehealth services.
- (a) A policy must provide coverage for telemedicine services in accordance with the same clinical criteria as the policy provides coverage for the same health care services delivered in person.
- (b) Coverage for telemedicine services required by subsection (a) may not be subject to a dollar limit, deductible, or coinsurance requirement that is less favorable to a covered individual than the dollar limit, deductible, or coinsurance requirement that applies to the same health care services delivered to a covered individual in person.
- (c) Any annual or lifetime dollar limit that applies to telemedicine services must be the same annual or lifetime dollar limit that applies in the aggregate to all items and services covered under the policy.
- (d) A separate consent for telemedicine services may not be required.
- (e) If a policy provides coverage for telehealth services via: (1) secure videoconferencing; (2) store and forward technology; or (3) remote patient monitoring technology; between a provider in one (1) location and a patient in another location, the policy may not require the use of a specific information technology application for those services."

Indiana Health Coverage Programs Bulletin (4/2/20)

- "The following definitions have been revised to accommodate this current situation:

"Telemedicine – The use of technology which allows a healthcare provider to render an exam or other service to a patient at another location."

"Telehealth – The scheduled remote monitoring of clinical data through technologic equipment in the member's home. The IHCP covers telehealth services provided by home health agencies to members who are approved for other home health services."

- Q: "Can telemedicine be provided via audio-only communication?"

A: "Any IHCP-covered service – aside from the exclusions listed in BT202022 and speech, occupational, and physical therapies – can be provided through audio-only, given that the service can reasonably be provided through audio only communication. Some services may be better provided through video; however, the IHCP acknowledges some patients may not have access to video communication. Executive Order 2020-13 excludes speech, occupational, and physical therapies from audio-only telemedicine."

- Q: "What services cannot be provided via telemedicine?"

A: "According to BT202022, surgical procedures, radiological services, laboratory services, anesthesia services, audiological services, chiropractor services, care coordination without the member present (unless this service is covered under the member's benefit plan or package), durable medical equipment (DME)/home medical equipment (HME) providers, and provider-to-provider consultation cannot be provided via telemedicine. Procedure codes that include physical interaction in the service definition, for example chiropractic services, which cannot be replicated via video or audio, are not reimbursable via telemedicine. IHCP expects providers to use their professional discretion when determining if a service can be provided via telemedicine."

- Q: "Does telemedicine apply to HCBS waiver services?"

A: "At this time, HCBS providers can provide services via telemedicine; however, CoreMMIS does not allow modifier GT to be billed with HCBS claims. Providers will need to record that the service was performed via telemedicine in the patient records. At this time we do not see this changing; however, the Office of Medicaid Policy and Planning (OMPP) will notify providers of any changes being made."

- Q: "8. Are there any geographic limitations?"

A: "No, the IHCP does not apply geographic restrictions to telemedicine."

- Q: "Will the managed care entities (MCEs) be following the same telemedicine guidance as fee-for-service (FFS) Medicaid?"

A: "The MCEs will be covering the same services via telemedicine as FFS Medicaid. However, the MCEs may have different rules regarding prior authorization (PA) and billing. Be sure to communicate with your MCE provider representatives for further guidance."

- Q: "Is there a reduction in payment for providing services via telemedicine?"

A: "No, telemedicine pays at the normal rate for the procedure code."

Indiana Health Coverage Program Bulletin (3/19/20)

- "Effective March 1, 2020, and through the duration of the Governor's Declaration of Public Health Emergency for Coronavirus Disease 2019 Outbreak, Indiana Health Coverage Programs (IHCP)-enrolled providers may use the following billing guidance for providing services through telemedicine. This policy applies to both in-state and out-of-state providers and all IHCP-covered services, with some exceptions for services that require physical interaction. This policy includes both Traditional Medicaid (fee-for-service) as well as all managed care benefit programs. All services rendered must be within the provider's applicable licensure and scope of practice."
- "Telemedicine services may be provided using any technology that allows for real-time, interactive consultation between the provider and the patient. This includes, but is not limited to, the use of computers, phones, or television monitors. This policy includes voice-only communication, but does not include the use of non-voice communication such as emails or text messages. This expansion of allowable forms of telecommunication for telemedicine services is due to the federal waiver of certain Health Insurance Portability and Accountability Act (HIPAA) requirements in response to the current national emergency and is subject to change based on federal policy and guidance."

IOWA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Iowa Proclamation of Disaster Emergency (renewed 2/3/22)

- "Now therefore, I, Kimberly K. Reynolds, Governor of the State of Iowa, by the power and authority vested in me by the Iowa Constitution, Art. IV,§§ 1, 8 and Iowa Code§§ 29C.6(1), 135.140(6), and 135.144 do hereby proclaim a state of public health disaster emergency continues to exist throughout the entire state of Iowa, until February 15, 2022."

Iowa House Bill No. 891 (engrossed 5/17/21)

- "A health carrier shall reimburse a health care professional and a facility for health care services provided by telehealth to a covered person for a mental health condition, illness, injury, or disease on the same basis and at the same rate as the health carrier would apply to the same health care services for a mental health condition, illness, injury, or disease provided in person to a covered person by the health care professional or the facility.
- The division of this Act applies to health care services for a mental health condition, illness, injury, or disease provided by a health care professional or a facility to a covered person by telehealth on or after January 1, 2021."

Iowa House Bill No. 893 (introduced 5/6/21)

- "Telehealth" means the delivery of health care services through the use of real-time interactive audio and video, or other real-time interactive electronic media, regardless of where the health care professional and the covered person are each located. "Telehealth" does not include the delivery of health care services delivered solely through an audio-only telephone, electronic mail message, or facsmilie transmission."
- "a. A health carrier shall reimburse a health care professional and a facility for health care services provided by telehealth to a covered person for a mental health condition, illness, injury, or disease on the same basis and at the same rate as the health carrier would apply to the same health care services for a mental health condition, illness, injury, or disease provided in person to a covered person by the health care professional or the facility."
- "b. As a condition of reimbursement pursuant to paragraph "a," a health carrier shall not require that an additional health care professional be located in the same room as a covered person while health care services for a mental health condition, illness, injury, or disease are provided via telehealth by another health care professional to the covered person."
- "This division of this Act applies to health care services for a mental health condition, illness, injury, or disease provided by a health care professional or a facility to a covered person by telehealth on or after January 1, 2021."
- "I continue to suspend the regulatory provision of Iowa Code chapters § 514C.34 to the extent that it excludes from the definition of telehealth the provision of services through audio-only telephone transmission, and I direct the Insurance Commissioner to use all

available means, including the authority of Iowa Code §§ 505.8(1), (7), and 29C.19, to ensure that any health carrier, as defined in Iowa Code § 514J.102, shall reimburse a health care professional, as defined in Iowa Code § 514J.102, for medically necessary, clinically appropriate covered services by telehealth, as defined in § 514C.34(1) or via audio-only telephone transmission, provided to a covered person, as defined in Iowa Code § 514J.102, on the same basis and at the same rate as the health carrier would apply to the same health care services provided to a covered person by the health care professional in person for the duration of this proclamation. I also encourage all Iowa businesses to take any necessary action to remove cost-sharing or other financial barriers to the use of telehealth in their health insurance plans."

- "I continue to suspend the regulatory provisions of Iowa Code § 147.137 and Iowa Admin. Code rule 653-13.11, rule 641-155.2, and other implementing administrative rules establishing preconditions, limitations, or restrictions on the provision of telehealth or telemedicine services, and I continue to temporarily suspend the regulatory provisions of Iowa Admin. Code rules 641-155.21(19) and 155.23(4) and other administrative rules which require face-to-face interactions with health care providers and impose requirements for residential and outpatient substance use disorder treatment and for face-to-face visitations."

Iowa Proclamation P21-5, Gov. Reynolds signs new proclamation continuing State Public Health Emergency Declaration (reissued 4/30/21)

- "The proclamation now remains in effect until 11:59 p.m. on May 30, 2021."

Iowa House Bill No. 294: An Act relating to reimbursement rates for health care services for mental health conditions, illnesses, injuries, or diseases provided to covered persons by telehealth, and including effective date and retroactive applicability provisions. (engrossed 3/10/21)

- "A health carrier shall reimburse a health care professional and a facility for health care services provided by telehealth to a covered person for mental health conditions, illness, injury, or disease on the same basis and at the same rate as the health carrier would apply to the same health care services for a mental health condition, illness, injury, or disease provided in person to a covered person by the health care professional or the facility.
- This Act applies to health care services for a mental health condition, illness, injury, or disease provided by a health care professional or facility to a covered person by telehealth on or after January 1, 2021."

SF 2261: An Act relating to the provision of behavioral health services including via telehealth in a school setting (Signed 6/29/20)

- 280A.3 Establishment of provider-patient relationships for services provided via telehealth in a school setting.
- 280A.4 Behavioral health services provided via telehealth in a school setting.

Iowa Insurance Division (March 2020)

- "The Division encourages consumers to utilize telemedicine if offered by their health care provider and covered by their insurance company."

State Licensure Laws, Policy, and Guidance

Iowa House File no. 2245 (introduced 2/3/22)

- "b. A health carrier shall not exclude a healthcare professional who provides services for mental health conditions, illnesses, injuries, or diseases and who is physically located out-of-state from participating as a provider, via telehealth, under a policy, plan, or contract offered by the health carrier in the state if all of the following requirements are met:
  - (1)The healthcare professional is licensed in this state by the appropriate professional licensing board and is able to deliver healthcare services for mental health conditions, illnesses, injuries, or diseases via telehealth in compliance with paragraph "a".
  - (2) The healthcare professional is able to satisfy the same criteria that the health carrier uses to qualify a healthcare professional who is located in the state, and who holds the same license as the out-of-state professional, to participate as a provider, via telehealth, under a policy, plan, or contract offered by the health carrier in the state."

645—327.9(147,148C,272C) Standards of practice—telemedicine (October 2021)

- "A licensee who uses telemedicine shall utilize evidence-based telemedicine practice guidelines and standards of practice, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes. The board acknowledges that some nationally recognized medical specialty organizations have established comprehensive telemedicine practice guidelines that address the clinical and technological aspects of telemedicine for many medical specialties.
- A licensee who uses telemedicine shall establish a valid physician assistant-patient relationship with the person who receives telemedicine services. The physician assistant-patient relationship begins when:
  - (1) The person with a health-related matter seeks assistance from a licensee; (2) The licensee agrees to undertake diagnosis and treatment of the person; and (3) The person agrees to be treated by the licensee whether or not there has been an in-person encounter between the physician assistant and the person.
- b. A valid physician assistant-patient relationship may be established by:
  - (1) In-person encounter. Through an in-person medical interview and physical examination where the standard of care would require an in-person encounter; (2) Consultation with another licensee. Through consultation with another licensee (or other health care provider) who has an established relationship with the patient and who agrees to participate in, or supervise, the patient's care; or (3) Telemedicine encounter. Through telemedicine, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine."

COVID-19 Emergency Proclamation (Updated 9/18/20)

- "Governor Kim Reynolds issued an Emergency Proclamation due to COVID-19 extending the following temporary provisions until Sunday, September 18, 2020, until Sunday October 18, 2020, at 11:59 p.m.

- "No Iowa Medical License Required: A physician may practice medicine/telemedicine in Iowa without an Iowa medical license on a temporary basis to aid in the emergency, if a physician holds at least one active medical license in another United State jurisdiction, and all medical licenses held by a physician in other United States jurisdictions are in good standing, without restrictions or conditions."
- "All rules which establish preconditions, limitations, or restrictions on the provision of telehealth or telemedicine services in Iowa, including the use of audio-only telephone transmissions, continue to be suspended. All rules which require face-to-face interactions with health care providers, and impose requirements for residential and outpatient substance use disorder treatment and for face-to-face visitations, continue to be suspended."

Public Health Proclamation (4/27/20 summary can be found here)

- "No Iowa Medical License Required: A physician may practice medicine/telemedicine in Iowa without an Iowa medical license on a temporary basis to aid in the emergency, if a physician holds at least one active medical license in another United State jurisdiction, and all medical licenses held by a physician in other United States jurisdictions are in good standing, without restrictions or conditions."
- "Telemedicine and Telehealth Services: All rules which establish preconditions, limitations, or restrictions on the provision of telehealth or telemedicine services in Iowa, including the use of audio-only telephone transmissions, continue to be suspended. All rules which require face-to-face interactions with health care providers, and impose requirements for residential and outpatient substance use disorder treatment and for face-to-face visitations, continue to be suspended."
- "Emergency Medical License - Medical School Graduates: An individual who has graduated from an accredited medical school but has not obtained an initial Iowa medical license may seek an emergency medical license from the Board. The Board may grant an emergency medical license if it determines that the individual has completed sufficient education. An individual who has been granted an emergency medical license, shall practice in accordance with any guidance provided by the Board."
- "Application for an Emergency Medical License: If a medical school graduate would like to apply for an Emergency Medical License they should go to the Iowa Board of Medicine's website and use the Resident license application and indicate that they are applying for an Emergency Medical License."
- "Lapsed or Expired Iowa Medical Licenses: A physician whose Iowa medical license lapsed or expired in good standing within five (5) years of the date of the Proclamation may provide medical care and treatment of victims of this public health emergency for the duration of the Proclamation."

Governor Reynolds issues state of public health disaster emergency (3/16/20)

- "A physician may practice medicine/telemedicine in Iowa without an Iowa medical license on a temporary basis to aid in the emergency, if a physician holds at least one active medical license in another United State jurisdiction, and all medical licenses held by a physician in other United States jurisdictions are in good standing, without restrictions or conditions."
- "A physician whose Iowa medical license lapsed or expired in good standing within five (5) years of the date of the Proclamation may provide medical care and treatment of victims of this public health emergency for the duration of the Proclamation."

Medicaid Law, Policy and Guidance Related to Telehealth

Informational Letter No.2224-MC-FFS-D-CVD (3/15/21)

- This Informational Letter (IL) supports IL 2124-MC-FFS-D-CVD1 for synchronous teledentistry (D9995).
- The IME will now allow asynchronous teledentistry (D9996). Using asynchronous teledentistry, the client's clinical information is gathered at the originating site but the information is sent via store and forward technology to a dentist (distant site) for review and subsequent intervention at a later point in time. All Iowa Medicaid recipients are eligible to receive services via asynchronous teledentistry.
- Any dental professional treating Medicaid, Dental Wellness Plan (DWP), or Healthy and Well Kids in Iowa (Hawki) members must be licensed to practice dentistry in Iowa and must use standard of care when providing services via teledentistry. The asynchronous teledentistry method used must be of sufficient visual clarity to be functionally equivalent to a face-to-face encounter.

COVID-19 Information for Providers (7/31/20)

- "The expanded telehealth services are in effect statewide through at least 60 days after the public health emergency declaration is lifted. The IME is reviewing the continuation of expanded telehealth services beyond that."

Section 1135 Waiver COVID-19 (Approved 7/9/20)

- "To permit the state to make payments for clinic services delivered via telehealth or in other non-clinic locations, EOHHS requests a waiver of the requirement of 42 CFR 440.90 that clinic services be delivered at the clinic."

Iowa Medicaid COVID-19 Provider Toolkit (updated 4/7/20)

- SUD Services "Opioid Treatment Programs (OTPs) providing buprenorphine treatment may render services in the member's home via telecommunication, telehealth, smart phone video conference or other electronic means. The Substance Abuse and Mental Health Services Administration (SAMHSA) has provided guidance to OTP providers."
- Behavioral Health Intervention Services: "All Iowa Medicaid covered services that our providers are able to provide via a telehealth mechanism, such as telephonic or video chat is included in the expansion of telehealth for the duration of this emergency. Providers will need to document the service delivery and ensure that the delivery and documentation aligns to what is billed. If audio will support the service delivery, it's acceptable. However, services that are more reliant on physical modeling, hands on intervention or visual observation will need to be vetted by the individual provider as part of the member's overall plan of support to determine appropriateness of delivery via telehealth."
- "Telephonic contact refers to contact relating to or happening by means of a telephone system. It does not mean video only. For the duration of the current emergency, services that typically require direct or face to face contact may be rendered via telehealth when clinically appropriate to the member's condition and needs and when provided within the clinician's scope of practice. Nothing in this statement otherwise effects a provider's responsibility to bill only for service performed and to comply with legal authority related to proper billing, claims submission, cost reporting or related conduct."

- "Iowa Medicaid is opening codes for teledentistry in response to the COVID-19 pandemic to ensure our members access to necessary care."
- "For Physical Therapy, Occupational Therapy, and Speech Therapy: "The Department intends for providers to utilize technology to facilitate appropriate care reimbursable within the Medicaid program during this public health emergency. Part of this emergency provision will allow services that by definition are direct contact services and are typically rendered in person to be rendered via telehealth when clinically appropriate and necessary to preserve the health and safety of our Medicaid member. Providers must practice within the scope of their practice and are reminded that services must be documented in accordance with applicable documentation standards."
- "The Department has expanded the telehealth benefit for mental health therapy sessions when the service provided to Medicaid members is clinically appropriate and within the provider's scope of practice."
- "The Department has expanded the telehealth benefit to include group therapy when the service provided to the Medicaid member is clinically appropriate and within the provider's scope of practice."
- "The "established patient" requirement is part of the telehealth rules that are currently suspended. However, providers must practice within the scope of their practice and are reminded that services must be documented in accordance with the standards in Iowa Code."

Iowa Department of Human Services, Informational Letter No. 2124-MC-FFS-D-CVD (4/6/20)

- "In response to the COVID-19 emergency declaration, the IME is permitting the use of teledentistry effective March 13, 2020. The dental plan administrators for the Dental Wellness Plan and Hawki will follow these same guidelines."

Iowa Department of Human Services, Letter to All Iowa Medicaid Providers, Informational Letter No. 2126-MC-FFS-D-CVD (4/2/20)

- "During this interim period, the expanded list of telehealth services is billable by multiple provider types including, but not limited to, physicians, physician assistants, dentists, physical therapists, occupational therapists, speech therapists, home health, hospice, behavioral health and home and community-based services (HCBS) providers."
- "Generally speaking, the IME will allow services that by definition are direct contact services and are typically rendered in person to be rendered via telehealth when clinically appropriate. It is permissible for both the member and the provider to be located in their homes during the provision of telehealth services through video or telephonic conferencing."

Iowa Appendix K Approval Letter (3/27/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

"Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Other [Describe]: Completion of initial Level of Care and annual continued stay review assessments"

Iowa Department of Human Services Letter to All Iowa Medicaid Providers (3/19/20)

- "The IME seeks authority to allow telehealth services to be provided, regardless of the recipient's location, for all Medicaid-covered benefits including mental and behavioral health benefits, if provision of the service via telehealth is clinically feasible and appropriate. As part of this announcement, members will now be able to access their service providers using a wider range of communication tools including telephones that have audio and video capabilities, making it easier for members and providers to connect."
- "The IME has suspended all premiums/share of cost obligation for IA Medicaid programs until further notice. IME and the Managed Care Organizations (MCOs) will be updating systems to no longer deduct copayments from claims. During this time, providers should not be collecting any payments from members. Members will be mailed a notice about the suspension of premiums."

Iowa Department of Human Services released a letter with billing services related to COVID-19 for managed care and FFS (3/11/20)

KANSAS

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Kansas House Bill 2337 (introduced 2/7/23)

- "AN ACT concerning health and healthcare; relating to telemedicine; defining in-state and interstate practitioners under the Kansas telemedicine act; requiring certain insurance coverage of in-state telemedicine services; providing for certain standards of care; establishing the Kansas telehealth advisory committee; amending K.S.A. 40-2,210, 40-2,211, 40-2,212 and 40-2,213 and repealing the existing sections."

Kansas Senate Bill 5 (engrossed 1/9/23)

- "AN ACT concerning health and healthcare; related to the Kansas telemedicine act; prohibiting the prescribing of medications intended to induce an abortion via telemedicine;"

Kansas House Bill No. 2552 (introduced 1/25/22)

- "AN ACT concerning health and healthcare; relating to telemedicine; defining in-state and interstate practitioners under the Kansas telemedicine act; requiring certain insurance coverage of in-state telemedicine services; providing for certain standards of care; establishing the Kansas telehealth advisory committee; amending K.S.A. 40-2,211, 40-2,212 and 40-2,213 and repealing the existing sections. Be it enacted by the Legislature of the State of Kansas:
- New Section 1. (a) There is hereby established the Kansas telehealth advisory committee."

Telemedicine Updates in Response to COVID-19 Emergency Bulletin 20046 (updated June 2020)

- "Effective with dates of service on or after March 12, 2020 the following codes will be allowed for payment when provided by telemedicine/telephone. Most of these codes are currently covered for both face-to-face and telemedicine. These updates do not change or modify the current coverage but allow for an additional delivery method. Allowed provider types and specialties will remain unchanged. Reimbursement will be the same as a face-to-face visit. Existing National Correct Coding Initiative (NCCI) edits/limitations will remain in place and are not waived with this policy."
- "Providers will be allowed to be reimbursed for the following codes when the originating Telemedicine site is place of service "home" (POS code 12). No payment for the Q3014 code will be made for POS 12 without the physical presence of a Provider. Telemedicine services (including telephonic contact) can be made when there is verbal consent received from the patient (to be followed up by written approval) in the medical record. Tele-video communication can only be utilized if that contact is HIPAA compliant."
- "At this time code, the G2012 "virtual check in" is not being allowed for coverage since some designated E&M codes are being allowed to be provided over the telephone."

Tobacco Cessation Counseling via Telemedicine During COVID-18 Emergency Bulletin 20067 (Updated June 2020)

- "Effective with dates of service on and after March 12, 2020, tobacco cessation counseling will be allowed by way of telecommunication technology. These codes are currently covered face-to-face only. This policy does not change or modify the current coverage but allows for an additional delivery method. Allowed provider types and specialties will remain unchanged. Telemedicine services (including telephonic contact) can be made when there is verbal consent received from the participant (to be followed up by written approval) in the medical record. Tele-video communication can only be utilized if that contact is HIPAA compliant. Reimbursement will be the same as a face-to-face visit. The appropriate codes are 99406, 99407 and S9453."

Executive Order No. 20-35 (5/26/20)

- "Temporarily expanding telemedicine and addressing certain licensing requirements to facilitate economic recovery and prevent future outbreaks of COVID-19."

Kansas Insurance Department – COVID-19 FAQ (Updated 3/30/20)

- "The Department reached out to health insurers and learned they are implementing their contingency plans as need and are shifting employees to work from home, including claims processing and customer service. Many are also making changes to their internal policies regarding telemedicine and prescription drugs. For specific information on what your health insurer is doing, please visit their website."
- "The Commissioner of Insurance does not have the authority to mandate expansion of telehealth services or modifications in reimbursement amounts. However, we know many health insurers, but not all, are voluntarily making changes to allow telehealth services and to modify their payment practices to reimburse those services at the same level as in-person services. We encourage everyone to check with their health insurer regarding the coverage of telehealth services."

Guidance for SUD Providers Concerning 2019 Novel Coronavirus Illness (3/20/20)

- "Effective March 23rd, 2020 and until further guidance is issued, to help facilitate social distancing for SUD provider staff and persons served, the state is expanding allowable services for telephonic and telemedicine to be delivered in the home of patients."
- "ASOs, and MCOs should reimburse at the same rate for these services regardless of the method of delivery chosen by the provider and patient. This guidance will reflect specific codes impacted for ASOs, while MCOs should follow the policies released by KDHE through DXC."

Executive Order No. 20-08 (3/20/20)

- "The Kansas State Board of Healing Arts ("the Board") shall not enforce any statute, rule, or regulation that would require physicians to conduct an in-person examination of a patient prior to the issuance of a prescription or order the administration of medication, including controlled substances, as long as the physician otherwise complies with the provisions of this order."
- "All physicians are encouraged to utilize telemedicine services, when appropriate for their patients, to avoid unnecessary patient travel both in-state and out of state."
- "Out-of-state physicians may utilize telemedicine when treating patients in Kansas without the necessity of securing a license to practice medicine in the state, provided the out of state physician advises the Board of physician's practice in this state via telemedicine in writing in a manner to be determined by the Board and holds an unrestricted license to practice medicine in the state in which the physician practices and is not the subject of an investigation or disciplinary proceeding. The Board is authorized to extend the provisions of this paragraph to other healthcare professionals regulated by the Board to the extent the board deems such extension both necessary or appropriate to address impacts of the COVID-19 pandemic and consistent with patient safety."
- "Physicians under quarantine or self-quarantine are permitted to practice telemedicine."
- "The Board is authorized to grant a temporary emergency license to practice any profession regulated by the Board to an applicant whose qualifications the Board determines to be sufficient to protect public safety and welfare within the scope of professional practice permitted by the temporary emergency license for the purpose of preparing for, responding to, and mitigating any effect of COVID-19. Further, the Board is authorized to temporarily waive, to the extent the Board determines such waiver will not harm public safety and welfare, any other regulatory requirements falling under the Board's enforcement authorities for the purpose of preparing for, responding to, and mitigating any effect of COVID-19."

Department of Health and Environment recommends telephone triage and collecting as much information from the patient as possible before scheduling appointments or having them come in to the facility for acute care and inpatient facilities, outpatient clinics, small and critical access hospitals

Interim guidance for healthcare facilities: preparing for community transmission of COVID-19 in Kansas from DHE (3/4/20)

- Explore alternatives to face-to-face triage and visits. Identify staff to conduct telephonic and telehealth interactions with patients.
- When possible, manage mildly ill COVID-19 patients at home. If possible, identify staff who can monitor those patients at home with daily "check-ins" using telephone calls, text, patient portals or other means.

- Healthcare facilities can increase the use of telephone management and other remote methods of triaging, assessing and caring for all patients to decrease the volume of persons seeking care in facilities.
- If a formal "telehealth" system is not available, healthcare providers can still communicate with patients by telephone (instead of visits), reducing the number of those who seek face-to-face care.
- Health plans, healthcare systems and insurers/payors should message beneficiaries to promote the availability of covered telehealth, telemedicine, or nurse advice line services.

State Licensure Laws, Policy, and Guidance

Kansas House Bill No. 2652 (introduced 2/9/22)

- "Be it enacted by the Legislature of the State of Kansas: Section 1. K.S.A. 2021 Supp. 48-963 is hereby amended to read as follows:
  - (a) A physician may issue a prescription for or order the administration of medication, including a controlled substance, for a patient without conducting an in-person examination of such patient.
  - (b) A physician under quarantine, including self-imposed quarantine, may practice telemedicine.
  - (c) (1) A physician holding a license issued by the applicable licensing agency of another state may practice telemedicine to treat patients located in the state of Kansas, if such out-of-state physician holds a temporary emergency license granted pursuant to K.S.A. 2021 Supp. 48- 965, and amendments thereto.
    - (2)The state board of healing arts may extend the provisions of this subsection to other healthcare professionals licensed and regulated by the board as deemed necessary by the board to address the impacts of COVID-19 and consistent with ensuring patient safety.
  - (d) A physician practicing telemedicine in accordance with this section shall conduct an appropriate assessment and evaluation of the patient's current condition and document the appropriate medical indication for any prescription issued.
  - (e) Nothing in this section shall supersede or otherwise affect the provisions of K.S.A. 40-2,215 or 65-4a10, and amendments thereto, or K.S.A. 40-2,215, and amendments thereto.
  - (f) As used in this section:
    - (1) "Physician" means a person licensed to practice medicine and surgery.
    - (2) "Telemedicine" means the delivery of healthcare services by a healthcare provider while the patient is at a different physical location.
  - (g) This section shall expire on March 31, 2022 January 20, 2023"

Kansas House Bill No. 2208 (passed 5/3/21)

- (a) Notwithstanding any other provision of law, a physician holding a license issued by the applicable licensing agency of another state or who otherwise meets the requirements of this section may practice telemedicine to treat patients located in the state of Kansas, if such physician receives a telemedicine waiver issued by the state board of healing arts.
- A physician practicing telemedicine in accordance with this subsection shall conduct an appropriate assessment and evaluation of the patient's current condition and document the appropriate medical indication for any prescription issued.
- Any person who receives a telemedicine waiver under the provisions of this section shall be subject to all rules and regulations pertaining to the practice of the licensed profession in this state and shall be considered a licensee for the purposes of the professional practice acts administered by the state board of healing arts.

Kansas Senate Bill No. 283 (passed 3/31/21)

- "A physician under quarantine, including self-imposed quarantine, may practice telemedicine.
- A physician holding a license issued by the applicable licensing agency of another state may practice telemedicine to treat patients located in the state of Kansas, if such out-of-state physician:

holds a temporary emergency license granted pursuant to K.S.A. 2020 Supp. 48-965, and amendments thereto

- A physician practicing telemedicine in accordance with this section shall conduct an appropriate assessment and evaluation of the patient's current condition and document the appropriate medical indication for any prescription issued."

Kansas Senate Bill No. 14 (passed 1/25/21)

- (1) A physician holding a license issued by the applicable licensing agency of another state may practice telemedicine to treat patients located in the state of Kansas, if such out-of-state physician: (A) Advises the state board of healing arts of such practice in writing and in a manner determined by the state board of healing arts; and (B) holds an unrestricted license to practice medicine and surgery in the other state and is not the subject of any investigation or disciplinary action by the applicable licensing agency.
- (d) A physician practicing telemedicine in accordance with this section shall conduct an appropriate assessment and evaluation of the patient's current condition and document the appropriate medical indication for any prescription issued

Enacting the governmental response to the 2020 COVID-19 pandemic in Kansas and providing certain relief related to health, welfare, property and economic security during this (passed 6/8/20)

- "A physician holding a license issued by the applicable licensing agency of another state may practice telemedicine to treat patients located in the state of Kansas, if such out-of-state physician"
- "This section shall expire on January 26, 2021."

Kansas State Board of Healing Arts Guidance for Healthcare Professionals in Kansas (Current as of 3/26/20)

- "Temporary COVID-19 emergency licensure. The Board is accepting applicants seeking temporary licensure for the purpose of preparing for, responding to, and mitigating any effect of COVID-19. The Emergency Temporary License for the COVID-19 response is available for all

health care professions regulated by the Board. Those who hold an emergency temporary license are limited to engaging in the practice of their profession for healthcare services relating to COVID-19 response efforts and/or mitigating any effect of COVID-19. The license will cancel in 90 days, if not renewed, and will automatically cancel 30 days after the declared Kansas state of emergency ends. All license fees will be waived for this license. Requirements for this license are any of the following:

(1) Currently hold a valid, full, active and unencumbered license in another state to engage in the same profession;

or

(2) Have held an active or exempt license in Kansas within the past 2 years, and such license was not suspended or revoked as a result of Board investigation or discipline;

or

(3) Currently hold a valid federally active license."

Emergency Temporary License Application: COVID 19 Pandemic (March 2020)

- "The Emergency Temporary License for the COVID-19 response is available for all health care professions regulated by the Kansas Board of Health Arts (Board). Those who hold an emergency temporary license are limited to engaging in the practice of their professions for healthcare services relating to COVID-19 response efforts and/or mitigating any effect of COVID-19. The license will cancel in 90 days, if not renewed, and will automatically cancel 30 days after the declared state of emergency ends. All license fees have been waived."

Medicaid Law, Policy and Guidance Related to Telehealth

Additional Codes Added to Telemedicine During COVID-19 Bulletin 20065 (Updated June 2020)

- "Effective with dates of service on or after March 12, 2020, the following providers will be allowed to be reimbursed for the following codes when the originating telemedicine site is in the member's home (i.e. where the member is receiving services). No payment for the Q3014 code will be made for POS 12 (home) without the physical presence of an enrolled provider."
- "The distant site, where the provider is delivering services, will use the appropriate Current Procedural Terminology/Healthcare Common Procedure Coding System (CPT/HCPCS) code with Place of Service code 02."
- "Telemedicine services (including telephonic contact) can be made when there is verbal consent received from the patient (to be followed up by written approval) in the medical record. Audio/visual communication can only be utilized if that contact is HIPAA compliant. These updates do not change or modify the current coverage but allow for an additional delivery method. Allowed provider types and specialties will remain unchanged. Reimbursement will be the same as a face-to-face visit. Existing NCCI edits/limitations will remain in place and are not waived with this policy."

Additional Telemedicine Coverage for BI Waiver Services During COVID-19 Emergency Bulletin 20068 (Updated June 2020)

- "Effective with dates of service on and after March 12, 2020, the following Home and Community Based Services (HCBS) waiver services will be allowed to be provided via telemedicine (and additionally by telephone for Speech-Language Therapy) by enrolled HCBS providers with provider types and specialties unchanged."

Serious Emotional Disturbance (SED) Waiver Codes Allowed via Telemedicine During COVID-19 Emergency Bulletin 20070 (Updated June 2020)

- "Effective with dates of service on or after March 12, 2020, the following providers will be allowed to be reimbursed for the following codes when the originating telemedicine site is in the member's home (i.e. where the member is receiving services). No payment for the Q3014 code will be made for POS 12 (home) without the physical presence of an enrolled provider."
- Service Descriptors include: MH Attendant Care, Independent Living/Skill Building, Parent Support and Training, Wraparound Facilitation

Expansion of Telemedicine Services for Therapy Services During COVID-19 Emergency Bulletin 20073 (Updated June 2020)

- "Effective with dates of service on and after March 12, 2020, the codes included in Table 1 will be allowed for payment when provided through tele-video only, and codes included in Table 2 will be allowed for payment when provided through tele-video or over the telephone by enrolled providers with provider types and specialties unchanged. These codes are currently covered only when provided face-to-face."

Allowance of Additional Mental Health Crisis Intervention Codes via Telemedicine During COVID-19 Bulletin 20086 (Updated June 2020)

- "Effective with dates of service on or after March 12, 2020, procedure codes H2011 (Crisis Intervention at the Basic Level) and H2011 HK (Crisis Intervention at the Intermediate Level) will be allowed to be reimbursed via telemedicine (both tele-video and telephone). Billing for these two codes is contingent upon Kansas Department for Aging and Disability Services (KDADS) approval of the individual crisis protocol utilized at a specified Community Mental Health Centers (CMHC). CMHCs wanting to bill for these codes using Telemedicine contact will submit their Center's protocol to a designated contact at KDADS who will review the plan. If approval is authorized, the approval start date (which, in some cases, will be retrospective) will be noted and documentation of that approval provided to the CMHC by KDADS. Additionally, approval notifications will be routed to all three Managed Care Organizations (MCOs) and the Kansas Department of Health and Environment (KDHE). No system changes will be initiated to deny upfront reimbursement for these two codes; however, the CMHC should keep a copy of this approval in their files should this be needed in a post pay review."

Additional E/M Codes Allowed via Telemedicine During COVID-19 Emergency Bulletin 20072 (Updated June 2020)

- "Effective with dates of service on or after March 12, 2020, the codes of 99204 and 99214 will be allowed to be reimbursed when the originating telemedicine site is in the member's home (i.e. where the member is receiving services). No payment for the Q3014 code will be made for POS 12 (home) without the physical presence of an enrolled provider."

Expansion of Telemedicine Services Allowed by ECI and LEA Providers During COVID-19 Bulletin 20062 (June 2020)

- "Effective with dates of service on or after March 12, 2020, the following codes will be allowed for payment when provided over the telephone or via telemedicine for Early Childhood Intervention (ECI) and Local Education Agency (LEA) providers. These codes are currently covered for ECI and LEA providers when provided face-to-face. This policy does not change or modify the current coverage but allows for an additional delivery method. Audiology and Speech Language Pathology will continue to be allowed to be provided via

telemedicine and is not changed with this policy. Reimbursement will be the same as a face-to-face visit. Existing National Correct Coding Initiative (NCCI) edits/limitations will remain in place and are not waived with this policy."

Dental Codes Allowed by Telephone During the COVID-19 Emergency Bulletin 20052 (Updated June 2020)

- "Effective with dates of service on and after March 12, 2020 through June 30,2020, the following dental codes will be allowed for payment when provided by way of telecommunication technology. These codes are currently covered face-to-face only. Allowed provider types and specialties will remain unchanged. Reimbursement will be the same as a face-to-face visit."
- "This policy will be rescinded effective July 1, 2020."

Expand Telemedicine to HCBS Services During COVID-19 Emergency Bulletin 20051 (Updated May 2020)

- "Effective with dates of service on and after March 12, 2020, the following Home and Community Based Services (HCBS) waiver services will be allowed to be provided via Telemedicine which may include the telephone (in mode specifically designated below) by enrolled HCBS providers. Additionally, these services can be provided in place of service "home" (POS code 12). No payment for the Q3014 code will be made for POS 12 without the physical presence of a provider. When providing these services via Telemedicine, the POS should be noted as 02. Telemedicine services (including telephonic contact) can be made when there is verbal consent received from the participant (to be followed up by written approval) in the medical record. Tele-video communication can only be utilized if that contact is Health Insurance Portability and Accountability Act (HIPAA) compliant. The same reimbursement rate will apply."

Disaster Emergency Exceptions -I/DD Telemedicine Services During COVID-19 Emergency (May 2020)

- "Effective with dates of service on and after March 12, 2020, the following Home and Community Based Services (HCBS) waiver services will be allowed to be provided via telemedicine which may include the telephone (in mode specifically designated below) by enrolled HCBS providers."

Continuity of Care While Social distance: Telehealth & Other Virtual Support Options (5/20/20)

- "In Kansas, Executive Order No. 20-08 has been implemented across the state to temporarily expand telehealth services and addresses certain licensing requirements to promote the well-being of residents and providers. In summary, the order will expand telehealth services in place of required in-person visits. Details regarding prescribing and applicability of laws from now until May 1, 2020 (or until the State of Disaster Emergency expires) are addressed within the Executive Order."

Kansas Appendix K Approval Letter (4/1/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Other [Describe]: Day program services"

- "Services to be Added/Modified During an Emergency

"Service Definition (Scope): Home telehealth is a remote monitoring system provided to a participant that enables the participant to effectively manage one or more diseases and catch early signs of trouble so intervention can occur before the participant's health declines. The provision of home telehealth entails participant education specific to one or more diseases (e.g. COPD, CHF, Hypertension, or Diabetes), counseling, and nursing supervision.

Remote Monitoring Technology could include, but would not be limited to, cardiac telemonitoring system, vital sign telemonitoring system with teleconsultation and/or touchscreen, vital sign telemonitoring mattress, web applications, or phone apps."

KENTUCKY

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Kentucky House Bill 528 (introduced 3/7/23)

- "SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:"
    - "1) As used in this section, "in-home program" means a program offered by a health care facility or health care professional for the treatment of substance use disorder which the insured accesses through telehealth as defined in KRS 211.332."

Kentucky House Bill 122 (introduced 1/5/23)

- "AN ACT relating to workers' compensation."
- "The General Assembly finds that good public policy mandates the realization of the potential advantages, both economic and effectual, of the use of telehealth. The commissioner may, to the extent that he or she finds it feasible and appropriate, require the use of telehealth, as defined in KRS 211.332, in the independent medical evaluation process required by this chapter."

Kentucky Senate Joint Resolution 1 (introduced 9/9/21)

- "The General Assembly hereby approves, ratifies, modifies, and extends the following executive actions and administrative regulations issued by a cabinet, agency, or department in response to the SARS-COV-2 virus until January 15, 2022:
    - Department of Insurance Order, dated March 18, 2020, related to telehealth remote communications and the prior relationship requirement;
    - Kentucky Applied Behavior Analysis Licensing Board Order, dated March 23, 2020, related to telehealth services;
    - Kentucky Board of Licensure for Occupational Therapy Order, dated March 24, 2020, related to telehealth;

- Kentucky Board of Examiners of Psychology Orders, dated March 25, 2020, June 8, 2020, and August 3, 2020, related to licensure, continuing education, and telehealth;
- Kentucky Board of Speech-Language Pathology and Audiology Orders, dated March 25, 2020, and June 25, 2020, related to licensure and telehealth;
- Board of Licensure for Dieticians and Nutritionists actions, dated March 30, 2020, March 25, 2020, and October 30, 2019, related to licensure, telehealth, and continuing education;
- Board of Prosthetics, Orthotics, and Pedorthics action, dated May 26, 2020, related to telehealth and continuing education;"

Kentucky Senate Bill No. 140: AN ACT relating to telehealth (signed by Governor 3/22/21)

- "Telehealth" or "digital health": Means a mode of delivering healthcare services through the use of telecommunication technologies, including but not limited to synchronous and asynchronous technology, remote patient monitoring technology, and audio-only encounters, by a health care provider to a patient or to another health care provider at a different location;
- The cabinet, in consultation with the Division of Telehealth Services within the Office of Health Data and Analytics as established in Section 5 of this Act, shall: (a) Provide guidance and direction to providers delivering health care services using telehealth or digital health; (b) Promote access to health care services provided via telehealth or digital health;
- The Cabinet for Health and Family Services and any managed care organization with whom the Department for Medicaid Services contracts for the delivery of Medicaid services shall provide Medicaid reimbursement for covered telehealth services and telehealth consultations, if the telehealth service or telehealth consultation: Is provided by a Medicaid-participating practitioner including those employed by a home health agency licensed pursuant to KRS Chapter 216, to a Medicaid recipient or another Medicaid participating practitioner at a different physical location; and (b) Meets all clinical, technology, and medical coding guidelines for recipient safety and appropriate delivery of services established by the Department for Medicaid Services or the provider's professional licensure board."

Kentucky Senate Bill 150: AN ACT relating to the state of emergency in response to COVID-19 and declaring an emergency (signed by Governor 3/30/20)

- (4) Unless specifically prohibited or limited by federal law, a health care provider who establishes a provider-patient relationship, regardless of whether or not the telehealth provider has previously conducted an in-person examination or consultation or is conducting a new patient examination or consultation, with a patient in this state may remotely provide health care services to a patient through the use of telemedicine at an appropriate site for both the provider and patient and in compliance with HIPAA.

The Kentucky Department of Insurance ("Department") issues this guidance pursuant to Executive Order 2020-220 (3/18/20)

- "The Department waives the requirements of KRS 304.17A-005(47)(c) pursuant to federal guidance issued by the Office for Civil Rights and the Department for Health and Human Services, which can be located at https://www.hhs.gov/hipaa/for-professionals/specialtopics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html. The Department will

not impose penalties for noncompliance with KRS 304.17A-005(47)(c) in connection with the good faith provision of telehealth using such non-public facing audio or video communication products"

Governor Beshear issues executive order to the Kentucky Department of Insurance (3/9/20)

- All insurers shall waive all cost-sharing including copayments, coinsurance, and deductibles for screening and testing for COVID-19 as specified by the Centers for Disease Control and Prevention (CDC), including hospital, emergency department, urgent care, provider office visits, lab testing, telehealth, and any immunizations that are made available

State Licensure Laws, Policy, and Guidance

Kentucky House Bill 405 (introduced 2/21/23)

- "The purpose of this Compact is to facilitate interstate practice of Regulated Social Workers with the goal of improving public access to competent Social Work services. The Compact seeks to preserve the regulatory authority of States to protect public health and safety through the current system of State licensure. This Compact is designed to achieve the following objectives:"
    - "G. Allow for the use of telehealth to facilitate increased access to regulated Social Work Services;"

Kentucky House Bill 188 (passed 3/31/22)

- "If a state agency authorized or required to promulgate administrative regulations relating to telehealth chooses to promulgate an administrative regulation relating to telehealth, the state agency shall not:
    - (i) Prohibit the delivery of telehealth services to a person who is a permanent resident of Kentucky who is temporarily located outside of Kentucky by a provider who is credentialed by a Kentucky professional licensure board;
    - (j) Prohibit the delivery of telehealth services to a person who is not a permanent resident of Kentucky who is temporarily located in Kentucky by a provider who is credentialed by a professional licensure board in the person's state of permanent residence; or
    - (k) Require a health care provider to be physically located in the state that he or she is credentialed in by a professional licensure board in order to provide telehealth services to a person who is a permanent resident of the same state. Nothing in this paragraph shall be construed to imply that the Kentucky Medicaid program would be responsible for reimbursement for any services provided in Kentucky by a provider not credentialed by the Kentucky Medicaid program"

Kentucky Board of Medical Licensure (3/17/20)

- "Medical and Osteopathic physicians not already licensed to practice in the Commonwealth of Kentucky, may register to practice within Kentucky during this state of emergency as follows:

Complete and submit the Emergency System Application for Health Practitioner provided on the Board's website

No fee is required for this type of registration"

Medicaid Law, Policy and Guidance Related to Telehealth

Kentucky House Bill 311 (passed 4/6/23)

- "The Cabinet for Health and Family Services and any managed care organization with whom the Department for Medicaid Services contracts for the delivery of Medicaid services shall provide Medicaid reimbursement for covered telehealth services and telehealth consultations, if the telehealth service or telehealth consultation:"
- "Notwithstanding any provision of law to the contrary, neither the Department for Medicaid Services nor a Medicaid managed care organization with whom the department has contracted for the delivery of Medicaid services shall require that a health professional, as defined in KRS 205.510, or medical group maintain a physical location or address in this state to be eligible for enrollment as a Medicaid provider if the provider or group exclusively offers services via telehealth as defined in KRS 211.332."

Letter from Governor Beshear, Provider Telehealth or Telephonic Health Services FAQs (updated 7/23/20)

- The Federal Public Health Emergency is currently scheduled to expire on October 23, 2020. At the conclusion of the public health emergency, these flexibilities will be ended.
- Q: "How can I utilize the telephone or other audio-only technology during this emergency?"

A: "DMS has filed an emergency regulation to allow for "telecommunication or other electronically mediated health services" to be used throughout the Medicaid program. DMS envisions that these services will be utilized as a "telehealth-like" service wherever appropriate."

"If they are real-time conversations, telephonic services - where it is not appropriate or possible for a visual video connection to be utilized - will be treated as synchronous telehealth."

"If a service could have been provided via telehealth, but the individual or provider does not have the capability to deliver or participate in the service via telehealth, the service may be delivered via telephone as a "telecommunication or other electronically mediated health service". If service delivery is audio-only but the service would normally be dependent on the exchange of visual information, the provider should facilitate appropriate electronic or other data exchanges to support any treatment delivered."

- Q: "Can providers deliver services remotely during the COVID-19 state of emergency?"

A: "Yes, DMS is allowing providers to deliver 1915(c) HCBS waiver services remotely for certain services. This can be done in situations where a participant is quarantined due to symptoms of or having been exposed to COVID-19 or as a precaution against spreading COVID-19. Services that could be provided via telehealth include:

  - Physical, Occupational or Speech Therapy,
  - Supported Employment,
  - Behavior supports and counseling services,
  - In-home services such as Personal Care or Homemaking (cueing and prompting support only)
  - Case Management."

- Q: Is texting an approved method of delivering a "telehealth-like" service?

"Generally, no:

- A provider and recipient cannot text as the only communication for a "telehealth-like" service or a G code.
- A text could be used to initiate a session (provide a link to a secure or allowable video or audio connection).
- A text could also be used to support or enhance a telehealth or telehealth-like service that is a telephone or video conversation. For example, a telephone call could be enhanced with a texted picture or video."

- Q: What behavioral health services are now allowable via telehealth that were not before?

A: "Within 907 KAR Chapter 15, these services are restricted to face-to-face only. However, for the duration of this declared emergency, the following services are permissible as synchronous telehealth or as a telecommunication mediated health service:

- Peer support services
- Intensive outpatient program services
- Group outpatient therapy
- Service planning
- Partial hospitalization
- Targeted case management
- Mobile crisis services
- Applied Behavioral Analysis
- Comprehensive Community Support Services
- Therapeutic Rehabilitation Program
- Day Treatment

- Q: Can some telehealth services be delivered by behavioral health associates under the supervision of a licensed behavioral health provider?

A: "Yes. This will also be dependent on if the licensure board allows the practice or if the licensure board is overruled by an executive order. DMS will construe any emergency order, and the March 17 Behavioral Health letter as broadly as possible in allowing for telehealth to be provided by all behavioral health and medical providers."

- Q: An MCO or several MCOs will not allow a covered service for telehealth that is currently allowable via telehealth, how should I proceed?

A: "DMS is requiring all Medicaid MCOs to cover all current services that are covered via telehealth during this time. In addition, DMS will require the MCOs to cover all services that are determined to be allowable via telehealth during this declared emergency."

- Q. What about Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit services and telehealth?

A. "To the extent that a service can be provided via telehealth via this benefit and to this population, DMS will allow for and facilitate that service via telehealth or telecommunications."

- Q. What about initial in-person meetings required for services such as occupational therapy, physical therapy, and speech and language pathology or PT 76 services?

A. "If appropriate consistent with the guidance in these FAQs, the March 17, 2020 Provider letter, or executive orders, PT 76 can use telehealth. To the extent allowed or not restricted by executive order or licensing board action, DMS will allow for these facilities and providers to provide services via telehealth or other telecommunication method"

- Q. What about dentistry services?

A. "DMS will expand teledentistry – when using the POS 02 code to include: screenings (CDT code D0190), assessments (D0191), and/or examinations (CDT codes D0120, D0140, D0145, and D0150) via teledentistry."

- Q. Will these changes be permanent?

A. "Currently, DMS plans to restrict telehealth to previous requirements after this current emergency has ended. However, DMS will carefully consider any new developments and innovations in service delivery that occur during this time and may expand current regulations or interpretations to encourage any new efficiencies that are discovered. When possible, DMS encourages providers to carefully document new approaches and efficiencies that improve outcomes and health of our members for future study."

- Q. What about vision services?

A. "DMS will expand the services that can be utilized by vision services providers. When using POS 02, appropriate providers may bill using the following codes: 92002, 92012, 92004 and 92014."

- Q. Can a physical and occupational therapist provide services in a home setting?

A. "Yes, with the changes made to telehealth services over the last year – including the previously existing allowances under 907 KAR 3:170 - a physical and occupational therapist can provide any service via telehealth unless that service is prohibited by the providers licensure and licensure board or if it is residential in nature."

- Q. What about prior authorizations and telehealth?

A. "Currently, DMS has directed the suspension of all prior authorizations for medical services from 2/4/2020 forward. Therefore, no med/surg claim, including behavioral health services, can be denied payment due to lack of prior authorization from DOS 2/4/20 forward. This suspension of prior authorizations does not include pharmacy. In addition, any claim can still have a post-payment review performed."

- Q. Can a certified alcohol and drug counselor (CADC) provide telehealth services?

A. "Yes, a CADC can provide appropriate telehealth services no otherwise limited by a licensing board. A CADC provided telehealth service should be conducted under supervision of a licensed provider. During this emergency, a licensed provider may utilize e-signatures to demonstrate supervision."

- Q. What about prosthetic and orthotic services?

A. "Those prosthetic and orthotic services that can be provided via telehealth should be provided via telehealth. DMS also would point to the DME guidance in FAQ #21, and will adopt a similar guidance for prosthetic and orthotic services that require the delivery of a good and the rest of the service can be delivered via telehealth. After March 28, 2020, compliance with any signature proof of delivery requirements or signature delivery requirements will be considered met if the prosthetic or orthotic provider, appropriate staff person, appropriate provider, or delivery driver writes "COVID 19" or something of similar status to denote the delivery and receipt of prescriptions on the customary location for patient signature. Such confirmation should be documented and retrievable upon audit. This alternative method of confirming receipt of prosthetic and orthotic supplies will expire 2 weeks after the expiration of the emergency declarations relating to COVID-19."

- Q: Can EPSDT well-child visits be conducted by telehealth?

A: "While DMS recommends that in-person visits be conducted for beneficiaries who are younger than 24 months, this may not be possible in many places. As such, DMS will reimburse at the same rate as an in-person visit for a telehealth well-child visit. An in-person visit should be completed within 6 months of the end of the declared emergency to complete the rest of the components of the well-child visit that were not able to be performed via telehealth."

- Q: The department is reinstituting some prior authorization (PA) requirements. What are the new requirements?

"Effective with dates of service beginning 8/1/2020, MCOs may resume their respective prior authorization policies with the exception of Behavioral Health and Substance Use Disorder (SUD) services.

"Behavioral Health and SUD services are defined as services:

  - Provided by any Behavioral Health provider type (02, 03, 04, 05, 06, 23, 26, 30, 62, 63, 66, 67, 81, 82, 83, 84, 89, 92),
  - Listed on the Behavioral Health and Substance Abuse Services Inpatient and Outpatient fee schedules, OR
  - Listed on the Community Mental Health Center (CMHC) Mental Health Substance Abuse Codes and Units of Service fee schedule."

"For services scheduled in early August 2020, it is recommended that providers be allowed the ability to obtain a prior authorization in July 2020"

Kentucky Healthcare Reopening (4/27/20)

- All Phases: "Use telemedicine/telework instead of in-person whenever possible"

Guidance on Well Child Visits during COVID-19 (4/15/20)

- "DMS will reimburse at the same rate as an in-person visit as for a telehealth well child visit. We have developed specific guidance to be used during the time of emergency for our fee for service and managed care populations."
- For children over age 24 months: "Recommendation: Providers may perform well child visits using telehealth modalities reporting the appropriate preventive medicine CPT codes and adding the place of service code "02" on the billing form. No telehealth modifiers are

required. Providers will need to use their clinical judgement as to what components of the visit are appropriate to be performed during the telehealth visit. Audio-visual telehealth is preferred, but audio only is acceptable."

Kentucky Appendix K Approval Letter (3/25/20)

- "Temporarily expand setting(s) where services may be provided (e.g. hotels, shelters, schools, churches) Note for respite services only, the state should indicate any facility-based settings and indicate whether room and board is included:

"The following services can be provided remotely using telephonic, video-conferencing, or web-based conferencing platforms that enable direct communication with the participant.

  - Adult Day Training
  - Adult Day Health
  - Personal Assistance or Community Living Supports for reminders, cueing and/or monitoring of participant self-medication administration."

"Services whose scope allows for the provision of telehealth services such as ancillary therapies, counseling and behavior services may provide and bill those covered waiver services using that delivery method."

  - "Temporarily modify processes for level of care evaluations or re-evaluations (within regulatory requirements).

"The Department will allow level of care evaluations or re-evaluations to be conducted remotely using telephonic, video-conferencing, or web-based conferencing platforms that enable direct communication between the individual completing the assessment and participant/participant's representative as permitted by HIPAA."

- "Temporarily modify person-centered service plan development process and individual(s) responsible for person-centered service plan development, including qualifications.

"Case managers may complete the person-centered service planning process using telephonic, video-conferencing, or web-based conferencing platforms that enable direct communication between the case manager and participant / participant's representative. in accordance with HIPAA requirements."

Effective immediately through April 30, Medicaid plans will reimburse for virtual check-ins and communication through patient portal (3/18/20)

Letter from Governor Beshear to All Behavioral Health Providers, Provider Letter # A-106 (3/17/20)

- The Department for Medicaid Services "wants to ensure individuals continue to receive behavioral health related services while reducing the need for in person meetings. Therefore, licensed behavioral health providers can deliver services via telehealth with the exception of residential substance use disorder treatment services and residential crisis services. All providers delivering care via telehealth must comply with all telehealth regulations, including synchronous, two-way video on a HIPPA secure link."
- "In order to reduce in-person trips to medical facilities, DMS will add the following codes on a temporary basis for brief communications with established patients:

"G2012 to be utilized for telephone calls and other telecommunication devices between physician or other licensed behavioral health provider and patient; and"

"G2010 to be utilized for remote evaluation, such as email, of recorded video or images submitted by a patient."

- "In addition, DMS will allow the following services to be conducted via telehealth or telephone on a temporary basis:

Target Case Management (all types)

Peer Support Services

Community Support Services"

Letter from Governor Beshear to 1915 (c) Home and Community Based Services Waiver Providers (3/13/20)

- "Effective immediately, case managers may conduct visits with waiver participants online or by phone. Case managers need to ensure meetings are conducted in a Health Information Portability and Accountability Act (HIPPA)-compliant manner."

Letter from Governor Beshear to All Medicaid Providers A-105 (3/11/20) Specific policies related to COVID-19 testing and treatment include:

- "Encouraging the use of telehealth, when possible. Currently telehealth coverage and reimbursement requirements are outlined in 907 KAR 907 3:170."
- "In order to reduce in-person trips to medical facilities, DMS will add the following codes on a temporary basis for brief communications with established patients:

G2012 to be utilized for telephone calls between physician and patient, including FaceTime; and

G2010 to be utilized for remove evaluation, such as email, or recorded video or images submitted by a patient."

LOUISIANA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Louisiana House Bill No. 41 (introduced 4/10/23)

- "Telehealth coverage and reimbursement for occupational therapy; prohibitions and limitations; exceptions; rulemaking
    - "A. A health coverage plan shall pay for covered occupational therapy services provided via telehealth to an insured person. Telehealth coverage and payment shall be equivalent to the coverage and payment for the same service provided in person unless the telehealth provider and the health coverage plan contractually agree to an alternative payment rate for telehealth services."
    - "B. Benefits for a service provided as telehealth may be subject to a deductible, copayment, or coinsurance."

- "C. A health coverage plan shall not impose an annual dollar maximum on coverage for healthcare services covered under the health coverage plan that are provided as telehealth, other than an annual dollar maximum that applies to the same services when provided in person by the same provider."
- "D. A health coverage plan shall require a healthcare professional to be licensed or otherwise authorized to practice occupational therapy in this state to be eligible to receive payment for telehealth services."
- "E. Payment made pursuant to this Section shall be consistent with any provider network arrangements that have been established for the health coverage plan."
- "F. A health coverage plan shall not do any of the following:
  - Require a previously established in-person relationship […]
  - Require prior authorization, medical review, or administrative clearance […]
  - Require demonstration that it is necessary to provide services to a patient […]
  - Require a provider to be employed by another provider or agency […]
  - Restrict or deny coverage based solely on the communication technology […]
  - Impose specific requirements or limitations on the technologies used […]
  - Impose additional certification, location, or training requirements […]
  - Require a provider to be part of a telehealth network […]
- "G. Nothing in this Section shall be construed to require a health coverage plan to do either of the following: […]
- "H. A health coverage plan is not required to provide coverage or reimbursement for any of the following procedures or services provided via telehealth […]"

Louisiana House Bill No. 826 (passed 5/25/22)

- "(3) Promulgate rules for the provision of telehealth services by licensed, certified, or registered addiction counselors; licensed, certified, or registered prevention professionals; and certified compulsive gambling counselors that, at a minimum, comply with the applicable requirements and standards of the Louisiana Telehealth Access Act, R.S. 40:1223.1 et seq. Section 2. R.S. 40:1223.3(3) is hereby amended and reenacted to read as follows:
  - (3) "Healthcare provider" means a person, partnership, limited liability partnership, limited liability company, corporation, facility, or institution licensed or certified by this state to provide healthcare or professional services as a physician assistant, hospital, nursing home, dentist, registered nurse, advanced practice registered nurse, licensed dietitian or nutritionist, licensed practical nurse, certified nurse assistant, offshore health service provider, ambulance service, licensed midwife, pharmacist, speech-language pathologist, audiologist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, certified or licensed athletic trainer, psychologist, medical psychologist, social worker, licensed professional counselor, licensed perfusionist, licensed respiratory therapist, licensed radiologic technologist, licensed hearing aid dealer, **licensed, certified, or registered**

addiction counselor, licensed, certified, or registered prevention professional, certified compulsive gambling counselor, or licensed clinical laboratory scientist."

Louisiana House Bill No. 624 (introduced 3/4/22)

- "To amend and reenact R.S. 40:1223.3(3), relative to healthcare services; to provide relative to telehealth; to provide for healthcare personnel authorized to deliver telehealth services; to include licensed behavioral health services providers within the set of providers authorized to deliver such services; and to provide for related matters. Be it enacted by the Legislature of Louisiana: Section 1. R.S. 40:1223.3(3) is hereby amended and reenacted to read as follows:
    - (3) "Healthcare provider" means a person, partnership, limited liability partnership, limited liability company, corporation, facility, or institution licensed or certified by this state to provide healthcare or professional services as a physician assistant, hospital, nursing home, dentist, registered nurse, advanced practice registered nurse, licensed dietitian or nutritionist, licensed practical nurse, certified nurse assistant, offshore health service provider, ambulance service, licensed midwife, pharmacist, speech-language pathologist, audiologist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, certified or licensed athletic trainer, psychologist, medical psychologist, social worker, licensed professional counselor, licensed behavioral health services provider, licensed perfusionist, licensed respiratory therapist, licensed radiologic technologist, licensed hearing aid dealer, or licensed clinical laboratory scientist."

Louisiana House Bill No. 304 (passed 5/25/22)

- "FOR PHYSICAL THERAPY DELIVERED VIA TELEHEALTH
- 1. Telehealth coverage and reimbursement; prohibitions and limitations; rulemaking
- A. A health coverage plan shall pay for covered services provided via telehealth to an insured person. Telehealth coverage and payment shall be equivalent to the coverage and payment for the same service provided in person unless the telehealth provider and the health coverage plan contractually agree to an alternative payment rate for telehealth services.
- B. Benefits for a service provided as telehealth may be subject to a deductible, copayment, or coinsurance. A deductible, copayment, or coinsurance applicable to a particular service provided through telecommunications technology shall not exceed the deductible, copayment, or coinsurance required by the health coverage plan for the same service when provided in person.
- C. A health coverage plan shall not impose an annual dollar maximum on coverage for healthcare services covered under the health coverage plan that are provided as telehealth, other than an annual dollar maximum that applies to the same services when provided in person by the same provider.
- D. A health coverage plan shall require a healthcare professional to be licensed or otherwise authorized to practice physical therapy in this state to be eligible to receive payment for telehealth services.
- E. Payment made pursuant to this Section shall be consistent with any provider network arrangements that have been established for the health coverage plan."

Louisiana Proclamation 204 JBE 2021 (11/30/21)

- "Whereas, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La.R.S. 29:721, et seq., the Governor declared a public health emergency on in Proclamation Number 25 JBE 2020 in response to the threat posed by COVID-19;
- Whereas, on March 11, 2020, in Proclamation Number 25 JBE 2020, the Governor declared that a statewide public health emergency existed in the State of Louisiana because of COVID-19 and expressly empowered the Governor's Office of Homeland Security and Emergency Preparedness and the Secretary of the Department of Health and/or the State Health Officer to take all actions authorized under state law;
- Whereas, when the Governor determines that a state of public health emergency exists. La. R.S. 29:766(8) empowers the Governor to declare a state of public health emergency by executive order, or proclamation, or both;
- Whereas, in Proclamation Number 203 JBE 2021, the Governor renewed the emergency declaration for the COVlD-19 Emergency;
- Whereas, it is necessary to renew certain other provisions of Proclamation Number 182 JBE 2021; and
- Whereas, these measures are necessary to protect the health and safety of the people of Louisiana.
- Unless otherwise provided in this order, these provisions are effective from Wednesday, November 24, 2021 to Wednesday, December 22, 2021, or as extended by any subsequent Proclamation, unless terminated sooner."

Louisiana Proclamation 168 JBE 2021 (9/1/21)

- "Now therefore, I, John Bel Edwards, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana do hereby order and direct as follows: … Health Care Regulations."

Louisiana Senate Bill No. 29 (passed 6/14/21)

- When the governor declares a state of emergency pursuant to R.S. 29:724 or a public health emergency pursuant to R.S. 29:766, the commissioner may issue emergency rules or regulations that address any of the following related to insurance policies or health maintenance organization contracts in this state:

(a) Medical coverage relative to each of the following:

  - (i) Removal of telehealth and telemedicine access restraints.

Louisiana Proclamation Number 30 JBE 2021, Renewal of State of Emergency for COVID-19 Extension of Emergency Provisions (reissued 3/2/21)

- "Because of the threat posed to health care workers from COVID-19 and the need to allocate resources to respond to this disaster, there is a need to continue to allow for additional telehealth opportunities. To facilitate the provision of telehealth services where available and appropriate, the following guidelines remain in place:

1) The requirement of La. R.S. 40:1223.4 that each state agency or professional or occupational licensing board or commission that regulates the practice of a healthcare provider promulgate any rules necessary to provide for, promote, and regulate the use of telehealth in the

delivery of healthcare services within the scope of practice regulated by the licensing entity hereby remains suspended during the term of this emergency declaration.

2) All licensing boards are encouraged to maintain emergency rules, if necessary, so that it will not be considered unethical nor a violation of any licensing standards of the healthcare provider, solely as a result of the provision of such care via telehealth.

3) The practice of the healthcare provider administered via telehealth must be within the scope of the provider's license, skill, training and experience. The services provided to the patient must meet the standard of care that would be provided if the patient were treated 0:1 an in-person basis.

4) Prescribing of any controlled substances via telehealth must be medically appropriate, well-documented and continue to conform to rules applicable to the prescription of such medications."

- Unless otherwise provided in this order, these provisions are effective from Wednesday March 3, 2021 to Wednesday March 31, 2021, or as extended by any subsequent Proclamation, unless terminated sooner."

HB 276: AN ACT 2 To enact Subpart B-1 of Part II of Chapter 6 of Title 22 of the Louisiana Revised Statutes 3 of 1950, to be comprised of R.S. 22:1841 through 1844, relative to payment of claims for services provided through telehealth or telemedicine; to define key terms; to provide for reimbursement for healthcare services provided through remote patient monitoring; to provide for effectiveness; and to provide for related matters. (passed 6/11/20)

HB 449: An Act that provides relative to behavioral health services delivered via telehealth (Passed 6/11/2020)

HB 589: AN ACT To enact Part V of Chapter 5-E of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1255.1 and 1255.2, and R.S. 46:460.51(17) and 460.54(G), relative to the medical assistance program of this state known commonly as Medicaid; to provide for duties of the Louisiana Department of Health in 6 administering the state Medicaid program; to provide relative to Medicaid coverage of telehealth services; to provide for the establishment and periodic review of Medicaid policies concerning telehealth services; to provide for policies and procedures in the Medicaid managed care program addressing telehealth services; to provide for definitions; and to provide for related matters. (Passed 6/5/20)

Telehealth Guidance During COVID-19 Pandemic (4/6/20)

- "To reduce the threat posed to health care providers from COVID-19, allocate resources to respond to the disaster, and in further the Governor's Proclamation No. 20-32, this guidance is offered to allied providers licensed by the Board to both facilitate the use of telehealth and assure them that services provided during this emergency will not be subject to Board scrutiny merely because they were provided by telehealth."
- "Allied providers licensed or regulated by the Board may use telehealth to provide health care to patients located in this State."

"Allied healthcare providers licensed by the Board are: acupuncturists, athletic trainers, clinical lab personnel, clinical exercise physiologists, genetic counselors, medical psychologists, licensed midwives, occupational therapists and their assistants, perfusionists, physician assistants, podiatrists, polysomnographers, private radiology techs and respiratory therapists"

Declaration of Emergency, Department of Insurance, Office of the Commissioner (3/23/20)

- §3307. Allowed Telemedicine Devices

"Health insurance issuers shall waive any limitation on the use of audio-only telephonic consultations in the provision of telemedicine services, including the use of personal devices, to the extent permitted under federal guidance issued by the Office for Civil Rights at the Department of Health and Human Services as found here: https://www.hhs.gov/hipaa/for-professionals/specialtopics/emergency-preparedness/notification-enforcementdiscretion-telehealth/index.html."

- §3309. Telemedicine Provider Access

"A. Health insurance issuers shall waive any coverage limitations restricting telemedicine access to providers included within a plan's telemedicine network."

"B. Health insurance issuers shall waive any requirement that the patient and provider have a prior relationship in order to have services delivered through telemedicine."

- Telemedicine Services Coverage

"A. Health insurance issuers shall cover mental health services provided by telemedicine consultation to the same extent the services would be covered if provided through an in-person consultation. This shall not be interpreted to require coverage of telemedicine services that cannot be appropriately provided remotely.

"B. Health insurance issuers shall waive any requirement limiting coverage to provider-to-provider consultations only and shall cover telemedicine consultations between a patient and a provider to the extent the same services would be covered if provided in person."

State Licensure Laws, Policy, and Guidance

Louisiana Senate Bill No. 185 (Introduced 4/18/23)

- "This compact is designed to achieve the following objectives:"
  - "A. Increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses."
  - "G. Facilitate the use of telehealth technology in order to increase access to occupational therapy services."

Louisiana House Bill No. 582 (enrolled 5/31/22)

- "The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
- This compact is designed to achieve the following objectives:

- Allow for the use of telehealth technology to facilitate increased access to professional counseling services.

- Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with R.S. 37:1133 and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission."

Louisiana Proclamation Number 102 JBE 2020 (8/6/20)

- "Louisiana state licensure laws, rules, and regulations for medical professionals and personnel hereby remain suspended for those medical professionals and personnel from other states or other countries offering medical services in Louisiana to those needing medical services as a result of this disaster provided that said out-of-state or out-of-country medical professionals and personnel possess a current medical license in good standing in their respective state or country of licensure and that they practice in good faith and within the reasonable scope of his or her skills, training, or ability."
- "All out-of-state or out-of-country medical professionals and personnel offering services in the State of Louisiana by authority of this Order shall continue to submit to the State Health Officer, or his designee at the Office of Public Health within the Louisiana Department of Health, a copy of their respective professional license and photo identification, together with any other forms or documents the State Health Officer may require, by contacting the Office of Public Health."
- "Because of the threat posed to health care workers from COVID-19 and the need to allocate resources to respond to this disaster, there is a need to continue to allow for additional telehealth opportunities. To facilitate the provision of telehealth services where available and appropriate, the following guidelines remain in place:

"The requirement of La R.S. 40:1223.4 that each state agency or professional or occupational licensing board or commission that regulates the practice of a healthcare provider promulgate any rules necessary to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services within the scope of practice regulated by the licensing entity hereby remains suspended during the term of this emergency declaration."

"All licensing boards are encouraged to maintain emergency rules, if necessary, so that it will not be considered unethical nor a violation of any licensing standards of the healthcare provider, solely as a result of the provision of such care via telehealth."

"The practice of the healthcare provider administered via telehealth must be within the scope of the provider's license, skill, training and experience. The services provided to the patient must meet the standard of care that would be provided if the patient were treated on an in-person basis."

"Prescribing of any controlled substances via telehealth must be medically appropriate, well-documented and continue to conform to rules applicable to the prescription of such medications."

Emergency Temporary Permit Application (March 2020)

- "This is ONLY for licensed out-of-state medical professionals seeking a temporary, voluntary license for an emergency event in the state of Louisiana."

LA Rev Stat § 29:764 (2016)

- "Provide for the temporary appointment, licensing or credentialing of health care providers who are willing to assist in responding to the public health emergency."

Medicaid Law, Policy and Guidance Related to Telehealth

Louisiana Department of Health Informational Bulletin 20-4, Telemedicine/Telehealth Facilitation of Mental Health Rehabilitation (MHR) Services during the COVID-19 Declared Emergency (Revised 4/7/21)

- "LDH is issuing approval effective for dates of service beginning on or after March 20, 2020, which will remain in effect until rescinded by LDH. Louisiana Medicaid encourages and will reimburse the use of telemedicine/telehealth, when appropriate, for rendering MHR service."
- "MHR services include the following Medicaid reimbursable services for all levels of staffing (licensed and non-licensed staff): Community Psychiatric Support and Treatment (CPST), Psychosocial Rehabilitation (PSR), Crisis Intervention (CI), Assertive Community Treatment (ACT), Functional Family Therapy (FFT), Functional Family Therapy-Child Welfare (FFT-CW), Homebuilders, and Multi-Systemic Therapy (MST)."
- "Providers offering services via telemedicine/telehealth must use a secure, HIPAA-compliant platform, if available. If not available, providers may use everyday communication technologies, including audio-only delivery of telemedicine/telehealth services (e.g. telephone) or use of videoconferencing (e.g. Skype, FaceTime) programs that have reasonable security and privacy measures, with each recipient's consent. Facebook Live, Twitch, TikTok, and similar video communication applications are public facing and must not be used for telemedicine/telehealth services. Audio-only delivery is allowed only in situations where an audio/video system is not available or not feasible. Although a combined audio/video system is preferred, LDH is allowing MHR providers to practice telemedicine/telehealth through telephonic communications when appropriate. Texting and emails are not approved forms of telemedicine/telehealth. At minimum, there must be an audio connection."
- "There is currently no formal limitation on the originating site (i.e., where the recipient is located) and this can include, but is not limited to, a healthcare facility, a school or the recipient's home."
- "From March 20, 2020 through April 30, 2021, LDH issued approval for MCOs to extend existing prior authorizations (PA) for MHR services that reach the end of the authorization period during the COVID-19 declared emergency. Beginning May 1, 2021, PAs will return to each MCO's standard operating procedure. MCOs may request documentation from providers to be aware of continuation of services, any needs for continued service continuity, or perhaps even needs to expand service coordination. New requests should follow standard processes in place with the recipient's MCO."

Louisiana Department of Health Informational Bulletin 20-7, Telemedicine/Telehealth Facilitation of Outpatient Substance Use Disorder Treatment during the COVID-19 Declared Emergency (Revised 4/7/21)

- "LDH is issuing approval effective for dates of service beginning on or after March 21, 2020, which will remain in effect until rescinded by LDH. Louisiana Medicaid encourages and will reimburse the use of telemedicine/telehealth, when appropriate, for rendering SUD treatment services."
- "During this COVID-19 declared emergency, LDH is issuing approval for the delivery of OP-SUD services via telemedicine/telehealth communications. Providers offering services via telemedicine/telehealth must use a secure, HIPAA-compliant platform, if available. If not available, providers may use everyday communication technologies, including audio-only delivery of telemedicine/telehealth services (e.g. telephone) or use of videoconferencing (e.g. Skype, FaceTime) programs that have reasonable security and privacy measures, with each recipient's consent. Facebook Live, Twitch, TikTok, and similar video communication applications are public facing and must not be used for telemedicine/telehealth services. Audio-only delivery is allowed only in situations where an audio/video system is not available or not feasible. Although a combined audio/video system is preferred, LDH is allowing OP-SUD providers to practice telemedicine/telehealth through telephonic communications when appropriate. Texting and emails are not approved forms of telemedicine/telehealth. At minimum, there must be an audio connection. "
- "There is currently no formal limitation on the originating site (i.e., where the recipient is located) and this can include, but is not limited to, a healthcare facility, a school or the recipient's home. Regardless of the originating site, providers must maintain adequate medical documentation to support reimbursement of the visit."
- "LDH is issuing approval to utilize telemedicine/telehealth for conducting substance use disorder screenings and assessments."
- Group Therapy: "Telemedicine/telehealth may be utilized for OP-SUD treatment groups, if this service is related to the recipient's goals, objectives, and interventions in the treatment plan. There is a risk for other group members of being overheard by anyone near the recipient. The recipient should attempt to be in a private room while participating in group via telemedicine/telehealth. The recipient should agree to not disclose to anyone outside the group any information that may help to identify another group member. Given the risks stated, the recipient must agree to waive confidentiality prior to beginning sessions. Providers must document that the recipient waived confidentiality in the notes for the session. While audio-visual technologies are preferred, audio-only may be used if clinically indicated and medically necessary. Providers must adhere to all telemedicine/telehealth-related requirements of their professional licensing board."
- "From March 20, 2020 through April 30, 2021, LDH issued approval for MCOs to extend existing PAs for OP-SUD treatment services that reach the end of the authorization period during the COVID-19 declared emergency, if a prior authorization (PA) is required by the recipient's MCO for OP-SUD treatment services. Beginning May 1, 2021, PAs will return to each MCO's standard operating procedure. MCOs may request documentation from providers to be aware of continuation of services, any needs for continued service continuity, or perhaps even needs to expand service coordination. New requests should follow standard processes in place with the recipient's MCO."

Louisiana Department of Health Informational Bulletin 20-6, Telemedicine/Telehealth Facilitation by Licensed Mental Health Practitioners (revised 4/7/21)

- "The Louisiana Department of Health (LDH) acknowledges the need for the continued facilitation of outpatient behavioral health services during the COVID-19 declared emergency. While individual therapy, family therapy and medication management were approved for telemedicine/telehealth, prior to the COVID-19 declared emergency, LDH is issuing approval for licensed mental health practitioners (LMHP) to conduct assessments, evaluations and testing via telemedicine/telehealth effective for dates of service beginning on or after March 21, 2020, which will remain in effect until rescinded by LDH. Louisiana Medicaid encourages and will reimburse the use of telemedicine/telehealth, when appropriate, for rendering LMHP and psychiatrist services."
- "Fully licensed mental health practitioners include: Psychiatrists; Medical Psychologists; Licensed Psychologists; Licensed Clinical Social Workers (LCSW); Licensed Professional Counselors (LPC); Licensed Marriage and Family Therapists (LMFT); Licensed Addiction Counselors (LAC); and Advanced Practice Registered Nurses (APRN) with a psychiatric specialization."
- "When clinically appropriate, LDH encourages licensed mental health practitioners to facilitate services via telemedicine/telehealth. Telemedicine/telehealth does not exempt providers from any of the service requirements or record keeping as set forth in the Medicaid Behavioral Health Services Provider Manual. Services must be medically necessary. Additional record keeping is mandated for use during the COVID-19 declared emergency as described further in this bulletin. LDH will not waive licensure requirements for licensed mental health practitioners providing services."
- "Providers offering services via telemedicine/telehealth must use a secure, HIPAA-compliant platform, if available. If not available, providers may use everyday communication technologies, including audio-only delivery of telemedicine/telehealth services (e.g. telephone) or use of videoconferencing (e.g. Skype, FaceTime) programs that have reasonable security and privacy measures, with each recipient's consent. Facebook Live, Twitch, TikTok, and similar video communication applications are public facing and must not be used for telemedicine/telehealth services. Audio-only delivery is allowed only in situations where an audio/video system is not available or not feasible. Although a combined audio/video system is preferred, LDH is allowing providers to practice telemedicine/ telehealth through telephonic communications when appropriate. Texting and emails are not approved forms of telemedicine/telehealth. At minimum, there must be an audio connection."
- "There is currently no formal limitation on the originating site (i.e., where the recipient is located) and this can include, but is not limited to, a healthcare facility, a school or the recipient's home."
- Group Therapy: "Telemedicine/telehealth may be utilized for outpatient group psychotherapy. There is a risk for other group members of being overheard by anyone near the recipient. The recipient should attempt to be in a private room while participating in group via telemedicine/telehealth. The recipient should agree to not disclose to anyone outside the group any information that may help to identify another group member. Given the risks stated, the recipient must agree to waive confidentiality prior to beginning sessions. Providers must document that the recipient waived confidentiality in the notes for the session. While audio-visual technologies are preferred, audio-only may be used if clinically indicated and medically necessary. Providers must adhere to all telemedicine/telehealth-related requirements of their professional licensing board."
- "From March 20, 2020 through April 30, 2021, LDH issued approval for MCOs to extend existing PAs for services that reach the end of the authorization period during the COVID-19 declared emergency, IF a prior authorization (PA) is required by the recipient's MCO for licensed

mental health practitioner services. Beginning May 1, 2021, PAs will return to each MCO's standard operating procedure. MCOs may request documentation from providers to be aware of continuation of services, any needs for continued service continuity, or perhaps even needs to expand service coordination. New requests should follow standard processes in place with the recipient's MCO."

Louisiana Department of Health Informational Bulletin 20-12, Update for Pediatric Day Health Care facilities: Infection Control Guidance and Temporary Allowance of In-Home Services (Revised 5/12/20)

- "In general, telemedicine/telehealth is encouraged for any medical or therapy evaluations and treatments that can be performed remotely, as long as the same standard of care can be met as an in-person visit. Telemedicine/telehealth provided to children enrolled in PDHC must comply with Medicaid's overall telehealth policy as described in previous COVID-19 Informational Bulletins."

Louisiana Department of Health Informational Bulletin 20-5 (updated 4/20/20)

- "Louisiana Medicaid encourages the use of telemedicine/telehealth, when appropriate, for any and all healthcare services (i.e., not just those related to COVID-19 symptoms). Louisiana Medicaid, including all Medicaid MCOs, allows for the telemedicine/telehealth mode of delivery for many common healthcare services. When otherwise covered by Louisiana Medicaid, telemedicine/telehealth is allowed for all CPT codes located in Appendix P of the CPT manual (relevant codes listed below)."
- "For the duration of the COVID-19 emergency, in cases where an interactive audio/video system is not immediately available at the time it is needed, an interactive audio-only system (e.g., telephone) without the requirement of video may be employed, unless noted otherwise. For use of an audio-only system, the same standard of care must be met and the need and rationale for employing an audio-only system must be documented in the clinical record. Please note, some telemedicine/telehealth services described below require delivery through an audio/video system due to the clinical nature of these services. Where applicable, this fact is noted explicitly."
- "Effective for dates of service on or after March 17, 2020, and for the duration of the COVID-19 emergency, Louisiana Medicaid encourages and will reimburse the use of telehealth, when appropriate, for rendering physical therapy, occupational therapy, and speech therapy to members. Telehealth can facilitate the continuation or establishment of these services while complying with the need for social distancing."
- "Telehealth services can be rendered for the care of new or established patients, or to support the caregivers of new or established patients. For services requiring prior authorization, a new prior authorization request does not need to meet any additional criteria to be eligible for telehealth delivery and an existing prior authorization does not need an addendum to be eligible for telehealth delivery."
- "Based upon direction from the Centers for Medicare and Medicaid Services (CMS), E-consult codes are no longer payable for dates of service on or after April 9, 2020. LDH continues to work diligently with CMS to restore the service option."
- "EPSDT Preventive Services Telemedicine/Telehealth Visits (Well-Child Care) during COVID-19 Effective for dates of service on or after March 5, 2020, the use of telemedicine/telehealth to perform clinically appropriate components of Early and Periodic Screening, Diagnostic and Treatment (EPSDT) preventive services for members older than 24 months of age will be allowed. Essential components of an EPSDT preventive service visit that are impossible to perform via telemedicine/telehealth (e.g., a complete physical exam, vision and

hearing screenings, fluoride varnish, laboratory tests, and immunizations) can be performed during an in-person interperiodic visit at a later date when limitations on non-emergent clinical care are lessened."

Louisiana Department of Health, Health Plan Advisory 20-9 (revised 4/23/20)

- "The Louisiana Department of Health (LDH) acknowledges the need for the continued facilitation of Outpatient Substance Use Disorder (OP-SUD) treatment services during the COVID-19 declared emergency. As in-person intervention is the only approved method for providing OPSUD treatment services by providers rendering American Society of Addiction Medicine (ASAM) level services under normal circumstances, an allowance to deliver these services via an alternate method is required during the COVID-19 declared emergency. LDH is issuing approval effective for dates of service beginning on or after March 21, 2020, which will remain in effect until rescinded by LDH. Louisiana Medicaid encourages the use of and will reimburse telemedicine/telehealth, when appropriate, for rendering SUD treatment services."

Louisiana Department of Health Informational Bulletin 20-11 (4/22/20)

- "Effective for dates of service on or after March 23, 2020, dentists may be reimbursed for the use of teledentistry, when appropriate, for rendering emergency dental services. Teledentistry may not be used for outgoing or "check-in calls" with beneficiaries."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/14/20)

- Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

  - Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).
  - Other [Describe]: Supervised Independent Living visits, Monitored In Home Caregiving

In-home habilitation

Louisiana Department of Health Update (3/17/20)

- "Effective for dates of service on or after March 17, 2020, and for the duration of the COVID-19 emergency, Louisiana Medicaid encourages and will reimburse the use of telehealth, when appropriate, for rendering certain ABA services."
- "Generally, when an interactive audio/video system is not available, an interactive audio-only system (e.g., telephone), without the requirement of video, may be employed unless service-specific policy indicates that only an audio/video system is permissible. For use of an audio-only system, the same standard of care must be met and the need and rationale for employing an audio-only system must be documented in the clinical record."

Louisiana Medicaid Plan launches telehealth effort (2/13/20)

- "Healthy Blue of Louisiana plans to provide its members with access to medical and behavioral healthcare via telehealth"

MAINE

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Maine House Bill 1249 (introduced 4/28/23)

- "2. Prohibitions. A person may not: A. Prescribe an abortion-inducing drug or a device designed to produce an abortion by telehealth, telephone, the Internet or other type of digital communication."

Maine House Paper No. 1309: An Act Regarding Access to Telehealth Behavioral Health Services during Public Health Emergencies (introduced 12/2/21)

- "Department of Health and Human Services to amend certain licensing rules. No later than January 1, 2023, the Department of Health and Human Services shall amend its rules in 14-193 C.M.R. Chapter 6, Licensing of Mental Health Facilities, and 14-118 C.M.R. Chapter 5, Regulations for Licensing and Certifying of Substance Abuse Treatment Programs, to allow a facility licensed under the Maine Revised Statutes, Title 5, section 20005, subsection 6, paragraph B or Title 34-B, section 1203-A to obtain consent through verbal, electronic or written means from a person during a public health emergency in accordance with Title 22, section 51. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A."

Maine Executive Order 40: An Order Providing in Orderly Transition Following the Termination of the State of Civil Emergency (6/30/21)

- Executive Order 35 FY 19/20, An Order Suspending Provisions of Certain Licensing Statutes and Rules in Order to Facilitate Healthcare and Veterinary Care during the State of Emergency Created by COVID-19, Section I (A), shall expire on August 30, 2021. Licenses that have been issued under Sections I (C) & I (D) as of the effective date of this Order, which have not been surrendered, are valid until August 30, 2021. Any individual issued a license under section I (C) or I (D) whose license is in good standing and who submits a complete application for full licensure to the appropriate board or program within the Office of Professional and Occupational Regulation on or before midnight of August 30, 2021 will have the license issued under Sections I (C) or I (D) remain in effect to provide services in-person or via telehealth until the full license application is adjudicated by the board or program. All other provisions of Executive Order 3 5 FY 19/20 that have not already been repealed shall expire at midnight on June 30, 2021;

Maine Senate Bill No. 791: An Act Regarding Telehealth Regulation (passed 6/17/21)

- ""Telehealth," as it pertains to the delivery of MaineCare services, means the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.
- Parity for telehealth services. A carrier offering a health plan in this State may not deny coverage on the basis that the health care service is provided through telehealth if the health care service would be covered if it were provided through in-person consultation between an enrollee and a provider and as long as the provider is acting within the scope of practice of the provider's license and in accordance with rules adopted by the board, if any, that issued the provider's license related to standards of practice for the delivery of a health care service through telehealth. Coverage for health care services provided through telehealth must be determined in a manner consistent

with coverage for health care services provided through in-person consultation. If an enrollee is eligible for coverage and the delivery of the health care service through telehealth is medically appropriate, a carrier may not deny coverage for telehealth services. A carrier may offer a health plan containing a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to a comparable service provided through in-person consultation. A carrier may not exclude a health care service from coverage solely because such health care service is provided only through a telehealth encounter, as long as telehealth is appropriate for the provision of such health care service."

Maine Senate Bill No. 1: An ACT to establish the COVID-19 Bill of Rights (introduced 1/11/21)

- "This bill establishes certain requirements for the protection of health care consumers with regard to testing, treatment and immunization for COVID-19. The bill also makes changes to improve access to prescription drugs and to health care services through telehealth.
- Part C of the bill authorizes the delivery of health care services through telehealth by audio-only telephone."

Appendix K Approval (5/20/20)

- "Services can be delivered via telehealth when appropriate to meet the needs of the individual."

DHHS – Disaster Relief State Plan Amendment (SPA) Approval (4/27/20)

- "Adds new telehealth billing codes to ensure member access to covered services."

Governor Mills Acts to Promote Access to Health Care During COVID-19 (3/25/20)

- "Superintendent of Insurance Eric Cioppa on Friday signed an order that requires insurance companies to provide coverage for clinically-appropriate services delivered by telephone, as well as via more commonly used apps, such as FaceTime, WhatsApp and Skype, as long as they are private. This provides flexibility to patients who may not have access to web-based applications traditionally used for telehealth."
- "The Superintendent's order also requires insurance carriers to pay providers for telehealth services at the same rate they would pay for an in-person visit for the same service. This supports health care providers who are following national and state recommendations to postpone in-person appointments for non-urgent care and makes it more likely that patients will be able to get the care they need through telehealth visits."

Insurance Emergency Response Order (3/20/20)

- "Remote Delivery of Health Services: In my March 12 order, I noted the importance of telehealth during this crisis, reminded carriers that 24-A M.R.S. § 4316 requires parity between coverage of telehealth and in-person services, and directed them to review their telehealth programs with participating providers to ensure that the programs are robust and will be able to meet any increased demand. However, the statutory definition of "telehealth," 24-A M.R.S. § 4316(1)(C), expressly excludes, among other methods, "the use of audio-only telephone." Audio-only telephone communication is often a necessary tool to provide effective remote access for patients. The Centers for Medicare and Medicaid Services has already taken measures to modify applicable federal privacy standards to accommodate this need. I am therefore ordering that in addition to telehealth as defined in the Insurance Code, carriers must also provide parity in coverage

for other clinically appropriate remote delivery of medically necessary health care services, including office visits conducted by non-public-facing telephone communication methods that have audio-only or audio-video capability, to the extent that the provider is permitted by law to provide such services. All carriers are further ordered to ensure that rates of payment to in-network providers for services delivered via telehealth and other remote modalities are not lower than the rates of payment established by the carrier for services delivered in person, and to notify providers for any instructions necessary to facilitate billing for such remote services."

SP 676: An Act to promote telehealth (Passed 3/8/20)

Insurance Emergency Response Order (3/12/20)

- "Telehealth services can mitigate the impact of the disruptions to health care delivery. Furthermore, because COVID-19 is a communicable disease, some enrollees might choose to use telehealth services instead of in-person health care services, or might be under restrictions that limit their ability to visit providers in person. Health carriers are reminded that 24-A M.R.S. § 4316 requires parity between coverage of telehealth and in-person services, and are directed to review their telehealth programs with participating providers to ensure that the programs are robust and will be able to meet any increased demand."

State Licensure Laws, Policy, and Guidance

Governor Mills Issues Executive Order to Expand Access Health Care During COVID-19 (4/7/20)

- "Governor Janet Mills has signed an Executive Order (PDF) to further expand access to health care for Maine people in the face of COVID-19. The Order takes additional steps to bolster the health care workforce, expand telehealth services, and temporarily alleviate certain licensing requirements, building upon the Governor's March 20 Executive Order." This Executive Order allows:

"All health care providers licensed by the Office of Professional and Occupational Regulation (OPOR), such as psychologists, social workers, and physical therapists to:

  - Provide their services via telehealth
  - Have their license expiration dates extended until 30 days following the end of the declared state of emergency, if the license was scheduled for renewal during the state of emergency
  - Not have to complete continuing education requirements for license renewals that occur through March 20, 2021."

"In addition, certain health care providers licensed by OPOR, such as respiratory care therapists and pharmacists may:

  - Receive a temporary license to provide health care in person or through telehealth, with no application fee, if currently licensed in another state
  - Reactivate their Maine license immediately, with no application fee, if retired within the last three years."

Governor Mills Acts to Promote Access to Health Care during COVID-19 (3/25/20)

- "Governor Mills has signed an Executive Order allowing licensed physicians, physician assistants, and nurses greater flexibility to contribute to Maine's response during the civil state of emergency. Those who are licensed and in good standing in other states can now:

"Receive an emergency license to provide health care in person or through telehealth to Maine people, with no application fee"

"See Maine patients through telehealth without obtaining a Maine license, if already serving those patients at out-of-state locations"

"Have their licenses automatically renewed if up for renewal during the state of emergency"

"Suspend conforming to physician oversight requirements (for physician assistants and advanced practice registered nurses)"

"Reactivate their license immediately with no application fee, if retired."

- "Additionally, all physicians, physician assistants and nurses licensed in Maine and those authorized under the order may provide services through all methods of telehealth, including video, audio and other electronic technologies to treat Maine people for all medical needs. The order expands acceptable technologies beyond only those that are compliant with patient privacy laws, to align Maine with major changes made by the federal government that provide broad coverage for telehealth services for Medicare members."

Medicaid Law, Policy and Guidance Related to Telehealth

Maine House Bill No. 846: An Act To Make Permanent the Telehealth Reimbursement Options Passed by Emergency Measures (introduced 3/10/21)

- "This bill makes permanent the authorization for the delivery of health care services through telehealth by telephone that was provided through executive order during the declared public health emergency related to COVID-19.
- Under current law, health insurance carriers are required to reimburse for services delivered through telehealth at parity with the reimbursement that would be provided if the services were delivered through an in-person consultation, but the use of audio-only telephone to deliver those services is not permitted. This bill removes that prohibition. The bill also clarifies that reimbursement for telehealth services must be made on the same basis and at the same rate as if the services were delivered in person and that a carrier may not establish separate deductible limits for telehealth services that are not applied in the aggregate with other services covered under a health plan.
- Under current law, telehealth services reimbursed under the MaineCare program for the delivery of service using the telephone are limited to when interactive telehealth services are unavailable or when a telephonic service is medically appropriate for the underlying covered service. This bill removes that limitation and also clarifies that services provided through telehealth must be reimbursed at the same rate as comparable services provided through an in-person consultation.
- The requirements in the bill apply to health plans issued or renewed on or after January 1, 2022."

Adopted Rule: 10-144 C.M.R. ch. 101, MaineCare Benefits Manual, Chapter I, Section 4, Telehealth Services (6/15/20)

- "This adopted rule implements increased access to all pharmacy services, and particularly substance use disorder (SUD) services, through the removal of the blanket prohibition against the provision of Pharmacy Services (Section 80) via telehealth. On March 16, 2020, the Department implemented these changes on an emergency basis due to the COVID-19 health threat, in an effort to limit face-to-face contact, expedite these services to members, and mitigate disease transmission. The Department now seeks to make these changes permanent, in part because they will ensure delivery of SUD services more quickly and broadly to members, in hopes of helping to stem

the opioid crisis. Additionally, the changes will be generally preemptive against any future spread of communicable disease threat or outbreak by decreasing in-person contact for pharmacy services, as medically and situationally necessitated."

MaineCare Telehealth Guidance for Home- and Community-Based Waiver Service Providers During the COVID-19 Emergency (5/28/20)

- "As we respond to COVID-19, we encourage MaineCare Home- and Community-Based Services (HCBS) waiver providers to consider utilizing telehealth for the delivery of MaineCare-covered services when appropriate and necessary. MaineCare has long had a robust telehealth policy and has recently created additional flexibility for its usage."
- "During the COVID-19 emergency, Community Support may be provided using interactive telehealth and, when video is not an option, telephone options (i.e. video chat, FaceTime, Skype, Zoom, or phone calls). Please see additional guidance on the use of these platforms."
- "Community Support services/activities provided via telehealth and telephone options must be consistent with the "Description of Service" and "Goals" in the Person-Centered Plan, thus coinciding with the member's current Person-Centered Plan and services outlined in the MaineCare Benefits Manual."
- "During the COVID-19 emergency, Home Support-Quarter Hour (Sections 21 and 29) may be provided using telehealth and telephone options (video chat, FaceTime, Skype, Zoom, or phone calls). See MaineCare's telehealth guidance for more information about utilizing these platforms."
- "Home Support - Quarter Hour services/activities provided via telehealth and telephone options must be consistent with the "Description of Service" and "Goals" in the Person-Centered Plan, thus coinciding with the member's current Person-Centered Plan and services outlined in the MaineCare Benefits Manual."
- "During the COVID-19 emergency, Work Support, Employment Specialist and Career Planning (Sections 18, 20, 21, and 29) may be provided using telehealth and telephone options (video chat, FaceTime, Skype, Zoom, or phone calls). See MaineCare's telehealth guidance for more information utilizing these platforms."
- "Services/activities provided via Telehealth and telephone options must be consistent with the "Description of Service" and "Goals" in the Person-Centered Plan, thus coinciding with the member's current Person-Centered Plan and services outlined in the MaineCare Benefits Manual."

COVID-19 Guidance for Providers of Behavioral Health, Community Support, and Rehabilitative and Community Support Services (4/24/20)

- Q: "Can you charge the same as an office visit if the patient only has a telephone, no video?"

A: "If these criteria are met, and the service is intended to replace a full visit, then providers can charge the same amount."

MaineCare Telehealth and Telephonic Evaluation and Management Codes were updated on April 2, 2020. See the list of updated telehealth service codes here. (4/16/20)

MaineCare Guidance Relating to Telehealth and Telephone Services During COVID-19 Emergency Period (Updated 4/16/20)

- "In addition to Interactive Telehealth modes of delivery, telephones are an acceptable mode to deliver services via Telehealth if Interactive Telehealth options are unavailable, and if Telephonic delivery is medically appropriate for the underlying covered service."

- "Historically, the Drug Enforcement Agency (DEA) had required an in-person assessment before prescribing is allowed for all controlled substances. However, under the current public health emergency, the DEA is now allowing flexibility specifically for prescribing buprenorphine for the treatment of Opioid Use Disorder (per below). For other controlled substances (e.g. opioids), however, the DEA continues to require that providers evaluate the patient for the initial visit in one of the following ways: in person, or via telemedicine using a real-time, two-way, audio-visual communications device."
- "Per the March 31, 2020 guidance published by SAMHSA, the Drug Enforcement Agency is now allowing providers more flexibility with prescribing buprenorphine for Opioid Use Disorder treatment. Opioid Treatment Providers (OTPs) can dispense, and DATA-waived practitioners can prescribe, buprenorphine to new patients with OUD for maintenance treatment or medically supervised withdrawal following an evaluation via audio-visual telehealth visits or via telephone voice calls, without first performing an in-person or audio-visual evaluation, "if the evaluating practitioner determines that an adequate evaluation of the patient can be accomplished via the use of a telephone.""
- "MaineCare understands the challenges primary care providers are facing during the COVID-19 emergency, especially relating to completing important preventive care visits for children. Therefore, MaineCare has developed specific EPSDT/well-child visit guidance to assist primary care practices during this time and has added selected preventive services that can be covered using telehealth."
- "Under the current public health emergency, MaineCare and the federal government are allowing for further flexibility. MaineCare is waiving the requirement for comparable quality on a service by service basis, subject to Department approval. See below for more detail. In addition, the federal government is allowing for a relaxation of enforcement of HIPAA requirements during the state of emergency, enabling providers to use platforms such as FaceTime, Skype and Zoom, etc., for interactive telehealth services."
- "Members do not usually need to see a provider in person in order to receive a prescription. They can connect via interactive telehealth or telephone to get their prescription filled."
- "The Department is waiving the requirement under Ch. 1, Section 4, Telehealth, Sec. 4.06-7, requiring advance written notice/consent prior to services."
- "The Department will reimburse providers for telephone evaluation and management services provided to members during the public health emergency. The restrictions set forth in the MaineCare Benefits Manual, Ch. I, Sec. 4.04-2 are waived for this purpose. Telephonic evaluation and management services must be rendered by a qualified professional actively enrolled in MaineCare or contracted through an enrolled MaineCare provider."
- Telehealth and Behavioral Health Services: "There is no blanket restriction on utilizing telehealth for any service available through Sections 17, 28, or 65. However, providers should consider the following to determine whether the service delivered via telehealth would be of comparable quality to the service delivered in person. If the provider and/or MaineCare determine the service would not be of comparable quality delivered via telehealth, the provider may still request the Department waive the comparable quality requirement if it feels this would be in the best interest of the member, as described above."

Chapter 101, MaineCare Benefits Manual, Emergency Rule Making (3/16/2020)

- "This emergency rulemaking will remove the MaineCare Benefits Manual (MBM), Chapter I, Section 4, Telehealth Services blanket prohibition against providers utilizing telehealth to deliver services under the MBM, Chapter II, Section 80, Pharmacy Services. Pursuant to 5 M.R.S. Section 8054, the Department has determined that immediate adoption of this rule is necessary to avoid a potentially severe and immediate threat to public health, safety or general welfare."
- "On March 11, 2020, the World Health Organization declared COVID-19 a worldwide pandemic. As a preemptive action by the Department, Pharmacy Services will be available via telehealth when medically necessary and appropriate."

Emergency Adoption: Chapter 101, MaineCare Benefits Manual, Chapter I, Section 4, Telehealth Services (3/16/20)

- "This emergency rulemaking will remove the MaineCare Benefits Manual (MBM), Chapter I, Section 4, Telehealth Services blanket prohibition against providers utilizing telehealth to deliver services under the MBM, Chapter II, Section 80, Pharmacy Services. Pursuant to 5 M.R.S. Section 8054, the Department has determined that immediate adoption of this rule is necessary to avoid a potentially severe and immediate threat to public health, safety or general welfare. The Department's findings of emergency are set forth in detail in the Emergency Basis Statement. Maine is facing a substantial public health threat posed by the global spread of the 2019 Novel Coronavirus (COVID-19). On March 11, 2020, the World Health Organization declared COVID-19 a worldwide pandemic. As a preemptive action by the Department, Pharmacy Services will be available via telehealth when medically necessary and appropriate."

MARYLAND

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Maryland Senate Bill 582 (enrolled 4/10/2023); Maryland House Bill 1148 (enrolled 4/3/2023)

- "extending to a certain date the inclusion of certain audio–only telephone conversations in the definition of "telehealth" in the Maryland Medical Assistance Program and certain requirements related to the provision of reimbursement for health care services appropriately provided through telehealth by the Program and certain insurers, nonprofit health service plans, and health maintenance organizations"

Maryland Senate Bill 534 (enrolled 3/31/2023)

- "Preserve Telehealth Access Act of 2023
- FOR the purpose of extending to a certain date the inclusion of certain audio–only telephone conversations under the definition of "telehealth" for the purpose of certain provisions of law relating to reimbursement and coverage of telehealth by the Maryland Medical Assistance Program and certain insurers, nonprofit health service plans, and health maintenance organizations; extending to a certain date a requirement on the Program and certain insurers, nonprofit health service plans, and health maintenance organizations to provide reimbursement for certain health care services provided through telehealth on a certain basis and at a certain rate; and generally relating to the coverage and reimbursement of health care services delivered through telehealth."

Maryland House Bill 878 (engrossed 3/21/2023)

- "AN ACT concerning"
  - "Public Schools – Student Telehealth Appointments – Policy and Access"
  - "FOR the purpose of requiring each county board of education to establish a policy to accommodate students who need to participate in telehealth appointments during the school day; requiring each public middle and high school to designate a space that meets certain requirements for student telehealth appointments; and generally relating to student access to telehealth in schools."

Maryland House Bill No. 670 (introduced 1/31/2022)

- "SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:
  - The Maryland Health Care Commission, in consultation with, as appropriate, the State Board of Physicians, the Maryland Health Services Cost Review Commission, the Maryland Department of Health, the Maryland Insurance Administration, malpractice providers, and any other relevant stakeholders, shall study ways that interstate telehealth can be expanded to allow State residents to use telehealth to receive health services from out–of–state practitioners"

Declaration of State of Emergency and Existence of Catastrophic Health Emergency — COVID-19 (passed 1/4/2022)

- "Now, therefore, I, Lawrence J. Hogan, jr., governor of the state of Maryland, by virtue of the authority vested in me by the Maryland constitution and the laws of Maryland, including but not limited to title 14 of the public safety article of the Maryland code, and in an effort to control and prevent the spread of covid-19 within the state, hereby proclaim, effective immediately, that a state of emergency and catastrophic health emergency exists within the entire state of Maryland.
- Health care providers who act in good faith under this catastrophic health emergency proclamation, including orders issued under the proclamation by the Governor and by other State officials acting at the direction of or under delegated authority from the Governor, have the immunity provided by § 14-3A-06 of the Public Safety Article of the Maryland Code."

Maryland Proclamation by Governor (7/12/21)

- "Now, therefore, I, Lawrence J. Hogan, jr., Governor of the state of Maryland, by virtue of the authority vested in me by the Maryland constitution and the laws of Maryland, including but not limited to title 14 of the public safety article, and in an effort to control and prevent the spread of covid-19 within the state, hereby declare that a state of emergency and catastrophic health emergency continues to exist within the entire state of Maryland, renew the March 5, 2020, proclamation, and further provide and order, effective immediately."

Maryland Order Number 21-06-15-01 (6/15/21)

- "Terminated various emergency orders, including Order No. 20-03-20-01, which further authorized additional telehealth services during the state of emergency."

Department of Health Letter to Maryland School-Based Health Center Administrators, Telehealth Guidance for School-Based Health Centers during the COVID-19 Public Health Emergency (9/3/20)

- "This guidance clarifies how School-Based Health Center ("SBHC") sponsoring agencies should bill Medicaid for covered services delivered via telehealth to eligible Medicaid participants. When billing for services rendered via audio-video or audio-only modalities, SBHC sponsoring agencies must adhere to the following:

1. Federal Rules (Clinic Services): SBHCs must adhere to federal Medicaid regulations governing clinics (42 CFR § 440.90 - Clinic Services). Under normal circumstances, Medicaid may not reimburse SBHCs or other clinics if neither the practitioner nor patient is physically located within the clinic. This requirement applies to all freestanding clinics participating in the Maryland Medicaid program, regardless of whether they are community-based clinics or SBHCs…

2. Modifiers: When billing Medicaid or a HealthChoice MCO for an audio-video telehealth visit or an audio-only visit, sponsoring agencies should bill using the usual procedure code with the appropriate modifier…"

Letter from Governor Hogan, COVID-19#12: Temporary Registration of Registered Behavior Technicians and Telehealth Guidance for Applied Behavioral Analysis (ABA) Providers (4/6/20)

- During the state of emergency, the Department is taking the following actions with respect to the use of telehealth for ABA services:

"The Department will not enforce the requirement that only 25 percent of direct supervision (97155) can be provided remotely. During the state of emergency, ABA providers may render 100 percent of supervision services remotely. Services delivered via telehealth using two-way audiovisual technology assisted communication should be billed using the "-GT" modifier."

"The Department will allow certain ABA services to be rendered by telephone. Specifically, during the state of emergency, the Department will allow parent training (97156) to be rendered telephonically and billed using the "–UB" modifier."

HB 1208 and SB 502: An Act concerning Telehealth – Mental Health and Chronic Condition Management Services – Coverage and Pilot Program (Passed 4/3/20)

Executive Order 24-04-01-01, amending and restating order 20-03-20-01, to further authorize additional telehealth services (4/1/20)

- "Governor Hogan issued an executive order that amends the previous May 20 order regarding telehealth by expanding these services beyond audio-only methods. With this order, healthcare providers may engage in asynchronous telehealth services, such as email, provided that any and all telehealth practices are clinically appropriate, properly documented, and otherwise comply with proper standards of care. These telehealth services are also eligible for reimbursement by Medicaid."

Governor Hogan enacts emergency legislation to enhance ongoing response to COVID-19 (3/20/20)

- "The bill establishes a series of protections for individuals directly affected by COVID-19 or more broadly impacted by the state of emergency, including empowering the governor to: "Establish or waive telehealth protocols"

Maryland Insurance Bulletin 20-05 (3/6/20)

- "Encourage the use of telehealth services, as appropriate, by all members to reduce the likelihood of exposure to and transmission of COVID-19."

State Licensure Laws, Policy, and Guidance

Maryland House Bill No. 821 (introduced 2/10/22)

- "For the purpose of entering into the Medical Excellence Zone Compact for the purpose of authorizing licensed physicians to practice medicine through telehealth in other compact states; establishing the Medical Excellence Zone Commission; providing for withdrawal from the Compact; and generally relating to the Medical Excellence Zone Compact."

Maryland Senate Bill no. 398 (introduced 1/25/22)

- "A health care practitioner who is not licensed in the 4 state may provide behavioral health services via telehealth to a 5 patient located in the state in accordance with the requirements and 6 limitations of this subsection."

Maryland House Bill No. 34/Senate Bill No. 278: AN ACT concerning State Department of Education and Maryland Department of Health – Maryland School–Based Health Center Standards – Telehealth (passed 5/18/21)

- "The State Department of Education and the Maryland Department of Health shall authorize a health care practitioner, as defined in § 1–1001 of the Health Occupations Article, at a school–based health center approved by the State Department of Education and the Maryland Department of Health to operate in the State to provide health care services through telehealth in accordance with Title 1, Subtitle 10 of the Health Occupations Article.
- (b) In implementing subsection (a) of this section, the State Department of Education and the Maryland Department of Health may not:

(1) require a school–based health center to submit an application or seek approval to provide health care services through telehealth if the State Department of Education and the Maryland Department of Health have already approved the school–based health center to operate in the State; or

(2) establish requirements that a school–based health center must meet to provide telehealth that are inconsistent with the requirements for providing telehealth under Title 1, Subtitle 10 of the Health Occupations Article."

Board of Physicians, Telehealth-Maryland State of Emergency- COVID-19 FAQs (4/6/20)

- "For the duration of the Maryland State of Emergency, health care practitioners who have an active license in good standing in another state or the District of Columbia may practice telehealth without a Maryland license to provide continuity of care to existing Maryland patients during the state of emergency for the purpose of implementing social distancing."

Governor Hogan enacts emergency legislation to enhance ongoing response to COVID-19 (3/20/20)

- "The bill establishes a series of protections for individuals directly affected by COVID-19 or more broadly impacted by the state of emergency, including empowering the governor to:

"Allow MDH to offer more flexibility in staffing during the state of emergency"

Governor Hogan issues an omnibus health care order (3/16/20)

- "INTERSTATE RECIPROCITY FOR HEALTH CARE LICENSES: Under the order, any person who holds a valid, unexpired license as a health care practitioner that is issued by another state may, at a health care facility in Maryland, engage in the activities authorized under that license."
- "INACTIVE PRACTITIONERS: Any inactive practitioner may, at a health care facility in Maryland, engage in activities that would have been authorized under his/her inactive license without first reinstating his/her inactive license."

Medicaid Law, Policy and Guidance Related to Telehealth

Maryland Health General Code 15-141.2

- "(ii) "Telehealth" includes:
- 1. Synchronous and asynchronous interactions;
- 2. From July 1, 2021, to June 30, 2023, both inclusive, an audio–only telephone conversation between a health care provider and a patient that results in the delivery of a billable, covered health care service; and
- 3. Remote patient monitoring services.
- (iii) "Telehealth" does not include the provision of health care services solely through:
- 1. Except as provided in subparagraph (ii)2 of this paragraph, an audio–only telephone conversation;
- 2. An e–mail message; or
- 3. A facsimile transmission.
- (b) The Program shall:
- (1) Provide health care services appropriately delivered through telehealth to Program recipients regardless of the location of the Program recipient at the time telehealth services are provided; and
- (2) Allow a distant site provider to provide health care services to a Program recipient from any location at which the health care services may be appropriately delivered through telehealth.
- (3) (i) From July 1, 2021, to June 30, 2023, both inclusive, when appropriately provided through telehealth, the Program shall provide reimbursement in accordance with paragraph (1) of this subsection on the same basis and the same rate as if the health care service were delivered by the health care provider in person.
- (2) "Distant site" means a site at which the distant site health care provider is located at the time the health care service is provided through telehealth.
- (3) "Distant site provider" means the health care provider who provides medically necessary services to a patient at an originating site from a different physical location than the location of the patient."

Maryland Senate Bill No. 3/House Bill 123: Preserve Telehealth Access Act of 2021 (passed 4/13/21)

- "FOR the purpose of altering the health care services the Maryland Medical Assistance Program, subject to a certain limitation, is required to provide through telehealth;

altering the circumstances under which the Program is required to provide health care services through telehealth;

authorizing the Maryland Department of Health to apply to the Centers for Medicare and Medicaid Services for a certain amendment to certain waivers to implement certain requirements of this Act;

repealing a certain requirement that the Department apply for a certain amendment to certain waivers to implement a certain pilot program relating to the provision of certain telehealth services;

repealing a requirement that the Department administer the pilot program, collect certain data, and submit certain reports to the General Assembly;

altering a provision of law requiring certain insurers, nonprofit health service plans, and health maintenance organizations to reimburse certain health care services provided through telehealth to require reimbursement to be provided in a certain manner and at a certain rate;

prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from imposing, as a condition of reimbursement of a health care service delivered through telehealth, that the health care service be provided by a certain health care provider;

repealing the termination date of certain provisions of law relating to the Maryland Medical Assistance Program and coverage for telehealth;

defining certain terms; altering certain definitions; providing for the application of this Act; and generally relating to the coverage and reimbursement of health care services delivered through telehealth.

- On or before December 1, 2020, the Department shall apply to the Centers for Medicare and Medicaid Services for an amendment to any of the State's § 1115 waivers necessary to implement a pilot program to provide telehealth services to Program recipients regardless of the Program recipient's location at the time telehealth services are provided.
- (2) Telehealth services available under the pilot program shall be limited to chronic condition management services.
- The program shall:

(1) provide health care services appropriately delivered through telehealth to program recipients regardless of the location of the program recipient at the time telehealth services are provided; and

(2) allow a distant site provider to provide health care services to a program recipient from any location at which the health care services may be appropriately delivered through telehealth.

(c) the services required to be provided under subsection (b) of this section shall include counseling and treatment for substance use disorders and mental health conditions.

(d) the program may not: (1) exclude from coverage a health care service solely because it is provided through telehealth and is not provided through an in–person consultation or contact between a health care provider and a patient; or (2) exclude from coverage a behavioral health care services provided to a program recipient in person solely because the service may also be provided through telehealth

(1) subject to paragraph (3) of this subsection, the program shall reimburse a health care provider for the diagnosis, consultation, and treatment of a program recipient for a health care service covered by the program that can be appropriately provided through telehealth.

(2) this subsection does not require the program to reimburse a health care provider for a health care service delivered in person or through telehealth that is: (I) not a covered health care service under the program; or (ii) delivered by an out–of–network provider unless the health care service is a self–referred service authorized under the program.

(I) From July 1, 2021, to June 30, 2023, both inclusive, when a health care service is appropriately provided through telehealth, the program shall provide reimbursement in accordance with paragraph (1) of this subsection on the same basis and at the same rate as if the health care service were delivered by the health care provider in person."

Maryland Medical Assistance Program, Hospital Provider Alert (updated 7/30/20)

- "This update specifies that hospitals not regulated by the Health Services Cost Review Commission (HSCRC) are allowed to bill hospital facility charges when providing a telehealth service during the Maryland State of Emergency. This policy aligns with the Medicare waivers allowed during the pandemic."
- "Any provider type is permitted to render telehealth services as a distant site within their scope of practice. There are no geographic restrictions. Services provided via telehealth must be provided through two-way audio-visual technology assisted communication with the participant who is physically located at a permitted originating site. Services that either require in-person evaluation or cannot be reasonably delivered via telehealth are not eligible for reimbursement. Medicaid participants may receive telehealth services if they are enrolled in the fee-for-service (FFS) program or a HealthChoice managed care organization (MCO). Telehealth providers must be enrolled in the Maryland Medical Assistance Program."
- "During the COVID-19 state of emergency, orders from the Secretary of Health permit certain services to be delivered using audio-only telephone and use of non-HIPAA compliant software. These changes are effective as of March 5, 2020, and will remain in place until the end of the state of emergency."

COVID-19 and Maryland Medicaid Telehealth Coverage (updated 7/24/20)

- "On March 5, 2020, Governor Lawrence J. Hogan, Jr., declared a state of emergency due to disease ("COVID-19") caused by the novel coronavirus. The COVID-19 outbreak was declared a national emergency on March 13, 2020, and was previously declared a nationwide Public Health Emergency on January 31, 2020 (retroactive to January 27, 2020). The federal Public Health Emergency was subsequently extended on April 26, 2020 and again on July 25, 2020, for up to an additional 90 days. The current authority expires October 23. It is unclear if the Public Health Emergency will be extended further."
- "The Department will examine closely the flexibility to expand services delivered via telehealth in a participant's home. Services provided in the home setting are not currently reimbursable through Maryland Medicaid; however, standard coverage rules do allow states to reimburse for services in the home setting. The Department will assess which services may be appropriately delivered via telehealth in the home setting on an ongoing basis after the end of the federal Public Health Emergency."

Letter to Maryland Behavioral Health Community (6/10/20)

- "The flexibilities the Maryland Department of Health (MDH) Behavioral Health Administration (BHA) has been able to offer health care providers during this time are based on both Executive Orders from the Governor of Maryland and waivers from the federal government. We are glad these flexibilities have been tremendously helpful during the COVID-19 pandemic. The federal waivers that allow for telephonic and non-HIPAA compliant technology are scheduled to sunset in tandem with the end of the federal Public Health Emergency. These flexibilities are not likely to be granted on a permanent basis by the Centers for Medicare and Medicaid Services. Unless the Secretary of the federal Department of Health and Human Services takes action to either extend the waivers or make the flexibilities permanent, these flexibilities are currently slated to end on July 25, 2020."
- "One area that the Department will examine closely is the flexibility to expand services delivered via telehealth in a patient's home. Services provided in the home setting are not currently reimbursable through Maryland Medicaid; however, standard coverage rules do allow states to reimburse for services in the home setting. The Department will conduct analyses to determine if it would be appropriate to continue reimbursement for services delivered via telehealth in the home setting after the end of the Public Health Emergency."

Maryland Medical Assistance Program Behavioral Health Administration Hospital Based Programs Out Patient Provider Alert, Guidance on Telehealth Service (5/29/20)

- "Telehealth services including audio-only telephone services, or services using video applications that do not meet State regulations in COMAR 10.09.49.08, may only be delivered with the explicit consent of the participant. Consent shall be obtained from the participant's parent or guardian if such consent is legally required. Participants must be provided with a clear explanation of the telehealth or voice service and its confidentiality limitations, including the use of non-HIPAA compliant technology. Providers must ensure that this is documented in the Medicaid participant's medical record. Attention to ensuring that participants' confidentiality is protected in terms of private space, etc., must be a priority. The provider shall abide by all laws regarding a participant's rights and health information."

Telehealth Guidance for Home Health Agency Providers (5/21/20)

- "Any provider type is permitted to render telehealth services within their scope of practice. The Telehealth Program does not have any geographic restrictions. Services that either require in-person evaluation or cannot be reasonably delivered via telehealth are not eligible for reimbursement."
- "Services provided through telehealth are subject to the same program restrictions, preauthorizations, limitations and coverage that exist for the service when provided in-person."
- "Guidance issued on April 29 allows Home Health Agencies to provide more services to participants using telehealth within the 30 day episode of care, so long as it is part of the patient's plan of care and does not replace needed in-person visits as ordered on the plan of care. CMS acknowledges that the use of such technology may result in changes to the frequency or types of in-person visits outlined on existing or new plans of care."

Additional Interpretive Guidance on Use of Telephonic and Electronic Means of Communication in lieu of Face-to-Face Contact by Direct Care Providers (5/8/20)

- "Effort should be made to incorporate audio *and* visual technology. There has been confusion on the delivery of services by phone or via telehealth. The telehealth procedure is intended to allow the provider and participant to both see and hear one another, but it allows flexibility if the visual component is not possible or available. The medium used should be conditional on what is available and practical. The provider should make an effort to utilize a telehealth option that incorporates video technology as well as audio, but if video technology is not available, audio-only (telephone) is permitted."

Guidance on Well-Child Visits and Preventive Care During COVID-19 State of Emergency (5/4/20)

- For Children Older than 24 Months: "A telehealth visit may be offered to provide timely EPSDT services; however, this service does not replace the necessary components of a well-child visit that must take place in an office setting, such as immunizations, vision and hearing screening tests, oral health screening and fluoride varnish, and laboratory testing. Providers should clearly document any visit limitations in the child's medical record."
- "Maryland Medicaid will provide coverage for well-child visits conducted via telehealth on a temporary basis during the COVID-19 emergency only. Refer to Table 1 for a full description of CPT codes for preventive services and any restrictions."
- "Telehealth services for well-child visits for children older than 24 months will be covered at the same rates as an office visit. Providers must document which elements of preventive care were provided and indicate the setting and module."

Maryland Department of Health, Frequently Asked Questions: Coronavirus Disease 2019 (COVID-19) and Telehealth (updated 4/23/20)

- Q: "In the Governor's statement on April 1, 2020, he said that behavioral health services could be initiated telephonically. Does this mean that in a situation where face-to-face and telehealth intake/assessment is not possible, that we can complete a psychiatric rehabilitation program intake via telephone?"

A: "Yes, you may do a psychiatric rehabilitation intake by phone if no telehealth option is viable. This must be clearly documented, along with the consumer's informed consent. Documentation requirements are the same as they are for traditional services. Providers may be required on audit to present telephone service bills/data use statements to support billing claims."

- Q: "Does the new telehealth information/expanded regulation apply to clinical group settings? For SUD IOP, how does that impact the client's nine weekly hours of IOP? Especially if we have to move clients from group to individual sessions, either in person or via telehealth. Then do we have to switch them to an OP auth, then back to an IOP auth?

A: "The expansion of telehealth applies to SUD IOPs. Telehealth may be used for group and individual therapy. The telephone may be used on individual therapy, if telehealth is not available."

Maryland Medical Assistance Program, Hospital Provider Alert, Guidance on Telehealth Services (4/27/20)

- "Any provider type is permitted to render telehealth services as a distant site within their scope of practice. There are no geographic restrictions. Services provided via telehealth must be provided through two-way audio-visual technology assisted communication with the participant who is physically located at a permitted originating site. Services that either require in-person evaluation or cannot be reasonably delivered via telehealth are not eligible for reimbursement. Medicaid participants may receive telehealth services if they are

enrolled in the fee-for-service (FFS) program or a HealthChoice managed care organization (MCO). Telehealth providers must be enrolled in the Maryland Medical Assistance Program."

- "During the COVID-19 state of emergency, orders from the Secretary of Health permit certain services to be delivered using audio-only telephone and use of non-HIPAA compliant software. These changes are effective as of March 5, 2020, and will remain in place until the end of the state of emergency."
- "When a hospital is the "originating site" and the participant/patient is located at the hospital facility, the hospital should only bill for professional or facility rates when a service is actually provided by the originating site."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/24/20)

- Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Telehealth Guidance for SUD Residential Treatment Services During the COVID-19 Outbreak (4/15/20)

- "While telehealth services are not normally permitted for Residential Treatment Programs, MDH is taking the following steps in order to ensure that participants continue to receive necessary services and that any measures taken can be integrated into existing business practices without causing further disruption during the COVID-19 crisis."
- "SUD Residential Treatment Services provided telephonically are subject to the same program restrictions, preauthorizations, limitations and coverage that exist for the service when provided in-person."

Telephone/Telehealth Services Authorized for Intensive Outpatient SUD Programs During the COVID-19 Outbreak (4/15/20)

- "If Medicaid participants are unable to access originating sites possessing fully qualified technology (ability to pan/focus camera, multiple views, etc.) this emergency policy will permit use of notebook computers, smartphones or audio-only phones. Apps used on televideo devices must be restricted to non-public facing products which cannot be shared to a larger audience, such as Zoom, Doxy, Skype, Whats App or other similar products. Public-facing apps such as Facebook Live, Tic-Toc, Snapchat etc., should not be used."
- "Audio-only telephone services, or services using video applications that do not meet State regulations, may only be delivered with the explicit consent of the participant. Consent shall be obtained from the recipient's parent or guardian if such consent is legally required. Participants must be provided with a clear explanation of the telehealth or voice service and its confidentiality limitations, including the use of nonHIPAA compliant technology. Providers must ensure that this is documented in the Medicaid participant's medical record. Attention to ensuring that participants' confidentiality is protected in terms of private space, etc., must be a priority. The provider shall abide by all laws regarding a participant's rights and health information."

Maryland Department of Health, COVID-19 #16 Developmental Disabilities Administration Waivers Programs Telehealth and Telephonic Guidance (4/13/20)

- "Programs may use the phone or telehealth to engage in activities such as eligibility, case management (i.e., Coordination of Community Services), evaluations, initial and annual level of care determinations, staff meetings, and development and monitoring of person-centered plans. Examples of interactions where use of the phone or telehealth is permitted are listed immediately below. This list is not exhaustive. When determining if a service can be safely delivered by phone or telehealth, individuals should use their best judgement and make decisions that are in accordance with CDC, Department, and clinical guidance.

Participant and family consultations;

Supervision of direct care staff;

Provision of: (1) Nurse Consultation; (2) Nurse Health Case Management; and (3) Nurse Case Management and Delegation;

Annual, quarterly, or monthly visits previously conducted face-to-face;

Required team meetings;

Case management services, including application assistance;

Meaningful Day Services and Support Services, such as Personal Supports and Family and Peer Mentoring;

Staff training, if possible and appropriate"

COVID-19 IEP/IFSP Follow-Up Guidance on Telephone Services and Expansion of Medicaid Telehealth Regulations (4/6/20)

- "Below is the list of procedure codes for psychotherapy, physical therapy, occupational therapy, speech language pathology, and nutritional counseling services that may be provided by Part B (IEP) and Part C (IFSP) providers via telehealth if the services are identified on the child's IEP/IFSP. Providers must continue to follow the frequency outlined in the IEP/IFSP or the IEP/IFSP must be amended."
- "Maryland Medicaid will not require prior authorization for the services listed below. Providers must bill services delivered via telehealth using two-way audiovisual technology assisted communication using the "GT" modifier."
- "Nursing, audiology, therapeutic behavior service, and transportation services are not billable through a telehealth model. All service coordination procedures (T1023, T1023-TG, T2022, W9322, W9323, and W9324) have an audio-only component and may continue to be provided and billed in this manner. Providers may render individual psychotherapy services (90832 and 90834) using audio-only technology."
- Q: "Are the reimbursement rates of telehealth services the same as normal rates? Are PRP rates the same too?"

"PRP service delivery by various telehealth technologies to individuals will be treated as offsite services, subject to the same medical necessity, time and documentation rules as face to face services. Group PRP services will be considered onsite services, requiring a minimum 60- minutes duration for billing. Service encounters involving telehealth should be totaled and submitted as daily offsite visits in the same manner as is done for face-to-face visits. They may be combined with face-to-face visits."

Maryland Department of Health Frequently Asked Questions: COVID-19 and Telehealth (updated 4/3/20)

- "We use the term "telehealth" as a mode of delivering health care services through the use of telecommunications technology by a health care practitioner to a patient in a different physical location from a health care practitioner. Telehealth may include both synchronous and asynchronous interactions. It does not include audio-only messages, emails, or fax transmissions."
- "Telephonic communication" refers to audio-only interactions between a health care practitioner and a recipient."
- "During the state of emergency, BHA has allowed for providers who would normally be eligible for telehealth as well as PRP providers to drop to using audio telephone for almost all clinical services, although audio telephone would not normally be considered telehealth. This must be done with informed consent by the participant… A general principle is that voice telephone may be used during the emergency only if the participant is not able to access true telehealth services."

Maryland Medicaid Telehealth Dentistry Guidance (3/30/20)

- "The Maryland Department of Health Medicaid Program ("Maryland Medicaid") has recently updated the billing codes for its Telehealth Program for certain provider types. Dentistry rendered via telehealth, also known as teledentistry, is included. These changes are effective as of March 5, 2020. The Department will conduct a review of codes that may be appropriate for teledentistry after the end of the state of emergency."

Maryland Medical Assistance Program, Telehealth Updated Guidance Memorandum (3/27/20)

- "The Maryland Department of Health Medical Assistance Program ("Maryland Medicaid") has recently updated the billing codes for its Telehealth Program for certain provider types. These changes are effective as of March 5, 2020, and will remain in place after the end of the state of emergency." Billing codes are for physical therapy, occupational therapy, speech language pathology, and nutritional counseling services that may be appropriate to be provided via telehealth.

Maryland Department of Health Letter to All Medicaid Provider Types, Medicaid Managed Care Organizations, Optum Behavioral Health ASO (3/12/20)

- Maryland Department of Health issues temporary expansion of Medicaid telehealth services with the home as an originating sites to mitigate possible spread of COVID-19.

MASSACHUSETTS

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance
Massachusetts House Bill 986 (introduced 4/18/23); Massachusetts Senate Bill 655 (introduced 4/18/23) • "Section 30 of Chapter 32A of the General Laws, as most recently inserted by section 3 of Chapter 260 of the Acts of 2020, is hereby amended by striking out subsection (c) and inserting in place thereof the following:

- (c) Coverage for telehealth services may include utilization review; provided, however, that any utilization review shall be made in the same manner as if the service was delivered in person. Carriers shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O."
- (i) Coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.
- (j) Carriers providing coverage to an active or retired employee of the commonwealth insured under the group insurance commission shall develop and maintain procedures to identify and offer digital health education to enrollees with low digital health literacy to assist them with accessing any medical necessary covered telehealth benefits. […]"
- "(l) Carriers providing coverage to an active or retired employee of the commonwealth insured under the group insurance commission shall not prohibit a physician licensed pursuant to Chapter 112 or otherwise authorized to provide healthcare services who is providing healthcare services to a patient who is physically located in Massachusetts at the time the healthcare services are provided via telehealth from providing such services from any location within Massachusetts or outside Massachusetts; provided, that the location from which the physician provides services does not compromise patient confidentiality and privacy and the location from which the physician provides the services does not exceed restrictions placed on the physician's specific license, including but not limited to, restrictions set by the hospital, institution, clinic or program in which a physician licensed pursuant to section 9 of Chapter 112 of the General Laws has been appointed"
- "Coverage for telehealth services shall include coverage and reimbursement for e-consults and remote patient monitoring services and devices."
- "(c) The division, a contracted health insurer, health plan, health maintenance organization, behavioral health management firm or third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall not impose any utilization management requirements, including but not limited to, prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis […]."
- "(j) The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization, accountable care organization or primary care clinician plan shall develop and maintain procedures to identify and offer digital health education to members with low digital health literacy to assist them with accessing any medical necessary covered telehealth benefits."

Massachusetts House Bill 1073 (introduced 4/18/23); Massachusetts Senate Bill 618 (introduced 4/18/23)

- "The commission shall ensure that the rate of payment for in-network providers of behavioral health services and in-network providers of nutrition counseling delivered via interactive audio-video technology and audio-only telephone shall be no less than the rate of payment for the same service delivered via in-person methods; provided, that this subsection shall apply to providers of behavioral health services and nutrition counseling covered as required under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O."

Massachusetts House Bill 3585 (introduced 3/30/23)

- "SECTION 1. Section 30 of Chapter 32A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-"
    - "(c) Coverage for telehealth services may include utilization review to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O. Carriers shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis."
    - (i) Coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.
    - (j) Carriers providing coverage to an active or retired employee of the commonwealth insured under the group insurance commission shall develop and maintain procedures to identify and offer digital health education to enrollees with low digital health literacy to assist them with accessing any medical necessary covered telehealth benefits. […]"
    - "(l) Carriers providing coverage to an active or retired employee of the commonwealth insured under the group insurance commission shall not prohibit a physician licensed pursuant to Chapter 112 or otherwise authorized to provide healthcare services who is providing healthcare services to a patient who is physically located in Massachusetts at the time the healthcare services are provided via telehealth from providing such services from any location within Massachusetts or outside Massachusetts; provided, that the location from which the physician provides services does not compromise patient confidentiality and privacy and the location from which the physician provides the services does not exceed restrictions placed on the physician's specific license, including but not limited to, restrictions set by the hospital, institution, clinic or program in which a physician licensed pursuant to section 9 of Chapter 112 of the General Laws has been appointed"
    - "Coverage for telehealth services shall include coverage and reimbursement for e-consults and remote patient monitoring services and devices."
    - "(c) The division, a contracted health insurer, health plan, health maintenance organization, behavioral health management firm or third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall not

impose any utilization management requirements, including but not limited to, prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis […]."

- "(j) The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization, accountable care organization or primary care clinician plan shall develop and maintain procedures to identify and offer digital health education to members with low digital health literacy to assist them with accessing any medical necessary covered telehealth benefits."

Massachusetts House Bill 2254 (introduced 2/16/23)

- "(b) A Physician licensed pursuant to this chapter may provide healthcare services to a patient via telehealth from any location within Massachusetts or outside Massachusetts, provided that the following conditions are met:
  - (i) the patient is physically located in Massachusetts at the time the healthcare services are provided;
  - (ii) the location from which the physician provides the services does not compromise patient confidentiality and privacy;
  - and (iii) the location from which the physician provides the services does not exceed restrictions placed on the physician's specific license, including but not limited to, restrictions set by the hospital, institution, clinic or program in which a physician licensed pursuant to section 9 of this chapter has been appointed."

Massachusetts Senate Bill No. 3097 (passed 8/10/22)

- "The regulations shall permit evaluation via telemedicine, electronic or telephonic consultation, as deemed appropriate by the department."
- "The state 911 department shall update 560 CMR 5.00 to integrate training on identification of and response to callers experiencing behavioral health crises, which may include crisis intervention training and training on the appropriate diversion of people with behavioral health conditions away from law enforcement response to appropriate behavioral health treatment and support, into the certification standards for certified enhanced 911 telecommunicators."

Massachusetts Senate Bill No. 2572 (introduced 11/9/21)

- "The department, in consultation with the department of mental health, shall promulgate regulations requiring all acute-care hospitals licensed under section 51G to provide, or arrange for, qualified behavioral health clinicians during all operating hours of an emergency department or a satellite emergency facility as defined in section 51½ to evaluate and stabilize a person admitted with a behavioral health presentation to the emergency department or satellite facility and to refer such person for appropriate treatment or inpatient admission.
- The regulations shall permit evaluation via telemedicine, electronic or telephonic consultation, as deemed appropriate by the department."

Massachusetts COVID-19 Order No. 69 (6/15/21)

- "Effective at 12:01 am on June 15, 2021 the declaration that I issued on March 10, 2020 pursuant to the Civil Defense Act and Section 2A of Chapter 17 of the General Laws is rescinded and the state of emergency initiated by that declaration is terminated with respect to both statutes."

Baker to Lift All COVID Restrictions, Mask Order in Mass. on May 29 (5/17/21)

- "All COVID-19 restrictions in Massachusetts, including the state's mask mandate, will lift on May 29, Gov. Charlie Baker announced Monday."

Massachusetts Senate Bill No. 678: An Act relative to telehealth and digital equity for patients (introduced 3/29/21)

- "Coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing."
- "The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization, accountable care organization or primary care clinician plan shall not include a co-payment requirement for a health care service provided via telehealth."
- "A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis."
- "Notwithstanding any general or special law to the contrary, the health policy commission shall establish a Digital Bridge Pilot Program to support telehealth services and devices and to provide funding for healthcare and human service providers and their patients and clients to support the purchase of telecommunications, information services and connected devices necessary to provide telehealth services to patients and clients. Communities that have had the highest prevalence of and been disproportionately affected by COVID-19 shall be prioritized for funding under this program in addition to communities that experience barriers in accessing telehealth services due to language constraints, socioeconomic constraints or other accessibilityissues. Eligible programs may include but not be limited to public private partnerships with telecommunication providers, municipalities, healthcare providers and other organizations."

Massachusetts Senate Bill No. 2984: An Act promoting a resilient health care system that puts patients first (signed by Governor 1/1/21)

- "For the purposes of this section, "telehealth" shall mean the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to, text messaging, application-based communications and online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring a patient's physical, oral, mental health or substance use disorder condition; provided, however, that "telehealth" may include text-only email when it occurs for the purpose of patient management in the context of a pre-existing physician-patient relationship."
- "Coverage offered by the commission to an active or retired employee of the commonwealth insured under the group insurance commission shall provide coverage for health care services via telehealth by a contracted health care provider; provided, however, that the commission, or its carriers or other contracted entities providing health benefits, shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-

person services in a timely manner upon request. Health care services delivered via telehealth shall be covered to the same extent as if they were provided via in-person consultation or delivery."

- "Coverage may include utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under clause (i) of paragraph (4) of subsection (a) of section 6 of chapter 176O."
- "A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services."
- "Coverage for telehealth services may include a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services."
- "Health care services provided by telehealth shall conform to the standards of care applicable to the telehealth provider's profession. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent."
- "The commission shall ensure that the rate of payment for in-network providers of behavioral health services delivered via interactive audio-video technology and audio-only telephone shall be no less than the rate of payment for the same behavioral health service delivered via in-person methods; provided, that this subsection shall apply to providers of behavioral health services covered as required under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O."
- "The second sentence of subsection (a) of section 2 of said chapter 176O, as so appearing, is hereby amended by inserting in place thereof the following 3 clauses:
- "(6) access to behavioral health services, chronic disease management and primary care services via telehealth"

Massachusetts Division of Insurance releases COVID-19 Bulletin 2020-04 (3/16/20)

- "When delivered via telehealth by in-network providers, forego any prior authorization requirements and any cost-share for medically necessary Coronavirus treatment in accordance with DPH and CDC guidelines"
- "Division notifies all Carriers that it expects all Carriers to permit all in-network providers to deliver clinically appropriate, medically necessary covered health services via telehealth to covered members during the duration of Governor Baker's Emergency Order"
- "Services should be made available for all covered services provided by in-network providers that may be clinically appropriate to be provided through telehealth, including but not limited to medical doctor, behavioral health, and non-physician care"

- "Carriers are directed not to impose any prior authorization barriers to obtain medically necessary health services via telehealth that would not apply to receipt of those same services on an in-person basis"
- "Unless Carriers have specific agreements with a provider regarding reimbursement for services delivered via telehealth, Carriers must reimburse providers for services delivered via telehealth at least at the same rate of reimbursement that the Carrier would reimburse for the same services when provided via in-person methods"

Governor Baker orders an expansion of access to telehealth services (3/15/20)

- "To protect the Public's health and to mitigate exposure to and the spread of COVID-19, the Group Insurance Commission ("GIC"), all Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations ("Carriers") regulated by the Division of Insurance ("Division"), are hereby required to allow all in-network providers to deliver clinically appropriate, medically necessary covered services to members via telehealth. The CIG and all Carriers may establish reasonable requirements for such telehealth services, in accordance with guidance issued by the Division of Insurance, including with respect to documentation and recordkeeping, but such requirements may not be more restrictive than those established by the MassHealth program through MassHealth All-Provider Bulletin 289. Consistent with All Provider Bulletin 289, the GIC and all Carriers shall not impose any specific requirements on the technologies used to deliver telehealth services (including any limitations on audio-only or live video technologies."
- "The GIC and all Carriers shall ensure that rates of payment to in-network providers for services delivered via telehealth are not lower than the rates of payment established by the Carrier for services delivered via traditional (i.e. in-person) methods, and shall notify providers of any instructions necessary to facilitate billing for such telehealth services."
- "The GIC and all Carriers are hereby required to cover, without any cost-sharing (i.e., copayments, deductibles, or coinsurance), medically necessary treatment delivered via telehealth related to COVID-19 at in-network providers."
- "The GIC and all Carriers shall not impose prior authorization requirements on medically necessary treatment delivered via telehealth related to COVID-19 at in-network providers."
- "The Commissioner of Insurance is directed to issue guidance, subject to my approval, to implement the terms of this Order. The Division shall enforce this Order."

1915(c) Home Health and Community Based Services Waiver Providers (3/13/20) Re: COVID-19

- "Effective immediately, case managers may conduct visits with waiver participants online or by phone."

State Licensure Laws, Policy, and Guidance

Mental Health Centers Participating in MassHealth, Mental Health Center Transformation Incentive Payments (May 2020)

- "MassHealth has established a program of mental health center payments that will be implemented by MassHealth's behavioral health vendor (the Massachusetts Behavioral Health Partnership). The payments are intended to support eligible providers as they transition

from delivering in-person services to MassHealth members to using other care delivery modalities in response to the COVID-19 emergency."

- "MassHealth continues to enhance access to care for MassHealth members during the COVID-19 public health emergency. Supporting providers in the transition from in-person care to other, remote treatment modalities is a critical component of these efforts. As such, the behavioral health vendor will be required to provide payments under this incentive program to eligible providers that meet the performance requirements described below."
- Performance requirements include:

"Completion of specific training for all clinical and administrative staff involved in the delivery of services via telehealth in response to the COVID-19 crisis. Trainings include use of the technology, delivery of services in a confidential manner, documentation of interventions, and use of appropriate billing procedures."

"Updated clinic policies and procedures that are impacted by the use of telehealth in response to the COVID-19 crisis. Policies and procedures that must be updated include intake, assessment, provision of treatment including medications and therapy, maintaining records, referring for other care, and conducting supervision."

"Investment in infrastructure or training to improve ability to render care in response to the COVID-19 crisis including via telehealth and changes to in- person care. Investments include purchase of phones, computers, and technology platform for telehealth."

"Transition to delivery of a material portion of behavioral health services via telehealth modalities."

- "The delivery of clinically appropriate, medically necessary MassHealth-covered behavioral health services to MassHealth members via telehealth must comply with all applicable requirements, including but not limited to, those set forth in All Provider Bulletins 289 and 291."

MassHealth Coverage Flexibilities for Services Related to Coronavirus (May 2020)

- "As explained in All Provider Bulletins 289 and 291, MassHealth is temporarily permitting MassHealth providers to deliver all clinically appropriate, medically necessary MassHealth-covered services to MassHealth members via telehealth (whether audio-only or live video) in accordance with the standards set forth in those bulletins. Since publishing those bulletins, MassHealth has learned that, in certain instances, providers have struggled to identify the appropriate code to describe a service rendered via telehealth because certain codes contain references to specific telehealth modalities (e.g., services rendered telephonically) while other codes that might otherwise more accurately describe the service rendered are silent on the means of service delivery or require face-to-face delivery."
- "To facilitate the implementation of the telehealth-related flexibilities announced in All Provider Bulletins 289 and 291, for the duration of the state of emergency declared via Executive Order. No 591, and notwithstanding any MassHealth requirement to the contrary, MassHealth will permit providers submitting claims to MassHealth for services delivered via telehealth in accordance with those bulletins to disregard any references within a service code description to the means by which a service is delivered (e.g., in-person, through live-video telehealth, or via telephone) when identifying the appropriate service code."

- Eligible providers may render COVID-19 RPM bundled services to MassHealth members meeting either of the following clinical eligibility criteria:

"Members with confirmed or suspected COVID-19 who present to an appropriate clinical professional (either in-person or by telehealth), and in that clinical professional's judgment, the person is stable enough to isolate at home, but requires close monitoring for deterioration and need for a higher level of care;"

- Providers rendering COVID-19 RPM bundled services must, at a minimum:

"Ensure that a physician, midlevel professional (such as a physician assistant or certified nurse practitioner), or paraprofessional (such as a medical assistant or a licensed practical nurse), checks in with the member at least once per day to assess symptoms and record home bio-monitoring data (e.g., oxygen saturation, temperature). Eligible providers may perform these check-ins via telehealth in accordance with All Provider Bulletins 289 and 291. Providers unable to contact a member to whom they are rendering COVID-19 RPM bundled services must make their best effort to contact that member and exercise reasonable judgment to determine whether in-person follow-up is possible or necessary. Providers must document such outreach and attempts to contact members throughout the seven-day monitoring period."

"Provide physician oversight as needed. MassHealth expects that, as part of the COVID-19 RPM bundled services, the physician will perform at least one evaluation and management visit (either in-person or via telehealth in accordance with All Provider Bulletins 289 and 291) over the course of the seven-day monitoring period, if consistent with patient need and medically necessity."

- "For those preventive visits that are completed via telehealth, MassHealth is aware that there may be medically necessary components of those visits that cannot be completed via telehealth modalities. MassHealth recommends that providers complete the unperformed components of those visits as soon as possible, whether before or after the emergency concludes."

Order Rescinding and Replacing the March 29, 2020 Order of the Commissioner of Public Health Maximizing Health Care Provider Availability (4/3/20)

- "Health care providers who are licensed in another State who present to the corresponding Massachusetts licensing authority verification that such license is in good standing in that other State where it was issued shall forthwith be issued a corresponding Massachusetts license that shall remain valid during the state of emergency. All health care providers licensed under this provision may provide services within the scope of practice authorized by the license in such profession, both in-person in Massachusetts and across State lines into Massachusetts using telemedicine where appropriate."

Baker-Polito Administration Announces Changes to Expedite Health Care Licensing, Increase Support For Local Boards of Health and Small Business (3/17/20)

- "The Administration today announced four new emergency orders to expedite the onboarding of more licensed health care professionals during the COVID-19 emergency. Changes as a result of these orders include:

"Licenses of physicians who have retired within the last year, without complaints at the time of retirement and in good standing, may be reactivated, and licenses that would otherwise be up for renewal may be extended for 90 days after the end of the public health emergency."

"Providers in good standing licensed in other states may obtain emergency licenses to practice in person or through telemedicine."

"The ability of residents to provide services, subject to appropriate supervision, will also be expanded."

"Assures continuity of care for college and university students, licenses for nurses, pharmacists and physician assistants that would otherwise be up for renewal for 90 days after the end of the public health emergency may be extended, and no nurse, social worker, psychologist or medical doctor may be prohibited from providing telehealth services across state lines to college or university students who have returned home."

"Recognizing the crucial need for sufficient EMS capacity during this public health emergency, these orders adjust minimum standards for ambulance staffing to ensure sufficient availability and capacity of EMS services."

"Expands telehealth by facilitating telehealth services across state lines."

Massachusetts allows medical professionals from other states to obtain Massachusetts license in 24 hours (3/13/20)

Medicaid Law, Policy and Guidance Related to Telehealth

MassHealth All Provider Bulletin 355 (October 2022)

- "This bulletin amends and restates All Provider Bulletin 327 (corrected) to introduce the following changes: a new modifier for services delivered via audio-only telehealth; a new place of service (POS) code for delivery of telehealth services provided in a patient's home; a clarification of requirements for telehealth encounters and documentation requirements; the extension of payment parity between services delivered via telehealth and their in-person counterparts through September 30, 2023; and the extension of the informational edit period for modifiers used on professional claims for services rendered via telehealth through March 30, 2023."

MassHealth, All Provider Bulletin 314, Updated MassHealth Telehealth Policy (March 2021)

- "This bulletin, which supersedes All Provider Bulletin 303 as of March 31, 2021, maintains the telehealth policy set forth in All Provider Bulletin 303 and extends that policy 90 days beyond the final date of the Massachusetts Public Health Emergency."

MassHealth, All Provider Bulletin 303, Updated MassHealth Telehealth Policy (November 2020)

- "This bulletin, which supersedes All Provider Bulletin 298 as of November 2020, largely maintains the telehealth policy set forth in All Provider Bulletin 298, except it (1) removes the requirement, previously codified in Appendix A to All Provider Bulletin 298, for the provider to include the CPT code for the service rendered via telehealth in the patient's medical record, (2) provides additional clarification, and (3) extends that policy through March 31, 2021."

MassHealth, Managed Care Entity Bulletin 43, Requirements for Adult Day Health Services Delivered Remotely (via Telehealth and In-Home Settings) and Enhanced Rates for Adult Day Health Services During the Reopening Period (August 1, 2020, through November 30, 2020) (September 2020)

- "This bulletin contains MassHealth's expectations for One Care Plans and SCOs (referred to herein collectively as "integrated care plans" or "plans") related to payment, coverage, and billing for the delivery of Adult Day Health (ADH) services remotely via telehealth or in an in-home setting."
- "In accordance with this bulletin, certain ADH services may be delivered remotely. Remote ADH services are services that would typically be provided in the congregate setting, with specific objectives and goals for the member, but are instead performed remotely. Remote ADH services include ADH services delivered:
  1. Via telehealth, including telephone and live video conferencing; and
  2. In-person in in-home settings (not in the congregate program setting)."

MassHealth, HCBS Provider Bulletin 4, Guidance for Adult Day Health (ADH) Providers Delivering Telehealth/Remote Services During the COVID-19 Public Health Emergency (September 2020)

- "Massachusetts' federally approved Appendix K: Emergency Preparedness and Response and COVID-19 Addendum (Appendix K), as well as prior subregulatory guidance issued by MassHealth, further reflect MassHealth's current telehealth policy specific to HCBS Waiver services. The purpose of this bulletin is to consolidate and restate MassHealth's current telehealth policy for HCBS Waiver services (as reflected in All Provider Bulletins 289, 291, and 294, Appendix K, and prior subregulatory guidance), and extend that policy through February 28, 2021, consistent with Appendix K.
- The following ABI and MFP Waiver services may be provided via telehealth, consistent with Appendix K:

Adult Companion

Assistive Technology (assessments, training)

Community-Based Day Supports (facilitation of online or telephonic community integration/socialization activities)

Community Support and Navigation

Day Services

Family Training

Home Accessibility Adaptations (consultations, walk-throughs, planning)

Home Health Aide (limited to cueing and supervision)

Homemaker (facilitating online grocery orders, guidance/supervision for in-home tasks)

Individual Support and Community Habilitation (habilitation, facilitating access to services)

Orientation and Mobility Services (orientation to and training for accessing services during COVID-19 emergency)

Peer Support

Personal Care (limited to cueing and supervision)

Physical Therapy, Occupational Therapy, and Speech Therapy

Prevocational Services

Skilled Nursing (where, based on clinical judgement of the nurse, the task can be effectively performed using telehealth)

Specialized Medical Equipment (assessment and training)

Supported Employment (facilitating remote work)

Supportive Home Care Aide (limited to cueing and supervision)

Transitional Assistance (planning, exploratory discussions, online shopping)

Vehicle Modifications (consultations, planning)

MassHealth Adult Day Health Bulletin 18, Guidance for Adult Day Health (ADH) Providers Delivering Telehealth/Remote Services During the COVID-19 Public Health Emergency (August 2020)

- "The purpose of this bulletin is to consolidate and restate, with relevance to ADH services, MassHealth's current telehealth policy (as reflected in All Provider Bulletins 289, 291, and 294), as well as in-home setting services and extend that policy through December 31, 2020."
- "Qualifying Telehealth, Remote, and In-Home Setting Services: To qualify as a remote service or in-home setting service eligible for partial per diem reimbursement, a provider must deliver at least two of the following activities in a given remote engagement:

Coordinating care and activities of daily living (ADLs), as well as instrumental activities of daily living (IADLs) for individuals without formal supports at home or those with changing service needs;

Conducting mental and emotional wellness checks and supports;

Employing interventions to promote individual orientation of person, place, and time;

Monitoring and encouraging progress toward individuals' care plan goals;

Evaluating service need areas, such as self-help, sensory motor skills, communication, independent living, affective development, social and behavior development, and wellness;

Providing caregiver support, especially for informal caregivers supporting the individual and caregivers supporting members with dementia, as well as supplying positive behavior support strategies;

Identifying and addressing any declining health conditions;

Identifying and addressing any nutritional needs or deficiencies;

Appropriately monitoring, managing, and refilling member medications;

Providing members and their families with language and interpretation supports;

Conducting nursing assessments, social service assessments, and clinical interventions either in person or using a video platform whenever possible;

Hosting scheduled and structured video group activities led by a staff person with a specific objective of goal for participants; and

Providing nursing services and interventions, including health and wellness education

MassHealth Day Habilitation Bulletin 11, Guidance for Day Habilitation (DH) Providers Delivering Telehealth/Remote Services During COVID-10 Public Health Emergency (August 2020)

- "The purpose of this bulletin is to consolidate and restate, with relevance to DH services, MassHealth's current telehealth policy (as reflected in All Provider Bulletins 289, 291, and 294), as well as an in-home setting services, and extend that policy through December 31, 2020."
- "Qualifying Telehealth, Remote, and In-Home Setting Services: To qualify as a remote service or in-home setting service eligible for partial per diem reimbursement, a provider must deliver at least two of the following activities in a given remote engagement:

Coordinating care and activities of daily living (ADLs), as well as instrumental activities of daily living (IADLs) for individuals without formal supports at home or those with changing service needs;

Conducting mental and emotional wellness checks and supports;

Employing interventions to promote individual orientation of person, place, and time;

Monitoring and encouraging progress toward individuals' service plan goals;

Evaluating service need areas, such as self-help, sensory motor skills, communication, independent living, affective development, social and behavior development, and wellness;

Providing caregiver support, especially for informal caregivers supporting the individual and caregivers supporting members with dementia, as well as supplying positive behavior support strategies;

Identifying and addressing any declining health conditions;

Identifying and addressing any nutritional needs or deficiencies;

Appropriately monitoring, managing and refilling member medications;

Providing members and their families with language and interpretation supports;

Conducting nursing assessments, social service assessments, and clinical interventions either in person or using a video platform whenever possible;

Hosting scheduled and structured video group activities led by a staff person with a specific objective of goal for participants; and

Providing nursing services and interventions, including health and wellness education."

MassHealth Managed Care Entity Bulletin 39, Updated MassHealth Telehealth, Durable Medical Equipment (DME), and Home Health Policies (August 2020)

- "This bulletin contains updated telehealth policy requirements for Accountable Care Partnership Plans (ACPPs), Managed Care Organizations (MCOs), One Care Plans, Senior Care Organizations (SCOs), and the behavioral health vendor (collectively referred to as

"managed care plans") in response to the 2019 novel Coronavirus (COVID-19) outbreak. Organizations in the Program of All-inclusive Care for the Elderly (PACE) should also follow the telehealth guidance in this bulletin."

- "As explained in All Provider Bulletin 298, MassHealth is consolidating and restating, with some modifications, MassHealth's current telehealth policy (as reflected in All Provider Bulletins 289, 291, and 294 and Managed Care Entity Bulletins 21 and 29), and extending that policy through December 31, 2020. This extended policy will help ensure members retain access to covered services, promote social distancing, and mitigate the spread of COVID-19 both before and after the expiration of the state of emergency declared via Executive Order No. 591. This will enable members to remain in their homes to reduce exposure and transmission, to the extent possible, and to preserve health system capacity. Managed care plans and PACE organizations are required to maintain telehealth flexibility as set forth in All Provider Bulletin 298 through December 31, 2020."

MassHealth Transmittal Letter CHC-114 (July 2020)

- "This letter transmits a revision to Subchapter 6 in the Community Health Centers Manual. The Centers for Medicare & Medicaid Services (CMS) has revised the Healthcare Common Procedures Coding System (HCPCS) for 2020. MassHealth has updated Subchapter 6 to incorporate coding updates for telephonic and home visit codes, as well as clinical laboratory services administering diagnostic tests for the 2019 novel Coronavirus Disease (COVID-19)."

MassHealth Telehealth Policy, All Provider Bulletin 298 (July 2020)

- "The purpose of this bulletin is to consolidate and restate, with some modifications, MassHealth's current telehealth policy (as reflected in All Provider Bulletins 289, 291, and 294), and extend that policy through December 31, 2020. This extended policy will help ensure members retain access to covered services, promote social distancing, and mitigate the spread of COVID-19 both before and after the expiration of that state of emergency, enabling members to remain in their homes to reduce exposure and transmission, to the extent possible, and to preserve health system capacity."
- "To facilitate the implementation of this telehealth policy, and notwithstanding any MassHealth requirement to the contrary, MassHealth will permit providers submitting claims to MassHealth for services delivered via telehealth in accordance with this bulletin without regard to any references within a service code description to the means by which a service is delivered (e.g., in-person, through live-video telehealth, or via telephone) when identifying the appropriate service code."

Community Health Centers Manual (2020 HCPCS Code Updates: Telephonic, Home Visit, and Diagnostic Codes) Transmittal Letter CHC-114 (July 2020)

- "This letter transmits a revision to Subchapter 6 in the Community Health Centers Manual. The Centers for Medicare & Medicaid Services (CMS) has revised the Healthcare Common Procedures Coding System (HCPCS) for 2020. MassHealth has updated Subchapter 6 to incorporate coding updates for telephonic and home visit codes, as well as clinical laboratory services administering diagnostic tests for the 2019 novel Coronavirus Disease (COVID-19)."

MassHealth Managed Care Entity Bulletin 29 (May 2020)

- "As explained in All Provider Bulletins 289, 291 and 294, MassHealth is temporarily permitting MassHealth providers to deliver all clinically appropriate, medically necessary MassHealth-covered services to MassHealth members via telehealth (whether audio-only or live video) in accordance with the standards set forth in those bulletins. MassHealth will permit providers submitting claims to MassHealth for services delivered via telehealth in accordance with those bulletins to disregard any references within a service code description to the means by which a service is delivered (e.g., in-person, through live-video telehealth, or via telephone) when identifying the appropriate service code. Providers must ensure that, in all other respects, they select the service code that most accurately describes the service rendered. Managed care plans must conform their coverage policies to match those set forth in All Provider Bulletins 289, 291, and 294 when providing Medicaid services."
- Addition of 15-Minute Code for Applied Behavior Analysis: "ABA services are provided to MassHealth members under the age of 21 with Autism Spectrum Disorder. ABA providers use a multi-pronged approach to treat challenging behaviors that interfere with successful functioning for these members. As a result of the COVID-19 public health emergency, EOHHS recognizes the challenge of providing parent support at a minimum of one hour to MassHealth members, as allowed under current billing practices."
- "For the duration of the COVID-19 state of emergency, managed care plans and PACE organizations shall suspend prior authorization requirements, if any, for behavioral health 24-hour levels of care, including but not limited to inpatient behavioral health services and Intensive Community Based Acute Treatment (ICBAT)/Community Based Acute Treatment (CBAT). Managed care plans and PACE organizations may still require provider registration of member admission prior to placement or provider notification of admission following placement."

MassHealth All Provider Bulletin 294 (May 2020)

- "This bulletin supplements All Provider Bulletin 289 and All Provider Bulletin 291 by providing guidance for providers regarding additional flexibilities, including flexibilities related to billing for services rendered via telehealth, billing for services rendered to dual-eligible members via audio-only telehealth, coverage and billing for remote patient monitoring, the extension of certain informational edits, and billing for preventive visits for children and adults. Unless specifically noted in this bulletin, providers should comply in all respects with All Provider Bulletin 289 and All Provider Bulletin 291, which remain in full force and effect."
- "To facilitate the implementation of the telehealth-related flexibilities announced in All Provider Bulletins 289 and 291, for the duration of the state of emergency declared via Executive Order. No 591, and notwithstanding any MassHealth requirement to the contrary, MassHealth will permit providers submitting claims to MassHealth for services delivered via telehealth in accordance with those bulletins to disregard any references within a service code description to the means by which a service is delivered (e.g., in-person, through live-video telehealth, or via telephone) when identifying the appropriate service code."
- "To facilitate the implementation of MassHealth's temporarily broadened telehealth policy, and notwithstanding 130 CMR 450.316, effective for dates of service on or after March 12, 2020, MassHealth will permit providers to submit directly to MassHealth, without prior submission to Medicare, claims for clinically appropriate and medically necessary services rendered to dually eligible members via audio-

only telehealth that are not coverable by Medicare. Providers invoking this policy must comply in all respects with this bulletin and all other applicable laws, regulations, and subregulatory guidance."

- "As explained in Transmittal Letters PHY-157, AOH-45, IDTF-20, and CHC-113, effective March 1, 2020, MassHealth began requiring prior authorization (PA) for certain advanced imaging, nonobstetric ultrasound, polysomnography, and cardiology services (collectively, the Services Requiring PA). To facilitate and ease the implementation of this requirement, on March 1, 2020, MassHealth implemented an informational edit that will not deny claims for Services Requiring PA for lack of PA, but instead will inform providers of the PA requirement for those services and codes.
  Although MassHealth intended to discontinue this informational edit on May 31, 2020, and implement hard denials of claims for Services Requiring PA for lack of PA on June 1, 2020, due to the COVID-19 emergency, MassHealth will extend this informational edit for the duration of the state of emergency declared via Executive Order No. 591. In other words, MassHealth will not deny claims for Services Requiring PA for lack of PA beginning on June 1, 2020. MassHealth will publish a subsequent bulletin prior to implementing denials of claims for Services Requiring PA for lack of PA."
- "MassHealth encourages providers to adhere to recommendations from the American Academy of Pediatrics on delivery of preventive services during the COVID-19 emergency, including the recommendation to prioritize in-person newborn care and well visits and immunization of infants and young children (through 24 months of age) whenever possible."

Additional Telehealth Guidance, Temporary CPT code for ABA, Coverage of Preventive Visits via Telehealth, Remote Patient Monitoring, Payment for Specimen Collection, Suspension of Prior Authorization for Behavioral Health 24- hour Levels of Care, and Out of Network Access (May 2020)

- "Through this bulletin, MassHealth is directing Accountable Care Partnership Plans (ACPPs), Managed Care Organizations (MCOs), One Care Plans, Senior Care Organizations (SCOs), and the behavioral health vendor (referred to here collectively as "managed care plans") to institute certain policies to continue to support member access to care during the state of emergency. Program of All-inclusive Care for the Elderly (PACE) organizations should follow the guidance set forth in this bulletin."
- "To promote flexibility in the delivery of ABA services during the COVID-19 emergency, effective May 11, 2020, ACPPs, MCOs, and the behavioral health vendor must add a CPT code to allow providers to bill for time spent providing parent support in 15-minute units."

Frequently Asked Questions: COVID-19 and Behavioral Health Providers (updated 5/18/20)

- "Q: Under MassHealth All Provider Bulletin 289, MassHealth states they will cover "medically necessary telehealth (including telephone and live video) services" for members. Does this mean only for services that include live video or does it mean telephone only or telephone combined with live video?"

"A: MassHealth is encouraging broad utilization of telehealth technologies to ensure that members are able to continue to receive MassHealth covered services. All providers, including physical health and behavioral health providers, will be able to bill for covered services that are provided either telephonically or through a live video platform (both are not required)."

- "Q: Can Behavioral Health providers deliver and bill for group therapy via Telehealth, including in Partial Hospitalization, Intensive Outpatient, Structured Outpatient Addiction, and Day Treatment Programs?"

"A: Yes, group therapy may be conducted via telehealth modalities. See MassHealth All Provider Bulletin 289 for details regarding coverage of services delivered via telehealth."

- "Q: Are Opioid Treatment Programs (OTPs) included in the telehealth guidance issued by MassHealth under All Provider Bulletin 289, considering OTPs use different codes from standard outpatient?"

"A: Yes, OTP is included and should continue to use their existing codes with Place of Service (POS) 02 for services delivered via telehealth."

- "Q: Does direct service still require that a licensed supervisor be on site when an unlicensed behavioral health clinician is providing face-to-face, telephonic or telehealth services to patients?"

"A: Telehealth technology can be used to provide clinical supervision."

- "Q: Can Recovery Coaches and Recovery Support Navigators provide services via telehealth? Is this inclusive of existing members as well as new referrals?"

"A: Yes, Recovery Coach and Recovery Support Navigator services can be provided via telehealth. This includes both existing members and new referrals."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/29/20)

- Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Other: In all applicable Waivers (examples provided where remote provision of services may need clarification):

  - Adult Companion/Companion
  - Alzheimer's/Dementia Coaching
  - Assistive Technology (assessments, training)
  - Behavioral Supports and Consultation
  - Community Based Day Supports (facilitation of online or telephonic community integration/socialization activities)
  - Community Support and Navigation
  - Complex Care Training and Oversight (where, based on clinical judgement of nurse, the task can be effectively performed using telehealth)

- Day Services
- Goal Engagement Program
- Environmental Accessibility Adaptation (consultations, walk-throughs, planning)
- Evidence-based Education Programs
- Expanded Habilitation, Education
- Family Training
- Home Health Aide (limited to cueing and supervision)
- Homemaker (facilitating online grocery orders, guidance/supervision for inhome tasks)
- Home Accessibility Modifications/Adaptations (consultations, walkthroughs, planning)
- Individualized Home Supports
- Individual Support and Community Habilitation (habilitation, facilitating access to services)
- Orientation and Mobility Services (orientation to and training for accessing services during COVID-19 emergency)
- Peer Support
- Personal Care (limited to cueing and supervision)
- Physical Therapy/Occupational Therapy/Speech Therapy
- Skilled Nursing (where, based on clinical judgement of the nurse, the task can be effectively performed using telehealth)
- Specialized Medical Equipment (assessment and training)
- Supported Employment (facilitating remote work)
- Supportive Day Program
- Supportive Home Care Aide (limited to cueing and supervision)
- Transitional Assistance (planning, exploratory discussions, online shopping)
- Vehicle Modifications (consultations, planning)

MassHealth Telehealth Network Provider Bulletin 1 (4/1/20)

- "MassHealth's mission is to improve the health outcomes of our diverse members and their families by providing access to integrated health care services that sustainably and equitably promote health, well-being, independence, and quality of life. In support of that mission, MassHealth provides broad coverage of medically necessary health care services to its members. In light of the state of emergency declared in the Commonwealth due to the 2019 novel Coronavirus (COVID-19) outbreak, MassHealth is committed to enabling members to remain in their homes to reduce exposure and transmission, to the extent possible, and to preserve health system capacity for the duration of this public health emergency."

- "To that end, and for as long as this bulletin remains effective, MassHealth is hereby establishing a temporary new provider type called Telehealth Network Providers (TNPs). The primary purpose of establishing this provider type is to support member triage related to COVID-19. Alongside Telehealth Network Providers, MassHealth is encouraging members to continue to seek both COVID-19 related care and routine care through their primary care provider, who are authorized under All Provider Bulletins 289 and 291 and Managed Care Entity Bulletin 21 to provide both COVID-19 related care and routine care via telehealth."
- "TNPs enrolled with MassHealth will be required to meet the participation requirements established through this bulletin, and are eligible to provide and bill for the covered encounters described below."

MassHealth Provides Free Telehealth Services for Women and Families During COVID-19 Pandemic (4/1/20)

- "MassHealth, the Massachusetts, Medicaid and the Children's Health Insurance Program is teaming up with Maven, the largest telemedicine provider for women's and family health to provide free telemedicine services for women and families in Massachusetts."
- "MassHealth will provide free telemedicine appointments for members with COVID-19 symptoms with Maven's network of obstetric/gynecologists, maternal fetal medicine specialists, pediatricians, family physicians, and general practitioners for women and families in Massachusetts."

COVID-19 Mass Health Provider FAQ (March 2020)

- "MassHealth members will be connected through an online navigation tool to Maven providers through on-demand chat and video appointments 24 hours a day through the use of a web-enabled device. Please see the press release below for more details."
- Q: "Does the guidance expanding telehealth apply to all providers?"

A: "Yes, ALL MassHealth providers may deliver any MassHealth covered service via telehealth if they determine it is medically necessary and clinically appropriate to deliver this service via telehealth (including live video or telephone). Among other providers, this includes dentistry, nutrition appointments with registered dietitians, physical therapy, specialist appointments, and behavioral health care (including Opioid Treatment Programs). This guidance also applies to LTSS providers that offer in-person and home-based services when appropriate."

- Will I be paid the same amount for services delivered via telehealth as I would for services delivered in-person?

"Yes, providers will be paid the same rate for services delivered via telehealth as services delivered in-person."

MassHealth All Provider Bulletin 291 (3/30/20)

- "Notwithstanding the statement to the contrary in *Appendix A* to *All Provider Bulletin 289*, an eligible distant site provider rendering covered services via telehealth in accordance with *All Provider Bulletin 289* may bill MassHealth a facility fee if such a fee is permitted under such provider's governing regulations or contracts. For ease of reference, MassHealth has attached to this bulletin an amended Appendix A. Providers rendering services via telehealth must continue to comply in all other respects with the telehealth-related section of *All Provider Bulletin 289*."

- "As described in All Provider Bulletin 289, MassHealth and MassHealth managed care entities permit qualified providers to deliver clinically appropriate, medically necessary MassHealth-covered services to MassHealth members via telehealth (including telephone and live video) in accordance with the standards set forth in Amended Appendix A. Pursuant to paragraph 1 of the "Additional Requirements for Prescribing" section of Amended Appendix A, providers who prescribe controlled substances through telehealth modalities should review the Department of Public Health's "Alert Regarding Use of Telemedicine during Public Health Emergency-COVID-19" and guidance from the Drug Enforcement Agency (DEA) concerning requirements for prescribing controlled substances via telehealth without an in-person visit, in addition to all other applicable state and federal statutes, regulations, and subregulatory guidance."

All Provider Bulletin 289, MassHealth Coverage and Reimbursement Policy for Services Related to Coronavirus Disease 2019 (COVID-19) (March 2020)

- "MassHealth will permit qualified providers to deliver clinically appropriate, medically necessary MassHealth-covered services to MassHealth members via telehealth (including telephone and live video) in accordance with the standards set forth in Appendix A and notwithstanding any regulation to the contrary, including the physical presence requirement at 130 CMR 433.403(A)(2)."
- "MassHealth is not imposing specific requirements for technologies used to deliver services via telehealth and will allow reimbursement for MassHealth covered services delivered through telehealth so long as such services are medically necessary and clinically appropriate and comport with the guidelines set forth in Appendix A to this bulletin."
- "Rates of payment for services delivered via telehealth will be the same as rates of payment for services delivered via traditional (e.g., in-person) methods set forth in the applicable regulations."
- "Providers will be able to bill MassHealth for these telephonic codes beginning April 1, 2020, for dates of service beginning March 12, 2020."
- "Existing performance specifications for Children's Behavioral Health Initiative (CBHI) services allow for the telephonic delivery of services, other than for initial assessments. Notwithstanding any requirements that initial assessments be conducted in person, where appropriate, services for new clients may be initiated via telephonic means."

Managed Care Bulletin 21 for Coverage and Reimbursement for Services Related to Coronavirus (March 2020)

- "Managed care plans must cover testing, treatment, and prevention of COVID-19 in at least the same amount, duration and scope as covered by MassHealth through its fee-for-service program. Coverage must include:

"Telehealth and certain telephonic services as means by which members may access all clinically appropriate, medically necessary covered services"

MICHIGAN

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Michigan House Bill No. 5651 (introduced 12/29/21)

- "(1) An insurer that delivers, issues for delivery, or renews in this state a health insurance policy shall not do any of the following:
  - (a) Require face-to-face contact between a health care professional and a patient for services appropriately provided through telemedicine, as determined by the insurer.
  - (b) Exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through in-person consultation or contact between a health care professional and a patient for services appropriately provided through telemedicine services.
  - (c) Impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose on any individual receiving benefits under this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed on all terms and services covered under the policy.
  - (d) Impose on coverage for health care services provided through telemedicine a prior authorization requirement for services provided through telemedicine that exceeds the prior authorization requirement for in-person health care services under the policy.
  - (e) Require demonstration that it is necessary to provide services to a patient through telemedicine.
  - (f) Restrict or deny coverage of telemedicine based solely on the communication technology or application used to deliver the telemedicine services.
  - (g) Require a health care professional to be part of a telemedicine network.
- (2) An insurer that delivers, issues for delivery, or renews in this state a health insurance policy shall do both of the following:
  - (a) Provide coverage for the cost of health care services provided through telemedicine on the same basis and to the same extent that the insurer is responsible for coverage for the provision of the same service through in-person treatment or consultation. Coverage must not be limited to services provided only by select third-party telemedicine providers.
  - (b) Reimburse the treating or consulting physician for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and to the same extent that the insurer is responsible for reimbursement for the provision of the same service through in-person treatment or consultation.
- (3) An insurer that delivers, issues for delivery, or renews in this state a health insurance policy may do any of the following:
  - Offer a policy containing a deductible, copayment, or coinsurance requirement for a health care service provided through telemedicine services, if the deductible, copayment, or coinsurance does not exceed the deductible, copayment, or coinsurance applicable if the same services were provided through in-person diagnosis, consultation, or treatment.
  - (b) Adopt policies to ensure that health care services provided through telemedicine submitted for payment comply with the same coding, documentation, and other requirements necessary for payment as an in-person service other than the in-person requirement.
- (4) An insurer that delivers, issues for delivery, or renews in this state a health insurance policy does not satisfy the network adequacy requirements under section 3428 if either of the following applies:

  - (a) The insurer uses contracted telemedicine providers who provide only telemedicine services and do not provide in-person health care services in this state
  - (b) Patients are not able to access appropriate in-person services in a timely manner on request.
- (5) Telemedicine services must be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located. Telemedicine services must conform to the standards of care applicable to the telemedicine provider's profession and specialty. Telemedicine services are subject to all terms and conditions of the health insurance policy agreed upon on between the policy holder and the insurer, including, but not limited to, required copayments, coinsurances, deductibles, and approved amounts.
  - (a) After December 31, 2017, "insurer" includes a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373."

Michigan Senate Bill No. 707 (introduced 10/28/21)

- "(1) An insurer that delivers, issues for delivery, or renews in this state a health insurance policy shall not require face-to-face contact between a health care professional and a patient for services appropriately provided through telemedicine, as determined by the insurer. Telemedicine services must be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located. Telemedicine services are subject to all terms and conditions of the health insurance policy agreed upon between the policy holder and the insurer, including, but not limited to, required copayments, coinsurances, deductibles, and approved amounts. If a service is provided through telemedicine under this section, the insurer shall provide the same coverage for that service as if the service involved face-to-face contact between the health care professional and the patient."

Michigan House Bill No. 4356: (engrossed 3/25/21)

- "Examination and evaluation", for the purpose of writing a valid prescription, means an assessment of the ocular health and visual status of a patient that does not consist solely of objective refractive data or information generated by an automated refracting device or other automated testing device. An examination and evaluation may occur through telemedicine if both of the following requirements are met:

(a) The standard of care is maintained at the same level as if the examination and evaluation were performed in person.

(b) The patient has had an in-person evaluation and examination within the immediately preceding 5 years.

Michigan Executive Order 20-191: Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic (reissued 9/30/20)

- "All long-term care facilities must use best efforts to facilitate the use of telemedicine in the care provided to their residents, including, but not limited to, for regular doctors' visits, telepsychology, counseling, social work and other behavioral health visits, and physical and occupational therapy."

EXECUTIVE ORDER No. 2020-184 Safeguards to protect Michigan's workers from COVID-19 (reissued 9/25/20)

- "Employ telehealth and telemedicine to the greatest extent possible.

HB 5412: An Act to amend 1956 PA 218 (approved 6/24/20)

- Bars an insurer that delivers, issues for delivery, or renews in this state a health insurance policy from requiring face-to-face contact between a health care professional and a patient for services appropriately provided through telemedicine, as determined by the insurer.

HB 5413: An Act to amend 1980 PA 350 (approved 6/24/20)

- Bars a group or nongroup health care corporation certificate from requiring face-to-face contact between a health care professional and a patient for services appropriately provided through telemedicine, as determined by the insurer.

HB 5414: An Act to amend 1939 PA 280 (approved 6/24/20)

- "(1) The department must provide coverage for remote patient monitoring services through the medical assistance program and Healthy Michigan program under this act.
- (2) As used in this section, remote patient monitoring means digital technology to collect medical and other forms of health data from an individual in 1 location and electronically transmit that information via a health insurance portability and accountability act of 1996, Public Law 104-191 compliant, secure system to a health care provider in a different location for assessment and recommendations."

HB 5416: An Act to amend 1939 PA 280 (approved 6/24/20)

- Beginning October 1, 2020, telemedicine services are covered under the medical assistance program and Healthy Michigan program if the originating site is an in-home or in-school setting, in addition to any other originating site allowed in the Medicaid provider manual or any established site considered appropriate by the provider.

State Licensure Laws, Policy, and Guidance

Michigan House Bill 4169 (introduced 3/2/23)

- "The purpose of this Compact is to facilitate interstate practice of Occupational Therapy with the goal of improving public access to Occupational Therapy services. The Practice of Occupational Therapy occurs in the State where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure."
- "This Compact is designed to achieve the following objectives:"
    - "G. Facilitate the use of Telehealth technology in order to increase access to Occupational Therapy services."

Executive Order 2020-13 (COVID-19) (3/17/20)

- "Effective immediately and continuing through April 14, 2020 at 11:59 pm, LARA may issue a temporary registration as a certified nurse aide to an applicant, regardless of whether the applicant demonstrates to LARA that they have successfully completed the examination requirements of sections 21911 and 21913 of the Public Health Code, 1978 PA 368, as amended, MCL 333.21911 and MCL 333.21913. A temporary registration issued under this section shall be valid for 28 days and may be renewed by LARA until the termination of the state of emergency under section 3 of Executive Order 2020-4."

- "Effective immediately and continuing through April 14, 2020 at 11:59 pm, LARA may renew a license to practice under Part 170, 172, 175, 177, or 187 of the Public Health Code, 1978 PA 368, as amended, regardless of whether the licensee has satisfied the continuing education requirement applicable to their license."

Governor Whitmer signs executive order that grants Licensing and Regulatory Affairs additional flexibility in its decisions about licensing, registration, and workflow requirements until April 15 (3/17/20)

Medicaid Law, Policy and Guidance Related to Telehealth

Michigan House Bill No. 4213 (Introduced 3/9/23)

- "Beginning the effective date of the amendatory act that added subsection (7), telemedicine services are also covered under the medical assistance program and Healthy Michigan program if those services are provided at, or contracted through, a distant site allowed in the Medicaid provider manual.
- (2) The medical assistance program and Healthy Michigan program must include a comprehensive set of the programs' services and benefits as covered telemedicine services including, at a minimum, medical, dental, behavioral, and substance use disorder services.
- (3) The medical assistance program and Healthy Michigan program must authorize as many types of healthcare distant providers as allowable by law to render telemedicine services.
- (4) Telemedicine services are covered both when a distant provider's synchronous interactions occur using an audio and video electronic media or when using an audio-only electronic media.

Michigan Department of Health and Human Services, MSA 21-24 (7/2/21)

- "Asynchronous telemedicine services include the transmission of a beneficiary's medical or other personally identifiable information through a secure, Health Insurance Portability and Accountability Act (HIPAA)-compliant, electronic communications system to a provider, often a specialist, at a distant site without the beneficiary present. Such communications, including store and forward services, interprofessional telephone/Internet/electronic health record consultations, and RPM services, involve contact between two parties (beneficiary to provider or provider to provider) in a way that does not require real-time interaction. Services must be medically necessary or essential for behavioral health and part of a provider-directed treatment plan.
- Store and forward services include interpretation and follow-up with the beneficiary. Services must not originate from or result in a related E/M service."

Modifying Individual Education Plan payment formula for store-and-forward telemedicine (10/13/2020)

- "The commissioner allowed school districts to receive Medicaid payments for physical therapy, occupational therapy and speech language pathology services delivered via store-and-forward telemedicine to children with Individual Education Plans. Store-and-forward telemedicine means asynchronous, non-real-time communications between providers and patients to share health information."
- "This change is effective August 1, 2020, through the peacetime emergency or July 1, 2021, whichever is later."

Michigan Department of Health and Human Services, MSA 20-13 (3/20/20) – *Note: Changes apply to Medicaid, Healthy Michigan Plan, Children's Special Health Care Services, Maternity Outpatient Medical Services*

- "Current telemedicine policy requires both audio and visual service deliver, and when all possibilities to provide services using both audio and visual have been deemed not possible, due to the COVID-19 pandemic the Michigan Department of Health and Human Services (MDHHS) is expanding telemedicine policy."
- "During the period with dates of service referenced above, all codes on the telemedicine database (which encompass primary care, behavioral health, etc.) will be allowed for the service delivery method telephonic (audio) only."
- "During the period with dates of service starting March 1, 2020, and extending until 30 days after the state of emergency has ended (or the first of the next month, whichever is later), all identified codes on the Behavioral Health and Developmental Disabilities Administration (BHDDA) COVID-19 Encounter Code Chart issued on March 18, 2020, will be allowed for the service delivery method telephonic (audio) only.

Governor's Announcement: "Whitmer Administration Expands Telemedicine, Urges President Trump to Permit ACA Special Enrollment Period During COVID-19" (3/12/20)

- "Today, Governor Gretchen Whitmer announced that her administration will expand access to telemedicine for Michiganders by immediately allowing Medicaid beneficiaries to receive services in their home while the state combats the spread of Novel Coronavirus (COVID-19). In addition, insurance plans like Blue Cross Blue Shield of Michigan, Blue Care Network of Michigan, Priority Health, Meridian, CVS Health, McLaren, and Health Alliance Plan also announced that they will cover and encourage the use of virtual care and telemedicine, as well as waive cost-sharing for COVID-19 testing."

Michigan Department of Health & Human Services, MSA 20-09 (3/12/20)

- "Telemedicine is the use of telecommunication technology to connect a beneficiary with a Medicaid enrolled health care professional in a different location. The Michigan Department of Health and Human Services (MDHHS) requires a Health Insurance Portability and Accountability Act of 1996 (HIPAA) compliant real-time interactive system at both the originating and distant sites, allowing instantaneous interaction between the beneficiary and practitioner via the telecommunication system. The technology used must meet the needs for audio and visual compliance in accordance with state and federal standards. Practitioners must ensure the privacy of the beneficiary and the security of any information shared via telemedicine."

MINNESOTA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance
Minnesota House Bill No. 1706 (introduced 4/3/23)

- "Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given."
  - "(h) "Telehealth" means the delivery of health care services or consultations through the use of real time two-way interactive audio and visual or audio-only communications to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care."
  - ~~"Until July 1, 2023,~~ Telehealth also includes audio-only communication between a health care provider and a patient ~~in accordance with subdivision 6, paragraph (b)~~ if the communication is a scheduled appointment and the standard of care for the service can be met through the use of audio-only communication."
  - "(c) Notwithstanding paragraph (b), substance use disorder treatment services and mental health care services delivered through telehealth by means of audio-only communication may be covered without a scheduled appointment if the communication was initiated by the enrollee while in an emergency or crisis situation and a scheduled appointment was not possible due to the need for an immediate response."

Minnesota House Bill No. 366 (introduced 2/9/23)

- "Sec. 2. Minnesota Statutes 2022, section 147.091, is amended by adding a subdivision to 2.5 read:
  - Subd. 1c. Reproductive health care services. (a) For purposes of this subdivision, "reproductive health care services" means medical, surgical, counseling, or referral services relating to the human reproductive system, including but not limited to services related to pregnancy, contraception, or the termination of a pregnancy.
  - 2.10 (b) Notwithstanding subdivision 1, paragraph (c) or (d), the board shall not refuse to grant a license to an applicant for licensure, refuse to grant registration to a physician to perform interstate telehealth services, or impose disciplinary action against a physician solely on one or more of the following grounds:"

Minnesota House Bill No. 4705 (introduced 3/30/22)

- Subd. 3b. Telemedicine services. (a) Medical assistance covers medically necessary services and consultations delivered by a licensed health care provider via telemedicine in the same manner as if the service or consultation was delivered in person. Coverage is limited to three telemedicine services per enrollee per calendar week, except as provided in paragraph (f). Services delivered through telemedicine shall be paid at 90 percent of the reimbursement rate paid for the same service delivered through in-person contact.
- (f) Beginning January 1, 2022, the commissioner shall reduce payments to managed care plans and county-based purchasing plans by an amount that reflects the ten percent reduction in the reimbursement rate for services delivered through telemedicine specified in section 256B.0625, subdivision 3b, paragraph (a).

Minnesota Senate Bill No. 3662 (introduced 3/2/22)

- "(1) "Telehealth" means the delivery of health care services or consultations through the use of using real-time two-way interactive audio and visual communication or accessible telemedicine video-based platforms to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. Telehealth includes the

application of secure video conferencing, consisting of a real-time, full-motion synchronized video; store-and-forward technology,; and synchronous interactions between a patient located at an originating site and a health care provider located at a distant site. Telehealth does not include communication between health care providers, or between a health care provider and a patient that consists solely of an audio-only communication, e-mail, or facsimile transmission or as specified by law."

Minnesota Senate Bill No. 1160 (engrossed 4/29/21)

- "A health plan sold, issued, or renewed by a health carrier in Minnesota must (1) cover benefits delivered through telehealth in the same manner as any other benefits covered under the health plan, and (2) comply with this section.
- (b) Coverage for services delivered through telehealth must not be limited on the basis of geography, location, or distance for travel.
- (c) A health carrier must not create a separate provider network or provide incentives to enrollees to use a separate provider network to deliver services through telehealth that does not include network providers who provide in-person care to patients for the same service
- (d) A health carrier may require a deductible, co-payment, or coinsurance payment for a health care service provided through telehealth, provided that the deductible, co-payment, or coinsurance payment is not in addition to, and does not exceed, the deductible, co-payment, or coinsurance applicable for the same service provided through in-person contact."

Minnesota House Bill No. 976 (introduced 2/10/21)

- When the peacetime emergency declared by the governor in response to the COVID-19 outbreak expires, is terminated, or is rescinded by the proper authority, the following waivers and modifications to human services programs issued by the commissioner of human services pursuant to Executive Orders 20-11 and 20-12, including any amendments to the waivers or modifications issued before the peacetime emergency expires, shall remain in effect until June 30, 2021, unless necessary federal approval is not received at any time for a waiver or modification:

CV16: expanding access to telemedicine services for Children's Health Insurance Program, Medical Assistance, and MinnesotaCare enrollees;

CV21: allowing telemedicine alternative for school-linked mental health services and intermediate school district mental health services;

CV24: allowing phone or video use for targeted case management visits;

CV30: expanding telemedicine in health care, mental health, and substance use disorder settings;

Minnesota Statute 256B.0625 (effective 1/1/22)

- Subd. 3b.Telehealth services. (a) Medical assistance covers medically necessary services and consultations delivered by a health care provider through telehealth in the same manner as if the service or consultation was delivered through in-person contact. Services or consultations delivered through telehealth shall be paid at the full allowable rate.
- (b) The commissioner may establish criteria that a health care provider must attest to in order to demonstrate the safety or efficacy of delivering a particular service through telehealth. The attestation may include that the health care provider:
    - (1) has identified the categories or types of services the health care provider will provide through telehealth;

- (2) has written policies and procedures specific to services delivered through telehealth that are regularly reviewed and updated;
- (3) has policies and procedures that adequately address patient safety before, during, and after the service is delivered through telehealth;
- (4) has established protocols addressing how and when to discontinue telehealth services; and
- (5) has an established quality assurance process related to delivering services through telehealth.

- (c) As a condition of payment, a licensed health care provider must document each occurrence of a health service delivered through telehealth to a medical assistance enrollee. Health care service records for services delivered through telehealth must meet the requirements set forth in Minnesota Rules, part 9505.2175, subparts 1 and 2, and must document:
  - (1) the type of service delivered through telehealth;
  - (2) the time the service began and the time the service ended, including an a.m. and p.m. designation;
  - (3) the health care provider's basis for determining that telehealth is an appropriate and effective means for delivering the service to the enrollee;
  - (4) the mode of transmission used to deliver the service through telehealth and records evidencing that a particular mode of transmission was utilized;
  - (5) the location of the originating site and the distant site;
  - (6) if the claim for payment is based on a physician's consultation with another physician through telehealth, the written opinion from the consulting physician providing the telehealth consultation; and
  - (7) compliance with the criteria attested to by the health care provider in accordance with paragraph (b).
- (d) Telehealth visits, as described in this subdivision provided through audio and visual communication, may be used to satisfy the face-to-face requirement for reimbursement under the payment methods that apply to a federally qualified health center, rural health clinic, Indian health service, 638 tribal clinic, and certified community behavioral health clinic, if the service would have otherwise qualified for payment if performed in person.
  - (e) For mental health services or assessments delivered through telehealth that are based on an individual treatment plan, the provider may document the client's verbal approval or electronic written approval of the treatment plan or change in the treatment plan in lieu of the client's signature in accordance with Minnesota Rules, part 9505.0371.
  - (f) For purposes of this subdivision, unless otherwise covered under this chapter
- (1) "Telehealth" means the delivery of health care services or consultations through the use of real-time two-way interactive audio and visual communication to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. telehealth includes the application of secure video conferencing, store-and-forward technology, and synchronous interactions between a patient located at an originating site and a health care provider located at a

distant site. Telehealth does not include communication between health care providers, or between a health care provider and a patient that consists solely of an audio-only communication, e-mail, or facsimile transmission or as specified by law;

Minnesota HF 19 (introduced 12/17/20)

- "(c) Under Minnesota Statutes, section 62A.672, subdivision 2, a health carrier shall not exclude or reduce coverage for a health care service or consultation solely because the service or consultation is provided via telemedicine directly to a patient at the patient's residence.
- (e) This section expires June 30, 2021."

Minn. Sess. Law Serv. 5th Sp. Sess. (S.F. 3) (introduced 10/12/2020)

- "Extending the coverage date for certain telemedicine services; amending Laws 2020, chapter 70, article 3, section 1."

"(a) The definition of "originating site" under Minnesota Statutes, section 62A.671, subdivision 7, includes a patient's residence if the patient is receiving health care services or consultations by means of telemedicine.

(b) The definition of "telemedicine" under Minnesota Statutes, section 62A.671, subdivision 9, includes health care services or consultations delivered to a patient at the patient's residence.

(c) Under Minnesota Statutes, section 62A.672, subdivision 2, a health carrier shall not exclude or reduce coverage for a health care service or consultation solely because the service or consultation is provided via telemedicine directly to a patient at the patient's residence.

(d) Telemedicine" as defined in Minnesota Statutes, section 256B.0625, subdivision 3b, paragraph (d), includes the delivery of health care services or consultations with a patient at the patient's residence and the licensed health care provider at a distant site.

(e) This section expires June 30, 2021."

Minn. Sess. Law Serv. 3rd Sp. Sess. Ch. 1 (S.F. 1) (Approved by Governor 8/14/20)

- "Waivers and modifications; extension to June 30, 2021. When the peacetime emergency declared by the governor in response to the COVID-19 outbreak expires, is terminated, or is rescinded by the proper authority, the following waivers and modifications to human services programs issued by the commissioner of human services pursuant to Executive Orders 20-11 and 20-12, including any amendments to the waivers or modifications issued before the peacetime emergency expires, shall remain in effect until June 30, 2021, unless necessary federal approval is not received at any time for a waiver or modification:

(1) CV15: allowing phone or video visits for waiver programs;

(2) CV16: expanding access to telemedicine services for Children's Health Insurance Program, Medical Assistance, and MinnesotaCare enrollees;

(3) CV21: allowing telemedicine alternative for school-linked mental health services and intermediate school district mental health services;

(4) CV24: allowing phone or video use for targeted case management visits;

(5) CV30: expanding telemedicine in health care, mental health, and substance use disorder settings;"

Minnesota House File No. 34 - COVID-19; peacetime emergency modification extended to economic assistance program application requirements. (Introduced 7/13/20, referred to Committee 7/14/20)

- Waivers and modifications; extension to June 30, 2021.

"expanding access to telemedicine services for Children's Health Insurance Program, Medical Assistance, and MinnesotaCare enrollees;"

"allowing telemedicine alternative for school-linked mental health services and intermediate school district mental health services;"

"allowing phone or video use for targeted case management visits;"

"expanding telemedicine in health care, mental health, and substance use disorder settings;"

Governor Walz Signs COVID-19 Relief Package (4/15/20)

- Governor Tim Walz signed HF 4556, the fourth legislative package passed and signed this month to help Minnesotans weather the COVID-19 pandemic. This legislation clarified that telephone visits are an eligible form of telemedicine.

Waivers under peacetime emergency authority, Executive Order 20-12: Federal Medicaid and Minnesota Care Approvals (update from Commissioner's signature 4/3/20)

- Allowing telemedicine alternative for School-Linked Mental Health services and Intermediate School District Mental Health services for children and their families (CV21)

"The commissioner temporarily waived certain requirements for School-Linked Mental Health and Intermediate School District Mental Health Innovation programs to allow for services via telemedicine. This action:

  - Authorizes reimbursing school mental health providers for expanded telemedicine services through grant funds;
  - Increases flexibility to no longer require the first visit be in person;
  - Waives the three-day-per-week limit on telemedicine; and
  - Allows telephone and other non-secured electronic communications platforms, such as Skype."

- Waiving in-person requirement to allow fair hearings to take place by telephone or video

"The commissioner temporarily waived the requirement to hold certain fair hearings in person. Hearings will still proceed by telephone and videoconference. This temporary change aligns with guidance to limit in-person contact as much as possible. Those affected by the temporary waiver may request that an in-person hearing be scheduled for a later date. This became effective upon the commissioner's signature on April 3, 2020, and will remain in effect until the end of the peacetime emergency."

Public Health Response Contingency Account (signed to law on 3/17/20)

- "Article 3. COVERAGE OF TELEMEDICINE SERVICES. Section 1. COVERAGE OF TELEMEDICINE SERVICES PROVIDED DIRECTLY TO A PATIENT AT THE PATIENT'S RESIDENCE; RESPONSE TO COVID-19.

(a) The definition of "originating site" under Minnesota Statutes, section 62A.671, subdivision 7, includes a patient's residence if the patient is receiving health care services or consultations by means of telemedicine.

(b) The definition of "telemedicine" under Minnesota Statutes, section 62A.671, subdivision 9, includes health care services or consultations delivered to a patient at the patient's residence.

(c) Under Minnesota Statutes, section 62A.672, subdivision 2, a health carrier shall not exclude or reduce coverage for a health care service or consultation solely because the service or consultation is provided via telemedicine directly to a patient at the patient's residence.

(d) "Telemedicine" as defined in Minnesota Statutes, section 256B.0625, subdivision 3b, paragraph (d), includes the delivery of health care services or consultations with a patient at the patient's residence and the licensed health care provider at a distant site.

(e) This section expires February 1, 2021."

Memorandum to Health Insurance Carriers Related to COVID-19 from Department of Commerce and Department of Health (3/13/20)

- "Health carriers should take any necessary steps to expand the availability of telemedicine services for their enrollees, and eliminate any barriers to its use."
- "Health plans are reminded of Minnesota Statutes § 62A.672 which requires telemedicine services to be offered in the same manner as other benefits covered by the plan."

State Licensure Laws, Policy, and Guidance

Minnesota Senate Bill No. 165 (introduced 3/15/23)

- "Sec. 2. Minnesota Statutes 2022, section 147.091, is amended by adding a subdivision to read:"
    - "(b) Notwithstanding subdivision 1, paragraph (c) or (d), the board shall not refuse to grant a license to an applicant for licensure, refuse to grant registration to a physician to perform interstate telehealth services, or impose disciplinary action against a physician solely on one or more of the following grounds:
        - (1) the applicant or physician provided or assisted in the provision of reproductive health care services in a manner that is lawful in this state and that is within the applicable scope of practice;
        - (2) the applicant or physician was convicted in another jurisdiction of a felony resulting from conduct specified in clause (1); or
        - (3) the applicant or physician was subject to disciplinary action in another jurisdiction or was refused a license to practice medicine in another jurisdiction resulting from conduct specified in clause (1)."

Minnesota House Bill No. 2117 (introduced 2/27/23)

- "The purpose of this compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient or client is located at the time of

the patient or client encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This compact is designed to achieve the following objectives:

- G) facilitate the use of telehealth technology in order to increase access to occupational therapy services."

Governor Tim Walz' Emergency Executive Order 20-101 (12/14/20)

- "For these reasons, I order as follows: The Minnesota Board of Behavioral Health and Therapy is authorized to process applications for licensure from applicants and licensees who, during the peacetime emergency declared in Executive Order 20-01, complete professional supervised practice hours, as required by Minnesota Statutes 2020, Chapter 148B or 148F, or Minnesota Rules 2020, part 2150.5010, through any one or combination of the following means: telephone, audio, audiovisual electronic device, or in-person."

Governor Tim Walz' Emergency Executive Order 20-46 (4/25/20, press release here)

- "On April 25, 2020, Governor Walz signed Emergency Executive Order 20-46 (EO 20-46) authorizing qualified out-of-state healthcare professionals to render aid in Minnesota to meet the healthcare needs of Minnesotans during the COIVD 19 peacetime emergency declared by Emergency Executive Order 20-01 (EO 20-01) issued on March 13, 2020, and extended by Emergency Executive Order (EO 20-35) issued on April 13, 2020. EO 20-46 includes the following orders:

"1. EO 20-46 applies only to out-of-state healthcare professionals who, to practice in their profession in Minnesota, would otherwise be required to obtain a license from the Minnesota Board of Medical Practice ("BMP") or the Minnesota Board of Nursing ("BON"). In EO 20-46, such healthcare professionals are referred to as "Out-of-State Healthcare Professionals."

2. Pursuant to Minnesota Statutes 2019, section 12.42, EO 20-46, Out-of-State Healthcare Professionals who hold an active, relevant license, certificate, or other permit in good standing issued by a state of the United States or the District of Columbia are authorized to render aid in Minnesota during the peacetime emergency.

3. Before rendering any aid in Minnesota, Out-of-State Healthcare Professionals must be engaged with a healthcare system or provider, such as a hospital, clinic, or other healthcare entity, in Minnesota.

4. A healthcare system or provider that engages an Out-of-State Healthcare Professional must verify that each Out-of-State Healthcare Professional authorized to practice under EO 20-46 holds an active, relevant license, certificate, or other permit in good standing issued by a state of the United States or the District of Columbia evidencing qualifications for the aid and professional work to be rendered in Minnesota.

5. A healthcare system or provider that engages an Out-of-State Healthcare Professional pursuant to EO 20-46 must file a report with the Minnesota Department of Health, no later than 60 days after termination of the peacetime emergency, that includes the number of Out-of-State Healthcare Professionals engaged, license type, and length of engagement.

6. When rendering aid under EO 20-46, an Out-of-State Healthcare Professional's license, certificate, or other permit has the same force and effect as if issued in Minnesota.

7. By rendering aid in Minnesota, Out-of-State Healthcare Professionals who would otherwise need to obtain a license from BMP or BON, must submit to the jurisdiction of that Minnesota Board, and that Board may revoke the authorization provided by EO 20-46 from any Out-of-State Healthcare Professional under the relevant Board's jurisdiction."

- "EO 20-46 does NOT require a Board process, such as an application, registration, or verification. The ability for an Out-of-State Healthcare Professional to render aid in Minnesota is reliant on engagement with a healthcare system or provide"

Governor Tim Walz Signs Two Executive Orders to Mitigate Impact of COVID-19 Pandemic (4/6/20)

- "Executive Order 20-28 authorizes out-of-state mental health providers to treat Minnesota patients via telehealth services to help ensure that the mental health needs of Minnesotans are met during the stress and uncertainty the COVID-19 pandemic. Many Minnesotans receive mental healthcare services from providers in neighboring states. Executive Order 20-28 ensures that care can continue."

Emergency Executive Order 20-23 (3/27/20) Authorizing Minnesota Health-Related Licensing Boards to Modify Requirements During the COVID-19 Peacetime Emergency

- "1. I authorize the Minnesota health-related licensing boards, listed in Minnesota Statutes 2019, section 214.01, subdivision 2 ("health-related licensing boards"), to defer continuing education requirements until the first reporting cycle following termination of the peacetime emergency declared in Executive Order 20-01."
- "2. I authorize the Minnesota Emergency Medical Services Regulatory Board, established pursuant to Minnesota Statutes 2019, section 144E.01, to extend the March 31, 2020 expiration date for any registrations or certificates issued by the board to June 30, 2020, and to allow for such registration or certificate holders to complete their continuing education requirements through distance learning."
- "3. I authorize the Minnesota Board of Nursing to renew or extend the 60-day expiration period for temporary permits issued by the board to applicants for licensure by endorsement under Minnesota Statutes 2019, section 148.212, subdivision 1, until termination of the peacetime emergency declared in Executive Order 20-01."
- "4. I authorize the health-related licensing boards to accept and process applications for licensure without submission by the applicant of a full set of fingerprints, provided all other information required as part of the criminal background check process by Minnesota Statutes 2019, section 214.075, or otherwise, is submitted to the board. Individuals who are granted a license without submission of fingerprints pursuant to this Executive Order shall undergo a new criminal background check as part of their first license renewal application following termination of the peacetime emergency declared in Executive Order 20-01, including submission of a full set of fingerprints to their respective health-related licensing board or designee in the manner and form specified by the board, pursuant to Minnesota Statutes 2019, section 214.075, subdivision 3(a)."

Medicaid Law, Policy and Guidance Related to Telehealth

Minnesota House Bill No. 3636 (introduced 2/21/22)

- "Subd. 3b. Telehealth services. (a) Medical assistance covers medically necessary services and consultations delivered by a health care provider through telehealth in the same manner as if the service or consultation was delivered through in-person contact. Services or

consultations delivered through telehealth shall be paid at the full allowable rate. (b) The commissioner may establish criteria that a health care provider must attest to in order to demonstrate the safety or efficacy of delivering a particular service through telehealth."

Minnesota Department of Human Services: EIDBI telehealth services (updated 10/13/21)

- "Until July 1, 2023, telehealth also includes audio-only communication between a person and provider if the communication is a scheduled appointment and the standard of care for that particular service can be met through the use of audio-only communication.
- Because Early Intensive Developmental and Behavioral Intervention (EIDBI) is a benefit available under MA, telehealth is an option for some EIDBI services.
- If the person is fee-for-service, the person can receive eligible EIDBI telehealth services.
- Managed care organizations (MCOs) may choose to pay for telehealth services. If the person receives services through an MCO, consult the MCO to confirm coverage for telehealth services."

Minnesota HF 33 (engrossed 6/27/21)

- "Extends private payer telehealth coverage requirements, including coverage and payment parity. Also adds audio-only to the definition of telehealth in certain circumstances and only until July 1, 2023. Allows Medicaid coverage of remote patient monitoring in certain circumstances."

Minnesota House File No. 2127 (introduced 4/12/21)

- "Medical assistance covers medically necessary services and consultations delivered by a licensed health care provider via telemedicine in the same manner as if the service or consultation was delivered in person. Coverage is limited to three telemedicine services per enrollee per calendar week, except as provided in paragraph (f). Telemedicine services shall be paid at the full allowable rate.
- The commissioner shall establish criteria that a health care provider must attest to in order to demonstrate the safety or efficacy of delivering a particular service via telemedicine."

Waivers under peacetime emergency authority, Executive Order 20-12 (April 2020) Allowing telemedicine alternative for School-Linked Mental Health Services and Intermediate School District Mental Health services for children and their families.

- "The commissioner temporarily waived certain requirements for School-Linked Mental Health and Intermediate School District Mental Health Innovation programs to allow for services via telemedicine. This action:

Authorizes reimbursing school mental health providers for expanded telemedicine services through grant funds;

Increases flexibility to no longer require the first visit be in person;

Waives the three-day-per-week limit on telemedicine; and

Allows telephone and other non-secured electronic communications platforms, such as Skype."

Minnesota's Appendix K Approval Letter (3/27/20)

- "Temporarily modify processes for level of care evaluations or re-evaluations (within regulatory requirements)

"Initial assessments and annual re-assessments are not required to be conducted in a face-to-face setting. Assessments may be conducted via telephone or other remote methods. Telephonic or other remote methods will be conducted in accordance with HIPAA requirements, to the extent possible, but with recognition that the Office of Civil Rights is not enforcing certain requirements for good faith communications during the period of the national emergency."

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

"Case Management"

Waivers under peacetime emergency authority, Executive Order 20-12: Federal Medicaid and Minnesota Care Approvals (March 2020)

- Expanding access to telemedicine services for Children's Health Insurance Program, Medical Assistance and MinnesotaCare enrollees (CV 16) "The commissioner eased certain limits on receiving care and services through telephone and video visits that can instead be provided safely and effectively without a face-to-face visit by:

"Expanding the definition of telemedicine to include telephone calls so providers who have a telemedicine agreement in place with DHS can serve patients through telephone visits;"

"Allowing a provider's first visit with a patient to be conducted on the phone;"

"Allowing Children's Health Insurance Program (CHIP), Medical Assistance or MinnesotaCare enrollees to have more than three telemedicine visits in a week; and"

"Requiring managed care plans to follow these policies."

- Expanding telemedicine in healthcare, mental health, and substance use disorder settings. "The commissioner temporarily expanded access to telemedicine for Minnesotans enrolled in Medical Assistance and MinnesotaCare who receive health care, mental health treatment, or substance use disorder treatment. Specifically, the commissioner expanded the providers who are permitted to provide services through telephone and video visits to include the following providers and their tribal provider equivalents:

"Providers who are considered "licensed health care providers" under section 256B.0625, subdivision 3b, paragraph (e), and providers who licensed medical providers supervise;"

"Mental health certified peer specialists and mental health certified family peer specialists where they are currently authorized to provide services;"

"Mental health rehabilitation workers in Adult Rehabilitative Mental Health Services (ARMHS);"

"Mental health behavioral aides in Children's Therapeutic Support services (CTSS); and"

"Alcohol and drug counselors, alcohol and drug counselor-temps, recovery peers, and student interns in licensed SUD programs."

- Allowing phone or video use for targeted case management visits. "The commissioner waived requirements temporarily for face-to-face visits for Minnesotans on Medical Assistance who receive certain targeted case management services. This means case managers can

conduct targeted case management visits by phone or video with adults receiving services or their legal guardians and with children receiving services and their parents or legal guardians. The affected programs include:

"Child welfare targeted case management"

"Children's mental health targeted case management"

"Adult mental health targeted case management"

"Vulnerable adult or adult with developmental disabilities (VA/DD) targeted case management"

"Relocation service coordination targeted case management"

MISSISSIPPI

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Mississippi House Bill No. 259 (passed 3/22/23)

- "The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure."
- "This Compact is designed to achieve the following objectives:"
    - "7. Facilitate the use of telehealth technology in order to increase access to occupational therapy services."

Mississippi Senate Bill No. 2738 (passed 4/18/22)

- "SECTION 1. Section 83-9-351, Mississippi Code of 1972, is amended as follows: 83-9-351. (1) As used in this section:
    - (d) "Telemedicine" means the delivery of health care services such as diagnosis, consultation, or treatment through the use of any HIPAA-compliant telecommunication systems, including information, electronic, and communication technologies, remote patient monitoring services and store-and-forward telemedicine services. Telemedicine, other than store-and-forward transfers and remote patient monitoring services, must be "real-time" audio visual. However, the Commissioner of Insurance may adopt rules and regulations addressing when "real-time" audio interactions without visual are reimbursable, which must be medically appropriate for the corresponding health care services being delivered.
- (2) All health insurance and employee benefit plans in this state must provide coverage and reimbursement for telemedicine services to the same extent that the services would be covered if they were provided through in-person consultation. All health insurance and employee benefit plans in this state must reimburse providers who are out-of-network for telemedicine services under the same reimbursement policies applicable to other out-of-network providers of healthcare services.

- (3) A health insurance or employee benefit plan may charge a deductible, co-payment, or coinsurance for a health care service provided through telemedicine so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.
- (4) A health insurance or employee benefit plan may not limit coverage to services delivered by select third-party organizations
- (5) Nothing in this section shall be construed to prohibit a health insurance or employee benefit plan from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's policy.
- (6) In a claim for the services provided, the appropriate procedure code for the covered services shall be included with the appropriate modifier indicating interactive communication was used. Health insurance and employee benefit plans shall reimburse providers for telemedicine services using the proper medical codes.
- (7) The originating site is eligible to receive a facility fee, but facility fees are not payable to the distant site. Health insurance and employee benefit plans shall not limit coverage to provider-to-provider consultations only. Patients in a patient-to-provider consultation shall not be entitled to receive a facility fee.
- (8) Nothing in this section shall be interpreted to create new standards of care.
- (9) The Commissioner of Insurance may adopt rules and regulations for the administration of this section."

Mississippi House Bill No. 859 (failed 2/1/22)

- "SECTION 1. Section 83-9-351, Mississippi Code of 1972, is amended as follows:83-9-351. (1) As used in this section:
- (d) "Telemedicine" means the delivery of health care services such as diagnosis, consultation, or treatment through the use of interactive audio, video, or other electronic media. Telemedicine must be "real-time" consultation, and it does not include the use of mail or facsimile communications.
- (4) In a claim for the services provided, the appropriate procedure code for the covered services shall be included with the appropriate modifier indicating interactive communication was used. Health insurance and employee benefit plans shall reimburse providers for telemedicine services using the proper medical codes and shall not reduce reimbursement for telemedicine services that are the same as those provided through in-person consultation.
- (6) The originating site is eligible to receive a facility fee, but facility fees are not payable to the distant site. Health insurance and employee benefit plans shall not limit coverage to provider to provider consultations only. Telemedicine consultations between a patient and a provider are to be covered to the same extent as the services would be covered if provided through in-person consultations. Patients in a patient to provider consultation shall not be entitled to receive a facility fee."

Mississippi Senate Bill No. 2345 (introduced 1/17/22)

- "(b) The distant or hub site provider for telehealth services provided by federally qualified health centers and community health centers shall be reimbursed the applicable Medicaid fee for the telehealth services provided

- (c) Telehealth services provided by federally qualified health centers and community health centers shall be considered to be billable at the same face-to-face encounter rate used for all other Medicaid reimbursements to federally qualified health centers and community mental health centers under the prospective payment system."

Mississippi Senate Bill No. 2179 (introduced 1/13/22)

- "SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH:
- Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 of this Compact and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission."

Mississippi House Bill No. 452 (engrossed 2/10/22)

- "All health insurance and employee benefit plans in this state must provide coverage for telemedicine services to the same extent that the services would be covered if they were provided through in-person consultation. All health insurance and employee benefit plans in this state must reimburse providers who are out-of-network for telemedicine services under the same reimbursement policies applicable to other out-of-network providers of healthcare services.
- A health insurance or employee benefit plan may charge a deductible, co-payment, or coinsurance for a health care service provided through telemedicine so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.
- In a claim for the services provided, the appropriate procedure code for the covered services shall be included with the appropriate modifier indicating interactive communication was used. Health insurance and employee benefit plans shall reimburse providers for telemedicine services using the proper medical codes.
- This section shall stand repealed from and after July 1, 2025."

Mississippi House Bill No. 212 (introduced 1/4/22)

- "Ambulatory services delivered in federally qualified health centers, rural health centers and clinics of the local health departments of the State Department of Health for individuals eligible for Medicaid under this article based on reasonable costs as determined by the division. Federally qualified health centers shall be reimbursed by the Medicaid prospective payment system as approved by the Centers for Medicare and Medicaid Services. The division shall recognize federally qualified health centers (FQHCs), rural health clinics (RHCs)) and community mental health centers (CMHCs) as both an originating and distant site provider for the purposes of telehealth reimbursement. The division is further authorized and directed to reimburse FQHCs, RHCs and CMHCs the applicable Medicaid fee for both distant site and originating site telehealth services when such services are appropriately provided by the same organization. Telehealth services provided by FQHCs, RHCs and CMHCs are considered billable at the same face-to-face encounter rate used for all other Medicaid reimbursements to FQHCs, RHCs and CMHCs under the prospective payment system."

Mississippi Minimum Standards of Operation Relative to the Practice of Telemedicine (10/8/21)

- "Rule 6.3.1 Standard of Care. Practitioners and/or organizations providing medical/health services via telehealth shall ensure that the standard of care is maintained for a telehealth encounter consistent with the expectation of in-person care.
- Rule 6.3.2 Technology. Practitioners and/or organizations providing medical/health services via telehealth shall ensure equipment and technology be adequate to provide information necessary to meet the in-person standard of care.
- Rule 6.4.1 Registration. Pursuant to Mississippi Code Annotated §41-3-15, each provider entity/organization offering telehealth services in the State of Mississippi shall register with the Mississippi State Department of Health, Office of Licensure, hereafter referred to as the Department. An applicant shall not provide telehealth services in the State of Mississippi without first registering with the Department.
    - 1. Each provider entity/organization conducting telehealth services in Mississippi shall submit an application for registration including information about the type of telehealth services offered as well as the providers that will be performing services. Proprietary information may be asked but will not be required for approval.
- Rule 6.4.2 Documents. In addition to the registration application as referenced above, the registering entity shall submit at the time of registration:
    - 1. A copy of the Mississippi Secretary of State Business Services Form as evidence of the entity's registration with the Mississippi Secretary of State to conduct business in the State of Mississippi.
    - 2. Proof of Professional and General Liability Insurance.
- Rule 6.4.3 Registration Term. Each registration issued shall be valid for a period of twenty-four (24) months and shall be issued for the registration period of July 1 of the registration year and shall expire on June 30 two calendar years later. Should an entity be approved for registration after the July 1 date for registration, the registration date shall reflect the approval date of registration for that entity and will be valid until June 30 of the registration year.
- Rule 6.4.4 Registration Not Transferable. A Registration Certificate for a telehealth provider is for the stated entity as listed on the registration application and is not transferable. Should a change of location (address only) occur without change of ownership, the entity shall notify the Department, in writing, within 10 calendar days of the change of address. Should a Change of Ownership occur (a sale or transfer of 51% or more of stock), the new ownership of the company/organization shall notify the Department and submit a new application.
- Rule 6.4.5 Registration Renewal. For renewal, each registered entity shall submit:
    - 1. A completed and signed renewal registration application to be received by the Department at least 30 days prior to the date of expiration; and
    - 2. Proof of General and Professional Liability Insurance.
- Rule 6.4.6 Fees. The following fees are established for registration for businesses performing telemedicine services in this state; (1) initial registration fee, $50; (2) fee to report changes in the information on the initial registration, $50.

- Rule 6.5.1 Complaints. Complaints received by the Department relative to telehealth services which indicate a potential violation of medical and/or nursing practice shall be logged and forwarded to the appropriate professional licensing agency."

Mississippi Insurance Department: Extension of Bulletin 2020-1 Insurance Coverage Regarding the Use of Telemedicine During the COVID-19 Crisis (12/9/20)

- "To encourage all physicians to utilize telemedicine so as to avoid any unnecessary patient exposure to the coronavirus."

MS Health Alert Network, State Health Officer's Orders (5/7/20)

- "In order to meet the medical needs of Mississippi residents, non-emergent and non-urgent outpatient clinical visits may resume under the following guidance:

"Telehealth should be used when possible and as appropriate for medical assessment and treatment."

Executive Order No. 1477 (4/24/20)

- "Every effort should continue to be made to deliver care without being in the same physical space, such as utilizing telehealth, phone consultations, and physical barriers between providers and patients.

Mississippi Insurance Department Bulletin: Insurance Coverage Regarding the Use of Telemedicine during the COVID-19 Crisis (3/16/20) suspends the following until April 30, 2020:

- "Any limitation on the use of audio-only telephonic consultations"
- "Any requirement by a health insurance or employee benefit plan that limits coverage to health care providers in the plan's telemedicine network. It is intended by the Commissioner that mental health services provided by telemedicine consultation be covered to the same extant that the services would be covered if they were provided through on-person consultation"
- "Any requirement by a health insurance or employee benefit plan that limits coverage to provider to provider consultations only. It is intended by the Commissioner that telemedicine consultations between a patient and a provider be covered, and that they be covered to the same extent that the services would be covered if they were provided through in-person consultation"

State Licensure Laws, Policy, and Guidance

Mississippi Senate Bill No. 2068 (introduced 1/9/23) / Mississippi Senate Bill No. 2069 (introduced 1/9/23)

- "SECTION 1. The Psychology Interjurisdictional Compact is enacted into law and entered into by this state with any and all states legally joining in the Compact in accordance with its terms, in the form substantially as follows:
    - Whereas, this Compact is intended to regulate the day-to-day practice of telepsychology (i.e., the provision of psychological services using telecommunication technologies) by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority;
    - Consistent with these principles, this Compact is designed to achieve the following purposes and objectives:

- 1. Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology;"

Mississippi S.B. 3049 Mississippi Back-to-Business Liability Assurance and Health Care 16 Emergency Response Liability Protection Act. (Signed to Law 7/8/20)

- "Health care professional means: A person who is licensed, registered, permitted, or certified in any state to provide health care services, whether paid or unpaid, including persons engaged in telemedicine or telehealth, and any employee, agent or contractor of such person;"
- "This act shall take effect and be in force from and after March 14, 2020, and expire one (1) year after the end of the COVID-19 state of emergency,"

Supplemental Proclamation (4/5/20)

- "Effective immediately, the Board hereby waives any and all Mississippi licensing requirements for out of state physicians whose specialty services are determined to be necessary by MSDH, provided the out of state physician holds an unrestricted license to practice medicine in the state in which the physician practices and currently is not the subject of an investigation or disciplinary proceeding and so advises the Board."

Amended Proclamation from the Mississippi State Board of Medical Licensure (3/24/20)

- "Until action taken by the Governor of the state of Mississippi to lift the emergency, out-of-state physicians may utilize telemedicine when treating patients in Mississippi with whom they have a pre-existing doctor-patient relationship, without the necessity of securing a license to practice medicine in the state, provided the out of state physician holds an unrestricted license to practice medicine in the state in which the physician practices and currently is not the subject of an investigation or disciplinary proceeding and so advises the Board."
- "As to in-state physicians, when practicing telemedicine, the requirement for a pre-existing doctor-patient relationship does not apply."

Medicaid Law, Policy and Guidance Related to Telehealth

Mississippi House Bill No. 324 (introduced 1/9/23)

- "TO PROVIDE THAT TELEHEALTH SERVICES PROVIDED BY FEDERALLY QUALIFIED HEALTH CENTERS, RURAL HEALTH CLINICS AND COMMUNITY MENTAL HEALTH CENTERS ARE CONSIDERED TO BE BILLABLE AT THE SAME FACE-TO-FACE ENCOUNTER RATE USED FOR ALL OTHER MEDICAID REIMBURSEMENTS TO THOSE CENTERS UNDER THE PROSPECTIVE PAYMENT SYSTEM; AND FOR RELATED PURPOSES."

Mississippi House Bill No. 250 (introduced 1/5/23) / House Bill No. 251 (introduced 1/5/23) / Senate Bill No. 2070 (introduced 1/9/23) / House Bill No. 159 (introduced, 1/4/23) / House Bill No. 187 (introduced, 1/4/23)

- "The division shall recognize federally qualified health centers (FQHCs), rural health clinics (RHCs) and community mental health centers (CMHCs) as both an originating and distant site provider for the purposes of telehealth reimbursement."

Mississippi Medicaid extends coverage of enhanced telehealth services (6/22/20)

- "As the state continues to combat the COVID-19 outbreak, the Mississippi Division of Medicaid (DOM) will extend its coverage of enhanced telehealth services through the end of the public health emergency."
- "First announced by Governor Tate Reeves on March 19, DOM's Emergency Telehealth Policy was originally effective through May 31, 2020, and subsequently extended to June 30, 2020."

Emergency Telehealth Policy Frequently Asked Questions (FAQs) (updated 6/22/20)

- "RHCs and FQHCs are approved as temporary distant site providers and will be reimbursed their PPS rate for services which meet the definition of an encounter rendered via Telehealth with both a video and audio component. Services rendered via Telehealth with only an audio component will receive the fee-for-service payment listed in DOM's Emergency Telehealth policy."
- "DOM's Emergency Telehealth Policy allows occupational, physical and speech therapists to render therapy services, as distant site providers, to established patients."
- "DOM's Emergency Administrative Code Filing for Part 225, Rule 1.7: Procedures during States of Emergency expands Telehealth services to include use of telephonic audio that does not include video. The full text for this emergency filing is found on DOM's public website https://medicaid.ms.gov/providers/administrative-code/emergencyadministrative-code-filings/"
- "The Temporary Telehealth Policy has been extended and will expire on May 31, 2020. Providers are encouraged to monitor DOM's Coronavirus Updates webpage for changes in guidance related to COVID-19."

State of Mississippi Approval of Federal Section 1135 Waiver Request (6/1/20)

- "Pursuant to section 1135(b)(1)(C) of the Act, CMS is granting authority to permit the state to temporarily waive written consent required under home and community based service programs under 42 C.F.R. §441.301(c)(2)(ix) for 1915(c) waiver programs, 42 C.F.R. §441.725(b)(9) for 1915(i) HCBS state plan programs, and 42 C.F.R. §441.540(b)(9) for 1915(k) Community First Choice programs that require person-centered service plans receive written consent from beneficiaries and be signed by beneficiaries and all providers responsible for its implementation and permit documented verbal consent as an alternate."

Mississippi Medicaid extends coverage of enhanced telehealth services (5/21/20)

- "As the state continues to combat the COVID-19 outbreak, the Mississippi Division of Medicaid (DOM) will extend its coverage of enhanced telehealth services through June 30, 2020."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/7/20)

- Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Mississippi Division of Medicaid, Emergency Telehealth Policy (updated 4/10/20)

- "DOM defines telehealth services as the delivery of health care by an enrolled Mississippi Medicaid provider, through a real-time audio and/or visual communication method, to a beneficiary who is located at a different site. DOM defines the distant site as the physical location of the provider delivering the telehealth service. The beneficiary's physical location at the time the telehealth service is provided is the originating site. During a State of Emergency, a beneficiary's residence is approved as an originating site."
- "Effective immediately through April 30, 2020, DOM's Emergency Telehealth Policy will allow additional use of telehealth services to combat the spread of Coronavirus Disease 2019 (COVID-19). Details of enhanced services include the following:

"A beneficiary may seek telehealth:

  - From the beneficiary's home with no telepresenter present,
  - From an originating site approved in the State Plan as listed below with a telepresenter present, or
  - From a temporarily approved originating as listed below with a telepresenter present.

A beneficiary may use his or her personal cellular device, computer, tablet, or other web camera-enabled device to seek and receive medical care in a synchronous format with a DOM approved distant-site provider.

Telehealth services do not include service delivery through text messages, email, a web portal, or other formats that do not include audio and/or visual components."

- "Recognizing that individuals with Serious Mental Illness (SMI) receive significant benefits from PSR (psychosocial rehabilitation services), especially in this time of social distancing related to COVID-19, DOM is issuing telehealth guidance to allow the PSR (H2030) per fifteen-minute code to be submitted with POS 02. DOM prefers telehealth options that would permit actual visual connection with the member but will accept telephonic sessions."

Public Notice for the Submission of a Medicaid State Plan Amendment (SPA) 20-0010 Telehealth Emergency Waiver (3/19/20)

- "The Mississippi Division of Medicaid is submitting this SPA to allow for flexibilities regarding telehealth services during a state of emergency as declared by either the Governor of Mississippi or the President of the United States. This SPA will assist beneficiaries to receive a wider range of health care services from Mississippi Medicaid enrolled providers without having to travel to a health care facility to reduce the community-spread of the COVID-19 virus or who may need to be self-quarantined for a period of time. Application of this provision will terminate at the discretion of the Mississippi Division of Medicaid."
- "The annual aggregate expenditures are anticipated to be budget neutral as telehealth services are a substitution for an in-person visit for consultations, office visits, and/or outpatient visits"
- "The Mississippi Division of Medicaid will allow additional coverage of telehealth services during a state of emergency as declared by either the Governor of Mississippi or the President of the United States. Details of enhanced services include the following and shall terminate at the discretion of the Mississippi Division of Medicaid."

a. A beneficiary may seek treatment utilizing telehealth services from an originating site not listed in subpart 5) of this section. These emergency exceptions include the following:

- 1. A beneficiary's residence may be an originating site without prior approval by the Division of Medicaid.
- 2. Health care facilities not listed in 5) wishing to act as an originating site must first be granted approval by the Division of Medicaid before rendering originating site telehealth services.

b. Telehealth services are expanded to include use of telephonic audio that does not include video when authorized by the state.

c. A beneficiary may use the beneficiary's personal telephonic land line in addition to a cellular device, computer, tablet, or other web camera-enabled device to seek and receive medical care in a synchronous format with a distant-site provider.

d. When the beneficiary receives services in the home, the requirement for a telepresenter to be present may be waived.

Telehealth Services Extended, 1135 Waiver Requested (3/19/20)

- "Effective immediately through April 30, 2020, DOM's Emergency Telehealth Policy will allow additional use of telehealth services to combat the spread of Coronavirus Disease 2019 (COVID-19). Details of enhanced services include the following:

"A beneficiary may access telehealth services from his or her home."

"A beneficiary may use his or her personal cellular device, computer, tablet, or other web camera-enabled device to seek and receive medical care with a qualified distant-site provider."

"The requirement for a telepresenter to be present with the beneficiary is waived when the beneficiary receives telehealth services in the home."

"Any provider that is eligible to bill DOM for services is now allowed to serve as a distant site provider, including Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs)."

"Any limitation on the use of audio-only telephonic consultations is waived."

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Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Missouri Senate Bill 418 (introduced 4/13/23)

- "1. Physicians licensed under chapter 334 who use telemedicine shall ensure that a properly established physician-patient relationship exists with the person who receives the telemedicine services."
- "The physician-patient relationship may be established by:"
  - "2. In order to establish a physician-patient relationship through telemedicine:[…]"
    - "(2) Prior to providing treatment, including issuing prescriptions or physician certifications under Article XIV of the Missouri Constitution, a physician who uses telemedicine shall interview the patient, collect or review relevant medical history, and perform an examination sufficient for the diagnosis and treatment of the patient.

- [A] Any questionnaire completed by the patient, whether via the internet or telephone, shall include such information sufficient to provide the information as though the medical interview has been performed in person, otherwise such questionnaire does not constitute an acceptable medical interview and examination for the provision of treatment by telehealth."

Missouri House Bill 1098 (introduced 4/12/23); Missouri Senate Bill 669 (introduced 4/6/23);

- "(6) "Telehealth" or "telemedicine", the delivery of health care services by means of information and communication technologies, including audiovisual and audio only technologies, which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while such patient is at the originating site and the health care provider is at the distant site." Telehealth or telemedicine shall also include the use of asynchronous store-and-forward technology. The term "telehealth" or "telemedicine" shall not be limited only to services delivered via select third-party corporate platforms."
- Any licensed health care provider shall be authorized to provide telehealth services if such services are within the scope of practice for which the health care provider is licensed and are provided with the same standard of care as services provided in person. The licensed health care provider shall establish a relationship with the patient who receives telehealth services in the same manner in which a physician establishes a physician-patient relationship under section 191.1146."

Missouri Senate Bill 157 (engrossed 4/20/23)

- "A physician may enter into collaborative practice arrangements with registered professional nurses."
  - "(5) The manner of collaboration between the collaborating physician and the advanced practice registered nurse, including how the collaborating physician and the advanced practice registered nurse will:"
    - "b. The collaborative practice arrangement may allow for geographic proximity to be waived for a maximum of twenty-eight days per calendar year for rural health clinics as defined by P.L. 95-210 (42 U.S.C. Section 1395x, as amended), as long as the collaborative practice arrangement includes alternative plans as required in paragraph (c) of this subdivision."
      - "c. The collaborative practice arrangement may allow for geographic proximity to be waived when the arrangement outlines the use of telehealth, as defined in section 191.1145;"

Missouri House Bill 1098 (introduced 2/9/23)

- "To repeal section 191.1145, RSMo, and to enact in lieu thereof one new section relating to telehealth services."
- "Section A. Section 191.1145, RSMo, is repealed and one new section enacted in lieu 2 thereof, to be known as section 191.1145, to read as follows:"
  - "(6) "Telehealth" or "telemedicine", the delivery of health care services by means of information and communication technologies, including audiovisual and audio-only technologies, which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while such patient is at the originating site and the health care provider is at the distant site. Telehealth or telemedicine shall also include the use of asynchronous store-and-forward technology. The term "telehealth" or "telemedicine" shall not be limited only to services delivered via select third-party corporate platforms."

- "2. Any licensed health care provider shall be authorized to provide telehealth services if such services are within the scope of practice for which the health care provider is licensed and are provided with the same standard of care as services provided in person. The licensed health care provider shall establish a relationship with the patient who receives telehealth services in the same manner in which a physician establishes a physician patient relationship under section 191.1146. This section shall not be construed to prohibit a health carrier, as defined in section 376.1350, from reimbursing nonclinical staff for services otherwise allowed by law."

Missouri House Bill 478 (introduced 1/19/23)

- "The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter.
  - This Compact is designed to achieve the following objectives:
    - 7. Facilitate the use of telehealth technology in order to increase access to occupational therapy services."

Missouri House Bill 710 (introduced 1/10/23)

- Section A. Sections 191.1146 and 334.108, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 191.1146 and 334.108, to read as follows:
  - 1. Physicians licensed under chapter 334 who use telemedicine shall ensure that a properly established physician-patient relationship exists with the person who receives the telemedicine services."
  - "(2) Prior to providing treatment, including issuing prescriptions or physician certifications under Article XIV of the Missouri Constitution, a physician who uses telemedicine shall interview the patient, collect or review relevant medical history, and perform an examination sufficient for the diagnosis and treatment of the patient."

Missouri Senate Bill 70 (introduced 1/4/23)

- "SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH 360 A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission."

Missouri Senate Bill 418 (Introduced 1/4/23)

- "To repeal sections 191.1146 and 334.108, RSMo, and to enact in lieu thereof two new sections relating to telemedicine"
- Physicians licensed under chapter 334 who use telemedicine shall ensure that a properly established physician-patient relationship exists with the person who receives the telemedicine services."
- "The physician-patient relationship may be established by:
  - (3) A telemedicine encounter, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine."
- "2. In order to establish a physician-patient relationship through telemedicine:

- (2) Prior to providing treatment, including issuing prescriptions or physician certifications under Article XIV of the Missouri Constitution, a physician who uses telemedicine shall interview the patient, collect or review relevant medical history, and perform an examination sufficient for the diagnosis and treatment of the patient.
- [A] Any questionnaire completed by the patient, whether via the internet or telephone, shall include such information sufficient to provide the information as though the medical interview has been performed in person, otherwise such questionnaire does not constitute an acceptable medical interview and examination for the provision of treatment by telehealth."

- "334.108. 1. Prior to prescribing any drug, controlled substance, or other treatment through telemedicine, as defined in section 191.1145, or the internet, a physician shall establish a valid physician-patient relationship as described in section 191.1146."

Missouri House Bill No. 2510 (introduced 1/20/22)

- "(4) "Health care provider", as that term is defined in section 376.1350, except that the term "health care provider" shall also include any health care professional licensed in another state, a territory of the United States, or the District of Columbia"
- (6) "Telehealth" or "telemedicine", the delivery of health care services by means of information and communication technologies which facilitate the assessment, diagnosis consultation, treatment, education, care management, and self-management of a patient's health care while such patient is at the originating site and the health care provider is at the distant site. Telehealth or telemedicine shall also include the use of asynchronous store-and forward technology but not the use of voicemail, email, or facsimile transmissions. The term "telehealth" or "telemedicine" shall not include the prescription, administration, dispensation, or any other manner of authorization of any instrument, device, medicine, drug, or any other means or substance to be used for the purpose of performing or inducing an abortion, as defined in section 188.015.
- 3. In order to treat patients in this state through the use of telemedicine or telehealth, health care providers shall be fully licensed to practice in this state, another state, a territory of the United States, or the District of Columbia and shall be subject to regulation by their respective professional boards
- Any health care provider not licensed in this state who provides telehealth services to a patient located in this state shall:
  - (a) Before providing such services, register with this state's applicable regulatory board or, if there is no applicable board, the department of health and senior services; and
  - (b) Provide such services within the applicable scope of practice established by the laws and rules of this state."

Missouri Senate Bill No. 829 (introduced 1/5/22)

- "Telehealth or telemedicine shall also include the use of asynchronous store-and-forward technology, including the use of such technology through an adaptive questionnaire.
- Any licensed health care provider shall be authorized to provide telehealth services if such services are within the scope of practice for which the health care provider is licensed and are provided with the same standard of care as services provided in person. This section shall not be construed to prohibit a health carrier, as defined in section 376.1350, from reimbursing nonclinical staff for services otherwise allowed by law.

- In order to treat patients in this state through the use of telemedicine or telehealth, health care providers shall be fully licensed to practice in this state and shall be subject to regulation by their respective professional boards.
- Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2014, shall not deny coverage for a health care service on the basis that the health care service is provided through telehealth if the same service would be covered if provided through face-to-face diagnosis, consultation, or treatment.
- A health carrier shall not be required to reimburse a telehealth provider or a consulting provider for site origination fees or costs for the provision of telehealth services; however, subject to correct coding, a health carrier shall reimburse a health care provider for the diagnosis, consultation, or treatment of an insured or enrollee when the health care service is delivered through telehealth on the same basis that the health carrier covers the service when it is delivered in person.
- A health care service provided through telehealth shall not be subject to any greater deductible, co-payment, or coinsurance amount than would be applicable if the same health care service was provided through face-to-face diagnosis, consultation, or treatment."

Missouri Executive Order 21-09 (8/27/21)

- "Now, Therefore, I, Michael L. Parson, Governor of The State Of Missouri, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, I hereby terminate the state of emergency declared in Executive Order 20-02, as extended by Executive Orders 20-09, 20-12, 20-19, and 21-07 , and terminate Executive Orders 20-04, 20-05, 20-06, and 20-14, as extended by Executive Orders 20-10, 20- 12 , 20- 16, 20-19 , and 21-07.
- I hereby declare that a state of emergency exists relative to staff shortages in the State's healthcare system and the State' s recovery efforts from the COVID-19 public health threat. Therefore, by virtue of the authority vested in me by the Constitution and Laws of the State of Missouri, including Section 44.100 and 44.110, RSMo, I do hereby order suspension of certain statutory and regulatory provisions related to telemedicine, and I further vest state agencies and executive boards and commissions with authority to waive or suspend statutory or regulatory requirements, subject to my approval, where strict compliance would hinder the State's recovery from COVID- 19, and to ease licensing requirements to eliminate barriers to the provision of health care services and other professions."

Missouri Senate Bill No. 64 (engrossed 5/3/21)

- No later than July 1, 2022, there shall be established within the department a statewide telehealth network for forensic examinations of victims of sexual offenses in order to provide access to sexual assault nurse examiners (SANE) or other similarly trained appropriate medical providers. A statewide coordinator for the telehealth network shall be selected by the director of the department of health and senior services and shall have oversight responsibilities and provide support for the training programs offered by the network, as well as the implementation and operation of the network.
- Beginning October 1, 2021, and each year thereafter, all hospitals licensed under chapter 197 shall report to the department the following information for the previous year:

(4) After July 1, 2022, the number of appropriate medical providers employed at or contracted with the hospital who utilized the training and telehealth services provided by the network.

- The department of health and senior services may issue a waiver of the telehealth requirements of subsection 2 of this section if the hospital demonstrates to the department, in writing, a technological hardship in accessing telehealth services or a lack of access to adequate broadband services sufficient to access telehealth services. Such waivers shall be granted sparingly and for no more than a year in length at a time, with the opportunity for renewal at the 33 department's discretion

Missouri County Uses CARES Act Funding for School Telehealth Project (10/8/20)

- "Some 21 schools in rural Missouri are getting telehealth services in a partnership with Freeman Neosho Hospital.
- The program, funded through the CARES Act, will place telemedicine carts in schools throughout Newton County and give staff and students on-demand access to care providers at the Neosho-based hospital. It will serve more than 8,000 students.
- The project was approved by the Newton County Commissioners, who are using about $385,000 of federal grants issued to the county to cover expenses incurred during the coronavirus pandemic."

Missouri House Bill No. 1682 (passed 7/13/20)

- "Physicians licensed under chapter 334 who use telemedicine shall ensure that a properly established physician-patient relationship exists with the person who receives the telemedicine services. The physician-patient relationship may be established by:

(1) An in-person encounter through a medical interview and physical examination;

(2) Consultation with another physician, or that physician's delegate, who has an established relationship with the patient and an agreement with the physician to participate in the patient's care; or SS SCS HCS HB 1682 12

(3) A telemedicine encounter, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine."

Department of Commerce and Insurance, Insurance Bulletin 20-07 (updated 5/15/20, original bulletin from 3/26/20)

- "Under section 376.1900 RSMo, health carriers in Missouri are required to provide coverage for health care services provided by a health care provider via telehealth in the same manner as they would provide such coverage if the service was provided in person. The Department strongly encourages accessing healthcare services via telehealth in order to maintain social distancing. For purposes of this requirement, a "health care provider" is defined as a provider licensed in the State of Missouri."
- "The Director issued Bulletin 20-07 on March 26, 2020 regarding the provision of services via telehealth. That Bulletin had an expiration date of May 15, 2020 unless extended by the Director. As the relief offered in Bulletin 20-07 is a companion to relief offered under Executive Order 20-04, the Director is hereby extending the applicability of Bulletin 20-07 through June 15, 2020.

Governor Parson Signs Executive Order 20-04 Easing Regulatory Burdens During State of Emergency (3/18/20)

- "The Executive Order, accompanied by steps taken by agencies, accomplishes the following:

"Enables doctors to diagnose and treat patients more easily through telemedicine to avoid physical contact."

Department of Commerce and Insurance Bulletin (3/3/20)

- "Telehealth Delivery of Services. Given that COVID-19 is a communicable disease, some insureds may be using telehealth services instead of in-person health care services. Health carriers are reminded to review Section 376.1900 RSMo regarding the delivery of health care services via telehealth. Health carriers are asked to review and ensure their telehealth programs with participating providers are robust and will be able to meet any increased demand."

State Licensure Laws, Policy, and Guidance

Missouri Senate Bill 70 (engrossed 4/18/23)

- "SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
    - A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission."

Missouri House Bill 1284 (introduced 2/28/23) / Missouri House Bill 1399 (introduced 3/2/23) / Missouri Senate Bill 670 (introduced 2/27/23)

- "2. The purpose of this Compact is to facilitate interstate practice of Regulated Social Workers by improving public access to competent Social Work Services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.
    - 3. This Compact is designed to achieve the following objectives"
    - "(9) Allow for the use of telehealth to facilitate increased access to regulated Social Work Services."

Missouri House Bill No. 271 (introduced 1/4/23)

- "Any licensed health care provider shall be authorized to provide telehealth services if such services are within the scope of practice for which the health care provider is licensed and are provided with the same standard of care as services provided in person. This section shall not be construed to prohibit a health carrier, as defined in section 376.1350, from reimbursing nonclinical staff for services otherwise allowed by law."
- "In order to treat patients in this state through the use of telemedicine or telehealth, health care providers shall be fully licensed to practice in this state and shall be subject to regulation by their respective professional boards."

Missouri Executive Order 21-07 (3/26/21)

- "I also extend until August 31, 2021 the order suspending certain statutory and regulatory provisions related to telemedicine and motor carriers, and vesting state agencies and executive boards and commissions with authority to waive or suspend statutory or regulatory requirements, subject to my approval, where strict compliance would hinder the State's response to COVID-19, and to ease licensing requirements to eliminate barriers to the provision of health care services and other professions contained in Executive Order 20-04, as extended by Executive Orders 20-10 and 20-12."

Healing Art-COVID-19 Waivers (updated 5/21/20)

- Listed below are the waivers that have been submitted for approval and those that have approved by Governor Parson as a result of Executive Order 20-02 and Executive Order 20-04. For professionals seeking licensure in Missouri on a permanent basis all statute, rules and regulations continue to apply. For individuals who hold a retired or inactive license, you may return to practice to assist solely with COVID-19; however, if you wish to practice beyond COVID-19, you must reapply for reinstatement with the Board."

COVID-19 Telehealth Services Covered for Speech Therapy, Physical Therapy and Occupational Therapy (5/21/20)

- "Effective immediately MO HealthNet Division has implemented Telehealth for Speech Therapy, Physical Therapy and Occupational Therapy services."

Missouri Department of Commerce & Insurance, Waiver grants full reciprocity for health care professionals during COVID-19 crisis (3/30/20)

- "During this State of Emergency, physicians and surgeons who are licensed in another state can provide care to our citizens, in person or using telehealth options, as long as they are actively licensed in another state and their license has not been disciplined."

Missouri providers waiver to expand the use of telehealth for treatment of COVID-19 (3/20/20)

- "The state of Missouri is waiving a state statute (191.1145.3) for individuals licensed in other states. This will provide us with the ability to expand the use of telehealth to better serve the growing needs of our citizens during the COVID-19 public health crisis."

COVID-19 Telehealth – Revised March 20, 2020 (3/20/20)

- "MO HealthNet allows any licensed health care provider, enrolled as a MO HealthNet provider, to provide telehealth services if the services are within the scope of practice for which the health care provider is licensed. The services must be provided with the same standard of care as services provided in person."

Medicaid Law, Policy and Guidance Related to Telehealth

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (5/22/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers)."

Personal Care Program Services, MO HealthNet Division Update (4/17/20)

- "Health and Welfare Checks: Providers of Personal Care services have a new option to conduct telephone checks for participants in order to ensure their health, safety and welfare during the public health emergency (i.e. additional time to go over back-up plans, checking on symptoms prior to sending an aide, general questions related to resource needs during COVID-19 and the stay-at home order, and/or the participant is refusing services due to exposure risk or there are staffing limitations so multiple phone checks are needed, etc.). These services are in addition to and not in lieu of telephone-authorized nurse visits through the Personal Care Program discussed below."

- "Authorized Nurse Visits: Authorized Nurse Visits may be provided by telephone or through telemonitoring, if appropriate. Nurses must use professional judgment to determine whether a face-to-face visit is needed in order to complete the task or if it can be provided by telephone or through telemonitoring. For example, if medications have been physically set up for two or three weeks, telephone or telemonitoring can be used to check on clients on weeks that it is not necessary for the provider nurse to go to the home for medication set up. There are no set time parameters on telephone visits however, every time the nurse is conducting a nurse visit no matter what the reason for the visit is, the nurse needs to be checking on the participant as a whole utilizing the sample triage form or a similar form for documentation"

Missouri Child Psychiatry Access Project (4/9/10)

- "The Missouri Child Psychiatry Access Project (MO-CPAP) started as a pilot program in 2018. In January 2020, it moved to statewide implementation. Initially funded by Missouri Foundation for Health (MFH) with expansion resources provided by Health Resources and Services Administration (HRSA), MO-CPAP aims to support and strengthen primary care providers' ability to offer mental health care to young patients with mild to moderate behavioral health issues."
- "Primary care physicians, family physicians, pediatricians, physician assistants and advanced practice nurses can enroll in the project. Enrolled providers are available to access support services such as:

Telephone consults with child and adolescent psychiatrists regarding screening, diagnosis and management of behavioral health issues,

Linkage and referral services to connect patients to community-based mental health care and other resources, as well as telephonic follow up coordination to ensure successful connection to care,

Education and training in identification, assessment and treatment of mild to moderate behavioral health issues."

EPSDT: Well-Child Visits via Telehealth (4/3/20)

- "Effective March 1, 2020, MHD will allow providers to bill and receive reimbursement for EPSDT services including well-child care visits via telehealth (this includes visits over the telephone) during the COVID-19 crisis. Providers should continue to use appropriate modifiers. POS 02 should be included on all telehealth claims."

COVID-19 Telehealth – Revised March 26, 2020 (3/26/20)

- "Hospitals may bill a facility fee for distant site services provided in their facilities. The distant site service must be reported on the UB04 claim form with the procedure code, GT modifier, and zero billed charges. The billed charges for the facility fee must be billed on a separate line of the claim. The physician providing the service will still bill for their distant site services on the medical claim form."
- "During this event, the MHD is:

Waiving the requirement that physicians must have an established relationship with the patient before providing services via telehealth.

Waiving the co-payment for any services provided by means of Telehealth.

**Allowing the use of telephone for telehealth services.

**Allowing quarantined providers and/or providers working from alternate sites or facilities to provide and bill for telehealth services. These services should be billed as distant site services using the physician's and/or clinic provider number.

Waiving the requirement that, in order to treat patients in this state with telemedicine or telehealth, health care providers shall be fully licensed to practice in this state. MHD will allow providers to bill for telehealth services as long as they are licensed in the state in which they practice.

**Providers must still be enrolled as MHD providers through Missouri Medicaid Audit and Compliance (MMAC).

COVID-19 – Teledentistry (3/23/20)

- "During this event, the MHD is:

"Waiving the requirement that providers must have an established relationship with the patient before providing services via Teledentistry."

"Waiving the co-payment for any services provided by means of Teledentistry."

"Allowing quarantined providers to provide Teledentistry services from their homes. These services should be billed as distant site services using the clinic's provider number."

"Waiving the requirement that, in order to treat patients in this state through the use of Teledentistry, providers shall be fully licensed to practice in this state. MHD will allow providers to bill for Teledentistry services as long as they are licensed in the state in which they practice."

Governor Mike Parson issues guidelines in first of daily Coronavirus updates (3/17/20)

- "Missouri Medicaid Director Todd Richardson announced Missouri Healthnet has eliminated all copay for COVID-19 testing and have relaxed refill policies to allow more prescription refills. Missouri Healthnet has also updated telehealth policies to allow greater flexibility to health providers using telehealth."

Missouri Department of Social Services: COVID-19 Telehealth – Revised (3/17/20) and COVID-19 Telehealth for Behavioral Health Providers (3/17/20)

- "Medicaid will waive requirement that physicians must have an established relationship with the patient before providing services via telehealth."
- "Missouri HealthNet Division (MHD) will also waive the co-payment for any services provided by means of Telehealth, during this event."
- "MHD is allowing telehealth services to be provided to a MHD participant, while at home, using their telephone"
- "This applied to providers contracted with Managed Care Organizations"

MONTANA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Montana Senate Bill No. 196 (introduced 3/13/23)

- "Payment for telehealth services. (1) A health insurance issuer shall reimburse a health care facility or health care provider for services delivered by means of telehealth at the same rate as the issuer would reimburse the facility or provider for services delivered in person."

Montana Senate Bill No. 196 (introduced 1/18/23)

- "NEW SECTION. Section 1. Payment for telehealth services.
    - (1) A health insurance issuer shall reimburse a health care facility or health care provider for services delivered by means of telehealth at the same rate as the issuer would reimburse the facility or provider for services delivered in person.
    - (2) A health insurance issuer may not deny or limit reimbursement based solely on the technology or equipment used to deliver the health care service if the technology or equipment:
        - (a) meets the requirements of 33-22-138; and
        - (b) is appropriate for the service provided.
    - (3) For the purposes of this section, the terms "health care facility", "health care provider", and "telehealth" have the meanings provided in 33-22-138."

Montana Executive Order No. 10-2021 (6/30/21)

- "Now, therefore, I, Greg Gianforte, governor of the state of Montana, pursuant to the authority vested in me under the constitution, Mont. Code Ann §§ 10-3-103, 10-3-104, 103-302, and any other applicable statutes, do hereby rescind Executive order 2-2021 and lift Montana's State of Emergency."

Montana House Bill No. 171 (passed 4/26/21)

- Because the failure and complication rates from a chemical abortion increase with advancing gestational age and because the physical symptoms of chemical abortion can be identical to the symptoms of ectopic pregnancy and abortion-inducing drugs do not treat ectopic pregnancies and are contraindicated in ectopic pregnancies, the qualified medical practitioner providing an abortion-inducing drug shall examine the woman in person and, prior to providing an abortion inducing drug, shall:

(a) independently verify that a pregnancy exists; (b) determine the woman's blood type, and if the woman is Rh negative, be able to and offer to administer RhoGAM at the time of the abortion; (c) inform the woman that the woman may see the remains of the unborn child in the process of completing the abortion; and (d) document in the woman's medical chart the gestational age and intrauterine location of the pregnancy and whether the woman received treatment for Rh negativity, as diagnosed by the most accurate standard of medical care.

Montana House Bill No. 43 (passed 4/19/21)

- "(1) Each group or individual policy, certificate of disability insurance, subscriber contract, membership contract, or health care services agreement that provides coverage for health care services must provide coverage for health care services provided by a health care

provider or health care facility by means of telehealth if the services are otherwise covered by the policy, certificate, contract, or agreement.

- A policy, certificate, contract, or agreement may not: impose restrictions involving:

the site at which the patient is physically located and receiving health care services by means of telehealth; or

the site at which the health care provider is physically located and providing the services by means of telehealth; or

- distinguish between telehealth services provided to patients in rural locations and telehealth services provided to patients in urban locations.
- "Telehealth: means the use of audio, video, or other telecommunications technology or media, including audio-only communication, that is: used by a health care provider or health care facility to deliver health care services; and delivered over a secure connection that complies with state and federal privacy laws."
- "Telemedicine" means the practice of medicine using interactive electronic communications, information technology, audio-only conversations, or other means between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes the application of secure videoconferencing or store-and-forward technology."

Executive Orders 2-2020 and 3-2020 (3/20/20)

- "Pursuant to § 10-3-118, MCA, the Montana Department of Labor and Industry may provide interstate licensure recognition whenever a state of emergency or disaster is in effect by registering professionals who possesses an active, unrestricted license in another state."
- "Strict compliance with ARM § 24.101.417 is waived for the purposes of licensing health care professionals for the duration of the emergency so that health care facilities may bring in additional paid staff to Montana as soon as needed and possible."
- "Health care practitioners shall be allowed to perform health care services using all modes of telehealth, including video and audio, audio-only, or other electronic media, to treat the residents of the state of Montana for all medically necessary and appropriate services."
- "Strict adherence to the following requirements of board specific telehealth / telepractice / telemedicine requirements for these practitioners is suspended to the extent that doing so is necessary in responding to the emergency and consistent with the purposes of this Directive:

Section 37-3-102(14)(b), MCA, and ARM § 24.156.813 (physicians);

ARM § 24.189.301(16) (psychologists);

37-15-102(11), 37-15-202(1)(d), MCA and ARM §§ 24.222.907; -.910; -.913; -.916; - .920 (speech language pathologists and audiologists)."

- "To the extent that § 33-22-138(6)(d)(ii)-(iii), MCA, conflicts with the purposes of this Directive, strict adherence is waived for the limited purpose of services provided via telehealth during the emergency."

Commissioner of Securities & Insurance (3/19/20)

- "After working closely with the Insurance Commissioner, four major health insurance companies operating in Montana are voluntarily expanding their coverage of telehealth services to aid in the state's response to the virus known as COVID-19."
- "Montana insurer actions follow newly released guidance from Centers for Medicare & and Medicaid Services (CMS) and HHS Office for Civil Rights (OCR), which expanded beneficiary coverage of telehealth for federal healthcare programs and relaxed federal guidelines on telehealth delivery."
- "Each insurance company is taking its own specific steps to expand coverage, and every insurance plan is different. Montanans should follow the guidance of medical professionals and discuss their specific insurance policy with their insurance company regarding coverage for telehealth services."

State Licensure Laws, Policy, and Guidance

Montana Senate Bill 155 (enrolled 4/18/23)

- "The purpose of this compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services."
    - "This compact is designed to achieve the following objectives:"
        - "(7) facilitate the use of telehealth technology in order to increase access to occupational therapy services."

Montana Senate Bill 214 (enrolled 4/17/23)

- "The Audiology and Speech-Language Pathology Interstate Compact is enacted into law and entered into with all other jurisdictions joining in the compact in the form substantially as follows:"
- "Section 4. Section 37-15-314, MCA, is amended to read:"
    - "37-15-314. Telehealth -- authorization -- assistants. (1) An audiologist, speech-language pathologist, speech-language pathology assistant, or audiology assistant who is licensed under and meets the requirements of this chapter may engage in telehealth in Montana without obtaining a separate or additional license from the board."
    - "(2) Except as provided in 37-15-103, an audiologist, speech-language pathologist, speech language pathology assistant, or audiology assistant who is not a resident of Montana and who is not licensed under this chapter may not provide services to patients in Montana through telehealth without first obtaining a license from the board in accordance with this part or pursuant to the Audiology and Speech-Language Pathology Interstate Compact provided for in [section 1]."

Montana House Bill 777 (enrolled 4/13/23)

- "The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services."
    - "This compact is designed to achieve the following objectives:"
        - "(6) allow for the use of telehealth technology to facilitate increased access to professional counseling services;"

Interstate Licensure Registration Application Form (March 2020)

- "This registration is to provide the information necessary for the State of Montana, Professional Licensing Bureau to determine your eligibility to practice in Montana during this declared state of emergency. Title 10, ch. 3, Mont. Code Ann. The result, if affirmed, will be a temporary registration valid only for a defined period of time and will be subject to you practicing within the scope and standards of practice set forth in licensing provisions, practice acts, or other laws or policies of Montana. Only persons who possess an active, unrestricted license in another state may be eligible for this temporary registration."

Montana Department of Labor & Industry, COVID-19 Information for Professional and Occupational Licensees (March 2020)

- "As authorized by 10-3-118 MCA, and Governor Steve Bullock's directive, The Montana Department of Labor and Industry has implemented an emergency interstate licensure registration for out of state licensees requesting to actively work in Montana for a defined period of time."
- "The Department will evaluate your home state license(s) according to licensing regulations in Montana, to verify it is currently active, unrestricted, and in good standing, and issue you a registration to work in Montana. Our team of analysts will be working expeditiously to ensure your eligibility to work in Montana."

Medicaid Law, Policy and Guidance Related to Telehealth

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/30/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers)."

Montana Healthcare Programs Notice to Dental, HIS/Tribal 638, FQHC, and RHC Providers (4/21/20)

- "This provider notice provides information on tele-dentistry codes that will be opened for billing purposes during the current COVID-19 health emergency. All Montana Medicaid covered services delivered via telemedicine/telehealth are reimbursable so long as such services are medically necessary and clinically appropriate for delivery via telemedicine/telehealth. The following links provides further information on the Medicaid Coverage and Reimbursement Policy for Telemedicine/Telehealth."

Suspension of Face to Face Requirements for Some Medicaid Programs (4/1/20)

- Montana Healthcare Programs is continually working to improve safe access to Medicaid services throughout the public health emergency. This provider notice is the second action by Montana Medicaid to expand the availability of telemedicine/telehealth coverage for Montana Medicaid Members during the statewide emergency declared in Executive Orders 2-2020 and 3-2020.

- This provider notice temporarily removes the face-to-face delivery requirements from the list of services provided below.

Addictive and Mental Disorders Division
72 Hour Presumptive Eligibility Program
Community Based Psychiatric Rehabilitation Services
Day Treatment
Foster Care for Adults with Mental Illness (requirement for adult foster care specialist to meet with the provider in his or her home)
Intensive Outpatient for Substance Use Disorder (SUD IOP)
Medication Assisted Treatment (MAT)
Peer Support Services for Mental Health and Substance Use Disorders
Program for Assertive Community Treatment (PACT)
Psychosocial Rehabilitation
Developmental Services Division / Children's Mental Health Bureau
Autism State Plan Services
Comprehensive School and Community Treatment Services (CSCT)
Community Based Psychiatric Rehabilitation Services (CBPRS)
Home Support Services / Therapeutic Foster Care (HSS/TFC)
Supported Employment Follow Along - Tier 1
Supported Employment Follow Along - Tier 2
Supported Living Base
Supported Living Flex
Targeted Case Management - Individuals with Developmental Disabilities
Targeted Case Management - Youth with Serious Emotional Disturbances
Health Resources Division
Federally Qualified Health Clinics (FQHC)
Rural Health Clinics (RHC)
Targeted Case Management - Women with High Risk Pregnancies
Occupational Therapy
Physical Therapy

Speech Therapy

School Based Providers

Senior and Long Term Care

Community First Choice

Home Health Agency Services

Hospice Care

Personal Assistance Services

All Providers Participating in Montana Medicaid Memo (revised 3/27/20)

- "Montana Medicaid is committed to enabling members to remain in their homes to reduce exposure and transmission, to the extent possible, and to preserve health system capacity for the duration of this public health emergency. To that end, and for as long as this bulletin remains effective, Montana Medicaid will permit qualified providers to deliver clinically appropriate, medically necessary Montana Medicaid covered services to Montana Medicaid members via reimbursable telemedicine/telehealth services (including telephone and live video)."
- "Allowable Telemedicine/Telehealth Methods and Technologies: "There are no specific requirements for technologies used to deliver services via telemedicine/telehealth and can be provided using: secure portal messaging, secure instant messaging, telephone conversations, and audio-visual conversations."
- "Payment Rates for Covered Services Delivered via Telemedicine/Telehealth: "Rates of payment for services delivered via telemedicine/telehealth will be the same as rates of payment for services delivered via traditional (e.g., in-person) methods set forth in the applicable regulations."

Governor Bullock Expands access to telemedicine services to ensure Montana Medicaid patients receive quality health care in their homes (3/18/20) In a call Governor Bullock announced several measures that will go into effect on Friday, March 20, including:

- "A policy to allow patients and providers to communicate via telephone or through secure online communications. The existing policy only allows telemedicine through video chat and leaves out Montanans who might not have access to video chat capabilities through laptops and smartphones."
- "Elimination of language that prevents Medicaid for paying for telemedicine services if that patient and provider are located in the same community."
- "Waiving requirement that members should establish face-to-face relationships with primary care providers."

NEBRASKA

State Telehealth Coverage and Payment Guidance

Nebraska Legislature Bill No. 256 (introduced 4/17/23)

- Section 1. Section 44-312, Reissue Revised Statutes of Nebraska, is amended to read:
  - "(4) The reimbursement rate for any telehealth service shall, at a minimum, be the same as a comparable in-person health care service."

Nebraska Legislative Bill No. 256 (introduced 1/10/23)

- "Section 1. Section 44-312, Reissue Revised Statutes of Nebraska, is amended to read:
  - (4) The reimbursement rate for any telehealth service shall, at a minimum, be the same as a comparable in-person health care service."

Nebraska Legislative Bill No. 50 (introduced 1/5/23) / Legislative Bill No. 352 (introduced 1/12/23)

- "Sec. 2. (1) The State Court Administrator shall create a pilot program to utilize physical space and information technology resources within Nebraska courts to serve as points of access for virtual behavioral health services for court-involved individuals.
- (3) The purpose of the program is to provide access to safe, confidential, and reliable behavioral health treatment via telehealth for Nebraskans involved with the criminal justice system, either as defendants, probationers, or victims in a criminal proceeding."

Nebraska Legislative Bill No. 400 (passed 4/21/21)

- "Telehealth also includes audio-only services for the delivery of individual behavioral health services for an established patient, when appropriate, or crisis management and intervention for an established patient as allowed by federal law; and
- (b) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care provider for analysis and storage.
- Any insurer offering (a) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state, (b) any hospital, medical, or surgical expense-incurred policy, or (c) any self-funded employee benefit plan to the extent not preempted by federal law, shall not exclude, in any policy, certificate, contract, or plan offered or renewed on or after August 24, 2017, a service from coverage solely because the service is delivered through telehealth, including services originating from any location where the patient is located, and is not provided through in-person consultation or contact between a licensed health care provider."

Nebraska Legislative Bill No. 487 (passed 4/15/21)

- "On or after January 1, 2000, notwithstanding section 4 44-3,131, any health insurance plan delivered, issued, or renewed in this state (a) if coverage is provided for treatment of mental health conditions other than alcohol or substance abuse,

shall not establish any rate, term, or condition that places a greater financial burden on an insured for accessing treatment for a mental health condition using telehealth services as defined in section 44-312, (iii) shall provide, at a minimum, a reimbursement rate for accessing treatment for a mental health condition using telehealth services that is the same as the rate for a comparable treatment provided or supervised in person

- If a health insurance plan provides coverage for serious mental illness, the health insurance plan shall cover health care rendered for treatment of serious mental illness (a) by a mental health professional, (b) by a person authorized by the rules and regulations of the Department of Health and Human Services to provide treatment for mental illness, (c) using telehealth services as defined in section 44-312"

Nebraska Legislative Bill No. 760: A BILL FOR AN ACT relating to insurance; to amend section 44-7,107, Revised Statutes Cumulative Supplement, 2018; to define terms; to require certain insurers to provide coverage for certain services delivered through telehealth; and to repeal the original section. (passed 8/11/20)

- "Any insurer offering any policy, certificate, contract, or plan described in subsection (2) of this section for which coverage of benefits begins on or after January 1, 2021, shall not exclude from coverage telehealth services provided by a dermatologist solely because the service is delivered asynchronously.
- An insurer shall reimburse a health care provider for asynchronous review by a dermatologist delivered through telehealth at a rate negotiated between the provider and the insurer."

General Statewide Telehealth – COVID-19 Frequently Asked Questions (4/1/20)

- "Q: Can Nebraska health care providers use telehealth?

A: Nebraska statutes, including but not limited to N.R.S. § 38-1,143, currently authorize "any credential holder under the Uniform Credentialing Act" to use telehealth in establishing a provider-patient relationship, except those holding credentials under the: Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act; Dialysis Patient Care Technician Registration Act; Environmental Health Specialists Practice Act; Funeral Directing and Embalming Practice Act; Massage Therapy Practice Act; Medical Radiography Practice Act; Nursing Home Administrator Practice Act; Perfusion Practice Act; Surgical First Assistant Practice Act; Veterinary Medicine and Surgery Practice Act; and Water Well Standards and Contractors' Practice Act.

- Q: What about out-of-state providers who come to Nebraska to help during the coronavirus emergency?

A: Out-of-state providers who work in Nebraska pursuant to Executive Order 20-10, Coronavirus, Additional Healthcare Workforce Capacity, are authorized to use telehealth under the same statutory provisions that permit Nebraska health care providers to use telehealth."

Department of Insurance – Telehealth Written Statement Requirement, Exception for Emergencies (3/23/20)

- "The Nebraska Telehealth Act, Neb. Rev. Stat. §§ 71-8501 to 71-8508, defines telehealth as "any contact between a patient and a health care practitioner relating to the health care diagnosis or treatment of such patient through telehealth," and requires that a written statement be signed by a patient prior to an initial telehealth consultation. This written statement requirement is cross-referenced at § 44-312, which defines insurers' duties related to telehealth. There is an exception to the written statement requirement at § 71-8505(4) for an emergency situation in which the patient is unable to sign the written statement prior to an initial consultation. The Department of Health and Human Services Public Health and the Department of Insurance read this exception to apply so long as Governor Ricketts' declared state of emergency related to the coronavirus (COVID-19) is in effect. As a result:

Health care providers are not required to obtain a patient's signature on a written agreement prior to providing telehealth services.

Insurance claims for telehealth will not be denied solely on the basis of lack of a signed written statement."

State Licensure Laws, Policy, and Guidance

Executive Order No. 22-08 (12/21/22)

- "6. The provisions of the Mental Health Practice Act and its implementing regulations requiring that persons seeking credentials under the Act obtain direct client-contact hours are temporarily deferred until June 30, 2023, solely in order to permit client-contact hours to be obtained through telehealth, including by telephone."

Executive Order No. 21-09 (6/28/21)

- "Executive Orders No. 20-08, No. 20-10, No. 20-15, No. 20-18, No. 20-37, and No. 21-01 shall expire at 11:59 p.m. on July 30, 2021.
- Executive Order No. 20-12 shall expire at 11:59 p.m. on August 27, 2021 in order to coordinate with the August 28, 2021 operative date of LB 400 and LB 487 *Neb. Laws 2021)."

Executive order No. 20-27 Coronavirus – Credentialing of the COVID-19 Workforce (reissued 12/7/20)

- "The provisions of the Mental Health Practice Act and its implementing regulations requiring that persons seeking credentials under the Act obtain direct client-contact hours are temporarily deferred until December 31, 2020, solely in order to permit client-contact hours to be obtained through telehealth, including by telephone."

Executive Order No. 20-12 - Coronavirus – Relief for Hospitals & Health Care Facilities and Expanded Use of Telehealth Services (3/31/20)

- "The Nebraska Department of Health and Human Services shall establish and publish guidance for health care providers regarding the use of telehealth by licensed practitioners and guidance for the payment of Medicaid services provided via telehealth."

Executive Order 20-10 – Additional Healthcare Workforce Capacity (3/27/20)

- "The provisions of Neb. Rev. Stat. 38-121 regarding credentialing, and its implementing regulations, are hereby temporarily suspended in order to permit individuals who are properly and lawfully licensed to engage in advanced practice nursing emergency medical services, medicine and surgery, mental health practice, nursing, osteopathy, perfusion, pharmacy, psychology, respiratory care, and surgical

assisting in a U.S. state or territory to work in Nebraska during the state of emergency so long as they are in good standing and free from disciplinary action in the states where they are licensed…"

Medicaid Law, Policy and Guidance Related to Telehealth

Provider Bulletin No. 20-19 Annual Physical Requirements for Medicaid-Eligible Residents of Long-Term Care Nursing Facilities (6/8/20)

- "For residents of long-term care facilities, federal regulations require that physician's visits occur every 30 days for the first 90 days from the date of admission, and then every 60 days thereafter. During the COVID-19 emergency, telehealth may be used for any of these physician visits.
- The allowance for telehealth for these physician visits and the waiver of the annual exam are effective March 1, 2020 and continues until the health emergency is declared to be over."

Long-Term Care COVID-19 Response Planning Tool (5/29/20)

- "What is your facility's plan for visitors?

Arrange telehealth visits, when necessary

Arrange for electronic and telephonic communication between residents and external entities, when necessary."

Medicaid Temporary Telephone Triage Billing Codes (*Updated as of* 5/13/20)

- "If you are providing a service that would normally occur face-to-face but is occurring through telehealth, or as appropriate through telephone, the provider will bill using the existing CPT or CDT code that meets the service definition and add the GT modifier for physical and behavioral health and the D9995 code for dental health. Any service provided through telehealth or telephone will receive the same reimbursement rate as the face to face visit."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/20/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers)."

Medicaid & Long-Term Care Coronavirus – COVID-19 Frequently Asked Questions (*Updated as of* 4/20/20)

- "Q: Can the Indian Health Service (IHS) bill for Medicaid telehealth services at the encounter rate?

A: In order to remain in accordance with the four walls rule in federal statute, IHS may bill encounters via telehealth the same as they would typically bill for a non-telehealth encounter, with the addition of the telehealth modifier (GT) to both the encounter and corresponding procedure codes, as long as either the provider or the client is within the walls of the facility during the time of the visit.

- Q: I'm already a Medicaid-enrolled provider. Do I have to enroll as a telehealth provider?

  A: You do not need to enroll as a telehealth provider.

- Q: What codes am I able to use to bill for telehealth services?

  A: You are able to use all codes you were previously able to use when billing for telehealth services. New codes related specifically to COVID-19 are listed in Provider Bulletin 20-06.

- Q: What school-based services are continuing?

  A: Although Nebraska school buildings are closing, we recognize that many school staff continue to work remotely and are still providing educational as well as health-related services. Telehealth resources are available for school-based services.

- Q: Am I able to use telehealth services if the patient does not have audio/visual equipment available?

  A: In instances where it is documented that the beneficiary does not have access to audio/visual (telehealth) equipment, DHHS will allow telephonic treatments or services if it is clinically appropriate and the treatment or service can meet the standard service expectations."

Provider Bulletin No. 20-10 Telehealth Services – Behavioral Health (4/10/20)

- "Nebraska Medicaid behavioral health codes are included as part of the temporary expansion of telehealth services as a result of the COVID-19 public health emergency. Telehealth services include audio and visual contact and where appropriate may be provided by telephone.
- Providers must ensure services can safely and effectively be delivered via telehealth. All treatments or services submitted for reimbursement must be delivered in accordance with existing service definitions. All treatments and services are expected to be rendered in a clinically appropriate manner and be directly related to the beneficiary's treatment needs or treatment plan. Providers are expected to document the rationale for delivery of treatment or services through telehealth in addition to existing documentation requirements. It is expected providers have mitigation plans in place and provide active and ongoing assessment on their ability to meet patients' most immediate and critical treatment needs. Include the GT modifier when billing for services provided through telehealth or telephone.
- The following information includes behavioral health codes that can be provided by telehealth with an additional indicator as to whether the service can also be provided through telephone if the client does not have access to audio and visual technology. Community support services may be provided by telephone if appropriate."

Provider Bulletin No. 20-09 Telehealth Services for Physical, Occupational, and Speech Therapy (4/10/20)

- "Nebraska Medicaid PT/OT/Speech codes are included as part of the temporary expansion of telehealth services as a result of the COVID-19 public health emergency. Telehealth or teletherapy services include audio and visual contact.

- Providers are expected to document the rationale for delivery of treatment or services through teletherapy in addition to existing documentation requirements. Include the GT modifier when billing for services provided through teletherapy."

Provider Bulletin No. 20-08 COVID-19 Teledentistry Update (4/9/20)

- "If you are providing care using teledentistry technology to triage patients or offer an evaluation to determine if the situation is urgent or emergent, then the following CDT codes can be used to document and report the services in the patient's record. When delivering care via teledentistry the dentist providing the service, the nature of the care including date/time/duration of encounter and reason for encounter, and diagnosis and treatment recommendations given must be documented in the patient's record. Teledentistry services are reimbursed at the same rate as face to face care. During the COVID-19 emergency a temporary code has been added that allows for telephone triage by a dentist. Telephone triage by a dentist cannot be delegated to a hygienist or another staff member. Documentation requirements are the same as teledentistry."

Behavioral Health Coronavirus – COVID-19 Frequently Asked Questions (*Updated as of* 4/9/20)

- "Q: What are the effective dates for the exceptional allowances regarding telehealth/telephone service delivery related to COVID-19?

  A: For DBH-funded services, the allowances identified in this FAQ are in effect for services delivered on or after March 1, 2020, and will remain in effect until further notice.
- Q: We are delivering Medication Management appointments via limited office visits, Telehealth and/or by telephone. Some phone appointments do not meet the 15-minute time to be able to bill. Is there any thought to doing fractions of this for billing? Is this a service that the provider could add up all the time in the month to maybe reach the requisite time? The provider states that not all patients would even hit that but could it be an option?

  A: Service expectations should continue to be met for service encounters and services submitted for reimbursement must be delivered in accordance with existing service definitions and units of service
- Q: Can we bill for a full day of Day Rehabilitation if the five hours has not been achieved via teleservices?

  A: Although service delivery may be through alternative means such as smaller, isolated groups, teleservices or telephone, service expectations should continue to be met for service encounters and services submitted for reimbursement must be delivered in accordance with existing service definitions and units of service. At this time, DBH is not fractioning units of service for Day Rehabilitation. Units of service are half day (3 hours) or full day (5 hours) units.
- Q: Can providers of behavioral health services deliver services via telehealth to limit exposure to COVID-19?

  A: The DBH has allowed some routine services, such as outpatient therapy, to be delivered via telehealth in accordance with existing service definitions. In response to COVID-19, the DBH is expanding the services allowed to be delivered via telehealth. With limited exceptions, all assessment, treatment and rehabilitative services currently funded by the DBH can be provided through telehealth in order to support continuity of care for consumers.
- Q: If telehealth is not an option for the delivery of behavioral health services, can providers deliver services via telephone?

A: When behavioral health services cannot be provided in-person or via telehealth, telephonic service delivery will be allowed during this time."

General Statewide Telehealth – COVID-19 Frequently Asked Questions (4/1/20)

- Medicaid-Specific Telehealth FAQ

"Q: Can Nebraska Medicaid be billed for services provided through telehealth?
A: Medicaid is authorized to make payment for services provided through telehealth as set out in the Nebraska Telehealth Act. Providers must be enrolled as a Nebraska Medicaid provider and comply with HIPAA requirements and guidance from the HHS Office for Civil Rights. The Nebraska Telehealth Act's requirement that Medicaid providers obtain prior written consent from patients has been determined to be suspended during the declared emergency, as discussed above

Q: I'm already a Medicaid-enrolled provider. Do I have to enroll as a telehealth provider?
A: You do not need to enroll as a telehealth provider.

Q: Are telehealth services reimbursed by Medicaid at the same rate paid for face-to-face encounters?
A: Per Nebraska statute 71-8506, telehealth services are reimbursed at the same rate as face-to-face encounters.

Q: Can Medicaid providers provide services by telephone if the patient does not have audio/ visual equipment available?
A: Providing services through audio/visual equipment is preferred. In instances where the patient does not have access to audio/visual equipment, DHHS will allow telephone treatments or services if it is clinically appropriate and the treatment or service can meet the standard service expectations.

Provider Bulletin No. 20-06 (3/17/20)

- "Telephone Patient Communications: Temporary Services

Until further notice, Nebraska Medicaid is offering reimbursement for telephonic evaluation and management for the following beneficiaries seeking care when they are already an established patient or the parent or legal guardian of an established patient:

  - Beneficiaries who are actively experiencing mild symptoms of COVID-19 (fever, cough, shortness of breath) prior to going to the emergency department, urgent care, or other health care facility;
  - Beneficiaries who need routine, uncomplicated follow up and who are not currently experiencing symptoms of COVID-19; and Beneficiaries requiring behavioral health assessment and management."

NEVADA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance
Nevada Senate Bill No. 5 (passed 6/4/21)

- "Section 7 of this bill provides that for the purposes of certain policies of insurance related to industrial insurance, telehealth includes only synchronous interactions.
- Section 8 of this bill provides that for certain other purposes telehealth includes both synchronous and asynchronous interactions.
- Section 8 includes as telehealth the delivery of services from a provider of health care to a patient at a different location through an audio-only interaction, which may include the use of a standard telephone.
- Section 8 expressly authorizes a provider of health care to establish a relationship with a patient through telehealth and authorizes the State Board of Health to adopt regulations governing the establishment of a relationship in that manner.
- Section 1 of this bill requires the Department of Health and Human Services, to the extent that money is available, to establish a data dashboard that allows for the analysis of data relating to access to telehealth by different groups and populations in this State.
- Sections 4, 9, 10, 11, 12, 13, 14, 15 and 16 additionally prohibit a third-party payer who is not an industrial insurer from: (1) refusing to pay for services provided through telehealth because of the technology used to provide the services; or (2) categorizing a service provided through telehealth differently for purposes relating to coverage or reimbursement than if the service had been provided in person or through other means. Sections 4, 9, 10, 11, 12, 13, 14, 15 and 16 also require a third-party payer who is not an industrial insurer to cover services provided through telehealth, except for services provided through audio only interaction, in the same amount as services provided in person or by other means.
- Sections 4.3-4.9, 9.3-9.9, 10.3-10.9, 11.3-11.9, 12.3-12.9, 13.3-13.9, 14.3- 14.9, 15.5, 16.1-16.3 and 17 of this bill: (1) expire that requirement, as it applies to services other than mental health services, by limitation 1 year after the termination of the emergency declared for COVID-19 or on June 30, 2023, whichever is earlier; and (2) expire that requirement, as it applies to mental health services, by limitation on June 30, 2023."

Department of Health and Human Services: Reminder for Therapy Services Delivered via Telehealth (3/29/21)

- During the PHE, Telehealth is allowable for physical therapy/occupational therapy/speech therapy (PT/OT/ST). Services must be within scope of practice and be appropriate to be delivered via a telehealth platform. Additionally, providers must maintain visual sight of recipients when prompting specific care/services.
- Reminder: You must follow the guidance set forth by the specific licensing board for the services you are providing. This includes supervision of services as required by the licensing board.

Colorado, Nevada, Oregon & Washington Announce Coordination on Telehealth (8/17/20)

- "Building on a previous announcement regarding COVID reopening, Colorado Governor Jared Polis, Nevada Governor Steve Sisolak, Oregon Governor Kate Brown and Washington Governor Jay Inslee announce that their states will be working together on telehealth issues.
- To ensure that the nation benefits from our knowledge as changes to federal regulations are contemplated, to support continued application and availability of telehealth in our states, and to ensure that we address the inequities faced in particular by tribal

communities and communities of color, we are announcing that Oregon, Washington, Colorado, and Nevada have agreed to work together to identify best practices that support telehealth services for residents of our states. We will have individual state-driven approaches to implementing telehealth policies, but our work will be guided by seven overarching principles:

1. Access: Telehealth should be used as a means to promote adequate, culturally responsive, patient-centered equitable access to health care, and to ensure provider network adequacy.

2. Confidentiality: Patient confidentiality should be protected, and patients should provide informed consent to receive care and the specific technology used to provide it.

3. Equity: We will focus on improving equitable access to providers and addressing inequities and disparities in care. Telehealth should be available to every member, regardless of race, ethnicity, sex, gender identity, sexual orientation, age, income, class, disability, immigration status, nationality, religious belief, language proficiency, or geographic location.

4. Standard of Care: Standard of care requirements should apply to all services and information provided via telehealth, including quality, utilization, cost, medical necessity, and clinical appropriateness.

5. Stewardship: Our states will require the use of evidence-based strategies for the delivery of quality care, and will take steps to mitigate and address fraud, waste, discriminatory barriers, and abuse.

6. Patient choice: Patients, in conjunction with their providers, should be offered their choice of service delivery mode. Patients should retain the right to receive health care in person.

7. Payment/reimbursement: Reimbursement for services provided via telehealth modalities will be considered in the context of the individual state's methods of reimbursement."

Crisis Standards of Care: Crisis Level Guidance for COVID-19 (*updated as of* 7/15/20)

- "Telehealth services should be leveraged as much as possible during the COVID-19 response. Telehealth will expand the resources available for those at higher risk of adverse outcomes from infection, populations in rural communities, those not needing emergent care, and individuals that may be experiencing a mental health crisis. Administering medical advice, triage, pharmaceutical consultation, nursing consultation, and other health resources through technology will also reduce the risk of exposure to COVID-19 for both patients and providers. Barriers to performing services have been reduced through certain federal regulations not being enforced, and additional measures should be taken by state and local agencies to encourage this form of health services"

Nevada State Board of Pharmacy: Prescription Medications during COVID-19 (3/27/20)

- "Does the law require patients to visit with their doctors every 90 days to secure their refill of prescriptions?

No. The frequency of follow-up visits is established between a practitioner and the patient. The law does NOT require a patient to visit their practitioner every 90 days for refill of the prescription. The law does require a bona fide relationship to exist between a patient and a practitioner. This means that the patient needs to be examined by the practitioner sometime within the 6 months immediately preceding the date of the prescription. This examination can be done in person or through telehealth."

Nevada State Medical Association: DrFirst Collaboration (3/24/20)

- "In an effort to prepare and protect our state, our providers, our patients and staff members from COVID-19, it is important that each of our members have access to telemedicine technology that is quick and easy to implement, simple to use, and protects private health information," said Jaron Hildebrand, Executive Director of the Nevada State Medical Association. "We are partnering with DrFirst so that physician practices in Nevada can implement telehealth right away, to help provide their patients with continuity of care and reduce the risk of exposure for themselves and for our community."

Nevada State Medical Association – AZOVA Telemedicine (March 2020)

- "The Nevada State Medical Association has received a generous grant from AZOVA to make a telemedicine marketplace available to all Nevada physicians FREE OF CHARGE. AZOVA has created a telehealth marketplace for Nevada Physicians to connect with their patients online."

Department of Health and Human Services: Telehealth Resources (3/17/20)

- "Telehealth is an essential tool for maintaining continuity of care for patients, while minimizing risk for exposure for both staff and your clients. Prevention programming may also be provided using on-line platforms and video conferencing. You may use telehealth to provide services for clients using HIPAA-compliant technology.
- The majority of Medical services can be delivered via telehealth with the exception of Psychosocial Rehabilitation (PSR), Basic Skills Training (BST), Group therapy, Occupational Therapy and Physical Therapy and medical services which require direct contact with the patient. Telehealth should be utilized when possible to minimize the risk of both patients and providers.
- While existing policy excluded standard telephone due to Federal Regulations, Centers for Medicare and Medicaid Services (CMS) has released the following guidance: Medicaid already provides a great deal of flexibility to states that wish to use telehealth services in their programs. States can cover telehealth using various methods of communication such as telephonic, video technology commonly available on smart phones and other devices. Please note due to today's federal guidance the telephonic restriction will be lifted temporarily."

"Governor Sisolak in coordination with the Nevada Department and Industry's Division of Insurance announced the adoption of an emergency regulation to ensure that Nevadans covered by health insurance policies regulated by the DOI are able to obtain medical services and prescriptions related to COVID-19 at their normal costs, despite disruptions caused by the spread of the virus." (3/5/20)

- "The regulation requires health insurers to provide information on available benefits, options for medical advice and treatment through telehealth, and preventative measures related to COVID-19."

State Licensure Laws, Policy, and Guidance

Nevada Assembly Bill 147 (introduced 4/18/23)

- "Section 7 of this bill requires a person who provides services through teledentistry to a patient located in this State to be licensed in this State as a dentist, dental hygienist or dental therapist, to have completed certain training and to adhere to the applicable laws, regulations and standards of care to the same extent as when providing services in person."

Nevada Assembly Bill No. 198 (introduced 2/21/23)

- "Sec. 4. "Distant site" means the location of the site where a telehealth provider of health care is providing telehealth services to a patient located at an originating site.
- Sec. 7. "Originating site" means the location of the site where a patient is receiving telehealth services from a provider of health care located at a distant site.
- Sec. 10. "Telehealth" means the delivery of services from a provider of health care to a patient at a different location through the use of information and audio-visual communication technology, not including facsimile or electronic mail. The term includes, without limitation, the delivery of services from provider of health care to a patient at a different location through the use of:
    - 1. Synchronous interaction or an asynchronous system of storing and forwarding information; and
    - 2. Audio-only interaction, whether synchronous or asynchronous.
- Sec. 11. The provisions of NRS 629.510 and 629.515 and sections 2 to 18, inclusive, of this act:
    - 1. Apply to the provision of health care services through telehealth to a patient located at an originating site in this State.
    - 2. Do not apply to the provision of health care services through telehealth to a patient located at an originating site outside this State.
- Sec. 12.
    - 1. A provider of health care who is not licensed in this State shall be deemed to hold a license to practice his or her profession in this State if the provider of health care:
        - (a) Is registered to provide services through telehealth to patients located at originating sites in this State pursuant to section 13 of this act;"
        - (b) Restricts his or her practice to the profession for which the registration was issued, under the conditions authorized by the provisions of NRS 629.510 and 629.515 and sections 2 to 18, inclusive, of this act.
    - 2. A requirement in this title or any regulations adopted pursuant thereto that a provider of health care must be licensed, certified or registered if the provider of health care:
        - (a) Supervises a provider of health care who is not licensed in this State and is providing services through telehealth may be satisfied through registration pursuant to section 13 of this act.
        - (b) Controls or is otherwise associated with an entity that provides services through telehealth to a patient located in this State may be satisfied through registration pursuant to section 13 of this act if the entity does not provide in-person services to a patient located in this State.
- Sec. 13.

- 1. A health care licensing board shall register, for the purpose of providing services through telehealth to patients located at originating sites in this State, a provider of health care who is not licensed in this State if the provider of health care:
  - (a) Submits a completed application in the form prescribed by the health care licensing board.
  - (b) Holds an active, unrestricted license or certification in another state that is substantially equivalent to the registration for which the applicant is applying.
  - (c) Is not subject to a pending disciplinary investigation or action by an occupational licensing board in this State or any other state.
  - (d) Except as otherwise provided in this paragraph, has not been disciplined by an occupational licensing board in this State or any other state during the 5 years immediately preceding the submission of the application. The provisions of this paragraph do not apply to discipline relating to the payment of a fee or requirement for continuing education that was addressed to the satisfaction of the occupational licensing board that took the disciplinary action.
  - (e) Has never been disciplined on a ground that the health care licensing board determines would be a basis for denying a license in this State.
  - (f) Consents to personal jurisdiction in this State for an action arising out of the provision of services through telehealth to a patient located at an originating site in this State.
  - (g) Appoints a registered agent for service of process in this State and identifies the agent in the form prescribed by the health care licensing board.
  - (h) Has professional liability insurance as required by section 16 of this act.
  - (i) Pays any registration fee prescribed pursuant to subsection 2.
- 2. A health care licensing board may establish by regulation a registration fee that reflects the expected cost of registration pursuant to this section and the cost of undertaking investigations, disciplinary actions and other activity relating to providers of health care who are registered with the health care licensing board pursuant to this section.
- 3. A health care licensing board shall make available to the public information about providers of health care who are registered pursuant to this section in the same manner the board makes available to the public information about licensed providers of health care who are authorized to provide comparable services in this State.

- Sec. 14.
  - 1. A health care licensing board may adopt any regulations necessary to carry out the provisions of NRS 629.510 and 629.515 and sections 2 to 18, inclusive, of this act with respect to the providers of health care that the board regulates
  - 2. A health care licensing board or other agency in this State may not adopt or enforce a regulation that:
    - (a) Establishes a different standard of practice for services provided through telehealth; or

- (b) Limits the telecommunication technology that may be used to provide services through telehealth.

- Sec. 17.
  - 1. The provision of services through telehealth pursuant to the provisions of NRS 629.510 and 629.515 and sections 2 to 18, inclusive, of this act is deemed to occur at the location of the patient at the time the service is provided."

Declaration of Emergency Directive 029 (*reissued* 7/31/20)

- "All directives promulgated pursuant to the March 12, 2020 Declaration of Emergency or subsections thereof set to expire on July 31, 2020, shall remain in effect for the duration of the current state of emergency unless terminated prior to that date by a subsequent directive or by operation of law associated with lifting the Declaration of Emergency."

Declaration of Emergency Directive 011 (4/1/2020)

- "Professional licensing boards regulating providers of medical services shall temporarily waive certain licensing requirements to allow the practice of currently unlicensed skilled medical professionals during the pendency of COVID-19 crisis…
- The waiver and exemption of professional licensing requirements shall apply to qualified providers of medical services during the declared emergency who currently hold a valid license in good standing in another state, providers of medical services whose licenses currently stand suspended for licensing fee delinquencies…"
- All providers of medical services in the State of Nevada are authorized to practice outside the scope of their specialization within the limits of their competency…"

Declaration of Emergency Directive 009 (4/1/20)

- "All licenses and permits issued by the State of Nevada, Boards, Commissions, Agencies, or political subdivisions of the State of Nevada that expire or are set to expire during the period the Declaration of Emergency dated March 12, 2020 is in effect shall be extended for a period of 90 days from the current expiration date, or 90 days from the date the state of emergency declared on March 12, 2020 is terminated, whichever is later, if reduced government operations due to the state of emergency makes timely renewal of the license or permit impracticable or impossible."

Medicaid Law, Policy and Guidance Related to Telehealth

COVID-19 General Billing Guide (*updated as of* 7/14/20)

- "All COVID-19 services (E/M assessments, diagnostic and serology testing, chest X-rays) are covered under FFS and MCO. Additional medically necessary services may include, but not limiting to:

Telehealth"

Update to Telehealth Services Regarding Applied Behavior Analysis (ABA) Service (5/26/20)

- "For Applied Behavior Analysis (ABA), Nevada Medicaid will cover one-on-one Adaptive Behavior Treatment via telehealth. Services must be clinically appropriate and within the scope of practice of the provider as outlined by the Nevada State Board of Applied Behavior Analysis. Providers are required to maintain visual sight of the recipient while providing services."

Telehealth Billing Instructions for Outpatient Providers Submitting Institutional Claims (*updated as of* 5/20/20)

- "Telehealth is the use of a telecommunications system instead of an in-person recipient encounter for professional consultations, office visits, office psychiatry services and a limited number of other medical services. Please review Medicaid Services Manual (MSM) Chapter 3400 (Telehealth Services) for complete policy, covered services, non-covered services and coverage requirements.
- The distant site is the site where the provider delivering services is located at the time the service is provided via a telecommunications system. The provider at the distant site must use Place of Service (POS) Code 02 when billing for services provided via telehealth. Use of the POS code certifies the service meets telehealth requirements. Note that for distant site services billed under Critical Access Hospital (CAH) method II on institutional claims and billed by outpatient providers on institutional claims, the GT modifier (telehealth service rendered via interactive audio and video telecommunications system) is required.
- The originating site is the location where an eligible Medicaid/Nevada Check Up recipient is at the time the service is provided via a telecommunications system.
- Effective December 1, 2015, telehealth may be used by any Nevada Medicaid and Nevada Check Up provider working within their scope of practice to provide services that can be appropriately provided via telehealth. If the originating site is enrolled as a Nevada Medicaid provider, they may bill HCPCS code Q3014 (Telehealth originating site facility fee). Providers that bill per diem or encounter rates may not bill HCPCS code Q3014, because the facility fee is included in the per diem/encounter rates. If the telecommunication system used is a recipient's smart phone or home computer, the facility fee may not be billed."

COVID-19 (Novel Coronavirus) Frequently Asked Questions (FAQs) for Medicaid Providers (*updated as of* 5/15/20)

- "Q: Is telehealth a covered service for COVID-19?

A: Yes, telehealth is currently an allowable Medicaid service. Providers must diagnose and treat within the scope of practice. New developments using this service delivery model are posted at dhcfp.nv.gov/COVID19 under the Provider links. More information about telehealth coverage is available in the Medicaid Services Manual (MSM) Chapter 3400 located at http://dhcfp.nv.gov/Resources/AdminSupport/Manuals/MSM/C3400/Chapter3400/.

- Q: Is a telehealth visit covered if the patient participates from their home?

A: Yes, the distant site (where the provider is located) is covered even when the patient participates from home. When the patient participates from home, there is no reimbursement for a facility fee."

Telehealth Provider Training during the Novel Coronavirus (COVID-19) Pandemic (May 2020)

- "A provider training presentation was created to provide direction to providers about Telehealth services rendered and billed during the Novel Coronavirus (COVID-19) pandemic. The training presentation provides general billing information as well as guidance for specific

topics such as Durable Medical Equipment (DME), Applied Behavior Analysis (ABA), Home Health Agencies, Hospice Care and Pharmaceuticals."

Update to Telehealth Services for Behavioral Health Outpatient Treatment Providers, Certified Community Behavioral Health Centers, and Behavioral Health Rehabilitative Treatment Providers (4/28/20)

- "As of April 13, 2020, Psychosocial Rehabilitation (PSR) services will be permitted through traditional telehealth audiovisual communication for individuals under the age of 18 throughout the period of the COVID-19 pandemic, as a disruption in services is not in the best interest of the youth served by Medicaid.
- PSR services delivered via telephone are not allowed. The provider must use a telehealth platform that utilizes both audio and visual modalities to perform this service.
- Prior authorization for PSR is still required before services are rendered. Services rendered in good faith the past two weeks, may be submitted based on existing PAs for payment."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/15/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Adult Day Care"

Update to Telehealth Services for Home Health and Hospice Agencies (4/15/20)

- "For Home Health Agencies, telehealth is allowable for the initial and recertification assessments and to determine patients' homebound status remotely or by record review. CMS is waiving the requirements in 42 CFR §484.80(h), which requires a nurse to conduct an onsite visit every two weeks. This would include waiving the requirements for a nurse or other professional to conduct an onsite visit every two weeks to evaluate if aides are providing care consistent with the care plan, as this may not be physically possible for a period of time. This waiver is also temporarily suspending the 2-week aide supervision by a registered nurse for home health agencies requirement at §484.80(h)(1), but virtual supervision is encouraged during the period of the waiver. Providers must maintain visual sight of recipients when providing specific care or services. Therefore, telehealth via a telephone is not allowed. The provider must use a telehealth platform that utilizes both audio and visual modalities.
- For Hospice Agencies, telehealth is allowable for the initial and recertification assessments. CMS is waiving the requirement for hospices to use volunteers including the 5% patient care hours. Comprehensive Assessments timeframes have been extended for updating the assessment from 15 to 21 days. Non-Core Services are waived, including the hospice requirement to provide physical therapy,

occupational therapy, and speech language pathology. CMS is waiving the requirements for a nurse to conduct an onsite supervisory visit for hospice aid supervision every two weeks. Providers must maintain visual sight of recipients when providing specific care or services. Therefore, telehealth via a telephone is not allowed. The provider must use a telehealth platform that utilizes both audio and visual modalities."

Department of Health and Human Services: Update to Telehealth Services (3/27/20)

- "Telehealth is allowable for physical therapy/occupational therapy/speech therapy (PT/OT/ST). Services must be within scope of practice and be appropriate to be delivered via a telehealth platform. Additionally, providers must maintain visual sight of recipients when prompting specific care/services.
- For Applied Behavior Analysis (ABA) Nevada Medicaid will cover supervision, assessments and parent training via telehealth. Direct one-on-one services by a Registered Behavior Technician (RBT), Board Certified Assistant Behavior Analyst (BCaBA), or Board Certified Behavior Analyst (BCBA) will not be covered at this time."

Telehealth Resource Guide (3/18/20)

- "During the response for the COVID-19 crisis, Nevada Medicaid may waive certain policy limitations that are currently identified in MSM Chapter 3400. Please see the specific COVID-19 telehealth memo for the most current information. Additionally, please monitor Nevada Medicaid's COVID-19 webpage as information may change frequently."

Update to Telehealth Memo Issued March 17, 2020 (3/17/20)

- "Now effective, there are no restrictions on the use of telehealth for group therapy. Providers must continue to work within the scope of practice and apply appropriateness of group therapy services via telehealth modalities."

Department of Health and Human Services Telehealth Memo (3/17/20)

- "The majority of Medical services can be delivered via telehealth with the exception of Psychosocial Rehabilitation (PSR), Basic Skills Training (BST), Group therapy, Occupational Therapy and Physical Therapy and medical services which require direct contact with the patient. Telehealth should be utilized when possible to minimize the risk of both patients and providers.
- "While existing policy excluded standard telephone due to Federal Regulations, Centers for Medicare and Medicaid Services (CMS) has released the following guidance: Medicaid already provides a great deal of flexibility to states that wish to use telehealth services in their programs. States can cover telehealth using various methods of communication such as telephonic, video technology commonly available on smart phones and other devices. No federal approval is needed for state Medicaid programs to reimburse providers for telehealth services in the same manner or at the same rate that states pay for face-to-face services."
- "Please note due to today's federal guidance the telephonic restriction will be lifted temporarily."

NEW HAMPSHIRE

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

New Hampshire House Bill No. 500 (introduced 1/11/23)

- "III. It shall be unlawful for any person to prescribe methadone hydrochloride, as defined in RSA 318-B:10, VII(d)(2) by means of telemedicine**.** Prescribing other [~~a~~] controlled [~~drug~~] drugs classified in schedule II through IV by means of telemedicine shall be done in accordance with paragraph IV [~~, except substance use disorder (SUD) treatment. Methadone hydrochloride, as defined in RSA 318-B:10, VII(d)(2) shall not be included in the exemption~~]."

New Hampshire House Bill No. 353 (introduced 1/9/23)

- "404-K:2 Program Established. There is hereby adopted the New Hampshire interstate compact for universal healthcare. The program established by this compact shall provide universal access to health care for all individuals residing in New Hampshire. The program in this chapter shall be implemented by the board and made applicable to New Hampshire and other member states according to the provisions of RSA 404-K:17.
    - III. Telemedicine. The board shall establish policies related to the reimbursement and regulation of care delivered via phone or Internet that encourage the most efficient usage of healthcare resources and funds allocated for healthcare with the goal of maximizing quality of care provided while minimizing the cost of that care to taxpayers."

New Hampshire Senate Bill No. 390 (passed 8/3/22)

- "1 Telemedicine and Telehealth Services. Amend RSA 310-A:1-g, I and II to read as follows:
    - **I. "Asynchronous interaction" means an exchange of information between a patient and a health care professional that does not occur in real time.**
    - **I-a. "Synchronous interaction" means an exchange of information between a patient and a health care professional that occurs in real time.**
    - I-b. "Telemedicine" means the use of audio, video, or other electronic media **and technologies by a health care professional in one location to a patient at a different location** for the purpose of diagnosis, consultation, or treatment, **including the use of synchronous or asynchronous interactions.**
    - II. "Telehealth" means the use of audio, video, or other electronic media **and technologies by a health care professional in one location to a patient at a different location** for the purpose of diagnosis, consultation, or treatment, **including the use of synchronous or asynchronous interactions.**
- 3 Pharmacists and Pharmacies; Definition of Practitioner-Patient Relationship. Amend RSA 318:1, XV-a to read as follows:

- XV-a. "Practitioner-patient relationship" means a medical connection between a licensed practitioner and a patient that includes an in-person [~~or face-to-face 2-way real-time interactive communication~~] exam **or an exam using telemedicine, as defined in RSA 310-A:1-g, I-b, provided the health care practitioner:**
  - **(i) verifies the identity of the patient receiving health care services through telemedicine;**
  - **(ii) discloses to the patient the health care practitioner's name, contact information, and the type of health occupation license held by the health care practitioner;**
  - **(iii) obtains oral or written consent from the patient or from the patient's parent or guardian, if state law requires the consent of a parent or guardian for use of telemedicine services; and**
  - **(iv) meets the standard of care. A health care practitioner shall complete or review** a history, a diagnosis, a treatment plan appropriate for the practitioner's scope of practice, and documentation of all prescription drugs including name and dosage.

- 4 Physicians and Surgeons; Physician-Patient Relationship. Amend RSA 329:1-c to read as follows:
  - 329:1-c Physician-Patient Relationship. "Physician-patient relationship" means a medical connection between a licensed physician and a patient that includes an in-person [~~or face-to-face 2-way real-time interactive communication~~] exam **or an exam using telemedicine, as defined in RSA 310-A:1-g, I-b, provided the physician:**
    - **(i) verifies the identity of the patient receiving health care services through telemedicine;**
    - **(ii) discloses to the patient the physician's name, contact information, and the type of health occupation license held by the physician;**
    - **(iii) obtains oral or written consent from the patient or from the patient's parent or guardian, if state law requires the consent of a parent or guardian for use of telemedicine services; and**
    - **(iv) meets the standard of care. A physician shall complete or review** a history, a diagnosis, a treatment plan appropriate for the licensee's medical specialty, and documentation of all prescription drugs including name and dosage."

New Hampshire House Bill No. 1390 (passed 6/22/22)

- "Ensure that, if the facility is required to ensure meaningful language access to limited-English proficient speakers under 45 C.F.R. section 155.205(c) and section 156.250, or to deaf or hard of hearing individuals pursuant to RSA 521-A and RSA 354-A, such access is provided regardless of whether services are provided in person or utilizing telemedicine."

New Hampshire Senate Bill No. 382 (passed 6/8/22)

- "1 Telemedicine and Telehealth Services. Amend RSA 310-A:1-g, IV to read as follows:
- IV. Unless otherwise prescribed by statute, an out-of-state healthcare professional providing services by means of telemedicine or telehealth shall be required to be licensed, certified, or registered by the appropriate New Hampshire licensing body if the patient is physically located in New Hampshire at the time of service. This paragraph shall not apply to out-of-state physicians who provide consultation services pursuant to RSA 329:21, II.

- 2 New Section; Office of Professional Licensure; Physician and Physician Assistant Licensure Pursuant to Reciprocity Agreement. Amend RSA 310-A by inserting after section 1-f the following new section:
- 310-A:1-ff Physician and Physician Assistant Licensure Pursuant to Reciprocity Agreement. The office of professional licensure and certification shall seek reciprocity agreements with states that have licensure requirements for physicians and physicians' assistants that are substantially equivalent to this state, as determined by the board of medicine. The office of professional licensure and certification shall issue licenses to individuals who demonstrate they have a license in good standing from a state that is a party to such agreement, and pay the requisite fee, in accordance with rules adopted by the executive director under RSA 541-A.
- 3 Effective Date. This act shall take effect 60 days after its passage."

New Hampshire Executive Order 2021-10: Twenty-first Extension of State of Emergency Declared in Executive Order (reissued 5/28/21)

- "IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT: 1. All provisions of Executive Order 2020-04 currently in effect, as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, 2020-23, 2020-24, 2020-25, 2021-01, 2021-02, 2021-04, 2021-05, 2021-06, and 2021-08 and all Emergency Orders currently in effect issued pursuant thereto, shall remain in full force and effect through the expiration date of this Executive Order 2021-10.
- All executive branch actions taken pursuant to Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, 2020-23, 2020-24, 2020-25, 2021-01, 2021-02, 2021-04, 2021-05, 2021-06, and 2021-08 and the associated Emergency Orders, shall remain in full force and effect through the expiration date of this Executive Order 2021-10.
- In the interest of public transparency and recordkeeping, all additional Emergency Orders, temporary orders, directives, rules, and regulations made for the purpose of responding to the State of Emergency hereby extended shall be issued pursuant to Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, 2020-23, 2020-24, 2020-25, 2021-01, 2021- 02, 2021-04, 2021-05, 2021-06, and 2021-08 and be reflected as such in writing on the Governor's Office website."

New Hampshire House Bill No. 1623: AN ACT relative to telemedicine. (passed 7/21/20)

- "I. Ensures reimbursement parity, expands site of service, and enables all providers to provide services through telehealth for Medicaid and commercial health coverage."
- "II. Enables access to medication assisted treatment (MAT) in specific settings by means of telehealth services."
- "III. Amends the Physicians and Surgeons Practice Act to expand the definition of telemedicine."
- "IV. Amends the relevant practice acts to expand the definition of telemedicine."
- "V. Enables the use of telehealth services to deliver Medicaid reimbursed services to schools."

Insurance Department: Frequently Asked Questions about Health Insurance Coverage and the Novel Coronavirus 2019 (COVID-19) (March 2020)

- "Can I use telemedicine for COVID-19 related provider visits?

Given that COVID-19 is a communicable disease, if your provider is set up for telemedicine some people may be able to utilize telemedicine in seeking an initial diagnosis instead of in-person heath care services. Some insurance companies offer independent telehealth programs that are available even if your treating provider does not offer such services. Health insurers may not deny coverage simply because it was provided through telemedicine. Health insurers are directed to ensure that their telehealth programs are robust and will be able to meet any increased demand."

Emergency Order #15 Pursuant to Executive Order 2020-04 (3/23/20)

- "To further the temporary remote instruction and support of New Hampshire children, in-state and out-of-state medical providers shall be allowed to perform health care services through the use of all modes of telehealth, including video and audio, audio-only, and/or other electronic media to New Hampshire children enrolled within a New Hampshire school or in a school in another state, provided:

a) the services are in furtherance of an Individualized Education Program ("IEP") administered by the school in which the New Hampshire child is enrolled; and

b) the medical provider is a New Hampshire licensee or receives an emergency New Hampshire license in accordance with Section 1, above."

Office of Professional Licensure and Certification Guidance on Telehealth During the COVID-19 State of Emergency (3/18/20)

- "In response to the outbreak of COVID-19, effective immediately, the Governor has ordered "[a]ll medical providers [. . .] be allowed to perform health care services through the use of all modes of telehealth, including video and audio, audio-only, or other electronic media, to treat the residents of the state of NH for all medically necessary services."
- The State's temporary expansion of telehealth services applies to all medical providers including, but not limited to, those professions licensed, certified, or registered by the Office of Allied Health Professionals, Board of Medicine, Board of Nursing, Board of Psychology, Board of Mental Health Practice, Board of Licensing for Alcohol and Other Drug Use Professionals, Board of Licensed Dietitians, and the Board of Dental Examiners."

Insurance Department: Telehealth Fact Sheet During COVID-19 State of Emergency (3/18/20)

- "Telehealth reimbursement typically requires live video and audio, however, during the declared state of emergency period related to COVID-19 in New Hampshire, audio only telehealth is eligible for reimbursement.
- Originating Sites: There are no restrictions. These may include, but are not limited to: Patient's Home, Practitioner's Office, Schools, Hospitals, Renal Dialysis Centers, Skilled Nursing Facilities, FQHCs/RHCs, Community Mental Health Centers, or The Doorways.
- Reimbursement: Commercial carriers are directed to pay the same rate as if the service was provided face-to-face. Billing for the service delivered should follow routine practices as if the service was provided face-to-face. Documentation standards follow the regular standards as if the service was delivered face-to-face."

Emergency Order #8 Pursuant to Executive Order 2020-04 (3/17/20)

- "…all health insurance carriers regulated by the New Hampshire Insurance Department, all health benefit plans authorized under RSA 5-B, and New Hampshire Medicaid Coverage, including all Medicaid Managed Care Organizations, are hereby required to allow all in-network providers to deliver…services via telehealth. They shall include reimbursement for all modes of telehealth, including video and audio, audio-only, or other electronic media provided by medical providers to treat all members for all medically necessary covered services beginning today."
- "All medical providers shall be allowed to perform health care services through the use of all modes of telehealth, including video and audio, audio-only, or other electronic media, to treat the residents of the state of NH for all medically necessary services."
- "All carriers shall ensure that rates of payment to in-network providers for services delivered via telehealth are not lower than the rates of payment established by the Carrier for services delivered via traditional (i.e. in-person) methods, and shall notify providers for any instructions necessary to facilitate billing…"
- "All carriers shall cover, without any cost-sharing…. medically necessary treatment delivered via telehealth related to COVID-19 by in-network providers."

New Hampshire Insurance Commissioner Order (3/10/20)

- New Hampshire Insurance Commissioner issued series of actions including health carriers may not deny coverage because it was provided through telemedicine and health carriers must ensure that their telehealth programs are robust and will be able to meet any increased demand.

State Licensure Laws, Policy, and Guidance

New Hampshire Senate Bill No. 126 (engrossed 4/11/23)

- IV. Unless otherwise prescribed by statute, or the patient is currently in the custody of the New Hampshire department of corrections, an out-of-state healthcare professional providing services by means of telemedicine or telehealth shall be required to be licensed, certified, or registered by the appropriate New Hampshire licensing body if the patient is physically located in New Hampshire at the time of service. This paragraph shall not apply to out-of-state physicians who provide consultation services pursuant to RSA 329:21, II.
- The office of professional licensure and certification shall seek reciprocity agreements with states that have licensure requirements for physicians and physicians' assistants that are substantially equivalent to this state, as determined by the board of medicine. The office of professional licensure and certification shall issue licenses to individuals who demonstrate they have a license in good standing from a state that is a party to such agreement, and pay the requisite fee, in accordance with rules adopted by the executive director under RSA 541-A. Out-of-state health care professionals treating patients in the custody of the department of corrections shall be required to be licensed, certified, or registered by, and in good standing with, the appropriate licensing body within their state of practice.

New Hampshire House Bill No. 500 (engrossed 3/15/23)

- "~~[It shall be unlawful for any person to prescribe by means of telemedicine a controlled drug classified in schedule II through IV, except substance use disorder (SUD) treatment. Methadone hydrochloride, as defined in RSA 318-B:10, VII(d)(2) shall not be included in the~~

~~exemption.]~~ A physician licensed under this chapter may prescribe non-opioid and opioid controlled drugs classified in schedule II through IV by means of telemedicine after establishing a physician-patient relationship with the patient. When prescribing a non-opioid or opioid controlled drug classified in schedule II through IV by means of telemedicine a subsequent in-person exam shall be conducted by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and drug, but not less than annually. The prescription authority under this paragraph shall be limited to a physician licensed under this chapter, or a physician assistant in accordance with RSA 328-D:3-b, and all prescribing shall be in compliance with all federal and state laws and regulations."

- XII(a). "Telemedicine" means [~~the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment~~] the use of audio, video, or other electronic media and technologies by a licensee in one location to a patient in a different location for the purpose of diagnosis, consultation, or treatment, including the use of synchronous or asynchronous interactions as defined in RSA 310-A:1.
- (b) An out-of-state APRN providing services by means of telemedicine shall be deemed to be in the practice of medicine and shall be required to be licensed under this chapter.
- (c) [~~It shall be unlawful for any person to prescribe by means of telemedicine a controlled drug classified in schedule II through IV except for use in substance use disorder treatment.~~] An APRN licensed under this chapter may prescribe non-opioid and opioid controlled drugs classified in schedule II through IV by means of telemedicine after establishing an advanced practice registered nurse-patient relationship with the patient. When prescribing a non-opioid or opioid controlled drug classified in schedule II through IV by means of telemedicine a subsequent in-person exam shall be conducted by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and drug, but not less than annually. The prescription authority under this paragraph shall be limited to an APRN licensed under this chapter, and all prescribing shall be in compliance with all federal and state laws and regulations.

New Hampshire House Bill No. 1661 (passed 6/29/22)

- "79 New Paragraph; Out-of-State Providers; Consultation and Follow-up Care via Telehealth Permitted. Amend RSA 310-A:1-g by inserting after paragraph VI the following new paragraph:
  - VII. Physicians and physician assistants, governed by RSA 329 and RSA 328-D; advanced practice nurses, governed by RSA 326-B and registered nurses under RSA 326-B employed by home health care providers under RSA 151:2-b; midwives, governed by RSA 326-D; psychologists, governed by RSA 329-B; allied health professionals, governed by RSA 328-F; dentists, governed by RSA 317-A; mental health practitioners governed by RSA 330-A; community mental health providers employed by community mental health programs pursuant to RSA 135-C:7; alcohol and other drug use professionals, governed by RSA 330-C; and dietitians, governed by RSA 326-H shall be authorized to provide consultation services or follow-up care via telehealth to a patient who previously received services from the provider in the state where the provider is licensed."

New Hampshire Senate Bill No. 397 (passed 6/28/22)

- "330-D:6 Compatible Privilege to Practice Telehealth.

- I. Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with RSA 330-D:2 and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.
- II. A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state."

New Hampshire House Bill No. 1405: An ACT allowing out-of-state mental health care providers to provide telehealth treatment during a mental health emergency. (introduced 1/12/22)

- "Office of Professional Licensure and Certification; Telemedicine and Telehealth Services; Temporary Authorization for Out-of-State Mental Health Care Providers to Provide Services During a Mental Health Emergency. Amend RSA 310-A:1-g, IV to read as follows:
- IV. Notwithstanding any provision of law to the contrary, an out-of-state healthcare professional providing services by means of telemedicine or telehealth shall be required to be licensed, certified, or registered by the appropriate licensing board within the division of health professions. This paragraph shall not apply to out-of-state physicians who provide consultation services pursuant to RSA 329:21, II or out-of-state mental health care providers who provide telehealth treatment to fewer than 5 patients per year during a mental health emergency.
- New Paragraph; Telemedicine; Reporting Requirement. Amend RSA 310-A:1-g by inserting after paragraph VI the following new paragraph:
- VII. For each year in which a mental health emergency is in effect, the office of professional licensure and certification shall conduct an annual audit of out-of-state mental health care providers who provide telehealth treatment to patients in the state of New Hampshire.
- New Section; Accident and Health Insurance; Mental Health Services. Amend RSA 415 by inserting after section 6-aa the following new section:
- 415:6-bb Mental Health Services; Telehealth. Each insurer that issues or renews any individual policy, plan, or contract of accident or health insurance providing benefits for mental health services shall provide to persons covered by such insurance who are residents of this state coverage for mental health services provided through telemedicine, including treatment provided by an out-of state provider during a mental health emergency pursuant to RSA 310-A:1-g.
- New Section; Accident and Health Insurance; Mental Health Services. Amend RSA 415 by inserting after section 18-ee the following new section:
- Mental Health Services; Telehealth. Each insurer that issues or renews any group or blanket policy, plan, or contract of accident or health insurance providing benefits for mental health services shall provide to persons covered by such insurance who are residents of this state

coverage for mental health services provided through telemedicine, including treatment provided by an out-of state provider during a mental health emergency pursuant to RSA 310-A:1-g."

New Hampshire Senate Bill No. 133: AN ACT adopting omnibus legislation relative to occupational licensure. (passed 8/16/21)

- "Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission.
- Telepsychology, telehealth, and telemedicine services, as provided by psychologists, include those psychology services that utilize electronic means to engage in visual or virtual presence in contemporaneous time. Such provision of services shall require a New Hampshire tele-pass license for provision of such care to people in New Hampshire."

New Hampshire House Bill No. 2 (passed 6/28/21)

- "Notwithstanding any provision of law to the contrary, an out-of-state healthcare professional providing services by means of telemedicine or telehealth shall be required to be licensed, certified, or registered by the appropriate licensing board within the office of professional licensure and certification. This paragraph shall not apply to out-of-state physicians who provide consultation services pursuant to RSA 329:21, II.
- This paragraph shall not apply to out-of-state physicians who provide consultation services pursuant to RSA 329:21, II."

New Hampshire Senate Bill No. 133: AN ACT adopting omnibus legislation relative to occupational licensure. (engrossed 4/13/21)

- Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission.
- Telepsychology, telehealth, and telemedicine services, as provided by psychologists, include those psychology services that utilize electronic means to engage in visual or virtual presence in contemporaneous time. Such provision of services shall require a New Hampshire tele-pass license for provision of such care to people in New Hampshire.

New Hampshire House Bill No. 1639: AN ACT relative to health care. (passed 7/29/20)

- "Consistent with Medicare standards, professional licensure, certification, and telemedicine policies shall be recognized as factors warranting adjustment to reimbursement"

Section 1135 Waiver Flexibilities (3/23/20)

- "For claims for services provided to Medicaid participants enrolled with New Hampshire Medicaid program, CMS will waive the fifth criterion listed above under section 1135(b)(1) of the Act. Therefore, for the duration of the public health emergency, New Hampshire may reimburse out-of-state providers for multiple instances of care to multiple participants, so long as the other criteria listed above are met.

- If a certified provider is enrolled in Medicare or with a state Medicaid program other than New Hampshire, New Hampshire may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency.
- With respect to providers not already enrolled with another SMA or Medicare, CMS will waive the following screening requirements under 1135(b)(1) and (b)(2) of the Act, so the state may provisionally, temporarily enroll the providers for the duration of the public health emergency:

1. Payment of the application fee - 42 C.F.R. §455.460
2. Criminal background checks associated with Fingerprint-based Criminal Background Checks - 42 C.F.R. §455.434
3. Site visits - 42 C.F.R. §455.432
4. In-state/territory licensure requirements - 42 C.F.R. §455.412"

- "New Hampshire currently has the authority to rely upon provider screening that is performed by other State Medicaid Agencies (SMAs) and/or Medicare. As a result, New Hampshire is authorized to provisionally, temporarily enroll providers who are enrolled with another SMA or Medicare for the duration of the public health emergency."

Executive Order 2020-04 (3/13/20)

- "Any out-of-state personnel, including, but not limited to, medical personnel, entering New Hampshire to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in RSA 21-P:41 and any other applicable statutory authority with respect to licensing and certification regarding mutual aid during emergencies for a period of time not to exceed the duration of this emergency."

Medicaid Law, Policy and Guidance Related to Telehealth

New Hampshire House Bill No. 503 (passed 6/28/22)

- "3 Medicaid Coverage of Telehealth Services. Amend RSA 167:4-d, III(a)(2) to read as follows:
  - (2) By which telemedicine services for primary care and remote patient monitoring shall only be covered in the event that the patient has already established care at an originating site via face-to-face in-person service. A provider shall not be required to establish care via face-to-face in-person service when:
    - (a) The provider is a Department of Veteran Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);
    - (b) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;
    - (c) The patient is being treated by, and is physically located in a doorway as defined in RSA 167:4-d, II(c);
    - (d) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or

    - (e) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f); and
- 4 Controlled Drug Act; Prohibited Acts. Amend RSA 318-B:2, XVI to read as follows:
  - XVI.(a)(1) The prescribing of a non-opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a)
    - (2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and drug, but not less than annually.
  - (b)(1) The prescribing of an opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a).
    - (2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and opioid, but not less than annually.
  - (c) The prescription authority under this paragraph shall be limited to a practitioner licensed to prescribe the drug and in compliance with all federal laws, including the United States Drug Enforcement Agency registration or waiver when required.
- 5 Physicians and Surgeons; Telemedicine. Amend RSA 329:1-d, III and IV to read as follows:
  - III. It shall be unlawful for any person to prescribe by means of telemedicine a controlled drug classified in schedule II through IV, except substance use disorder (SUD) treatment. Methadone hydrochloride, as defined in RSA 318-B:10, VII(d)(2) shall not be included in the exemption.
  - IV.(a)(1) The prescribing of a non-opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a)
    - (2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and drug, but not less than annually.
  - (b)(1) The prescribing of an opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a).
    - (2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and opioid, but not less than annually.
  - (c) The prescription authority under this paragraph shall be limited to a practitioner licensed to prescribe the drug and in compliance with all federal laws, including the United States Drug Enforcement Agency registration or waiver when required.
- 6 Nurse Practice Act. Amend RSA 326-B:2, XII(c) and (d) to read as follows:
  - (c) It shall be unlawful for any person to prescribe by means of telemedicine a controlled drug classified in schedule II through IV except for use in substance use disorder treatment.
  - (d)(1) The prescribing of a non-opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a). Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition and drug, but not less than annually.

- (2) The prescribing of an opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a). Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and opioid, but not less than annually."

Department of Health and Human Services: Guidance for Providers on the COVID-19 Group (*Updated as of* 12/30/21)

- "Coverage was expanded to include COVID 19 vaccine administration and certain treatment under the American Rescue Plan Act of 2021 (ARPA). The expanded coverage includes hospitalizations, emergency room visits, urgent care clinic visits, telemedicine visits, and office visits for the treatment of COVID-19.
- What services are covered under the new Medicaid Testing Group?

Covered testing services include telehealth or in-person visits for diagnostic evaluation of COVID-19,chest x-rays for the purpose of diagnosing COVID-19, specimen collection and testing for COVID-19 with PCR or antigen-based testing, antibody testing, and FDA approved saliva tests, including the new BinaxNOW Rapid Antigen Test Cards, and other point-of-care testing.

The expanded COVID-19 coverage group now covers services related to COVID-19 treatment, including hospitalizations, emergency room visits, urgent care visits, telemedicine visits, and office visits Per CMS guidance, covered treatment services include monoclonal antibody treatments and administration, FDA approved treatments for COVID-19 specific diagnoses and other clinical manifestations of COVID-19, as well as specialized equipment and therapies (including preventive therapies)."

New Hampshire House Bill No. 602: AN ACT relative to reimbursements for telemedicine (introduced 1/27/21)

- Removes audio-only telephone from the definition of telemedicine.
- "The Medicaid program shall provide coverage and reimbursement for health care services provided through telemedicine
- The combined amount of reimbursement that the Medicaid program allows for the compensation to the distant site and the originating site shall be no greater than that the total amount allowed for health care services provided in person.
- Medicaid Program Reimbursement. Amend RSA 167:4-d, III(e) to read as follows:

The Medicaid program shall provide reimbursement for all modes of telehealth, including video and audio, or other electronic media provided by medical providers to treat all members for all medically necessary services."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (5/12/20, 1/13/21)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Service coordination/Case management

Personal care services that only require verbal cueing

Residential habilitation

Day habilitation / Community participation

Community support services

Supported employment

Participant directed and managed services

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Consultation services

Specialty services"

Administrative Protocols for Fee-for-Service (FFS) program and Managed Care Organizations (MCO) during COVID-19 (*Updated as of* 7/21/20)

- This update describes the administrative protocols for fee-for-service, AmeriHealth Caritas New Hampshire, NH Healthy Families, and the Well Sense Health Plan (referred to as 'NH Medicaid Payers') that will remain in effect until rescinded, or until the State of Emergency is terminated by New Hampshire's Governor, whichever happens first:

For physical and behavioral health services for confirmed COVID-positive members and all other members, "NH Medicaid Payers do not require prior authorization for covered services; however, practitioners are ineligible to bill for services outside their scope of practice."

For durable medical equipment, prosthetics, orthotics and supplies (DME/POS) for confirmed COVID-positive members and all other members, "NH Medicaid Payers authorize fittings for assistive technologies through use of remote telehealth technology, whenever practical. However, when equipment measurement is required for complex fittings (e.g., wheelchair), telehealth remote technology is generally not appropriate.

Department of Health and Human Services: Medicaid Testing Eligibility Group FAQ (6/16/20)

- "What services are covered under the new Medicaid Testing Group?

Covered testing services include telehealth or in-person screening for the COVID-19 test, chest x-rays for the purpose of diagnosing COVID, specimen collection and testing, and antibody testing. This Medicaid eligibility group does not cover treatment or medication for COVID 19 and does not cover any other services other than the COVID 19 testing services."

Department of Health and Human Services: Joint Memo: COVID-19 Emergency Guidance for Adult Medical Day Services (5/8/20)

- "Q: What will Medicaid reimburse for these telehealth/ telephonic services?

A: Medicaid will pay a COVID-19 per diem rate equal to 100 % of the current rate for each day that has been authorized in the participant's plan of care. The AMDC is required to complete the telephonic or video chat services on those days and bill for the days authorized in the person's plan of care. For instance, a Participant may only be authorized for 3 days per week. In this case, the AMDC would perform telephonic or video contact on those authorized days and would bill three times a week.

- Q: Will the authorizations that were in place prior to closure be re-authorized for Participants who agree to participate in the telehealth model?

A: Yes. CFI Case Managers will work with participants and the AMDC agencies to re-authorize AMDC services."

Department of Health and Human Services: NH Medicaid to Schools Supplemental Fact Sheet COVID-19 Preparedness and Response (5/7/20)

- "This supplemental fact sheet is being issued in response to questions received from Medicaid to Schools billing agents around implementation of telehealth school- based services outlined in the Department's Telehealth Informational Bulletin dated April 1, 2020, for the Medicaid population during the COVID-19 state of emergency.
- All services provided via telehealth must be within the provider's professional scope of practice and He-W 589.04. The following provider types are eligible to provide telehealth services:

Occupational Therapists (OTs)

Physical Therapists (PTs)

Speech and Language Pathologists (SLPs)

Rehabilitation Assistants

Psychologists

Board Certified Behavior Analysts (BCBAs)

School Physicians

Psychiatrists

Advanced Registered Nurse Practitioners (APRNs) and Registered Nurses (RNs)

Licensed alcohol and drug counselors (LADC) and master licensed alcohol and drug counselor (MLADC) per He-W 513

Psychotherapists and Mental Health Practitioners

- Notification to NH Medicaid to transition an individual from face- to- face direct treatment to telehealth visits is not required.
- NH Medicaid pays the same rate as if the service was provided face- to- face."

Department of Health and Human Services: NH Medicaid Telehealth Billing Clarification for Annual and Well Child Visits (4/21/20)

- "The use of telemedicine and remote care services are critical to the safe management of the COVID-19 pandemic while also assuring uninterrupted care for Medicaid members. The April 1st informational bulletin cited one example in which an annual physical exam could not be billed and paid because not all of the components could be completed without being face-to-face. This statement was not intended to deny coverage for pediatric well health check-ups and other E/M office visit codes that can be performed via telehealth."

Department of Health and Human Services: NH Medicaid Telehealth Informational Bulletin (*updated as of* 4/1/20)

- This update expands the eligible provider types for telehealth services to include: "Certified Registered Nurse Anesthetists, Clinical Psychologists, Clinical Social Workers, Master's Level Psychiatric Nurses, School Psychologists licensed by the Board of Psychologists, Pastoral Psychotherapists, Marriage and Family Therapists, Clinical Mental Health Counselors, LADCs, MLADCs, and Certified Recovery Support Workers, Applied Behavior Analyst, Providers licensed by the Board of Mental Health Practice, Community Mental Health

Programs designated by the Department of Health and Human Services, Dietitians or Nutritional Professionals credentialed and enrolled as network providers with the MCOs and hospice providers."

Department of Health and Human Services: NH Medicaid Telehealth Informational Bulletin (3/27/20)

- "The following additional provider types are eligible to provide telehealth services given services are within their scope of practice as applicable: Federally Qualified Health Centers/ Rural Health Centers, Language Bank interpreters, Occupational therapists, Physical therapists, Speech and Language pathologists, Home Health Providers, Early Supports and Services Providers, Licensed Out-of-State Medical Providers in good standing per Emergency Order #15 Pursuant to Executive Order 2020-04
- Any service that would have previously been rendered and Medicaid covered as face- to- face may now be rendered via telehealth. This includes both medical services as well as behavioral health services.
- NH Medicaid pays the same rate as if the service was provided face- to- face."

Bureau of Elderly and Adult Services General Memorandum (3/27/20)

- "For which services are electronic service delivery methods (e.g. telephone, text, email, and videoconference) permitted?

Case Management services

Personal care services that only require verbal cueing

Monthly monitoring services (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers)

Other services may be considered in future guidance."

New Hampshire Medicaid Telehealth Fact Sheet during COVID-19 State of Emergency Declaration (3/18/20)

- "Emergency Order, effective immediately, expands the coverage of telehealth for Commercial insurance and Medicaid including for Managed Care Organizations (MCOs) in regards to eligible providers, originating site, and modality of telehealth platform. Telehealth reimbursement typically requires live video and audio, however, during the declared state of emergency period related to COVID-19 in New Hampshire, audio only telehealth is eligible for reimbursement."
- Eligible Providers: Physicians/Physician Assistants/APRNs/Clinical Nurse Specialists/Nurse Midwives, Certified Registered Nurse Anesthetists, Clinical Psychologists, Clinical Social Workers, Master's Level Psychiatric Nurses School Psychologists licensed by the Board of Psychologists, Pastoral psychotherapists, Marriage and Family Therapists, Clinical Mental Health Counselors LADCs, MLADCs, CRSWs, Applied Behavioral Analysts Providers licensed by the Board of Mental Health Practice, Community Mental Health Programs designated by the Department of Health and Human Services, Dentists, Registered Dietitians or Nutritional Professionals
- "There are no restrictions on originating sites, and may include a private residence."
- "Medicaid pays the same rate as if the service was provided face-to-face. Billing for the service delivered should follow routine practices as if the service was provided face-to-face, with the addition of a modifier GT indicating the service was provided via telehealth and indicate place of service (POS 02: Telehealth)."

NEW JERSEY

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

New Jersey Senate Bill No. 3604 (introduced 2/16/23)

- "(2) A pharmacy benefits manager shall not prohibit or apply any penalty or disincentive to a network pharmacy if a discounted price generated by a healthcare platform, as defined pursuant to section 2 of P.L.2003, c.280 (C.45:14-41), is applied to the payment of a covered person with an account or membership to the healthcare platform for a prescription drug, even if the covered person maintains health insurance coverage."

New Jersey Assembly Bill No. 4619 (introduced 9/22/22) / Senate Bill No. 3596 (introduced 2/13/23)

- "3. Section 10 of P.L.1997, c.331 (C.45:2D-10) is amended to read as follows:
  - c. Notwithstanding any other provision of law to the contrary, an alcohol and drug counselor-intern working in a substance use disorder treatment facility licensed by the Division of Mental Health and Addiction Services in the Department of Human Services shall be authorized to meet the supervised work experience requirements for certification as an alcohol and drug counselor through the provision of services using telemedicine and telehealth, as those terms are defined in section 1 of P.L.2017, c.117 (C.45:1-61), provided the intern…
- 7. Section 4 of P.L.1991, c.378 (C.45:9-27.13) is amended to read as follows:
  - f. Notwithstanding any other provision of law to the contrary, any person who has graduated from an accredited physician assistant training program may apply for a temporary license to practice as a physician assistant in New Jersey without the need to complete a criminal history record background check or pay any fees other than the standard licensure fee. A temporary license issued pursuant to this subsection shall authorize the person to practice as a physician assistant, and provide services both in person and using telemedicine and telehealth, until such time as the person is either issued a full physician assistant license or the person fails the physician assistant licensure examination, provided that the person…
- 9. Section 4 of P.L.1947, c.262 (C.45:11-26) is amended to read as follows:
  - g. Notwithstanding any other provision of law to the contrary, any person who has graduated from an accredited professional nurse training program may apply for a temporary license to practice as a professional nurse in New Jersey without the need to complete a criminal history background check or pay any fee other than the standard licensure fee. A temporary license issued pursuant to this subsection shall authorize the person to practice as a professional nurse, and provide services both in person and using telemedicine and telehealth, until such time as the person is issued a full professional nurse license or the person fails the professional nurse licensure examination, provided that the person…
- 10. Section 5 of P.L.1947, c.262 (C.45:11-27) is amended to read as follows:
  - f. Notwithstanding any other provision of law to the contrary, any person who has graduated from an accredited practical nurse training program may apply for a temporary license to practice as a practical nurse in New Jersey without the need to complete a

criminal history background check or pay any fee other than the standard licensure fee. A temporary license issued pursuant to this subsection shall authorize the person to practice as a practical nurse, and provide services both in person and using telemedicine and telehealth, until such time as the person is issued a full practical nurse license or the person fails the practical nurse licensure examination, provided that the person…

- 13. Section 20 of P.L.1966, c.282 (C.45:14B-20) is amended to read as follows:
  - (ii) a psychologist who is not licensed in New Jersey who provides in-person, face-to-face psychology services or telepsychology services in New Jersey pursuant to section 1 of P.L.2021, c.229 (C.45:14B-49) shall not be deemed to be practicing as a psychologist in New Jersey without holding a license issued pursuant to P.L.1966, c.282 (C.45:14B-1 et seq.).”

New Jersey Senate Bill No. 3216 (introduced 10/17/22)

- “1. As used in this act:
  - "Network" means those physicians who participate as in-network providers within a health benefits plan.
- 2. All networks shall have a sufficient number of physicians to ensure that 100 percent of covered persons reside no more than:
  - a. a 20 minute drive or 10 miles, whichever is less, from at least three primary care physicians within each type of primary care specialty as defined pursuant to section 1 of [this bill] and within the geographic boundaries of the State;
  - b. a 30 minute drive or 15 miles, whichever is less, from at least three office-based medical specialists within each specialty as defined pursuant to section 1 of [this bill] and within the geographic boundaries of the State; and
  - c. a 45 minute drive or 20 miles, whichever is less, from at least three hospital-based medical specialists within each specialty as defined pursuant to section 1 of [this bill] and within the geographic boundaries of the State.
- 3. a. Pursuant to section 2 of [this bill], a network shall have a sufficient number of physicians to:
  - (1) meet the health needs of covered persons;
  - (2) provide an appropriate choice of physicians sufficient to render services covered by the health benefits plan; and
  - (3) reasonably ensure that covered persons have timely access, as required pursuant to section 2 of [this bill] to in-network facilities.
- b. For purposes of determining whether a sufficient number of physicians are included in the network, the commissioner shall ensure that a carrier providing benefits for emergency services shall ensure that:
  - (1) requests for emergency care shall be triaged immediately or no later than one hour from the request for emergency care;
  - (2) requests for urgent care be provided within 24 hours of notification of the carrier;
  - (3) requests for a routine appointment be scheduled within two weeks; and
  - (4) requests for a routine physical examination be scheduled within three months.

- c. Nothing in [this bill] shall preclude a health benefits plan from offering services via telehealth or telemedicine, but services offered via telehealth or telemedicine shall not be counted toward compliance with network adequacy requirements of [this bill]."

New Jersey Assembly Bill No. 4485 (introduced 9/15/22)

- "1. As used in this act:
  - "Network" means those physicians who participate as in-network providers within a health benefits plan.
- 2. All networks shall have a sufficient number of physicians to ensure that 100 percent of covered persons reside no more than:
  - a. a 20 minute drive or 10 miles, whichever is less, from at least three primary care physicians within each type of primary care specialty as defined pursuant to section 1 of [this bill] and within the geographic boundaries of the State; and
  - b. a 30 minute drive or 15 miles, whichever is less, from at least three office-based medical specialists within each specialty as defined pursuant to section 1 of [this bill] and within the geographic boundaries of the State.
- 3.
  - a. Pursuant to section 2 of [this bill], a network shall have a sufficient number of physicians to:
    - (1) meet the health needs of covered persons;
    - (2) provide an appropriate choice of physicians sufficient to render services covered by the health benefits plan; and
    - (3) reasonably ensure that covered persons have timely access, as required pursuant to section 2 of [this bill], to in-network facilities.
  - c. Nothing in [this bill] shall preclude a health benefits plan from offering services via telehealth or telemedicine, but services offered via telehealth or telemedicine shall not be counted toward compliance with network adequacy requirements of [this bill]."

New Jersey Senate Bill No. 2703 (introduced 5/19/22)

- "1. Section 2 of P.L.2017, c.117 (C.45:1-62) is amended to read as follows:
- 2. a. Unless specifically prohibited or limited by federal or State law, a health care provider who establishes a proper provider-patient relationship with a patient may remotely provide health care services to a patient through the use of telemedicine, regardless of whether the health care provider is located in New Jersey at the time the remote health care services are provided. A health care provider may also engage in telehealth as may be necessary to support and facilitate the provision of health care services to patients."

New Jersey Assembly Bill No. 3582 (introduced 3/10/22)

- "a. The Commissioner of Health shall authorize licensed adult day health services facilities to provide adult day health services on a remote basis to enrollees of the facility who are unable or unwilling to receive services from the facility on an in-person basis. All services available from the facility on an in-person basis shall be made available remotely, provided the service can be safely and effectively provided on a remote basis.
- b. Remote services provided to an enrollee by an adult day health services facility under subsection a. of this section shall be billed for and subject to reimbursement at the same rate as would apply to those services when provided in person, provided the facility provides written documentation of each service provided and all remote services interactions are identified in the enrollee's care plan."

New Jersey Assembly Bill No. 3595 (introduced 3/14/22)

- "(a) A carrier that provides coverage for out-of-network mental health care services delivered through telemedicine or telehealth pursuant to paragraph (2) of this subsection shall provide coverage on the same basis as when the services are delivered through in-person contact and consultation in New Jersey and at a provider reimbursement rate of not less than the corresponding Medicaid provider reimbursement rate. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.
- (b) A carrier shall not charge any deductible, copayment, or coinsurance for a mental health care service, delivered through telemedicine or telehealth pursuant to paragraph (2) of this subsection, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person, in-network consultation."

New Jersey Assembly Bill No. 3488 (introduced 3/8/22)

- "If a health care facility is required by federal or State law to provide language interpretation services to patients who are not proficient in the English language or patients who are deaf or hard of hearing, the health care facility shall provide the required language interpretation services regardless of whether the health care facility is engaged in telemedicine, telehealth, or in person treatment."

New Jersey Assembly Bill No. 2193 (introduced 2/7/22)

- "The health care provider engaging in telemedicine or telehealth shall also refer the patient to appropriate follow up or complimentary care where necessary, [including making appropriate referrals for emergency or complimentary care, if needed] and shall make a good faith effort to directly contact and coordinate with emergency services in accordance with the standard of care and the written emergency care plan that is appropriate to the situation and to the services rendered through the telemedicine or telehealth visit. The emergency care plan shall pertain to areas where patients are located during a telemedicine or telehealth visit. A healthcare provider engaging in telemedicine or telehealth shall make a good faith effort to: provide the name and location of the patient to emergency services in oral and written form; determine the location of a patient if a patient is unaware of his or her location; and provide his or her contact information to emergency services. A healthcare provider engaging in telemedicine or telehealth shall report suicide attempts of patient during a telehealth or telemedicine visit to the Department of Health in a manner that is consistent with federal and State privacy laws emergency and document emergencies which occur during a telehealth or telemedicine visit. Consent may be implied, oral, written, or digital in nature, provided that the chosen method of consent is deemed appropriate under the standard of care."

New Jersey Senate Bill No. 846 (introduced 1/18/22)

- In no case shall a carrier:
- (1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth; or
- (2) restrict the ability of a provider to use any electronic or technological platform, including interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology without video capabilities, to provide services using telemedicine or telehealth that:
  - (a) allows the provider to meet the same standard of care as would be provided if the services were provided in person; and

  - (b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164.
- Telemedicine and telehealth systems shall include accessible communication features to facilitate the use of telemedicine and telehealth by individuals with a disability and individuals with a sensory impairment, including, but not limited to, individuals who are deaf, hard of hearing, visually impaired, blind, or deaf-blind."
- In no case shall the State Medicaid and NJ FamilyCare programs
- (1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth; or
- (2) restrict the ability of a provider to use any electronic or technological platform, including interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology without video capabilities, to provide services using telemedicine or telehealth that:
  - (a) allows the provider to meet the same standard of care as would be provided if the services were provided in person; and
  - (b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164."

New Jersey Assembly Bill No. 1946 (introduced 1/11/22)

- "2. a. Unless specifically prohibited or limited by federal or State law, a health care provider who establishes a proper provider-patient relationship with a patient may remotely provide health care services to a patient through the use of telemedicine, regardless of whether the health care provider is located in New Jersey at the time the remote health care services are provided."

New Jersey Senate Bill No. 606 (introduced 1/11/22)

- "The health care provider engaging in telemedicine or telehealth shall also refer the patient to appropriate follow up or complimentary care where necessary, [including making appropriate referrals for emergency or complimentary care, if needed] and shall make a good faith effort to directly contact and coordinate with emergency services in accordance with the standard of care and the written emergency care plan that is appropriate to the situation and to the services rendered through the telemedicine or telehealth visit. The emergency care plan shall pertain to areas where patients are located during a telemedicine or telehealth visit. A healthcare provider engaging in telemedicine or telehealth shall make a good faith effort to: provide the name and location of the patient to emergency services in oral and written form; determine the location of a patient if a patient is unaware of his or her location; and provide his or her contact information to emergency services. A healthcare provider engaging in telemedicine or telehealth shall report suicide attempts of patient during a telehealth or telemedicine visit to the Department of Health in a manner that is consistent with federal and State privacy laws emergency and document emergencies which occur during a telehealth or telemedicine visit.
- (e) establish requirements for emergency care plans to be used by providers who determine that a patient who is receiving services using telemedicine or telehealth is in need of emergency care services, which emergency care plans shall include standards and protocols for activating and coordinating with emergency care services providers serving the area in which the patient is located at the time of the telemedicine or telehealth encounter."

Executive Order No. 280 (passed 1/12/22)

- "A Public Health Emergency exists in the State of New Jersey and that the State of Emergency declared in Executive Order No. 103 (2020) remains in full force and effect
- 7. This Order shall take effect immediately."

New Jersey Senate Bill No. 2559 (passed 12/20/21)

- "11. a. For the period beginning on the effective date of P.L.2021, c.310 and ending on December 31, 2023, a health benefits plan in this State shall provide coverage and payment for health care services delivered to a covered person through telemedicine or telehealth at a provider reimbursement rate that equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered by the health benefits plan when delivered through in-person contact and consultation in New Jersey. The requirements of this subsection shall not apply to:
    - (1) a health care service provided by a telemedicine or telehealth organization that does not provide the health care service on an in-person basis in New Jersey; or
    - (2) a physical health care service that was provided through real-time, two-way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology, including through audio-only telephone conversation. The reimbursement rate for a physical health care service that is subject to this paragraph shall be determined under the contract with the provider; provided that the reimbursement rate for a physical health care service when provided through audio-only telephone conversation shall be at least 50 percent of the reimbursement rate for the service when provided in person.
    - (3) The provisions of paragraph (2) of this subsection shall not apply to a behavioral health service that was provided through real-time, two-way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology, including audio-only telephone conversation. A behavioral health care service described in this paragraph shall be reimbursed at a rate that equals the provider reimbursement rate for the service when provided in person."

New Jersey Assembly Bill No. 6239 (introduced 12/20/21)

- "(1) Telemedicine services shall be provided using interactive, real-time, two-way communication technologies, except that, in the case of a health care provider who is providing behavioral health care services using telemedicine, the behavioral health care services may be provided using audio-only technology.
- (2) A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of images, diagnostics, data, and medical information; except that the health care provider may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without video capabilities, if, after accessing and reviewing the patient's medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person.
- (3) The identity, professional credentials, and contact information of a health care provider providing telemedicine or telehealth services shall be made available to the patient during and after the provision of services. The contact information shall enable the patient to

contact the health care provider, or a substitute health care provider authorized to act on behalf of the provider who provided services, for at least 72 hours following the provision of services.

- (4) A health care provider engaging in telemedicine or telehealth shall review the medical history and any medical records provided by the patient. For an initial encounter with the patient, the provider shall review the patient's medical history and medical records prior to initiating contact with the patient, as required pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017, c.117 (C.45:1-63). In the case of a subsequent telemedicine or telehealth encounter conducted pursuant to an ongoing provider-patient relationship, the provider may review the information prior to initiating contact with the patient or contemporaneously with the telemedicine or telehealth encounter.
- This bill permits telemedicine services to be provided using audio-only technology when providing behavioral health care services.
- Ordinarily, telemedicine services may not be provided using, in isolation, audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission. Under the bill, a health care provider who is providing behavioral health care services using telemedicine may provide the services using audio-only technology."

New Jersey Senate Bill No. 4032: An Act concerning adult day health services and supplementing Title 26 of the Revised Statutes. (introduced 11/4/21)

- "The Commissioner of Health shall authorize licensed adult day health services facilities to provide adult day health services on a remote basis to enrollees of the facility who are unable or unwilling to receive services from the facility on an in-person basis. All services available from the facility on an in-person basis shall be made available remotely, provided the service can be safely and effectively provided on a remote basis. The remote services that a facility may provide may include, but shall not be limited to:
    - (1) daily wellness checks conducted using telemedicine or telehealth that include screenings for, and the assessment of, the enrollee's current needs and status, which may include screenings for:
        - (a) food insecurity;
        - (b) the need for assistance with self-care and activities of daily living;
        - (c) medication supply and adherence to daily medication regimens;
        - (d) the signs or symptoms of physical illness, including infection with a communicable disease, along with the need to arrange medical care or treatment for the illness;
        - (e) changes in the enrollee's home environment; and
        - (f) changes in the enrollee's mood or behavior;"

N.J. Admin. Code § 8:53-2.1 Telemedicine or telehealth organization registration (8/16/21)

- "(a) A telemedicine or telehealth organization, whether operating as a distant site, originating site, or both, shall register with the Department prior to providing services in the State.
- (b) The Department shall issue a registration for a telemedicine or telehealth organization provided that the:

- Telemedicine or telehealth organization fully and accurately completes the registration application which is on the telehealth/telemedicine (TH) application portal at the Department's licensing website at https://dohlicensing.nj.gov/.

- (c) A registration is valid for one year and is subject to the annual renewal registration and fees, as set forth at N.J.A.C. 8:53-2.2.
- (d) A telemedicine or telehealth organization that provides services in New Jersey without first obtaining a registration from the Program shall be subject to an enforcement action as set forth at N.J.A.C. 8:53-3.1.
  - 1. Telemedicine or telehealth organizations providing services in New Jersey as of August 16, 2021, shall submit a registration application within 60 days from August 16, 2021, or cease providing telehealth or telemedicine services.
    - i. A telehealth or telemedicine organization providing services as of August 16, 2021, that continues to operate without registering within 60 days of August 16, 2021, will be subject to the enforcement actions set forth at N.J.A.C. 8:53-3.1."

Executive Order No. 244 (6/4/21)

- "The Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., is hereby terminated.
- The State of Emergency declared in Executive Order No. 103 (2020) pursuant to N.J.S.A. App.A.:9-33 et seq. continues to exist in the State of New Jersey.
- This Order shall take effect immediately."

Division of Consumer Affairs: AG Grewal Announces New Regulatory Actions to Establish Permanent Standards for the Provision of Health Care Services through Telemedicine (4/9/21)

- "Attorney General Gurbir S. Grewal today announced four new rule proposals aimed at establishing permanent standards for practitioners of several licensing boards and committees who provide health care services through telemedicine.
- The availability of telehealth services has been critical in expanding access to essential care during the current public health emergency, and the use of telecommunication technology has helped reduce in-person encounters that could spread COVID-19.
- The rule proposals published in the New Jersey Register on March 15, 2021, put in place a robust, clear regulatory infrastructure to guide the continued use of telemedicine and to protect the health, safety and welfare of New Jerseyans. These new proposed rules, which follow similar regulatory actions from other professional boards, will remain in effect even after the current public health emergency ends, ensuring long-term, broad-based access to telehealth care in New Jersey."

Department of Human Services Division of Aging Services: COVID-19 Policy Guidance for Long-Term Care Medicaid Certified Facilities: Continued Suspension of Clinical Eligibility Determinations; PASRR Resident Review Requirements Post Admission (3/22/21)

- Face-to-face assessment, reassessment, transfer requests, and I Choose Home/Money Follows the Person activities will be replaced with telephonic processes for the most critical functions to the greatest extent possible

New Jersey Assembly Bill No. 4881 (engrossed 3/25/21)

- There is established the New Jersey Task Force on Long-Term Care Quality and Safety, which shall be tasked with developing recommendations to make changes to the long-term system of care to drive improvements in person-centered care, resident and staff safety, improvements in quality of care and services, workforce engagement and sustainability, and any other appropriate aspects of the long-term system of care in New Jersey as the task force elects to review. The task force shall specifically focus on:

Broader reforms to the long-term system of care, including developing technology requirements to enable enhanced use of telemedicine and telehealth, instituting workforce engagement and advancement models including career laddering options and structures, increasing the use of Medicaid managed care to drive improvements in quality and oversight of nursing homes, and establishing acuity adjustments for Medicaid managed care payments to nursing homes.

New Jersey Assembly Bill No. 5255: An Act concerning telemedicine and telehealth and amending P.L.2017, c.117. (introduced 1/12/21)

- A carrier that offers a health benefits plan in this State shall provide coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that [does not exceed] equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.
- A carrier may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation.
- The State Medicaid and NJ FamilyCare programs shall provide coverage and payment for health care services delivered to a benefits recipient through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that [does not exceed] equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

Division of Consumer Affairs Expands Access to Telemedicine Services, Including for Those Suffering from Chronic Pain and Those Who Qualify for Medical Marijuana (8/11/20)

- "Notwithstanding N.J.A.C. 13:35-7.6(b)2, N.J.A.C. 13:37-7.9A(b)(2), N.J.A.C. 13:30-8.18(d)2, and N.J.A.C. 13:38-2.5(b)2, which require a health care professional to conduct an examination appropriate to the health care professional's specialty when prescribing, dispensing, or administering controlled dangerous substances, health care professionals may utilize a telemedicine encounter to conduct such encounter, if consistent with the standard of care and paragraph 4 of this Order.
- Notwithstanding N.J.A.C. 13:35-7.6(f)2, N.J.A.C. 13:37-7.9A(f)2, N.J.A.C. 13:30- 8.18(h)2, and N.J.A.C. 13:38-2.5(f)2, which require a health care professional to assess the patient prior to issuing each prescription to determine whether the patient is experiencing problems

associated with physical and psychological dependence, health care professionals may utilize a telemedicine encounter to conduct such assessment, if consistent with the standard of care and paragraph 4 of this Order.

- Notwithstanding N.J.S.A. 45:1-62(e) and N.J.A.C. 13:35-6B.6(c), and consistent with federal law, a telemedicine encounter between a health care professional and a patient can be utilized, preceding the issuance of a prescription for a Schedule II CDS, without an initial in-person examination, but only if:

a. Conducting the encounter via telemedicine is otherwise consistent with the standard of care;

b. The prescription is issued for a legitimate medical purpose by the health care professional acting in the usual course of his/her professional practice;

c. The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and

d. The health care professional is acting in accordance with applicable federal and State law.

- Notwithstanding N.J.A.C. 13:35-7A.4, which sets forth the requirements for physician issuance of a certification for the medical use of cannabis, including a requirement for a comprehensive medical history and physical examination of the patient to determine whether the patient suffers from a qualifying medical condition as set forth at N.J.S.A. 24:6I-3, a physician issuing a certification for the use of medical cannabis may utilize a telemedicine encounter to satisfy these requirements, if consistent with the standard of care, subject to the following conditions"

New Jersey Senate Bill No. 2467: An Act concerning the use of telemedicine and telehealth and amending (passed 7/1/20)

- "For the duration of the public health emergency declared pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) and the state of emergency declared pursuant to Executive Order No. 103 of 2020 in response to coronavirus disease 2019 (COVID-19), and for a period of 90 days following the end of both the public health emergency and the state of emergency, any health care practitioner shall be authorized to provide and bill for services using telemedicine and telehealth, which may include all services included in the definitions of telemedicine and telehealth set forth in section 1 of P.L.2017, c.117 (C.45:1-61) to the extent appropriate under the standard of care, which services may be provided regardless of whether rules and regulations concerning the practice of telemedicine and telehealth have been adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). A health care practitioner who is not licensed or certified to provide health care services pursuant to Title 45 of the Revised Statutes may provide telemedicine and telehealth services pursuant to this section…"

Department of Insurance: Bulletin No. 20-19 Use of Telemedicine and Telehealth During the COVID-19 Pandemic – Personal Injury Protection Coverage (4/24/20)

- "Effective immediately and continuing for the duration of the state of emergency and public health emergency declared pursuant to EO 103, the Department is requiring that PIP carriers:

review or establish their telemedicine and telehealth networks to ensure adequacy given the increased demand;

encourage network providers to utilize telemedicine or telehealth services wherever possible and clinically appropriate to diagnose and treat PIP injuries during the ongoing public health emergency;

update their procedures to include reimbursement for telehealth services that are provided by a provider in any manner that is practicable and appropriate, including by telephone. PIP carriers should disseminate information on their website, or other reasonable means, to notify individuals of these updates. This would include the use of telephone-only communications to establish a physician-patient relationship and the expanded use of telehealth for the diagnosis, treatment, ordering of tests, and prescribing. PIP carriers are required to update telehealth policies to include telephone-only services within the definition of telehealth;

reimburse providers that deliver covered services to claimants via telemedicine or telehealth in accordance with this guidance.

ensure that the payment to providers for services delivered via telemedicine or telehealth are not lower than would typically be paid for services rendered via traditional (i.e., in person) methods, and PIP carriers must notify providers of any instructions that are necessary to facilitate billing for such telehealth services;

may not impose any restriction on the reimbursement for telehealth or telemedicine that requires that the provider who is delivering the services be licensed in a particular state, so long as the provider is in compliance with P.L. 2020, c. 4 and this guidance; and

may not impose additional prior authorization requirements on medically-necessary treatment that is delivered via telemedicine or telehealth, instead of via traditional methods, during this public health emergency."

Department of Insurance: COVID-19 and Telehealth and Telemedicine Frequently Asked Questions (4/22/20)

- "Will my insurance cover telehealth visits?

Your coverage will depend on your specific health insurance plan. For the duration of the state of emergency and public health emergency declared by Governor Murphy, fully insured health plans issued in New Jersey must cover, without cost-sharing (i.e., copayments, deductibles, or coinsurance), any healthcare services or supplies delivered or obtained via telemedicine or telehealth as required by a recently enacted law, P.L. 2020, c.7. The Department of Banking and Insurance is requiring that rates of payment by insurers to in-network providers for services delivered via telemedicine or telehealth are not lower than the rates of payment established by the carrier for the same services when delivered in-person. Other types of coverage, such as Medicare, the State Health Benefits Plan and the School Employees Health Benefits Plans, and other self-funded health benefits plans may have different rules.

- Will services be covered the same if I visit an in-network or an out-of-network provider?

For fully insured health plans, telehealth and telemedicine services are covered without cost sharing to the consumer for services by in-network providers. Additionally, if an in-network provider is not available, carriers must grant an in-plan exception and allow the consumer to see an out-of-network provider without cost sharing. Therefore, if you have a network-based plan and cannot access an in-network provider for telehealth services, you should consult your health insurer to determine your options for out-of-network services without cost sharing. If you have a plan with out-of-network benefits and wish to see an out-of-network provider and do not request an in-plan exception, your plan should cover out-of-network telehealth services as if those services were provided in-person and out-of-network cost sharing will apply."

Guidance Regarding Telemedicine/Telehealth and Telecommunication Support Services for Behavioral Health Provider Agencies Dealing with COVID-19 (4/22/20)

- "The Division of Mental Health and Addiction Services (Division) is recommending that Mental Health (MH) and Substance Use Disorder (SUD) provider agencies (PAs) consider providing programming through telemedicine/telehealth to the extent practicable and where appropriate."

Department of Human Services COVID-19 Policy Guidance: Temporary Adjustment to Allow Telehealth for Partial Care and Partial Hospitalization Services (4/13/20)

- "Structured day programs consist primarily of group services intended to promote socialization. While group activities are contraindicated during this COVID-19 crisis, most of the services that are included in structured day programs can be provided safely, on an individual basis, via telehealth. The Division of Mental Health and Addiction Services' standards for partial care programs (N.J.A.C. 10:37F-2.5) identifies the services that should be included in structured day programs. The following services can be provided through telehealth:

Care management for a range of services to effectively address the holistic needs of the consumer

Engagement strategies to connect with consumers over time to develop and enter into supportive, therapeutic relationships

Illness Management and Recovery to help consumers collaborate with practitioners to identify and pursue personally meaningful recovery goals Page 2 of 3 Proprietary

Coping skills, adaptive problem solving, and social skills training to self-manage symptoms, personal stress and to strengthen life skills and abilities

Psycho-education to provide factual information, recovery practices, and evidence-based models concerning mental illness that instills hope and emphasizes the potential for recovery

Development of a comprehensive relapse prevention plan to offer skills training and individualized support focused on self-management of mental illness and other aspects of recovery to reduce the severity and distress of symptoms

Wellness activities for self-identified recovery goals

Skill development to facilitate consumer-directed recovery and re-integration into valued community living, learning, working and social roles by developing critical competencies and skills

Medication-related services including medication counseling and education for beneficiaries, and other caregivers regarding adverse drug reactions, potential side effects and established procedures for responding to crisis situations."

Department of Human Services Requirements and Inclusion of Teledentistry and Revisions to the Requirements for Consultations (April 2020)

- "Effective for claims with dates of service on or after March 21, 2020 and continuing until further notice the Division of Medical Assistance and Health Services (DMAHS) will include synchronous teledentistry (CDT code D9995 with lifted HIPAA compliance requirements) to allow the use of audio–visual platforms and telephonic devices for dental consultation for emergent or urgent dental care.

- The teledentistry code must always be billed with an appropriate evaluation code and the combined services are allowed once per member per date of service.
- When the encounter for assessment is via an audio-visual platform, the code for Teledentistry, D9995 shall also be billed with the combined services allowed once per member per date of service. The teledentistry code must always be billed with the assessment code."

New Jersey A.B. 3843: AN ACT concerning health insurance and Medicaid coverage and coronavirus disease 2019 and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1997, c.192 (C.26:2S-1 et seq.). (passed 3/20/20)

- During the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020, the State Medicaid and NJ FamilyCare programs shall provide coverage and payment for expenses incurred in:

(1) the testing for coronavirus disease 2019, provided that a licensed medical practitioner has issued a medical order for that testing; and

(2) the delivery of health care services through telemedicine or telehealth in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

- The coverage shall be provided to the same extent as for any other health care services, except that no cost-sharing shall be imposed on the coverage provided pursuant to this section.

Department of Human Services Guidance Utilization of Telehealth/Telemedicine by Psychiatric Emergency Screening Service Providers (3/27/20)

- "Pursuant to NJAC 10:31-2.3(f)2i and -2.3(i), the designated PESS provider may provide psychiatric assessments through telehealth/telemedicine."

Department of Human Services COVID-19 and Opioid Treatment Program Guidance (3/24/20)

- "Telehealth options for continued prescribing and/or counseling in times of emergency or disaster should be utilized to the extent possible, maintaining standards for patient confidentiality. In order to reduce patient attendance and volume at OTPs, group counseling should be curtailed and in-person individual and other meetings should be curtailed or provided by way of telehealth. New guidance from Medicaid (NJ FamilyCare) includes payment for telephonic and video conferences conducted by a range of staff utilizing technology not previously allowed for telehealth, such as Skype. As noted, agencies shall also make remote contacts through telephone and other means for remote patient monitoring, as noted."

Department of Banking and Insurance Bulletin No. 20-07: Use of Telemedicine and Telehealth to Respond to the COVID-19 Pandemic (3/22/20)

- "Department is requiring that carriers:

Review their telemedicine and telehealth networks to ensure adequacy, given the apparent increased demand, as well as grant any requested in-plan exceptions for individuals to access out-of-network telehealth providers if network telehealth providers are not available, including, but not limited to, mental health and behavioral health providers, physical therapists, occupational therapists, and speech therapists, and any

other health providers capable and authorized to provide telehealth or telemedicine services pursuant to State law or other State-issued guidance;

Cover, without cost-sharing (i.e., copayments, deductibles, or coinsurance), any healthcare services or supplies delivered or obtained via telemedicine or telehealth as required by P.L. 2020, c. 7; 2

Encourage their network providers to utilize telemedicine or telehealth services wherever possible and clinically appropriate in order to minimize exposure of provider staff and other patients to those who may have the COVID-19 virus;

Update their policies to include reimbursement for telehealth services that are provided by a provider in any manner that is practicable, including, if appropriate, and clinically appropriate, by telephone…Carriers are required to update telehealth policies to include telephone-only services within the definition of telehealth;

Carriers are not permitted to impose any specific requirements on the technologies used to deliver telemedicine and/or telehealth services (including any limitations on audio-only or live video technologies) during the state of emergency and public health emergency declared pursuant to EO 103;

Ensure that the rates of payment to in-network providers for services delivered via telemedicine or telehealth are not lower than the rates of payment established by the carrier for services delivered via traditional (i.e., in-person) methods…"

Governor Murphy Announces Departmental Actions to Expand Access to Telehealth and Tele-Mental Health Services in Response to COVID-19 (3/22/20)

- "The Department of Human Services, Division of Medical Assistance and Health Services is directing the Medicaid Managed Care Organizations and for the Medicaid Fee for Service Program that MCOs and Medicaid/NJ FamilyCare will:

Provide reimbursement to providers for telehealth, including tele-mental health services, in the same manner as for face-to-face services as long as the services are performed to the same standard of care as if the services were rendered in-person.

Waive site of service requirements for telehealth, allowing NJ licensed clinicians (such as physicians, nurse practitioners, clinical psychologists, and licensed clinical social workers) to provide telehealth from any location and allowing individuals to receive services via telehealth from any location.

Permit use of alternative technologies for telehealth such as telephonic and video technology commonly available on smart phones and other devices.

- Department of Banking and Insurance is directing carriers in the individual, small and large group markets to:

Review their telemedicine and telehealth networks to ensure adequacy, given the apparent increased demand, as well as grant any requested in-plan exceptions for individuals to access out-of-network telehealth providers if network telehealth providers are not available, including, but not limited to, mental health and behavioral health providers, physical therapists, occupational therapists, and speech therapists, and any other health providers capable and authorized to provide telehealth or telemedicine services pursuant to State law or other State-issued guidance.

Cover, without cost-sharing any healthcare services or supplies delivered or obtained via telemedicine or telehealth.

Ensure that the rates of payment to in-network providers for services delivered via telemedicine or telehealth are not lower than the rates of payment established by the carrier for services delivered via traditional (i.e., in-person) methods.

Allow for telephonic telehealth services and flexibility in the specific technology used to deliver the services."

Governor Murphy's Telehealth Legislation, signs two Coronavirus bills around telemedicine into law (3/19/20):

- A3843: "Requires health insurance and Medicaid coverage for testing of coronavirus disease 2019 and for telemedicine and telehealth during coronavirus disease 2019 state of emergency." *3843 was confirmed to have passed* here.
- A3860: "…authorizes any health care practitioners to provide telemedicine and telehealth services for the duration of the public health emergency declared by Governor Murphy and directs the Commissioner of Health and the Director of Consumer Affairs to waive any requirements in law or regulation necessary to facilitate the provision of healthcare services using telemedicine and telehealth during the emergency."

New Jersey Division of Pension and Benefits will have no cost, 24/7 access to licenses nurses through the Horizon Blue app, secure member portal, or by phone (March 2020)

State Licensure Laws, Policy, and Guidance

New Jersey Assembly Bill No. 2193 (engrossed 2/28/23)

- "The health care provider engaging in telemedicine or telehealth shall also refer the patient to appropriate follow up or complimentary care where necessary, [including making appropriate referrals for emergency or complimentary care, if needed] and shall make a good faith effort to directly contact and coordinate with emergency services in accordance with the standard of care and the written emergency care plan that is appropriate to the situation and to the services rendered through the telemedicine or telehealth visit."
- "The emergency care plan shall pertain to areas where patients are located during a telemedicine or telehealth visit. A healthcare provider engaging in telemedicine or telehealth shall make a good faith effort to: provide the name and location of the patient to emergency services in oral and written form; determine the location of a patient if a patient is unaware of his or her location; and provide his or her contact information to emergency services."
- "A healthcare provider engaging in telemedicine or telehealth shall report suicide attempts of patient during a telehealth or telemedicine visit to the Department of Health in a manner that is consistent with federal and State privacy laws emergency and document emergencies which occur during a telehealth or telemedicine visit. "
- "Consent may be implied, oral, written, or digital in nature, provided that the chosen method of consent is deemed appropriate under the standard of care."

New Jersey Senate Bill No. 3236 (introduced 10/27/22)

- "Section 1. Purpose
  - The purpose of this Compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language

pathology occurs in the state where the patient, client, or student is located at the time of the encounter with the patient, client, or student. This compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This compact is designed to achieve the following objectives:
    - g. Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.
- Section 5. Compact Privilege to Practice Telehealth
    - Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with section 3 of this compact and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission."

New Jersey Senate Bill No. 3061 (introduced 9/29/22)

- "1. The State of New Jersey enacts and enters into the Counseling Compact with all other jurisdictions that legally join the compact in the form substantially as follows:
    - Section 7. Compact Privilege to Practice Telehealth
        - a. Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with section 3 of this compact and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.
        - b. A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state."

New Jersey Assembly Bill No. 4629 (introduced 9/22/22)

- "1. The State of New Jersey enacts and enters into the Audiology and Speech-Language Pathology Interstate Compact with all other jurisdictions that legally join the compact in the form substantially as follows:
    - Section 5. Compact Privilege to Practice Telehealth
        - Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with section 3 of this compact and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission."

New Jersey Senate Bill No. 321 (introduced 1/11/22)

- "n. A person who resides in another jurisdiction of the United States or in another country and has provided services as a mental health professional for at least 10 years shall, at the discretion of the applicable board or State entity, be licensed to provide services in the same mental health profession in this State using telehealth and telemedicine without
- (1) taking an on-line jurisprudence course or orientation, as provided under subsection j. of this section, if the person demonstrates, as determined by the applicable board or State entity, compliance with P.L.2017, c.117 (C.45:1-61 et seq.);

- (2) immediately designating an agent in New Jersey, as required under subsection b. of this section;
- (3) submitting documentation verifying the person's education, training, and examination results, as required under subsection b. of this section; and
- (4) establishing an online account, as is permitted in P.L.2017, c.298 (C.45:1-15.7).
- A person licensed pursuant to subsection n. of this section shall have up to one year to designate an agent for service of process in New Jersey and to submit the documentation verifying the person's education, training, and examination results. Any law establishing that an online account is required for applicants to a board or other entity regulated under Title 45 shall not be applicable to applicants seeking licensure under subsection n. of this section. A person licensed pursuant to subsection n. of this section shall be provided an option to fill out online the necessary documentation without creating an account.
- o. A person licensed by this State pursuant to subsection n. of this section shall provide, each biennial renewal period, a minimum of 40 hours of therapy services on a volunteer basis to individuals in this State using telehealth or telemedicine including, but not limited to, the following:
- (1) low-income patients who are not covered by any public or private third-party payer; and
- (2) low-income or underinsured individuals or individuals in crisis who currently receive services through an organization that provides mental health services."

New Jersey Senate Bill No. 4139 (passed senate and house 1/10/22)

- "Temporary emergency reciprocal license" means a license issued by the division, pursuant to a waiver approved by the division under the authority of Executive Order No. 103 of 2020, to a health care professional licensed in a state other than New Jersey, 1[and]1 which license authorizes the health care professional to fully engage in the practice of that person's profession in New Jersey, both in person and using telemedicine and telehealth, without requiring full licensure by a licensing board within the division.
- (1) For the period commencing on the effective date of this act through June 30, 2022, any group 2 health care professional may apply to the division for a temporary emergency reciprocal license, which license, if approved, shall authorize the professional to practice in New Jersey under the same terms and conditions as apply to a temporary emergency reciprocal license issued under the waiver approved by the division under the authority of Executive Order No. 103 of 2020 authorizing the issuance of temporary emergency reciprocal licenses. The requirements and criteria for issuance of a temporary emergency reciprocal license pursuant to this paragraph shall be the same as for a temporary emergency reciprocal license issued under the waiver approved by the division under the authority of Executive Order No. 103 of 2020 authorizing the issuance of temporary emergency reciprocal licenses. A group 2 health care professional issued a temporary emergency reciprocal license pursuant to this paragraph shall be authorized to practice under the license through June 30, 2022."

New Jersey Senate Bill No. 4283: An Act concerning the licensure of certain out-of-State mental health professionals and amending P.L.2013, c.182 (C.45:1-7.5 et seq.). (introduced 12/16/21)

- "A person who resides in another jurisdiction of the United States or in another country and has provided services as a mental health professional for at least 10 years shall, at the discretion of the applicable board or State entity, be licensed to provide services in the same mental health profession in this State using telehealth and telemedicine without:
    - (1) taking an on-line jurisprudence course or orientation, as provided under subsection j. of this section, if the person demonstrates, as determined by the applicable board or State entity, compliance with P.L.2017, c.117 (C.45:1-61 et seq.);
    - (2) immediately designating an agent in New Jersey, as required under subsection b. of this section;
    - (3) submitting documentation verifying the person's education, training, and examination results, as required under subsection b. of this section; and
    - (4) establishing an online account, as is permitted in P.L.2017, c.298 (C.45:1-15.7).
- A person licensed by this State pursuant to subsection n. of this section shall provide, each biennial renewal period, a minimum of 40 hours of therapy services on a volunteer basis to individuals in this State using telehealth or telemedicine including, but not limited to, the following:
    - (1) low-income patients who are not covered by any public or private third-party payer; and
    - (2) low-income or underinsured individuals or individuals in crisis who currently receive services through an organization that provides mental health services."

New Jersey Senate Bill No. 5988 (introduced 11/15/21)

- "A person who resides in another jurisdiction of the United States or in another country and has provided services as a mental health professional for at least 10 years shall, at the discretion of the applicable board or State entity, be licensed to provide services in the same mental health profession in this State using telehealth and telemedicine without:

(1) taking an on-line jurisprudence course or orientation, as provided under subsection j. of this section, if the person demonstrates, as determined by the applicable board or State entity, compliance with P.L.2017, c.117 (C.45:1-61 et seq.);

(2) immediately designating an agent in New Jersey, as required under subsection b. of this section;

(3) submitting documentation verifying the person's education, training, and examination results, as required under subsection b. of this section; and

(4) establishing an online account, as is permitted in P.L.2017, c.298 (C.45:1-15.7).

- A person licensed by this State pursuant to subsection n. of this section shall provide, each biennial renewal period, a minimum of 40 hours of therapy services on a volunteer basis to individuals in this State using telehealth or telemedicine including, but not limited to, the following:

(1) low-income patients who are not covered by any public or private third-party payer; and

(2) low-income or underinsured individuals or individuals in crisis who currently receive services through an organization that provides mental health services."

New Jersey Senate Bill No. 4139 (introduced 11/12/21)

- "Temporary emergency reciprocal license" means a license issued by the division, pursuant to a waiver approved by the division under the authority of Executive Order No. 103 of 2020, to a health care professional licensed in a state other than New Jersey, and which license authorizes the health care professional to fully engage in the practice of that person's profession in New Jersey, both in person and using telemedicine and telehealth, without requiring full licensure by a licensing board within the division.

Notwithstanding any other provision of law to the contrary, a group 2 health care professional practicing in New Jersey under a temporary emergency reciprocal license on the effective date of this act shall be authorized to continue practicing, under the same terms and conditions as applied under that temporary emergency reciprocal license, for a period of 60 days following the end of the federal public health emergency declared in response to the coronavirus disease 2019 (COVID-19) pandemic."

AG Grewal, Division of Consumer Affairs Announce Actions to Expand Access to Mental Health, Substance Abuse Services During COVID-19 Pandemic (7/15/20)

- "In a series of recent actions, the Division took steps to expand New Jersey's mental health workforce and access to treatment by:

creating a new pathway for alcohol and drug counselor-interns to provide telehealth and telemedicine services by obtaining a temporary certification

A new program will grant temporary certifications to alcohol and drug counselor-interns, to allow them to provide much-needed telehealth or telemedicine services during the pandemic, and help them accumulate supervised work experience required for attaining full certification […]

Prior to the temporary certification program announced today, these interns would not be allowed to provide alcohol and drug counseling services through telehealth or telemedicine under the State's telemedicine laws and regulations."

New Jersey ASSEMBLY No. 4179: An Act concerning telemedicine and telehealth and amending P.L.2017, c.117. (introduced 6/1/20)

- "This bill revises the telemedicine and telehealth law, P.L.2017, c.117 (C.45:1-1 et al.), to require health benefits plans, Medicaid and NJ FamilyCare, and the State Health Benefits Program (SHBP) and School Employees' Health Benefits Program (SEHBP), to provide expanded coverage for services provided using telemedicine and telehealth.
- Specifically, the bill requires that reimbursement for telemedicine and telehealth services be equal to the reimbursement rate for the same services when they are provided in person. Current law provides telemedicine and telehealth services may be reimbursed up to the amount at which the service would be reimbursed if provided in person.
- The bill also prohibits health benefits plans, Medicaid and NJ FamilyCare, and the SHBP and SEHBP from imposing "place of service" requirements on services provided using telemedicine and telehealth, and expressly allows health care providers to provide services using telemedicine and telehealth regardless of whether the provider is located in New Jersey when providing services, provided that the provider is otherwise licensed to practice health care in New Jersey.
- The bill prohibits health benefits plans, Medicaid and NJ FamilyCare, and the SHBP and SEHBP from placing restrictions on the electronic or technological platform used to provide telemedicine and telehealth, if the services provided when using that platform would meet the

in-person standard of care for that service, and if the platform is otherwise compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164."

Section 1135 Waiver Flexibilities (3/23/20)

- "New Jersey currently has the authority to rely upon provider screening that is performed by other State Medicaid Agencies (SMAs) and/or Medicare. As a result, New Jersey is authorized to provisionally, temporarily enroll providers who are enrolled with another SMA or Medicare for the duration of the public health emergency."
- If a certified provider is enrolled in Medicare or with a state Medicaid program other than New Jersey, New Jersey may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency.
- With respect to providers not already enrolled with another SMA or Medicare, CMS will waive the following screening requirements under 1135(b)(1) and (b)(2) of the Act, so the state may provisionally, temporarily enroll the providers for the duration of the public health emergency:

1. Payment of the application fee - 42 C.F.R. §455.460
2. Criminal background checks associated with Fingerprint-based Criminal Background Checks - 42 C.F.R. §455.434
3. Site visits - 42 C.F.R. §455.432
4. In-state/territory licensure requirements - 42 C.F.R. §455.412

- CMS is granting this waiver authority to allow New Jersey to enroll providers who are not currently enrolled with another SMA or Medicare so long as the state meets the following minimum requirements…"

Attorney General Gubrir S. Grewal (3/20/20):

- "New Jersey will waive a host of regulatory requirements for healthcare professionals licensed in other jurisdictions to become licensed in New Jersey and offer services to New Jersey residents, including telemedicine and telehealth services. The waivers will apply during the public health emergency related to COVID-19.
- These actions by DCA Acting Director Paul R. Rodríguez and the heads of nearly 20 professional licensure bodies within DCA will complement legislation signed by Governor Phil Murphy yesterday to expedite licensure by reciprocity and to make it easier for healthcare professionals to offer telemedicine and telehealth services during the current state of emergency."

Governor Murphy's Signs Legislation to Expand Telehealth Access and Expedite Licensure of Out-of-State Professionals (3/19/20):

- A3862: "…further expands access to health care during a declared state of emergency by allowing professional and occupational licensing boards to expedite licensure of out-of-state professionals during a state of emergency or a public health emergency. An individual applying for a specific license, certificate of registration or certification in New Jersey must have a corresponding license, certificate of registration or certification in another state in order to be eligible for expedited licensure. The legislation gives the Director of Consumer Affairs and the applicable licensing board the ability to temporarily waive licensing fees and certain licensing requirements."

Medicaid Law, Policy and Guidance Related to Telehealth

New Jersey SENATE No. 2436: An Act concerning testing for coronavirus disease 2019 and amending P.L.2020, c.71. (passed 9/30/20)

- During the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020, the State Medicaid and NJ FamilyCare programs shall provide coverage and payment for expenses incurred in: […]

(2) the delivery of health care services through telemedicine or telehealth in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

Department of Human Services Division of Developmental Disabilities: Temporary Service Modifications (8/6/20)

- Remote delivery, via telephone or other medium, is temporarily an option for these services: Behavioral Supports; Natural Supports Training; Career Planning; Occupational Therapy; Cognitive Rehabilitation; Physical Therapy; Community Based Supports; Prevocational Training (Individual and Group); Community Inclusion Services; Speech, Language & Hearing Therapy; Day Habilitation; Support Coordination; Goods and Services (Classes); Supported Employment-Individual Only**; Individual Supports – Hourly; Support Brokerage; Interpreter Services

COVID-19 Guidance for Congregate Care Residential Treatment Programs Contracted by The New Jersey Department of Children and Families (4/3/20)

- "The NJ Department of Human Services has issued telehealth guidance that applies to the delivery of physical and behavioral health care. As a result of these changes to the usual operation of the state's Medicaid-funded services, the following applies to Children's System of Care services: Clinical treatment service components of residential treatment services may be delivered using tele-health approaches provided that such approaches comply with applicable law, applicable regulation, and guidance provided by the NJ Department of Human Services, Division of Medical Assistance and Health Services including the March 21, 2020 Newsletter, which is enclosed here as Appendix D."

Division of Consumer Affairs – Telehealth Services during the COVID-19 Pandemic FAQs (4/3/20)

- "What technologies or devices can providers use to deliver telehealth and telemedicine?

During the state of emergency and public health emergency related to COVID-19, New Jersey has relaxed the usual technological requirements for providing telehealth and telemedicine. Providers may now use a broader range of communication tools, including audio-only telephone or video technology commonly available on smart phones and other devices. While providers now have the flexibility to use all available and appropriate technologies, they must ensure that their choice of communication tools allows them to meet the applicable standard of care.

- How can a provider establish a provider-patient/client relationship utilizing telehealth?

New Jersey law requires a provider to establish a proper provider-patient/client relationship to engage in telehealth, which includes exchanging certain identifying information. Providers should use clinical judgment to obtain relevant medical/health history and review patient/client records available to meet applicable standards of care.

- What are the requirements for documenting a telehealth visit?

The recordkeeping standards do not change based on the setting by which the patient/client is seen. Providers should ensure that items such as relevant findings, tests ordered, treatment recommendations, and consent are documented. Verification of a patient/client identity is extremely important in a telephone-only encounter. For example, collection of a patient or client driver's license number and comparison of the number to practice records is a possible method of identification. Appropriate and detailed patient/client records are needed to support billing for services. Board regulations regarding improper billing remain in effect. "Improper" means the billing is false, fraudulent, misrepresents services provided, or otherwise does not meet professional standards. Complete medical record documentation guards against such accusations. Finally, providers should review the elements of the CPT or other applicable code they expect to use and reflect those in the medical/client record.

- How does a provider obtain patient/client consent via telehealth?

A patient/client may give written or oral consent, and may do so in a digitized format, to the provider via telehealth. This consent must be documented in the patient/client record. 10.

- Can a provider prescribe medications via telehealth?

During the nationwide COVID-19 public health emergency, the U.S. Drug Enforcement Agency (DEA) is waiving some of its rules regarding the prescribing of controlled dangerous substances (CDS), Schedules II through V. At this time, DEA-registered practitioners in all areas of the United States may issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided all of the following conditions are met:…

- Can out-of-State providers use telehealth to treat patients/clients in New Jersey?

Out-of-State providers can obtain an accelerated temporary license in New Jersey to provide care in person or using telehealth."

Department of Human Services, Telehealth for Screening Services (3/27/20)

- "As a result of the ongoing public health emergency related to the outbreak of coronavirus (COVID-19), the Division of Mental Health and Addiction Services (DMHAS) acknowledges that your programs may use telemedicine to perform telescreening evaluations and telepsychiatry evaluations for the duration of the public health emergency. To assist your agency, DMHAS is providing the attached guidance and attestation to assist in moving your agencies to telehealth expeditiously in line with the New Telehealth/Telemedicine Law, P.L. 2017 c. 117 and P.L. 2020 c.3."

Department of Human Services, Temporary Telehealth Guidelines (3/21/20)

- "The State has waived any site of service requirements to allow licensed clinicians to provide telehealth from any location and individuals to receive services via telehealth at any location.
- Providers are permitted to use alternative technologies for telehealth such as an audio only telephone or video technology commonly available on smart phones and other devices.

- The State's telehealth laws require a provider to establish a proper provider-patient relationship to engage in telehealth. While a provider and patient must exchange certain identifying information to establish such a relationship, a provider is no longer required to review a patient's medical history and medical records prior to an initial telehealth encounter."

Governor Murphy announces efforts to support consumer access to COVID-19 screening, testing, and testing-related services, including increasing access to telehealth services (3/10/20)

- The NJ FamilyCare program will encourage providers to use telehealth for routine visits when telehealth options are available

NEW MEXICO

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Executive Order 2022-004 (renewed 1/7/22)

- "In consultation with the New Mexico Department of Health, I have determined that the statewide public health emergency proclaimed in Executive Order 2020-004, and renewed in Executive Orders 2020-022, 2020-026, 2020-030, 2020-036, 2020-053, 2020-55, and 2020-059, 2020-064, 2020-073, 2020-080, 2020-085, 2021-001, 2021-004, 2021-010, 2021-011, 2021-012, 2020-023, 2021-030, and 2021-044 shall be renewed and extended through February 4, 2022.
- All other powers, directive, and orders invoked in Executive Order 2020-004 remain in effect."

COVID-19 Specialty Behavioral Health Guidance (4/3/20)

- "This document serves as support and guidance for both Medicaid and non-Medicaid funded services. This document is NOT a mandate and is offered as a tool ONLY.
- Behavioral Health Telephonic Visits:

These services will be paid as if the member received services onsite and in person.

These visits will be considered as equivalent to in-person visits through the termination of the emergency declaration and counted toward HEDIS, NCQA, and other performance and target measures assigned by HSD.

Telephonic BH visits must be synchronous; that is, consisting of live voice conversation with the patient or family. Asynchronous or "store and forward" visits are not payable under this provision.

In-Home Telephone and Telehealth Any provider utilizing telephonic or telehealth services while they are home and/or while their clients are home should document the following:

  - Patient's location/address during the session
  - Patient's phone number

- Name(s) of other individual(s) in the home/outside contact person
- Phone numbers for above
- Who the patient would call for emergency services and that phone number
- Did the patient provider verbal consent for an in-home session?
- Did the patient acknowledge that the in-home session may use cellular data and result in a higher phone bill?"

Office of Superintendent of Insurance Bulletin (3/6/20)

- "Both your systems and those of network providers need to be able to bill and process the new COVID-19 billing codes (CMS). In addition, you should be encouraging network providers to utilize telehealth services to minimize exposure of provider staff and other patients to those who may have the virus."

State Licensure Laws, Policy, and Guidance

New Mexico House Bill No. 391 (introduced 2/13/23)

- "SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of this compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient, client or student is located at the time of the patient, client or student encounter.
- SECTION 6. [NEW MATERIAL] COMPACT PRIVILEGE TO PRACTICE TELEHEALTH.--Member states shall recognize the right of an audiologist or speech-language pathologist licensed by a home state in accordance with Section 4 of the Audiology and Speech-Language Pathology Interstate Compact and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission."

Section 1135 Waiver Flexibilities (3/23/20)

- "If a certified provider is enrolled in Medicare or with a state Medicaid program other than New Mexico, New Mexico may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency.
- With respect to providers not already enrolled with another SMA or Medicare, CMS will waive the following screening requirements under 1135(b)(1) and (b)(2) of the Act, so the state may provisionally, temporarily enroll the providers for the duration of the public health emergency:

1. Payment of the application fee - 42 C.F.R. §455.460
2. Criminal background checks associated with Fingerprint-based Criminal Background Checks - 42 C.F.R. §455.434
3. Site visits - 42 C.F.R. §455.432
4. In-state/territory licensure requirements - 42 C.F.R. §455.412

- CMS is granting this waiver authority to allow New Mexico to enroll providers who are not currently enrolled with another SMA or Medicare so long as the state meets the following minimum requirements"

Executive Order 2020-004 (3/11/20)

- "The Department of Health and the Department of Homeland Security and Emergency Management shall credential out-of-state professionals who can render aid and necessary services during the pendency of this order."

Medicaid Law, Policy and Guidance Related to Telehealth

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (10/26/20)

- "Effective July 1, 2020 – January 26, 2021 Telehealth options will be delivered in accordance with HIPAA including the good faith provisions of telehealth under HIPAA during the COVID-19 public health emergency. To support participants' engagement with their community in a manner that is in line with recent public health orders, allow for up to 100% remote based services as needed for group day services. Providers must create and provide a schedule that includes curriculum, dates, start times and end times and can only be billed from the start time of the class/session to the end time of the class/session. [..]
- Behavior Support Consultation (BSC):

Face-to-face visits may be provided by telehealth option or phone visits in accordance with HIPAA requirements. This includes assessment, monitoring or follow up. All interactions will be documented as required according to policy.

BSC is intended to improve the ability of the unpaid caregiver and Direct Supports Professional to carry out therapeutic interventions. Trainings and demonstrations of competency may be done by telehealth or telephone as needed in accordance with HIPAA requirements.

- The state will allow the Community Supports Coordinator (CSC) (i.e. case manager) to facilitate person centered planning electronically using a video visit whenever possible and otherwise occurring telephonically."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (8/31/20)

- "Additionally, for the following services, immediate rate increases based on the State's 2019 rate study will be in effect to enable the provider to maintain the workforce due to increased risk to therapists and behavior support consultants who are required to support COVID-19 positive members and to cover additional expenditures for cleaning and PPE. Therapy clinicians and behavior support consultants have added necessary technology to support telehealth. Rate increases will be temporary during the pandemic. Effective: 7/1/2020 – 9/30/2020"

Special COVID-19 Letter of Direction #13: Special Provisions for Telehealth Services during the COVID-19 emergency (*updated as of* 8/4/20)

- "This COVID-19 LOD replaces and provides clarification to LOD #31 sections:

1. 3 (a-d) New Codes for Telephonic Visits and E-Visits; and

2. Table 1 Authorized Telehealth Codes (see Special COVID-19 LOD #8 Testing and Treatment Services for laboratory codes). This LOD also separates Table 1 to create a new section: Table 2 Authorized Behavioral Health Codes."

COVID-19 Care Coordination & Other In-Home Services & Community Benefits (5/6/20)

- "Centennial Home Visiting (CHV) - HSD is temporarily waiving the requirement that CHV program providers perform in-home visits. Instead, Nurse Family Partnership and Parents as Teachers home visitors will follow telehealth guidance in accordance with their curriculum standards, including the use of videoconferencing, if possible. Any activities that require an in-person visit with CHV clients will be deferred through the termination of the emergency declaration."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (5/5/20)

- "Nursing and Nutritional Services (Registered Dietician):

To address the COVID-19 public health emergency, the State requests to suspend face-to-face requirements detailed for this service for the duration of the emergency. Face-to-face visits may be provided by telehealth option or phone visits. This includes assessment, monitoring or follow up. All interactions will be documented.

Trainings and return demonstrations may be done by telehealth or phone as needed.

- Physical Therapy for Adults:

To address the COVID-19 public health emergency, the State requests to suspend face-to-face requirements detailed for this service for the duration of the emergency. Face-to-face visits may be provided by telehealth option or phone visits. This includes assessment, monitoring or follow up. All interactions will be documented.

Trainings and return demonstrations may be done by telehealth or phone as needed.

- Speech and Language Therapy:

To address the COVID-19 public health emergency, the State requests to suspend face-to-face requirements detailed for this service for the duration of the emergency. Face-to-face visits may be provided by telehealth option or phone visits. This includes assessment, monitoring or follow up. All interactions will be documented.

Trainings and return demonstrations may be done by telehealth or phone as needed.

- Behavior Support Consultation:

To address the COVID-19 public health emergency, the State requests to suspend face-to-face requirements detailed for this service for the duration of the emergency. Face-to-face visits may be provided by telehealth option or phone visits. This includes assessment, monitoring or follow up. All interactions will be documented.

Trainings and return demonstrations may be done by telehealth or phone as needed.

- Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers)."

Special COVID-19 Letter of Direction #2: COVID-19 Guidance for Hospitals Using Alternate Care Sites (ACS) (4/29/20)

- Lead providers may bill for professional services at an ACS through the hospital visit code or telehealth codes as appropriate (see telehealth codes in COVID-19 LOD.

Medical Assistance Program Manual Supplement: COVID-19 Guidance for New Mexico Medicaid Providers (4/6/20)

- "HSD is directing the MCOs to direct providers to render telehealth services in all settings, including member's home, through the termination of the declaration of the emergency in lieu of in-person care to reduce the risk of spreading COVID-19 through face-to-face contact.
- Physical Health/Telehealth: HSD has activated/added new codes (CPT, HCPCS or Revenue Code) to encourage the use of telephonic visits and e-visits in lieu of in-person care.
- Behavioral Health - Behavioral health providers should bill for telephonic visits using the same codes and rates that are currently established for such services. Authorized codes can be found in Table 1 of this Supplement.
- Applied Behavior Analysis (ABA) Services: Providers may bill for ABA services provided as telephonic visits using the authorized codes identified in Table 1 of this Supplement, with the same rates as face-to-face that are currently established for such services."

COVID-19 Specialty Behavioral Health Guidance (4/3/20)

- "Telephonic [behavioral health] visits must be synchronous; that is, consisting of live voice conversation with the patient or family. Asynchronous or 'store and forward' visits are not payable under this provision.
- Telephonic [behavioral health] services must be provided by a practitioner who is contracted with the MCO and within the practitioner's normally allowed scope of practice."

Letter of Direction #31: COVID-19 Guidance for CC 2.0 MCOs (4/3/20):

- "The MCOs are directed to allow behavioral health providers to bill for telephonic visits using the same codes and rates that are currently established for such services.
- These services will be paid as if the member received services onsite and in person. This will remain an option for providers through the termination of the emergency declaration and applies to both initiation of care as well as treatment of established patients. Initiation of care can be for any reason, including member self-referral."

Medicaid Telephonic Billing Manual (April 2020)

- The linked document contains billing codes and reimbursements for telephonic services, including:

"D9995: Teledentistry synchronous real-time: when the dentist and participant interact as if they were having a face-to-face service. Services that can be provided effectively telephonically without real-time video may also be covered via telehealth. The code will be reimbursed at the

same rate as D0140- face-to¬ face limited oral evaluation (problem focused) service. Providers must continue to maintain appropriate documentation of all services provided and related to medical necessity."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (3/27/20)

- "To ensure health and safety and to support access to telehealth, participants who do not currently have access to a computer, tablet or other device in the home are able to utilize AT funds in excess of $250.00 in order to purchase the needed device that allows remote video conferencing, training and monitoring by clinicians."
- Temporarily allow the following expanded service settings in accordance with HIPAA requirements for telehealth or phone visits for:

Occupational Therapy for Adults

Physical Therapy for Adults

Speech and Language Therapy for Adults

Behavior Support Consultation

Private Duty Nursing

Behavioral Support Consultation

- Temporarily allow provider enrollment or re-enrollment with modified risk screening elements such as suspending fingerprint checks, or modifying training requirements to all service providers. These required trainings can be performed via telephonic/telehealth/online modalities by Provider Agency Staff as opposed to Face to Face Training by the Therapists."

Medicaid Press Release (3/20/20)

- "New Mexico's Medicaid Program is now requiring managed care organizations to reimburse doctors, behavioral health providers and other health care professionals for telephone and video patient visits until the end of the COVID-19 public health emergency."
- "Health care providers who consult with patients via telephone or computer video must be paid the same rate as if they'd seen the patient in person, according to a Letter of Direction from Medicaid Director Nicole Comeaux to the state's managed care organizations, which cover about 680,000 New Mexicans in the state's Medicaid program."

Department of Human Services: COVID-19 Guidance for CC 2.0 MCOs (3/18/20)

- "New Codes for Telephonic Visits and E-Visits: HSD is directing the MCOs to allow telehealth services to be provided in all settings including the member's home through the termination of the declaration of the emergency."

NEW YORK

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

New York Assembly Bill 6509 (introduced 4/12/23)

- "Notwithstanding the provisions of this subdivision, for services licensed, certified or otherwise authorized pursuant to article sixteen, article thirty-one or article thirty-two of the mental hygiene law, and for any services delivered through a facility licensed under article twenty-eight of this chapter to eligible persons diagnosed with a developmental disability or a traumatic brain injury, such services provided by telehealth[~~, as deemed appropriate by the relevant commissioner,~~] shall be reimbursed at the applicable in person rates or fees established by law, or otherwise established or certified by the office for people with developmental disabilities, office of mental health, or the office of addiction services and supports pursuant to article forty-three of the mental hygiene law."

New York Senate Bill 2776 (engrossed 3/30/23)

- Such services provided by telehealth [~~as deemed appropriate by the relevant commissioner~~] shall be reimbursed at the applicable in person rates or fees established by law […]
- "§ 7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022[~~; provided, however, this act shall expire and be deemed repealed on and after April 1, 2024~~]."

New York Assembly Bill 4584 (introduced 3/28/23); New York Senate Bill 3526 (introduced 1/31/23)

- "The People of the State of New York, represented in Senate and Assembly, do enact as follows:"
  - "5. Notwithstanding any provision of law to the contrary and pursuant to regulations promulgated by the commissioner, telehealth services, as defined by section twenty-nine hundred ninety-nine-cc of this article and all regulations promulgated thereunder, including any additional provider categories and originating sites specified in accordance with section twenty-nine hundred ninety-nine-ee of this article, shall be reimbursed at the same rate as an in-office visit."

New York Senate Bill 6080 (introduced 3/28/23)

- "The People of the State of New York, represented in Senate and Assembly, do enact as follows:"
  - "(5) a school-based mental health clinic licensed pursuant to the sections above that operates as a telehealth clinic as defined pursuant to section twenty-nine hundred ninety-nine-cc of the public health law."
  - "3-a. The commissioner of education, in consultation with the commissioner, the commissioner of mental health, and the commissioner of the office of persons with developmental disabilities, shall develop minimum qualifications for school districts to operate telehealth school-based mental health clinics. Such qualifications shall be consistent with best practices pursuant to school-based mental health clinics as currently operated under existing law."

New York Assembly Bill 4686 (introduced 2/22/23)

- "ARTICLE 12
  REGIONAL BROADBAND EXPANSION AND ACCESS PROGRAM ACT
- 3. Any regional broadband district plan proposed by a regional consortia to the state shall include plans to provide every resident and entity located within the regional broadband district reliable access to broadband services with speeds that ensure each resident and entity can participate in necessary remote-based services, including but not be limited to, education, telehealth and remote meetings."

New York Assembly Bill No. 4584 (introduced 2/17/23) / Senate Bill No. 3526 (introduced 1/31/23)

- "5. Notwithstanding any provision of law to the contrary and pursuant to regulations promulgated by the commissioner, telehealth services, as defined by section twenty-nine hundred ninety-nine-cc of this article and all regulations promulgated thereunder, including any additional provider categories and originating sites specified in accordance with section twenty-nine hundred ninety-nine-ee of this article, shall be reimbursed at the same rate as an in-office visit.
- (2) An insurer shall reimburse for a service that is otherwise covered under a policy that provides comprehensive coverage for hospital, medical or surgical care and is delivered via telehealth, as that term is defined in subsection (b) of this section, on the same basis and at the same rate as the insurer would apply to those services if the services had been delivered in person.
- (2) A corporation shall reimburse for a service that is otherwise covered under a policy that provides comprehensive coverage for hospital, medical or surgical care and is delivered via telehealth, as that term is defined in subsection (b) of this section, on the same basis and at the same rate as the insurer would apply to those services if the services had been delivered in person."

New York Senate Bill No. 2475 (introduced 1/20/23)

- 1. Every insurer which issues or renews medical malpractice insurance covering a health care provider licensed to practice in this state shall be prohibited from taking any adverse action against a health care provider solely on the basis that the health care provider performs an abortion or provides reproductive health care or gender affirming care that is legal in the state of New York on someone who is from out of the state. Such policy shall include health care providers who legally prescribe abortion medication to out-of-state patients by means of telehealth.

New York Assembly Bill No. 1475 (introduced 1/17/23)

- "§ 2999-ff. Telehealth reproductive health services. The provision of telehealth reproductive health services by a telehealth provider located at a distant site within the state of New York shall be legally protected where such service is otherwise permitted under the laws of the state of New York, regardless of the location of the originating site."

New York Assembly Bill No. 1014 (introduced 1/13/23) / Senate Bill No. 1878 (introduced 1/17/23)

- "Telehealth visits for psychological testing, treatment and counseling by psychiatrists, psychologists and licensed clinical social workers shall be permitted with one in-person visit within twelve months of the first video telehealth visit and within six months of the first audio-only telehealth visit unless
    - (a) in the provider's professional judgment, an in-person visit service is likely to cause disruption in service delivery or has the potential to worsen the patient's condition, or
    - (b) would create undue hardship upon the patient or their family. A finding of undue burden shall include consideration of whether travel to and from the in-person visit would cause undue financial burden or unreasonable physical or mental distress."

New York Assembly Bill No. 365 (introduced 1/6/23)

- "(1) An insurer shall not exclude from coverage a service that is otherwise covered under a policy that provides comprehensive coverage for hospital, medical or surgical care, or prescription drugs because the service is delivered via telehealth or through store and forward technology, as [~~that term is~~] such terms are defined in subsection (b) of this section [~~; provided, however, that an insurer~~

~~may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the policy~~] and in section twenty-nine hundred ninety-nine-cc of the public health law."

New York Senate Bill No. 9584 (introduced 10/26/22)

- "Section 1. Subdivision 1 of section 2999-dd of the public health law, as amended by section 2 of part V of chapter 57 of the laws of 2022, is amended to read as follows:
    - 1. Health care services delivered by means of telehealth shall be entitled to reimbursement under section three hundred sixty-seven-u of the social services law on the same basis, at the same rate, and to the same extent the equivalent services, as may be defined in regulations promulgated by the commissioner, are reimbursed when delivered in person; provided, however, that health care services delivered by means of telehealth shall not require reimbursement to a telehealth provider for certain costs, including but not limited to facility fees or costs reimbursed through ambulatory patient groups or other clinic reimbursement methodologies set forth in section twenty-eight hundred seven of this chapter, if such costs were not incurred in the provision of telehealth services due to neither the originating site nor the distant site occurring within a facility or other clinic setting; and further provided, however, reimbursement for additional modalities, provider categories and originating sites specified in accordance with section twenty-nine hundred ninety-nine-ee of this article, and audio-only telephone communication defined in regulations promulgated pursuant to subdivision four of section twenty-nine hundred ninety-nine-cc of this article, shall be contingent upon federal financial participation. Notwithstanding the provisions of this subdivision, for services licensed, certified or otherwise authorized pursuant to article sixteen, article thirty-one or article thirty-two of the mental hygiene law, such services provided by telehealth~~[, as deemed appropriate by the relevant commissioner,]~~ shall be reimbursed at the applicable in person rates or fees established by law, or otherwise established or certified by the office for people with developmental disabilities, office of mental health, or the office of addiction services and supports pursuant to article forty-three of the mental hygiene law, ~~unless a specific service is deemed inappropriate by the relevant commissioner~~.
- § 2. Section 7 of part V of chapter 57 of the laws of 2022 amending the public health law and the insurance law relating to reimbursement for commercial and Medicaid services provided via telehealth is amended to read as follows:
    - § 7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022~~[;provided, however, this act shall expire and be deemed repealed on and after April 1, 2024]~~."

New York Executive Order No. 20.1 (issued 8/28/22)

- "WHEREAS, the monkeypox virus has been declared a Public Health Emergency of International Concern by the World Health Organization as of July 23, 2022;
- NOW, THEREFORE, I, Kathy Hochul, Governor of the State of New York, by virtue of the authority vested in me by the New York State Constitution and the laws of the State of New York, do hereby extend the state disaster emergency as set forth in Executive Order 20, and continue the terms, conditions, and suspensions contained in Executive Order 20, through September 27, 2022; and
- FURTHER, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a state disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the

disaster emergency or if necessary to assist or aid in coping with such disaster, I hereby temporarily suspend or modify for the period from the date of this Executive Order through September 27, 2022 the following:

- Sections 3221(h) and (l)(3), 4303(e)(1), (f)(1), and (ll), and 4328(b)(1) of the Insurance Law, to the extent necessary to waive copayments, coinsurance, and annual deductibles for: (1) in-network laboratory testing to diagnose the monkeypox virus; and (2) visits to diagnose the monkeypox virus at the following locations, including through telehealth: an in-network provider's office, an in-network urgent care center, any other in-network outpatient provider setting able to diagnose monkeypox, or an emergency department of a hospital, provided, however, that co-payments, coinsurance, and annual deductibles may be imposed in accordance with the applicable policy or contract for any follow-up care or treatment for the monkeypox virus, including an inpatient hospital admission, as permitted by law, and a deductible may be applied for a high deductible health plan as defined by the Internal Revenue Code Section 223(c)(2) if otherwise require by law."

New York Assembly Bill No. 10663 (introduced 8/12/22)

- "Section 1. Section 2999-cc of the public health law is amended by adding a new subdivision 8 to read as follows:
  - 8. "Telehealth reproductive health services" means any of the following services provided via telehealth or telemedicine:
    - (a) abortion pursuant to section twenty-five hundred ninety-nine-bb of this chapter;
    - (b) emergency contraception as defined in section twenty-eight hundred five-p of this chapter; or
    - (c) medical, surgical, counseling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.
- § 2. The public health law is amended by adding a new section 2999-ff read as follows:
  - § 2999-ff. Telehealth reproductive health services. The provision of telehealth reproductive health services by a telehealth provider located at a distant site within the state of New York shall be legally protected where such service is otherwise permitted under the laws of the state of New York, regardless of the location of the originating site."

New York Senate Bill No. 9055 (introduced 5/6/22)

- "Section 1. Section 13-m of the workers' compensation law is amended by adding a new subdivision to read as follows:
  - 15. Telehealth visits for psychological testing, treatment and counseling by psychiatrists, psychologists and licensed clinical social workers shall be permitted with one in-person visit within twelve months of the first video telehealth visit and within six months of the first audio-only telehealth visit unless (a) in the provider's professional judgment, an in-person visit service is likely to cause disruption in service delivery or has the potential to worsen the patient's condition, or (b) would create undue hardship upon the patient or their family. A finding of undue burden shall include consideration of whether travel to and from the in-person visit would cause undue financial burden or unreasonable physical or mental distress."

New York Assembly Bill No. 9332 (introduced 2/23/22)

- "(f) The commissioners of the office of mental health and the office of addiction services and supports shall establish a youth mental tele-health services program to facilitate access to mental health services, including substance use disorder services, for youth to respond to identified mental health needs, including those needs that may have resulted from the COVID-19 pandemic, and for youth or families that may not have access to mental health professionals in-person. Such program shall provide up to five mental telehealth services annually

at no cost to the individual, for acute crisis response, mental health assessment, or initiation of care to reduce barriers and facilitate engagement in long-term care.

- As soon as practicable, but no later than August first, two thousand twenty-two, the offices shall enter into an agreement with a vendor to create, or use an existing, website or web-based application, as a portal available to youth and providers to facilitate the program. Such vendor shall be determined through a competitive bidding process."

New York Senate Bill No. 8295 (introduced 2/10/22)

- "(a) Rates of payment or fees shall be established in compliance with this section for telehealth services provided by a certified home health agency, a long term home health care program or AIDS home care program, or for telehealth services by a licensed home care services agency under contract with such an agency or program, in order to ensure the availability of technology-based patient monitoring, communication and health management. Reimbursement for telehealth services provided under this section shall be provided for telehealth services described in this section, as well as telehealth as defined in article twenty-nine-G of this chapter. The commissioner shall seek federal financial participation with regard to this initiative. Such reimbursement shall be provided as either a separate rate from, or as a specified payment under, the methodology under subdivision thirteen of this section.
- (b) The purposes of the services shall be to assist in the effective monitoring and management of patients whose medical, functional and/or environmental needs can appropriately and cost-effectively met at home through the application of telehealth intervention. Reimbursement provided under this subdivision shall be for services to patients with conditions or clinical circumstances associated with the need for frequent monitoring, the need for frequent physician, skilled nursing or acute care services, where the provision of telehealth services can appropriately reduce the need for on-site or in-office visits or acute or long term care facility admissions, or where the telehealth services appropriately allow for a home care service by means of telehealth technology instead of an in-person visit by the home care services agency."

New York Senate Bill No. 8277 (introduced 2/8/22)

- "§ 2. Section 5.05 of the mental hygiene law is amended by adding a new subdivision (f) to read as follows:
  - (f) The commissioners of the office of mental health and the office of addiction services and supports shall establish a youth mental tele-health services program to facilitate access to mental health services, including substance use disorder services, for youth to respond to identified mental health needs, including those needs that may have resulted from the COVID-19 pandemic, and for youth or families that may not have access to mental health professionals in-person. Such program shall provide up to five mental telehealth services annually at no cost to the individual, for acute crisis response, mental health assessment, or initiation of care to reduce barriers and facilitate engagement in long-term care. As soon as practicable, but no later than August first, two thousand twenty-two, the offices shall enter into an agreement with a vendor to create, or use an existing, website or web-based application, as a portal available to youth and providers to facilitate the program. Such vendor shall be determined through a competitive bidding process."

New York Assembly Bill No. 6741 (introduced 8/25/21)

- "This Act enacts various provisions requiring that insurance policies cover services provided through telemedicine, including requirements that insurers provide coverage for contraceptive care, that will allow patients across the state to receive care and limit the risk of infection of COVID-19 throughout the pandemic.
- An insurer shall not exclude from coverage a service that is otherwise covered under a policy that provides comprehensive coverage for hospital, medical, or surgical care, or prescription drugs because the service is delivered via telehealth or through store and forward technology […]. An insurer may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are favorable to the insured as those established from the same service when not delivered via telehealth. An insurer may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth."

Governor Cuomo Announces New York Ending COVID-19 State Disaster Emergency on June 24 (6/23/21)

- "Governor Andrew M. Cuomo today announced that New York will end the state disaster emergency declared on March 7, 2020 to fight COVID-19. Given New York's dramatic progress against COVID-19, with the success in vaccination rates, and declining hospitalization and positivity statewide the state of emergency will expire after Thursday, June 24."

New York Assembly Bill No. 6741: AN ACT to amend the insurance law, in relation to requiring coverage for delivery of asynchronous telemedicine (introduced 3/29/21)

- "Telehealth and asynchronous telemedicine delivery of services.

(a) An insurer shall not exclude from coverage a service that is otherwise covered under a policy that provides comprehensive coverage for hospital, medical or surgical care, or prescription drugs because the service is delivered via telehealth or asynchronous telemedicine, as such terms are defined in subsection (b) and subsection (c) of this section. An insurer may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. An insurer may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

(b) For purposes of this section, "telehealth" means the use of electronic information and communication technologies by a health care provider to deliver health care services to an insured individual while such individual is located at a site that is different from the site where the health care provider is located.

(c) For purposes of this section, "asynchronous telemedicine" means the store-and-forward method of secure electronic transmission of medical information, including, but not limited to, digital images, documents, pre-recorded videos and other data provided to or between health care providers for the purpose of delivering health care services to an insured individual that is not transmitted simultaneously with services delivered pursuant to subsection (b) of this section.

- Every policy which provides coverage for prescription drugs shall include coverage for the cost of contraceptive care delivered through asynchronous telemedicine as authorized by section three thousand two hundred seventeen-h of this article."

Department of Health: Interim Guidance for School-Based Health Centers Regarding COVID-19 (3/9/2021)

- SBHC should carefully assess the need for services to be provided in-person. This includes determining:

Can the service be performed remotely by telehealth?

- When SBHCs utilize telehealth, including telephonic services, as a method of service delivery SBHCs shall do so in compliance with NYSDOH guidance as outlined in the May 2020 Special Edition Volume 36 Number 9 Medicaid Update at: https://www.health.ny.gov/health_care/medicaid/program/update/2020/no05_2020-03_covid19_telehealth.htm
- At this time, all SBHC dental facilities should:

Consider telephonic and teledentistry service provision to give parents/caregivers and students a way to address oral health needs for students, particularly until such time that NYSDOH approves the facility's reopening plan.

New York Senate Bill No. 2507 (passed 4/19/21)

- ""Distant site" means a site at which a telehealth provider is located while delivering health care services by means of telehealth. Any site within the United States or United States' territories is eligible to be a distant site for delivery and payment purposes.
- "Originating site" means a site at which a patient is located at the time health care services are delivered to him or her by means of telehealth.
- A crisis stabilization center shall serve as a voluntary and urgent service provider for persons at risk of a mental health or substance abuse crisis or who are experiencing a criss related to a psychiatric and/or substance use disorder that are in need of crisis stabilization services. Each crisis stabilization center shall provide or contract to provide person centered and patient driven crisis stabilization services for mental health or substance use twenty-four hours per day seven days per week, including but not limited to:

Telemedicine."

Governor Cuomo Announces Proposal to Expand Access to Telehealth for All as Part of 2021 State of the State (1/10/21)

- "In partnership with the Reimagine New York Commission, the Governor will enact comprehensive telehealth reform to help New Yorkers take advantage of telehealth tools and address existing roadblocks. These reforms will address key issues like adjusting reimbursement incentives to encourage telehealth, eliminating outdated regulatory prohibitions on the delivery of telehealth, removing outdated location requirements, addressing technical unease among both patients and providers through training programs, and establishing other programs to incentivize innovative uses of telehealth.
- Governor Cuomo proposes comprehensive reforms to permanently adopt COVID-19-era innovations that expanded access to physical health, mental health and substance use disorder services including:

Unlocking the Benefits of Telehealth Through Policy Modernization

Ensuring Coverage and Reimbursement for Telehealth

Expanding the Use of Technological Advancements in Health Care

Supporting Patients and Providers Through Professional Development, Education, and Innovative Support Programs"

New York Assembly Bill 10034: AN ACT to amend the public health law, in relation to requiring parity in the standards of dental telehealth services (signed by Governor 12/15/20)

- "(A) Dental telehealth services shall adhere to the standards of appropriate patient care required in other dental health care settings, including but not limit to appropriate patient examination, taking of x-rays, and review of a patient's medical and dental history. All dental telehealth providers shall identify themselves to patients, including providing the professional's New York State License Number. No dental telehealth provider shall attempt to waive liability for its telehealth services in advance of delivering such telehealth services and no dental telehealth provider shall attempt to prevent a patient from filing any complaint with any governmental agency or authority.

Department of Financial Services Announces 2021 Health Insurance Premium Rates, Protecting Consumers During COVID-19 Pandemic (8/13/20)

- "Under the leadership of Governor Andrew M. Cuomo, New York has been a national leader in helping consumers through the pandemic, ensuring that New Yorkers have access to critical COVID-19 testing and essential health care services, by taking the following actions, among others:

Waiving all cost-sharing for COVID-19 testing and all telehealth services (whether related to COVID-19 or not)"

New York State Office of Mental Health COVID-19 Disaster Emergency FAQ (*updated as of* 6/11/20)

- "Is the use of telephone allowed for telemental health? Yes
- Can providers use personal phones to conduct services telephonically? Yes
- Are there any pre-approved platforms to delivery telemental health services? There are no OMH pre-approved telemental health platforms (Office for Civil Rights will not enforce HIPAA with telehealth during this emergency…)"

Office of Mental Health: Memorandum to NYS Article 28/31 Hospital Psychiatry Providers (6/5/20)

- "The following guidance will remain in effect indefinitely:
- Use of Telemental Health for Removal and Retention Pursuant to Article 9 of the Mental Hygiene Law. The following guidance remains in effect. NYS OMH is assessing the feasibility of preserving some or all of these standards after the COVID-19 emergency period. Further guidance is forthcoming.
- Use of Video and Telephone Technology for Treatment of Patients

Telemental health should also be used to support routine treatment planning on hospital inpatient mental health units. For example:

- 1. Hospitals may consider plans in which one psychiatrist is on-site during regular work hours to manage duties that require in-person evaluations while allowing other psychiatrists to complete evaluations, treatment, and daily rounds via video connections (or via telephone when clinically appropriate and if video is not available).
- 2. Hospital Psychiatric Consult-Liaison teams should also consider using telemental health when clinically appropriate from within the hospital in order to help preserve the hospital's supply of personal protective equipment.

Office of Mental Health: COVID-19 Disaster Emergency Telemental Health and Program Guidance (4/20/20)

- This guidance document consolidates previous guidance issued by OMH relative to the use of telemental health for people affected by the disaster emergency and operationalizes the guidance retroactive to March 7, 2020. See the link above for more information.

Office of Mental Health: COVID-19 Consolidated Telemental Health Guidance (3/30/20)

- For programs covered by this guidance, the OMH telehealth guidance supersedes the NYS Department of Health (DOH) Medicaid Update Special Editions specific to telehealth.

Providers who submit an attestation certifying they meet all of the elements below will be authorized to deliver services via telemental health for a time-limited period, not to exceed the disaster emergency.

This guidance waives the face-to-face requirements for delivery of services in residential programs licensed or funded by OMH for the duration of the declared disaster emergency. In lieu of face-to-face contact, providers may use telephonic or telehealth capabilities.

CMS has temporarily waived provisions of the Ryan-Haight Act to allow practitioners to prescribe Schedule II - V controlled substances via telemedicine without an in-person medical evaluation provided:

- 1. The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice;
- 2. The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and
- 3. The practitioner is acting in accordance with applicable Federal and State laws. *

Office of Mental Health: Self-Attestation of Compliance to Offer Telemental Health Services (3/30/20)

- "The following attestation must be submitted consistent with the Office of Mental Health (OMH) guidance dated March 30, 2020, which allows for the delivery of telemental health services by OMH licensed, funded or designated programs. It must be completed and submitted to Amy Smith at amy.smith@omh.ny.gov"

Office of Mental Health: Assisted Outpatient Treatment Frequently Asked Questions (3/30/20)

- "Can AOT Evaluations be conducted via video teleconference or other teleconference technology that is secure?

OMH issued guidance on the use of telehealth for OMH licensed or designated programs impacted by the COVID crisis. The expanded definitions allow all New York jurisdictions to conduct AOT business via telemental health methods where medically necessary.

Admissions and Continuity of Care Advisory (3/20/20)

- "…the State has immediately expanded the definition of Telemental Health, allowing essentially all staff in OMH licensed, funded and designated programs and services to provide services via telemental health, including the use of telephonic contacts. This includes a waiver of the requirement in Part 596.6(b)(1) that initial assessments are to be completed in person. Initial assessments may be completed via telemental health for the duration of the declared disaster emergency."

Supplemental Guidance Regarding Use of Telehealth for People Served by OMH Licensed or Designated Programs Affected by the Disaster Emergency (*Updated as of* 3/17/20)

- "The attestation requirements put forth in the guidance may now be used for the staff and technology listed below.

Telemental health for Medicaid-reimbursable services is temporarily expanded to include:

  - Telephonic; and/or
  - Video, including technology commonly available on smart phones and other devices.
  - During the duration of the declared disaster emergency, specific OMH licensed and designated programs can deliver services through telephone and/or video using any staff allowable under current program regulations or State-issued guidance as medically appropriate.

Telemental health practitioner includes any professional, paraprofessional, or unlicensed behavioral health staff who deliver a qualified service via telemental health. Any limitations and restrictions pertaining to the location of the telemental health practitioner while providing services via telemental health are waived."

Department of Financial Services Emergency Regulation (3/17/20)

- "The Department of Financial Services (DFS) today announced it has adopted a new emergency regulation under New York Insurance Law requiring New York State insurance companies to waive cost-sharing, including, deductibles, copayments (copays), or coinsurance for in-network telehealth visits."

Department of Financial Services Coronavirus and Telehealth Services (3/15/20)

- "Given that COVID-19 is a communicable disease, some insureds may be using telehealth services instead of in-person health care services for both the diagnosis of COVID-19 and for other covered health care services, including mental health care and substance use disorder treatment services, whether or not related to COVID-19. Issuers are reminded that Insurance Law §§ 3217-h and 4306-g and Public Health Law § 4406-g prohibit issuers from excluding a service that is otherwise covered under a comprehensive health insurance policy or contract because the service is delivered via telehealth. Under those laws, "telehealth" means the use of electronic information and communication technologies by a provider to deliver health care services to an insured individual while the individual is located at a site that is different from the site where the provider is located.
- During the state of emergency for COVID-19, electronic information and communication technologies include telephonic or video modalities (including technology commonly available on smart phones and other devices) when medically appropriate to deliver health

care services for the assessment, diagnosis, consultation, treatment, care management, and self-management of a patient and if all other requirements for a covered health care service are met. To further ensure that insureds do not have barriers to access for telehealth services, the Department will be promulgating an emergency regulation to provide that, during the state of emergency for COVID-19, no policy or contract delivered or issued for delivery in New York that provides comprehensive coverage for hospital, surgical, or medical care may impose, and no insured is required to pay, copayments, coinsurance, or annual deductibles for an in-network service delivered via telehealth when such service would have been covered under the policy if it had been delivered in person.

- Public Health Law § 2999-cc provides that telehealth means the use of electronic information and communication technologies by telehealth providers to deliver health care services, including the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient. The law further provides that telehealth does not include delivery of health care services by means of audio-only telephone communication.
- During the state of emergency for COVID-19, electronic information and communication technologies include telephonic or video modalities (including technology commonly available on smart phones and other devices) when medically appropriate to deliver health care services for the assessment, diagnosis, consultation, treatment, care management and self-management of a patient and if all other requirements for a covered health care service are met."

Use of Telemental Health for People Affected by the Disaster Emergency (3/11/20)

- Providers who submit a "self-attestation" form will be able to provide telemental health for people affected by disaster emergency for a time-limited period

Governor Cuomo Declares a Disaster Emergency (3/7/20)

- "Suspension of laws and regulations to allow for expansion of services and temporary facilities for health and human service providers… to the extent necessary to allow additional telehealth provider categories and modalities, to permit other types of practitioners to deliver services within their scopes of practice and to authorize the use of certain technologies for the delivery of health care services to established patients, pursuant to such limitations as the commissioners of such agencies may determine appropriate."

State Licensure Laws, Policy, and Guidance

New York Senate Bill No. 9080 (passed 6/13/22)

- "3436-a. 1. Adverse action against legal reproductive health care.
  - Every insurer which issues or renews medical malpractice insurance covering a health care provider licensed to practice in this state shall be prohibited from taking any adverse action against a health care provider solely on the basis that the health care provider performs an abortion or provides reproductive health care that is legal in the state of New York on someone who is from out of the state. Such policy shall include health care providers who legally prescribe abortion medication to out-of-state patients by means of telehealth.
  - 2. As used in this section, "adverse action" shall mean but not be limited to:
    - (a) refusing to renew or execute a contract or agreement with a health care provider;

- (b) making a report or commenting to an appropriate private or governmental entity regarding practices of such provider which may violate abortion laws in other states; and
- (c) increasing in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount for, any medical malpractice insurance contract or agreement with a health care provider."

New York Assembly Bill No. 9467 (introduced 3/7/22)

- "The People of the State of New York, represented in Senate and Assembly, do enact as follows:
- Section 1. Paragraph (y) of subdivision 2 of section 2999-cc of the public health law, as amended by section 3 of part F of chapter 57 of the laws of 2021, is amended to read as follows:
- (y) health care provider who:
  - (i) possesses the requisite license, certification, registration, authorization or credentialing to provide a health care service in New York state; and
  - (ii) reasonably determines that it is clinically appropriate to deliver such health care service via telehealth."

New York Senate Bill No. 6846 (introduced 2/18/22)

- "Section 1. Paragraph (y) of subdivision 2 of section 2999-cc of the public health law, as amended by section 3 of part F of chapter 57 of the laws of 2021, is amended to read as follows:
- (y) any health care provider who:
  - (i) possesses the requisite license, certification, registration, authorization or credentialing to provide a health care service in New York state; and
  - (ii) reasonably determines that it is clinically appropriate to deliver such health care service via telehealth."

New York Assembly Bill 10723: AN ACT to amend the public health law, in relation to reimbursing health care providers at the same rate for telehealth visits as in-person visits (referred to Assembly Health Committee 7/1/20)

- Health care services delivered by means of telehealth shall be entitled to reimbursement on the same basis and to the same extent as if such services were provided in person under section three hundred sixty-seven-u of the social services law; provided however, reimbursement for additional modalities, provider categories and originating sites specified in accordance with section twenty-nine hundred ninety-nine of this article, and audio-only telephone communication defined in promulged pursuant to section twenty-nine hundred ninety-nine of this article, shall be contingent upon federal financial participation.

2020 Health Advisory #17: Advise Patients When to Seek Essential Care and Plan to Expand In-Person Patient Services (5/29/20)

- "Providers should continue to use telephone, telehealth, and electronic communications as much as is feasible and limit in-person visits to essential medical services that cannot be provided remotely.
- As part of planning for expansion of in-person services, providers should identify patients to prioritize for care and actively reach out to them to schedule telehealth or in-person visits.

- As providers plan for service expansion, they should consider the following groups and services (this list is not exhaustive):

Patients with chronic conditions, including behavioral, who have new or escalating symptoms or cannot access telehealth.

Patients with a history of intimate partner violence who may not be able to safely access telehealth."

New York Senate Bill 8416: AN ACT to amend the public health law, in relation to including audio- only and video-only telehealth and telemedicine services in those telehealth and telemedicine services eligible for reimbursement (signed by Governor 6/17/20)

- "Health care services delivered by means of telehealth shall be entitled to reimbursement under section three hundred sixty-seven-u of the social services law; provided however, reimbursement for additional modalities, provider categories and originating sites specified in accordance with section twenty-nine hundred ninety-nine of this article, and audio-only telephone communication defined in regulations promulgated pursuant to subdivision four of section twenty-nine hundred ninety-nine-cc of this article, shall be contingent upon federal financial participation."

Executive Order No. 202.5 (3/18/20)

- "Sections 6512 through 6516, and 6524 of the Education Law and Part 60 of Title 8 of the NYCRR, to the extent necessary to allow physicians licensed and in current good standing in any state in the United States to practice medicine in New York State without civil or criminal penalty related to lack of licensure;"
- "Section 6502 of the Education Law and Part 59.8 of Title 8 of the NYCRR, to the extent necessary to allow physicians licensed and in current good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration; "
- Sections 6512 through 6516, and 6905, 6906 and 6910 of the Education Law and Part 64 of Title 8 of the NYCRR, to the extent necessary to allow registered nurses, licensed practical nurses, and nurse practitioners licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure;
- "Sections 6512 through 6516, and 6541 of the Education Law and Part 60.8 of Title 8 of the NYCRR 8 NYCRR, to the extent necessary to allow physician assistants licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure."

Supplemental Guidance Regarding Use of Telehealth (3/17/20)

- "During the duration of the declared disaster emergency, specific OMH licensed and designated programs can deliver telemental health services through telephone and/or video using any staff allowable under current program regulations or State-issued guidance as medically appropriate. Telemental health practitioner definition is expanded to include any professional, paraprofessional, or unlicensed behavioral health staff who deliver a qualified service via telemental health. Any limitations and restrictions pertaining to the location of the telemental health practitioner while providing services via telemental health are waived."

Executive Order No. 202 (3/7/20)

- "Sections 6521 and 6902 of the Education Law, to the extent necessary to permit unlicensed individuals, upon completion of training deemed adequate by the Commissioner of Health, to collect throat or nasopharyngeal swab specimens from individuals suspected of being infected by COVID-19, for purposes of testing; and to the extent necessary to permit non-nursing staff, upon completion of training deemed adequate by the Commissioner of Health, to perform tasks, under the supervision of a nurse, otherwise limited to the scope of practice of a licensed or registered nurse;"

Medicaid Law, Policy and Guidance Related to Telehealth

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (3/26/21)

- "Add an electronic method of service delivery (e.g. telephonic) allowing services to continue to be provided remotely in the home setting for:

Service Coordination. The monthly face-to-face and the requirement for a quarterly in-home visit by Service Coordinators is suspended.

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Intake meetings completed by the RRDC, initial eligibility assessments including LOC, Team Meetings for service planning. The following NHTD/TBI waiver services may be provided via telephonic/telehealth modalities: Independent Living Skills Training (ILST), Community Integration Counseling (CIC), Positive Behavioral Intervention and Support Services (PBIS), Wellness Counseling (NHTD only), Nutritional Counseling (NHTD only), Structured Day Programs and Substance Abuse Program Services (TBI only). Face-to-face visits by and supervisors of SC, ILST, and PBIS are also suspended and nursing supervision services for HCSS may conduct in-home and in-person supervision through indirect means, including by telephone or video communication."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (3/4/21)

- "New York seeks to amend the original Appendix K to the OPWDD Comprehensive 1915(c) HCBS Waiver serving people with intellectual and/or developmental disabilities (I/DD) HCBS waiver .238 (R06.01) approved on April 7, 2020. The following changes remain in effect:

e) Allow certain habilitation services to be delivered via telehealth in accordance with HIPAA requirements;"

Department of Health Pregnancy and COVID-19 Resources and Health Care Providers (11/19/20)

- Telehealth and Telephonic Communication Services for Prenatal through Postpartum Care

Effective March 1, 2020 for the duration of the state of emergency or until issuance of subsequent guidance prior to the expiration of the state of emergency, Medicaid will reimburse evaluations and management services conducted by telephone, in cases where face-to-face visits may not be recommended, and it is medically appropriate. This includes prenatal care visits. Such services must be provided by a physician, physician assistant, or licensed midwife actively enrolled in fee-for-service Medicaid or Medicaid Managed Care Plans. Additional guidance can be found at: https://www.health.ny.gov/health_care/medicaid/program/update/2020/index.htm.

In addition to Medicaid, the state requires that private insurers provide reimbursement for telehealth services. Emergency regulations were adopted on March 17, 2020, requiring all state regulated insurance companies to waive cost-sharing for in-network telehealth visits. During

the state of emergency, cost-sharing is to be waived for any telehealth services, including those not related to COVID-19 if the services would have been covered at the provider office or facility.

Department of Health Bureau of Early Intervention Technical Assistance: Resuming Facility-Based Early Intervention Service Delivery: Group Services (9/22/20)

- "Is it permissible for counties to require parents to sign waivers of liability prior to delivery of in-person early intervention services during the declared state of emergency for COVID-19?

No, waivers of liability are not to be used and are not required in connection with the delivery of early intervention (EI) services during the declared state of emergency for COVID-19. Under the Early Intervention Program, counties, early intervention service providers, and families work together to make decisions about delivery of early intervention (EI) services. As Reopening New York: Resuming InPerson Early Intervention Program Services guidance states, early intervention services have remained open and operational during the COVID-19 pandemic, providing services and evaluations via telehealth to the maximum extent possible, unless more stringent restrictions were implemented by the service provider's Local Health Department (LHD). This guidance further provides, although LHDs may permit previously suspended in-person services to resume at Phase 2 or a later Phase, telehealth services remain an option, unless and until the Department revokes or limits its April 1, 2020 guidance permitting reimbursement for telehealth visits. […]

If there is any doubt about the ability to provide EI services included in the child's IFSP safely in person, teletherapy should be used. Teletherapy services fulfill the service 3 mandate in the IFSP and are not delivered in addition to the home/community-based services that a child is authorized to receive. There is a separate consent form for each EI service delivered via telehealth during the declared state of emergency for COVID19, available on the Department's website at https://www.health.ny.gov/community/infants_children/early_intervention/docs/doh_cov1 9_beiconsent_telehealth_04.01.20.pdf"

Department of Health: Providing Early Intervention Teletherapy Services without a Visual Component During the COVID-19 Declared State of Emergency (9/22/20)

- "To meet that goal, the Department has been working collaboratively with providers to offer teletherapy services to all children in the Early Intervention Program (EIP), regardless of the family's access to technology and the internet.
- In some circumstances, a video component may not be available for delivery of early intervention services. If a family does not have access to the internet for cultural or religious reasons or does not have access to necessary hardware or software to incorporate a video component that can be used for teletherapy sessions, Early Intervention services may be provided using a telephone-only method. Furthermore, Early Intervention (EI) providers may bill for service sessions delivered using the telephone-only method as long as service coordination notes document the reason(s) early intervention visits cannot be accomplished via standard teletherapy and visits conducted telephonically are documented in both service delivery logs and session notes."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (8/25/20)

- "Add an electronic method of service delivery (e.g. telephonic) allowing services to continue to be provided remotely in the home setting for:

Service Coordination. The monthly face-to-face and the requirement for a quarterly in-home visit by Service Coordinators is suspended.

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Intake meetings completed by the RRDC, initial eligibility assessments including LOC, Team Meetings for service planning. The following NHTD/TBI waiver services may be provided via telephonic/telehealth modalities: Independent Living Skills Training (ILST), Community Integration Counseling (CIC), Positive Behavioral Intervention and Support Services (PBIS), Wellness Counseling (NHTD only), Nutritional Counseling (NHTD only), Structured Day Programs and Substance Abuse Program Services (TBI only). Face-to-face visits by supervisors of SC, ILST, and PBIS are also suspended and nursing supervision services for HCSS may conduct in-home and in-person supervision through indirect means, including by telephone or video communication."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (8/18/20)

- "New York seeks to amend the original Appendix K to the OPWDD Comprehensive 1915(c) HCBS Waiver serving people with intellectual and/or developmental disabilities (I/DD) HCBS waiver .238 (R06.01) approved on April 7, 2020. The following changes remain in effect:

Allow certain habilitation services to be delivered via telehealth in accordance with HIPAA requirements;

- Following the end of retainer payments, although rates will not change, the day habilitation and site-based prevocational services program day duration required for billing will be at least half of the currently required service duration. Prior to this modification, Day Habilitation and Site Based Prevocational Services were reimbursed in full units requiring four hours of service and half units requiring two hours of service. This modification will reduce the threshold of face-to-face service time required to bill either a full unit (now two hours minimum) or half unit of service (now one hour minimum). The purpose of the modification is to ensure that fixed costs are covered by the reduced service utilization expected during the Pandemic and with the expectation that providers will continue to work in partnership with OPWDD to make more available non-center-based and telemodalities in an effort to increase community involvement of waiver enrollees and to protect the delivery of services during future emergencies. This service duration flexibility will sunset on October 14, 2020.
- The requirement that at least one (1) face-to-face Life Plan meeting is conducted each year is modified during the period of the state of emergency. The Life Plan meeting may be conducted using telephonic or other technology in accordance with HIPAA requirements to allow the individual, his or family, the Care Manager, and providers to meet to discuss and approve the person's Life Plan.
- For the period of the emergency, as defined by an Executive Order, the State will allow the remote delivery of Respite services in accordance with HIPAA requirements where:

a provider exercising good clinical judgment determines a telehealth encounter is appropriate for the delivery of services to an individual;

the delivery of services can be effectuated via verbal prompting only; and

the health and safety of the individual continues to be met via this service modality."

Frequently Asked Technical Assistance Questions Related to Implementation of Virtual Early Intervention Visits During COVID-19 Declared State of Emergency (*updated as of* 6/29/20)

- "Can the "Consent for the use of Telehealth during Declared State of Emergency for COVID-19" document be signed electronically?

If the early intervention (EI) provider has an electronic documentation system that meets industry standards pertaining to HIPAA, FERPA, and Medicaid, they may incorporate the "Consent for the use of Telehealth during Declared State of Emergency for COVID-19" documentation in their electronic system, as feasible, to obtain electronic signatures from parents. If the EI provider does not have such an electronic system, they must follow the guidance previously issued.

Regardless of methodology, the Consent documentation for provision of EI services via telehealth must be available on audit. This guidance is specific to the "Consent for the use of Telehealth during Declared State of Emergency for COVID-19" document and does not apply to the rest of the consent documents required in the Early Intervention Program (EIP).

- How are new referrals to the EIP being handled during the COVID-19 state of emergency?

Every effort is being made to ensure that EI services and evaluations remain available during the COVID-19 declared state of emergency through use of telehealth.

- Is it permissible to do co-visits via telehealth?

Co-visits are allowed when providing EI services via telehealth.

- If a provider decides not to render services via telehealth during this time, what are the consequences?

Providers who decide not to deliver EIP telehealth services at this time will not be penalized."

Guidance for 1915(c) Children's Waiver Home and Community Based Services Regarding Respite Services (*updated as of* 6/26/20)

- "Respite services may continue to be provided to an individual or group for services not requiring hands on assistance through telehealth methods in compliance with HIPAA when clinically justified and when meeting the Plan of Care identified needs and desired outcomes. Additionally, respite can be provided telephonically only when meeting all of the above and when the provider/family does not have the appropriate technological equipment to provide the service through telehealth.
- This approved change through the Appendix K is retroactive, therefore any telephonic Respite services provided as outlined in the guidance and properly documented in the case record, can be billed during the emergency period beginning March 7, 2020."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (6/16/20)

- "Add an electronic method of service delivery (e.g. telephonic) allowing services to continue to be provided remotely in the home setting for:

Service Coordination. The monthly face-to-face and the requirement for a quarterly in-home visit by Service Coordinators is suspended.

Initial eligibility assessments including HCBS/LOC, Team Meetings for service planning. Additionally, the requirement for face-to-face visits are suspended and can be provided through telehealth/telephonic."

COVID-19 Guidance for Children's Waiver Services Providers (*updated as of* 6/10/20)

- "In response to concerns relating to the novel coronavirus (COVID-19) and in an effort to protect members and providers, effective immediately, the New York State Department of Health has authorized Home and Community-Based Services to be provided telephonically or via telehealth whenever possible. This temporary waiver will remain in effect until it is rescinded by the Department of Health. In lieu of face-to-face contact, providers may utilize telephonic or telehealth following applicable NYS Telehealth Guidance."

COVID-19 Guidance for Designated Children and Family Treatment and Support Services' Providers (*updated as* of 6/10/20)

- "In lieu of face-to-face contact, CFTSS providers may utilize telephonic, telemental health, or telehealth following applicable guidelines, regulations, and attestation process, according to their respective regulatory New York State agency of the Department of Health, Office of Mental Health, the Office of Children and Family Services, the Office for People with Developmental Disabilities, or the Office of Addiction Services and Supports."

New York State Medicaid Update - May 2020 Special Edition Volume 36 Number 9 – COVID-19 (*updated as of* 5/29/20)

- "Telehealth services will be reimbursed under the specialized rules described in this guidance. The guidance is designed to facilitate access to services through telemedicine and telephonic means where necessary. This guidance relaxes rules on the types of clinicians, facilities, and services eligible for billing under telehealth rules.
- This guidance additionally addresses some access issues including technological barriers to telehealth by allowing clinicians and health care organizations to bill for telephonic services if they cannot provide the audiovisual technology traditionally referred to as "telemedicine."
- This guidance replaces previously issued guidance regarding telehealth and telephonic communication services during the COVID-19 State of Emergency (Medicaid Update March 2020 Volume 36, Numbers 3, 4, 5 and 6)."

Questions and Answers Related to COVID-19 Guidance for Providing Adult Social Day Care (SDC) Services Telephonically (5/16/20)

- "Question 1: Is a MLTCP required to cover SDC services delivered telephonically or via permitted telehealth?

Yes. Medicaid Managed Care Plans (MMCPs), including MLTCPs, must cover telehealth/telephonic delivery of all Benefit Package services members are otherwise eligible for that are appropriate through telehealth/telephone. The Department has posted telehealth guidance in a Medicaid Update Special Edition March 2020 Volume 36 and Frequently Asked Questions. SDC is included in the MLTC Partial Plan and Medicaid Advantage Plus benefit packages. The SDC Guidance identifies the types of SDC activities that may be delivered telephonically or via telehealth.

- Question 2: Does the member need to agree to receive SDC telephonically or via telehealth? If SDC services are provided telephonically for a member, do they need to be re-authorized?

The SDC Guidance indicates the member may elect or decline to receive SDC services telephonically or via telehealth. The member's preferences, goals, and interests should be documented in the SDC care plan. Plans do not need to reauthorize SDC services for members receiving SDC prior to March 18, 2020. Members authorized to receive SDC prior to March 18, 2020 should be contacted by the Plan to

determine the member's preference for receiving SDC telephonically or via telehealth during the COVID-19 state of emergency. Plans should document the member's preference in the member's MLTC care plan.

- Question 4: Can MLTC plans negotiate rates for the provision of telephonic SDC services? Which codes should be used for SDC delivered telephonically or via telehealth? In which Lane of the Telephonic Reimbursement Overview section of the Medicaid Update Special Edition: Comprehensive Telehealth Guidance is SDC?

Yes. The SDC Guidance provides that SDC services shall be reimbursed under the provisions of the contract between the MLTCP and the SDC provider. Plans may negotiate rates for the range of SDC services their contracted SDC providers can provide telephonically or via telehealth, and in accordance with the SDC Guidance. At the same time, plans remain responsible for ensuring that they possess a network of SDC providers that is adequate to offer the SDC benefit to their members. Based on the contracted rates, plans should provide SDCs with billing guidance, which may include using the current procedure codes for SDC and using the "Modifiers to be Used When Billing for Telehealth Services" included in section VII of the Medicaid Update Special Edition: Comprehensive Telehealth Guidance. As SDC is only available in the benefit packages of the MLTC Partial Plan and Medicaid Advantage Plus, there are no fee-for-service rate codes or rates for SDC. The Billing Lanes provided in the "Telephonic Reimbursement Overview" refer to feefor-service rates and rate codes for services that are provided in fee-for-service and, as such, can be illustrative of payment options but are not expressly applicable to SDC.

- Question 5: Do MLTC plans have the ability to review and approve the SDC providers plan for the provision of services telephonically?

Yes. Question 6: What is the effective date of the SDC Guidance? The Guidance went into effect on the date of issuance, April 7, 2020."

Frequently Asked Questions Regarding Use of Telehealth Including Telephonic Services During the COVID-19 State of Emergency *(Updated as of 5/1/20)*

- "New York State Medicaid will reimburse telephonic assessment, monitoring, and evaluation and management services provided to members in cases where face-to-face visits may not be recommended and it is appropriate for the member to be evaluated and managed by telephone. This guidance is to support the policy that members needing care should be treated through telehealth provided by all Medicaid qualified practitioners and service providers, including telephonically, wherever possible to avoid member congregation with potentially infected patients. Telephonic communication will be covered when provided by any qualified practitioner or service provider.
- This guidance does not change any other Medicaid program requirements with respect to authorized services or provider enrollment and does not expand authorization to bill Medicaid beyond service providers who are currently enrolled to bill Medicaid Fee for Service (FFS) or contracted with a Medicaid Managed Care Plan."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/7/20, 4/21/20)

- "For the period of the emergency, the State will allow the remote delivery of the following services through the telephone or other technology in accordance with HIPAA requirements:

Day Habilitation

Community Habilitation

Prevocational Services

Supported Employment (SEMP)

Pathway to Employment

Support Broker

- A temporary waiver of face-to-face requirements for Health Home and Basic HCBS Plan Support providers has been instituted by New York State. This temporary waiver will remain in effect until it is rescinded by NYSDOH. In lieu of face-to-face contact, Care Managers may utilize telephonic or telehealth capabilities in accordance with HIPAA requirements."

COVID-19 Guidance for Providing Adult Social Day Care (SDC) Services Telephonically (4/7/20)

- "To help ensure access to SDC services during the COVID-19 public health emergency, SDC providers that contract with MLTCPs may provide SDC services telephonically or via permitted telehealth platforms. SDC services delivered telephonically or via telehealth platforms shall be reimbursed under the provision of the contract between a MLTCP and SDC, and in accordance with NYSDOH guidance: Medicaid Update Special Edition: Comprehensive Telehealth Guidance. SDC activities delivered telephonically or via telehealth platforms, including those discussed below, must be offered at the participant's option and reflect the participant's interest, goals, and preferences, as identified and documented in the SDC care plan."

COVID-19 Telephonic and Telehealth Services Available to Statewide Adult Day Health Care Program Services (3/28/20)

- "Will ADHC programs receive payment for providing telephonic and telehealth services during the State of Emergency, even though, as part of the effort to prevent COVID19 spread, NYSDOH suspended all ADHC program services on March 17, 2020?

A: Yes. NYSDOH is authorizing payment for services delivered telephonically, as detailed in the NYSDOH Medicaid Update chart on page 3, and through other telehealth applications as described in the guidance."

Department of Health COVID 19 Guidance for Health Homes (3/14/20)

- "In response to concerns relating to the novel coronavirus (COVID-19) and in an effort to protect members and providers, effective immediately, the New York State Department of Health has authorized a temporary waiver of face-to-face requirements for Health Home providers, including Health Homes Serving Adults, Health Homes Serving Children, and Care Coordination Organization/Health Homes. This temporary waiver will remain in effect until it is rescinded by the Department of Health.
- In lieu of face-to-face contact, care managers may utilize telephonic or telehealth capabilities. Health Homes and Care Management agencies should follow applicable NYS Telehealth Guidance. Health Homes may continue to bill at the applicable rate for members contacted via alternative means during the billing month."

New York State Medicaid Update (March 2020)

- "NYS Medicaid expanded coverage of telehealth services in 2019. Per Insurance Law and Public Health Law, services that are covered under a comprehensive health insurance policy or contract cannot be excluded when the service is delivered via telehealth. To the extent it is practical, the Department encourages the use of telehealth to provide COVID–19 related services to Medicaid members."

New York State Medicaid Update - March 2020 COVID-19 Special Edition Volume 36 - Number 4 (March 2020)

- "Effective for dates of service on or after March 13, 2020 during the current State of Emergency only, New York State Medicaid will reimburse telephonic evaluation and management services to members in cases where face-to-face visits may not be recommended and it is medically appropriate for the member to be evaluated and managed by telephone.
- This guidance is to support the policy that patients should be treated through telehealth including telephonically wherever possible to avoid member congregation with potentially sick patients. Telehealth will be covered for all appropriate services for all patients appropriate to treat through this modality.
- Revised Billing Instructions and Medicaid Copayments for Telehealth Services

Effective immediately, all services delivered through telehealth whether related to delivery of a COVID- 19 service or any other medical service (unrelated to COVID-19) are exempt from Medicaid copayments. Medicaid copayments are applicable to hospital outpatient, free-standing clinic (including FQHCs), and emergency department services. In order to have claims paid in full with no copayment deducted, institutional providers should report Type of Admission Code = '1'."

NORTH CAROLINA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

North Carolina House Bill No. 149 (engrossed 6/2/22)

- "b) An insurer may not exclude from coverage a health care service or procedure delivered by a health care provider to an insured through telehealth solely because the health care service or procedure is not provided through an in-person, face-to-face consultation.
- (c) An insurer is not required to provide coverage for any out-of-network services provided via telehealth.
- (d) An insurer may exclude from coverage a health care service delivered by a contracted, or an in-network, health care provider to an insured that is provided solely as a telehealth service without any in-person, face-to-face component if any of the following apply:
    - (1) The billing code submitted to the insurer does not accurately describe the health care service for which the health care provider is billing.
    - (2) The health care provider has not agreed to share claims data or clinical data through the NC Health Information Exchange, established under Article 29B of Chapter 90 of the General Statutes, or as otherwise required by the insurer.
    - (3) The health care service provided is the subject of a utilization management program, or other applicable cost-containment or quality management program, of the insurer.
    - (4) The health care service is not provided by the patient's designated primary care provider or designated medical home.
    - (5) The health care provider has not obtained informed consent from the patient, as required under G.S. 90-21.19A.

- (6) The insurer determines that the receipt of the health care services through telehealth would impact quality of care or safety of its insureds."

North Carolina House Bill No. 1119 (introduced 5/26/22)

- "A health care provider has a statutory right to provide abortion services in accordance with this Article. A health care provider may provide abortion services to a patient, and the patient has a statutory right to receive those abortion services, without any of the following limitations or requirements:
    - 5. A limitation on a health care provider's ability to provide abortion services via telemedicine or telehealth, other than a limitation generally applicable to a health care provider's ability to provide medical or health care services via telemedicine or telehealth generally as applied to each health care provider's scope of practice."

North Carolina House Bill No. 1102 (introduced 5/27/22)

- "SECTION 1. There is appropriated from the General Fund to the Board of Governors of The University of North Carolina for the 2022-2023 fiscal year the sum of two million dollars $2,000,000) in nonrecurring funds to establish the Center for Telemedicine and Digital Healthcare Access at East Carolina University (Center) to deliver patient care and service to unserved and underserved areas, offer education and training for healthcare providers, and enhance research capacity in areas such as clinical outcomes, social determinants of health, implementation, science, and technology innovation. These funds shall be used for the following specific purposes related to establishing the Center:
    - (1) Hiring, contracting, training, and otherwise supporting necessary personnel.
    - (2) The purchase or lease of necessary building space, equipment, and technology.
    - (3) School telehealth clinics for students and public school personnel.
    - (4) Administrative costs.
- "SECTION 2. There is appropriated from the General Fund to the Department of Health and Human Services, Division of Central Management and Support, Office of Rural Health, the sum of one million dollars ($1,000,000) in nonrecurring funds for the 2022-2023 fiscal year to be allocated to the East Carolina University Center for Telepsychiatry and e-Behavioral Health for the statewide telepsychiatry program established under G.S. 143B-139.4B, known as NC-STeP. These funds shall be used to expand access to telepsychiatry services through NC-STeP for students and employees at up to four additional constituent institutions of The University of North Carolina."

North Carolina Payers Telehealth Policies in Response to COVID-19 (4/2/20)

- "Payers across North Carolina have quickly been updating their policies to cover new services and allow for new flexibilities. To help support alignment and education on these changes, NC Medicaid has developed this resource that outlines the various policies for payers serving NC Medicaid beneficiaries. Note that this is a high-level snapshot of offered services and coverage. This list of services will evolve with new guidance released by the Centers for Medicare & Medicaid Services that affects the entire field."

DOI Bulletin Number 20-B-05 (3/12/20)

- "Given that COVID-19 is a communicable disease, some insureds may be using telehealth services, if offered, instead of in-person health care services. Insurers are reminded to review provisions in current policies regarding the delivery of health care services via telehealth and ensure their telehealth programs with participating providers are robust and will be able to meet any increased demand."

Governor Cooper Declares State Of Emergency To Respond To Coronavirus COVID-19 (3/10/20)

- "Directs NCDHHS and North Carolina Department of Insurance to immediately work with health insurance plans to identify any burdens for access to telehealth services, as needed, in order to reduce cost-sharing to zero for all medically necessary screening and testing for COVID-19"

State Licensure Laws, Policy, and Guidance

North Carolina Senate Bill 718 (introduced 4/10/23)

- "The purpose of this Compact is to facilitate interstate practice of regulated social workers by improving public access to social work services. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This Compact is designed to achieve the following objectives:"
    - "(9) Allow for the use of telehealth to facilitate increased access to social work services."

North Carolina House Bill No. 791 (passed 7/7/22)

- "(a) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with G.S. 90-349.3 and under the rules promulgated by the Commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission.
- (b) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state."

North Carolina Laws S.L. 2020-82 (S.B. 361): An act to enact the psychology interjurisdictional compact, allow licensed marriage and family therapists to conduct first-level commitment examinations, eliminate redundancy in adult care home inspections, ensure the proper administration of step therapy protocols, and clarify the use of coronavirus relief funds allocated to the North Carolina community health center association. (signed by Governor 7/1/20)

- "Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology."

Executive Order No. 130 (4/8/20)

- "Out-of-state licensees: telehealth. For the pendency of the State of Emergency: (i) a health provider licensed, registered, or certified in good standing in another United States jurisdiction (or reinstated pursuant to emergency action) may apply for an emergency license with the appropriate North Carolina licensing board and, if deemed eligible and licensed, may deliver services in North Carolina, including through any remote telecommunications technologies (telehealth), provided those services are within the provider's authorized scope of

practice in such other jurisdiction; and (ii) any restrictions under North Carolina state law restricting the use of telecommunications technologies (telehealth) by a health provider licensed in North Carolina, whether through a standard license or emergency license, have their enforcement waived.

- [Waive] or modify enforcement of any MH/DD/SAS regulatory constraints that would prevent or impair any of the following: Providing MH/DD/SAS Services via real-time, two-way audio and/or video teleconferencing ('Telehealth')."

North Carolina Medical Board Approves Path for Retirees to Help with COVID-19 (3/11/20)

- "Temporary and emergency rules approved by the Board would allow a physician or PA who inactivated his or her NC medical license within the past 24 months to quickly obtain a temporary license. Under the emergency rules, the physician or PA would be entitled to practice for whichever period is shorter: 90 days or 30 days from the point at which the state of emergency in North Carolina is declared over."

Executive Order 116 (3/10/20)

- "I hereby temporarily waive North Carolina licensure requirements for health care and behavioral health care personnel who are licensed in another state, territory, or the District of Columbia to provide health care services within the Emergency Area"

Medicaid Law, Policy and Guidance Related to Telehealth

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (3/10/21)

- "The State is expanding service definitions and modifying service limits and provider qualifications as described in Appendix C-1/C-3; the ability to offer time-limited retainer payments to in-home aide agencies and direct service providers to promote continuity of care of sequestrated waiver participants; and the ability to conduct initial and annual level of care and reasonable indication of need assessments telephonically."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (10/29/20)

- "Modification of service identified in Appendix C-1/C-3 in scope and coverage to allow flexibilities of utilization to prevent spread and to efficiently manage the health, safety and well-being of the waiver participant. Services that are proposed to be modified:

1. Case management – To conduct monthly telephonic contact, only with the waiver participant and quarterly telephonic contact with service providers to monitor the service plan, which will be conducted in accordance with HIPAA requirements. The availability to perform the initial and annual assessments of the level of care and a reasonable indication of need telephonically, which will be conducted in accordance with HIPAA requirements. The ability to delay the annual LOC assessment by 365 days of the original assessment when the waiver participant is sequestrated or not able to participate in the recertification process. To ensure access to needed services as identified in an approved service plan, the case manager will develop a one-time purchase order process for each approved service through this Appendix K to promote an on-demand quick procurement when PPE items are readily available in retail. The purchase order may include the participant being given a check made out directly to the provider (that the provider has to sign), a purchase account at the retailer where the participant and the provider must sign, (the invoice is submitted to the case manager for verification), or the designation of a VISA card number assigned specifically to a

waiver participant for on-line procurement of approved services, arranged by the case manager. The VISA card will not be given to the individual. The case manager will document the VISA card number and the associated pin. When the need for the goods and services, training, and germicidal filters are identified, the case manager will revise the POC and seek approval. Upon the approval of the POC, the case manager will identify the most efficient purchase order process to ensure quick access to the approved services."

Memo to North Carolina Clinicians and Laboratories (*Updated as of* 10/27/20)

- "Clinicians should use, to the extent possible, telehealth/televideo and telephone triage to assess clinical status of patients with respiratory illnesses. Telehealth/televideo and telephone triage are critical tools to allow patients with mild symptoms to have safe access to appropriate assessment, clinical guidance and follow up, and self-care information, while preventing further spread of COVID-19 or exposing patients to COVID-19 in a medical setting.
- Telehealth is broadly being covered at parity for most patients with private insurance, Medicare and Medicaid and therefore should be used whenever clinically appropriate in lieu of face-to-face encounters."

1135 Waiver Request for Temporary Flexibilities (8/28/20)

- "Pursuant to section 1135(b)(1)(B) of the Act, CMS approves a waiver modifying the requirement in 42 C.F.R. §440.90 that services provided under that regulation be provided "by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients." This waiver is provided only to the extent necessary to permit the state and clinic to temporarily designate a clinic practitioner's location as part of the clinic facility so that clinic services may be provided via telehealth when neither the patient nor practitioner is physically onsite at the clinic. The waiver permits services provided via telehealth in clinic practitioners' homes (or another location) to be considered to be provided at the clinic for purposes of 42 C.F.R. §440.90(a)."

Posted for Public Comment: NC Medicaid Clinical Coverage Policies Revised to Include New Telehealth-Related (August 2020)

- North Carolina has posted for public comment the following revised clinical coverage policies that now include guidance related to the delivery of services via telehealth:

1H Telehealth, Virtual Patient Communications and Remote Patient Monitoring (see details in entry below)

1H Telemedicine and Telepsychiatry

1A-24, Diabetes Outpatient Self - Management Education

1A-34, Dialysis Services

1D-4, Core Services Provided in Federally Qualified Health Centers and Rural Health Clinics

1E-5, Obstetrical Services

1E-6, Pregnancy Medical Home

1E-7, Family Planning Services

1-I, Dietary Evaluation & Counseling and Medical Lactation Services

1M-2, Childbirth Education

1M-3, Health & Behavior Intervention

4A, Dental Services

4B, Orthodontic Services

8A, Enhanced Mental Health and Substance Abuse Services

8A-2, Facility - Based Crisis Management for Children and Adolescents

8C, Outpatient Behavioral Health Services

8F, Research - Based Behavioral Health Treatment for ASD

8G, Peer Support Services

8J, Children's Developmental Services Agencies

8P, North Carolina Innovations

10C, Local Education Agencies

10D, Independent Practitioners Respiratory Therapy Services

New Revised Permanent 1H Policy Posted for Public Comment: Telehealth, Virtual Patient Communications and Remote Patient Monitoring – Medicaid and Health Choice Clinical Coverage Policy No: 1H (7/1/20)

- "The purpose of this document is to provide background and context for changes that NC Medicaid is making to its telehealth policies. This is not a policy document, but rather is intended to help providers understand upcoming telehealth-related policy changes.
- The proposed revised 1-H policy includes the following key changes:

Redefines telehealth to include all forms of two-way, real-time audio telecommunications, such as telemedicine, telepsychiatry, teletherapy, etc. The telepsychiatry codes that were in the previous version of 1-H will be included in a forthcoming revised 8-C clinical coverage policy.

Adds coverage for virtual patient communications (telephone and online digital evaluation and management, interprofessional consultation) and remote patient monitoring codes.

Eliminates restriction on "video cell phone interactions;" telehealth can occur over a HIPAA compliant platform on any device with audio/visual capabilities.

Eliminates restrictions on originating sites: an originating site can be the patient's home and there are no distance requirements between originating and distant sites.

Eliminates requirements for referring providers.

Expands eligible provider types (varies by service).

Eliminates consulting provider language; medical examinations can occur without oversight from a consulting provider."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (7/6/20)

- "Waive the face-to-face requirements for monthly and quarterly care coordination/beneficiary meetings for individuals receiving residential supports or new to waiver. Waive the face-to-face requirements for quarterly care coordinator/beneficiary meetings. Individuals who do not receive at least one service per monthly will receive monthly monitoring (which can be telephonic) as quarterly meetings are not sufficient for such individuals. Monthly and quarterly monitoring will occur telephonically. This Telephonic assessment monitoring will be conducted in accordance with HIPAA requirements."

Special Bulletin COVID-19 #103: Telehealth and Virtual Patient Communications Clinical Policy Modifications - Nursing Facility Care (6/25/20)

- "This bulletin replaces SPECIAL BULLETIN COVID-19 #79 in its entirety.
- NC Medicaid temporarily enables eligible providers to deliver evaluation and management services via telemedicine to residents of skilled nursing facilities. Additionally, this bulletin clarifies that skilled nursing facilities (SNF) are eligible originating sites for telemedicine visits and can bill for a facility fee when a beneficiary located in a SNF receives care via telemedicine from an eligible provider. "

NC Medicaid Telehealth Billing Code Summary (*Updated as of* 6/25/20)

- NC Medicaid published a master list that summarized all codes that can now be billed when delivered via telehealth, including all services announced in NC Medicaid Special COVID-19 bulletins. See the link above for more information.

Special Bulletin COVID-19 #95: HIV Case Management Policy Allowances (6/5/20)

- "During the North Carolina state of emergency, HIV CM providers may use remote technology/telemedicine as appropriate for intake and assessment, care planning, monitoring and follow-up activities, and reassessments, communications and other related activities that would normally occur on an in-person basis. Remote technology/telemedicine is defined as the use of two-way real-time interactive audio and video to provide care and services when participants are in different physical locations. If remote technology is used, the platform must be of a type consistent with one described by the HHS Office for Civil Rights."

Special Bulletin COVID-19 #90: Telehealth and Virtual Patient Communications Clinical Policy Modifications - Smoking and Tobacco Cessation Counseling (5/20/20)

- "NC Medicaid is temporarily enabling eligible providers to deliver smoking and tobacco cessation counseling via telemedicine in light of social distancing measures that may prevent in-person visits.

Smoking and tobacco cessation counseling can be delivered by telemedicine to new or established patients during the COVID-19 public health emergency.

The following providers may deliver smoking and tobacco cessation counseling via telemedicine: physicians, nurse practitioners, physician assistants, and certified nurse midwives.

Federally Qualified Health Centers (FQHCs) and Rural Health Centers (RHCs) core service providers may also deliver smoking and tobacco cessation counseling via telemedicine.

Patients are not required to obtain prior authorization prior to receiving services via telemedicine."

Special Bulletin COVID-19 #86: Telehealth and Virtual Patient Communications Clinical Policy Modifications - Family Planning Services for MAFDN Beneficiaries (5/11/20)

- "Eligible providers, including physicians, nurse practitioners, physician assistants, and certified nurse midwives may deliver family planning services via telemedicine (two-way real-time, audio and visual) or virtual patient communication (telephone call, only) to MAFDN-eligible beneficiaries.

Telemedicine services are available to both new and established patients.

Virtual patient communication (telephone call, only) services are only available to established patients.

- Each telemedicine or virtual patient communication family planning encounter will count as one of a beneficiary's allotted six inter-periodic visits, per 365 days.
- Patients are not required to obtain prior authorization prior to receiving services via telemedicine."

Special Bulletin COVID-19 #84: Telehealth and Virtual Patient Communications Clinical Policy Modifications – Maternal Support Services Provided by Local Health Departments (5/7/20)

- "NC Medicaid encourages local health departments to provide maternal support services in-person when it is safe to do so; however, if an in-person or home visit is not feasible, eligible providers may conduct maternal support services with new or established patients via telemedicine (two-way real-time, interactive audio video). Maternal support services conducted via virtual patient communication (telephone, virtual portal communications, etc.) will not be eligible for reimbursement.
- Eligible maternal support services include:

Home visit for newborn care and assessment

Home visit for postnatal assessment

Childbirth education classes (individual or group classes)

- Eligible providers include local health departments whereby the service is rendered via telemedicine by:

A registered nurse (for home visit for newborn and postnatal assessment, only); or,

A certified childbirth educator (for childbirth education classes, only).

- For the newborn and postnatal assessments, providers must document on the assessment tool that the service was conducted via telemedicine.
- Patients are not required to obtain prior authorization prior to receiving services via telemedicine."

Special Bulletin COVID-19 #78: Telehealth and Virtual Patient Communications Clinical Policy Modifications – Hybrid Telemedicine with Supporting Home Visit (5/1/20)

- "During this state of emergency, this Bulletin temporarily enables eligible providers to receive reimbursement for a telemedicine visit with a simultaneous home visit made by an appropriately-trained delegated staff person.

- Reimbursement for this care model is limited to established patients. A telemedicine with supporting home visit may be used for a range of scenarios including (but not limited to) chronic disease management, Well Child services and perinatal care.
- Eligible providers to perform the telemedicine visit include physicians, nurse practitioners, physician assistants and certified nurse midwives. The assisting care team member performing the home visit should be an appropriately trained delegated staff person.
- Local Health Departments, FQHCs, FQHC-Lookalikes and RHCs may also utilize this hybrid telemedicine with supporting home visit model when the telemedicine visit is rendered by an eligible provider."

Special Bulletin COVID-19 #77: Telehealth and Virtual Patient Communications Clinical Policy Modifications – End Stage Renal Disease Services (5/1/20)

- "End stage rental disease (ESRD) services, including monthly/daily capitation services and training, may now be conducted via telemedicine (two-way real-time, interactive audio and video) with both new and established patients, as appropriate.
- While it is understood that providers should have at least one 'hands on visit' per month to complete the required clinical examination of the vascular access site, this service can be provided via telemedicine.
- Eligible providers include physicians, nurse practitioners, and physician assistants."

Special Bulletin COVID-19 #76: Telehealth and Virtual Patient Communications Clinical Policy Modifications – Behavioral Health Service Flexibilities – (b)(3) Services (5/1/20)

- "For Supported Employment for individuals with Mental Health needs, Service may be provided via two-way, real-time audio and video - as well as telephonically."
- The following services may be provided "via two-way, real-time audio and video as well as telephonically:

Individual Support

Transitional Living Skills

Intensive Recovery Supports"

- The following services may be provided "via two-way, real-time audio and video:

In Home Skill Building"

Special Bulletin COVID-19 #75: Telehealth and Virtual Patient Communications Clinical Policy Modifications - Behavioral Health Service Flexibilities – Innovations and Traumatic Brain Injury (TBI) Waivers Appendix K and Developmental Disability State Funded Benefit Plans (5/1/20)

- The following services "may be provided via telehealth:

Day Supports: Developmental Day, Individual and Group (Innovations and TBI)

Community Living and Supports: Individual and Group (innovations)

Community Networking: Individual and Group (Innovations and TBI)

Supported Employment: Individual and Group (Innovations and TBI), Long Term Follow-Up (Innovations)

Supported Living – Level 1, Level 2, Level 3 (Innovations)

Adult Day Health (TBI)

Personal Care (TBI)

In Home Intensive (TBI)

Life Skills Training – Individual and Group (TBI)

Cognitive Rehabilitation (TBI)

Adult Developmental Vocational Program (ADVP)

Day Supports

Developmental Day

Long-Term Vocational Support Services (Extended Services-IDD)

Personal Assistance

Personal Care Services

Supported Employment-IDD"

- The following service "may be provided via telehealth and flexibilities are the same as those offered under NC Innovations as outlined above:

1915 (b)(3) NC Innovations waiver services"

- The following services "may be provided via telehealth and it can also be provided telephonically per the policy:

Resource Facilitation (TBI)

Natural Supports Education (Innovations and TBI)

Specialized Consultative Services (Innovations and TBI)

Community Navigator (Innovations)"

Special Bulletin COVID-19 #67: Telehealth and Virtual Patient Communications Clinical Policy Modifications - Outpatient Respiratory Therapy (4/24/20)

- "Outpatient respiratory therapy providers may deliver select treatment services via teletherapy to established patients. Teletherapy refers to the use of two-way real-time interactive audio and video to provide and support health care when participants are in different physical locations. Audio-only interactions are not considered teletherapy.

Special Bulletin COVID-19 #66: Telehealth and Virtual Patient Communications Clinical Policy Modifications - Well Child Visits (EPSDT) (4/24/20)

- For children under 24 months: NC Medicaid continues to recommend in-person visits to deliver the vast majority of Well Child services to children under 24 months of age; a limited set of services may be delivered via telemedicine during the state of emergency, if necessary.

"If circumstances prevent a provider from delivering Well Child services in-person, a select set of Well Child Services may be provided via telemedicine by eligible providers to new and established patients, including:

  - Developmental screenings;
  - Emotional/behavioral screenings;
  - Preventive medicine/individual counseling;
  - Anticipatory guidance;
  - Vaccine counseling. Note: The provider may provide vaccine counseling by telemedicine, and then administer the vaccine at a later date (e.g., via curb-side vaccine services). The immunization administration code should be billed at the time of vaccine administration by the provider."

- For children 24 months and older: NC Medicaid recommends that providers consider telemedicine to deliver a broad range of Well Child Services for children 24 months and older, as is clinically appropriate.

"Eligible providers, including physicians, nurse practitioners, and physician assistant may provide Well Child Visit services via telemedicine with new and established patients during the state of emergency.

Providers should use their clinical judgement to determine what components of Well Child services are appropriate to be performed during the telemedicine visit.

The provider may provide vaccine counseling by telemedicine, and then administer the vaccine at a later date (e.g., via curb-side vaccine services)."

- FQHCs, FQHC Look-alikes, and RHCs may deliver Well Child services via telemedicine and will be reimbursed on a fee-for-service basis, as they would if the services were delivered in-person.

Special Bulletin COVID-19 #65: Telehealth and Virtual Patient Communications Clinical Policy Modifications - Postpartum Depression Screening (4/24/20)

- "NC Medicaid has temporarily enabled providers to conduct postpartum depression screenings of postpartum women via several remote modalities in light of social distancing measures that may prevent in-person visits.
- Eligible providers, including physicians, nurse practitioners, physician assistants and certified nurse midwives may conduct postpartum depression screenings via an in-person visit, telemedicine visit (two-way real-time, interactive audio and video), telephone call, or online patient portal communication using CPT 96127.

- Maternal depression screens may be billed to the child's Medicaid as CPT 96161. NC Medicaid will reimburse providers for up to 4 maternal depression risk screens administered to mothers during the infant's first year postpartum."

Special Bulletin COVID-19 #64: Telehealth and Virtual Patient Communications Clinical Policy Modifications - Health and Behavior Intervention Visits Provided by Local Health Departments (4/24/20)

- "NC Medicaid has temporarily enabled licensed clinical social workers at Local Health Departments to conduct Health and Behavior Intervention visits for pregnant and postpartum women who have serious psychosocial needs via telemedicine.

Special Bulletin COVID-19 #59: Telehealth Clinical Policy Modifications - Outpatient Behavioral Health Services (4/23/20)

- "In addition to previous flexibilities published in COVID-19 Special Medicaid Bulletins #9, #19, and #46, the Department is issuing guidance on allowing telephonic outpatient psychotherapy, in addition to the telehealth flexibilities previously added.
- As clinically appropriate, services may still be offered via HIPAA-compliant, real-time, two-way interactive audio and video telehealth appointment to proceed with the behavioral health intervention(s)."

Special Bulletin COVID-19 #55: NC Medicaid Receives Approval for Expanded Flexibilities for Home and Community-Based Services (4/21/20)

- Federal approval of flexibilities for NC Innovations Waiver, NC Traumatic Brain Injury (TBI) Waiver, Community Alternatives Program for Disabled Adults (CAP/DA) and Community Alternatives Program for Children (CAP/C) that "[covers] telephonic contact with waiver beneficiary."

COVID-19 Guidelines for Health Care Providers – Video-based Telehealth Accessibility for Deaf and Hard of Hearing Patients (4/17/20)

- "The COVID-19 pandemic has compelled the accelerated use of telehealth solutions. Accessibility features in telehealth video-based platforms are crucial in ensuring that deaf and hard of hearing (DHH) individuals have access to quality health care while maintaining the safety of medical providers and the general public during this pandemic.
- This document focuses only on best practices and requirements for accessible telehealth video-based platforms and apps (where the doctor and patient can see each other on video)."

Special Bulletin COVID-19 #49: Telehealth Clinical Policy Modifications - Interim Perinatal Care Guidance (4/17/20)

- "Eligible providers, including physicians, nurse practitioners, physician assistants, certified nurse midwives may conduct antepartum and postpartum care visits via telemedicine with new or established patients during the state of emergency; these visits may not be conducted via virtual patient communication (e.g., telephone conversations).
- Providers can conduct any antepartum or postpartum visits via telemedicine, including a patient's first antepartum visit, as is clinically appropriate."

Special Bulletin COVID-19 #48: Telehealth Clinical Policy Modifications - Remote Physiologic Monitoring Services (4/17/20)

- "Physicians, nurse practitioners, physician assistants and certified nurse midwives are eligible to bill for remote physiologic monitoring (RPM) and RPM treatment management services.

- FQHCs, FQHC Lookalikes and RHCs can bill under fee-for-service reimbursement for services provided by physicians, nurse practitioners, physician assistants or certified nurse midwives.
- Patients are not required to obtain prior authorization or have an initial in-person examination prior to receiving RPM services."

Special Bulletin COVID-19 #43: Telehealth Clinical Policy Modifications – Self-Measured Blood Pressure Monitoring (4/9/20)

- "SMBPM is a patient's regular use of a personal blood pressure monitoring device to assess and record blood pressure across different points in time outside of a clinical setting, typically at home.
- SMBPM is available to new and established patients.
- There are two codes that eligible providers may bill for SMBPM services (99473, 99474) and specific rules and restrictions apply to the use of these codes (guidance included in C.1.a of "Temporary Modifications to Attachment A" listed below).
- The SMBPM device must be validated for clinical accuracy whenever safely possible. Special Bulletin COVID-19 #29 released on March 31, 2020, added coverage for automatic blood pressure monitors through Durable Medical Equipment providers and home health agencies. Eligible blood pressure monitoring devices include, but are not limited to, such devices.
- Physicians, nurse practitioners, physician assistants, and certified nurse midwives are eligible to bill for SMBPM services. Additionally, FQHCs, FQHC Lookalikes and RHCs are eligible to bill for SMBPM services under fee-for-service reimbursement."

Special Bulletin COVID-19 #42: Telehealth Clinical Policy Modifications – Postpartum Care (4/9/20)

- "Physicians, nurse practitioners, physician assistants, certified nurse midwives are eligible to use telehealth to conduct postpartum care visits with established patients during the state of emergency.
- Providers are required to bill the postpartum care code (59430 – postpartum care, separate procedure) separate from delivery when the postpartum care is delivered via telemedicine."

Special Bulletin COVID-19 #41: Telehealth Clinical Policy Modifications – Optometry Services (4/9/20)

- Optometrists may now bill for the following services when delivered remotely:

Office or Other Outpatient Services delivered via telehealth between an optometrist and an established patient

Virtual Patient Communications between an optometrist and an established patient

Interprofessional Consultations conducted via telephone/internet/electronic health records between an optometrist and a qualified health professional

Special Bulletin COVID-19 #36: Telehealth Clinical Policy Modifications – Outpatient Specialized Therapies and Dental Services (4/7/20)

- "SPECIAL BULLETIN COVID-19 #36 replaces in its entirety SPECIAL BULLETIN COVID-19 #21: Telehealth Provisions – Outpatient Specialized Therapies and Dental Services
- Change to Outpatient specialized therapy, F. Place of Service: Teletherapy claims should be filed with the provider's usual place of service code per the appropriate clinical coverage policy and not Place of Service (POS) 02 (telehealth).

- Clarification to Dental Services F., Place of Service: F. Place of Service: Teledental claims must be billed with place of service code 02 (telehealth). (Bulletin #21 used "should" instead of "must."). New teledentistry codes and guidance:
- Teledentistry code D0999 has been added for telephone or audio-only encounters between dentists and patients that do not result in a diagnosis. Telephonic encounters billed with D0999 are not allowed to be reported with any other service. Dentists should not bill D9995 or D9996 for telephone or audio-only interactions, as these codes require the use of video or photos. See "Temporary Modifications to Attachment A" within this Bulletin for additional coding and billing guidance.
- Teledentistry codes D9995 and D9996 must be reported with oral evaluation codes D0140 or D0170. Dentists should not bill D9995 or D9996 for telephone or audio-only interactions, as these codes require the use of video or photos."

Special Bulletin COVID-19 #35: Telehealth Clinical Policy Modifications – Enhanced Behavioral Services (4/7/20)

- "SPECIAL BULLETIN COVID-19 #35 replaces in its entirety SPECIAL BULLETIN #20 – Enhanced Behavioral Services.
- Please note the change to Place of Service: Telemedicine and telepsychiatry claims should be filed with the provider's usual place of service code per the appropriate clinical coverage policy and not Place of Service (POS) 02 (telehealth).

Special Bulletin COVID-19 #34: Telehealth Clinical Policy Modifications – Definitions, Eligible Providers, Services and Codes (4/7/20)

- "SPECIAL BULLETIN COVID-19 #34 replaces the following Medicaid Bulletins in their entirety:

SPECIAL BULLETIN COVID-19 #9: Telehealth Provisions – Clinical Policy Modification

SPECIAL BULLETIN COVID-19 #19: Telehealth Provisions – Clinical Policy Modification

SPECIAL BULLETIN COVID-19 #28: [ADDENDUM to Bulletin #9 Effective March 20, 2020]: Telehealth Provisions – Clinical Policy Modification

- New telehealth codes and guidance in Bulletin #34:

Services delivered through local education agencies (LEAs)

Services delivered through children's developmental service agencies (CDSAs)

Diabetes self-management education

Dietary evaluation and counseling

Medical lactation

Research-based behavioral health treatment for autism spectrum disorder"

APPENDIX K: Emergency Preparedness and Response (4/6/20)

- "Case management – only monthly telephonic contact with waiver participant and quarterly telephonic contact with service providers to monitor service plan which will be conducted in accordance with HIPAA requirements. Availability of initial and annual telephonic assessments of level of care and reasonable indication of need which will be conducted in accordance with HIPAA requirements.

- Services of in-home aide, personal care assistance and respite may be provided in a hotel, shelter, church, or any facility-based setting which will not duplicate services regularly provided by facility-based settings outside of North Carolina when the participant is displaced from home because of the COVID-19, and an telephonic assessment which will be conducted in accordance with HIPAA requirements attests that services are required, the provider is qualified and the setting is safe. The case manager will complete the telephonic assessment.
- The initial level of care assessments may be performed telephonically in addition to the in-person assessments and must be completed within the established timelines. The annual reassessment and change of status assessments may be performed telephonically.
- Service plans may be developed and approved telephonically which will be conducted in accordance with HIPAA requirements."

North Carolina Payers Telehealth Policies in Response to COVID-19 (April 2020)

- "Payers across North Carolina have quickly been updating their policies to cover new services and allow for new flexibilities. To help support alignment and education on these changes, NC Medicaid has developed this resource that outlines the various policies for payers serving NC Medicaid beneficiaries. Note that this is a high-level snapshot of offered services and coverage."

Department of Health and Human Services COVID-19 Letter to LME MCOs (3/20/20)

- "Authorizing Local Management Entities (LME)/ Managed Care Organizations (MCOs) to use state single stream funds for responding to COVID-19 (e.g. by converting existing allocations to non-UCR and paying providers for telehealth services and supports) and authorizing immediate pay out of all remaining single stream monthly payments for the remaining state fiscal year.
- Broadly expand of the allowable telehealth and telephonic services across service codes, types of providers, and methods of delivery. The policies will continue to be developed over the coming weeks with a retroactive effective date of 3/10/20. More information at: https://medicaid.ncdhhs.gov/aboutus/coronavirus-disease-2019-covid-19-and-nc-medicaid
- Increase flexibility for opioid treatment including take-home dosing with naloxone (where available) and initiating treatment via telehealth. More information at: https://www.samhsa.gov/medication-assistedtreatment"

COVID-19 Webinar for Medicaid Providers (3/19/20)

- Telephonic Visit Codes Overview

These codes are intended for telephonic/audio visits. However, providers may use these codes when using more advanced, video-enabled technology until telehealth service provision is approved. More specific guidance is forthcoming.

Provider may be remote (not in the office) while patient is home-based instead of another healthcare facility.

Patients are not subject to copays or out of pocket costs.

For established patients only, these may not be used with new patients

Special Bulletin COVID-19 #2: General Guidance and Policy Modifications (3/13/20)

- "Effective Friday, March 13, 2020, NC Medicaid is offering reimbursement for virtual patient communication and telephonic evaluation and management for the following beneficiaries seeking care where they are already an established patient:

"Beneficiaries who are actively experiencing mild symptoms of COVID-19 (fever, cough, shortness of breath) prior to going to the emergency department, urgent care or other health care facility.

Beneficiaries who need routine, uncomplicated follow up and who are not currently experiencing symptoms of COVID-19.

Beneficiaries requiring behavioral health assessment and management."

- "The following virtual patient communication and telephonic evaluation and management services must be rendered by a physician, nurse practitioner, certified nurse midwife or physician assistant actively enrolled in NC Medicaid and NCTracks. Virtual patient communication or telephonic evaluation and management by staff other than those listed should not be submitted for reimbursement. Services are to be rendered only to established patients or legal guardian of an established patient."

NORTH DAKOTA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

North Dakota House Bill No. 1095 (passed 4/10/23)

- "Comprehensive medication management services may be provided via telehealth as defined in section 26.1 - 36 - 09.15 and may be delivered into an enrollee's residence."

North Dakota Senate Bill No. 2160 (introduced 2/16/23)

- "The board shall provide health insurance benefits coverage that provides coverage for health services delivered by means of telehealth which is the same as the coverage for covered medically necessary health services delivered by in - person means."

Insurance Department Expansion of Telehealth Services (3/24/20)

- "Pursuant to this bulletin insurance carriers issuing health benefit plans that offer telehealth services must apply standards to apply this expansion of telehealth services. This expansion is consistent with recent guidance issued by the Centers for Medicare & Medicaid Services (CMS) on March 17, 2020 to expand telehealth services"

Developmental Disabilities Division: COVID-19 Temporary Telehealth Policy for Right Track (3/20/20)

- "What are the temporary changes? On March 13, 2020, the United States Department of Education released this Q&A document, allowing states receiving an IDEA Part C Grant to provide services temporarily through a teleconference or alternative method. Right Track services are funded through North Dakota's IDEA Part C Grant. What are the requirements? A Right Track screening or visit may be conducted over the phone or via a secure videoconferencing system. It is the responsibility of the provider to ensure that their videoconferencing system is secure."

Insurance Commissioner Issues Bulletin Supporting Coverage for COVID-19 Testing (3/11/20)

- "Given that COVID-19 is a communicable disease, some insureds may be using telehealth services instead of in-person health care services. Health carriers are reminded to review N.D.C.C. § 26.1-36-09.15 regarding the delivery of health care services via telehealth. Health carriers are asked to review and ensure their telehealth programs with participating providers are robust and will be able to meet any increased demand."

State Licensure Laws, Policy, and Guidance

North Dakota Senate Bill No. 2187 (engrossed 4/17/23)

- "ARTICLE I - PURPOSE
  - 1. The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services.
  - 2. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
- ARTICLE VII - COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
  - 1. Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with article III and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.
  - 2. A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state."

Executive Order 2021-29 (4/30/21)

- "Executive Order 2020-03 and all subsequent orders related to the public health emergency have met the intended objectives and have been superseded by statute or are not longer necessary, as follows: Executive Order 2020-05.1, Executive Order 2020-09, Executive Order 2020-14, Executive Order 2020-16, Executive Order 2020-18, Executive Order 2020-20, Executive Order 2020-17.1, Executive Order 2020-21.1, Executive Order 2020-29, Executive Order 2020-14.1, Executive Order 2020-21.2, Executive Order 2020-32.2, Executive Order 2020-37, Executive Order 2020-38, Executive Order 2020-20.1, Executive Order 2020-40, Executive Order 2020-42, Executive Order 2020 -08.3, and Executive Order 2020-43.5.
- Executed at the State Capitol in Bismark, North Dakota this 30th day of April, 2021."

North Dakota Medicaid: Temporary Provider Enrollment Process Frequently Asked Questions (4/2/20)

- "Q: Where can I find the forms for the expedited enrollment process?

A: The following are steps to enroll as a ND Medicaid provider. This can be used for all provider types except Qualified Service Providers (QSP). There is a separate process for QSPs and Agency QSPs.

- 1. Go to the website at http://www.nd.gov/dhs/info/mmis/materials.html to complete the online application.
- 2. Go to http://www.nd.gov/dhs/info/covid-19/program-policy.html to find the COVID-19 streamlined application checklists.
- 3. If enrolling as an individual provider, select the Individual Streamlined application checklist due to COVID-19.
- 4. If enrolling a facility that is more than 50 miles from the ND border, select the Out of State Group Streamlined Application checklist.
- 5. If enrolling a facility that is located within ND or is located within 50 miles of the ND border, select the In-State Group Streamlined Application Checklist."

Executive Order 2020-05.1 (3/20/20)

- "…hereby suspends the licensure requirements for health care or behavioral health professionals and certain health care facility licensure requirements. Additionally, for purposes of providing expanded services across the state through telehealth, this Order suspends certain statutory and regulatory requirements to facilitate the delivery of health care and behavioral health services."

Emergency Licensure for Health Care Professionals from Out-of-State (March 2020)

- "As directed by Executive Order 2020-05.1 and as part of our response to the coronavirus (COVID-19) pandemic, licensing requirements have been suspended for health care and behavioral health professionals currently licensed and in good standing in other states."

Executive Order 2020-03 (3/13/20)

- Refers to 37-17.1-14.2. of the North Dakota Century Code: "5. If a person holds a license, certificate, or other permit issued by any state or political subdivision evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving that skill in this state to meet an emergency or disaster, and this state shall give due recognition to the license, certificate, or other permit."

Medicaid Law, Policy and Guidance Related to Telehealth

ND Medicaid: Medication Assisted Treatment (MAT) (9/30/20)

- "Criteria for Coverage

The member must require at least one face to face or by telemedicine check-in per month for prescribing or dispensing of OBOT/OTP medication.

- Service Requirements

Telemedicine must be provided in accordance with applicable federal and state laws and policies and follow the Controlled Substances Act (CSA)(28 USC 802) for prescribing and administration of controlled substances.

- Covered Services

MAT Established, which may be reimbursed beginning week two and weekly thereafter, as clinically indicated, must include the following:

A visit with a physician, psychiatrist, nurse practitioner or physician assistant, face to face or by telemedicine, as clinically appropriate;

MAT Intake or MAT Established may only be billed if the member has at least one visit with a physician, psychiatrist, nurse practitioner or physician assistant, face to face or by telemedicine during that week."

ND Medicaid Provider Updates (5/6/20)

- The requirement for use of the CR modifier for CPT 99441-99443 has been removed from the Temporary Telemedicine Policy."

Teledentistry – COVID-19 Temporary Policy (4/17/20)

- "To address COVID-19 concerns, ND Medicaid is issuing this temporary teledentistry policy to provide flexibility for members and providers to receive and deliver services. This policy covers services rendered on dates of service that fall between March 20, 2020 and the date the national emergency, as authorized in Title V of the Stafford Act, is declared over."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/7/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Infant Development, Independent Habilitation, Individual Employment, Behavior Consultation, Parenting Supports."

North Dakota Medicaid: Coronavirus (COVID-19) Frequently Asked Questions (3/25/20)

- Q: Are telemedicine visits from home covered?

A: "Yes, ND Medicaid covers telemedicine services, including those that originate from a member's or provider's home. More information about telemedicine coverage is available in the telemedicine section of the General Information for Providers manual. If the member's home is used as the originating site, no originating site fee may be billed to ND Medicaid. If the visit originates from a clinic, inpatient hospital, outpatient hospital, or skilled nursing facility/nursing facility, the originating site fee may be billed to ND Medicaid."

COVID-19 Temporary Telehealth Policy (*Updated as of* 3/25/20)

- "On March 17, 2020 the United States Office of Civil Rights (OCR) released this notice, allowing covered health care providers that want to use audio or video communication technology to provide telehealth to patients during the COVID-19 nationwide public health emergency the ability to use any non-public facing remote communication product that is available to communicate with patients.
- "What are the covered telehealth services?

Telehealth services must:

Maintain visual or audio contact between the provider and member.

- Is the payment to the provider the same when services are provided via telehealth?

Yes. Providers are paid the same regardless of if the service was provided in person or via telehealth.

- What are the ND Medicaid noncovered telehealth services?

Store and forward."

OHIO

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Ohio House Bill No. 136 (introduced 4/18/23) / Senate Bill No. 95 (introduced 3/23/23)

- "Sec. 4729.554.
  - (A) As used in this section:
    - (1) "Remote dispensing pharmacy" means a pharmacy where the dispensing of drugs, patient counseling, and other pharmacist care is provided through a telepharmacy system. The dispensing of drugs at a remote dispensing pharmacy may include
    - (2) "Telepharmacy system" means a system that monitors the dispensing of drugs and provides for related drug utilization review and patient counseling services by an electronic method.
  - (B) The state board of pharmacy shall regulate remote dispensing pharmacies in accordance with this section. A remote dispensing pharmacy may operate only by using a telepharmacy system that meets standards established in rules adopted under this section and by complying with all other requirements of this section and the rules adopted under it for operating a remote dispensing pharmacy.
  - (C)(1) To be eligible to operate as a remote dispensing pharmacy, a pharmacy shall meet all of the following conditions: […]
  - (D)(1) To be eligible to serve as the supervising pharmacy of a remote dispensing pharmacy, a pharmacy shall meet all of the following conditions: […]
  - (E)(1) To be eligible to serve as the supervising pharmacist of a remote dispensing pharmacy, a pharmacist shall meet all of the following conditions: […]
  - (F) All of the following apply to the operation of a remote dispensing pharmacy: […]
  - (G) Notwithstanding section 4729.91 of the Revised Code or any other section of this chapter to the contrary, both of the following apply to a pharmacy intern or certified pharmacy technician staffing a remote dispensing pharmacy: […]"

Ohio House Bill No. 509 (passed 12/7/22)

- "Sec. 4725.35. An optometrist ~~who holds a therapeutic pharmaceutical agents certificate issued~~ licensed under this chapter may provide telehealth services in accordance with section 4743.09 of the Revised Code.
- Sec. 4732.33.
    - (A) The state board of psychology shall adopt rules governing the use of telepsychology for the purpose of protecting the welfare of recipients of telepsychology services and establishing requirements for the responsible use of telepsychology in the practice of psychology, independent school psychology, and school psychology, including supervision of persons registered with the state board of psychology as described in division (B) of section 4732.22 of the Revised Code. The rules adopted by the board shall be consistent with section 4743.09 of the Revised Code. The rules are not subject to the requirements of division (F) of section 121.95 of the Revised Code.
    (B) A psychologist, independent school psychologist, or school psychologist may provide telehealth services in accordance with section 4743.09 of the Revised Code."

Ohio House Bill No. 122: Regards the provision of telehealth services (passed 12/19/21)

- "A health benefit plan shall provide coverage for telehealth services on the same basis and to the same extent that the plan provides coverage for the provision of in-person health care services.
- A health plan issuer shall reimburse a health care professional for a telehealth service that is covered under a patient's health benefit plan.
- A health benefit plan shall not impose any annual or lifetime benefit maximum in relation to telehealth services other than such a benefit maximum imposed on all benefits offered under the plan.
- A health benefit plan shall not impose a cost-sharing requirement for telehealth services that exceeds the cost-sharing requirement for comparable in-person health care services.
- In accordance with section 5162.021 of the Revised Code, the medicaid director shall adopt rules authorizing the directors of other state agencies to adopt rules regarding the medicaid coverage of telehealth services under programs administered by the other state agencies.
- The following practitioners are eligible to provide telehealth services covered pursuant to this section:
    - (a) A physician licensed under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery; (b) A psychologist licensed under Chapter 4732. of the Revised Code; (c) A physician assistant licensed under Chapter 4730. of the Revised Code; (d) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner licensed under Chapter 4723. of the Revised Code; (e) An independent social worker, independent marriage and family therapist, or professional clinical counselor licensed under Chapter 4757. of the Revised Code; (f) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code; (g) A supervised practitioner or supervised trainee; (h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code; (i) An audiology aide or speech-language pathology aide, as defined in section 4753.072 of the Revised Code, or an individual holding a conditional license under section 4753.071 of the Revised Code; (j) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code; (k) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code. (l) A dietitian licensed under

Chapter 4759. of the Revised Code; (m) A chiropractor licensed under Chapter 4734. of the Revised Code; (n) A pharmacist licensed under Chapter 4729. of the Revised Code; (o) A genetic counselor licensed under Chapter 4778. of the Revised Code; (p) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate; (q) A practitioner who provides services through a medicaid school program; (r) Subject to section 5119.368 of the Revised Code, a practitioner authorized to provide services and supports certified under section 5119.36 of the Revised Code through a community mental health services provider or community addiction services provider; (s) Any other practitioner the medicaid director considers eligible to provide telehealth services."

State Medical Board: Telemedicine Frequently Asked Questions (8/11/21)

- "What is the Medical Board's recent updated guidance on its laws and rules requiring in-person patient visits?

At its August 11, 2021 meeting, the Medical Board agreed to resume enforcement of its laws and rules requiring in-person patient visits on December 31, 2021. The purpose of this announcement was to give advance notice to hospitals, practice groups, physicians, physician assistants, and most importantly patients.

- Since Governor DeWine ended the state of emergency on June 18, 2021, when will the Medical Board resume enforcement of its laws and rules requiring in-person patient visits?

The Medical Board will resume enforcement on December 31, 2021."

State Medical Board: Telemedicine Update (6/17/21)

- "In response to the COVID-19 pandemic, the Medical Board temporarily suspended the enforcement of rules that require in-person visits and allowed providers to use telemedicine to safely treat patients.
- On June 9, the board voted to resume enforcement of these rules and prioritize continuity of care for Ohio patients. Enforcement of these rules were to begin three months after the lifting of the state declaration of emergency.
- Governor DeWine has announced that the state emergency order will be lifted on Friday, June 18. The board intends to resume enforcement of these rules on September 17, 2021."

Ohio Senate Bill 260 (passed House 12/17/20)

- Ohio lawmakers have passed legislation barring the use of telemedicine in medication abortions.

Ohio House Bill No. 679 (referred to Senate Committee: Insurance and Financial Institutions 9/23/20)

- ""Telehealth services" means health care services provided through synchronous or asynchronous information and communication technology by a health care professional, within the professional's scope of practice, who is located at a site other than the site where the recipient is located."
- "A health benefit plan shall provide coverage for telehealth services on the same basis and to the same extent that the plan provides coverage for the provision of in-person health care services."

- "A health benefit plan shall not impose a cost-sharing requirement for telehealth services that exceeds the cost-sharing requirement for comparable in-person health care services."

Executive Order 2020-09D (4/28/20)

- This order removes a requirement that patients must have a face-to-face first meeting and counselors and social workers before qualifying for a telehealth appointment.

Ohio House Bill No. 580: A Bill To amend section 3902.30 of the Revised Code to require health plan issuers to cover telemedicine services during a state of emergency, and to declare an emergency. (introduced 3/23/20)

- "A health benefit plan shall provide coverage for telemedicine services on the same basis and to the same extent that the plan provides coverage for the provision of in-person health care services."

Register of Ohio: Telehealth During a State of Emergency (3/20/20)

- "This emergency rule is being implemented to expand access to medical and behavioral health services using telehealth. New and established patients may be provided services through telehealth per this rule. No initial face-to-face visit is necessary to initiate services through telehealth."
- Eligible providers listed include: Physician, psychologist, physician assistant, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, licensed independent social worker, licensed independent marriage and family therapist, licensed professional clinical counselor, licensed independent chemical dependency counselor, audiologist, physical therapist, occupational therapist, speech language pathologist, occupational therapist assistant, physical therapist assistant, speech therapist assistant…
- (a) In paragraph (D)(2)(c)(i) of rule 5160-8-05 of the Administrative Code, the requirement that the professional responsible for the patient's care has face-to-face contact during the initial visit is suspended."
- Services reimbursed through telehealth during state of emergency can be found here.

State Medical Board of Ohio (3/18/20)

- "Effective March 9, 2020, providers can use telemedicine in place of in-person visits. Throughout the declared Covid-19 emergency, the SMBO will not enforce in-person visit requirements normally required in SMBO rules.

Suspension of these enforcement requirements includes, but is not limited to

  - Prescribing controlled substances
  - Prescribing for subacute and chronic pain
  - Prescribing to patients not seen by the provider
  - Pain management
  - Medical marijuana recommendations and renewals
  - Office-based treatment for opioid addiction"

Ohio Department of Insurance Bulletin 2020-02 (3/11/20)

- "Issuers that provide coverage for services delivered via telemedicine are expected to provide such coverage for COVID-19 testing and treatment. Issuers that do not currently provide this coverage are encouraged to implement early adoption of the Ohio law requirements effective January 1, 2021. Under those requirements, issuers are prohibited from excluding coverage for a service that is otherwise covered under the health plan solely because it is delivered as a telemedicine service. Issuers are also required to cover telemedicine services on the same basis and to the same extent that the plan provides coverage for in-person services."

State Licensure Laws, Policy, and Guidance

Ohio Senate Bill No. 90 (introduced 3/22/23)

- "Sec. 4757.52. The "Social Work Licensure Compact" is hereby ratified, enacted into law, and entered into by the state of Ohio as a party to the compact with any other state that has legally joined in the compact as follows:
  SECTION 1: PURPOSE
  The purpose of this Compact is to facilitate interstate practice of Regulated Social Workers by improving public access to competent Social Work Services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.
- This Compact is designed to achieve the following
  - I. Allow for the use of telehealth to facilitate increased access to regulated Social Work Services."

Ohio Senate Bill No. 60 (introduced 2/16/23)

- "Sec. 4772.091. A certified mental health assistant may provide telehealth services in accordance with section 4743.09 of the Revised Code."

Ohio House Bill No. 714 (introduced 8/31/22)

- "Sec. ~~4761.30~~ 4761.25. A respiratory care professional or advanced practice respiratory therapist may provide telehealth services in accordance with section 4743.09 of the Revised Code."

Ohio Senate Bill No. 204 (passed 5/25/22)

- "Compact Privilege to Practice Telehealth
  - A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.
  - B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State."

State Medical Board: Telemedicine Update (11/10/21)

- "During the November 10 meeting, the Medical Board voted to extend the enforcement date of its regulation requiring in-person visits until March 31, 2022."
- *Note:* At the onset of the pandemic, Ohio's State Medical Board declared that they would not enforce in-person visit requirements for the following types of services delivered via telehealth:
  - Prescribing controlled substances
  - Prescribing for subacute and chronic pain
  - Prescribing to patients not seen by the provider
  - Pain management
  - Medical marijuana recommendations and renewals
  - Office-based treatment for opioid addiction

Ohio House Bill No. 203: Require occupational license if experienced in another state (introduced 3/16/21)

- "A dentist who desires to provide dental services through teledentistry shall apply to the state dental board for a teledentistry permit. The application must be made under oath on a form prescribed by the board and be accompanied by a twenty-dollar application fee.
- The state dental board shall issue a teledentistry permit to a dentist who is in good standing with the board and satisfies all of the requirements of this section. An individual who holds a license in another state is not required to obtain a license under Chapter 4796. of the Revised Code if the individual holds a permit under this section."

Executive Order 2020-05D (3/19/20)

- "…there exists a need to relax current administrative rules regarding healthcare providers' ability to render services through telehealth during this time…"

State Medical Board of Ohio: Telemedicine, Emergency Licensure and Continuing Education (3/18/20)

- "The Medical Board will partner with the Ohio Emergency Management Agency (EMA) or other necessary government entity if the need arises to temporarily license out-of-state physicians and physician assistants"

Medicaid Law, Policy and Guidance Related to Telehealth

Ohio State Medicaid Documents (8/31/20)

- "Proposed for rescission: Rule 5160-1-18, entitled "Telehealth," is being proposed for rescission as more than fifty percent of the rule requires amending. Many provisions from this rule will be contained in a new proposed rule of the same number and title. This rule provides definitional information related to active patients, patient site, practitioner site, and telehealth and requirements surrounding patient and practitioner site. It identifies practitioners eligible to provide services via telehealth and practitioners who are eligible to bill for telehealth services, as well as requirements of the distant site provider. It identifies additional requirements and responsibilities for

when a service is provided using telehealth, including following all state and federal laws, having access to patient medical records at time of service delivery, coding guidelines and requirements for patients who receive telehealth services for a period longer than twelve consecutive months. The rule includes provisions for submission and payment of claims. This rule provides the codes and modifiers that must be submitted on claims, clarifies that inmates are not eligible for reimbursement for telehealth services and identifies where fee schedules may be found for the services and provider types included in this rule."

- "Proposed for adoption: Rule 5160-1-18, entitled "Telehealth," provides definitional information, identifies eligible rendering and billing providers, identifies covered telehealth services, and provider responsibilities for services rendered using telehealth and payment for telehealth services. It includes the same provisions as rule 5160-1-18 that is being proposed for rescission with the following exceptions:

This new rule expands the definition of telehealth to include the following asynchronous activities that do not have both audio and video elements: telephone calls, remote patient monitoring, and communication through secure electronic mail or a secure patient portal.

This new rule expands the type of practitioners eligible to render services using telehealth to include supervised practitioners such as trainees and aides, Medicaid School Program (MSP) providers, audiologists, speech-language pathologists, occupational therapists, physical therapists, home health and hospice aides, private duty nurses working in a home health or hospice setting, dentists, dietitians, behavioral health practitioners, and optometrists. This rule provides fewer restrictions on patient and practitioner site locations.

This new rule identifies the provider types eligible to bill for services rendered through telehealth and sets forth provider responsibilities when providing and billing for services delivered through telehealth. To the current list, it adds professional dental groups, outpatient hospitals on behalf of licensed psychologists and independent behavioral health practitioners, Medicaid school program (MSP) providers, and hospitals operating under an outpatient hospital behavioral health program. It exempts the following practitioners from eligibility to bill for services rendered through telehealth: supervised practitioners and supervised trainees, occupational therapy assistants, physical therapy assistants, speech-language pathology aides, audiology aides, and individuals holding a conditional license. It removes active patient requirements and replaces it with modified provisions to state that when a patient is seen for a period longer than twelve consecutive months through telehealth, the patient is expected to have at least one in-person annual visit by the telehealth practitioner or practice, or by the individual's usual source of clinical care.

This new rule expands the services that may be paid for when delivered using telehealth to include the following services: remote evaluation of recorded video or images submitted by an established patient, virtual check-in by a physician or other qualified health care professional who can report evaluation and management services provided to an established patient, online digital evaluation and management services for an established patient, remote patient monitoring, physical therapy, occupational therapy, audiology, speech-language therapy, additional behavioral health services, medical nutrition services, lactation counseling provided by dietitians, psychological and neuropsychological testing, smoking and tobacco cessation counseling, developmental test administration, oral evaluations provided by dentists, hospice, state plan home health, dialysis related services, services under the Specialized Recovery Services (SRS) program, and optometry services. The appendix to this rule has been expanded to include additional procedure codes reflecting services added to telehealth under this proposed rule.

This new rule provides requirements for claims submitted for health care services utilizing telehealth. This rule requires the claim to include a "GT" modifier, a place of service code that reflects the physical location of the treating practitioner, and a modifier as identified in the appendix to reflect the physical location of the patient. This new rule allows for a facility claim to be submitted by an outpatient hospital for telehealth services delivered by licensed psychologists and independent behavioral health practitioners."

Ohio Department of Medicaid Billing Guidelines During COVID-19 State of Emergency (*updated as of* 5/21/20)

- "Under this emergency rule, the following is considered telehealth

Delivery of health care services to a patient via synchronous, interactive, real-time electronic communication that includes both audio and video elements; OR

Activities that are asynchronous and activities that do not have both audio and video elements such as:

  - Telephone calls
  - Images transmitted through fax
  - Electronic mail

- Medicaid covered individuals can access telehealth services wherever they are located. This includes:

Home, School, Temporary housing, Homeless shelter, Nursing Facility, Hospital, Group home, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs)"

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (5/14/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers)."

Care/Case Management Emergency Protocol: Response to COVID-19 (4/13/20)

- Case Management / Recovery Management Assessments: "The State is allowing face to face requirements to be replaced with telephonic contact. If an assessment is unable to be completed telephonically within the required timeframes, the State is requesting the CMA to track the late assessments and submit to the State monthly. ODA does not require this report monthly."

Ohio Department of Medicaid Emergency Telehealth Expansion Infographic (4/13/20)

- The above link is an infographic summarizing the eligible providers and covered services for telemedicine in Ohio Medicaid, as well as the steps to take to begin accessing telehealth services.

Ohio Department of Medicaid Telehealth Rules: FAQs (*updated as of* 4/13/20)

- Q: "Which types of practitioners are permitted to render Medicaid-covered services under ODM's emergency telehealth rule?"

A: Updated to include the following providers:

  - "Independently licensed behavioral health practitioners: -
- Licensed Independent Social Worker (LISW) - Licensed Independent Marriage and Family Therapist (LIMFT) - Licensed Professional Clinical Counselor (LPCC) - Licensed Independent Chemical Dependency Counselor (LICDC)
- Supervised behavioral health practitioners and trainees, as defined in OAC Chapter 5160-8-05
- Licensed Professional Counselor (LPC) - Licensed Marriage and Family Therapists (LMFT) - Licensed Chemical Dependency Counselor II - Licensed Chemical Dependency Counselor III - Registered Counselor Trainee - Registered Social Work Trainee - Marriage and Family Therapist Trainee - Chemical Dependency Counselor Assistant - Psychology Assistant, Psychology Intern, Psychology Fellow, Psychology Resident
- The following additional types of rendering practitioners are being added per the Medicaid Director's designation per 5160-1-21 (B)(1)(r): Dentists, Registered Nurses (RN) and Licensed Practical Nurses (LPN) working in a hospice or home health setting, Licensed and credentialed health professionals working in a hospital or nursing facility setting (see FAQ question 14 for additional information), Home health and hospice aides"
- Q: "What dental services will be covered through telehealth and how do I bill them?

A: After consulting with stakeholders and reviewing teledentistry guidance provided by the American Dental Association, the Ohio Dental Association, and the Ohio State Dental Board, ODM decided that teledentistry would be covered under the emergency rule. Specifically:

D0140 will be covered as an exam involving more than a triage or screening service when provided through teledentistry.

D9995 is to be billed in conjunction with D0140 to indicate the exam was provided through teledentistry"

Ohio Department of Medicaid Telehealth Rules: FAQs (3/20/20)

- "The Governor's Executive Order 2020-05D adopts/amends the following emergency rules:

ODM's 5160-1-21 Telehealth during a state of emergency and its appendix (new rule)

  - "Creates a new telehealth rule that is in effect during any time period in which the Governor of the State of Ohio declares a state of emergency and when authorized by the Medicaid director. During this time period, 5160-1-21 supersedes Medicaid's other telehealth rule, 5160-1-18."
  - "Allows all individuals with Medicaid to receive telehealth services – regardless of the last time they had a face-to-face visit with their health care provider, and regardless of their status as a new or existing patient."
  - "Defines telehealth as activities that are synchronous involving real-time, interactive audio and visual communications, as well as activities that are asynchronous, and do not have both audio and video elements. Some examples of telehealth services include videoconferences, telephone calls, images transmitted via facsimile machine, and electronic mail. ODM is relying on the

professional judgment of healthcare providers to determine the appropriate method of privately communicating with each patient."

- "Allows Medicaid billing regardless of patient and practitioner locations, with the exception of patients residing in penal facilities or a public institution, as defined in rule 5160:1-1-03 of the Administrative Code."
- "Allows a wide range of practitioners and provider organizations to bill Medicaid for telehealth services. Offers a wide range of medical and behavioral health services that can be billed to Medicaid when delivered through telehealth."
- "Incorporates by reference the Office of Civil Rights' Notification of HIPAA Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency."
- "Incorporates by reference OhioMHAS emergency rule changes to interactive videoconferencing for community behavioral health centers treating Medicaid consumers, and suspends several Medicaid requirements for specific community behavioral health services to be delivered face-to-face."

OhioMHAS's 5122-29-31 Interactive videoconferencing (rule amendment)"

- "Allows the definition of "interactive videoconferencing" to include asynchronous activities that do not have both audio and video elements. Some examples of these asynchronous activities include telephone calls, images transmitted via facsimile machine, and electronic mail.."
- "Allows both new and established patients to receive services through interactive videoconferencing, and explicitly overrides the initial face-to-face visit requirement previously needed to initiate telehealth services."
- "Adds new behavioral health services that can be delivered via interactive videoconferencing, including peer recovery, substance use disorder (SUD) case management, crisis intervention, assertive community treatment (ACT), and intensive home-based treatment (IHBT) services."
- "Prior to consolidation of the ODADAS and ODMH rules, SUD case management could be provided via interactive videoconferencing. By adding SUD case management to the emergency rule, any provider that was unaware of the accidental omission from the prior OhioMHAS rule and provided SUD case management via IVC."

Ohio Medicaid Appendix to Rule 5160-1-21 – Services Reimbursed Through Telehealth During a State of Emergency (3/20/20)

- This document provides the relevant procedure codes to be used for services delivered via telehealth

Ohio Department of Medicaid: Telehealth During a State of Emergency (3/20/20)

- "New and established patients may be provided services through telehealth per this rule. No initial face-to-face visit is necessary to initiate services through telehealth.
- 'Patient site' is the physical location of the patient at the time a health care service is provided through the use of telehealth. There is no limitation on the patient site.

- "Telehealth" is: (a) The direct delivery of health care services to a patient via synchronous, interactive, real-time electronic communication comprising both audio and video elements; or (b) Activities that are asynchronous and do not have both audio and video elements such as telephone calls, images transmitted via facsimile machine, and electronic mail."

OKLAHOMA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Oklahoma House Bill No. 1963 (engrossed 3/23/23)

- "A. For the purpose of assuring telemedicine coverage with an entity, physician, physician's assistant, advanced practice registered nurse, registered nurse, or licensed practical nurse outside of Oklahoma for treatment of Oklahoma patients at any location with the State of Oklahoma, any health benefit plan that is offered, issued, or renewed in this state by an insurer shall provide coverage of health care services provided through telemedicine provided that: […]
- B. If a recommended physician located outside of Oklahoma is referred by an Oklahoma licensed physician to treat an Oklahoma patient, the recommended physician shall be authorized to practice medicine whether or not the recommended physician is licensed by the Oklahoma State Medical Board."

Oklahoma Senate Bill No. 674 (passed 5/5/21)

- "For services that a health care professional determines to be appropriately provided by means of telemedicine, health care service plans, disability insurer programs, workers' compensation programs, or state Medicaid managed care program contracts issued, amended, or renewed on or after January 1, 1998, shall not require person-to-person contact between a health care professional and a patient.
- Any health benefit plan that is offered, issued or renewed in this state by an insurer on or after the effective date of this act shall provide coverage of health care services provided through telemedicine, as provided in this section.
- An insurer shall not exclude a service for coverage solely because the service is provided through telemedicine and is not provided through in-person consultation or contact between a health care professional and a patient when such services are appropriately provided through telemedicine. An insurer may limit coverage of services provided by telehealth consistent with coding and clinical standards recognized by the American Medical Association or the Centers for Medicare and Medicaid Services as covered if delivered by telehealth or telemedicine, except as agreed to by the insurer and provider.
- An insurer shall reimburse the treating health care professional or the consulting health care professional for the diagnosis, consultation or treatment of the patient delivered through telemedicine services on the same basis and at least at the rate of reimbursement that the insurer is responsible for coverage for the provision of the same, or substantially similar, services through in-person consultation or contact.

- An insurer shall not apply any deductible to telemedicine services that accumulates separately from the deductible that applies in the aggregate to all items and services covered under the health benefit plan.
- This act shall become effective January 1, 2022."

Executive Order 2021-11 (5/3/21)

- "Effective May 4, 2021, Second Amended Executive Order 2021-07 is withdrawn and rescinded."

Public health emergency (PHE) extended for 90 days (7/23/20)

- "As anticipated, in consultation with public health officials, Health and Human Services Secretary Alex Azar extended the current COVID-19 public health emergency (PHE) for an additional 90 days (the maximum period allowed by law). It was set to expire on July 25.
- What it means: The extension allows for the continuation of relaxed telemedicine coverage and payment rules under both public (Medicare and Medicaid) and private insurers' policies during the pandemic."

Oklahoma Insurance Department Bulletin (*updated as of* 6/18/20)

- "LH Bulletin 2020-02 (As Amended) will be rescinded on June 30, 2020, except as provided below:

Health insurers and entities are encouraged to permit the generalized use of in-network telehealth/telemedicine services and encourage health insurers and entities to expand their networks of providers and facilities to perform telemedicine services."

Third Amended Executive Order 2020-13 (*updated as of* 4/20/20)

- "As long as this Executive Order is in effect a licensed physician shall be able to supervise any number of Physician Assistants, Certified Registered Nurse Anesthetists, and Nurse Practitioners, and shall be able to supervise the Physician Assistants, Certified Registered Nurse Anesthetists Certified Registered Nurse Anesthetists, and Nurse Practitioners using remote or telephonic means.
- Telemedicine shall be used to maximum potential and shall be allowed for non-established patients for the purposes of the COVID-19 response. The preexisting patient relationship requirement for telemedicine, as required by 59 O.S. § 478.1, only applies to the prescribing of opiates and other controlled dangerous substances. 59 O.S. § 478.l already allows the physician to see patients using telemedicine without the prior establishment of the physician patient relationship. Nothing in this Order shall waive 59 O.S. § 478.l (C) for the purpose of prescribing opiates and other controlled dangerous substances reference therein.

Oklahoma Department of Health (4/10/20)

- "The Oklahoma State Department of Health (OSDH) is partnering with the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) and MyCare to offer services to clients who may find themselves in crisis. Local county health departments at 81 sites will have access to iPads designed to assist clients who may be in mental health distress during the COVID-19 crisis.
- The MyCare application is setup on electronic tablets provided to local health departments as a quick resource for immediate assistance from behavioral health specialists enlisted by the ODMHSAS through the telehealth format."

Executive Order 2020-07 (*updated as of* 4/2/20)

- "Any medical professional who holds a license, certificate, or other permit issued by any other state that is a party to the Emergency Management Compact evidencing the meeting of qualifications for the practice of certain medical services, as more particularly described below, shall be deemed licensed to practice in Oklahoma so long as this order shall be in effect, subject to the following conditions…
- All occupational licenses issued by any agency, board, or commission of the State of Oklahoma that expire during this emergency shall be extended so long as this Order is in effect. All occupational licenses extended during this Order will expire fourteen (14) days following the withdrawal or termination of this Order.
- The preexisting patient relationship requirement for telemedicine, as required by 59 O.S. 478.1, is hereby waived so long as this Order is in effect. Nothing in this Order shall waive 59 O.S. 478.1 (B) regarding HIPPA or (C) for the purpose of prescribing opiates and other controlled dangerous substances referenced therein.
- Advanced practice registered nurses, registered nurses, licensed practical nurses and advanced unlicensed assistants who have lapsed or inactive licenses or certifications may have their single-state license or certification reinstated if they submit a reinstatement application and fee prescribed by the Board and meet qualifications for licensure or certification…"

State Licensure Laws, Policy, and Guidance

Oklahoma House Bill No. 2723 (engrossed 3/23/23)

- "ARTICLE I Purpose
    - The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
- ARTICLE VII Compact Privilege to Practice Telehealth
    - A. Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with Section 3 of this compact and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.
    - B. A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state."

Oklahoma Senate Bill No. 575 (engrossed 3/22/23)

- "SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

  The Counseling Compact is hereby enacted into law and the Governor shall enter into a compact on behalf of the State of Oklahoma with any jurisdiction legally joined therein, in the form substantially as set forth in Section 2 of this act.

- SECTION 7: COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
    - A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission."

Office of the Governor: Ninth Amended Executive Order 2020-20 (reissued 1/13/21)

- "Any medical professional who holds a license, certificate, or other permit issued by any state that is a party to the Emergency Management Compact evidencing the meeting of qualifications for the practice of certain medical services, as more particularly described below, shall be deemed licensed to practice in Oklahoma so long as this Order shall be in effect…"
- "Telemedicine shall be used to the maximum potential and shall be allowed for non-established patients for the purposes of the COVID-19 response. The preexisting patient relationship requirements for telemedicine, as required by 59 O.S. 478.1, only applies to the prescribing of opiates and other controlled dangerous substances. 59 O.S. 478.1 already allows the physician to see patients using telemedicine without the prior establishment of the physician patient relationship. Nothing in this Order shall waive 59 O.S. 478.1 (C) for purpose of prescribing opiates and other controlled dangerous substance reference therein."
- "This Order shall be effective until the end of thirty (30) days after the filing of this order."

Chapter 11 – COVID-19 Pandemic Emergency Rules (4/14/20)

- Temporary licensure for recent graduates: "The supervising physician will assume supervision over the graduate practicing under the temporary license by telephonic means or remote communicative technology."
- Telemedicine and telehealth:

(a) To the extent not already allowed by applicable law, licensed medical doctors, surgeons, and physician assistants may utilize telemedicine or telehealth to provide care for new or existing patients.

(b) Subsection (a) shall not be construed to allow licensed medical doctors, surgeons, or physician assistants to prescribe opiates and other controlled dangerous substances without a preexisting physician-patient relationship as required by 59 O.S.Supp.2017, § 478.1.

(c) Subsection (b) shall not be construed to waive the scheduled drug prescription requirements for Physician Assistants under OAC 435:15-5-10.

(d) To the extent not already allowed by applicable law or relevant practice act, licensed athletic trainers, dieticians, musical therapists, occupational therapists, physical therapists, pedorthists, orthotists, prosthetists, respiratory care practitioners or respiratory therapists, and therapeutic recreational specialists may utilize telemedicine or telehealth to provide follow-up care to current patients or clients.

(e) Nothing under subsections (a) or (d) of this section shall be construed to expand a licensee's scope of practice. At all times, licensees shall provide care that is consistent with the licensee's education, knowledge, and expertise."

Section 1135 Waiver Flexibilities (3/24/20)

- "If a certified provider is enrolled in Medicare or with a state Medicaid program other than Oklahoma, Oklahoma may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency.
- With respect to providers not already enrolled with another SMA or Medicare, CMS will waive the following screening requirements under 1135(b)(1) and (b)(2) of the Act, so the state may provisionally, temporarily enroll the providers for the duration of the public health emergency:

1. Payment of the application fee - 42 C.F.R. §455.460
2. Criminal background checks associated with Fingerprint-based Criminal Background Checks - 42 C.F.R. §455.434
3. Site visits - 42 C.F.R. §455.432
4. In-state/territory licensure requirements - 42 C.F.R. §455.412

- CMS is granting this waiver authority to allow Oklahoma to enroll providers who are not currently enrolled with another SMA or Medicare so long as the state meets the following minimum requirements"

Medicaid Law, Policy and Guidance Related to Telehealth

Oklahoma Health Authority (June 2021)

- 6/1/21 "Telehealth ends for Physical Therapy"

"Effective immediately and per the Oklahoma Board of Medical Licensure and Supervision, the use of telehealth in physical therapy has ended. The Governor's Executive Order, which allowed physical therapy to utilize telehealth during the pandemic, ended May 4, 2021."

- 1/15/21 "Public Health Emergency Extension"

The US Dept. of Health and Human Services has extended the public health emergency through April 21, 2021.

What does this mean for SoonerCare providers and members?

Expanded use of telehealth services through April 30, 2021 for most SoonerCare services.

- 10/16/20 "PT, OT, Speech Services via Telehealth Update"

Effective Oct. 31, 2020 and for as long as the COVID-19 public health emergency lasts, therapy providers should no longer request the GT modifier for telehealth services on prior authorization (PA) submissions. The PA submissions will only list the respective therapy discipline modifier (GN, GO or GP), along with the total number of units being requested.

Therapy providers will identify whether a service was performed via outpatient or telehealth when a claim is submitted for reimbursement. Providers will choose either a Place of Service (POS) 11 for therapy performed in office or a POS 02 for therapy performed via telehealth.

For therapy PAs currently approved with a GT modifier line, continue submitting claims with a GT modifier through Oct. 30, 2020 if the service was performed via telehealth. All therapy services provided on or after Oct. 31, 2020 will bill with a POS 11 for therapy performed in office or

a POS 02 for therapy performed via telehealth. *10/6/20 "Expanded use of telehealth services during the COVID-19 national and state emergency extension"*

Telehealth services that have been expanded during the COVID-19 national and state emergency are being extended through Jan. 31, 2021. OHCA will assess the status of the COVID-19 pandemic toward the end of January to determine if the expansion should be extended.

- 9/18/20 "PT, OT, Speech Services via Telehealth"

Effective Sept. 30, 2020, the automatic addition of the GT modifier to therapy prior authorization (PA) submissions will no longer be added to the requested telehealth services.

Therapy PA submissions requesting telehealth services will now require providers to submit telehealth services with the GT modifier and the therapy discipline modifier GN, GO, or GP.

The therapy provider will need to submit two separate line items when requesting outpatient therapy services and telehealth therapy services; one line for outpatient therapy services and one line for telehealth services. The approved units for outpatient and telehealth are NOT interchangeable. Any changes to the usage of the approved units will require an amendment.

Therapy services that have already been prior approved for dates of service after Oct. 30, 2020 will require an amendment if the therapy services are to be done via telehealth.

- *7/29/20* "Expanded use of telehealth"

The U.S. Department of Health and Human Services renewed the national public health emergency effective from July 25 through Oct. 23, 2020. OHCA is allowing expanded use of telehealth through Oct. 31, 2020 for most reimbursable services. Read the HHS determination at https://www.phe.gov/emergency/news/healthactions/phe/Pages/covid19-23June2020.aspx.

- *7/6/20* "Telephonic services 99441-99443 and 98966-98968

OHCA previously opened coverage for telephonic visit CPT codes 99441-99443 and 98966-98968 to be effective during the COVID-19 public health emergency. As a reminder, per the code descriptions, codes 99441-99443 are billable when telephonic services are rendered by a physician, physician assistant or nurse practitioner, and 98966-98968 are billable when telephonic services are rendered by all other professionals. These services may be utilized in instances when the SoonerCare member does not have access to telehealth equipment, the service is necessary to the health and safety of the member, and the service can safely and effectively be provided over the telephone. During the public health emergency, services can be provided to a new or established patient."

- *6/9/*20 "Expanded use of telehealth services during the COVID-19 national and state emergency are being extended.

Telehealth services that have been expanded during the COVID-19 national and state emergency are being extended through September 30th 2020. OHCA will assess the status of the COVID-19 pandemic toward the end of September to determine if the expansion should be extended."

- *5/15/20* "Expanded use of telehealth services during the COVID-19 national and state emergency are being extended.

Telehealth services expanded during the COVID-19 national and state emergency are being extended through June 30. OHCA will assess the status of the COVID-19 pandemic toward the end of June to determine if the expansion should be extended."

- 5/14/20 "Telephonic E/M Codes

Effective March 30 and only for as long as the national emergency surrounding COVID-19 exists, telephonic physician E/M codes 99441, 99442 and 99443, and other healthcare professionals E/M codes 98966, 98967 and 98968, can be provided to both new AND established patients."

- *5/1/20* "Update to well-child checks via telehealth:

OHCA will not require the pediatric behavioral health screen for each telemed well visit for children ages five and older. The screening requirement is annual unless something with the child has changed.

OHCA will continue to pay for immunization administration when delivered outside of a well-child visit. The vaccine code must be on the claim.

OHCA will not require an in-person follow-up well-child visit after a telemed visit. The provider will decide when they need to see the child again.

Providers do not need new consent for telemed well-visits if a patient has already signed a consent form to be treated at that clinic. During the COVID-19 emergency declaration, OHCA considers a telemedicine visit to be the same as an in-person visit. The provider and family are allowed to determine if the telemedicine visit is the right service to provide.

OHCA's open telehealth codes will remain open until the emergency declaration has expired. We understand this helps to decrease no-shows and improves access to care in rural locations, so continuation of telehealth after the emergency will be evaluated."

- *4/21/20* Expanded use of telehealth services during the COVID-19 national and state emergency are being extended: "Telehealth services that have been expanded during the COVID-19 national and state emergency are being extended through May 31. OHCA will assess the status of the COVID-19 pandemic toward the end of May to determine if the expansion should be extended."
- *4/15/20* Child Well-care and Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Visits: "Effective immediately and only for so long as the national emergency surrounding COVID-19 exists, OHCA will allow well-child visits to be delivered via telehealth for children age 2 and older. OHCA believes telehealth well-child visits for children younger than 2 are not appropriate and would require an in-person visit. Providers will continue to meet the requirements of OAC 317:30-3-27 in delivering telehealth services and must submit claims using the GT modifier.
- *4/9/20 "*Effective immediately and only as long as the national emergency surrounding COVID-19 exists, OHCA has expanded the list of PT and OT services allowed to be rendered via telehealth, when appropriate."
- *4/7/20* "In accordance with CDC recommendations regarding COVID-19 and the ordinance from Governor Stitt to refrain from any elective dental procedures, OHCA has revised its stance regarding teledentistry. Effective April 1, 2020, SoonerCare will temporarily reimburse providers for use of the D0140 code when coupled with the D9995 code through April 30. An encounter will be considered teledentistry whereby there is a live, two-way, audio-visual, interactive encounter between the patient and the provider. Providers must meet the

telehealth requirements in 317:30-3-27. Frequency utilization will be reviewed on a case-by-case basis. If needed, this decision will be revised depending on the future situation."

- *3/27/20* "OHCA has reviewed the possibility of opening codes for teledentistry and has concluded that current CDT dental codes do not allow for virtual encounters in the absence of real time diagnostic procedures. Many of you will continue to see patients for emergency care during this time. You will continue to receive reimbursement for procedural codes performed for patients seen in real time."
- *3/25/20* "PT and OT Services Via Telehealth: Effective immediately and only as long as the national emergency surrounding COVID- 19 exists, OHCA will allow certain PT and OT services to be rendered via telehealth when appropriate. These services include the following CPT codes: 97110 (therapeutic exercise), 97530 (therapeutic activities), and 97535 (home management training for ADLs). These will need to be submitted with the GT modifier. These services will continue to require prior authorization. PT and OT evaluation and re-evaluation services are not appropriate for telehealth and will not be allowed."
- *3/23/20* "PASRR Face-to-Face Assessments: Due to the outbreak of COVID-19 and Governor Stitt's Executive Order 2020-06, PASRR face-to-face assessments will be suspended for an indefinite time period. PASRR assessments may be completed by the following methods: telehealth or video conferencing if available, phone conference, desk review of all medical and mental health information, consults with hospital and nursing facility staff, phone consults with guardian or power of attorney and phone consults with significant others, if authorized by the Individual."
- *3/17/20* "The Oklahoma Health Care Authority is allowing expanded use of telehealth beginning March 16, 2020 through April 30, 2020 for services that can be safely provided via secure telehealth communication devices for all SoonerCare members. OHCA will assess the status of the COVID-19 situation toward the end of April to determine if the expansion should be continued. Providers will continue to meet the requirements of OAC 317:30-3-27 in delivering telehealth services and must submit claims using the GT modifier. Additionally, the use of telephonic services (non face-to-face) may be utilized in instances when the SoonerCare member does not have access to telehealth equipment, the service is necessary to the health and safety of the member, and the service can safely and effectively be provided over the telephone."
- All telehealth assistance will be provided in accordance with HIPAA requirements.

Title 317. Oklahoma Health Care Authority Chapter 30. Medical Providers-Fee for Service (adopted 9/14/20)

- The following requirements apply to all services rendered via telehealth.

(1) Interactive audio and video telecommunications must be used, permitting encrypted, real-time communication between the physician or practitioner and the SoonerCare member. The telecommunication service must be secure and adequate to protect the confidentiality and integrity of the telehealth information transmitted. As a condition of payment the member must actively participate in the telehealth visit. […]

(3) The medical or behavioral health related service must be provided at an appropriate site for the delivery of telehealth services. […]

(4) The provider must be contracted with SoonerCare and appropriately licensed or certified, in good standing. […]

(5) If the member is a minor, the provider must obtain the prior written consent of the member's parent or legal guardian to provide services via telehealth, that includes, at a minimum, the name of the provider; the provider's permanent business office address and telephone

number; an explanation of the services to be provided, including the type, frequency, and duration of services. Written consent must be obtained annually, or whenever there is a change in the information in the written consent form, as set forth above. The requirements of subsection OAC 317:30-3-27(c)(5), however, do not apply to telehealth services provided in a primary or secondary school setting.

(6) If the member is a minor, the telehealth provider shall notify the parent or legal guardian that a telehealth service was performed on the minor through electronic communication whether a text message or email. […]

(8) All telehealth activities must comply with Oklahoma Health Care Authority (OHCA) policy, and all other applicable State and Federal laws and regulations, including, but not limited to, 59 O.S. Â§ 478.1.[…]

(11) A telehealth service is subject to the same SoonerCare program restrictions, limitations, and coverage which exist for the service when not provided through telehealth; provided, however, that only certain telehealth codes are reimbursable by SoonerCare.

(12) Where there are established service limitations, the use of telehealth to deliver those services will count towards meeting those noted limitations. Service limitations may be set forth by Medicaid and/or other third-party payers

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (8/26/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Temporarily allow the provision of Prevocational services in residential settings using a HIPAA compliant video monitoring system such as Zoom or Microsoft Teams via phone, computer or smart TV and/or Facetime via a smart phone, when the Team determines it is appropriate to do so and the member has agreed to the use of remote monitoring. Monitoring is prohibited in member bedrooms and bathrooms in order to maintain privacy. The state is requesting immediate implementation to avoid any adverse effect on member health and safety and provider capacity to deliver services. Should a provider be unable to deliver services during this emergency, another active DHS/DDS waiver service provider will be authorized immediately, and the member's service plan will be updated."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/3/20, 4/28/20, 6/26/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Skilled nursing services whereby a nurse may:

  - 1) provide assistance with education and training of members, family members, etc.; and
  - 2) complete monitoring and supervision of PCS services and staff. "

OHCA SoonerCare Expanded use of telehealth services during the COVID-19 national and state emergency are being extended (5/15/20)

- "Telehealth services expanded during the COVID-19 national and state emergency are being extended through June 30. OHCA will assess the status of the COVID-19 pandemic toward the end of June to determine if the expansion should be extended."

OHCA SoonerCare to allow Well-child visits via telehealth (4/15/20)

- "Effective immediately and only for so long as the national emergency surrounding COVID-19 exists, OHCA will allow well-child visits to be delivered via telehealth for children age 2 and older. OHCA believes telehealth well-child visits for children younger than 2 are not appropriate and would require an in-person visit. Providers will continue to meet the requirements of OAC 317:30-3-27 in delivering telehealth services and must submit claims using the GT modifier."

Telehealth at an FQHC or RHC (3/27/20)

- "This notification is to assist FQHC and RHC providers with billing of telehealth services provided to SoonerCare members during the Covid-19 pandemic.

OREGON

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Oregon House Bill No. 3474 (introduced 2/28/23)

- "SECTION 1. The Legislative Policy and Research Director shall conduct a study of the feasibility and costs of providing the infrastructure necessary to support telemedicine in the rural counties of this state and other areas of this state that are underserved by medical professionals. The study must also examine the feasibility of mandating health insurance coverage of telemedicine services from health care providers and examine practices in other states that have provided infrastructure for telemedicine and mandated insurance coverage for telemedicine, evaluating the strengths and weaknesses of the practices in the other states. The director shall report to an interim committee of the Legislative Assembly related to health care not later than September 30, 2024."

Oregon Senate Bill No. 232 (engrossed 2/9/23)

- "SECTION 3. Section 14, chapter 45, Oregon Laws 2022, is amended to read:
    - (3) The practice of medicine using telemedicine occurs where the patient is physically located."

Oregon House Bill No. 2664 (introduced 1/9/23)

- "(2) In geographical areas of this state where there are an insufficient number of child welfare professionals who are trained to provide adequate services to individuals who are deaf or hard of hearing, the department shall develop and implement strategies and plans to address the insufficiencies, including:
    - (b) Ensuring that individuals who are deaf or hard of hearing have sufficient access to child welfare services through remote technologies, including videophones or telemedicine."

Oregon extends telehealth agreement for health insurance plans (12/17/20)

- "The following insurance companies have agreed to provide expanded telehealth services through June 30, 2021:

  Cambia

  Health Net

  Kaiser Permanente

  Moda

  PacificSource

  Providence

  Regence

  Samaritan

  UnitedHealthcare
- In addition to these companies, the Oregon Health Plan will continue to offer pay parity and other allowances for many telehealth services, offering the same rate as an in-person visit for physical health services, behavioral health services, and some dental and long-term care services."

Office of Secretary of State: Adds Telehealth Option to Align with Updated Practice Guidelines, Respond to Outbreaks of Infectious Diseases (approved 9/18/20)

- (4) Telehealth for Behavior Rehabilitation Services:

(a) To utilize telehealth for services required by the BRS program, the BRS contractor and BRS providers shall:

  - (A) Comply with Telehealth for Behavioral Health requirements described in OAR 410-172-0850;
  - (B) Comply with prioritized list of health services guidelines for telephone and e-mail consultation described in OAR 410-141-3830; and
  - (C) Comply with agency specific BRS Telehealth program rules and policies.

(b) The BRS contractor and BRS providers shall develop written telehealth policy that complies with section (4)(a)(A-C) of this rule. At minimum, the policy shall describe:

  - (A) The circumstances the provider may provide BRS services via telehealth;
  - (B) The telecommunication technologies the BRS contractor or BRS provider has implemented to deliver services via telehealth; and
  - (C) The process to obtain an individual's informed consent in accordance with ORS 107.154, 179.505, 179.507, 192.515, including a sample form.

(c) The BRS contractor and BRS providers may utilize telehealth for services that require a face-to-face setting when there is a documented barrier to providing in-person services, as follows:

- (A) Services via telehealth shall be provided by a qualified program staff within their scope of position;
- (B) Service notes for phone, individual or group counseling shall follow the same criteria as face-to-face counseling and identify the session was conducted by telehealth and the reason for the use of telehealth; and
- (C) Individual or group counseling via telehealth shall meet HIPAA and 42 CFR Part 2 standards for privacy; and
- (D) Any barriers to meeting the standards set in the face-to-face definition found in OAR 410-170-0020(30), including but not limited to temporary technical issues, health and safety precautions, or client preference should be documented in service notes and attempts should be made to mitigate barriers as they arise.

Oregon, Washington, Colorado, and Nevada Announce Coordination on Telehealth (8/5/20)

- Building on a previous announcement regarding COVID-19 re-opening, Oregon Governor Kate Brown, Washington Governor Jay Inslee, Colorado Governor Jared Polis, and Nevada Governor Steve Sisolak, today announced that their states will be working together on telehealth issues. The governors issued the following joint statement:
- "To ensure that the nation benefits from our knowledge as changes to federal regulations are contemplated, to support continued application and availability of telehealth in our states, and to ensure that we address the inequities faced in particular by tribal communities and communities of color, we are announcing that Oregon, Washington, Colorado, and Nevada have agreed to work together to identify best practices that support telehealth services for residents of our states. We will have individual state-driven approaches to implementing telehealth policies, but our work will be guided by seven overarching principles:

1. Access: Telehealth should be used as a means to promote adequate, culturally responsive, patient-centered equitable access to health care, and to ensure provider network adequacy.

2. Confidentiality: Patient confidentiality should be protected, and patients should provide informed consent to receive care and the specific technology used to provide it.

3. Equity: We will focus on improving equitable access to providers and addressing inequities and disparities in care. Telehealth should be available to every member, regardless of race, ethnicity, sex, gender identity, sexual orientation, age, income, class, disability, immigration status, nationality, religious belief, language proficiency, or geographic location.

4. Standard of Care: Standard of care requirements should apply to all services and information provided via telehealth, including quality, utilization, cost, medical necessity, and clinical appropriateness.

5. Stewardship: Our states will require the use of evidence-based strategies for the delivery of quality care, and will take steps to mitigate and address fraud, waste, discriminatory barriers, and abuse.

6. Patient choice: Patients, in conjunction with their providers, should be offered their choice of service delivery mode. Patients should retain the right to receive health care in person.

7. Payment/reimbursement: Reimbursement for services provided via telehealth modalities will be considered in the context of the individual state's methods of reimbursement."

State of Oregon announces telehealth agreement for health insurance plans (6/23/20)

- "The State of Oregon has reached an agreement with several health insurance companies to continue providing expanded telehealth options through at least Dec. 31, 2020.
- This means health insurance companies will continue to provide coverage for expanded telehealth services for Oregonians and pay for these services at the rates they established during the COVID-19 pandemic.
- Oregon Health Plan will continue to offer pay parity and other allowances for many telehealth services, offering the same rate as an in-person visit for physical health services, behavioral health services, and some dental and long-term care services.
- It is important to note that this agreement does not apply to self-insured plans. The state encourages self-insured plans to cover expanded telehealth services for members. These are plans in which an employer assumes the financial risk of providing health care benefits to its employees. "

Oregon Health Authority Telehealth Guidance (3/24/20)

- "Health plans shall cover telehealth services delivered by in-network providers to replace in-person visits whenever possible and medically or clinically appropriate.

Providers shall be allowed to use all modes of telehealth delivery including synchronous video, telephone-based service delivery, and other appropriate methods.

Telehealth services shall be available for all conditions, not just COVID-19 or suspected COVID-19 cases, as medically and clinically appropriate.

Health plans shall allow both existing and new patients to access health care (including behavioral health and substance use disorder) services without risking spread or transmission of COVID-19. (The federal government has waived HIPAA privacy requirements, so services such as Google Hangouts, FaceTime, and Skype can be used during this crisis. ii).

- The state encourages reimbursement rates for telehealth services that mirror payment rates for an equivalent office visit or that providers and health plans quickly agree on applicable reimbursement rates.
- Health plans shall ensure cost-sharing requirements for services delivered via telehealth are no greater than if the service was delivered through in-person settings.
- Health plans shall eliminate barriers to providing medically and clinically appropriate care using appropriate telehealth delivery models by doing the following:

Waiving the requirement that certain services be available only to established patients

Enabling providers to provide service from their own home

Removing restrictions related to where patients can be to receive services (e.g. home, nursing home, or where they are physically present and can receive the service)"

Oregon Health Authority: Oregon Opioid Treatment Programs COVID-19 Guidance/Fact Sheet (3/21/20)

- "In addition to the CDC's recommendations, OTPs must:

Conduct interviews and meetings with clients by telephone or use face-to-face telehealth methods, as much as possible. SAMSHA has approved several such methods. See telemedicine information here: https://www.samhsa.gov/medication-assisted-treatment"

Billing and Claims Guidance for Oregon insurance companies COVID-19 (3/10/20)

- "Under Oregon law, health benefit plans are required to cover telemedicine services that are synchronous two-way interactive video conferencing. The division encourages insurers cover telemedicine appointments via phone, if they are not doing it already"

State Licensure Laws, Policy, and Guidance

Oregon Senate Bill No. 746 (introduced 1/17/23)

- "(2) A licensee who is authorized to use telehealth, telemedicine, telepharmacy or similar electronic health care services delivery methods may not be required by the health professional regulatory board regulating the licensee to have a physical address in this state in order to be eligible for authorization to practice the health profession regulated by the health professional regulatory board."

Oregon House Bill No. 2736 (introduced 1/9/23)

- "SECTION 1. PURPOSE
    - The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient or client is located at the time of the patient or client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
      This Compact is designed to achieve the following objectives:
        - G. Facilitate the use of telehealth technology in order to increase access to occupational therapy services."

Oregon House Bill No. 4034 (passed 3/23/22)

- "(2) A physician licensed under ORS 677.100 to 677.228, a physician assistant licensed under ORS 677.505 to 677.525 or a physician or physician assistant licensed under ORS 677.139 may use telemedicine to provide health care services, including the establishment of a patient-provider relationship, the diagnosis or treatment of a medical condition or the prescription of drugs, to a patient physically located in this state. The physician or physician assistant is not required to be physically located in this state when providing health care services through telemedicine."

Executive Order 20-67 (renewed 12/17/20)

- "FIFTH EXTENSION OF EXECUTIVE ORDER 20-03 AND COVID-19 STATE OF EMERGENCY

Pursuant to ORS 401.165 and ORS 401.204 and based on the facts described above, I find that COVID-19 continues to threaten public health and safety, and remains a statewide emergency under ORS 401.025. Accordingly, I hereby extend Executive Order 20-03 and the COVID-19 state of emergency for an additional 60 days, through March 3, 2021, unless extended or terminated earlier by the Governor."

Oregon House Bill 4212: AN ACT Relating to strategies to protect Oregonians from the effects of the COVID-19 pandemic; creating new provisions; amending ORS 18.784, 93.810, 194.225, 194.290, 194.305, 194.400 and 458.685; and declaring an emergency. (passed by house and senate 6/26/20)

- "A physician assistant may use telehealth to perform services for and provide patient care to a patient who is located across state lines from the physician assistant if the services and patient care are within the physician assistant's scope of practice."

Oregon Medical Board Chapter 410, Division 141 (3/26/20)

- "MCEs shall reimburse contracted physical and behavioral health providers for covered services provided to OHP members by means of telemedicine at the same rate paid when such services are provided in person.
- MCEs shall reimburse non-contracted providers for telemedicine services at the rates agreed to between the MCE and the provider or at the OHP Fee-For-Service rates consistent with OAR 410-120-1295(2), whichever is greater.
- MCEs shall assure that all telemedicine services are delivered consistent with requirements set forth in OAR 410-130-0610 and 410-172-0850. MCEs shall ensure that all telemedicine services meet all requirements relating to language access, interpreter, and translation services set forth in OAR 410-141-3515(12).
- Consistent with guidance from the US Department of Health and Human Services (HHS), Office for Civil Rights (OCR), OHA will apply the same flexibilities on HIPAA compliance as HHS OCR in its Notification of Enforcement Discretion regarding COVID-19 and its Guidance on Telehealth Remote Communications issued on March 17, 2020.
- OHA will not subject MCEs or covered health care providers to sanctions, including civil monetary penalties, for violations of the HIPAA Privacy, Security, and Breach Notification Rules that occur in the good faith provision of telemedicine during the COVID-19 public health emergency.
- The exemption in subsection (a) of this section (6) does not affect the application of the HIPAA Rules to other areas of health care outside of telemedicine during the emergency.
- This rule is effective March 26, 2020."

Temporary Administrative Order (3/20/20)

- "The temporary rule reduces practice restrictions for Locum Tenens and Emeritus status licensees during the declared emergency"

Oregon Medical Board Chapter 847, Division 10 (3/20/20)

- "(1) In the event of a disaster emergency declared by the Governor of Oregon, the Oregon Medical Board shall allow physicians and/or physician assistants licensed in another state to provide medical care in Oregon under special provisions during the period of the declared disaster emergency, subject to such limitations and conditions as the Governor may prescribe."

Executive Order 20-03 (3/9/20)

- "The Oregon Health Authority and the state Public Health Director shall take all actions necessary and authorized under ORS 401.651 to 401.670, ORS 433.443, and ORS 431A.015 to respond to, control, mitigate, and recover from the emergency, including but not limited to:
- …Deploying emergency volunteer health care professionals under ORS 401.661"

Medicaid Law, Policy and Guidance Related to Telehealth

Oregon House Bill No. 2508: A BILL FOR AN ACT Relating to telemedicine; creating new provisions; amending ORS 743A.058; and declaring an emergency (passed 6/1/21)

- "(2) To encourage the efficient use of resources and to promote cost-effective procedures in accordance with ORS 413.011 (1)(L), the Oregon Health Authority shall reimburse the cost of health services delivered using telemedicine, including but not limited to:

(a) Health services transmitted via landlines, wireless communications, the Internet and telephone networks;

(b) Synchronous or asynchronous transmissions using audio only, video only, audio and video and transmission of data from remote monitoring devices; and

(c) Communications between providers or between one or more providers and one or more patients, family members, caregivers or guardians.

- (3)(a) The authority shall pay the same reimbursement for a health service regardless of whether the service is provided in person or using any permissible telemedicine application or technology.
- 8)(a) A health benefit plan and dental-only plan must pay the same reimbursement for a health service regardless of whether the service is provided in person or using any permissible telemedicine application or technology."

Add-on fee for cost of interpreter services is extended for fee-for-service payment (5/18/21)

- "Under COVID-19 Disaster Relief authority as approved by the Centers for Medicare & Medicaid Services (CMS), the Oregon Health Authority (OHA) will continue to pay an administrative add-on fee for interpreter services at fee-for-service (FFS) health care visits for the duration of the COVID-19 public health emergency. OHA is seeking CMS approval to make this fee permanent.
- "Providers and CCOs must ensure all services preserve meaningful access to language services at all health care visits, including telehealth visits."

Add-on fee for cost of interpreter services now open for fee-for-service payment (12/31/20)

- "From January 1, 2021, through June 30, 2021, the Oregon Health Authority (OHA) will pay an administrative add-on fee for interpreter services at fee-for-service (FFS) health care visits (including telehealth visits). The fee, as approved by the Centers for Medicare & Medicaid Services, is payable at a rate of $60 once per event."

Guidance on Resumption and Continued Provision of Non-Emergent and Elective Procedures in Medical and Dental Offices, and Other Health Care Settings (*updated as of* 7/31/20)

- "An office should utilize enhanced risk screening of patients prior to delivering care, including but not limited to:

Pre-screening patients remotely, such as through tele-medicine or tele-dentistry when applicable."

Oregon Medicaid COVID-19 Provider Guide (7/10/20)

- "Providers and CCOs must ensure all services, including telemedicine services preserve meaningful access to language services as described on the US Department of Health and Human Services' Office of Civil Rights website and in OHA's questions and answers about language assistance services.
- During these challenging times, OHA understands that access to telehealth for physical, oral and behavioral health care is necessary and encourages all Oregon Health Plan providers and plans to expand telehealth opportunities. This guidance is intended for:

Physical health, behavioral health, and oral health care providers and billing staff

CCOs

Dental care organizations (DCOs)."

Provisional Guidance: Clinical Care and Healthcare Infection Prevention and Control for COVID-19 (*updated as of* 6/29/20)

- "For Patients with Acute Respiratory Illness or Fever

Consider using telemedicine to evaluate these patients when available."

Oregon State Plan Amendment (SPA) OR-20-0011 (6/18/20)

- "The agency utilizes telehealth in the following manner, which may be different than outlined in the state's approved state plan:

Allow needs-based eligibility criteria evaluations and re-evaluations to be completed by communication methods such as telehealth/telemedicine in lieu of face to face visits and in accordance with HIPAA, as directed by OHA. Allow person-centered service plan (PSCP) development and completion by communication methods such as telehealth/telemedicine, in lieu of face-to-face visits and in accordance with HIPAA, as directed by OHA. Allow Home-Based Habilitation, HCBS Behavioral Habilitation, and Psychosocial Rehabilitation Services to be provided via telehealth/telemedicine, in lieu of face-to-face visits and in accordance with HIPAA, as directed by OHA.

- Telehealth will be used for: Case management- assessment, person-centered service planning and monitoring; Habilitation; and Psychosocial rehabilitation. This will sunset on the last day of the public health emergency."

Oregon State Plan Amendment (SPA) OR-20-0010 (6/18/20)

- "For the duration of the emergency, the state authorizes payments for telehealth services that:

Providers using POS 2 for telehealth will receive the non facility RVU rate regardless of the type of entity they are until the end of the public health emergency."

Use of telemedicine to provide PASRR Level II Evaluations (5/7/20)

- "Effective May 7, 2020, PASRR Level II (SMI) Evaluations can be provided via telemedicine.

Indicate in the body of the evaluation narrative that this evaluation was completed using telehealth such as a digital platform, phone or a tablet.

- Billing codes and the e-invoicing process remain unchanged. Current telemedicine billing guidance can be viewed here."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/28/20)

- "Allow level of care evaluations or re-evaluations to be completed by Communication methods in lieu of face to face, such as telehealth, in accordance with HIPAA, as directed by ODDS.
- Allow ISP development process to be completed by communication methods other than face to face such as telehealth, in accordance with HIPAA, as directed by ODDS."

Coverage of skill reintegration services delivered via telemedicine during the COVID-19 emergency (4/23/20)

- "Effective March 1, 2020, the Oregon Health Authority (OHA) will reimburse Medicaid behavioral health providers for skill reintegration (skill building) services via telemedicine."

Telehealth services provided by OT, PT, and Speech therapists are covered by OHP (4/21/20)

- "During the COVID-19 emergency the Oregon Health Authority (OHA) will reimburse for the following therapy codes when provided via through a telehealth modality. Reimbursement will be the same as for services provided in-person.

97161-97168, 97110, 97112, 97116, 97535, 97550, 97760, 97761, 92521-92524, 92507

G2061, G2062, G2063, G2010, G2012, 98966, 98967, and 98968.

- Please continue to provide covered therapy services to eligible OHP members as outlined in the provider rules and guidelines for your program. Use telehealth service delivery modes when appropriate.

When billing for telehealth services, use Place of Service 02.

If you do not have a synchronous audio/visual telehealth platform to perform face-to-face visits for initial assessments and/or re-evaluations, you must ask OHA for approval to conduct them by phone. To do this, submit a prior authorization request to OHA. Your supporting documentation must include a letter describing the barriers and how you will accomplish the assessment.

Other services conducted by phone do not require prior authorization during the COVID-19 emergency."

Oregon Health Plan Telemedicine Billing Guidance for CCOs and Providers (4/17/20)

- "CCOs have been directed to reimburse telemedicine services on par with in-person services. Telemedicine visits are encouraged for all services that can reasonably approximate an in-person visit, not just those relating to a COVID-19 diagnosis. During the COVID-19

pandemic, the Oregon Health Plan (OHP) is expanding coverage for the delivery of physical, behavioral and oral health services using telemedicine platforms, effective January 1, 2020."

Emergency Demonstration Project Under Section 1115 of the Social Security Act (4/17/20)

- Establish a COVID-19 Disaster Relief Fund that: "Funds investments by providers necessary to adapt healthcare delivery to reflect the realities of COVID-19, including investments in telemedicine platforms, bed reconfiguration, off-site screening venues, and quarantine/post-acute care sites, and the purchase of additional respirators, ventilators, and personal protective equipment, as needed."

Oregon Health Plan coverage of teledentistry services during the COVID-19 emergency (4/16/20)

- "This communication summarizes OHA's March 26 and April 7 memos clarifying teledentistry coverage and provides a reminder about state and federal language access service requirements for Medicaid funded providers:

Please bill for teledentistry services provided on or after January 1, 2020 as follows, whether provided by audio/video or regular telephone:

  - Use procedure code D9995 and Place of Service 02.
  - No modifier is required, as modifiers are not used on dental claims.

CCOs and DCOs: OHA encourages you to make this coverage retroactive to January 1, 2020."

Telemedicine/Telehealth Coverage during the COVID-19 Emergency: Guidance for Public Education Providers Billing Oregon Medicaid for School-Based Health Services (4/15/20)

- Due to mandatory school closures and the implementation of online "Distance Learning for All," OHA updated the SBHS rules to add the use of telemedicine/telehealth technology for the delivery of SBHS services, effective April 9, 2020.

View the rule filing: OARs 410-133-0040, 410-133-0080, 410-133-0220 and 410-133- 0245 - Amends Rule For School Covered Health Services Using Telehealth Technologies In Response To COVID-19

OAR 410-133-0040 (Definitions) – Adds "Telehealth" to SBHS definitions

OAR 410-133-0245 (Cost Determination and Reporting) – Adds that costs for telehealth technologies used to provide SBHS health related services are included in the cost for each service discipline and are not billed separately."

Oregon State Plan Amendment (SPA) OR 20-0006 (4/10/20)

- "This plan amendment increased the telemedicine/Telehealth rates due to the COVID-19 public health Emergency (PHE) and will sunset at the end of the PHE."

Audio-Only Teledentistry Services Are Also Covered During the COVID-19 Emergency (*Updated as of* 4/7/20)

- The Oregon Health Authority is providing the following clarifications to the March 26, 2020 announcement about expanded teledentistry coverage effective January 1, 2020 during the COVID-19 emergency:

Dental practitioners may also provide audio-only telephone services using procedure code D9995 if synchronous audio/visual service is not available or feasible.

Services such as Facetime, Skype or Google Hangouts can be used for service delivery because certain HIPAA requirements for encryption will not be enforced during the COVID-19 emergency. For details, visit the federal Office of Civil Rights website.

Telemedicine/Telehealth Billing Guidance for Oregon Health Plan Fee for Service Providers (4/6/20)

- "OHA encourages the delivery of medically necessary and appropriate physical, behavioral and oral health services through live audio and video interaction between the patient and their health care provider whenever possible. Telephone (audio only) or electronic communications (patient portal) may be used to remove barriers such as a patient not having access to a computer with internet access or video capability. Providers may be reimbursed at the in-person rate for using telephone communications when barriers to equipment and access exist.
- Certain service code descriptions specify they are only for established patients. OHA allows providers, during the COVID-19 emergency, to offer telemedicine services to new patients.
- OHA-enrolled providers may provide telemedicine services from a clinic, office, home or other setting that supports a private interaction. Patients may receive services from their home, day treatment setting, or where they are physically located if telemedicine services are appropriate."

Advanced Payment Care Model (APCM) Establishing Visits Permitted Via Telephone, Effective March 23, 2020 (4/3/20)

- "As part of Oregon's response during the COVID-19 pandemic, the Oregon Health Authority (OHA) will allow APCM-participating clinics to establish a patient by telephone. This means APCM clinics can:
- Add new patients, established during a telephone visit, to their patient list and
- Receive per-member per-month (PMPM) payments for these patients. OHA will share billing guidance and codes to use for these telephone visits soon."

Oregon Health Plan Coverage of Teledentistry Services (3/26/20)

- "Licensed oral health providers can provide and bill OHA for teledentistry services as identified in Guideline Note A5.

This includes telephone calls with audio-visual capability and services such as Skype, FaceTime, or Google Hangouts if a HIPAA-compliant platform is not available. Reimbursement will be the same as for services provided in-person.

OHA expects these more lenient requirements for modality use and HIPAA compliance to last only as long as the 1135 CMS waiver and current A5 Guideline Note exist due to the COVID-19 pandemic. We will let you know when teledentistry reverts to its original requirements. OAR 410-123-1265 (Teledentistry) also permits CCOs and DCOs to cover telehealth for services that are already covered for in-person visits, subject to Guideline Note A5."

Oregon Health Plan Coverage of Telephone/Telemedicine/Telehealth Services (3/20/20)

- Fee-for-service Medicaid is opening additional codes to payments:

"Telephone service evaluation/assessment and management codes for behavioral health providers (retroactive to January 1, 2020)

synchronous audio/video visits, online (e.g. patient portal) services and provider-to-provider consultations for physical health providers"

Temporary Administrative Order: Amends Telemedicine Rule To Align With Updated Practice Guidelines And Respond To Infectious Disease Outbreaks (3/15/20)

- "For purposes of physical health services, the Authority shall provide coverage for telemedicine services to the same extent that the services would be covered if they were provided in person subject to the requirements outlined in the Prioritized List and associated guideline notes.
- During an outbreak or epidemic, the Authority shall provide coverage and reimbursement of patient to clinician telephonic and electronic services for established patients using the Division's maximum allowable rate setting methodology…"

PENNSYLVANIA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Pennsylvania House Bill No. 428 (introduced 3/15/23)

- "§ 9121. Telemedicine.
  - (a) Requirement.--A patient may meet with a physician electronically via telemedicine to satisfy the requirements of section 9109 (relating to determination of gestational age), as well as for nonsurgical medical abortions if the abortion is to be performed in the first trimester of pregnancy. The following apply:
    - (3) In the course of providing for nonsurgical abortions via telemedicine, the Rh testing requirements of section 9112(c) (relating to prohibited acts) are waived."

Pennsylvania House Bill No. 2877 (introduced 10/20/22)

- "§ 9109. Determination of gestational age.
  - (a) Requirement.--Except in the case of a medical emergency which prevents compliance with this section, no abortion shall be performed or induced unless the referring physician or the physician performing or inducing it has first made a determination of the probable gestational age of the pregnancy.
- § 9112. Prohibited acts.
  - (c) Regulations.—
    - (1) The department shall issue regulations to assure that prior to the performance of an abortion, including an abortion performed in the first trimester of pregnancy, the maternal Rh status shall be determined and that anti-Rh sensitization prophylaxis shall be provided to each patient at risk of sensitization unless the patient refuses to accept the treatment.
- § 9121. Telemedicine.

- (a) Requirement.--A patient may meet with a physician electronically via telemedicine to satisfy the requirements of section 9109 (relating to determination of gestational age), as well as for nonsurgical medical abortions if the abortion is to be performed in the first trimester of pregnancy. The following apply:
  - (3) In the course of providing for nonsurgical abortions via telemedicine, the Rh testing requirements of section 9112(c) (relating to prohibited acts) are waived."

Pennsylvania Senate Bill No. 923 (introduced 10/26/21)

- "A health care professional may not use telemedicine to administer or communicate with a patient located in this Commonwealth regarding a medication for which the United States Food and Drug Administration has issued a risk evaluation and mitigation strategy.
- This act shall take effect in 60 days."

Pennsylvania House Resolution No. 106 (passed 6/10/21)

- "RESOLVED (The Senate concurring), That the General Assembly, in accordance with ITS AUTHORITY, hereby terminates the disaster emergency declared on March 6, 2020, as amended and renewed, in response to COVID-19
- Resolved that this concurrent resolution shall take effect immediately."

Insurance Department Notice Regarding Coronavirus (COVID-19) Insurance Coverage; Notice 2021-03 (3/6/21)

- "Telehealth Delivery of Services. In Notice 2020-03, 50 Pa.B. 1788 (March 21, 2020), the Department encouraged health insurers to review their respective participating telehealth service provider arrangements, provide coverage of costs related to telehealth services and to be prepared to meet any increased demand for that means of delivery, given that COVID-19 is a communicable disease and therefore some insureds may prefer to use telehealth services instead of in-person health care services. The Department appreciates many health insurers' efforts to implement telehealth flexibilities, including those that were made a permanent part of the insurers' business operations, as well as insurer efforts to reimburse for telehealth visits in the same manner as they would for in-person appointments during the public health emergency. However, health insurers have taken different approaches both in the telehealth policy flexibilities implemented as well as the duration of such flexibilities. Unfortunately, this has caused both provider and consumer confusion. Therefore, the Department encourages health insurers to implement broader consistency across their telehealth flexibility policies, including consideration of, for example:

Best practices for care management, including continuity of care as between telehealth and in-person care.

Network flexibility for providers that offer both telehealth and in-person services.

Language consistency and clarity so that providers and patients can easily understand the timing and substance of any changes in telehealth policies.

60 days' advance notice to providers and patients of any change in policy.

- The Department also strongly encourages health insurers to extend such flexibilities through the end of the Federal PHE or the Commonwealth PHE, whichever occurs later, and to implement a 60-day wind-down period for an orderly transition for both patients and

providers to adjust to a post-PHE environment, as contemplated by the Federal Administration. See January 22, 2021 HHS Message to Governors."

DOHS: Interim Infection Prevention and Control Recommendations for Patients with Known or Patients Under Investigation for 2019 Novel Coronavirus (COVID-19) in a Healthcare Setting (9/10/20)

- "DOH recommends using the following additional infection prevention and control practices during the COVID-19 pandemic, along with standard practices recommended as a part of routine healthcare delivery to all patients."

"Implement Telehealth and Nurse-Directed Triage Protocols

  - Continue to use telehealth strategies to provide high-quality patient care and reduce the risk of SARS-CoV-2 transmission in healthcare settings."

Insurance Department Releases 2021 ACA Plans Offering Consumers More Affordable Options (8/7/20)

- "Other factors that are impacting these proposed rates include any anticipated costs related to COVID-19, such as COVID-19 testing and treatment costs, the anticipation of new treatments and vaccines, an increase in mental health and substance abuse treatment needs, telehealth utilization, as well as changes to provider reimbursement rates."

Pennsylvania House Bill 2531: An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, providing for report on telemedicine benefits during COVID-19 pandemic. (introduced 5/19/20)

- "Report on telemedicine benefits during COVID-19 pandemic.

Report by health insurer.--No later than June 15, 2020, and the first day of each month thereafter until the order is terminated by executive order, proclamation or operation of law, a health insurer that provides a telemedicine benefit to an individual located within this Commonwealth shall submit a report to the department."

Revised Guidance on COVID-19 for Dental Health Care Personnel in Pennsylvania (3/26/20)

- "If a facility has tele-dentistry available, the Department appreciates you providing this service to patients who are experiencing true emergencies related to pain/infection, as they might be treated with antibiotics and pain medication."

Notice Regarding Coronavirus (COVID-19) Insurance Coverage (3/10/20)

- "Health insurers are encouraged to review their respective participating telehealth service provider arrangements, provide coverage of costs related to telehealth services, and be prepared to meet any increased demand for that means of delivery"

State Licensure Laws, Policy, and Guidance

Pennsylvania Senate Bill No. 1348 (introduced 10/6/22)

- "Section 2. Authority to execute compact.

- The Governor, on behalf of the Commonwealth, is hereby authorized to execute a compact in substantially the following form with any one or more of the states of the United States, and the General Assembly hereby signifies in advance its approval and ratification of such compact:
- SECTION 1: PURPOSE
  - The purpose of this Compact is to facilitate interstate practice of Licensed Professional Counselors with the goal of improving public access to Professional Counseling services. The practice of Professional Counseling occurs in the State where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure. This Compact is designed to achieve the following objectives:
    - F. Allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services
- SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
  - A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission."

Pennsylvania House Bill No. 2852 (introduced 9/26/22)

- "Section 2. Authority to execute compact.
  - The Governor, on behalf of the Commonwealth, is hereby authorized to execute a compact in substantially the following form with any one or more of the states of the United States, and the General Assembly hereby signifies in advance its approval and ratification of such compact:
  - SECTION 1: PURPOSE
    - The purpose of this Compact is to facilitate interstate practice of Licensed Professional Counselors with the goal of improving public access to Professional Counseling services. The practice of Professional Counseling occurs in the State where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure. This Compact is designed to achieve the following objectives:
      - F. Allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services
  - SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
    - A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission."

Pennsylvania House Bill No. 642: AN ACT Amending Title 40 (Insurance) of the Pennsylvania Consolidated Statutes, providing for telemedicine, authorizing the regulation of telemedicine by professional licensure boards and providing for insurance coverage of telemedicine. (introduced 2/24/21)

- "A health care provider who holds a valid license, certificate or registration from a Commonwealth professional licensure board shall be authorized to practice telemedicine in accordance with this chapter and the corresponding licensure board regulations.
- Regulations.--Each licensure board shall within 24 months of the effective date of this section promulgate final regulations that are consistent with this chapter to provide for and regulate telemedicine within the scope of practice and standard of care regulated by the board.
- A health insurance policy issued, delivered, executed or renewed in this Commonwealth after the effective date of this section shall provide coverage for medically necessary telemedicine delivered by a participating network provider who provides a covered service via telemedicine consistent with the insurer's medical policies. A health insurance policy may not exclude a health care service for coverage solely because the service is provided through telemedicine.
- Payment for a covered service provided via telemedicine by any participating network provider shall be negotiated between the health care provider and health insurer.
- Children's Health Insurance Program payments shall be made on behalf of eligible individuals for telemedicine, consistent with Federal law, as specified under this chapter if the service would be covered through an in-person encounter."

Pennsylvania to Count Telemedicine Services Provided During COVID-19 Emergency Towards Clinical Experience Requirement for Pre-Licensure Behavior Specialists (6/8/20)

- "The Department requested that the "in-person" requirement be waived, and the Governor granted this request. Under this waiver, hours of clinical experience obtained by individuals working toward licensure as a behavior specialist via telemedicine or teletherapy during the duration of the COVID-19 emergency which began on March 6, 2020, and which was extended for an additional 90 days on June 4, 2020, be recognized as valid and counted towards the 1,000 hours of clinical experience. This waiver ceases 30 days after the end of the COVID-19 emergency, and any hours of clinical experience thereafter would need to be "in-person."

1135 Waiver Flexibilities (3/27/20)

- "For claims for services provided to Medicaid participants enrolled with Pennsylvania Medicaid program, CMS will waive the fifth criterion listed above under section 1135(b)(1) of the Act. Therefore, for the duration of the public health emergency, Pennsylvania may reimburse out of state providers for multiple instances of care to multiple participants, so long as the other criteria listed above are met.
- If a certified provider is enrolled in Medicare or with a state Medicaid program other than Pennsylvania, Pennsylvania may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency.

- With respect to providers not already enrolled with another SMA or Medicare, CMS will waive the following screening requirements under 1135(b)(1) and (b)(2) of the Act, so the state may provisionally, temporarily enroll the providers for the duration of the public health emergency:

1. Payment of the application fee - 42 C.F.R. §455.460
2. Criminal background checks associated with Fingerprint-based Criminal Background Checks - 42 C.F.R. §455.434
3. Site visits - 42 C.F.R. §455.432
4. In-state/territory licensure requirements - 42 C.F.R. §455.412

- CMS is granting this waiver authority to allow Pennsylvania to enroll providers who are not currently enrolled with another SMA or Medicare so long as the state meets the following minimum requirements…"

Some License Requirements for Qualified Physicians Assistants Are Suspended During Coronavirus Emergency (3/22/20)

- This includes relaxations to licensing requirements for Physician Assistants during the pandemic including:

"The Osteopathic Medical Practice Act restricts physicians to the supervision of four physician assistants, but they can apply for a waiver from the state board of Osteopathic Medicine to supervise more. Governor Wolf has suspended both the ratio and waiver requirements."

"The requirement that the board must approve use of a physician assistant at "satellite operations" is suspended. This will allow more physician assistants to practice wherever they are needed during the disaster declaration."

Pennsylvania Suspends Certain Licensure Requirements for State Board of Psychology, and State Board of Social Work, Marriage and Family Therapy, and Professional Counselors (3/22/20)

- "State Board of Psychology

"The governor approved a suspension of the requirement that supervisors meet individually face- to-face with psychology residents for an average supervisory total of at least 2 hours per week.

These hours may be completed through electronic means, preferably on a HIPAA-compliant platform, but if that is not possible, then by online methods such as Skype or Facetime.

- State Board of Social Work, Marriage and Family Therapy and Professional Counselors:

The Governor approved a suspension of the requirements of the State Board of Social Work, Marriage and Family Therapy and Professional Counselors that the supervisor, or one to whom supervisory responsibilities have been delegated, must meet with the supervisee for a minimum of 2 hours for every 40 hours of supervised clinical experience. Previously, the requirement was that at least 1 of the 2 hours be with the supervisee individually and in person, and 1 of the 2 hours with the supervisee in a group setting and in person.

These hours now may be completed through electronic means, preferably on a HIPAA-compliant platform, but if that is not possible, then by online methods such as Skype or Facetime."

Pennsylvania Waives Some Nurse Licensing Requirements During Coronavirus Emergency (3/20/20)

- "Certified Registered Nurse Practitioners (CRNPs)

For CRNPs to practice to their full capabilities and assist in the response to the COVID-19 pandemic, the restrictions requiring a CRNP practice within a specific clinical specialty are suspended.

Restrictions which prohibit CRNPs from prescribing drugs outside of the established formulary are suspended.

In the event that Board-recognized national CRNP certification examinations become unavailable during the COVID-19 pandemic, the requirement that CRNPs hold national certification in a particular specialty will be suspended during the declared emergency."

Department of Drug and Alcohol Programs Licensing Alert 01-20 (3/18/20)

- "During the term of this Disaster Emergency, Single County Authorities may use grant funds they have received from the Department of Drug and Alcohol Programs for outpatient substance use disorder (SUD) treatment facilities to provide counseling and other clinical services using telehealth technology.
- SUD Counselors who meet the qualifications provided in 28 Pa. Code § 704.7(b) are able to provide telehealth using real-time, two-way interactive audio-video transmission services in licensed Drug and Alcohol Outpatient clinics."

Licensed Health Care Practitioners Can Provide Telemedicine Services to Pennsylvanians During Coronavirus Emergency (3/18/20)

- "Health care professionals licensed under any of the Department of State's Bureau of Professional and Occupational Affairs (BPOA) licensing boards can provide services to patients via telemedicine during the coronavirus emergency."

Issuance of Temporary Licenses to Health Care Practitioners Not Licensed in Pennsylvania to be Expedited during Coronavirus Emergency (3/18/20)

- "Governor Wolf granted the Department of State's request for a suspension to allow expedited temporary licensure to practitioners in other states to provide services to Pennsylvanians, for the duration of the coronavirus emergency. The guidance and suspensions apply to the following boards:

Medicine

Osteopathic Medicine

Nursing

Nurse-Midwives"

Medicaid Law, Policy and Guidance Related to Telehealth

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (6/16/20, 7/23/20, 12/7/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Structured Day Habilitation

Community Participation Support

Supported Employment

Therapy Services

Supports Broker Services

Communication Specialist

Consultative Nutritional Services

Music Therapy and Art Therapy

Small Group Employment

Adult Daily Living"

DOHS Memorandum to All Behavioral Health Managed Care Organizations (BH-MCOs), behavioral health providers enrolled in the Medical Assistance (MA) Program, and County Mental Health Authorities—Statewide: Telehealth Guidelines Related to COVID-19 (*Updated as of* 5/5/20)

- "During this state of emergency telehealth will allow the use of telephonic video technology commonly available on smart phones and other electronic devices. In addition, telephone only services may be utilized in situations where video technology is not available.
- The practitioner types that can provide services through telehealth will not be limited to psychiatrists, licensed psychologists, Certified Registered Nurse Practitioners and Physician Assistants certified in mental health; Licensed Clinical Social Workers; Licensed Professional Counselors; and Licensed Marriage and Family Therapists. Other individuals providing necessary behavioral health services will be permitted to utilize telehealth for services that are within their scope of practice.
- Because of the unique nature of these interventions, before providing Therapeutic Staff Support (TSS) services, Behavioral Health Technician (BHT) services, Behavioral Health Technician-Applied Behavior Analysis (BHT-ABA) services, Assistant Behavior Consultation-Applied Behavior Analysis (Assistant BC-ABA) services, IBHS group services and group services approved through the program exception process through telehealth, the provider must submit a proposal explaining how services will be delivered."

DOHS Office of Mental Health and Substance Abuse Services Bulletin Instructions and Guidelines for the Delivery of BHRS and IBHS Through Telehealth (5/5/20)

- "Because of the unique nature of the interventions provided through Therapeutic Staff Support (TSS) services, Behavioral Health Technician (BHT) services, Behavioral Health Technician Applied Behavior Analysis (BHT-ABA) services, Assistant Behavior Consultation-Applied Behavior Analysis (Assistant BC-ABA) services, IBHS group services and group services approved through the program exception

process, providers of these services must submit a proposal explaining how services will be delivered through telehealth. The proposal must be approved by the Department before the provider can begin to use telehealth to deliver these services."

DOHS Telemedicine Guidelines Related to COVID-19 (*updated as of* 4/20/20)

- "Practitioners may provide services via applications that allow for video chats, including Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, Zoom, or Skype. If a provider chooses to use a non-public facing audio or video communication product, there will not be a penalty for noncompliance with the HIPAA rules when a provider acts in good faith in the provision of services using telemedicine.
- Services may be rendered via telemedicine to a beneficiary who is remotely located from the rendering provider, such as at their home, in a nursing facility, or in an alternative service site. As also set forth in the March 17, 2020 Telemedicine Guidelines, during the period of the emergency disaster declaration, telephone-only services may be utilized in situations where video technology is not available."

Managed Care Operations Memorandum: Telemedicine Guidelines Related to COVID-19 (4/15/20)

- Physical Health (PH) HealthChoices Managed Care Organizations (MCOs) may pay for services rendered via telemedicine to a member who is remotely located from the rendering provider, such as at their home, in a nursing facility, or in an alternative service site. Telemedicine services may be provided by any means that allows for two-way, real time interactive communication, such as through audio/video conferencing. During the period of the emergency disaster declaration, telephone-only services may be utilized in situations where video technology is not available. Text-only messaging does not constitute a method of rendering services via telemedicine.
- MCOs must cover services rendered via telemedicine at least to the extent to which the services are covered in the fee-for-service delivery system.
- MCOs should map the place of service as follows, documenting in the notes that the service was provided via telemedicine:

Place of Service 02 (Telehealth) should be coded as Place of Service 11

Place of Service 19 (Off-Campus Hospital) should be coded as Place of Service 22

Place of Service 20 (Urgent Care) should be coded as Place of Service 11

- Memo supersedes previously issued OPS Memo 03/2020-003 and will remain in effect while a valid disaster declaration by the Governor related to the COVID-19 virus remains in effect. OMAP may re-issue this Ops Memo as appropriate."

Teledentistry Guidelines Related to COVID-19 for Dentists, Federally Qualified Health Centers, and Rural Health Clinics (4/7/20)

- "…DHS is issuing this guidance to advise all dentists (all specialties) and Federally Qualified Health Centers (FQHCs) and Rural Health Centers (RHCs) with dental services in their approved Scope of Project, that teledentistry may be used to provide medically necessary dental services to Medical Assistance (MA) Program Fee-for-Service beneficiaries and Physical Health HealthChoices members.
- Teledentistry should be used to assess whether a member has an urgent or emergent dental condition that can be treated during that encounter via teledentistry or whether the member should be seen in the office setting in accordance to DOH guidance.

- This teledentistry policy does not apply to dental hygienists, Public Health Dental Hygiene Practitioners, or other dental staff.
- Effective, with dates of service March 1, 2020 and after, procedure code D9995, defined as "teledentistry - synchronous" is being added to the MA Program Dental Fee Schedule to indicate that a dental visit was rendered remotely by a dentist (all specialties) using teledentistry. Procedure code D9995 may only be used in conjunction with procedure code D0140, defined as "limited oral evaluation - problem focused" for a visit provided via teledentistry to patients who are experiencing true emergencies related to pain, infection, excessive bleeding and trauma."

DOHS, Office of Medical Assistance Programs, School-Based ACCESS Program: Providing Direct Services Via Telemedicine (4/3/20)

- "In conjunction with Pennsylvania Department of Education (PDE), DHS has reviewed the services reimbursed under School-Based ACCESS Program (SBAP) when provided face-to-face to determine which of those services may be provided via telemedicine while maintaining the intent of the service as documented in the students' Individualized Educational Plan (IEPs).
- DHS Guidance on SBAP services delivered via telemedicine:

For dates of service on or after March 16, 2020, the following SBAP services may be provided via telemedicine and billed for payment: Occupational Therapy, Physical Therapy, Speech Therapy, Social Work and Counseling."

Pennsylvania Children's Health Insurance Program Coverage of 2019-Novel Coronavirus FAQs (3/26/20)

- Q: "Will the PA CHIP Program pay for doctor visits provided using telehealth?

A: "…A CHIP MCO is authorized to utilize telehealth the same as a physician office visit for examination, diagnosis and treatment of an illness provided the service is provided by the family practitioner, general practitioner or pediatrician."

Appendix K: Emergency Preparedness and Response (3/31/20)

- "In-Home and Community Support, Companion and Behavioral Support: Direct In-Home and Community Support, Companion and Behavioral Support services may be provided using remote/tele support when this type of support meets the health and safety needs of the participant.
- Modifications to Supports Coordination:

Allow remote/telephone individual monitoring by Supports Coordinators where there are currently face-to-face requirements.

Individual plan team meetings and plan development may be conducted entirely using telecommunications."

DOHS Memorandum to Behavioral HealthChoices MCOs, FFS Providers, and County Mental Health Authorities: COVID-19 Frequently Asked Questions (3/25/20)

- Q: "Is the state able to issue waivers regarding requiring face-to-face contacts for Blended Case Management and allow 100% of contacts to be telephonic during the emergency disaster declaration?

A: OMHSAS removed the limitations on the number and percentage of services that can be provided through telehealth. During the disaster emergency declaration period, telehealth contacts can be counted toward face-to-face service contact.

- Q: Does the state allow services to be delivered over the phone if the patient does not have a mobile device or computer that would enable videoconferencing?

A: As outlined in OMHSAS Memorandum dated 03/15/20, "Telehealth Guidelines Related to COVID-19", telephone only services may be utilized when audio/video technology is not available."

Medical Assistance Program Coverage of 2019-Novel Coronavirus Testing and Related Services FAQs (3/24/20)

- "Will the MA Program pay for doctor visits provided using telehealth?

"… Some services may be available using telehealth. MA beneficiaries should contact their MA MCO to see what services may be available using telehealth."

Provider Quick Tips (3/6/20)

- "Office of Medical Assistance Programs (OMAP) is issuing this guidance to advise providers that telemedicine may be used to provide services to Medicaid fee-for-service beneficiaries and Physical HealthChoices members."

RHODE ISLAND

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Rhode Island Senate Bill No. 574 (introduced 3/7/23)

- "23-77.1-1. Short title.
  This chapter shall be known and may be cited as the "Uniform Telehealth Act".
- 23-77.1-2. Definitions.
  - (12) "Telehealth" means use of synchronous or asynchronous telecommunication technology by a practitioner to provide health care to a patient at a different physical location than the practitioner.
- 23-77.1-3. Scope.
  - (a) This chapter applies to the provision of telehealth services to a patient located in this state.
  - (b) This chapter does not apply to the provision of telehealth services to a patient located outside this state.
- 23-77.1-4. Telehealth authorization.
  - (a) A practitioner may provide telehealth services to a patient located in this state if the services are consistent with the practitioner's scope of practice in this state, applicable professional practice standards in this state, and requirements and limitations of federal or state law.
  - (b) This chapter does not authorize the provision of health care otherwise regulated by federal or state law, unless the provision of the health care complies with the requirements, limitations, and prohibitions of the federal or state law.
  - (c) A practitioner-patient relationship may be established through telehealth.

- 23-77.1-5. Professional practice standard.
  - (a) A practitioner who provides telehealth services to a patient located in this state shall provide the services in compliance with the professional practice standards applicable to a practitioner who provides comparable in-person health care in this state. Professional practice standards and law applicable to the provision of health care in this state, including standards and law relating to prescribing medication or treatment, identity verification, documentation, informed consent, confidentiality, privacy, and security, apply to the provision of telehealth services in this state.
  - (b) A board or agency in this state shall not adopt or enforce a rule that establishes a different professional practice standard for telehealth services or limits the telecommunication technology that may be used for telehealth services.
- 23-77.1-6. Out-of-state practitioner.
  - (a) An out-of-state practitioner may provide telehealth services to a patient located in this state if the out-of-state practitioner…
- 23-77.1-7. Board registration of out-of-state practitioner.
  - (a) A board established under any one of the provisions cited in § 23-77.1-2(5)(i) shall register, for the purpose of providing telehealth services in this state, an out-of-state practitioner not licensed, certified, or otherwise authorized to provide health care in this state if the practitioner…
- 23-77.1-10. Location of care - Venue.
  - (a) The provision of a telehealth service under this chapter occurs at the patient's location at the time the service is provided."

Rhode Island House Bill No. 5556 (introduced 2/15/23)

- "23-77.1-4. Telehealth authorization.
  - (a) A practitioner may provide telehealth services to a patient located in this state if the services are consistent with the practitioner's scope of practice in this state, applicable professional practice standards in this state, and requirements and limitations of federal or state law.
  - (b) This chapter does not authorize the provision of health care otherwise regulated by federal or state law, unless the provision of the health care complies with the requirements, limitations, and prohibitions of the federal or state law.
  - (c) A practitioner-patient relationship may be established through telehealth.
- 21 23-77.1-5. Professional practice standard.
  - (a) A practitioner who provides telehealth services to a patient located in this state shall provide the services in compliance with the professional practice standards applicable to a practitioner who provides comparable in-person health care in this state. Professional practice standards and law applicable to the provision of health care in this state, including standards and law relating to prescribing medication or treatment, identity verification, documentation, informed consent, confidentiality, privacy, and security, apply to the provision of telehealth services in this state.
  - (b) A board or agency in this state shall not adopt or enforce a rule that establishes a different professional practice standard for telehealth services or limits the telecommunication technology that may be used for telehealth services.

- 23-77.1-6. Out-of-state practitioner.
  - (a) An out-of-state practitioner may provide telehealth services to a patient located in this state if the out-of-state practitioner:
    - (1) Holds a license or certification required to provide health care in this state or is otherwise authorized to provide health care in this state, including through a multistate compact of which this state is a member;
    - (2) Registers under § 23-77.1-7 with the registering board responsible for licensing or certifying practitioners who provide the type of health care the out-of-state practitioner provides; or
    - (3) Provides the telehealth services:
    - (i) In consultation with a practitioner who has a practitioner-patient relationship with the patient;
    - (ii) In the form of a specialty assessment, diagnosis, or recommendation for treatment; or
    - (iii) Pursuant to a previously established practitioner-patient relationship if the telehealth services are provided not later than one year after the practitioner with whom the patient has a relationship last provided health care to the patient.
  - (b) A requirement for licensure or certification of an out-of-state practitioner who supervises an out-of-state practitioner providing telehealth services may be satisfied through registration under § 23-77.1-7.
  - (c) A requirement for licensure or certification of an out-of-state practitioner who controls or is otherwise associated with an entity that provides health care to a patient located in this state may be satisfied through registration under § 23-77.1-7 if the entity does not provide in-person health care to a patient located in this state."

Rhode Island House Bill No. 5352 (introduced 2/3/23)

- ""Patient-provider relationship" means a collaborative effort between a patient and a healthcare professional for the provision of healthcare services that may be established when the healthcare professional agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there is an in-person encounter between the healthcare professional and patient. A patient-provider relationship may be established via either synchronous or asynchronous telemedicine technologies without any requirement of a prior in-person meeting, so long as the standard of care is met."

Executive Order 20-02 (extended 2/15/22)

"This Order shall take effect immediately and remain in full force and effect through (a) March 16, 2022 for Executive Order 20-02."

Rhode Island House Bill No. 6032: The Telemedicine Coverage Act (passed 7/6/21)

- "(a) Each health insurer that issues individual or group accident and sickness insurance policies for healthcare services and/or provides a healthcare plan for healthcare services shall provide coverage for the cost of such covered healthcare services provided through telemedicine services, as provided in this section.

- (b)(1)A health insurer shall not exclude a healthcare service for coverage solely because the healthcare service is provided through telemedicine and is not provided through in-person consultation or contact, so long as such healthcare services are medically necessary and clinically appropriate to be provided through telemedicine services.
- (2) All such medically necessary and clinically appropriate telemedicine services delivered by in-network primary care providers, registered dietitian nutritionists, and behavioral health providers shall be reimbursed at rates not lower than services delivered by the same provider through in-person methods.
- (c) Benefit plans offered by a health insurer shall not impose a deductible, copayment, or coinsurance requirement for a healthcare service delivered through telemedicine in excess of what would normally be charged for the same healthcare service when performed in-person.
- (d) Prior authorization requirements for medically necessary and clinically appropriate telemedicine services shall not be more stringent than prior authorization requirements for in person care. No more stringent medical or benefit determination and utilization review requirements shall be imposed on any telemedicine service than is imposed upon the same service when performed in person.
- (f) The requirements of this section shall apply to all policies and health plans issued, reissued, or delivered in the state of Rhode Island on and after January 1, 2018."

Rhode Island Executive Order 21-76 (7/6/21)

- "NOW, THEREFORE, I, DANIEL J. MCKEE, by virtue of the authority vested in me as Governor of the State of Rhode Island and pursuant to Section 3 of the Appropriations Act, do hereby terminate the following Executive Orders:

Executive Order 20-06 (Fourth Supplemental Emergency Declaration - Expanding Access to Telemedicine Services).

This Executive Order shall take effect immediately."

OHIC Payment and Care Delivery Advisory Committee Telemedicine Subcommittee Recommendations Report (12/28/20)

- The Office of the Health Insurance Commissioner in Rhode Island has released recommendations regarding the future of telehealth.

Rhode Island Senate Bill 2525: AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- THE RHODE ISLAND HEALTH CARE REFORM ACT OF 2004--HEALTH INSURANCE OVERSIGHT (referred to House Finance 6/18/20)

- "The general assembly hereby finds and declares that:
- The advancements and continued development of medical and communications technology have had a profound impact on the practice of medicine and offer opportunities for improving the delivery, cost, and accessibility of health care, particularly in the area of telemedicine.
- There is a need in this state to embrace efforts that will encourage patients, health insurers and health-care providers to support the use of telemedicine, and that will also encourage all state agencies to evaluate and amend their policies and rules to remove any regulatory

barriers prohibiting the use of telemedicine services or reimbursing for such services on a discriminatory basis relative to in-person services.

- Each health insurer that issues individual or group accident-and-sickness insurance policies for health-care services and/or provides a health-care plan for health-care services shall provide coverage for the cost of such covered health-care services provided through telemedicine services, as provided in this section.
- All telemedicine services delivered by in-network providers shall be reimbursed at rates not lower than the same services would have been had they been delivered in-person. Telemedicine services shall be subject to the same health insurer policies as in-person services, including medical necessity determinations and appeal rights."

Executive Order 20-43 (6/4/20)

- Governor Raimondo orders and directs the following:
- "The State of Rhode Island shall take immediate actions to address the economic impacts of COVID-19 on Rhode Island's healthcare system and sustain positive enhancements associated with the COVID-19 crisis, such as the expansion of telehealth and shall remain dedicated in the long-term to the vision, goals, principles, priorities, and strategies included in the 10-year plan, entitled Health in Rhode Island: A Long-Term Vision."

Office of Health Insurance Commissioner: COVID-19 Health Benefit Changes FAQs (March 2020)

- "For your safety, you may now have a brief, no-cost phone or audio-visual consultation with your primary care or behavioral health care provider, without needing to leave home. This means you can get medical advice or behavioral health care over the phone and you won't be charged a co-pay or face any cost sharing expenses. While insurers now have to cover this type of telemedicine, not every single provider is participating.
- During this outbreak, you may not have to leave your home for your medically necessary care. Many services that your provider and health plan agree can appropriately be provided by an audio-visual or audio-only means are included as a temporary covered benefit. Not every health care provider is participating in these telemedicine programs."

Health Insurance Bulletin 2020-01: Emergency Telemedicine Measures to Address and Stop the Spread of COVID-19 (3/20/20)

- "This Bulletin is to supplement the Rhode Island Office of the Health Insurance Commissioner & Medicaid Program Instructions During the COVID-19 State of Emergency issued on 3/13/2020."

Executive Order 20-06 (3/18/20)

- "The patient location requirement for telemedicine contained in Rhode Island General Laws 27-81-3(9) is hereby suspended. Patients may receive telemedicine services at any location."
- "The prohibition against audio-only telephone conversation and the limitations on video conferencing contained in Rhode Island General Laws 27-81-3(12) are hereby suspended…"

- "All such clinically appropriate, medically necessary telemedicine services delivered by in-network providers shall be reimbursed at rates not lower than services delivered through traditional (in-person) methods"
- "No insurance carrier shall impose any specific requirements on the technologies used to deliver telemedicine services…"

Rhode Island Office of the Health Insurance Commissioner & Medicaid Program Instructions During the COVID-19 State of Emergency (3/13/20)

- "Update telemedicine policies to include telephone-only services within the definition of telemedicine for primary care and behavioral health providers"
- "Require that plan-contracted out of state telemedicine providers follow CDC and RIDOH instructions in connection with services provided to Rhode Island residents related to COVID-19."
- "Strategies for ensuring access and continuity of care should also include consideration for telephonic services and telemedicine services without patient cost sharing should access to provider office visits become limited due to the spread of COVID-19"

State Licensure Laws, Policy, and Guidance

Rhode Island Senate Bill No. 564 (introduced 3/7/23)

- "5-48.2-1. Purpose.
  - (a) The purpose of this chapter is to establish participation in a compact to facilitate interstate practice of audiology and speech language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
- 5-48.2-5. Compact privileges to practice telehealth
  Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with § 5-48.2-3 and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission."

Rhode Island House Bill No. 5658 (introduced 2/17/23) / Senate Bill No. 291 (introduced 2/16/23)

- "SECTION 1. Legislative findings, purpose and intent.
  - (1) The purpose and intent of this chapter is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
- 5-39.2-7. Compact privilege to practice telehealth.

- (a) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with § 5-39.2-3 and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.
- (b) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state."

Rhode Island House Bill No. 8229 (introduced 5/11/22)

- "5-39.2-7. Compact privilege to practice telehealth.
- (a) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with § 5-39.2-3 and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.
- (b) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state."

POLICY TIMELINES PAYMENT FOR TELEHEALTH (Both audio-video and audio only) (4/6/20)

- This guidance includes payer grids that provide additional details of codes, modifiers etc., that were based on the best information on a given date. Cost share guidance applies to care provided via telemedicine (video or telephone only). Face-to-face visits reimbursed the same as pre-COVID-19.

Department of Health: Guidance Regarding the Practice of Telemedicine Not Licensed in Rhode Island (March 2020)

- "Additionally, measures have been implemented at the state and national level to ensure vastly expanded coverage for telemedicine services, including services provided by out of-state physicians. Consistent with the foregoing, the Board wishes to make clear that it encourages all physicians to use telemedicine to deliver care to their patients and that the Board will not take action against physicians not licensed to practice in Rhode Island who, during the state of emergency, use telemedicine to deliver care to their established Rhode Island patients."

1135 Waiver Flexibilities (3/25/20)

- "For claims for services provided to Medicaid participants enrolled with Rhode Island Medicaid program, CMS will waive the fifth criterion listed above under section 1135(b)(1) of the Act. Therefore, for the duration of the public health emergency, Rhode Island may reimburse out-of-state providers for multiple instances of care to multiple participants, so long as the other criteria listed above are met.
- If a certified provider is enrolled in Medicare or with a state Medicaid program other than Rhode Island, Rhode Island may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency.
- With respect to providers not already enrolled with another SMA or Medicare, CMS will waive the following screening requirements under sections 1135(b)(1) and (b)(2) of the Act, so the state may provisionally, temporarily enroll the providers for the duration of the public health emergency:

1. Payment of the application fee - 42 C.F.R. §455.460
2. Criminal background checks associated with Fingerprint-based Criminal Background Checks - 42 C.F.R. §455.434
3. Site visits - 42 C.F.R. §455.432
4. In-state/territory licensure requirements - 42 C.F.R. §455.412

- CMS is granting this waiver authority to allow Rhode Island to enroll providers who are not currently enrolled with another SMA or Medicare so long as the state meets the following minimum requirements…"

Department of Health Emergency Reciprocal Licensing Professions and Procedures (3/18/20)

- "As part of our response to coronavirus disease 2019 (COVID-19), the Rhode Island Department of Health (RIDOH) will be relaxing regulatory enforcement for certain medical professional licensing by issuing temporary (90 day) licenses to professionals holding valid out-of-state licenses. Beginning March 18, 2020, out-of-state licensees need only submit a completed application form and a statement verifying the license status from their home state to receive a 90-day license to practice in Rhode Island. This temporary license can be renewed one time."

Medicaid Law, Policy and Guidance Related to Telehealth

Rhode Island Medicaid Program February 2022 Provider Update (February 2022)

- "Due to recent changes made by Medicare, effective as of April 4, 2022 the Rhode Island Executive Office of Health & Human Services (EOHHS) is adding Place of Service Code 10 (Telehealth Provided in Patient's Home) as a telehealth place of service for Fee-for-Service and Managed Care. Please submit telehealth claims with Place of Service Code 02 (Telehealth Provided Other than in Patient's Home) or Place of Service Code 10 (Telehealth Provided in Patient's Home) as applicable.
- EOHHS requests that all MCOs complete the implementation of this change in claims submission by April 30, 2022. Fee-for-Service Providers should submit telehealth claims with the applicable Place of Service Code 10 for dates of service of April 4, 2022 forward."

COVID-19 Telehealth Delivery Policy and Procedure Guidance for RI Medicaid (4/24/20)

- "Effective March 18, 2020 and until further notice, Rhode Island will reimburse for clinically appropriate, medically necessary covered services, including behavioral health services to members via TeleHealth. This includes both fee-for-service and managed care. Working with CMS, the state is focused on ensuring that Rhode Islanders' access to critical health care services is not impacted by the widespread disruptions caused by COVID-19.
- In alignment with OHIC and commercial payers, and in accordance with CMS guidance, EOHHS will also reimburse telephonic (telephone only) services under TeleHealth services. EOHHS encourages providers to use video capabilities as much as possible."

Attachment K: Emergency Preparedness and Response (3/30/20)

- "Before receiving eligibility for long-term services and supports (LTSS), including institutional care, home- and community-based services, and Katie Beckett, an in-person assessment must be conducted to determine if the individual has an institutional level of care. EOHHS

proposes to conduct the level of care determinations via telephonic and/or video conference, as appropriate to the needs of the individual Medicaid member. EOHHS will utilize information received through records submitted by the applicant's physician, telephonic conversations with the Medicaid member, and telephonic conversations with the individual's caregiver/power of attorney, as applicable. The current level of care assessments will still be completed, to the furthest extent possible. EOHHS will only abbreviate the evaluation to the extent necessary to avoid face-to-face contact during the Emergency.

- If for any reason a reevaluation is needed during the State of Emergency, EOHHS proposes to use written, telephonic, and/or video conference methods to conduct the reevaluation, as appropriate for the individual beneficiary.
- EOHHS proposes to modify all person-centered service plan procedures, including but not limited to those required under 42 CFR 441.301(c) and 42 CFR 441.725, to ensure that Medicaid members receive authorization for appropriate services, while preventing worker exposure to the novel coronavirus. EOHHS proposes to conduct the planning process through written, telephonic, and/or video conference, as appropriate to the needs of the individual Medicaid member."

COVID-19 Telehealth Delivery Policy and Procedure Guidance for RI Medicaid (3/18/20)

- "Effective March 18, 2020 and until further notice, Rhode Island will reimburse for clinically appropriate, medically necessary covered services, including behavioral health services to members via Telehealth. This includes both fee-for-service and managed care."
- "Temporary steps taken to address the COVID-19 emergency include the use of non-HIPAA compliant videoconferencing."
- "In alignment with OHIC and commercial payers, and in accordance with CMS guidance, EOHHS will also reimburse telephonic (telephone only) services under TeleHealth services. EOHHS encourages providers to use video capabilities as much as possible."

SOUTH CAROLINA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

South Carolina House Bill No. 4159 (introduced 3/15/23)

- "Section 40-47-37.
- (A) ~~A licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall adhere to the same standard of care as a licensee employing more traditional in-person medical care and be evaluated according to the standard of care applicable to the licensee's area of specialty. A licensee shall not establish a physician-patient relationship by telemedicine pursuant to Section 40-47-113(B) for the purpose of prescribing medication when an in-person physical examination is necessary for diagnosis. The failure to conform to the appropriate standard of care is considered unprofessional conduct under Section 40-47-110(B)(9).~~A licensee who provides care, renders a diagnosis, or otherwise engages in the practice of medicine as defined in Section 40-47-20(36) via telemedicine as defined in Section 40-47-20(52) shall:

- (1) adhere to the same standard of care as in-person medical care and be evaluated according to the standard of care applicable to the licensee's area of specialty. The failure of a licensee to conform to the appropriate standard of care is considered unprofessional conduct under Section 40-47-110(B)(9);
- (2) generate and maintain medical records for such telemedicine services in compliance with any applicable state and federal laws, rules, and regulations including this chapter, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). Such records timely must be made accessible to other practitioners and to the patient when lawfully requested by the patient or his lawfully designated representative;
- (3) prescribe in accordance with Section 40-47-113;
- (4) be licensed to practice medicine in this State; provided, however, a licensee need not reside in this State if he has a valid, current South Carolina medical license; further, provided, that a licensee who resides in this State and intends to practice medicine via telemedicine to treat or diagnose patients outside of this State shall comply with other applicable state licensing boards; and
  - (a) this requirement is not applicable to an informal consultation or second opinion, at the request of a physician licensed to practice medicine in this State, provided that the physician requesting the opinion retains the authority and responsibility for the patient's care; and
  - (b) where an in-person physician-patient relationship is established in another state for specialty care and treatment is ongoing by that out-of-state provider, care provided pursuant to an existing treatment plan via telehealth in this State by the out-of-state provider between in-person visits is considered acts incidental to the care of the patient in another state and the out-of-state provider is not required to be licensed in this State. This exception may not be construed to apply to […]
  - (c) for purposes of subitems (a) and (b), the care provided to the patient by the out-of-state provider is deemed to have occurred where the patient was located at the time health care services were provide to him by means of telehealth.

- (B) ~~A licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall generate and maintain medical records for each patient using such telemedicine services in compliance with any applicable state and federal laws, rules, and regulations, including this chapter, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). Such records shall be accessible to other practitioners and to the patient in a timely fashion when lawfully requested to do so by the patient or by a lawfully designated representative of the patient.~~Nothing in this section may be construed to prohibit electronic communications between:
  - (1) a physician and patient with a preexisting physician-patient relationship;
  - (2) a physician and another physician concerning a patient with whom the other physician has a physician-patient relationship; or
  - (3) a provider and a patient when treatment is provided pursuant to an on-call situation or a cross-coverage situation.

- (C) ~~In addition to those requirements set forth in subsections (A) and (B), a licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall: […]~~
  - ~~(10) discuss with the patient the value of having a primary care medical home and, if the patient requests, provide assistance in identifying available options for a primary care medical home.~~In addition to those requirements set forth in subsection (A), a licensee who establishes and/or maintains a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall…
  - (1) adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing such information upon request of the board;
  - (2) provide an appropriate evaluation prior to diagnosing and/or treating the patient, which need not be done in person if the licensee considers that he is able to accurately diagnose and treat the patient in conformity with the applicable standard of care via telehealth; provided that evaluations in which a licensee is at a distant site, but a practitioner who is acting within his scope is able to provide various physical findings the licensee needs to complete an adequate assessment, is permitted;
  - (3) ensure the availability of appropriate follow-up care;
  - (4) verify the identity and location of the patient and inform the patient of the licensee's name, location, and professional credentials;
  - (5) maintain the confidentiality of a patient's records and disclose the records to the patient consistent with state and federal law; provided, that licensees practicing telemedicine must be held to the same standards of professionalism concerning medical records transfer and communication with the primary care provider and medical home as licensees practicing via traditional means;
  - (6) if applicable, discuss with the patient the value of having a primary care medical home and, if the patient requests, provide assistance in identifying available options for a primary care medical home;
  - (7) prescribe in compliance with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program in Article 15, Chapter 53, Title 44 and the Ryan Haight Act, within a practice setting fully compliant with this section, and subject to the following limitations:
    - (a) at each encounter, threshold information necessary to make an accurate diagnosis must be obtained in a medical history interview conducted by the prescribing licensee;
    - (b) Schedule II-narcotic and Schedule III-narcotic prescriptions are not permitted except in the following instances:
      - (i) when the practice of telemedicine is being conducted while the patient is physically located in a hospital and being treated by a practitioner acting in the usual course of professional practice;
      - (ii) those Schedule II and Schedule III medications used specifically for patients actively enrolled in a Medication-Assisted Treatment (MAT) program with a provider who has an established physician-patient relationship; or

- (iii) any other programs specifically authorized by the board; and
  - (c) prescribing abortion inducing drugs is not permitted; as used in this chapter "abortion inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood cause the death of the unborn child. This includes off label use of drugs known to have abortion-inducing properties that are prescribed specifically with the intent of causing an abortion, such as misoprostol (Cytotec) and methotrexate. This definition does not apply to drugs that may be known to cause an abortion, but which are prescribed for other medical indications including, but not limited to, chemotherapeutic agents or diagnostic drugs. Use of such drugs to induce abortion is also known as "medical", "drug induced", or "chemical abortion"; and
- (8) be prohibited from establishing a physician-patient relationship pursuant to Section 40-47-113(B) for the purpose of prescribing medication when an in-person physical examination is necessary for diagnosis."

South Carolina House Bill No. 3911 (introduced 2/8/23)

- "SECTION 3. Section 40-47-37(C)(6) of the S.C. Code is amended to read:
  - (6) prescribe within a practice setting fully in compliance with this section and during an encounter in which threshold information necessary to make an accurate diagnosis has been obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II and Schedule III prescriptions are not permitted except for those Schedule II and Schedule III medications specifically authorized by the board, which may include, but not be limited to, Schedule II-nonnarcotic and Schedule III-nonnarcotic medications; further, provided, that licensees prescribing controlled substances by means of telemedicine must comply with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program set forth in Article 15, Chapter 53, Title 44; further, provided, that prescribing of lifestyle medications including, but not limited to, erectile dysfunction drugs is not permitted unless approved by the board; ~~further, provided, that prescribing abortion-inducing drugs is not permitted; as used in this article "abortion-inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood cause the death of the unborn child. This includes off-label use of drugs known to have abortion-inducing properties, which are prescribed specifically with the intent of causing an abortion, such as misoprostol (Cytotec), and methotrexate. This definition does not apply to drugs that may be known to cause an abortion, but which are prescribed for other medical indications including, but not limited to, chemotherapeutic agents or diagnostic drugs. Use of such drugs to induce abortion is also known as 'medical', 'drug-induced', and/or 'chemical abortion';~~"

South Carolina Senate Bill No. 29 (introduced 1/10/23)

- "SECTION 1. Title 44 of the S.C. Code is amended by adding:
  - Section 44-140-40. A physician practicing telemedicine in accordance with the requirements contained in Section 40-47-37 may prescribe abortion-inducing drugs.

- SECTION 2. Section 40-47-37(C)(6) of the S.C. Code is amended to read:
    - (6) prescribe within a practice setting fully in compliance with this section and during an encounter in which threshold information necessary to make an accurate diagnosis has been obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II and Schedule III prescriptions are not permitted except for those Schedule II and Schedule III medications specifically authorized by the board, which may include, but not be limited to, Schedule II-nonnarcotic and Schedule III-nonnarcotic medications; further, provided, that licensees prescribing controlled substances by means of telemedicine must comply with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program set forth in Article 15, Chapter 53, Title 44; further, provided, that prescribing of lifestyle medications including, but not limited to, erectile dysfunction drugs is not permitted unless approved by the board; ~~further, provided, that prescribing abortion-inducing drugs is not permitted; as used in this article "abortion-inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood cause the death of the unborn child. This includes off-label use of drugs known to have abortion-inducing properties, which are prescribed specifically with the intent of causing an abortion, such as misoprostol (Cytotec), and methotrexate. This definition does not apply to drugs that may be known to cause an abortion, but which are prescribed for other medical indications including, but not limited to, chemotherapeutic agents or diagnostic drugs. Use of such drugs to induce abortion is also known as "medical", "drug-induced", and/or "chemical abortion";~~"

South Carolina House Bill No. 5483 (introduced 8/31/22)

- "SECTION 2. Title 44 of the 1976 Code is amended by adding:
    - Section 44-140-330. A physician practicing telemedicine in accordance with the requirements contained in Section 40-47-37 may prescribe abortion-inducing drugs.
- SECTION 3. Section 40-47-37(C)(6) of the 1976 Code is amended to read:
    - "(6) prescribe within a practice setting fully in compliance with this section and during an encounter in which threshold information necessary to make an accurate diagnosis has been obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II and Schedule III prescriptions are not permitted except for those Schedule II and Schedule III medications specifically authorized by the board, which may include, but not be limited to, Schedule II-nonnarcotic and Schedule III-nonnarcotic medications; further, provided, that licensees prescribing controlled substances by means of telemedicine must comply with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program set forth in Article 15, Chapter 53, Title 44; further, provided, that prescribing of lifestyle medications including, but not limited to, erectile dysfunction drugs is not permitted unless approved by the board; ~~further, provided, that prescribing abortion-inducing drugs is not permitted; as used in this article "abortion-inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood cause the death of the unborn child. This includes off-label use of drugs known to have abortion-inducing properties, which are prescribed specifically with the intent~~

~~of causing an abortion, such as misoprostol (Cytotec), and methotrexate. This definition does not apply to drugs that may be known to cause an abortion, but which are prescribed for other medical indications including, but not limited to, chemotherapeutic agents or diagnostic drugs. Use of such drugs to induce abortion is also known as 'medical', 'drug-induced', and/or 'chemical abortion';~~"

South Carolina Senate Bill No. 1348 (introduced 6/15/22)

- "SECTION 2. Title 44 of the 1976 Code is amended by adding a new chapter to read:
  - Section 44-139-330. A physician practicing telemedicine in accordance with the requirements contained in Section 40-47-37 may prescribe abortion-inducing drugs.
- SECTION 2. Section 40-47-37(C)(6) of the 1976 Code is amended to read:
  - (6) prescribe within a practice setting fully in compliance with this section and during an encounter in which threshold information necessary to make an accurate diagnosis has been obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II and Schedule III prescriptions are not permitted except for those Schedule II and Schedule III medications specifically authorized by the board, which may include, but not be limited to, Schedule II-nonnarcotic and Schedule III-nonnarcotic medications; further, provided, that licensees prescribing controlled substances by means of telemedicine must comply with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program set forth in Article 15, Chapter 53, Title 44; further, provided, that prescribing of lifestyle medications including, but not limited to, erectile dysfunction drugs is not permitted unless approved by the board; ~~further, provided, that prescribing abortion-inducing drugs is not permitted; as used in this article "abortion-inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood cause the death of the unborn child. This includes off-label use of drugs known to have abortion-inducing properties, which are prescribed specifically with the intent of causing an abortion, such as misoprostol (Cytotec), and methotrexate. This definition does not apply to drugs that may be known to cause an abortion, but which are prescribed for other medical indications including, but not limited to, chemotherapeutic agents or diagnostic drugs. Use of such drugs to induce abortion is also known as "medical", "drug-induced", and/or "chemical abortion";~~"

Health Insurance Issuers' Response to COVID-19 (3/19/20)

- "Congress has passed the Families First Coronavirus Response Act. Among other things, this Act would require health insurance issuers to provide coverage (at no cost sharing or pre-authorization/ medical management requirements) for the testing and administration of FDA-approved COVID-19 tests. The same requirements would apply to related services, including an in-person or telehealth provider visit, urgent care center visit, and emergency room visits that result in an order for COVID-19 testing. The waiving of cost sharing and related requirements only applies to the services relating to COVID-19 evaluation and testing."

State Licensure Laws, Policy, and Guidance

South Carolina House Bill No. 517 (introduced 2/9/23) / South Carolina Senate Bill No. 553 (introduced 2/21/23)

- "(5) An APRN who establishes a nurse-patient relationship solely by means of telemedicine only may prescribe within a practice setting fully in compliance with this chapter and during an encounter in which threshold information necessary to make an accurate diagnosis is obtained in a medical history interview conducted by the prescribing licensee~~; provided, however, that Schedule II through V prescriptions are only permitted pursuant to a practice agreement as defined in Section 40-33-20(45)~~ and nothing in this item may be construed to authorize the prescribing of medications via telemedicine that otherwise are restricted by the limitations in Section 40-47-37(C)(6) unless approved by ~~a joint committee of the Board of Medical Examiners and~~ the Board of Nursing.
- (C) In addition to those requirements set forth in subsections (A) and (B), a licensee who establishes a ~~physician~~provider-patient relationship solely via telemedicine as defined in ~~Section 40-47-20(52)~~ shall:
    - (9) be licensed to practice medicine or advanced practice nursing with full practice authority in South Carolina; provided, however, a licensee need not reside in South Carolina so long as he or she has a valid, current South Carolina medical or APRN license; further, provided, that a licensee residing in South Carolina who intends to practice ~~medicine~~ via telemedicine to treat or diagnose patients outside of South Carolina shall comply with other state licensing boards;"

South Carolina House Bill No. 3784 (introduced 1/24/23)

- "Section 40-75-910.
    - (A) The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of the states to protect public health and safety through the current system of state licensure.
    - (B) This compact is designed to achieve the following objectives:
        - (6) allow for the use of telehealth technology to facilitate increased access to professional counseling services;"

South Carolina House Bill No. 3310 (introduced 1/10/23)

- "Section 40-63-510.(A) The purpose of this compact is to facilitate interstate practice of regulated social workers with the goal of improving public access to competent social work services. The compact seeks to preserve the regulatory authority of states to protect public health and safety through the current system of state licensure.
- (B) This compact is designed to achieve the following objectives:
    - (7) allow for the use of telehealth to facilitate increased access to regulated social work services;"

South Carolina Senate Bill No. 1179 (passed 5/13/22)

- "(B) An Independent Social Work-CP who holds an active license to provide independent social work services in another state or jurisdiction may provide independent social work services using behavioral telehealth to a client located in this State if the individual is registered with the board and provides the services within the applicable scope of practice established by this State.
- (C) To be registered, the individual must:

- (1) complete an application in the format prescribed by the board;
- (2) be licensed with an active, unencumbered license that is issued by another state, the District of Columbia, or a possession or territory of the United States and that is substantially similar to a license issued by South Carolina to an Independent Social Worker-CP;
- (3) have not been the subject of disciplinary action relating to his license during the five-year period immediately prior to the submission of the application; and
- (4) pay a ten dollar fee.

- (E) The individual may not register under this section if his license to provide social work services is subject to a pending disciplinary investigation or action or has been revoked in any state or jurisdiction. A social worker registered under this section must notify the board of restrictions placed on his license to practice, or any disciplinary action taken or pending against him, in any state or jurisdiction. The notification must be provided within five business days after the restriction is placed or disciplinary action is initiated or taken.
- (F) The board shall publish on its website a list of all registrants and include, to the extent applicable, each registrant's:
  - (1) name;
  - (2) address;
  - (3) out-of-state social work license type with the license number; and
  - (4) South Carolina behavioral telehealth registration number.
- (G) The board may take disciplinary action against an out-of-state registrant registered under this section if the individual:
  - (1) fails to notify the board of any adverse actions taken against his license as required under subsection (E);
  - (2) has restrictions placed on or disciplinary action taken against his license in any state or jurisdiction;
  - (3) violates any of the requirements of this section; or
  - (4) commits any act that constitutes grounds for disciplinary action under the board's statutes or regulations.
- (H) For the purposes of this section, the delivery of behavioral telehealth services by a registrant licensed by another state or jurisdiction to a client residing in this State is deemed to occur in this State, and the registrant consents, as a condition of registration, to the personal and subject matter jurisdiction and disciplinary authority of the board.
- (I) Nothing in this section requires or authorizes an individual licensed by this State pursuant to this chapter to obtain a behavioral telehealth registration in order to provide behavioral telehealth services to a client residing in this State."

South Carolina House Bill No. 5161 (introduced 3/29/22)

- “A health insurance policy must not:
  - (1) impose a deductible, copayment, or coinsurance for health care services provided by means of telehealth that exceed the deductible, copayment, or coinsurance that would be applicable if the same health care services were provided through face-to-face consultation;

  - (2) require additional prior authorization for services provided by means of telehealth or impose additional administrative requirements for telehealth providers in excess of the authorizations or requirements that would apply for the same services if provided on a face-to-face basis;
  - (3) require a provider to be physically present with a patient at the originating site unless the consulting provider deems it necessary;
  - (4) limit coverage of health care services provided by means of telehealth, based upon the location of the patient or, except as to the extent the limitation is otherwise required by law or necessary to ensure patient safety, the setting of the consulting provider; or
  - (5) require the use of telehealth if a patient chooses not to receive care by means of telehealth or a provider demonstrates that delivery of care by means of telehealth is not appropriate.
- A consulting provider at a distant site who is authorized to provide care in this State and who furnishes a covered telehealth service may bill and receive payment for the service when it is delivered via telehealth.
- A licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall adhere to the same standard of care as a licensee employing more traditional in-person medical care and be evaluated according to the standard of care applicable to the licensee's area of specialty. A licensee shall not establish a physician-patient relationship by telemedicine pursuant to Section 40-47-113(B) for the purpose of prescribing medication when an in-person physical examination is necessary for diagnosis. The failure to conform to the appropriate standard of care is considered unprofessional conduct under Section 40-47-110(B)(9).
- A licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall generate and maintain medical records for each patient using such telemedicine services in compliance with any applicable state and federal laws, rules, and regulations, including this chapter, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). Such records shall be accessible to other practitioners and to the patient in a timely fashion when lawfully requested to do so by the patient or by a lawfully designated representative of the patient.
- A licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52)(53) shall:
  - (1) adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing such information upon request of the board;
  - (2) provide an appropriate evaluation prior to diagnosing and/or treating the patient, which need not be done in-person if the licensee employs technology sufficient to accurately diagnose and treat the patient in conformity with the applicable standard of care; provided, that evaluations in which a licensee is at a distance from the patient, but a practitioner is able to provide various physical findings the licensee needs to complete an adequate assessment, is permitted; further, provided, that a simple questionnaire without an appropriate evaluation is prohibited;
  - (3) verify the identity and location of the patient and be prepared to inform the patient of the licensee's name, location, and professional credentials;

- (4) establish a diagnosis through the use of accepted medical practices, which may include patient history, mental status evaluation, physical examination, and appropriate diagnostic and laboratory testing in conformity with the applicable standard of care;
- (5) ensure the availability of appropriate follow-up care and maintain a complete medical record that is available to the patient and other treating health care practitioners, to be distributed to other treating health care practitioners only with patient consent and in accordance with applicable law and regulation;
- (6) prescribe within a practice setting fully in compliance with this section and during an encounter in which threshold information necessary to make an accurate diagnosis has been obtained in a medical history interview conducted by the prescribing licensee;
- (7) maintain a complete record of the patient's care according to prevailing medical record standards that reflects an appropriate evaluation of the patient's presenting symptoms; provided that relevant components of the telemedicine interaction be documented as with any other encounter;
- (8) maintain the patient's records' confidentiality and disclose the records to the patient consistent with state and federal law; provided, that licensees practicing telemedicine shall be held to the same standards of professionalism concerning medical records transfer and communication with the primary care provider and medical home as licensees practicing via traditional means; further, provided, that if a patient has a primary care provider and a telemedicine provider for the same ailment, then the primary care provider's medical record and the telemedicine provider's record constitute one complete medical record; and
- (9) be licensed to practice medicine in South Carolina; provided, however, a licensee need not reside in South Carolina so long as he or she has a valid, current South Carolina medical license; further, provided, that a licensee residing in South Carolina who intends to practice medicine via telemedicine to treat or diagnose patients outside of South Carolina shall comply with other state licensing boards."

Department of Labor, Licensing and Regulation Public Health State of Emergency Order 2020-BME-PH-03 (3/22/20)

- "Practitioners previously approved by the Board may, in accordance with state and federal law, initiate MAT treatment for patients diagnosed with an opioid use disorder via telemedicine, without the need for an in-person visit, provided that the initiation of MAT is documented in the patient's chart and the practitioner sees the patient in-person within sixty (60) days after the end of the public health state of emergency."

Department of Labor, Licensing and Regulation Public Health State of Emergency Order 2020-BME-PH-03 (3/22/20)

- "NOW, THEREFORE, for the reasons set forth above and in accordance with the action previously taken by HHS and DEA, the Board hereby suspends enforcement of the prohibition on prescribing Schedule II and III medications via telemedicine without prior Board approval, subject to certain conditions. Such approval is granted to the following practitioners who are permanently licensed in good standing in South Carolina and physically present in South Carolina at the time care is provided: physicians; physician assistants ("PAs") if authorized

in a written scope of practice guidelines, if applicable, and otherwise allowed by law; and advanced practice registered nurses ("APRNs"), if authorized in a written practice agreement, if applicable, authorized by the Board of Nursing, and otherwise allowed by law."

Office of the Governor (3/14/20)

- "The SC Board of Medical Examiners and the SC Board of Nursing have procedures in place to temporarily license individuals in times of an emergency: 'This is another great tool to combat this virus' potential impact to our state," said Gov. Henry McMaster. "The ability to expedite this licensure process gives us greater assurance that we will have the medical health professionals and resources we need in order to keep South Carolinians safe.'"
- "'LLR and its health professional boards are fully committed to doing what they can to lessen regulatory obstacles to licensure during this public health emergency so we can help ensure South Carolinians have access to all needed healthcare resources,' LLR Director Emily Farr said."
- "The Medical Board can expedite temporary licensure for out-of-state physicians, physician assistants, and respiratory care practitioners within 24 hours. There is no fee for these 90-day temporary licenses."

Medicaid Law, Policy and Guidance Related to Telehealth

Update on Telehealth Flexibilities Issued During the COVID-19 Public Health Emergency (4/29/22)

- "SCDHHS will waive referring site restrictions that existed prior to the COVID-19 PHE, which will allow providers to be reimbursed for services delivered via telehealth to Healthy Connections Medicaid members regardless of the members' location as described in Medicaid bulletin 20-005. This flexibility applies to the evaluation and management (E/M) Current Procedural Terminology (CPT) codes listed below for services rendered by a physician, nurse practitioner, or physician assistant. This flexibility will be made permanent for evaluation and management encounters that include both audio and visual components.
- SCDHHS will continue to reimburse FQHCs and RHCs for services rendered through telehealth. This extension applies to the flexibilities announced in Medicaid bulletin 20-007 and to the services described within this section of this Medicaid bulletin.
- When audio/visual telehealth is not available, SCDHHS will continue to reimburse providers for one year beyond the end date of the current federal PHE for the audio-only CPT codes included in this section. Reimbursement for the CPT codes included below will continue to be limited to encounters with established patients as described in Medicaid bulletin 20-004 when rendered by a physician, nurse practitioner, physician assistant or licensed independent practitioner (LIP).
- SCDHHS will continue to augment the state's existing behavioral health telehealth benefit and extend the flexibilities included below for one year beyond the end date of the current federal PHE. Services described below are eligible for reimbursement when delivered by LIPs and associate-level licensed practitioners as described in Medicaid bulletins 20-009, 20-014 and 20-016.
- SCDHHS will continue to reimburse providers for the ABA services described below when rendered through telehealth for one year beyond the end date of the current federal PHE. These flexibilities will be extended for remote supervision of registered behavior

technicians (RBTs) who provide service in a face-to-face setting and consultation of parent-directed activities via telehealth for the CPT codes listed below as described in Medicaid bulletin 20-011.
    - 97151 - Behavior Identification Assessment
    - 97155 - Adaptive Behavior Treatment with Protocol Modification
    - 97156 - Family Adaptive Behavior Treatment Guidance
- SCDHHS will continue to reimburse DECs for services rendered through telehealth for one year beyond the end date of the current federal PHE. These flexibilities will be extended for encounters that include both audio and visual components.
- SCDHHS will continue to reimburse for management of medication-assisted treatment (MAT) services and services rendered by Act 301 local alcohol and drug abuse authorities (local authorities) delivered through telehealth for one year beyond the end date of the current federal PHE.
- SCDHHS will continue to reimburse providers for early intervention services and development of individualized family service plans (IFSPs) rendered through telehealth. These flexibilities will be extended for one year beyond the end date of the current federal PHE.
- MAT, occupational, physical and speech therapy providers will no longer be reimbursed for audio-only encounter CPT codes 98966-98968 and 99441-99443 upon the end of the federal PHE. Providers can continue to bill for the procedure codes included in this section when rendered via telehealth for dates of service that fall within the current federal PHE as authorized by Medicaid bulletins 20-008, 20-009, 20-016 and 20-017.
- (Following the end of the PHE) providers will no longer be reimbursed for:
    - Occupational therapy
    - Behavioral modification
    - Psychosocial rehabilitation service (individual)
    - Family support"

Updated Guidance for Behavioral Health Policies (4/15/21)

- "To further align with the American Medical Association (AMA) Current Procedural Terminology (CPT) 2021 Professional Codebook, the description of individual psychotherapy in the Licensed Independent Practitioner provider manual will specify that the Healthy Connections Medicaid member is required to be present for individual psychotherapy. These services may still be delivered via telehealth as described in previous guidance; however, the Healthy Connections Medicaid member who is receiving the service must receive the service directly regardless of the delivery method."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (1/15/21)

- Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

High fidelity wraparound services

Telehealth Documentation and Platform Requirements (2020)

- Q. Is there an end date to COVID-19-related telehealth coverage?

A. Any modifications to telehealth policies, including the sunsetting of any telehealth flexibilities authorized in response to COVID-19, will be communicated via Medicaid bulletin(s) in a manner that allows ample notice for providers and Healthy Connections Medicaid members to plan and ensure continuity of care. Policy changes and additional guidance and resources related to the COVID-19 pandemic are available at www.scdhhs.gov/covid19.

- Q. Does SCDHHS require use of a certain platform to provide telehealth services?

A. Providers have the same ethical and other obligations to maintain the security and privacy of their patients' information and the service delivery platform. The agency understands not everyone has the same capabilities and/or has adopted a Health Insurance Portability and Accountability Act (HIPAA)-compliant platform and is expecting providers to use reasonable judgement and show evidence of a good faith effort. SCDHHS does not want technical compliance with certain requirements to stand in the way of patient care during this emergency response period.

- Q. What are the documentation requirements for reimbursement for telehealth services? Will the South Carolina Medicaid program require wet-ink signatures?

A. Providers are responsible for maintaining service planning, service notes and any necessary documentation requirements as listed in the provider manual. As described in the provider manual, Medicaid requires that services provided/ordered be authenticated by the author. Medical documentation must be signed by the author of the documentation except when otherwise specified in the provider manual. The signature may be handwritten, electronic or digital."

Additional COVID-19 Telehealth Guidance for Early Intervention Providers (7/10/20)

- "SCDHHS is authorizing reimbursement for EI providers to develop relevant portions of a beneficiary's IFSP using curriculum-based assessments (CBAs) or a routines-based interview (RBI) via telemedicine."

COVID-19 Testing Fee Schedule (6/15/20)

- The link above includes billing codes for COVID-19 testing.

Medicaid Frequently Asked Questions (*updated as of* 6/10/20)

- Q. Can licensed LPCs also bill for telephonic check-ins in addition to being able to bill for individual therapy?

A. Yes. All services should be in line with the individual's medical necessity and should be billed as described in Bulletin 20-009.

- Q. Does SCDHHS require use of a certain platform to provide telehealth services?

A. Providers have the same ethical and other obligations to maintain the security and privacy of their patients' information and the service delivery platform. The agency understands not everyone has the same capabilities and/or has adopted a Health Insurance Portability and Accountability Act (HIPAA)-compliant platform and is expecting providers to use reasonable judgement and show evidence of a good faith effort. SCDHHS does not want technical compliance with certain requirements to stand in the way of patient care during this emergency response period.

- Q. Will licensed independent practitioners (LIPs) with associate-level licenses be able to provide and be reimbursed for telehealth services?

A. SCDHHS has offered telemedicine flexibilities to several categories of LIPs in the behavioral health and therapeutic professions. In addition, SCDHHS issued a bulletin on April 6, 2020, shortly after the conclusion of the webinar, that provides additional expanded coverage and guidelines for licensed associates.

- Q. Are Healthy Connections Medicaid managed care organizations (MCOs) covering teletherapy services for their members?

A. MCOs are broadly implementing teletherapy coverage in a manner consistent with the agency's interim policies. As with all service coverage questions, the agency encourages providers to contact the MCOs' provider liaison center for any billing or documentation guidance necessary to receive reimbursement.

- Q: Will telehealth services be reimbursed at the same rate as traditional services?

A. Telehealth services will be reimbursed at the same rate as traditional services, unless there is already an existing telemedicine code that follows one of the agency's benchmarks, such as Medicare, or a different rate is stated otherwise in a bulletin or guidance sent out by the agency. The South Carolina Department of Health and Human Services (SCDHHS) will continue to provide additional guidance as needed and will publish fee schedules as they are available for expanded telehealth services during this emergency response period.

Medicaid Coverage for the Treatment of Opioid Use Disorder (5/1/20)

- "Expanded coverage of telephonic check-in and evaluation and management services, as described in Medicaid bulletins 20-004 and 20-005, are available to reimburse providers for managing MAT via telehealth. Expanded coverage of telehealth will remain in effect for the duration of the current declared public health emergency, unless SCDHHS determines they should sunset at an earlier date."

Telehealth and COVID-19 Clarification for IDEA, Part C Program (4/30/20)

- Telemedicine and Face-to-face visits Since the state of emergency was declared due to COVID-19 on March 13, 2020, SCDHHS has issued guidance and memoranda to clarify existing, as well as to authorize new, telehealth and telemedicine flexibilities.
- IFSPs

Currently, SCDHHS is continuing to receive and process referrals into the IDEA Part C program and is conducting eligibility determinations telephonically using the Battelle Developmental Inventory (BDI) Screener."

Appendix K: Emergency Preparedness and Response and COVID-19 Addendum (4/21/20)

- Intellectually Disabled and Related Disabilities Waiver (ID/RD), Community Supports (CS), Head and Spinal Cord Injury (HASCI)

"Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

- Case management
- In-home habilitation
- Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers))
- Other: Case managers must ensure that the same number of contacts required by each waiver, including at least one case management activity per month, is completed. The contacts that require a face to face visit (initial visit, quarterly visits, and re-evaluation visits) will be completed during telephonic communication during the declared public health emergency. For in-home habilitation, only hourly units of residential habilitation offered in a Supervised Living Program Level I may be allowed to be offered telephonically."

- Medically Complex Children

"Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

- Other: RN Care Coordination, to be completed at currently required intervals. This may be completed via electronic methods (e.g. telephonic)."

- Community Choices (CC), HIV/AIDS, and Mechanical Ventilator Dependent (VENT)

"Temporarily modify person-centered service plan development process and individual(s) responsible for person-centered service plan development, including qualifications.

- The State is requesting for person-centered service plans to be completed via telephonic communications during this requested time period with the participant and/or their authorized representative. The state will ensure the service plan is modified to allow for additional supports/and or services to respond to the COVID-19 pandemic. The specificity of such services including amount, duration and scope will be appended as soon as possible to ensure that the specific service is delineated accordingly to the date it began to be received. The PCSP will be updated no later than 30 days from the date the service was initiated.

Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

- Case management
- Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers))
- Other: Case managers must ensure that the same number of contacts required by each waiver, including at least one case management activity per month, is completed. The contacts that require a face to face visit (initial visit, quarterly visits, and re-evaluation visits) will be completed telephonically during the declared public health emergency."

Coronavirus Disease 2019 (COVID-19) Guidance for Long-term Care Facilities (4/20/20)

- "Prior to having a suspected or confirmed case, ensure that the following activities are in place:

Consider using telehealth services for more urgent, but not emergent, medical care activities when feasible."

Telehealth Clarification for Act 301 Local Alcohol and Drug Abuse Authorities (4/17/20)

- "Existing telemedicine benefits and additional temporary flexibilities previously authorized psychological testing/management and crisis intervention provided telephonically are currently reimbursed by SCDHHS.
- In addition to LIP, associate-level, and LMSW providers, SCDHHS will reimburse for the services listed above when provided via telehealth by certified or licensed addiction counselors, so long as services are otherwise rendered in a manner that is consistent with existing Medicaid coverage requirements and the providers' credential."

Coronavirus Disease 2019 (COVID-19) Update to Temporary Telehealth Coverage Changes (4/16/20)

- Child Well-care and Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Visits: In accordance with guidance issued by the American Academy of Pediatrics (AAP), and in collaboration with South Carolina's pediatric community, SCDHHS will reimburse for pediatric well-care delivered via telehealth, as described below. Benefits, billing parameters and other guidelines for in-person care are not affected. SCDHHS supports the AAP recommendation that children through 24 months of age receive in-person well-care, when possible.

Telehealth coverage for well-care: SCDHHS will reimburse for well-care visits conducted via telehealth for children through the age of 18. To qualify for coverage, the visit must include the developmental and behavioral screenings, health risks assessments and anticipatory guidance components prescribed by the current edition of Bright Futures: Guidelines for Health Supervision of Infants, Children, and Adolescents.

Immunizations: When pediatric well-care is provided via telehealth, providers must inform the beneficiary (or parent/guardian) of any immunizations that would routinely be administered. Vaccine administration should be scheduled as soon as feasible following the telehealth encounter. SCDHHS will reimburse for immunization administration when delivered outside of the well-care visit (such as on a different day, at a separate location or through a drive-up immunization model).

Follow-up after telehealth well-care visit: Any child who receives a well-care visit via telehealth should have an in-person follow-up well-care visit as soon as feasible. SCDHHS will reimburse for the follow-up in-person visit."

COVID-19 Telehealth Policy Update to New Patient and Associate and Assistant-level Provider Coverage (4/16/20)

- "To facilitate patient care as the period of the COVID-19 response and recommended social distancing standards has increased, SCDHHS will reimburse for the services listed below when provided to a new patient.

Telehealth services provided by a physician, nurse practitioner or physician assistant

Telehealth services provided by Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs)

Telehealth services provided by physical, occupational and speech therapists

Services provided by licensed independent behavioral health practitioners and related associate-level providers

- Telehealth coverage for services provided by physical, occupational and speech therapy assistants

SCDHHS will reimburse for the services described in bulletin 20-008 when care is provided by physical therapy assistants, occupational therapy assistants, speech pathology interns or speech pathology assistants. Services must be provided in a manner that is consistent with relevant

practice acts, supervision requirements and standards of care. Authorization requirements, service limits and standards for medical necessity continue to apply.

- Telehealth coverage for Licensed Master Social Worker (LMSW)

SCDHHS will reimburse for services provided by LMSWs in the same manner as associate-level providers described in bulletin 20-014. Authorization requirements, service limits and standards for medical necessity continue to apply."

Telehealth Coverage for services provided by Developmental Evaluation Centers (4/16/20)

- "SCDHHS will reimburse Developmental Evaluation Centers (DECs) for the following services when provided via telehealth by a physician, nurse practitioner (NP), physician assistant (PA), or psychologist."

Medicaid Telemedicine Fee Schedule (4/13/20)

- The link above includes billing codes for telemedicine services delivered by pediatricians, physicians, physical therapy, occupational therapy, and speech therapy.

The South Carolina Department of Health and Human Services (SDHHS) COVID-19 Response (4/6/20)

- "Telehealth-Applied Behavior Analysis: Eligible providers include Board Certified Behavior Analysts (BCBAs)
- Telehealth-Early Intervention: SCDHHS will reimburse for the following, regardless of patient location:

T1016: Service Coordination

T1018: IFSP/FSP Team Meeting

T1027: Family Training/Special Instruction

- Telehealth-Physical, Occupational, & Speech Therapists: SCDHHS will reimburse for the following, regardless of patient location

97350: Therapeutic Activities

97110: Therapeutic Exercises

92507: Speech Therapy

- Additionally, SCDHHS will reimburse physicians, NPs, and PAs for:

Evaluation and management services provided telephonically (CPT 99202-99204, 99212-99214)

Telephonic assessment and management (CPT 99441-99443)

Brief telephonic check-in and remote image evaluation (G2010, G2012)"

Coronavirus Disease 2019 (COVID-19) Temporary Telephonic and Telehealth Services Update (*Updated as of* 4/6/20)

- "SCDHHS understands that, by convention, associates have traditionally rendered services and received reimbursement under the registration of their supervising providers. During the COVID-19 public health emergency and response, SCDHHS intends to allow this reimbursement convention to continue, and will extend the same telemedicine flexibilities to the providers listed below as their fully

licensed analog. This authority will extend through the period of the current federally declared public health emergency, unless rescinded, modified or superseded by additional guidance issued by the state at an earlier date. This additional telemedicine flexibility applies to:

Licensed Professional Counselor – Associates

Licensed Marriage and Family Therapist – Associates

Psychologist – Postdoctoral Pending Licensure"

COVID-19 Temporary Dental Services Policy (4/3/20)

- "SCDHHS will begin accepting claims for the changes noted below no later than April 15, 2020, for dates of services on or after this bulletin's date.
- Patient Triage and Care Coordination via Telephonic or Telehealth Encounter

SCDHHS will reimburse enrolled dentists for the provision of triage and care coordination when provided via telephonic or telehealth interaction for patients with urgent or emergent dental issues, regardless of the patient's location. Dentists should bill for these services using Current Dental Terminology (CDT) procedure code D9992. Reimbursement for D9992 will be allowed once per 30 days.

- Oral Evaluation CDT Code D0140- Limited, problem-focused exam

SCDHHS will allow one CDT code D0140 billing per 30 days for established patients as face-to-face or via telemedicine. The service is not allowed within 30 days of billing CDT code D0160, if conducted by the same provider.

- CDT Code D0160- Detailed and extensive oral evaluation, problem-focused

SCDHHS will reimburse enrolled dental providers accepting new patients for the purpose of providing urgent or emergent dental care, using CDT code D0160. SCDHHS will allow one CDT code D0160 billing for each new patient. CDT code D0160 should be billed only for face-to-face care of new patients."

COVID-19 Telehealth Policy Update to ABA Coverage (*Updated as of* 3/30/20)

- Updated to include ABA services:

"Accordingly, and in order to support social distancing while maintaining the clinical appropriateness of the provision of ABA, SCDHHS is taking two temporary steps to ensure clinically relevant services are reimbursed during the COVID-19 emergency:

  - SCDHHS is authorizing remote supervision of RBTs using the codes and guidelines detailed later in this bulletin; and,
  - In those instances where families elect to decline face-to-face therapy from an RBT, SCDHHS is allowing for the reimbursement of remote consultation by supervisory providers and supervision of parents providing ABA in a limited capacity."

COVID-19 Telehealth Policy Update to Behavioral Health Coverage (3/28/20)

- "Reimbursement for the telephonic services addressed below is available if the interaction with a Healthy Connections Medicaid member includes at least one telephonic component.

- Given the announcement schools will be closed for the month of April and the state's intensifying social distancing efforts, SCDHHS is introducing additional telemedicine codes for providers enrolled under CMHC, RBHS or LIP categories. These additional codes are available to physicians, nurse practitioners, and physician assistants already authorized to render services and for the following provider types:

Licensed Psychologist

Licensed Professional Counselor

Licensed Independent Social Worker

Licensed Marriage and Family Therapist"

Coronavirus Disease 2019 (COVID-19) Update to Temporary Telehealth Coverage Changes for FQHCs and RHCs (3/25/20)

- The previous iteration excluded Federally Qualified Health Centers (FCHCs) and Rural Health Clinics (RHC); this version includes them as eligible to provide telehealth services pursuant to the modified guidelines announced previously.
- 3/23 Update "Evaluation and Management (E/M) via Telehealth

When rendered by a physician, nurse practitioner, or physician assistant, E/M services in the range of Current Procedural Terminology (CPT) codes 99202- 99204 and 99212-99214 may be provided regardless of the Medicaid member's location. All aspects of the SCDHHS telemedicine policy continue to apply, except for the following:

Requirements related to the referring site are waived, and services may be provided without regard to the member's location.

Requirements that a certified or licensed professional be present at the referring site are waived.

The audio and visual components of the interaction must include sufficient quality and/or resolution for the provider to effectively deliver the care being administered. Otherwise, any specific technology requirements are waived."

COVID-19 Telehealth Policy Updates for Physicians, NPs, PAs and LIPs (3/19/20)

- "Effective for dates of service on and after March 15, 2020, SCDHHS is expanding coverage for telephonic and telehealth services. The policy changes outlined below will remain in effect for the duration of the current declared public health emergency, unless SCDHHS determines they should sunset at an earlier date. SCDHHS will begin accepting claims for these policy changes beginning April 1, 2020, for dates of service on and after March 15, 2020. Reimbursement for the telehealth services addressed below is available if the interaction with a Healthy Connections Medicaid member includes at least one remote component. Interactions that include video interaction may also be billed, but other forms of electronic communication, such as email and instant and text messaging, are not eligible for reimbursement. Services provided pursuant to the current SCDHHS telemedicine coverage policy should continue to be billed according to those guidelines. The services identified below must meet standard requirements for medical necessity.

Remote image submitted by patient

Brief check in by provider

Telephone E/M; 5-10 minutes of medical discussion

Telephone E/M; 11-20 minutes of medical discussion

Telephone E/M; 21-30 minutes of medical discussion"

Coronavirus Disease 2019 Temporary Policy Updates (3/17/20)

"Sunset dates and additional policy changes related to SCDHHS' response to the COVID-19 outbreak will be communicated through future provider bulletins. Providers are advised that this includes temporary policy changes regarding telehealth coverage that will be communicated in a separate, forthcoming provider bulletin."

SOUTH DAKOTA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

South Dakota Announces Next Generation of EMS Services (11/10/22)

- "The South Dakota Department of Health (DOH) is pleased to announce the launch of a new telehealth partnership between DOH, Emergency Medical Service (EMS) Agencies, and Sioux Falls-based telemedicine provider, Avel eCare. This initiative will use telemedicine to transform the delivery of care provided to patients throughout the state.
- The partnership with Avel offers each participating licensed ground ambulance service in South Dakota a telehealth solution that will include the necessary hardware, software, installation, training, support, and telehealth subscription for professional consulting services at no cost. Avel will work directly with EMS providers on the initial installation and continued support. The goal is to support the retention and recruitment of EMS workforce with access to on-demand support."

South Dakota Executive Order 2022-07 (6/30/22)

- "Whereas, On September 7, 2021, I, Kristi Noem, Governor of the State of South Dakota issued Executive Order 2021-12 directing the South Dakota Department of Health to begin rulemaking regarding dangerous abortion-inducing drugs and telemedicine; and,
- Whereas, This Order was necessary to protect South Dakota women from the rapid proliferation of dangerous abortion-inducing drugs sold online and to ensure any and all medicines, drugs, or other substances prescribed or dispensed with the intent of terminating a pregnancy shall only be dispensed by a South Dakota-licensed physician and to prohibit the direct supply of these drugs to women via courier, delivery, telemedicine, or mail service; and,
- Whereas, the United States Supreme Court published Dobbs v. Jackson Women's Health Organization, which overruled Roe v. Wade and its progeny on June 24, 2022 and returned the issue of abortion to the States; and,

- Whereas, The State of South Dakota's conditional law, known as a "trigger law" is codified at SDCL 22-17-5.1 and established a Class 6 Felony for "[a]ny person who administers…any medicine, drug, or substance…with the intent thereby to procure an abortion," except in the instance where and abortion is necessary to preserve the mother's life, and this law is now effective post-Dobbs.
- NOW, THEREFORE, I, KRISTI NOEM, Governor of the State of South Dakota, by the authority vested in me by the Constitution and the Laws of the State, do hereby Order and Direct that Executive Orders 2021-05, 2021-06, and 2021-12 are no longer necessary due to the above actions of our state Legislature and the United States Supreme Court and are rescinded on July 1, 2022."

South Dakota Senate Bill No. 96: An Act to revise certain provisions regarding the use of telehealth technologies. (passed 3/9/21)

- Any health care professional who utilizes telehealth shall ensure that a proper health provider-patient relationship is established and includes:

(1) Verifying and authenticating the location and, to the extent reasonable, identifying the requesting patient; (2) Disclosing and validating the health care professional's identity and applicable credentials, as appropriate; (3) Obtaining appropriate consent for treatment from a requesting patient after disclosure regarding the delivery models and treatment methods or limitations; (4) Establishing a diagnosis through the use of acceptable medical practices, including patient history, mental status examination, physical examination, and appropriate diagnostic and laboratory testing; (5) Discussing with the patient the diagnosis and its evidentiary basis and the risks and benefits of various treatment options; (6) Ensuring appropriate follow-up care for the patient; (7) Providing a visit summary to the patient or consult note; and (8) Utilizing technology sufficient to evaluate or diagnose and appropriately treat a patient for the condition as presented in accordance with the applicable standard of care.

Governor Noem Introduces Legislation to Codify Healthcare Flexibilities (1/21/21)

- "Governor Kristi Noem announced that she will introduce two pieces of legislation to codify executive orders that originally provided flexibility to healthcare providers in response to COVID-19. The two pieces of legislation cover telehealth and recognition of out-of-state healthcare licenses.
- Governor Noem's telehealth bill would make certain telehealth flexibilities permanent."

Executive Order 2020-26 Medicaid Flexibilities (5/28/20)

- "In response to the COVID-19 public health emergency Governor Noem issued Executive Order 2020-16 on April 15, 2020 which provided flexibilities to Medicaid providers and recipients regarding dispensing of prescription medication and the use of telemedicine for health care delivery. On May 26, 2020 Governor Noem issued Executive Order 2020-26 which extends these flexibilities until December 30, 2020 unless sooner terminated or extended."

Executive Order 2020-16 (4/15/20)

- "I temporarily suspend the statutory provisions of SDCL 34-52-3 governing the requirement that telehealth may not be utilized without a prior provider-patient relationship, of SDCL 34-52-6 governing the telehealth providers ability to prescribe certain medications based

solely; on a telehealth encounter, and of SDCL 34-52-1 (5) and 34-52-5 requiring real-time visual technology for telehealth services or prohibiting audio-only transmission thereof.

- I temporarily suspend the regulatory provisions of ARSD 20:51:30:12 requires 2,000 hours for a pharmacy technician and 500 hours as a registered pharmacy intern to staff a telepharmacy and of 20:51:30:17 requiring a pharmacist to visit their telepharmacy weekly for quality assurance audits and inventories.
- I temporarily suspend the regulatory provision of ARSD 20:64:03:02 requiring the physical presence of an occupational therapist on the premises where a patient is being cared for by an occupational therapy assistant.
- I temporarily suspend the statutory provision of SDCL 36-11-19 .3 requiring nonresident pharmacies to obtain a license from the South Dakota Board of Pharmacy."

Executive Order 2020-07 (3/23/20)

- "I temporarily suspend the regulatory provisions of ARSD 67:16,67:61, and 67:62, which limit or restrict the provision of telehealth or telemedicine services and which require face-to-face treatment, visits, interviews, and sessions with providers.
- I will grant full recognition to the licenses held by a professional by any compact member state, in accordance with the Uniform Emergency Management Assistance Compact (EMAC) should those facilities require additional professionals to meet patient demand during the COVID-19 emergency, whether in-person or by remote means."

Department of Social Services: Board of Examiners for Counselors & Marriage and Family Therapists (March 2020)

- "In light of CDC recommendations and state actions regarding social distancing, the Board is receiving a high volume of inquiries regarding the provision of counseling by electronic means. The short answer is: Providing counseling services via electronic means in South Dakota is allowed under South Dakota's laws and administrative rules, if you meet the requirements to do so."

State Licensure Laws, Policy, and Guidance

South Dakota House Bill No. 1183 (passed 3/27/23)

- "Section 1. That a NEW SECTION be added:
  - The State of South Dakota is hereby authorized to participate in the interstate compact on occupational therapy licensure, as set forth in this chapter.
- Section 2. That a NEW SECTION be added:
  - The purpose of the interstate compact on occupational therapy licensure is to facilitate the interstate practice of occupational therapy, with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient or client is located, at the time of the encounter. The compact preserves the authority of states to protect public health and safety through the current system of state licensure.

    The compact is designed to achieve the following objectives:

- G. Facilitate the use of telehealth technology for the purpose of increasing access to occupational therapy services."

Board of Examiners of Psychologists COVID-19 Updates re: Telehealth (March 2020)

- Pursuant to Executive Order 2020-07 of the Governor of South Dakota, the psychologist licenses of all member states of the Emergency Management Assistance Compact (EMAC) are recognized in South Dakota for the duration of the Order, through April 12, 2020. At the time of this posting, members of EMAC include all 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands. Individuals holding a psychologist license in any of those states or territories can practice in South Dakota by virtue of the Order.

Section 1135 Waiver Flexibilities (3/24/20)

- "For claims for services provided to Medicaid participants enrolled with South Dakota Medicaid program, CMS will waive the fifth criterion listed above under section 1135(b)(1) of the Act. Therefore, for the duration of the public health emergency, South Dakota may reimburse out-of-state providers for multiple instances of care to multiple participants, so long as the other criteria listed above are met.
- If a certified provider is enrolled in Medicare or with a state Medicaid program other than South Dakota, South Dakota may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency.
- With respect to providers not already enrolled with another SMA or Medicare, CMS will waive the following screening requirements under 1135(b)(1) and (b)(2) of the Act, so the state may provisionally, temporarily enroll the providers for the duration of the public health emergency:

1. Payment of the application fee - 42 C.F.R. §455.460
2. Criminal background checks associated with Fingerprint-based Criminal Background Checks - 42 C.F.R. §455.434
3. Site visits - 42 C.F.R. §455.432
4. In-state/territory licensure requirements - 42 C.F.R. §455.412

- CMS is granting this waiver authority to allow South Dakota to enroll providers who are not currently enrolled with another SMA or Medicare so long as the state meets the following minimum requirement…"

Medicaid Law, Policy and Guidance Related to Telehealth

South Dakota Medicaid Billing and Policy Manual (updated March 2022)

- "The following providers can provide services via telemedicine at a distant site:

Certified Social Worker – PIP, Certified Social Worker – PIP Candidate, Clinical Nurse Specialists, Community Health Worker (CHW), Community Mental Health Centers, Diabetes Education Program, Dieticians, Federally Qualified Health Center (FQHC), Indian Health Services (IHS) Clinics, Licensed Marriage and Family Therapist, Licensed Professional Counselor – MH, Licensed Professional Counselor – working

toward MH designation, Nurse Practitioners, Nutritionists, Physicians, Physician Assistants, Podiatrists, Psychologist, Rural Health Clinic (RHC), Speech Language Pathologists, Substance Use Disorder Agencies, Tribal 638 facilities

- Originating Sites must be an enrolled provider to be reimbursed by South Dakota Medicaid. The following providers are eligible to be reimbursed a facility fee for serving as an originating site:

Office of a physician or practitioner, Outpatient Hospital, Critical Access Hospital, Rural Health Clinic (RHC), Federally Qualified Health Center (FQHC), Indian Health Service Clinic, Community Mental Health Center (CMHC), Nursing Facilities. And Schools.

- Applied Behavioral Analysis (ABA) Services

South Dakota Medicaid has added temporary coverage of ABA services provided via telemedicine for recipients and providers at high risk for COVID-19, under quarantine, or social distancing during a declared emergency for COVID-19. ABA services may only be provided via telemedicine if the recipient and provider have previously met for in-person services. The service must be provided by means of "real-time" interactive telecommunications system. Use of telemedicine for the convenience of the provider or recipient is not covered.

- Therapy Services

South Dakota Medicaid has added temporary coverage of physical therapy, occupational therapy, and speech-language pathology services provided via telemedicine for recipients and providers at high risk for COVID-19 or under quarantine or social distancing during a declared emergency for COVID-19.

Therapy services provided via telemedicine may be provided to new or established patients. The service must be provided by means of "real-time" interactive telecommunications system. Use of telemedicine for the convenience of the provider or recipient is not covered.

- Telephonic Behavioral Health Services

Effective July 1, 2021, South Dakota Medicaid discontinued coverage of telephonic and audio-only services that have been covered on a temporary basis. We encourage providers to leverage technology to deliver services when possible and continue to provide services via telemedicine.

- School District Services

School district providers may provide physical an occupational therapy via telemedicine using CPT code 97799 for physical therapy and CPT code 97139 for occupational therapy. Speech-language pathology services continue to be allowed when provided via telemedicine and should be billed using CPT code 92507. Services must be provided in accordance with the coverage criteria stated in this manual. Psychology services may also be provided via telemedicine or audio-only using CPT code 90899. Services must be provided in accordance with the IMHP coverage criteria stated in this manual.

- Telephonic Evaluation and Management Services

Effective July 1, 2021, South Dakota Medicaid discontinued coverage of telephonic and audio-only services that have been covered on a temporary basis. We encourage providers to leverage technology to deliver services when possible and continue to provide services via telemedicine.

- Same Community Services

Effective July 1, 2021, South Dakota Medicaid removed the same community restrictions for telemedicine services. Previously if a provider and recipient were both located in the same community, services were not covered via telemedicine unless one of the stated exceptions was met. The decision of whether it is appropriate to deliver the service via telemedicine should be determined by the provider and the recipient."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (12/16/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Department of Social Services Coronavirus Frequently Asked Questions (*updated as of* 6/12/20)

- "Is a telemedicine visit covered? Yes, South Dakota Medicaid covers telemedicine services. The originating site and the distant site may be located in the same community if:

The recipient resides in a nursing facility and the nursing facility is the originating site; or

Telemedicine is being utilized primarily to reduce the risk of exposure of the provider, staff, or others to infection."

- Is a telemedicine visit covered if the patient participates from their home? Yes, the distant site service is covered even when the patient participates from home.
- Is a telemedicine visit covered for therapy services? South Dakota Medicaid has added temporary coverage of physical therapy, occupational therapy, and speech-language pathology services provided via telemedicine for recipients and providers at high risk for COVID-19 or under quarantine or social distancing during a declared emergency for COVID-19. The service must be provided by means of "real-time" interactive telecommunications system. Use of telemedicine for the convenience of the provider or recipient is not covered.
- Is a teledentistry visit covered? Effective March 16, 2020 Delta Dental South Dakota will cover claims for services conducted using tele-dentistry for HCPC D0140: Limited oral exam. The services must have sufficient audio and visual to be functionally equivalent to a face-to-face encounter. Reimbursement for tele-dentistry is equal to reimbursement for face-to-face encounters.
- Is telemedicine allowable for Applied Behavioral Analysis (ABA) Services? South Dakota Medicaid has added temporary coverage of ABA services provided via telemedicine for recipients and providers at high risk for COVID-19, under quarantine, or social distancing during a declared emergency for COVID-19. The service must be provided by means of "real-time" interactive telecommunications system. Use of telemedicine for the convenience of the provider or recipient is not covered.

- Is an audio-only telemedicine visit covered for behavioral health services? South Dakota Medicaid has added temporary coverage of audio-only telemedicine behavioral health services delivered by a Substance Use Disorder (SUD) Agency, a Community Mental Health Center (CMHC), or an Independent Mental Health Practitioner (IMHP) when the following circumstances exist:

The provider or recipient is at high risk for COVID-19 19 or under quarantine or social distancing during a declared emergency for COVID-19; and

The recipient does not have access to face-to-face audio/visual telemedicine technology (including smart phone, tablet, computer, or WIFI/internet access. SUD agencies, CMHCs, and IMHPs must utilize traditional audio/visual telemedicine technology when possible. Audio-only telemedicine is not covered when used for the convenience of the provider or recipient.

- Are audio only visits covered for physician services? Yes, South Dakota Medicaid is temporarily covering and reimbursing audio services for recipients who are actively experiencing symptoms consistent with COVID-19. The audio only service must meet the following criteria…"

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/29/20, 4/6/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Consumer prep

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers)."

TENNESSEE

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Tennessee House Bill No. 895 (introduced 1/30/23) / Tennessee Senate Bill No. 680 (passed 3/21/23)

- "SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:
  - (b) This chapter does not require:
    - (1) A vendor or healthcare provider who provides healthcare services exclusively via telehealth to maintain a physical address or site in this state in order to be eligible to enroll as a vendor or provider for the medical assistance program; or
    - (2) A telehealth provider group to have a service address in this state in order to be eligible to enroll as a vendor or provider group for the medical assistance program, as long as the healthcare providers that comprise the telehealth

provider group are licensed with the appropriate healthcare licensing authority in this state or are otherwise authorized by law to provide healthcare services in this state."

Tennessee Senate Bill No. 721 (introduced 1/30/23) / Tennessee House Bill No. 498 (introduced 1/25/23)

- "AN ACT to amend Tennessee Code Annotated, Title 56 and Title 63, relative to telehealth.
    - SECTION 2. Tennessee Code Annotated, Section 63-19-107(2)(H), is amended by deleting the language "federally qualified health center as defined in § 63-10-601" and substituting "federally qualified health center as defined in § 63-10-601, or via telehealth as defined in § 63-1-155"."

Tennessee House Bill No. 1843 (passed 4/13/22)

- "(k) A healthcare provider, office staff, or party acting on behalf of the healthcare provider submitting for reimbursement of an audio-only encounter under subdivision (a)(6)(C)(ii) shall:
    - (1) Confirm and maintain documentation that the patient:
        - (A) Does not own the video technology necessary to complete an audio-video provider-based telemedicine encounter;
        - (B) Is at a location where an audio-video encounter cannot take place due to lack of service; or
        - (C) Has a physical disability that inhibits the use of video technology; and
    - (2) Notify the patient that the financial responsibility for the audio-only encounter will be consistent with the financial responsibility for other in-person or video encounters, prior to the audio-only telemedicine encounter."

Tennessee House Bill No. 2655 (passed 4/12/22)

- "SECTION 3. Tennessee Code Annotated, Section 56-7-1003(a)(6)(A)(iii), is amended by designating the existing language as subdivision (a), adding the word "and" after the semicolon at the end of the subdivision, and adding the following as a new subdivision:
    - (b) The requirement of an in-person encounter between the healthcare services provider, the healthcare services provider's practice group, or the healthcare system and the patient within sixteen (16) months prior to the interactive visit is tolled for the duration of a state of emergency declared by the governor pursuant to§ 58-2-107; provided, that the healthcare services provider or the patient, or both, are located in the geographical area covered by the applicable state of emergency"

Tennessee Senate Bill No. 2453 (introduced 2/2/22)

- "SECTION 3. Tennessee Code Annotated, Section 56-7-1003(a)(6)(A)(iii), is amended by designating the existing language as subdivision
- (a), adding the word "and" after the semicolon at the end of the subdivision, and adding the following as a new subdivision:
- (b) The requirement of an in-person encounter between the healthcare services provider, the healthcare services provider's practice group, or the healthcare system and the patient within sixteen (16) months prior to the interactive visit is tolled for the duration of a state of emergency declared by the governor pursuant to § 58-2-107."

Tennessee House Bill No. 1841 (introduced 1/25/22)

- "SECTION 2. Tennessee Code Annotated, Section 56-7-1003(a)(6)(A)(iii) is amended by deleting the subdivision and substituting:

- (iii) The healthcare services provider makes use of HIPAA-compliant, real-time, interactive audio, video telecommunications or electronic technology, or store-and-forward telemedicine services to deliver healthcare services to a patient within the scope of practice of the healthcare services provider as long as the healthcare services provider, the healthcare services provider's practice group, or the healthcare system has established a provider-patient relationship by submitting to a health insurance entity evidence of an in-person encounter between the healthcare services provider, the healthcare services provider's practice group, or the healthcare system and the patient within sixteen (16) months prior to the interactive visit. The sixteen-month period is tolled for the duration of a state of emergency declared by the governor pursuant to § 58-2-107."

TennCare COVID Telehealth Guidance Extension (8/26/20)

- "Each of our MCOs has provided general guidance on telemedicine services. TennCare and its MCOs have also outlined specific guidance for behavioral health telehealth services, telehealth for EPSDT and well-child services in the pediatric population, and telehealth for skilled therapy services including physical therapy (PT), occupational therapy (OT), and speech therapy (ST). A link to these specific policies is provided at the end of this memo. At this time, Amerigroup, BlueCare Tennessee, and United HealthCare Community Plan are extending ALL current telehealth coverage policies through December 31, 2020."

BlueCross Making In-Network Telehealth Services Permanent (5/14/20)

- "BlueCross BlueShield of Tennessee members will have easier access to health care services moving forward as the state's largest insurer makes permanent its coverage of virtual visits with in-network providers effective immediately.
- The BlueCross decision makes it the first major insurer to embrace telehealth for the long-term after the dramatic expansion of these services during the COVID-19 pandemic, a move the company said aligns with other steps it has taken to improve access to primary care.
- BlueCross telehealth coverage includes both member-to-provider and provider-to-provider consultations, and it has seen health care providers across Tennessee demonstrate increasing support for these services.
- The company has also supported telehealth in a variety of ways over the past several years, with a focus on rural access to care. Throughout the COVID-19 pandemic, BlueCross has expanded those efforts. The insurer made its own PhysicianNow virtual services available at no cost for many members through June 30. Those visits will continue to be available with regular cost-sharing, and many BlueCross members also continue to have free access to 24/7 Nurseline services."

Department of Commerce and Insurance Bulletin 20-02 (3/9/20)

- "Given that COVID-19 is a communicable disease, some insureds may be using telehealth services instead of in-person healthcare services. Health carriers are reminded to review Tenn. Code Ann. § 56-7-1002 regarding the delivery of health care services via telehealth"

State Licensure Laws, Policy, and Guidance

Tennessee House Bill No. 469 (introduced 2/1/23)

- "Tennessee Code Annotated, Section 63-1-155(g)(3), is amended by deleting the subdivision and substituting instead: (3) An individual licensed in another state who would, if licensed in this state, qualify as a healthcare provider under subsection (a) may practice telehealth under this section:
    - (A) While providing healthcare services on a volunteer basis through a free clinic pursuant to title 63, chapter 6, part 7; or
    - (B) While providing healthcare services to a patient who cannot otherwise receive within this state the services the healthcare provider will provide, as long as the healthcare provider has filed a limited waiver request with the appropriate licensing authority that certifies that: (i) The patient needs such services; and (ii) To the best knowledge of the healthcare provider, other providers of the services are unavailable in this state."

Tennessee Senate Bill No. 431 (introduced 1/25/23)

- "SECTION 1. Tennessee Code Annotated, Section 63-1-155(g)(3), is amended by deleting the subdivision and substituting instead:
    - (3) An individual licensed in another state who would, if licensed in this state, qualify as a healthcare provider under subsection (a) may practice telehealth under this section:
        - (A) While providing healthcare services on a volunteer basis through a free clinic pursuant to title 63, chapter 6, part 7; or
        - (B) While providing healthcare services to a patient who cannot otherwise receive within this state the services the healthcare provider will provide, as long as the healthcare provider has filed a limited waiver request with the appropriate licensing authority that certifies that:
            - (i) The patient needs such services; and
            - (ii) To the best knowledge of the healthcare provider, other providers of the services are unavailable in this state."

Executive Order No. 83: An Order to Facilitate the Continued Response to COVID-19 (passed 8/6/21)

Telephone assessments for involuntary commitment cases are permitted. The provisions of Tennessee Code Annotated, Section 33-4-108, are hereby suspended to the extent necessary to allow the issuance of a certificate of need under Tennessee Code Annotated, Section 33-6-404, for the emergency involuntary commitment of a person with a mental illness or serious emotional disturbance based upon a telephone assessment of such person by a mandatory pre-screening agent designated pursuant to Tennessee Code Annotated, Sections 33-6-104 and 33-6- 427, if the following conditions are met:

a. The mandatory pre-screening agent is not reasonably able to conduct an evaluation in-person or via readily available telehealth services; and

b. The mandatory pre-screening agent determines in the agent's professional judgment that conducting the assessment via telephone with the person is clinically appropriate.

Executive Order No. 68 (reissued 12/4/20)

- "Executive Order No. 36, dated May 12, 2020, as most recently extended by Executive Order No. 67, dated October 30, 2020, is amended by adding the following new paragraphs:

- Pre-license, graduate or doctoral level audiology and speech language pathology professionals can provide telehealth services under supervision. The relevant provisions of Tennessee Code Annotated, Title 63, and related rules are hereby suspended to the extent necessary to give the Commissioner of Health the authority to allow persons who have completed or are actively enrolled in a program to obtain a master's degree or doctoral degree in the field of audiology or speech language pathology to practice without a license and through use of telemedicine services; provided, that the person is, at all times, supervised by a person licensed under Title 63 in that field. The Commissioner of Health shall provide the requisite form for practicing under this Paragraph 9.4 on the Department of Health's Health Professional Boards webpage
- Hospital-level care in home program and telemedicine access expansion is encouraged. In order to relieve the capacity strain on inpatient care due to COVID-19, health insurance carriers are urged to provide equivalent inpatient reimbursement to all providers for the delivery of clinically appropriate, medically necessary covered services via programs in which patients receive hospital-level care in home, irrespective of network status or originating site. Providers are urged to follow the new guidance from the federal Centers for Medicare and Medicaid Services regarding equipment and everyday communications technologies that may be used for the provision of telemedicine services. Carriers are urged to not impose additional prior authorization requirements on medically necessary treatment related to COVID-19 delivered via programs in which patients receive hospital level care in home."

Tennessee House Bill No. 2 (passed 8/20/20)

- "A health insurance entity shall reimburse an originating site hosting a patient as part of a telehealth encounter an originating site fee in accordance with the federal centers for Medicare and Medicaid services telehealth services rule 42 C.F.R. S 410.78 and at an amount established prior to the effective date of this act by the federal centers for Medicare and Medicaid services.
- This section does not require a health insurance entity to provide coverage for healthcare services delivered by means of telehealth if the applicable health insurance policy would not provide coverage for the same healthcare services if delivered by in-person means.
- This section does not require a health insurance entity to reimburse a healthcare services provider for healthcare services delivered by means of telehealth if the applicable health insurance policy would not reimburse that healthcare services provider if the same healthcare services had been delivered by in-person means.
- Notwithstanding S 56-7-1002(e), a health insurance entity shalt provide reimbursement for healthcare services provided during a telehealth encounter in a manner that is consistent with what the health insurance policy or contract provides for in-person encounters for the same service, and shall reimburse for healthcare services provided during a telehealth encounter without distinction or consideration of the geographic location, or any federal, state, or local designation or classification of the geographic area where the patient is located.
- This section is repealed on April 1,2022."

Executive Order No. 55 (7/31/20)

- "Licensed alcohol and drug abuse counselors can practice telemedicine. The provisions of Tennessee Code Annotated, Section 63-1-155(a)(l), and any other state or local law, order, rule, or regulation that would limit the application of this Paragraph 38.2 are hereby

suspended, retroactively to March 26, 2020, when Paragraph 38.1 suspended provisions of law to permit telemedicine by other licensed health care providers, to the extent necessary to allow telehealth or telemedicine services to be provided by an alcohol and drug abuse counselor licensed under Title 68. This suspension does not otherwise alter or amend an alcohol and drug abuse counselor's scope of practice or record keeping requirements."

Executive Order No. 24 (4/3/20)

- "Effective immediately, Executive Order No. 15, dated March 19, 2020, is amended by adding the following new paragraphs:
- The relevant provisions of Tennessee Code Annotated, Title 63, and related rules are hereby suspended to the extent necessary to give the Commissioner of Health the authority to allow persons who have completed a master's degree or doctoral degree in a behavioral or mental health field, or in a field of study required for a license allowing the individual to diagnose behavioral or mental health disorders, to treat diagnosed behavioral or mental health conditions without a license and through use of telemedicine services; provided, that the person is, at all times, supervised by a person licensed under Title 63 with authorization to diagnose a behavioral or mental health condition."

Executive Order No. 15 (3/19/20)

- "Health care professionals licensed in another state who are authorized pursuant to this Order to temporarily practice in this state are permitted to engage in telemedicine services with patients in Tennessee to the extent the scope of practice of the applicable professional license in this state would authorize the professional to diagnose and treat humans."

Executive Order No. 14 (3/12/20)

- "The relevant provisions of Tennessee Code Annotated, Titles 63 and 68, and related rules are hereby suspended to the extent necessary to give the Commissioner of Health the discretion to allow a health care professional who is licensed in another state, and who would otherwise be subject to licensing requirements under Title 63 or Title 68, to engage in the practice of such individual's profession in Tennessee, if such individual is a health care professional who is assisting in the medical response to COVID-19."

Medicaid Law, Policy and Guidance Related to Telehealth

Division of TennCare: Extension of Telephonic Visits (2/4/21)

- "Considering both the barriers that rural communities face and the impacts of the ongoing COVID-19 public emergency, TennCare and TennCare's MCOs will extend their current telehealth coverage policies, including coverage of telephone only encounters, through June 30, 2021."

Division of TennCare: Extension of Telephonic Visits for Behavioral Health Services and Treatment (2/4/21)

- "TennCare and TennCare's MCOs will extend the reimbursement of telephone only encounters for behavioral health services and treatment through June 30, 2021.

Update on TennCare MCO Telehealth Coverage Policies (*updated as of* 7/1/20)

- "TennCare and our Managed Care Organizations (MCOs) have worked together to extend coverage of telehealth services during the COVID-19 Pandemic in an effort to assure members are able to continue receiving needed health care services safely during this time. Each of our MCOs has provided general guidance on telemedicine services. TennCare and its MCOs have also outlined specific guidance for behavioral health telehealth services, telehealth for EPSDT and well-child services in the pediatric population, and telehealth for skilled therapy services including physical therapy (PT), occupational therapy (OT), and speech therapy (ST). A link to these specific policies are provided at the end of this memo.
- At this time, Amerigroup, BlueCare Tennessee, and United HealthCare Community Plan are extending all current telehealth coverage policies through August 29, 2020 as supported by Governor Lee's Executive Order No. 50. This telehealth extension includes extending coverage of telehealth for skilled therapies (physical therapy, speech therapy, and occupational therapy) as well. We hope the telehealth coverage extension will allow you to provide safe and effective care to our members during the continued state of emergency. TennCare and our MCOs recognize that these temporary telehealth policy changes may need to be continued for a longer period. Each MCO will continue to evaluate its telehealth policies through August 29th and provide further guidance at that time regarding any future changes in each MCO's telehealth coverage policies."

Health Resources & Services Administration Uninsured Program Frequently Asked Questions (June 2020)

- "Q: What services are eligible for reimbursement?

A: Reimbursement will be made to eligible providers for qualifying testing for COVID-19 and treatment services with a primary COVID-19 diagnosis as determined by HRSA (subject to adjustment as may be necessary). Some of those services include:

  - Testing-related visits including in the following settings: office, urgent care or emergency room or via telehealth.
  - Treatment, including office visit (including via telehealth), emergency room, inpatient, outpatient/observation, skilled nursing facility, long-term acute care (LTAC), acute inpatient rehab, home health, DME (e.g., oxygen, ventilator), emergency ambulance transportation, non-emergent patient transfers via ambulance, and FDA-approved drugs as they become available for COVID-19 treatment and administered as part of an inpatient stay."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (5/7/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Nutrition Services, Occupational Therapy, Physical Therapy, Speech, Language, and Hearing Services, Behavior Services, Orientation and Mobility Services for Impaired Vision, Support Coordination, Transitional Case Management, and Semi-Independent Living in accordance with Section A of this Appendix K Addendum: COVID-19 Pandemic Response – NOTE that any components of these services requiring direct evaluation or interactive, hands-on care to be effective and therapeutic shall not be delivered electronically."

COVID-19 Teledentistry Benefit Update for TennCare Providers (4/14/20)

- "In an effort to help you better serve your patients during the pandemic, TennCare has implemented the following codes for a limited time – starting April 13th, 2020 and ending May 31st, 2020.

The following CDT code services may be provided through teledentistry at the standard TennCare rate:

  - D0140 - limited oral evaluation – problem focused
  - D0170 - re-evaluation – limited, problem focused (established patient; not post-operative visit) D9110 - palliative (emergency) treatment of dental pain

- If provided through teledentistry, the above codes *must* be billed with one of the following modifiers:

D9995 - teledentistry – synchronous; real-time encounter Example: Live video (synchronous): Live, two-way interaction between a person (patient, caregiver, or provider) and a provider using audiovisual telecommunications technology.

D9996 - teledentistry – asynchronous; information stored and forwarded to dentist for subsequent review Example: Store-and-forward (asynchronous): Transmission of recorded health information (for example, radiographs, photographs, video, digital impressions and photomicrographs of patients) through a secure electronic communications system to a practitioner, who uses the information to evaluate a patient's condition or render a service outside of a real-time or live interaction."

TennCare Guidance on EPSDT/Well Child Visits During COVID-19 (4/7/20)

- "For children age 24 months and under:

EPSDT Components via Telehealth: If a practice is unable to provide an EPSDT visit to a child 24 months of age or younger (i.e., caregiver in the home is positive for COVID-19 or does not feel comfortable coming into the office), providers may complete certain components of an EPSDT visit via telehealth (i.e. history, anticipatory guidance, vaccine counseling, and developmental screening) and report the codes listed below. Audio-visual telehealth is preferred, but audio only is acceptable. The place of services (POS) 02 will need to be added to each of these components.

  - Coding for EPSDT components delivered via telehealth for a child 24 months of age or younger:

- Developmental Screening 96110
- Emotional/Behavioral Screening 96127
- Preventive Medicine, Individual Counseling Anticipatory Guidance 99401 – 404
- For children over age 24 months:

Recommendation: Providers may perform EPSDT visits using telehealth modalities reporting the appropriate Preventive Medicine CPT Codes and adding the place of services (POS) 02 on the billing form for children over age 24 months. No telehealth modifiers are required. Providers will need to use their clinical judgement as to what components of the EPSDT service are appropriate to be performed during the telehealth visit. Audio-visual telehealth is preferred, but audio only is acceptable."

TennCare Memo to Medicaid Nursing Facility Providers, Tennessee Hospitals, and TennCare Health Plans (4/1/20)

- "In the event that a Level 2 evaluation is required, for the time being, we have advised Ascend to perform document-based reviews or to leverage telephonic or other telehealth options for purposes of completing evaluations."
- Note: The above is with regard to Preadmission Screening and Resident Review (PASRR), a federal requirement to help ensure that individuals are not inappropriately placed in nursing homes for long term care. In brief, the PASRR process requires that all applicants to Medicaid-certified nursing facilities be given a preliminary assessment to determine whether they might have SMI or ID. This is called a "Level I screen." Those individuals who test positive at Level I are then evaluated in depth, called "Level II" PASRR. The results of this evaluation result in a determination of need, determination of appropriate setting, and a set of recommendations for services to inform the individual's plan of care

TennCare Memo: MCO Telehealth Guidance for Skilled Therapies (3/27/20)

- "TennCare managed care organizations (MCOs) are reimbursing physical, speech, and occupational therapy (PT/ST/OT) that are appropriate to be delivered via telehealth. Please see the attached guidance from each health plan as it relates to telehealth PT/ST/OT services for TennCare enrollees."

TennCare Memo: Behavioral Health Telehealth Services for TennCare Enrollees (*Updated as of* 3/25/20)

- "All of our TennCare health plans will allow home as an originating site during the COVID-19 national emergency
- For members or providers who do not have access to the technology required to conduct a video-enabled virtual session, we will now accept telephonic sessions in a member's home when that member has concerns about COVID-19."

TennCare Memo: Behavioral Health Psychosocial Rehabilitation Telehealth Services for TennCare Enrollees (3/25/20)

- "This is an update to the March 18, 2020 Behavioral Health Telehealth Service Memo to offer guidance on Psychosocial Rehabilitation Services (PSR).
- Recognizing that individuals with Serious and Persistent Mental Illness (SPMI) receive significant benefits from PSR, especially in this time of social distancing related to COVID-19, TennCare is modifying the previous telehealth guidance to allow the PSR per fifteen minute and PSR per diem codes to be submitted with POS 02."

TennCare Memo: Behavioral Health Group Therapy Services for TennCare Enrollees (3/25/20)

- "This is an update to the March 18, 2020 Behavioral Health Telehealth Service Memo to offer guidance on Group Therapy services.
- For members or providers who do not have access to the technology required to conduct a video-enabled virtual session, we will now accept telephonic sessions in a member's home when that member has concerns about COVID-19."

TennCare Memo: Behavioral Health Telehealth Services for TennCare Enrollees (3/18/20)

- "Providers and members are encouraged to use video-enabled virtual visits or telephonic care when appropriate to maintain behavioral health treatment during the COVID outbreak."

Division of TennCare Memo (3/17/20)

- "All of our TennCare health plans will allow "home" as an originating site during the COVID-19 national emergency."

TEXAS

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Texas House Bill No. 1771 (engrossed 4/14/23)

- "(c) Each agency with regulatory authority over a health professional providing a telemedicine medical service, teledentistry dental service, or telehealth service shall adopt rules necessary to standardize formats for and retention of records related to a patient's consent to:
  - (1) treatment;
  - (2) data collection; and
  - (3) data sharing.
- (d) Rules adopted under Subsection (c) must:
  - (1) as applicable, address the specific consent documentation required for:
    - (A) telemedicine medical services;
    - (B) teledentistry dental services; or
    - (C) telehealth services; and
  - (2) include provisions, based on the appropriate standard of care, for consent documentation in an audio-only format."

Texas Senate Bill No. 251 (introduced 2/15/23) / House Bill No. 617 (engrossed 4/4/23)

- "Sec. 771.152. ESTABLISHMENT OF PILOT PROJECT.
  - a. The commission, with the assistance of the center, shall establish a pilot project to provide emergency medical services instruction and emergency prehospital care instruction through a telemedicine medical service or telehealth service provided by regional trauma resource centers to:
    - (1) health care providers in rural area trauma facilities; and
    - (2) emergency medical services providers in rural areas.
  - b. The commission shall provide technical assistance to the center in implementing the pilot project.
  - c. The center, with the assistance of the commission, shall:

- (1) design criteria and protocols for each telemedicine medical service or telehealth service offered and the related instruction, and provide the oversight necessary to conduct the pilot project;
- (2) define criteria to determine when a telemedicine medical service or telehealth service that provides instruction for emergency medical services, emergency prehospital care, and trauma care should be transferred to an emergency medical resource center for intervention; and
- (3) collect the data necessary to evaluate the project."

Texas House Bill No. 2527 (introduced 3/23/23)

- "Sec. 111.010. LIMITATION ON CERTAIN PRESCRIPTIONS AS TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES.
  - (a) A health professional who provides telemedicine medical services or telehealth services to a patient may not allow a patient to select a particular controlled substance unless the patient has been examined and diagnosed by the professional.
  - (b) A health professional who offers telemedicine medical services or telehealth services may not enter into a contract that:
    - (1) provides a financial or other incentive to the health professional based on the professional prescribing a particular controlled substance to a patient as a telemedicine medical service or telehealth service;
    - (2) compensates the health professional based on the number of prescriptions for controlled substances prescribed to patients as telemedicine medical services or telehealth services; or
    - (3) requires that the health professional prescribe a certain number of controlled substance prescriptions to patients as telemedicine medical services or telehealth services.
  - (c) A violation of this section is grounds for disciplinary action against the health professional by the agency with regulatory authority over the professional.
- Sec. 111.011. ADDITIONAL REGULATION OF CERTAIN PRESCRIPTIONS AS TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES; ENFORCEMENT.
  - (a) A person may not:
    - (1) advertise, offer, or award a financial or other incentive to a health professional who offers telemedicine medical services or telehealth services based on the professional prescribing a particular controlled substance to a patient as a telemedicine medical service or telehealth service;
    - (2) compensate a health professional who offers telemedicine medical services or telehealth services based on the number of prescriptions for controlled substances prescribed by the professional to patients as telemedicine medical services or telehealth services; or
    - (3) advertise that a health professional who offers telemedicine medical services or telehealth services will:

- (A) prescribe to a patient a particular controlled substance as a telemedicine medical service or telehealth service; or
- (B) allow a patient to select a particular controlled substance without the patient being examined and diagnosed by the professional.

- Sec. 113.003. LIMITATIONS ON TELEMEDICINE OR TELEHEALTH PRESCRIPTIONS BY MENTAL HEALTH PROFESSIONALS.
  - (a) A health professional that provides a mental health service through telehealth services may prescribe a controlled substance through a synchronous audiovisual platform if the health professional has conducted at least one prior visit with the patient either in-person or through a synchronous audiovisual platform.
  - (b) Before prescribing a controlled substance through a synchronous audiovisual platform, the health professional must make a good faith effort to ensure that the patient has not been prescribed the same controlled substance from another health professional within the 30-day period before the appointment with the patient.
  - (c) If the health professional prescribed the first substance prescription for a patient through telemedicine or telehealth, then the professional must evaluate the patient through telehealth or telemedicine or in person in order to refill a controlled substance prescription.
- Sec. 113.004. USE OF CERTAIN ASYNCHRONOUS COMMUNICATION TECHNOLOGIES.
  - (a) Except as provided by Subsection (b) and notwithstanding any other law, a health professional may provide a mental health service that is within the scope of the professional's license, certification, or authorization through the use of a telemedicine medical service or a telehealth service to a patient by using asynchronous store and forward technology, regardless of whether that technology is used in conjunction with synchronous audio interaction between the professional and the patient.
  - (b) A health professional that provides a mental health through the use of asynchronous store and forward technology that is not used in conjunction with synchronous audio interaction between the professional and the patient may not write a prescription for the patient as a mental health service."

Texas House Bill No. 4524 (introduced 3/22/23) / Senate Bill No. 2174 (introduced 3/22/23)

- "(i) A medical examination conducted to certify maximum medical improvement or assign an impairment rating may be performed using telehealth services or telemedicine medical services, as defined by Section 111.001, Occupations Code. Except as provided by Subsection (j), a health care professional must be physically present in the room in which the employee is located to assist the certifying doctor in conducting the examination and administering any necessary testing. For purposes of this subsection, "health care professional" means an individual licensed, certified, or otherwise authorized to administer health care, for profit or otherwise, in the ordinary course of business or professional practice.

- (j) A health care professional is not required to be physically present in the room in which the patient is located during a medical examination performed using telehealth services or telemedicine medical services as provided by Subsection (i) that is conducted to assign an impairment rating if:
    - (1) a doctor certified maximum medical improvement during an examination; and
    - (2) based on the examination described by Subdivision (1), the doctor concluded there was no possibility of impairment."

Texas House Bill No. 4334 (introduced 3/21/23)

- "SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02165 to read as follows:
    - (b) The commission shall ensure that, to the extent appropriate, a Medicaid recipient or child health plan program enrollee who is eligible to receive service coordination benefits, including a recipient or enrollee receiving program benefits through a managed care delivery model, has the option to receive delivery of those benefits as a telehealth service or otherwise using telecommunications or information technology.
- SECTION 3. Chapter 1455, Insurance Code, is amended by adding Sections 1455.007 and 1455.008 to read as follows:
    - Sec. 1455.007. REIMBURSEMENT AND PAYMENT.
    - (a) A health benefit plan issuer must reimburse a preferred or contracted health professional for providing a covered health care service or procedure to a covered patient as a telemedicine medical service or telehealth service on the same basis and at least at the same rate that the issuer provides reimbursement to that health professional for the service or procedure in an in-person setting.
    - (b) Notwithstanding Subsection (a), a health benefit plan issuer is not required to pay more than the billed charge on a claim for payment by a preferred or contracted health professional.
    - (c) For purposes of processing payment of a claim, a health benefit plan issuer may not require a preferred or contracted health professional to provide documentation of a covered health care service or procedure delivered by the health professional to a covered patient as a telemedicine medical service or telehealth service beyond that which is required for the service or procedure in an in-person setting.
- SECTION 4. Subchapter E, Chapter 401, Occupations Code, is amended by adding Section 401.2022 to read as follows:
    - Sec. 401.2022. RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE. (a) In this section, "telepractice" means the use of telecommunications technology by a license holder for an assessment, intervention, or consultation regarding a speech-language pathology or audiology client.
    - (b) With the assistance of the advisory board and the Hearing Instrument Fitters and Dispensers Advisory Board, the commission by rule shall establish requirements for the fitting and dispensing of hearing instruments through the use of telepractice for purposes of this chapter and Chapter 402, including rules that establish the qualifications and duties of license holders who use telepractice.

- (c) Notwithstanding any other law, in adopting a rule under this section, the commission:
  - (1) shall authorize:
    - (A) a license holder, including a licensed intern or licensed assistant, to provide services by telepractice through the use of any interactive audiovisual communication system, whether real-time or two-way, including a smartphone; and
    - (B) any supervision requirement for an applicant under this chapter to be fulfilled wholly or partly by use of telecommunications technology; and
  - (2) may not:
    - (A) require a license holder's initial professional contact with a client to be in-person; or
    - (B) impose any limitation on a license holder's selection of a facilitator to assist the license holder in providing services by telepractice.

- SECTION 8. Subchapter D, Chapter 403, Occupations Code, is amended by adding Section 403.153 to read as follows:
  - Sec. 403.153. USE OF TELECOMMUNICATIONS TECHNOLOGY.

    Notwithstanding any other law, a license holder may provide a service solely through the use of an interactive audiovisual communication system, whether real-time or two-way, including a smartphone.
- SECTION 9. Section 506.003, Occupations Code, is amended by adding Subsection (c-1) to read as follows:
  - (c-1) Notwithstanding Subsection (c)(1), applied behavior analysis interventions may be based on observation and measurement of behavior and environment through the use of telecommunications technology if approved by the certifying entity.
- SECTION 10. Section 506.055, Occupations Code, is amended to read as follows:
  - (b) Notwithstanding Subsection (a)(2), a licensed behavior analyst or an instructor may supervise a behavior analysis activity or service through the use of telecommunications technology if approved by the applicable college or university and the certifying entity."

Texas Senate Bill No. 2134 (introduced 3/21/23)

- "SECTION 1. Section 244.001, Human Resources Code, is amended by adding Subsection (e) to read as follows:
  - (e) The department may not use telemedicine or mental health telemedicine or telehealth services for any purpose under this section.
- SECTION 2. Subchapter A, Chapter 244, Human Resources Code, is amended by adding Section 244.0095 to read as follows:
  - Sec. 244.0095. CERTAIN MEDICAL CARE SERVICES REQUIRED. In providing medical care, the department shall contract for telemedicine services to be available when a physician, advanced practice registered nurse, or physician assistant is not present at the facility where the services are to be provided."

Texas Senate Bill No. 2064 (introduced 3/21/23)

- "Sec. 111.010. RESTRICTION ON SALE OR SHARING OF PATIENT INFORMATION.
  - (a) In this section, "social media platform" has the meaning assigned by Section 120.001, Business & Commerce Code.
  - (b) A physician, health professional, or dentist may not provide a telemedicine medical service, telehealth service, or teledentistry dental service, as applicable, through an entity that provides telecommunications or information technology to enable the service if the entity engages in the sale of or otherwise shares patient information with a social media platform.
  - (c) A physician, health professional, or dentist who violates this section is subject to disciplinary action by the applicable licensing entity. A licensing entity may adopt rules necessary to implement this section."

Texas House Bill No. 4033 (introduced 3/20/23)

- "Sec. 38.2545. TEXAS CHILD HEALTH ACCESS THROUGH TELEMEDICINE.
  - (b) If the consortium makes available mental health services to a school district through the Texas Child Health Access through Telemedicine program, the district shall offer to each student enrolled in the district access to those mental health services.
  - (c) A school district may not provide a mental health service to a student who is under 18 years of age unless the district obtains written consent from the parent or legal guardian of the student as required by Section 113.0152, Health and Safety Code.
  - (d) A school district may not require a student to participate in any service provided under Subsection (b).
  - (e) Before the beginning of each school year, the agency shall determine at which school districts the Texas Child Health Access through Telemedicine program is available and verify that each of those school districts is in compliance with Subsection (b)."

Texas House Bill No. 3976 (introduced 3/20/23)

- "Sec. 114.051. ESTABLISHMENT; PURPOSE. The Texas Women's Health Care Consortium is established to:
  - (1) provide preventative health care services for women, including cancer screenings, reproductive health care, and immunizations, through telehealth or any other means;
  - (2) provide perinatal and postpartum care services for women by telehealth or any other means, including telemonitoring;"

Texas House Bill No. 3942 (introduced 3/20/23)

- "(1-a) "Distant site" means the location where a health professional provides a telemedicine medical service, teledentistry dental service, or telehealth service.
- (1-c) "Originating site" means the location where an individual receives a telemedicine medical service, teledentistry dental service, or telehealth service.
- (e) A health benefit plan must provide coverage for a covered health care service or procedure delivered as a telemedicine medical service, teledentistry dental service, or telehealth service with an originating site or distant site located outside this state on the same

basis and to the same extent that the plan provides coverage for the service or procedure delivered as a telemedicine medical service, teledentistry dental service, or telehealth service with an originating site and distant site located in this state."

Texas House Bill No. 3936 (introduced 3/20/23)

- "AN ACT relating to health benefit plan coverage of telemedicine, teledentistry, and telehealth services provided by only synchronous or asynchronous audio interaction.
- SECTION 1. Section 1455.004(c), Insurance Code, is repealed.
- SECTION 2. The repeal of Section 1455.004(c), Insurance Code, by this Act, applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2024. A health benefit plan delivered, issued for delivery, or renewed before January 1, 2024, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Texas Senate Bill No. 1359 (introduced 3/16/23)

- "Sec. 1276.051. ANNUAL REPORT ON USE OF TELEMEDICINE MEDICAL AND TELEHEALTH SERVICES FOR NETWORK. A health benefit plan issuer or administrator shall submit an annual report to the department in the form and manner prescribed by commissioner rule on whether each participating provider for a health benefit plan issued or administered by the issuer or administrator provides services primarily:
    - (1) in person in the area in which the plan's enrollees reside; or
    - (2) through the use of telemedicine medical services or telehealth services."

Texas House Bill No. 3739 (introduced 3/6/23) / Senate Bill No. 1146 (introduced 3/9/23)

- "Sec. 501.071. ACCESS TO TELEMEDICINE AND TELEHEALTH SERVICES AND ON-SITE MEDICAL CARE. The department, in conjunction with The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center, shall establish procedures to increase opportunities and expand access to telemedicine medical services and telehealth services, as those terms are defined by Section 111.001, Occupations Code, and on-site medical care for inmates, including on-site mobile care units that provide diagnostic imaging, physical therapy, and other appropriate mobile health services."

Texas Senate Bill No. 1043 (introduced 3/3/23) / Texas Senate Bill No. 724 (introduced 3/1/23) / Texas House Bill No. 1726 (introduced 3/7/23)

- "Sec. 1455.007. REIMBURSEMENT AND PAYMENT.
    - (a) A health benefit plan issuer must reimburse a preferred or contracted health professional for providing a covered health care service or procedure to a covered patient as a telemedicine medical service, teledentistry dental service, or telehealth service on the same basis and at least at the same rate that the issuer provides reimbursement to that health professional for the service or procedure in an in-person setting.
    - (b) Notwithstanding Subsection (a), a health benefit plan issuer is not required to:
        - (1) pay more than the billed charge on a claim for payment by a preferred or contracted health professional; or

- (2) reimburse a preferred or contracted health professional as specified in Subsection (a) if the telemedicine medical service, teledentistry dental service, or telehealth service is provided to a covered patient by that health professional as part of a mutually agreed upon risk-based payment arrangement.
- (c) For purposes of processing payment of a claim, a health benefit plan issuer may not require a preferred or contracted health professional to provide documentation of a covered health care service or procedure delivered by the health professional to a covered patient as a telemedicine medical service, teledentistry dental service, or telehealth service beyond that which is required for the service or procedure in an in-person setting."

Texas House Bill No. 1390 (introduced 3/3/23)

- "SECTION 1. Section 1455.001(1-a), Insurance Code, is amended to read as follows:
  - (1-a) "Health professional" means:
    - (C) a licensed or certified health professional, including a mental health professional, acting within the scope of the license or certification who does not perform a telemedicine medical service or a teledentistry dental service;
- SECTION 2. Section 554.005, Occupations Code, is amended by adding Subsection (d) to read as follows:
  - (d) In implementing Subsection (a)(3)(C)(iv), the board may not require the in-person counseling of patients."

Texas House Bill No. 1060 (introduced 3/2/23)

- "SECTION 1. Subchapter A, Chapter 38, Education Code, is amended by adding Sections 38.037 and 38.038 to read as follows:
  - (b) Beginning with the 2027-2028 school year, a school district that does not employ a full-time school nurse shall implement a telehealth services program under which district students and employees receive access to telehealth services at each campus of the district.
  - (c) Telehealth services provided under a program implemented under this section:
    - (1) must be provided at no cost to students and employees; and
    - (2) may be provided to a student only with the written consent of the student's parent, guardian, or other person having lawful control of the student."

Texas Senate Bill No. 662 (introduced 2/17/23)

- "Sec. 38.037. TELEHEALTH SERVICES PROGRAM.
  - (a) In this section, "telehealth service" means a health care service delivered by a health professional licensed, certified, or otherwise entitled to practice in this state and acting within the scope of the health professional's license, certification, or entitlement to a patient at a different physical location than the health professional using telecommunications or information technology.

- (b) Beginning with the 2027-2028 school year, a school district that does not employ a full-time school nurse shall implement a telehealth services program under which district students and employees receive access to telehealth services at each campus of the district.
- (c) Telehealth services provided under a program implemented under this section:
  - (1) must be provided at no cost to students and employees; and
  - (2) may be provided to a student only with the written consent of the student's parent, guardian, or other person having lawful control of the student."

Texas Senate Bill No. 137 (introduced 2/15/23)

- "Sec. 264.7553. COUNSELING AND CRISIS MANAGEMENT PROGRAM FOR RELATIVE OR OTHER DESIGNATED CAREGIVER PLACEMENTS.
  - (a) The department shall develop a counseling and crisis management program to provide mental and behavioral telehealth services and mobile mental and behavioral health intervention services to relative or other designated caregivers and children in the managing conservatorship of the department who are placed with relative or other designated caregivers."

Texas Senate Bill No. 245 (introduced 2/15/23)

- "Sec. 38.2545. TEXAS CHILD HEALTH ACCESS THROUGH TELEMEDICINE.
  - (b) If the consortium makes available mental health services to a school district through the Texas Child Health Access through Telemedicine program, the district shall offer to each student enrolled in the district access to those mental health services.
  - (c) A school district may not provide a mental health service to a student who is under 18 years of age unless the district obtains written consent from the parent or legal guardian of the student as required by Section 113.0152, Health and Safety Code.
  - (d) A school district may not require a student to participate in any service provided under Subsection (b).
  - (e) Before the beginning of each school year, the agency shall determine at which school districts the Texas Child Health Access through Telemedicine program is available and verify that each of those school districts is in compliance with Subsection (b)."

Texas House Bill No. 76: AN ACT relating to a pilot project to provide emergency telemedicine medical services and telehealth services in rural areas. (introduced 9/16/21)

- "(a) The commission, with the assistance of the center, shall establish a pilot project to provide emergency medical services instruction and emergency prehospital care instruction through a telemedicine medical service or telehealth service provided by regional trauma resource centers to:

(1) health care providers in rural area trauma facilities; and

(2) emergency medical services providers in rural areas.

- (b) The commission shall provide technical assistance to the center in implementing the pilot project.
- (c) The center, with the assistance of the commission, shall:

(1) design criteria and protocols for each telemedicine medical service or telehealth service offered and the related instruction and provide the oversight necessary to conduct the pilot project;

(2) define criteria to determine when a telemedicine medical service or telehealth service that provides instruction for emergency medical services, emergency prehospital care, and trauma care should be transferred to an emergency medical resource center for intervention; and

(3) collect the data necessary to evaluate the project.

- The center shall provide the telemedicine medical service or telehealth service and related instruction for the pilot project through health care providers in regional trauma resource centers, including physicians, pharmacists, emergency medical personnel, and other health professionals."

Texas House Bill No. 980: AN ACT relating to the reimbursement and payment of claims by certain health benefit plan issuers for telemedicine medical services and telehealth services. (introduced 5/12/21)

- "a) A health benefit plan issuer must reimburse a preferred or contracted health professional for providing a covered health care service or procedure to a covered patient as a telemedicine medical service or telehealth service on the same basis and at least at the same rate that the issuer provides reimbursement to that health professional for the service or procedure in an in-person setting.
- This Act takes effect September 1, 2021."

Texas House Bill No. 2056: AN ACT relating to the practice of dentistry and the provision of teledentistry dental services. (engrossed 5/8/21)

- "The executive commissioner by rule shall develop and implement a system to reimburse providers of services under Medicaid for services performed using telemedicine medical services, teledentistry dental services, or telehealth services.
- The commission shall encourage health care providers and health care facilities to provide telemedicine medical services, teledentistry dental services, and telehealth services in the health care delivery system. The commission may not require that a service be provided to a patient through telemedicine medical services, teledentistry dental services, or telehealth services."

Texas House Bill No. 887: AN ACT relating to telemedicine medical services and telehealth services covered by certain health benefit plans or provided by a pharmacist. (introduced 12/21/20)

- "(a) A health benefit plan issuer must reimburse a preferred or contracted health professional for providing a covered health care service or procedure to a covered patient as a telemedicine medical service or telehealth service on the same basis and at least at the same rate that the issuer provides reimbursement to that health professional for the service or procedure in an in-person setting.
- Chapter 1455, Insurance Code, as amended by this Act, applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2022. A health benefit plan delivered, issued for delivery, or renewed before January 1, 2022, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Texas House Bill No. 522: AN ACT relating to the reimbursement and payment of claims by certain health benefit plan issuers for telemedicine medical services and telehealth services. (introduced 11/10/20)

- (a) A health benefit plan issuer must reimburse a preferred or contracted health professional for providing a covered health care service or procedure to a covered patient as a telemedicine medical service or telehealth service on the same basis and at least at the same rate that the issuer provides reimbursement to that health professional for the service or procedure in an in-person setting.
- This Act takes effect September 1, 2021.

Governor Abbott Announces Agreement With Health Insurers To Continue Payment Parity For Telehealth (9/25/20)

- "Governor Greg Abbott today announced that Texas' major health insurers have agreed to continue reimbursing network health care providers for telehealth appointments at the same rate which they pay for office visits through the end of 2020. While the agreement applies only to state-regulated plans, both the Employee Retirement System and the Teacher Retirement System will continue telehealth payment parity through the end of the year as well."

Updated Texas Medical Board (TMB) Frequently Asked Questions (FAQs) Regarding Telemedicine During Texas Disaster Declaration for COVID-19 Pandemic (*updated as of* 9/1/20)

- "Can a Physician Assistant (PA) or Advanced Practice Registered Nurse (APRN) perform telemedicine, since the disaster declaration?

Yes, the emergency measures have not changed these requirements. PAs and APRNs can perform telemedicine under the delegation of a Texas-licensed physician. Delegate-performed telemedicine visits are also included in the Governors' declaration, which allows the use of telephone-only encounters to establish a physician-patient relationship. The delegate must follow all the laws and rules regarding telemedicine that have not been waived due to the disaster declaration.

- What are the requirements for documenting a telemedicine visit?

The medical record standards do not change based on the setting by which the patient is seen. Items such as relevant findings, tests ordered, treatment recommendations, and consent should be documented. Verification of a patient's identity is extremely important in a telephone-only encounter. For example, collection of a patient's driver license number and comparison to practice records is a possible method of identification. Appropriate and detailed medical records are also needed to support billing for services. Board regulations regarding improper billing remain in effect.

- What kinds of prescriptions can a physician do via telemedicine?

Chronic pain treatment with controlled substances is not allowed via telemedicine, subject to limited exceptions. Physicians may prescribe controlled substances via telemedicine for chronic pain patients if:

  - The patient is an established chronic pain patient; and
  - The patient is seeking a refill of an existing prescription;

In addition, the patient can only be seen via telemedicine if:

  - The physician determines that the telemedicine treatment is needed due to the COVID-19 pandemic; or
  - The prescription is otherwise allowed under state or federal law.

Finally, the physician must determine that a telemedicine visit as opposed to an inperson visit is necessary. Some factors to consider when deciding whether to see a chronic pain patient via telemedicine vs. an in-person visit include:

- The date of the patient's last in-person visit;
- Patient co-morbidities; and
- Occupational related COVID-19 risks.

This exception to the prohibition against prescribing controlled substances via telemedicine for the treatment of chronic pain is allowed until November 1, 2020 (11:59 pm), or until the Governor's disaster declaration of March 13, 2020 in response to the COVID-19 pandemic expires, whichever is shorter. Refills for other medications can be done via technology as long as there is an existing doctor-patient relationship. This is more important than ever in view of COVID-19. A PMP check is required for the four listed medications of opioids, benzodiazepines, carisoprodol, and barbiturates.

- How does a physician bill for telemedicine?

Claim and billing questions for state-regulated insurance plans should be directed to the insurance plan provider. The standard of care and medical record documentation requirements for physicians are the same whether the physician provides care for the patient in-person or via telemedicine." For more information, please see the FAQs."

Texas Department of Health and Human Services: COVID-19 Behavioral Health Services Providers Frequently Asked Questions (*updated as of* 8/21/20)

- "Mental Health targeted case management (TCM) can be provided via telehealth or telephone in lieu of face-to-face. Providers should document all telephone contact in progress notes and the client record.
- Block-grant funded mental health services may be provided using telemedicine, telehealth and telephone.
- Recovery Support Services - Recovery coaches should continue to provide support services via text, Facetime, telephone and other forms of video and audio communication.
- Buprenorphine - OTP providers may initiate treatment and continue treatment via telemedicine."

Department of Health and Human Services: Emergency Rules Permitting Certain Telehealth and Telemedicine Treatment Services and Maximum Caseload Increases in Chemical Dependency Treatment Facilities (CDTFs) (*updated as of* 8/17/20)

- "CDTFs are now temporarily permitted to provide certain treatment services via telehealth, telemedicine, or electronic means and to increase the number of clients per counselor caseload in intensive residential programs in response to the COVID-19 pandemic.
- A physician, physician assistant, nurse practitioner, registered nurse, or licensed vocational nurse (LVN) may use telemedicine medical service or telehealth service to screen a client for admission to a detoxification program.

- A qualified credentialed counselor, licensed professional counselor, licensed chemical dependency counselor, licensed marriage and family therapist, or licensed clinical social worker may provide outpatient chemical dependency treatment program services by electronic means.
- A CDTF may increase counselor caseloads in intensive residential programs from 10 to 20 clients per counselor because of CDTF staff shortages."

Department of Health and Human Services: ESRD Facility Requirements in Response to COVID-19 (8/13/20)

- "Emergency rule §500.21, related to ESRD Facility Requirements in Response to COVID-19, is adopted under TAC Title 26, Chapter 500, COVID-19 Emergency Health Care Facility Licensing. Under this emergency rule:

each patient receiving dialysis in the facility can be seen by a physician on the medical staff once per month during the patient's treatment time, instead of every two weeks. Home dialysis patients shall be seen by a physician, advanced practice registered nurse, or physician's assistant no less than one time a month. If home dialysis patients are seen by an advanced practice registered nurse or a physician's assistant, the physician shall see the patient at least one time every three months. This visit may be conducted using telemedicine medical services, instead of in person as normally required by 25 TAC §117.45(i)(2)(C).

a home patient visit may be conducted using telemedicine medical services, instead of in person as normally required by 25 TAC §117.45(j)(9)(B);"

Department of Insurance: Telemedicine Emergency Rule FAQs (*updated as of* 7/22/20)

- Q: When does this emergency rule go into effect?

A: This emergency rule goes into effect immediately for services provided on or after April 13, 2020, and is effective for 120 days. The Commissioner of Workers' Compensation may extend the emergency rule for 60 more days.

- Q: Where can I find the list of revised codes?

A: The list of approved telemedicine and telehealth codes is available on the Division of Workers' Compensation's (DWC) telemedicine/telehealth web page. See the "covered list of telehealth and telemedicine services."

- Q: HHS excluded physical therapists, occupational therapists, and speech-language pathologists as distant site providers in the rule. Does the DWC emergency rule allow for reimbursement in the Texas workers' compensation system?

A: The DWC emergency rule allows health care providers who are licensed to perform physical medicine and rehabilitation services to bill and be reimbursed for these services conducted through telemedicine or telehealth. They must use CMS's revised list of covered telehealth services. This includes physical therapists, occupational therapists, and speech-language therapists."

Texas Department of Insurance Extends Telemedicine Emergency Rule into September (6/24/20)

- "The Texas Department of Insurance (TDI) is extending a requirement that insurers cover telemedicine services, including mental health visits, at the same rate as in-person visits. An emergency rule in place since March helps doctors across Texas treat their patients and limit the spread of COVID-19.

- The original emergency rule took effect March 17 and was set to expire July 14. With the extension, the rule will remain in effect through September 12."

Waiver for Chronic Pain Patients Extended by Governor Abbott (5/8/20)

- "The extended waiver continues to allow for telephone refill(s) of a valid prescription for treatment of chronic pain by a physician with an established chronic pain patient. The physician(s) remains responsible for meeting the standard of care and all other laws and rules related to the practice of medicine. The standard of care must still be maintained related to the treatment of chronic pain patients."

Maximum medical improvement (MMI) and impairment rating (IR) evaluations are not permitted through telemedicine (4/29/20)

- "The Division of Workers' Compensation (DWC) reminds system participants that doctors are not allowed to bill and be reimbursed for MMI and IR evaluations conducted through telemedicine or telehealth."

COVID-19 Telehealth Guidance on Nursing Services for CLASS, DBMD, HCS and TxHmL (4/21/20)

- "Due to COVID-19, nursing services can be provided by telehealth. For people enrolled in the waiver programs, HHSC allows a nursing assessment and a comprehensive nursing assessment through telehealth. The nursing service must be done within the scope of the nurse's license and standards of practice. The program provider must not direct a nurse to complete an assessment using telehealth if the nurse deems it inappropriate. The registered nurse who completes the assessment has the sole discretion to determine if this method can be used."
- Alert applies to Community Living Assistance and Support Services, deaf-blind with multiple disabilities, Texas Home Living, and home and community-based services."

Texas Department of insurance: Emergency Adopted Rules (4/13/20)

- The Texas Department of Insurance, Division of Workers' Compensation (DWC) is adopting new 28 Texas Administrative Code §167.1 on an emergency basis. The rule relates to telemedicine and telehealth and will go into effect immediately for physical medicine and rehabilitation services provided on or after April 13, 2020. The emergency adoption is necessary to ensure enhanced access to telemedicine and telehealth services in response to the COVID-19 disaster declaration.
- This emergency rule builds on the existing telemedicine and telehealth rules by creating an exception to current CMS distant site practitioner requirements. This rule allows health care providers licensed to perform physical medicine and rehabilitation services, including physical therapists, occupational therapists, and speech pathologists to bill and be reimbursed for services currently allowed under CMS telemedicine and telehealth billing codes.
- Health care providers must bill for telemedicine or telehealth services using the same billing, coding, reporting, and documentation requirements used for in person services and include a place of service code "02 – telehealth" on the bill. Services will be reimbursed at DWC's fee schedule rate or network contracted rate, whether provided in person or through telemedicine or telehealth.

Texas Department of Insurance Commissioner's Bulletin #B-0017-20 (4/1/20)

- "Testing costs must be covered without imposing any cost-sharing, including deductibles, coinsurance, or copayment requirements. Testing coverage is required regardless of whether the services are provided during an in-person office visit with a health-care provider, a telehealth visit, an urgent care center visit, or an emergency room visit."

Texas Department of Insurance Frequently Asked Questions: Telemedicine Emergency Rule (3/26/20)

- What does the emergency rule require?

Under the emergency rule, state-regulated health insurers and health maintenance organizations must:

  - Pay in-network health professionals at least the same rate for telemedicine services as for in-person services, including covered mental health services.
  - Cover telemedicine services using any platform permitted by state law.
  - Not require more documentation for telemedicine services than they require for in-person services.

Governor Greg Abbott also suspended a law limiting coverage for medical services or consultations by phone. By suspending the law, insurers must pay for covered visits or consultations provided over the phone.

- What providers are included in TDI's emergency rule on telemedicine?

TDI's emergency rule uses the definition of health professional from Insurance Code 1455.001. This definition includes licensed physicians and others, such as:

  - Licensed or certified mental health professionals
  - Physician assistants
  - Nurse practitioners
  - Dentists
  - Physical therapists

TMB Waiver for Chronic Pain Patients Granted by Governor Abbott (3/19/20)

- "This waiver follows the Drug Enforcement Agency (DEA) announcement that healthcare professionals can prescribe controlled substances, including opioids, via telemedicine during the current coronavirus public health emergency."

Subchapter A. COVID-19 Emergency Rules 28 TAC 35.1 (3/17/20)

- "Under the rule, services that are the same must be reimbursed at the same rate whether provided in-person or through telemedicine. Similarly, the new rule does not permit health benefit plans to require documentation for telemedicine services beyond what the plan already requires for in-person services."
- "(1) require health benefit plans to provide coverage for covered services or procedures delivered by telemedicine on the same basis and to the same extent that the plan provides coverage for the same service or procedure in an in person setting; and (2) prohibit health

benefit plans from limiting, denying, or reducing coverage based on the telemedicine platform used by the physician, with limited exceptions."

Texas Medical Board Press Release (3/14/20)

- "Allowing Phone Consults. Telemedicine, including the use of telephone only, may be used to establish a physician-patient relationship. This expanded use of telemedicine may be used for diagnosis, treatment, ordering of tests, and prescribing for all conditions. The standard of care must be met in all instances."

Texas Department of Insurance COVID-19 Emergency Rules (3/13/20)

- "Under the rule, services that are the same must be reimbursed at the same rate whether provided in-person or through telemedicine.
- The new rule does not permit health benefit plans to require documentation for telemedicine services beyond what the plan already requires for in-person services."

State Licensure Laws, Policy, and Guidance

Texas House Bill No. 5289 (introduced 3/24/23)

- "Sec. 503.501. PROFESSIONAL COUNSELORS LICENSURE COMPACT. The Professional Counselors Licensure Compact is enacted and entered into with all other jurisdictions that legally join in the compact, which reads as follows:
- ARTICLE VII

  COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
    - (1) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with article III and under rules adopted by the commission, to practice professional counseling in any member state through telehealth under a privilege to practice as provided in the compact and rules adopted by the commission."

Texas House Bill No. 1683 (introduced 3/7/23) / Senate Bill No. 1540 (introduced 3/16/23)

- "Sec. 454.401. OCCUPATIONAL THERAPY LICENSURE COMPACT. The Occupational Therapy Licensure Compact is enacted and entered into with all other jurisdictions that legally join in the compact, which reads as follows:
    - SECTION 1. PURPOSE The purpose of this Compact is to facilitate interstate practice of Occupational Therapy with the goal of improving public access to Occupational Therapy services. The Practice of Occupational Therapy occurs in the State where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

      This Compact is designed to achieve the following objectives:
        - G. Facilitate the use of Telehealth technology in order to increase access to Occupational Therapy services."

Texas House Bill No. 1875 (introduced 3/7/23)

- "Sec. 401.551. AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT. The Audiology and Speech-Language Pathology Compact is enacted and entered into with all other jurisdictions that legally join in the compact, which reads as follows:
- SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

  Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission."

Texas House Bill No. 592 (introduced 2/23/23)

- "SECTION 2. Sections 111.001(3) and (4), Occupations Code, are amended to read as follows:
  - (3) "Telehealth service" means a health service, other than a telemedicine medical service or a teledentistry dental service, delivered by a health professional [licensed, certified, or otherwise entitled to practice in this state and] acting within the scope of the health professional's license, certification, or entitlement to a patient at a different physical location than the health professional using telecommunications or information technology.
  - (4) "Telemedicine medical service" means a health care service delivered by a physician [licensed in this state], or a health professional acting under the delegation and supervision of a physician [licensed in this state], and acting within the scope of the physician's or health professional's license to a patient at a different physical location than the physician or health professional using telecommunications or information technology.
- SECTION 3. Chapter 111, Occupations Code, is amended by adding Section 111.010 to read as follows:
  - (b) Notwithstanding any other law requiring licensure or certification in this state, a health professional located outside of this state who does not hold a license or certification issued by an agency of this state may provide a telehealth or telemedicine medical service under this chapter if the health professional:
    - 1. holds a current and unrestricted license or certification authorizing the health professional to provide the service and that is issued by a licensing agency of another state;
    - 2. has not been and is not currently the subject of a disciplinary proceeding with respect to the license or certification described by Subdivision (1); and
    - 3. registers with the applicable licensing agency of this state as provided by this section."

Texas House Bill No. 2557 (introduced 2/21/23) / Senate Bill No. 1110 (introduced 2/22/23)

- "Sec. 503.501. LICENSED PROFESSIONAL COUNSELORS COMPACT. The Licensed Professional Counselors Compact is enacted and entered into with all other jurisdictions that legally join in the compact, which reads as follows:
  - SECTION 1: PURPOSE The purpose of this Compact is to facilitate interstate practice of Licensed Professional Counselors with the goal of improving public access to Professional Counseling services. The practice of Professional Counseling occurs in the State

where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

- SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
  - A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.
  - B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State."

Texas Senate Bill No. 40: AN ACT relating to the provision of telehealth services by certain health professionals licensed by the Texas Department of Licensing and Regulation. (passed 6/3/21)

- "(b) A health professional may provide telehealth services in accordance with Chapter 111 and any requirements imposed by the law and rules governing practice by the health professional.
- A licensed dyslexia practitioner may practice only in, or provide telehealth services from a remote location only to, an educational setting, including a school, learning center, or clinic.
- (b) A licensed dyslexia therapist may practice in, or provide telehealth services from a remote location to, a school, learning center, clinic, or private practice setting.
- (c) A license holder may provide telehealth services only in a practice setting described by this section, regardless of the physical location of the license holder or the recipient of the telehealth services."

Texas House Bill No. 4: AN ACT relating to the provision and delivery of certain health care services in this state, including services under Medicaid and other public benefits programs, using telecommunications or information technology and to reimbursement for some of those services. (passed 6/15/21)

- "(i) The executive commissioner by rule shall ensure that a rural health clinic as defined by 42 U.S.C. Section 1396d(l)(1) and a federally qualified health center as defined by 42 U.S.C. Section 1396d(l)(2)(B) may be reimbursed for the originating site facility fee or the distant site practitioner fee or both, as appropriate, for a covered telemedicine medical service or telehealth service delivered by a health care provider to a Medicaid recipient. The commission is required to implement this subsection only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, implement this subsection using other money available to the commission for that purpose.
- To comply with state and federal requirements to provide access to medically necessary services under the Medicaid managed care program, a Medicaid managed care organization may reimburse providers for home telemonitoring services provided to persons who have conditions and exhibit risk factors other than those expressly authorized by this section. In determining whether the managed care

organization should provide reimbursement for services under this subsection, the organization shall consider whether reimbursement for the service is cost-effective and providing the service is clinically effective."

Texas House Bill No. 3098: AN ACT relating to conducting certain medical examinations using telemedicine under the workers' compensation system. (engrossed 5/11/21)

- "A medical examination conducted to certify maximum medical improvement or assign an impairment rating may be performed using telehealth services or telemedicine medical services, as defined by Section 111.001, Occupations Code. A health care professional must be physically present in the room in which the employee is located to assist the certifying doctor in conducting the examination and administering any necessary testing. For purposes of this subsection, "health care professional" means an individual licensed, certified, or otherwise authorized to administer health care, for profit or otherwise, in the ordinary course of business or professional practice.
- This Act takes effect September 1, 2021."

Texas Medical Board: Emergency Rule Related to Issuance of Prescriptions Renewed (3/1/21)

- "The emergency rule continues to allow for telephone refill of certain prescriptions to established chronic pain patients as long as the patient has been seen by the prescribing physician, or health professional defined under Chapter 111.001(1) of the Texas Occupations Code, in the last 90 days either in-person or via telemedicine using audio and video two-way communication.
- The emergency rule will remain in place for 60 days (until May 1, 2021 at 11:59 p.m.) or for the duration of the time period that the Governor's disaster declaration of March 13, 2020 in response to the COVID-19 pandemic is in effect, whichever is shorter, pursuant to Section 2001.034 of the Texas Government Code."

Texas Register Emergency Rule §174.5: Issuance of Prescriptions (7/10/20)

- "The validity of a prescription issued as a result of a telemedicine medical service is determined by the same standards that would apply to the issuance of the prescription in an in-person setting.
- Any prescription drug orders issued as the result of a telemedicine medical service, are subject to all regulations, limitations, and prohibitions set out in the federal and Texas Controlled Substances Act, Texas Dangerous Drug Act and any other applicable federal and state law.
- Limitation on Treatment of Chronic Pain. Chronic pain is a legitimate medical condition that needs to be treated but must be balanced with concerns over patient safety and the public health crisis involving overdose deaths. The Legislature has already put into place laws regarding the treatment of pain and requirements for registration and inspection of pain management clinics. Therefore, the Board has determined clear legislative intent exists for the limitation of chronic pain treatment through a telemedicine medical service."

Texas Medical Board Adopts Emergency Rule Related to Issuance of Prescriptions (6/5/20)

- (A) Treatment of chronic pain with scheduled drugs through use of telemedicine medical services is prohibited, unless:

i) a patient is an established chronic pain patient of the physician and is seeking telephone refill of an existing prescription, and the physician determines that such telemedicine treatment is needed due to the COVID-19 pandemic; or

ii) the treatment is otherwise allowed under federal and state law.

- (B) If a patient is treated for chronic pain with scheduled drugs through the use of telemedicine medical services as permitted by (A)(i) or (ii) above, the patient's medical records must document the exception and the reason that a telemedicine visit was conducted instead of an in-person visit.
- (C) A physician, when determining whether to utilize telemedicine medical services for the treatment of chronic pain with controlled substances as permitted by (A)(i) or (ii) above, shall give due consideration to factors that include: date of the patient's last in-person visit, patient co-morbidities, and occupational-related COVID risks. These are not the sole, exclusive, or exhaustive factors a physician should consider under this rule.
- (2) Treatment for Acute Pain. For purposes of this rule, acute pain has the same definition as used in §170.2(2) of this title. Treatment of acute pain with scheduled drugs through use of telemedicine medical services is allowed, unless otherwise prohibited under federal and state law."

COVID-19 Disaster Licensing for Pending Physician Assistant (PA), Respiratory Care Practitioner (RCP), Perfusionist (PF), and Medical Physicist (MP) Applicants (Updated 4/6/20)

- "To assist our pending licensure applicants affected by and/or wanting to assist with the response to COVID-19, the TMB is granting examination and fingerprint waivers for applicants of the license types listed above who have met all but the examination and/or fingerprint requirements and otherwise qualify for a full license."

Texas Medical Board Press Release (3/14/20)

- "For ALL license and permit holders regulated by the TMB, the agency will take into account extenuating circumstances surrounding the completion of license/permit renewal requirements such as renewal deadlines and completion of continuing education hours."

COVID-19 Disaster Response – License Renewal/Registration Extensions (March 2020)

- "To assist our license and permit holders affected by and/or assisting with the repose to COVID-19, the TMB will automatically extend license and permit expiration dates as indicated below. In addition, Continuing Education requirements related to this renewal extension will be waived."

"Physician and physician assistant licensees whose current permit expired/expires on 2/28/2020 or 5/31/2020 will automatically be extended through 8/31/2020, and any late fees previously accrued will be waived. Newly licensed physicians and physician assistants whose initial registration is due in March, April, May or June of 2020 will have that due date extended to 8/31/2020 as well."

"Medical Physicists, Medical Radiologic Technologists, Perfusionists, Respiratory Care Practitioners and those on the Non-Certified Radiologic Technician Registry whose current permit expired/expires on 2/28/2020, 5/31/2020 or 6/30/2020 will automatically be extended through 8/31/2020, and any late fees previously accrued will be waived."

"Surgical Assistants whose current permit expires on 6/30/2020 will automatically be extended through 8/31/2020."

Medicaid Law, Policy and Guidance Related to Telehealth

Texas Senate Bill No. 2190 (introduced 3/22/23)

- "(b) To the extent permitted by federal law and to the extent it is cost-effective and clinically effective, as determined by the commission, the commission shall ensure that Medicaid recipients, child health plan program enrollees, and other individuals receiving benefits under a public benefits program administered by the commission or a health and human services agency, regardless of whether receiving benefits through a managed care delivery model or another delivery model, have the option to receive services as telemedicine medical services, telehealth services, or otherwise using telecommunications or information technology, including the following services:
  - (5) applied behavior analysis and associated evaluation services;"

Texas House Bill No. 4366 (introduced 3/21/23)

- "SECTION 2. Section 531.02418, Government Code, is amended by amending Subsections (a) and (d) and adding Subsection (f) to read as follows:
  - (a) Notwithstanding any other law and to the extent permitted by federal law, the [~~The~~] commission shall enter into a memorandum of understanding with the Texas Juvenile Justice Department and the Department of Family and Protective Services to ensure that each individual who is committed, placed, or detained under Title 3, Family Code, is assessed by the commission for eligibility for Medicaid, including the STAR Health managed care program, and the child health plan program before that individual's release from commitment, placement, or detention. Local juvenile probation departments are subject to the requirements of the memorandum.
  - (d) The memorandum of understanding required by Subsection (a) must require [~~be tailored to achieve the goal of ensuring~~] that:
    - (1) an individual described by Subsection (a) who is determined eligible by the commission for coverage under Medicaid, including the STAR Health managed care program, or the child health plan program:
      - (A) be [~~is~~] enrolled in the program for which the individual is eligible; and
      - (B) [~~may~~] begin receiving services, including telehealth and telemedicine medical services, through the program as soon as possible after the eligibility determination is made;
    - (2) the Texas Juvenile Justice Department, using available resources, assist the individual with accessing telehealth services or telemedicine medical services, including mental health and behavioral health services, through the program in which the individual is enrolled;"

Texas House Bill No. 2481 (introduced 3/13/23)

- "Sec. 264.7553. COUNSELING AND CRISIS MANAGEMENT PROGRAM FOR RELATIVE OR OTHER DESIGNATED CAREGIVER PLACEMENTS.
  - (a) The department shall facilitate access to a counseling and crisis program to provide mental and behavioral telehealth and mobile mental and behavioral health intervention to relative or other designated caregivers and children in the managing conservatorship of the department who are placed with relative or other designated caregivers.

- (b) Mental and behavioral telehealth services provided under this section must be:
  - (1) accessible electronically through the use of a computer or telephone application; and
  - (2) available 24 hours a day, seven days a week.
- (c) Mobile mental and behavioral health intervention services provided under this section must be:
  - (1) deployed to the location of the child or the relative or other designated caregiver requiring intervention services; and
  - (2) available 24 hours a day, seven days a week.
- (d) Services described by this section may only be provided by: […]
- (e) The department shall, to the extent possible, seek reimbursement from the medical assistance program under Chapter 32, Human Resources Code, or a health plan that provides health coverage for services described by this section to relative or other designated caregivers and children."

COVID-19 Update to Telehealth Guidance on CLASS Professional and Specialized Therapies (updated as of 9/29/21)

- "The following CLASS professional and specialized therapy services are extended through December 31 and are temporarily available by telehealth. […]
- Acceptable telehealth formats are synchronous audiovisual interaction or asynchronous store and forward technology. Use these with synchronous audio interaction between the client and the distant site provider."

Texas House Bill No. 4: AN ACT relating to the provision and delivery of health care services under Medicaid and other public benefits programs using telecommunications or information technology and to reimbursement for some of those services. (engrossed 4/19/21)

- "The executive commissioner by rule shall ensure that a rural health clinic as defined by 42 U.S.C. Section 1396d(l)(1) and a federally qualified health center as defined by 42 U.S.C. Section 1396d(l)(2)(B) may be reimbursed for the originating site facility fee or the distant site practitioner fee or both, as appropriate, for a covered telemedicine medical service or telehealth service delivered by a health care provider to a Medicaid recipient. The commission is required to implement this subsection only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, implement this subsection using other money available to the commission for that purpose.
- To the extent permitted by federal law and to the extent it is cost-effective and clinically effective, as determined by the commission, the commission shall ensure that Medicaid recipients, child health plan program enrollees, and other individuals receiving benefits under a public benefits program administered by the commission or a health and human services agency, regardless of whether receiving benefits through a managed care delivery model or another delivery model, have the option to receive services as telemedicine medical services, telehealth services, or otherwise using telecommunications or information technology, including the following services:

(1) preventative health and wellness services; (2) case management services, including targeted case management services; (3) subject to Subsection (c), behavioral health services; (4) occupational, physical, and speech therapy services; (5) nutritional counseling services; and (6) assessment services, including nursing assessments under the following Section 1915(c) waiver programs:

- (A) the community living assistance and support services (CLASS) waiver program;
- (B) the deaf-blind with multiple disabilities (DBMD) waiver program;
- (C) the home and community-based services (HCS) waiver program; and
- (D) the Texas home living (TxHmL) waiver program."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (6/8/20, 6/10/20, 4/13/21)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

Financial Management Services Agencies (FMSA) initial orientation"

Texas House Bill No. 974 (referred to public health 3/1/21)

- "The executive commissioner by rule shall ensure that a federally qualified health center as defined by 42 U.S.C. Section 1396d(l)(2)(B) or a rural health clinic as defined by 42 U.S.C. Section 1396d(l)(1) may be reimbursed for the originating site facility fee or the distant site practitioner fee or both, as appropriate, for a covered telemedicine medical service or telehealth service delivered by a health care provider to a Medicaid recipient.
- No later than January 1, 2022, the commission shall implement reimbursement for telemedicine medical services and telehealth services in the following programs, services and benefits:

(1) Children with Special Health Care Needs program,

(2) Early Childhood Intervention,

(3) School and Health Related Services,

(4) physical therapy, occupational therapy and speech therapy,

(5) targeted case management,

(6) nutritional counseling services,

(7) Texas Health Steps checkups,

(8) Medicaid 1915(c)waiver programs, including the Community Living and Support Services waiver, and

(9) any other program, benefit, or service under the commission's jurisdiction that the commissioner determines to be cost effective and clinically effective.

- (l) The commission shall implement audio-only benefits for behavioral health services, and may implement audio-only benefits in any program under the commission's jurisdiction, in accordance with federal and state law and shall consider other factors, including whether reimbursement is cost-effective and whether the provision of the service is clinically effective, in making the determination."

Medicaid and CHIP Services Information for Providers (December 2020)

- "Effective December 1, 2020, FQHCs may be reimbursed as telemedicine and telehealth distant site provider as permanent policy change.
- Rural Health Clinics (RHCs) may be reimbursed as telemedicine and telehealth distant site providers statewide for service dates from March 24, 2020 through June 30, 2021."

Update to COVID-19 Guidance for FFS Service Coordinators and Case Manager (7/31/20)

- "Fee-for-service Medicaid 1915(c) waiver case managers and service coordinators may suspend face-to-face service coordination visits. This is a temporary policy change. It extends through Oct. 23, 2020 unless the U.S. Secretary of Health and Human Services ends the public health emergency earlier. If the public health emergency ends earlier, HHSC will provide more information. This temporary policy applies to:

Community Living Assistance and Support Services

Texas Home Living

Deaf-Blind with Multiple Disabilities

Home and Community-based Services

General Revenue Service Coordinators

Community First Choice Service Coordinators

Pre-admission Screening and Resident Review Habilitation Coordinators

- Case managers, service coordinators, and habilitation coordinators are encouraged to complete visits due through Oct. 23, 2020. These can be done by phone, telehealth or telemedicine."

Texas Health Steps Checkups Guidance Effective May 7, 2020 through May 31, 2020 (5/12/20)

- "To allow for continued provision of Texas Health Steps checkups during the period of social distancing due to COVID-19, HHSC is allowing remote delivery of certain components of medical checkups for children over 24 months of age (i.e. starting after the "24 month" checkup). Because some of these requirements (like immunizations and physical exams) require an in-person visit, providers must follow-up with their patients to ensure completion of any components within 6 months of the telemedicine visit."

Date of Service Extension for Telemedicine (Physician-Delivered) and Telehealth (Non-Physician-Delivered) Services (4/24/20)

- "As part of its continued response to COVID-19 (coronavirus), HHSC will provide Medicaid reimbursement for previously identified telemedicine and telehealth services for March 15, 2020 to May 31, 2020 dates of service. The telemedicine and telehealth services include those listed in the following provider notifications:

Claims for Telehealth Service for Occupational, Physical, and Speech Therapy,
SHARS Services Provided Through Telemedicine or Telehealth,
Clarification to 'COVID-19 Guidance: Targeted Case Management Through Remote Delivery',
RHC Reimbursement for Telemedicine and Telehealth Services,
Claims for Telephone (Audio Only) Medical Services,
Claims for Telephone (Audio Only) Behavioral Health Services,
FQHC Reimbursement for Telemedicine (Physician Delivered) and Telehealth (Non-Physician-Delivered) Services."

Correction to 'COVID-19 Guidance: Targeted Case Management Through Remote Delivery' (4/24/2020)

- "Case management may be delivered through synchronous audio-visual technologies or telephone (audio-only)."

Claims for Telehealth Service for Occupational, Physical, and Speech Therapy (4/14/20)

- "Effective for dates of service March 15, 2020, through April 30 2020, authorized occupational, physical, and speech therapy for clients of all ages may be delivered as a telehealth service.
- Telehealth therapy services must be delivered within the provision of current licensure requirements found in Occupational Therapy Rules, Physical Therapy Rules, and Speech-Language Pathologists and Audiologists Administrative Rules."

COVID-19 Guidance: Targeted Case Management Through Remote Delivery (4/1/20)

- "Case management may be delivered through synchronous audio-visual technologies or telephone (audio-only). Providers should bill procedure code T1017 using the 95 modifiers to indicate that remote delivery occurred. This direction applies to the following services:

Mental Health Targeted Case Management (MHTCM)

Intellectual or developmental disability (IDD) case management

Targeted Case Management for Early Childhood Intervention (ECI)

Case Management for Blind and Visually Impaired Children (BVIC)

Case Management for Children and Pregnant Women (CPW)"

Claims for Telephone (Audio Only) Medical Services (3/30/20)

- "To help ensure continuity of care during the COVID-19 (coronavirus) response, Children with Special Health Care Needs (CSHCN) Services Program is authorizing providers to bill the following procedure codes for telephone (audio only) medical (physician delivered) evaluation and management services delivered on March 20, 2020, through April 30, 2020."

RHC Reimbursement for Telemedicine and Telehealth Services (3/30/20)

- "To help rural health clinics (RHCs) deliver care to clients in response to COVID19 (coronavirus), RHCs may be reimbursed as telemedicine and telehealth distant site providers statewide for service dates from March 24, 2020, through April 30, 2020."

Medicaid Website (March 2020)

- "For services delivered on March 20, 2020 through April 30, 2020:

Providers may bill codes 99201-99205 and 99211-99215 for telephone (audio-only) medical (physician delivered) evaluation and management services delivered.

Providers may bill to receive Medicaid reimbursement for the following behavioral health services delivered by telephone (audio only):

Psychiatric Diagnostic Evaluation (90791, 90792).

Psychotherapy (90832, 90834, 90837, 90846, 90847, 90853).

Peer Specialist Services (H0038).

Screening, Brief Intervention and Referral to Treatment (H0049, G2011, 99408).

Substance Use Disorder Services (H0001, H0004, H0005).

Mental Health Rehabilitation services (H0034, H2011, H2012, H2014, H2017).

Federally Qualified Health Centers

  - To help ensure continuity of care during the COVID-19 response, HHSC will reimburse Federally Qualified Health Centers (FQHCs) as telemedicine (physician-delivered) and telehealth (non-physician-delivered) service distant site providers. See the TMHP article for full details."

Governor Abbot waives certain regulations for telemedicine care in Texas (3/17/20)

- "As a reminder, Texans covered by CHIP or Medicaid will not be charged copays for test or telemedicine consults."

UTAH

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Utah House Bill No. 152 (passed 3/15/23)

- "(3) [~~Except as specifically provided in Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act, and unless a provider has established a provider-patient relationship with a patient, a~~] A provider offering telemedicine services may not diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one of the following:
  - (a) an online questionnaire;
  - (b) an email message; or
  - (c) a patient-generated medical history."

Utah House Bill No. 534 (introduced 2/21/23)

- (2) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market, the small group market, or the large group market shall:
    - (c) for a health benefit plan entered into or renewed on or after January 1, 2024, if a network provider also provides health care services at an in-person location in the state, reimburse the telemedicine services described in Subsection (2)(a) that are delivered by the network provider at a rate that is at least 90% of the rate that is paid to the network provider for the same health care service that is delivered in-person."

Utah Senate Bill No. 365 (introduced 2/14/22)

- "(1) "Asynchronous interaction" means the exchange of a patient's health care information from an originating site to a provider at a distant site that does not occur in real time.
- (3) (a) Except as provided in Subsection (3)(b), a provider may not prescribe a prescription drug to a patient if the provider:
    - (i) offers telehealth services to the patient; and
    - (ii) uses only asynchronous interaction to establish a provider-patient relationship with the patient.
    - (b) A provider described in Subsection (3)(a) may prescribe a prescription drug to a patient if the prescription drug:
    - (i) is not subject to Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act;
    - (ii) is approved by the division by rule under Subsection (4); and
    - (iii) is prescribed to the patient to treat:
    - (A) dermatological conditions;
    - (B) gastrointestinal disorders;
    - (C) infertility;
    - (D) mental health;
    - (E) metabolic disorders;
    - (F) sexual health;
    - (G) sleep disorders; and
    - (H) smoking cessation.
    - (c) A provider described in Subsection (3)(a) may order laboratory-based diagnostic testing for a patient.
    - (4) (a) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to specify:
    - (i) the prescription drugs that may be prescribed under Subsection (3); and
    - (ii) the conditions for which the prescription drugs described in Subsection (4)(a)(i) may be prescribed."

Utah Senate Bill No. 41 (passed 3/2/21)

- Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market, the small group market, or the large group market shall:

provide coverage for telemedicine services that are covered by Medicare;

reimburse, at a commercially reasonable rate, a network provider that provides the telemedicine services described in Subsection (2)(a)

provide coverage for medically necessary treatment of a mental health condition through telehealth services if:

the health benefit plan provides coverage for the treatment of the mental health condition through in person services; and the insurer determines treatment of the mental health condition through telehealth services meets the appropriate standard of care.

Utah Department of Health COVID-19 Telehealth Resource Center (April 20)

- This page is intended to serve as a resource for healthcare providers during the COVID-19 response.

Dental Practice Act Amendments (3/28/20)

"This bill: defines terms; provides for the use of teledentistry within the state by dental professionals licensed within the state; provides that the standard of dental care for teledentistry is the same for in-person dental care; establishes the dental services a dental professional may provide using teledentistry; directs the Division of Occupational and Professional Licensing to make rules regarding teledentistry; and makes technical and conforming changes."

Governor Issues Executive Order Relaxing Requirements for Telehealth Providers (3/26/20)

- "The order allows medical providers to offer a telehealth service that does not comply with the security and privacy standards required by Utah law, so long as the healthcare provider notifies the patient that the service they are using does not comply with those standards, allows them to decline using the service, and takes reasonable steps to ensure that the service provided is secure and private."

Utah Insurance Department Bulletin 2020-1 (3/17/20)

"Given that COVID-19 is a communicable disease, some insureds may be using telehealth services instead of in-person healthcare services. Health insurers are asked to review and ensure their telehealth provider network is robust and will be able to meet an increased demand."

State Licensure Laws, Policy, and Guidance

Utah House Bill No. 159 (passed 3/15/23)

- "(2) An individual with a temporary license issued under this section is authorized to provide a telemedicine service if:
  - (a) the telemedicine service is a service the individual is licensed to perform under the nonresident health care license of the state, district, or territory that issued the nonresident health care license;
  - (b) at the time the telemedicine service is performed, the patient is located in Utah; and
  - (c) performing the telemedicine service would not otherwise violate state law."

Utah House Bill No. 502 (introduced 2/17/23) / Senate Bill No. 285 (introduced 2/23/23)

- "58-60b-101. Section 1 -- Purpose.
    - The purpose of this Compact is to facilitate interstate practice of regulated Social Workers with the goal of improving public access to competent Social Work services. The Compact seeks to preserve the regulatory authority of States to protect public health and safety through the current system of State licensure.

      This Compact is designed to achieve the following objectives:
        - G. Allow for the use of telehealth to facilitate increased access to regulated Social Work Services;"

Utah Senate Bill No. 237 (passed 3/24/22)

- "Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 58-60a-103 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.
- A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State."

Utah House Bill No. 176: Revisor's Technical Corrections to Utah Code (passed 3/11/21)

- A provider offering telehealth services shall: at all times:

(i) Act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and (ii) be held to the same standards of practice as those applicable in traditional health care settings;

- if the provider does not already have a provider-patient relationship with the patient, establish a provider-patient relationship during the patient encounter in a manner consistent with the standards of practice, determined by the Division of Professional Licensing in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including providing the provider's licensure and credentials to the patient;
- Except as specifically provided in Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act, and unless a provider has established a provider-patient relationship with a patient, a provider offering telemedicine services may not diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one of the following: (a) an online questionnaire; (b) an email message; or (c) a patient-generated medical history.

EXECUTIVE ORDER 2020-69: Extending the Suspension of Enforcement of Statutes Relating to Telehealth Services (reissued 9/30/20)

- NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:
- Utah Code § 26-60-103(4)(a) to the extent that it interferes with a medical provider's ability to offer telehealth services. A medical provider that pursuant to this Order offers telehealth services that do not comply with the federal Health Insurance Portability and

Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended, shall:

1. inform the patient the telehealth service does not comply with those federal acts;

2. give the patient an opportunity to decline use of the telehealth service; and

3. take reasonable care to ensure security and privacy of the telehealth service."

- This Order shall take effect September 30, 2020, and shall remain in effect until the termination of the state of emergency declared in Executive Order 2020-63, or until otherwise lawfully modified, amended, rescinded, or superseded."

EXECUTIVE ORDER 2020-55: Reauthorizing the Suspension of Enforcement of Statutes Relating to Telehealth Services (8/20/20)

- "A medical provider that pursuant to the Order offers telehealth services that do not comply with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No, 104-191, 110 Stat. 1936, as amended, or the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended, shall:

Inform the patient the telehealth service does not comply with those federal acts;

Give the patient an opportunity to decline use of the telehealth service; and

Take reasonable care to ensure security and privacy of the telehealth service."

Utah House Bill 313: Telehealth Parity Amendments (signed by Governor 3/24/20)

- "This bill amends provisions related to insurance coverage for telehealth services and 10 telemedicine services.
- This bill:

amends the definition of telemedicine services;

clarifies the scope of telehealth practice; and

requires certain health benefit plans to provide coverage parity and commercially 16 reasonable reimbursement for telehealth services and telemedicine services."

Utah Department of Commerce Division of Occupational and Professional Licensing – Practice Exemptions During Declared Emergency (March 2020)

- Healthcare professionals who do not hold a current Utah license may work in Utah within their scope of practice under the following temporary emergency exemptions and other existing exemptions. See Utah Code §§ 58-1-307 and 58-81-101 et. seq."

Medicaid Law, Policy and Guidance Related to Telehealth

Utah House Bill No. 437 (passed 3/15/23)

- "(4) The Medicaid program shall reimburse for audio-only telehealth services as specified by division rule."

Utah House Bill No. 269 (introduced 2/21/23)

- "(2) Before January 1, 2024, the department shall apply for a Medicaid waiver with the Centers for Medicare and Medicaid Services to implement the coverage described in Subsection (3).
- (3) If the waiver described in Subsection (2) is approved, the Medicaid program shall contract with a single entity to provide coordinated care for the following services for one year to each qualified enrollee:
    - (a) a telemedicine platform for the qualified enrollee to use;"

Utah Medicaid Information Bulletin (April 2021)

- "The following Telephone Evaluation and Management Service codes have been opened to Physicians and other Qualified Health Care Professionals:

99441 Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 5-10 minutes of medical discussion

99442 Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 11-20 minutes of medical discussion

99443 Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 21-30 minutes of medical discussion

These codes will not be open to behavioral health providers and will not change their current billing practices."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/17/20, 7/22/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

0158 (Community Supports Waiver), 0292 (Acquired Brain Injury Waiver): Companion Services, Supported Living, Supported Employment, Day Supports, Personal Assistance/Personal Care

40183 (Technology Dependent Waiver): Family Support Services

0247 (Aging Waiver): Adult Companion Services"

Utah Medicaid COVID-19 Emergency Guidance: Temporary Adjustments to Applied Behavior Analysis (ABA) Services Policy (May 2020)

- "Telehealth may be used, without geographic restriction, to provide ABA services as outlined below.
- Telehealth services should be delivered with only one patient at a time.
- To bill services provided via telehealth, providers must mark their claims with "Place of Service 02" which allows Medicaid to see that the service was delivered via telehealth.
- Utah Medicaid is currently allowing these adjustments through the end of the COVID emergency period."

COVID-19 Emergency Guidance on Temporary Adjustments to Dental Services Policy (4/16/20)

- Utah Medicaid opened the following teledentistry codes to be used in conjunction with the associated dental codes. These codes can be provided through teledentistry when services rendered do not require hands-on care, examination, testing or interaction with the Medicaid member, and can be reasonably accommodated.

Teledentistry codes: D9995 and D9996

Associated dental codes: D0140, D0170, D0171

Technical Billing/Reimbursement Guidance from Payers (April 2020)

- Utah Medicaid

Q: "What types of services can be delivered through telehealth?

  - A: Any covered Medicaid State Plan service that is clinically appropriate, that does not require hands-on care, examination, testing or interaction with the Medicaid member, and can be reasonably accommodated, may be provided through telehealth.

Q: Can telehealth be utilized statewide?

  - A: Yes, telehealth can be used to deliver services statewide.

Q: Must a reimbursable telehealth service include video/teleconferencing?

  - A: No, while use of video/teleconferencing is typically required, a telephone call between the provider and the member, when clinically appropriate, is permitted at this time.

Q: Is the rate paid to the provider for services delivered via telehealth different than services delivered in person?

  - A: No, the rate is the same whether services are delivered in person or through telehealth."

Utah Medicaid Guidance: Telehealth Q&A for COVID-19 Emergency (March 2020)

- "In response to the COVID-19 emergency and the potential for Medicaid members to experience decreased access to needed services, Utah Medicaid is clarifying its policy regarding the delivery of covered services via telehealth."

Utah Medicaid links to CMS' FAQs on Essential Health Benefit Coverage (3/12/20)

- "However, other medical benefits that occur in the home that are required by and under the supervision of a medical provider, such as home health care or telemedicine, may be covered as EHB, but may require prior authorization or be subject to cost-sharing or other limitations."

VERMONT

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Vermont House Bill No. 411 (passed 3/29/23)

- "Sec. 26. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS FOR A LIMITED TIME
  Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to the contrary, through March 31, ~~2023~~ 2024, the following provisions related to the delivery of health care services through telemedicine or by store-and-forward means shall not be required, to the extent their waiver is permitted by federal law or guidance regarding enforcement discretion: […]
- Sec. 4. 2022 Acts and Resolves No. 85, Sec. 6 is amended to read:
  - Sec. 6. TEMPORARY TELEHEALTH REGISTRATION FOR OUT-OF-STATE HEALTH CARE PROFESSIONALS
    - (a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, ~~from the period from~~ beginning on April 1, 2022 ~~through June 30, 2023~~, the Office of Professional Regulation and Board of Medical Practice shall register a health care professional who is not licensed or registered to practice in Vermont but who seeks to provide health care services to patients or clients located in Vermont using telehealth, provided: […]
    - (b) The temporary telehealth registration option available pursuant to this section shall continue to be available to out-of-state health care professionals until the telehealth licensure and registration system established in 26 V.S.A. chapter 56 by 2022 Acts and Resolves No. 107 is operational. The Office of Professional Regulation and Board of Medical Practice shall provide appropriate notice to health care professionals registered under this section of the expiration date of the temporary telehealth registration option and shall allow temporary telehealth registrants 90 days following the effective date of the applicable telehealth licensure and registration rules to transition from temporary registration to a telehealth license or registration."

Vermont House Bill No. 406 (introduced 2/28/23)

- "(a) As used in this section~~,~~:
  - (1) "~~distant~~ Distant site," "health care provider," and "originating site~~," "store and forward," and "telemedicine" shall~~ have the same meanings as in 8 V.S.A. § 4100k.

- (2) "Store and forward" means an exchange of information regarding a patient that does not occur in real time, including the secure collection and transmission of a patient's medical information, clinical data, clinical images, laboratory results, or a self-reported medical history.
- (3) "Telemedicine" means the use of audio, video, or other telemedicine technologies by a health care provider in one location to a patient at a different location for purposes of diagnosis, consultation, or treatment, including the use of store-and-forward technologies.
- (4) "Telemedicine technologies" means technologies and devices enabling secure electronic communications and information exchange between a health care provider in one location and a patient in another location with or without an intervening health care provider.

- (e)(1) A patient ~~receiving health care services or dental services by store-and-forward means~~ shall be ~~informed of the patient's right~~ provided with all necessary information regarding receipt of health care services or dental services via telemedicine, including through the use of store-and-forward means, when the health care provider obtains informed consent, as described in subsection (c) of this section. A patient shall have the opportunity to refuse to receive services in this manner ~~and to~~. A patient may request services in an alternative format, such as through real-time telemedicine services or an in-person visit; however, a health care provider shall not be required to offer telemedicine services in the requested alternative format and shall inform the patient of such as part of the informed consent process.
  - (2) Receipt of services by store-and-forward means shall not preclude a patient from ~~receiving~~ requesting real-time telemedicine services or an in-person visit with the distant site health care provider at a future date; provided, however, that the distant site health care provider shall not be required to provide services in the requested format."

Vermont Senate Bill No. 74 (passed 4/28/22)

- "(a) A physician shall not be subject to any civil or criminal liability or professional disciplinary action if the physician prescribes to a patient with a terminal condition medication to be self-administered for the purpose of hastening the patient's death and the physician affirms by documenting in the patient's medical record that all of the following occurred:
  - (1) The patient made an oral request to the physician in the physician's physical presence or by telemedicine, if the physician determines the use of telemedicine to be clinically appropriate, for medication to be self-administered for the purpose of hastening the patient's death.
  - (2) No Not fewer than 15 days after the first oral request, the patient made a second oral request to the physician in the physician's physical presence or by telemedicine, if the physician determines the use of telemedicine to be clinically appropriate, for medication to be self-administered for the purpose of hastening the patient's death."

Vermont House Bill No. 654 (enrolled 3/17/22)

- "Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to the contrary, through March 31, 2023, the following provisions related to the delivery of health care services through telemedicine or by store-and-forward means shall not be required, to the extent their waiver is permitted by federal law or guidance regarding enforcement discretion:
- (1) delivering health care services, including dental services, using a connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance with 8 V.S.A. § 4100k(i), as amended by this act, if it is not practicable to use such a connection under the circumstances; and
- (2) representing to a patient that the health care services, including dental services, will be delivered using a connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance with 18 V.S.A. § 9361(c), if it is not practicable to use such a connection under the circumstances.
- Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, from the period from April 1, 2022 through June 30, 2023, the Office of Professional Regulation and Board of Medical Practice shall register a health care professional who is not licensed or registered to practice in Vermont but who seeks to provide health care services to patients or clients located in Vermont using telehealth, provided:
- (1) the health care professional completes an application in the manner specified by the Director of the Office of Professional Regulation or the Board of Medical Practice, as applicable; and
- (2)(A) the health care professional holds an active, unencumbered license, certificate, or registration in at least one other U.S. jurisdiction to practice the health care profession for which the health care professional seeks to provide telehealth services in Vermont;
- (B) the health care professional's license, certificate, or registration is in good standing in all other U.S. jurisdictions in which the health care professional is licensed, certified, or registered to practice; and
- (C) the health care professional provides verification of licensure, certification, or registration to the Office or the Board, as applicable."

Vermont Senate Bill No. 205 (introduced 1/6/22)

- "This bill proposes to eliminate a requirement that health insurers reimburse health care providers the same amounts for services provided in person and using telemedicine through plan year 2025 and would allow out-of-state providers to treat Vermont patients using telemedicine.
- All health insurance plans in this State shall provide coverage for health care services and dental services delivered through telemedicine by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation. A health insurance plan shall not require a health care provider to have previously conducted an in-person examination or consultation with a patient prior to delivering health care services to the patient through telemedicine."

Vermont Senate Bill No. 117: An act relating to extending health care regulatory flexibility during and after the COVID-19 pandemic and to coverage of health care services delivered by audio-only telephone (passed 3/29/21)

- This bill proposes to extend until March 31, 2022 certain provisions of 2020 Acts and Resolves Nos. 91 and 140 allowing for health care-related regulatory flexibility during and immediately following the COVID-19 pandemic. It would require health insurance coverage of health care services delivered by audio-only telephone and establish requirements for health care providers delivering services in this manner.
- Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to the contrary, through March 31, 2022, the following provisions related to the delivery of health care services through telemedicine or by store and-forward means shall not be required, to the extent their waiver is permitted by federal law:

(1) delivering health care services, including dental services, using a connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance with 8 V.S.A. § 4100k(i), as amended by this act, if it is not practicable to use such a connection under the circumstances

g Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to the contrary, until 60 days following a declared state of emergency in Vermont as a result of COVID-19, a health care provider shall not be required to obtain and document a patient's oral or written informed consent for the use of telemedicine or store-and-forward technology prior to delivering services to the patient in accordance with 18 V.S.A. § 9361(c), if obtaining or documenting such consent, or both, is not practicable under the circumstances.

- A health insurance plan may charge an otherwise permissible deductible, co-payment, or coinsurance for a health care service delivered by audio-only telephone provided that it does not exceed the deductible, copayment, or coinsurance applicable to an in-person consultation.
- A health insurance plan shall not require a health care provider to have an existing relationship with a patient in order to be reimbursed for health care services delivered by audio-only telephone.

Department of Financial Regulation: Recommendations Required by Act 140 of 2020 (12/1/20)

- "Act 140 of 2020 required the Department of Financial Regulation to convene a working group to develop recommendations for health insurance and Medicaid coverage of health care services delivered by telephone after the COVID-19 state of emergency ends.
- In brief, the working group recommended continuing commercial insurance and Medicaid coverage of audio-only health care services after the COVID-19 state of emergency ends utilizing value-based reimbursement where appropriate for provider type and size. However, the working group could not reach consensus on whether audio-only health care services should be reimbursed at parity with in-person services or at some other rate."

Vermont House Bill No. 795: An act relating to increasing hospital price transparency, hospital sustainability planning, provider sustainability and reimbursements, and regulators' access to information (passed 10/5/20)

- "It is the intent of the General Assembly to increase Vermonters' access to medically necessary health care services during and after a declared state of emergency in Vermont as a result of COVID-19. Until July 1, 2021, and notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall consider adopting, and shall have the authority to adopt, emergency rules to address the following through June 30, 2021:

(3) expanding patients' access to and providers' reimbursement for health care services, including preventive services, consultation services, and services to new patients, delivered remotely through telehealth, audio-only telephone, and brief telecommunication services."

Vermont House Bill No. 960: An act relating to miscellaneous health care provisions (passed 7/6/20)

- "Until July 1, 2021, and notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall consider adopting, and shall have the authority to adopt, emergency rules to address the following through June 30, 2021:

(1) expanding health insurance coverage for, and waiving or limiting cost-sharing requirements directly related to, COVID-19 diagnosis, treatment, and prevention; through March 31, 2021, a health care professional, including a mental health professional, who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services, including mental health services, to a patient located in Vermont using telehealth or as part of the staff of a licensed facility, provided the health care professional."

Vermont House Bill No. 966: An act relating to COVID-19 funding and assistance for broadband connectivity, housing, and economic relief (passed 7/2/20)

- "COVID-Response Telehealth Connectivity Program

There is established a temporary COVID-Response Telehealth Connectivity Program to be administered by the Vermont Program for Quality in Health Care, Inc. (VPQHC) consistent with its mission under 18 V.S.A. 12 § 9416 and with its Connectivity Care Packages pilot proposal. The purpose of the Program is to support equitable access to telehealth services by providing outreach and educational opportunities that improve digital literacy skills of patients and providers and also by providing the equipment needed to support telehealth needs during the COVID-19 public health emergency, particularly in areas that are digitally and medically underserved, and distributed geographically across the State."

Department of Financial Regulation Coverage of Health Care Services Delivered through Telehealth, Telephone, or Store and Forward Means (3/30/20)

- "This emergency rule is promulgated pursuant to Act 91 of 2020 and in response to the State of Emergency declared by the Governor of the State of Vermont on March 16, 2020 regarding the outbreak of COVID-19. This emergency rule shall be in effect for the duration of the state of emergency. The purpose of this emergency rule is to expand patients' access to and providers' reimbursement for health care services, including preventive services, consultation services, and services to new patients, delivered remotely through telehealth, audio-only telephone, store-andforward, and brief telecommunication services."
- "Section 3. Coverage of Telehealth and Audio-Only Telephone Services. (a) Where clinically appropriate, all health insurance plans and workers' compensation insurance carriers shall provide coverage for all health care services delivered remotely through telehealth or audio-only telephone by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation. Services covered under this subsection shall include services that are covered when provided in the home by home health agencies. (b) Health insurance plans and workers' compensation insurance carriers shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the

terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telehealth or audio-only telephone.

- Section 4. Coverage of Telephone Triage Services. (a) All health insurance plans shall provide coverage and reimbursement for Healthcare Common Procedure Coding System (HCPCS) code G2012 (virtual check-in via telephone) to allow providers to receive payment for brief virtual communication services used to determine whether an office visit or other service is needed. (b) Health insurance plans shall not charge a deductible, co-payment, or coinsurance for telephone triage services."

Department of Financial Regulations COVID-19 and Telemedicine Services (3/19/20)

- "Department of Financial Regulation is urging health insurers to expand coverage and reimbursement of telemedicine services, including audio-only telephone, e-mail, or facsimile where clinically appropriate."
- "Because many providers do not have access to video-and-audio telehealth equipment, insurers are encouraged to cover and reimburse all office services provided telephonically (audio-only) or by "store-and-forward" means that are currently appropriate for telemedicine."
- "Insurers are also encouraged to expand the scope of services that are clinically appropriate for delivery through telephone or telemedicine to include services such as physical therapy, and to allow providers to furnish services from any health care facility or their home."
- "Insurers are reminded that Vermont's mental health parity law (8 V.S.A. § 4089b) prohibits placing any greater burden on insureds for access to mental health treatment than physical health treatment."
- "The Department asks that deductibles, co-payments, or coinsurance for health care services provided by telephone not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation."
- "The Department also urges insurers to reimburse providers for brief screening calls or remote evaluations of recorded video or images (HCPCS codes G2012 and G2010), as recommended by the Vermont Department of Health, without imposing cost-sharing on members. The Department recommends that this be done on the same essential basis as Medicare payments for "Virtual Check-Ins.""

Executive Order 01-20 – Declaration of State of Emergency in Response to COVID-19 (3/13/20)

- "15. Relevant rules governing medical services shall be suspended to the extent necessary to permit such personnel to provide paramedicine, transportation to destinations including hospitals and places other than hospitals or health care facilities, telemedicine to facilitate treatment of patients in place, and such other services as may be approved by the Commissioner of Health.
- 16. Relevant rules governing nursing services shall be suspended to the extent necessary to permit such personnel to provide medical care, including but not limited to administration of medicine, prescribing of medication, telemedicine to facilitate treatment of patients in place, and such other services as may be approved by the Secretary of State in consultation with the Commissioner of Health."

Vermont House passes telehealth bill during Coronavirus (3/12/20), will expand access to specialist in rural areas

State Licensure Laws, Policy, and Guidance

Vermont House Bill No. 86 (engrossed 3/17/23) / Vermont Senate Bill No. 76 (introduced 2/9/23)

- "§ 4500. AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT; ADOPTION
  - This subchapter is the Vermont adoption of the Audiology and Speech Language Pathology Interstate Compact.
- § 4505. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
  - Member states shall recognize the right of an audiologist or speech language pathologist, licensed by a home state in accordance with section 4503 of this subchapter and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission."

Vermont House Bill No. 62 (engrossed 3/17/23)

- "§ 3275a. PURPOSE
  - (a) The purpose of this Compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
- § 3275g. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
  - (a) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with section 3275c of this title and under rules promulgated by the Commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission.
  - (b) A Licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state."

Vermont House Bill No. 247 (introduced 2/14/23)

- "§ 3365. OCCUPATIONAL THERAPY LICENSURE COMPACT; ADOPTION
  - This subchapter is the Vermont adoption of the Occupational Therapy Licensure Compact.
- § 3366. PURPOSE
  - The purpose of this Compact is to facilitate interstate practice of Occupational Therapy with the goal of improving public access to Occupational Therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This Compact is designed to achieve the following objectives:
    - (7) facilitate the use of telehealth technology in order to increase access to Occupational Therapy services."

Vermont House Bill No. 655 (passed 5/9/22)

- "(a) A health care professional who is not otherwise licensed, certified, or registered to practice in Vermont but is licensed, certified, or registered in good standing in all other U.S. jurisdictions in which the health care professional is or has been licensed, certified, or registered and who wishes to provide health care services to a patient or client located in Vermont using telehealth shall obtain a telehealth license or telehealth registration from the Office or the Board in accordance with this chapter.
- (b) A telehealth license or telehealth registration issued pursuant to this chapter shall authorize a health care professional to provide services to a patient or client located in Vermont using telehealth only. Telehealth licensure or telehealth registration does not authorize the health care professional to open an office in Vermont or to provide in-person health care services to patients or clients located in Vermont.
- (c) A health care professional who is not otherwise licensed, certified, or registered to practice in Vermont and provides health care services in Vermont using telehealth without a telehealth registration or telehealth license, or provides services beyond the limitations of the telehealth registration or telehealth license, is engaged in unauthorized practice as defined in 3 V.S.A. § 127 and section 1314 of this title and is subject to the penalties set forth in those sections.
- (a) Telehealth license.
    - (1) A health care professional who is not otherwise licensed, certified, or registered to practice in Vermont may obtain a telehealth license to provide health care services using telehealth to a total of not more than 20 unique patients or clients located in Vermont during the two-year license term.
    - (2) To be eligible to obtain a telehealth license under this chapter, a health care professional shall:
        - (A) complete an application in a format and with such content as prescribed by the Office or the Board;
        - (B) hold an active, unencumbered license, certificate, or registration in good standing in any other U.S. jurisdiction to practice the health care profession that the professional seeks to practice in Vermont using telehealth and provide verification of the license, registration, or certificate to the Office or the Board if required by the profession;
        - (C) if required by the rules adopted by the Office or the Board pursuant to section 3061 of this chapter, submit a copy of a mandatory disclosure that conforms to the requirements established by rule;
        - (D) if required by the rules adopted by the Office or the Board pursuant section 3061 of this chapter, provide documentation of professional liability coverage or financial responsibility that includes coverage or financial responsibility for services provided by telehealth to patients or clients not located in the health care professional's home state in an amount established by rule;
        - (E) provide any other information and documentation of qualifications required by the Office or the Board by rule; and
        - (F) pay the required telehealth licensure fee, which shall be 75 percent of the renewal fee for the profession as set forth in 3 V.S.A. § 125 or in the applicable chapter of this title.
    - (3) A health care professional may renew a telehealth license every two years upon application and payment of the required fee.
- (b) Telehealth registration.
    - (1) A health care professional who is not otherwise licensed, certified, or registered to practice in Vermont may obtain a telehealth registration to provide health care services using telehealth:

        - (A) for a period of not more than 120 consecutive days from the date the registration was issued; and
        - (B) to a total of not more than 10 unique patients or clients over the 120-day period that the registration is in effect.
    - (2) To be eligible to obtain a telehealth registration under this chapter, a health care professional shall:
        - (A) complete an application in a format and with such content as prescribed by the Office or the Board;
        - (B) hold an active, unencumbered license, certificate, or registration in good standing in any other U.S. jurisdiction to practice the health care profession that the professional seeks to practice in Vermont using telehealth and provide verification of the license, registration, or certificate to the Office or the Board if required by the profession;
        - (C) if required by the rules adopted by the Office or the Board pursuant to section 3061 of this chapter, submit a copy of a mandatory disclosure that conforms to the requirements established by rule; and
        - (D) pay the required telehealth registration fee
    - (3) A health care professional may only reactivate a telehealth registration once every three years. A telehealth registration shall not be renewed or reactivated upon expiration.
- (c) Other license or registration. A health care professional seeking to provide health care services to a patient or client located in Vermont using telehealth may register or apply for a full license to practice the profession in this State in accordance with the applicable provisions of this title. Nothing in this section shall be construed to prohibit a qualified health care professional from registering or obtaining a full license to practice in Vermont in accordance with relevant laws.
- (d) Transition to licensure; fee credit.
    - (1) If a health care professional holding a telehealth registration issued pursuant to this chapter elects to apply for a telehealth license or a full license while the professional's telehealth registration is in effect or within three years following the effective date of the professional's telehealth registration, the amount of the fee paid by the health care professional for the telehealth registration pursuant to subdivision (b)(2)(D) of this section shall be credited and applied toward the amount of the relevant telehealth license under subdivision (a)(2)(F) of this section if the professional is seeking a telehealth license or the application fee for a full license for the profession as set forth in 3 V.S.A. § 125 or in the applicable chapter of this title.
    - (2) If a health care professional holding a telehealth license issued pursuant to this chapter elects to apply for a full license while the professional's telehealth license is in effect, the amount of the fee paid by the health care professional for the telehealth license pursuant to subdivision (a)(2)(F) of this section shall be credited and applied toward the amount of the application fee for a full license for the profession as set forth in 3 V.S.A. § 125 or in the applicable chapter of this title.
- In order to be eligible for a telehealth license or telehealth registration under this chapter, a health care professional shall hold a license, certificate, or registration in another U.S. jurisdiction that authorizes the provider to engage in the same or a broader scope of practice as health care professionals in the same field are authorized to engage pursuant to a license, certificate, or registration issued in accordance with the relevant provisions of this title.
- A health care professional is not required to obtain a telehealth registration or licensure solely to provide consultation services to another health care professional regarding care for a patient or client located in Vermont, provided the consulting health care professional holds a

license, certificate, or registration to practice the profession in one or more U.S. jurisdictions and the consultation is based on a review of records without in-person or remote contact between the consulting health care professional and the patient or client."

Office of Professional Regulation – Healthcare Worker Temporary License (3/18/20)

- "The Office of Professional Regulation (OPR) has been authorized to issue temporary licenses to health care workers to practice in Vermont during a State of Emergency related to COVID-19. A temporary license permits a health care worker to practice in Vermont for 90 days."

Medicaid Law, Policy and Guidance Related to Telehealth

Department of Vermont Health Access: Vermont Medicaid Payments for Telephonic Services Furnished During the Emergency Response to COVID-19: Reference Charts (*updated as of* 5/29/20)

- "The reference charts below indicate the Medicaid-covered specific services that have been reviewed and approved by the Department of Vermont Health Access through May 28rd, 2020, for the temporary new coverage and reimbursement of these services when delivered telephonically during the State of Emergency, provided the services are medically necessary and clinically appropriate for delivery by telephone."

Department of Vermont Health Access: Vermont Medicaid Payments for Telephonic Services Furnished During the Emergency Response to COVID-19 (*updated as of* 5/29/20)

- Effective Monday, March 23rd, Vermont Medicaid will be implementing several changes in order to support Medicaid-participating providers in responding effectively to the emergency produced by coronavirus disease 2019 (COVID-19).

Providing coverage and reimbursement for the use of 3 'triage codes' to allow providers to receive payment for brief virtual communication services to determine whether an office visit or other service is needed.

Providing reimbursement at the same rate for medically necessary, clinically appropriate services (e.g. new patient and established patient office visits, psychotherapy, etc.) delivered by telephone as the rate currently established for Medicaid-covered services provided through telemedicine/face-to-face as long as the claim is submitted to Vermont Medicaid with a V3 modifier (to indicate "service delivered via telephone, i.e. audio-only") and a place of service code of "99 – other."

- NEW EXAMPLE: During the Emergency, Vermont Medicaid would expect to see claims submitted for certain medically necessary and clinically appropriate services provided by Vermont Medicaid - participating providers to Vermont Medicaid members telephonically with claims indicating procedure codes of 97161-97164 [physical therapy], 97165-97168 [occupational therapy], 92507 & 92521-92524 [speech therapy] with the new V3 modifier and a place of service code of 99- other."

Department of Vermont Health Access Frequently Asked Questions: Vermont Medicaid Payments for Telephonic Services Furnished During the Emergency Response to COVID-19 (*updated as of* 4/23/20)

- Update summary: "Medicaid-participating providers are encouraged to review the Rule on telehealth and the definition of telemedicine specifically. Audio-only (delivered by telephone), & brief communication services (the G 'triage' codes) are not telemedicine and this distinction impacts the place of service that is appropriate (more information below)."
- "As telemedicine (2-way, real-time, audio and video/visual) may not be possible for Medicaid providers to reach all their Medicaid members requiring care during this Emergency, Vermont Medicaid will be temporarily providing reimbursement for medically necessary and clinically appropriate services delivered by communications technology, including telephone, from a date of service of 3/13/2020.1
- Q: Which providers may bill for the triage codes? For example, would a cardiologist be able to use telemedicine?

  A: The G codes – brief communication technology-based services – for triage may be billed by a physician or other qualified health care professional who may report evaluation and management (E/M) services. Please note: Vermont Medicaid has not, at this time, added licensed mental health clinicians to the provider types who can bill G2010 (remote evaluation of a recorded image or video).
- Q: How do I find the currently established rate for Medicaid covered services provided through telemedicine?

  A: Rates for services delivered via telemedicine are the same as those provided face-to-face. The reimbursement rates for all service codes are posted on DVHA's fee schedule website.

Vermont Medicaid Continuing Telemedicine Coverage for Dental Services & Temporary New Telephonic Coverage (4/10/20)

- "Vermont Medicaid is encouraging Medicaid-participating providers, including dentists, to utilize telemedicine for delivery of medically necessary and clinically appropriate services to Medicaid members when possible.
- Importantly, Vermont Medicaid reimburses dental services delivered via telemedicine (real-time audio and video interactive communication) at the same rate as the service being delivered in a face-to-face setting. This service delivery method is allowed any time and is not limited to the current public health Emergency.
- New Coverage of Brief Communication Services for Dental Providers: During the Emergency, Vermont Medicaid is providing temporary new coverage and reimbursement for the use of three 'triage codes' to allow dental providers to receive payment for brief virtual communication services used to determine whether an office visit or other service is needed.

Dental providers may bill the following G codes:

  - G0071 (for Federally Qualified Health Centers and Rural Health Clinics only) and G2012 & G2010 (for providers located in non-FQHC/RHC settings). G2012 is the 'virtual check-in,' including via telephone, and G2010 is the remote evaluation of a recorded image or video.
  - These codes are often referred to as 'triage codes' because they are intended to allow providers to be reimbursed for brief consultations between patient and provider via telephone or other telecommunications device to determine whether an office visit or other service is needed."

Department of Vermont Health Access Vermont Medicaid Emergency Response to COVID-19 (3/20/20)

- Coverage and Reimbursement Response

Coverage and reimbursement for the use of 3 'triage codes' to allow providers to receive payment for brief virtual communication services used to determine whether an office visit or other service is needed. These codes, G0071 (virtual communication services for FQHCs and RHCs3,4,5), G2012 (i.e., virtual check-in via telephone) and G2010 (i.e., remote evaluation of a recorded video or image) for providers in non-FQHC/RHC settings, are often referred to as 'triage codes' because they are intended to allow providers to be reimbursed when a patient checks in with the provider via telephone or other telecommunications device to decide whether an office visit or other service is needed.

Providing reimbursement at the same rate for medically necessary, clinically appropriate services (e.g. new patient and established patient office visits, psychotherapy, etc.) delivered by telephone as the rate currently established for Medicaid-covered services provided through telemedicine/face-to-face.

VIRGINIA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Virginia House Bill No. 2374 (passed 3/23/23)

- "§54.1-3420.3. Prohibition on refusing to fill prescription from telemedicine provider.
  - A. A pharmacy shall not implement or enforce a policy that prevents a pharmacist from dispensing a prescription solely on the basis of the prescriber's use of a telemedicine platform to provide services.
  - B. A pharmacist shall not prioritize dispensing a prescription from a prescriber who does not use telemedicine over dispensing a prescription from a prescriber who does use telemedicine solely on the basis of the prescriber's use of a telemedicine platform to provide services."

Virginia House Bill No. 1754 (passed 3/22/23) / Senate Bill No. 1119 (passed 3/22/23)

- "A. The provisions of this chapter shall not prevent or prohibit:
  - 35. Any ~~practitioner of a profession regulated by the Board of Medicine who is licensed~~ doctor of medicine or osteopathy, physician assistant, respiratory therapist, occupational therapist, or nurse practitioner who would otherwise be subject to licensure by the Board who holds an active, unrestricted license in another state or the District of Columbia and who is in good standing with the applicable regulatory agency in that state or the District of Columbia from engaging in the practice of that profession in the Commonwealth with a patient located in the Commonwealth when
    - (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in §38.2-3418.16 and
    - (ii) the patient is a current patient of the practitioner with whom the practitioner has previously established a practitioner-patient relationship and the practitioner has performed an in-person examination of the patient within the previous 12 months. For purposes of this subdivision, if such practitioner with whom the patient has previously

established a practitioner-patient relationship is unavailable at the time in which the patient seeks continuity of care, another practitioner of the same subspecialty at the same group practice with access to the patient's treatment history may provide continuity of care using telemedicine services until the practitioner with whom the patient has a previously established relationship becomes available. For the purposes of this subdivision, "practitioner of the same subspecialty" means a practitioner who utilizes the same subspecialty taxonomy code designation for claims processing."

Virginia House Bill No. 1918 (engrossed 1/30/23) / Senate Bill No. 1157 (introduced 1/10/23)

- "§38.2-3418.16. Coverage for telemedicine services.
  - A. Notwithstanding the provisions of §38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telemedicine services and audio-only telehealth services, as provided in this section.
  - B. As used in this section:
    "Audio-only telehealth services" means counseling interventions designed to facilitate a patient's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health and development by a mental health professional as defined in §54.1-2400.1, delivered to a patient via audio-only means when no other means of real-time two-way audio-visual or other telecommunications or electronic communications are available and operational to the patient or the patient does not have the capability to use such real-time two-way means of communication.
  - C. An insurer, corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services or audio-only telehealth services and is not provided through face-to-face consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services or audio-only telehealth services.
  - D. An insurer, corporation, or health maintenance organization shall not be required to reimburse the treating provider or the consulting provider for technical fees or costs for the provision of telemedicine services or audio-only telehealth services; however, such insurer, corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services [~~or audio-only telehealth services~~] on the same basis that the insurer, corporation, or health maintenance organization is responsible for coverage for the provision of the same service through face-to-face consultation or contact. No insurer, corporation, or health maintenance organization shall require a provider to use proprietary technology or applications in order to be reimbursed for providing telemedicine services or audio-only telehealth services.

- E. Nothing shall preclude the insurer, corporation, or health maintenance organization from undertaking utilization review to determine the appropriateness of telemedicine services or audio-only telehealth services, provided that such appropriateness is made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan. Any such utilization review shall not require pre-authorization of emergent telemedicine services or audio-only telehealth services.
- F. An insurer, corporation, or health maintenance organization may offer a health plan containing a deductible, copayment, or coinsurance requirement for a health care service provided through telemedicine services or audio-only telehealth services, provided that the deductible, copayment, or coinsurance does not exceed the deductible, copayment, or coinsurance applicable if the same services were provided through face-to-face diagnosis, consultation, or treatment.
- G. No insurer, corporation, or health maintenance organization shall impose any annual or lifetime dollar maximum on coverage for telemedicine services or audio-only telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.
- H. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2021, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made. The requirements of this section regarding audio-only telehealth services shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2024, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made."

Virginia House Bill No. 1879 (introduced 1/11/23) / Senate Bill No. 1301 (introduced 1/11/23)

- "B. A managed care health insurance plan licensee shall cover out-of-network mental health care services to a covered person if any of the following conditions are met:
  - 2. The majority of the managed care health insurance plan licensee's mental health care providers within 25 miles of a covered person or, if appropriate for the covered person, available via telemedicine who have experience treating the general age group of the covered person are no longer accepting new patients or have wait-lists to receive mental health care services.
  - 3. The managed care health insurance plan licensee does not have a mental health care provider within 25 miles of a covered person or, if appropriate for the covered person, available via telemedicine who

- (i) has experience or expertise in treating patients who share the emotionally distressing experiences or demographics, including demographics related to the groups protected from unlawful discrimination by subdivision B 1 of §2.2-3900, of the covered person seeking mental health care services and
- (ii) is capable of providing such services within the next 31 days. For the purposes of this subdivision, "emotionally distressing experiences" includes victimization by sexual violence, domestic abuse, sex trafficking, child pornography, physical or emotional harassment, or any other Class 1 or Class 2 felony conviction."

Virginia House Bill No. 1787 (introduced 1/10/23) / Senate Bill No. 1084 (introduced 1/11/23)

- "That §54.1-3303 of the Code of Virginia is amended and reenacted as follows:
  - A practitioner may establish a bona fide practitioner-patient relationship through asynchronous interaction for the purpose of prescribing any Schedule VI controlled substances if the patient chooses not to seek reimbursement by a health plan or carrier for the prescribing and if such prescribing complies with federal requirements for the practice of telemedicine."

Virginia Senate Bill No. 1105 (introduced 1/11/23)

- "C. Every nurse practitioner other than a certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician… Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in §38.2-3418.16."

Virginia Senate Bill No. 788 (introduced 11/20/22)

- "§4.1-1601. Certification for use of cannabis for treatment.
  - A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audiovisual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing."

Virginia Senate Bill No. 672 (passed 5/27/22)

- "§54.1-3303.1. Initiating of treatment with and dispensing and administering of controlled substances by pharmacists.
  - *F. A pharmacist may initiate treatment with, dispense, or administer drugs, devices, controlled paraphernalia, and other supplies and equipment pursuant to this section through telemedicine services, as defined in § 38.2-3418.16, in compliance with all requirements of §54.1-3303 and consistent with the applicable standard of care.*"

Virginia House Bill No. 81 (passed 4/27/22)

- "B. The Board shall develop, amend and maintain, in consultation with the Virginia Telehealth Network, as a component of the State Health Plan a Statewide Telehealth Plan to promote an integrated approach to the introduction and use of telehealth services and telemedicine services. The Board shall contract with the Virginia Telehealth Network, or another Virginia-based nongovernmental organization focused on telehealth if the Virginia Telehealth Network is no longer in existence, to (i) provide direct consultation to any advisory groups and groups tasked by the Board with implementation and data collection as required by this section, (ii) track implementation of the Statewide Telehealth Plan, and (iii) facilitate changes to the Statewide Telehealth Plan as accepted medical practices and technologies evolve.
- C. The Statewide Telehealth Plan shall include but not be limited to provisions for:
    - 1. The promotion of the inclusion of telehealth services and telemedicine services in the operating procedures of hospitals, primary care facilities, public primary and secondary schools, state-funded post-secondary schools, emergency medical services agencies, and such other state agencies and practices deemed necessary by the Board;
    - 2. The promotion of the use of remote patient monitoring services and store-and-forward technologies, including in cases involving patients with chronic illness;
    - 3. A uniform and integrated set of proposed criteria for the use of telehealth technologies for prehospital and interhospital triage and transportation of patients initiating or in need of emergency medical services developed by the Board in consultation with the Department of Health Professions, the Virginia College of Emergency Physicians, the Virginia Hospital and Healthcare Association, the Virginia Chapter of the American College of Surgeons, the American Stroke Association, the American Telemedicine Association, and prehospital care providers. The Board may revise such criteria from time to time to incorporate accepted changes in medical practice and appropriate use of new and effective innovations in telehealth or telemedicine technologies, or to respond to needs indicated by analysis of data on patient outcomes. Such criteria shall be used as a guide and resource for health care providers and are not intended to establish, in and of themselves, standards of care or to abrogate the requirements of §8.01-581.20. A decision by a health care provider to deviate from the criteria shall not constitute negligence per se;
    - 4. A strategy for integration of the Statewide Telehealth Plan with the State Health Plan, the Statewide Emergency Medical Services Plan, the Statewide Trauma Triage Plan, and the Stroke Triage Plan to support the purposes of each plan;
    - 5. A strategy for the maintenance of the Statewide Telehealth Plan through (i) the development of an innovative payment model for emergency medical services that covers the transportation of a patient to a destination providing services of appropriate patient acuity and facilitates in-place treatment of a patient at the scene of an emergency response or via telehealth services and telemedicine services, where appropriate; (ii) the development of collaborative and uniform operating procedures for establishing and recording informed patient consent for the use of telehealth services and telemedicine services that are easily accessible by those medical professionals engaging in telehealth services and telemedicine services; and (iii) appropriate liability protection for providers involved in such telehealth and telemedicine consultation and treatment; and

- 6. A strategy for the collection of data regarding the use of telehealth services and telemedicine services in the delivery of inpatient and outpatient services, treatment of chronic illnesses, remote patient monitoring, and emergency medical services to determine the effect of use of telehealth services and telemedicine services on the medical service system in the Commonwealth, including (i) the potential for reducing unnecessary inpatient hospital stays, particularly among patients with chronic illnesses or conditions; (ii) the impact of the use of telehealth services and telemedicine services on patient morbidity, mortality, and quality of life; (iii) the potential for reducing unnecessary prehospital and interhospital transfers; and (iv) the impact on annual expenditures for health care services for all payers, including expenditures by third-party payers and out-of-pocket expenditures by patients."

Virginia Senate Bill No. 663 (passed 4/11/22)

- "29. A provision for payment of the originating site fee to emergency medical service agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located."

Virginia Senate Bill No. 369 (passed 4/27/22)

- "The provisions of this chapter shall not prevent or prohibit:
- 33. Any practitioner of a profession regulated by the Board of Medicine who is licensed in another state or the District of Columbia and who is in good standing with the applicable regulatory agency in that state or the District of Columbia from engaging in the practice of that profession in the Commonwealth with a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in §38.2-3418.16 and (ii) the patient is a current patient of the practitioner with whom the practitioner has previously established a practitioner-patient relationship and the practitioner has performed an in-person examination of the patient within the previous 12 months. For the purposes of this subdivision, if a patient is (a) an enrollee of a health maintenance organization that contracts with a multispecialty group of practitioners, each of whom is licensed by the Board of Medicine, and (b) a current patient of at least one practitioner who is a member of the multispecialty group with whom such practitioner has previously established a practitioner-patient relationship and of whom such practitioner has performed an in-person examination within the previous 12 months, the patient shall be deemed to be a current patient of each practitioner in the multispecialty group with whom each such practitioner has established a practitioner-patient relationship."

Executive Order No. 11 (passed 1/20/22)

- "Therefore, on this date, January 20, 2022, I declare that a limited state of emergency exists in the Commonwealth of Virginia due to COVID-19, a communicable disease of public health threat and its impact on the health care system and its workforce. The effects of COVID-19 constitute a disaster as described in § 44-146.16 of the Code of Virginia (Code). By virtue of the authority vested in me by Article

V of the Constitution of Virginia and by § 44-146.17 of the Code, I declare that a limited state of emergency exists in the Commonwealth of Virginia.

- This Executive Order shall be effective upon its signing and shall be in effect until February 21st 2022, unless sooner amended or rescinded by further executive order or directive."

Virginia Senate Bill No. 170 (introduced 1/10/22)

- "Be it enacted by the General Assembly of Virginia:
    - 1. § 1. That the Department of Health shall amend the Statewide Telehealth Plan to require health care providers providing telehealth services to directly contact and coordinate with emergency services in accordance with the standard of care that is appropriate to the patient's situation and to the services rendered during the telehealth visit."

Virginia Senate Bill 5080: An Act to amend and reenact §§32.1-325, 38.2-3418.16, and 38.2-4319, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to telemedicine services. (passed 11/9/20)

- Be it enacted by the General Assembly of Virginia:

A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in §38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

For the purposes of this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located.

VDH COVID-19 Interim Guidance for Dental Health Care Personnel (6/9/20)

- "Contact all patients prior to dental treatment to perform telephone triage to assess the patient's dental condition and determine whether the patient needs to be seen in a dental setting or if they can use teledentistry options.
- Hygiene Checks:

Minimize in-person education and counseling after hygiene checks. Schedule a phone or telehealth visit with the patient if follow-up is required."

Behavioral Health Telehealth Services Decision Tree (4/10/20)

- During the Governor's COVID-19 State of Emergency period, DMAS strongly encourages behavioral health providers to utilize telehealth or telephonic communication unless clinical judgement determines that an in-person visit is indicated or when the individual lacks connectivity. The decision tree at the above link details how providers should utilize telehealth for behavioral health services.

Virginia House Bill 1332: An Act to amend the Code of Virginia by adding a section numbered 32.1-122.03:1, relating to Statewide Telehealth Plan. (passed 4/6/20)

- "The Board shall develop, by January 1, 2021, and maintain as a component of the State Health Plan a Statewide Telehealth Plan to promote an integrated approach to the introduction and use of telehealth services and telemedicine services.
- The Statewide Telehealth Plan shall include provisions for:

The promotion of the inclusion of telehealth services and telemedicine services in the operating procedures of hospitals, primary care facilities, public primary and secondary schools, state-funded post-secondary schools, emergency medical services agencies, and such other state agencies and practices deemed necessary by the Board;

The promotion of the use of remote patient monitoring services and store-and-forward technologies, including in cases involving patients with chronic illness […]

A strategy for integration of the Statewide Telehealth Plan with the State Health Plan, the Statewide Emergency Medical Services Plan, the Statewide Trauma Triage Plan, and the Stroke Triage Plan to support the purposes of each plan;

A strategy for the maintenance of the Statewide Telehealth Plan through (i) the development of an innovative payment model for emergency medical services that covers the transportation of a patient to a destination providing services of appropriate patient acuity and facilitates in-place treatment of a patient at the scene of an emergency response or via telehealth services and telemedicine services, where appropriate; (ii) the development of collaborative and uniform operating procedures for establishing and recording informed patient consent for the use of telehealth services and telemedicine services that are easily accessible by those medical professionals engaging in telehealth services and telemedicine services; and (iii) appropriate liability protection for providers involved in such telehealth and telemedicine consultation and treatment; and

A strategy for the collection of data regarding the use of telehealth services and telemedicine services in the delivery of inpatient and outpatient services, treatment of chronic illnesses, remote patient monitoring, and emergency medical services to determine the effect of use of telehealth services and telemedicine services on the medical service system in the Commonwealth, including (i) the potential for reducing unnecessary inpatient hospital stays, particularly among patients with chronic illnesses or conditions; (ii) the impact of the use of telehealth services and telemedicine services on patient morbidity, mortality, and quality of life; (iii) the potential for reducing unnecessary prehospital and interhospital transfers; and (iv) the impact on annual expenditures for health care services for all payers, including expenditures by third-party payers and out-of-pocket expenditures by patients."

Governor Northam Announces Additional Actions to Address COVID-19 (3/19/20)

- "Expanding access to telehealth services, including allowing Medicaid reimbursement for providers who use telehealth with patients in the home."

State Licensure Laws, Policy, and Guidance

Virginia Senate Bill No. 802 (passed 3/27/23) / House Bill No. 1433 (passed 3/27/23)

- "§54.1-3500.1. Counseling Compact
  - The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Counseling Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:
  - Article VII. Compact Privilege to Practice Telehealth.
    - A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Article III and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.
    - B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State."

Virginia House Bill No. 2033 (passed 3/23/23)

- "§54.1-2606. Audiology and Speech-Language Pathology Interstate Compact; purpose.

  The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Audiology and Speech-Language Pathology Interstate Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:

  AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT

  The purpose of this Compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
- §54.1-2610. Compact privilege to practice telehealth.

  Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with § 54.1-2608 and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in this Compact and rules promulgated by the Commission."

Virginia Senate Bill No. 436 (passed 4/27/22)

- " B. The Board shall develop, amend and maintain, in consultation with the Virginia Telehealth Network, as a component of the State Health Plan a Statewide Telehealth Plan to promote an integrated approach to the introduction and use of telehealth services and telemedicine services. The Board shall [contract with] the Virginia Telehealth Network, or another Virginia-based nongovernmental organization focused on telehealth if the Virginia Telehealth Network is no longer in existence, to (i) provide direct consultation to any advisory groups and groups tasked by the Board with implementation and data collection as required by this section, (ii) track implementation of the Statewide Telehealth Plan, and (iii) facilitate changes to the Statewide Telehealth Plan as accepted medical practices and technologies evolve.

- Any [doctor of medicine or osteopathy, physician assistant, or nurse practitioner who would otherwise be subject to licensure] by the Board who [holds an active, unrestricted license] in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in §37.2-100, from engaging in the practice of his profession and providing behavioral health services to a patient located in the Commonwealth [in accordance with the standard of care] when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in §38.2-3418.16 and (ii) the practitioner has previously established a practitioner-patient relationship with the patient [and has performed an in-person evaluation of the patient within the previous year] . A practitioner who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the practitioner began providing such services to such patient.
- Any practitioner of a profession regulated by the Board who is licensed in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in §37.2-100, to a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in §38.2-3418.16 and (ii) the practitioner has previously established a practitioner-patient relationship with the patient. A practitioner who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the practitioner began providing such services to such patient.
- Any psychologist who is licensed in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in §37.2-100, to a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the psychologist has previously established a practitioner-patient relationship with the patient. A psychologist who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the psychologist began providing such services to such patient.
- Any person who is licensed to practice as a clinical social worker in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in §37.2-100, to a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in §38.2-3418.16 and (ii) the clinical social worker has previously established a practitioner-patient relationship with the patient. A person who is licensed to practice as clinical social worker who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the clinical social worker began providing such services to such patient."

Virginia House Bill No. 264 (enrolled 4/11/22)

- "A. The provisions of this chapter shall not prevent or prohibit:
  - 33. Any practitioner of a profession regulated by the Board of Medicine who is licensed in another state or the District of Columbia and who is in good standing with the applicable regulatory agency in that state or the District of Columbia from engaging in the practice of that profession in the Commonwealth with a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in §38.2-3418.16 and (ii) the patient is a current patient of the practitioner with whom the practitioner has previously established a practitioner-patient relationship and the practitioner has performed an in-person examination of the patient within the previous 12 months. For the purposes of this subdivision, if a patient is (a) an enrollee of a health maintenance organization that contracts with a multispecialty group of practitioners, each of whom is licensed by the Board of Medicine, and (b) a current patient of at least one practitioner who is a member of the multispecialty group with whom such practitioner has previously established a practitioner-patient relationship and of whom such practitioner has performed an in-person examination within the previous 12 months, the patient shall be deemed to be a current patient of each practitioner in the multispecialty group with whom each such practitioner has established a practitioner-patient relationship."

Virginia House Bill No. 537 (passed 4/8/22)

- "Any doctor of medicine or osteopathy, physician assistant, or nurse practitioner who would otherwise be subject to licensure by the Board who holds an active, unrestricted license in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in §37.2-100, from engaging in the practice of his profession and providing behavioral health services to a patient located in the Commonwealth in accordance with the standard of care when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in §38.2-3418.16 and (ii) the practitioner has previously established a practitioner-patient relationship with the patient and has performed an in-person evaluation of the patient within the previous year. A practitioner who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the practitioner began providing such services to such patient.
- Any practitioner of a profession regulated by the Board who is licensed in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in §37.2-100, to a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in §38.2-3418.16 and (ii) the practitioner has previously established a practitioner-patient relationship with the patient. A practitioner who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services

pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the practitioner began providing such services to such patient.

- Any psychologist who is licensed in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in §37.2-100, to a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the psychologist has previously established a practitioner-patient relationship with the patient. A psychologist who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the psychologist began providing such services to such patient.
- Any person who is licensed to practice as a clinical social worker in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in §37.2-100, to a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in §38.2-3418.16 and (ii) the clinical social worker has previously established a practitioner-patient relationship with the patient. A person who is licensed to practice as clinical social worker who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the clinical social worker began providing such services to such patient."

Virginia House Bill No. 1953 (passed 3/18/21)

- "A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient, provided that, in cases in which the practitioner has performed the examination required pursuant to clause (iii) by use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine."

Executive Order #57 (4/17/20)

- "Health care practitioners with an active license issued by another state may provide continuity of care to their current patients who are Virginia residents through telehealth services.
- A healthcare practitioner may use any non-public facing audio or remote communication product that is available to communicate with patients. This exercise of discretion applies to telehealth provided for any reason regardless of whether the telehealth service is related to the diagnosis and treatment of COVID-19."

Virginia House Bill 1701: An Act to require the Department of Health to determine the feasibility of the establishment of a Medical Excellence Zone Program and to require the Department of Health Professions to pursue reciprocal agreements with states contiguous with the Commonwealth for licensure for certain primary care practitioners under the Board of Medicine. (passed 3/18/20)

- "Be it enacted by the General Assembly of Virginia:

That the Department of Health Professions shall pursue the establishment of reciprocal agreements with states that are contiguous with the Commonwealth for the licensure of doctors of medicine, doctors of osteopathic medicine, physician assistants, and nurse practitioners. Reciprocal agreements shall only require that a person hold a current, unrestricted license in the other jurisdiction and that no grounds exist for denial based on §54.1-2915 of the Code of Virginia. The Department of Health Professions shall report on its progress in establishing such agreements to the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2020."

Virginia Department of Health Professions COVID-19 Announcements (3/12/20)

- "In response to Governor Northam's declared state of emergency regarding COVID-19, and as authorized by Executive Order 42, a license issued to a health care practitioner by another state, and in good standing with such state, shall be deemed to be an active license issued by the Commonwealth to provide health care or professional services as a health care practitioner of the same type for which such license is issued in another state, provided such health care practitioner is engaged by a hospital, licensed nursing facility, or dialysis facility in the Commonwealth for the purpose of assisting that facility with public health and medical disaster response operations."

Medicaid Law, Policy and Guidance Related to Telehealth

Virginia House Bill No. 1602 (passed 3/21/23) / Senate Bill No. 1418 (passed 3/21/23)

- "26. A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services, as defined in §38.2-3418.16, regardless of the originating site or whether the patient is accompanied by a health care provider at the time such services are provided. No health care provider who provides health care services through telemedicine services shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

  For the purposes of this subdivision, a health care provider duly licensed by the Commonwealth who provides health care services exclusively through telemedicine services shall not be required to maintain a physical presence in the Commonwealth to be considered an eligible provider for enrollment as a Medicaid provider.

  For the purposes of this subdivision, a telemedicine services provider group with health care providers duly licensed by the Commonwealth shall not be required to have an in-state service address to be eligible to enroll as a Medicaid vendor or Medicaid provider group."

Medicaid Memo: Developmental Disabilities (DD) and Commonwealth Coordinated Care (CCC)Plus Waivers: Provider Flexibilities Related to COVID-19 (3/11/21)

- "Flexibilities that will change effective May 1, 2021 Beginning, May 1, 2021, in-person visits will be required as outlined below. In the event the member refuses the in-person visit, the provider shall document, in the member's record, the reason the face-to-face visit could not be made and a telehealth visit should be conducted.
- Newly enrolled members in the waiver or waiver service. In-person visits will be required for anyone newly enrolled in the waiver or in a waiver service with effective dates of May 1, 2021 or after. This will ensure thorough assessments and adequate plans of care are established in collaboration with the member. In-person visits shall be required every six months for the duration of the PHE. Telehealth visits may be conducted for visits that occur in between the six month in-person visits.
- Flexibilities that will end effective August 1, 2021

Allow Community Engagement (CE)/Community Coaching (CC) to be provided through telephonic/video-conferencing for individuals who have the technological resources and ability to participate with remote CE/CC staff via virtual platforms (e.g., ZOOM, UberConference, etc.) in order to build computer skills to connect them with other community members.

Allow In-home Support services to be delivered via an electronic method or telehealth (i.e., telephonic/video-conferencing) of service delivery.

Allow Group Day Services to be provided through video conferencing for individuals who have the technological resources and ability to participate with remote Group Day staff via virtual platforms (e.g., ZOOM, UberConference, etc.) in order to build skills to connect them with other community members and maintain current independent living skills. These services will not be allowed to be provided telephonically.

- Flexibilities that will continue until further notice in order to maximize provider staffing and access to care:

CCC Plus Waiver members who receive less than one service per month will not be discharged from a HCBS waiver. Waiver individuals shall receive monthly monitoring when services are furnished on a less than monthly basis. Monthly monitoring may be in the form of telehealth visits including phone calls. As clarified in the DMAS Medicaid Memo, dated May 15, 2020, monthly monitoring shall be performed by the CCC Plus managed care plan, or DMAS for fee-for-service (FFS), when the member does not receive a waiver service monthly

4. Allow Therapeutic Consultation activities that do not require direct intervention by the behaviorist to be conducted through telephonic/video-conferencing methods.

Electronic signatures will be accepted for visits that are conducted through telehealth in accordance with the previously established requirements.

For services facilitation providers, the consumer (Individual) Training visit (S5109) and Services facilitation training (S5116) may be conducted using telehealth methods."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (4/20/20, 4/30/20, 6/22/20, 12/21/20)

- "Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

In-home habilitation, specifically for the service of in-home supports

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers)."

Therapeutic Consultation, Group Day Support, Community Engagement, Community Coaching

Medicaid Memo: COVID-19 Flexibility Continuations Until 1/20/2021 (10/22/20)

- "DMAS will continue to extend the following flexibilities until January 20, 2021:

DMAS will allow the use of telehealth visits for therapy evaluations unless it is determined a face-to-face evaluation is warranted. The therapist performing the evaluation must be able to determine the appropriate durable medical equipment via telehealth

During the federal emergency period, current telehealth policies and flexibilities will continue as described in prior Medicaid Memoranda issued on March 19, 2020 (Provider Flexibilities Related to COVID-19) and May 15, 2020 (New Administrative Provider Flexibilities Related to COVID19) and most recently on September 30, 2020 (Updates on COVID-19 Continuation and Timelines for Behavioral Health and Addiction and Recovery Treatment Services). DMAS is working with state and federal authorities to develop and transition into a long-term telehealth policy that will be implemented after the emergency period. Information on that policy and transition plan will be provided in a future Medicaid Memorandum."

Updates on COVID-19 Continuation and Timelines for Behavioral Health and Addiction and Recovery Treatment Services (9/30/20)

- Telehealth Place of Service and Modifier Billing Practice Providers delivering services via telehealth, including telephonic (audio only) communications, shall bill and submit a claim as they normally would in their regular practice. The Place of Service (POS) that the provider usually bills for telehealth shall remain the same as well. DMAS is not requiring use of telehealth modifiers in order to minimize systems errors during this critical time. Providers using telehealth POS (02) or modifiers GT (interactive audio and video telecommunications system) or GQ (synchronous telecommunications system) based on guidance provided prior to COVID, shall continue to use these when billing for services Medicaid Memo: Updates on COVID-19 Continuation and Timelines September 30, 2020 Page 2 delivered via telehealth. DMAS will issue a memo on specific billing policies for telehealth delivery at a future date.

COVID-19 Continuations Until 8/31/20 and 10/22/20 (*updated as of* 8/5/20)

- DMAS will extend the following flexibilities until October 22, 2020.

DMAS will allow the use of telehealth visits for therapy evaluations unless it is determined a face-to-face evaluation is warranted. The therapist performing the evaluation must be able to determine the appropriate durable medical equipment via telehealth."

Clarifications and Changes: Group-Based Service Delivery in Behavioral Health and Addiction and Recovery Treatment Services (ARTS) during the COVID-19 State of Emergency (7/1/20)

- As of the date of publication of this memo, DMAS will resume reimbursement for face-to-face delivery of group-based services. DMAS advises that providers carefully weigh the vulnerabilities and benefits of resuming face-to-face group services. Group-based providers are reminded that they retain, until further notice, the ability to offer services individually or through individual or group tele-health or telephonic contact.

Home and Community Based Services Waivers (HCBS) COVID-19 Policy Continuation and Timeline (6/26/20)

- "Flexibilities that will continue until January 26, 2021.
- Personal care, respite, and companion providers in the agency- or consumer-directed program, who are providing services to individuals over the age of 18, may work for up to sixty (60) days, as opposed to the current 30-day limit in Virginia Code § 32.1-162.9:1, while criminal background registries are checked […] Agency providers shall conduct weekly supervisory visits through telehealth methods when the aide works prior to receiving criminal background registry results.
- Waiver individuals who receive fewer than one service per month will not be discharged from a HCBS waiver. Waiver individuals shall receive monthly monitoring when services are furnished on a less than monthly basis. Monthly monitoring may be in the form of telehealth visits including phone calls.
- Allow an electronic method of service delivery (e.g, telephonic) to be provided remotely in the home setting for case management and monthly monitoring in order to meet the reasonable indication of need for services requirement in 1915 (c) waivers.
- Allow In-home Support services to be delivered via an electronic method (i.e., "telehealth") of service delivery (e.g., telephonic or audio-visual connection). This allowance is only permitted for those authorizations in affect prior to the emergency declaration on March 12, 2020. Telephonic In-home Support service delivery will continue until July 31, 2020."

Behavior Therapy Provider Flexibility Update (6/11/20)

- Previous memos indicated that if the provider was only providing services through telephonic communications, the provider shall bill a maximum of one (1) unit per member per day, regardless of the amount of time of the phone call(s). When billing for Behavioral Therapy, providers shall refer to the Behavioral Therapy Services Reimbursement Table on page 23 of the Behavioral Therapy DMAS Manual. One service unit equals 15 minutes for this level of care. As of the date of this memo, Behavioral Therapy providers do not have a 1 unit max limit per day for audio-only communications."

New 1135 Waiver and Administrative Provider Flexibilities Related to COVID-19 (5/26/20)

- "All LTSS screenings are to be conducted using telehealth methods either through the secure app called "Doxy.me" operated through the Virginia Department of Health (VDH), or through the use of telephone interviews.
- Evaluators for PASRR Level II and resident reviews are permitted to conduct evaluations telephonically or via other telehealth options.
- PACE sites may use remote technology and telehealth options (including telephone communication) as appropriate, to review or gather member information that would normally be provided as a face-to-face service. These services include: enrollment materials, enrollment consent, telehealth consent, participant assessments (initial, semi-annual, annual, and unscheduled), care planning (interdisciplinary team meetings), daily participant checks, therapy appointments, physician consults, pharmacy renewals, and monitoring to ensure all Medicare and Medicaid services are being provided. The PACE patient liability due date has not changed.
- DMAS will allow the use of telehealth visits for therapy evaluations unless it is determined a face-to-face evaluation is warranted. The therapist performing the evaluation must be able to determine the appropriate durable medical equipment via telehealth."

Developmental Disabilities (DD) and Commonwealth Coordinated Care (CCC) Plus Waivers: Additional Provider Flexibilities and Retainer Payments Related to COVID-19 (5/15/20)

- "The home settings include licensed settings delivering Group Home Residential, Sponsored Residential and Supported Living as well as the private, unlicensed home of the individual. These services may be delivered via telehealth during the emergency for those individuals who were authorized for these services effective on or before 3/12/20. This allowance is only permitted for those authorizations in effect prior to 3/12/20.
- The telehealth service may be provided for individuals who have the technological resources and ability to participate with remote CE/CC staff via virtual platforms (e.g., ZOOM, UberConference, etc.) in order to build computer skills to connect them with other community members. Some examples of the use of telehealth technology for the delivery of these services might be:

Distributing garden kits to DD waiver individuals to start in their home and linking them to garden experts for weekly online meeting and instruction.

Partnering with a retirement facility and connecting DD waiver individuals to a friend in the retirement facility for weekly conversations about daily living, special interests/hobbies, exercising together through videos/video games, or participating in online board games.

Completing career exploration online such as career scope assessments, reviewing interview skills, and participating in teleconference discussion with community members in fields of career interest.

Coordinating with volunteer agencies to collect and distribute take home volunteer projects such as assembling care packages with online training/instruction from staff, as well as connecting individuals virtually to other volunteers to such discuss projects.

Conversing with others about recent events as we all live this shared experience."

New Administrative Provider Flexibilities Related to COVID-19 (5/15/20)

- "Clarification of Telehealth Coverage In addition to recent guidance on telehealth issued in the March 19, 2020 Provider Memo, "Provider Flexibilities Related to COVID-19," DMAS will now reimburse for additional telehealth services including remote patient monitoring (RPM) for suspected and confirmed cases of COVID-19 and provider to provider consultation including e-consults for all conditions based on clinical judgement.
- The following RPM codes are open for reimbursement:

CPT code 99453: Remote monitoring of physiologic parameter(s) (e.g., weight, blood pressure, pulse oximetry, respiratory flow rate), initial; set-up and patient education for the use of equipment.

CPT code 99454: Remote monitoring of physiologic parameter(s) (e.g., weight, blood pressure, pulse oximetry, respiratory flow rate), initial; device(s) supply with daily recording(s) or programmed alert(s) transmission, each 30 days.

CPT code 99457: Remote patient monitoring treatment management services, clinical staff/physician/other qualified health care professional time in a calendar month requiring interactive communication with the patient/caregiver during the month; initial 20 minutes.

CPT code 99458: Remote patient monitoring treatment management services, clinical staff/physician/other qualified health care professional time in a calendar month requiring interactive communication with the patient/caregiver during the month; additional 20 minutes."

Medicaid Memo: Developmental Disabilities (DD) and Commonwealth Coordinated Care (CCC) Plus Waivers: Provider Flexibilities Related to COVID-19 (4/22/20)

- "Waiver individuals who receive fewer than one service per month will not be discharged from a HCBS waiver. Waiver individuals shall receive monthly monitoring when services are furnished on a less than monthly basis. Monthly monitoring may be in the form of telehealth visits including phone calls.
- For services facilitation providers, the Consumer (Individual) Training (S5109) may be conducted using telehealth methods.
- Face-to-face visit requirements with members are now waived for initial visits and transfers for personal care, respite, and companion services. Face-to-face visits shall be replaced with telehealth methods of communication including phone calls and video conferencing. Documentation of visits conducted through telehealth must meet the standards required for face-to-face visits."

COVID-19 Response - Department of Medical Assistance Services (DMAS) Behavioral Health Providers & Stakeholders (4/22/20)

- "Q: On the 04/02/20, DMAS reported they would be researching resources for financial support for providers. What resources has DMAS found and will DMAS be providing financial resources to providers?

A: Also, there is a federal grant being given to community mental health providers which may assist with developing telehealth practices, to include visual and audio telehealth. More information can be found here: https://www.fcc.gov/covid-19-telehealth-program."

- Q: Have the requirements for assessment updates changed?

A: The requirements for assessment updates have not changed with the exception that the update can be made through telehealth, including telephonic only telehealth. Providers should follow the assessment requirements as described in the Psychiatric Services Manual (for outpatient psychiatric services), the CMHRS Manual (comprehensive needs assessment, case management assessment, and ISP updates) and the ARTS Manual.

- Q: When providing telehealth CMHRS services, is there a minimum duration to bill?

A: There is no minimum duration to bill but a billable service must be provided. For example, attempts for telehealth or telephonic contacts that were unsuccessful would not support a billable service. For traditional behavioral health (i.e. individual, family, and group therapy) services, please continue to bill the amount of time the service was delivered using the correct billing codes to demonstrate the amount or hours/minutes of the session."

Medicaid Memo: Clarification and Changes: Behavioral Health and ARTS Provider Flexibilities Related to COVID-19 (3/27/20)

- "Telehealth Services DMAS will allow for telehealth (including telephonic) delivery of all behavioral health services with several exceptions. Services that will be allowable via telehealth include:

Care coordination, case management, and peer services

All service needs assessments (including the Comprehensive Needs Assessment and the Independent Assessment Certification, and. Coordination Team (IACCT) assessment in mental health and the Multidimensional Assessment in ARTS) and all treatment planning activities

Outpatient psychiatric services

Community Mental Health and Rehabilitation Services (CMHRS)

ARTS

- DMAS is allowing a member's home to serve as the originating site for members. This is particularly important for those who are quarantined, are diagnosed with and/or demonstrating symptoms of COVID-19, and/or are at high risk of serious illness from COVID-19. Clinicians shall use clinical judgment when determining the appropriate use of home as the originating site. The originating site fee will not be available for reimbursement. The telepresenter requirements do not apply when member is at home as the origination site."

COVID-19 Information for Medicaid Members (3/23/20)

- Can I receive behavioral health services through telehealth or by telephone? Virginia Medicaid has issued guidance to providers allowing the following Medicaid services to be offered through telehealth and by telephone: care coordination, case management, peer services, needs assessments, and psychiatric services, including medication management and individual, group, and family therapy.
- I do not have access to smartphones or internet, and I am isolated and need to contact my provider. Will Medicaid cover my visit if it is through my telephone? For most services, telephonic communication will be covered; please contact your managed care organization or Magellan of Virginia if you have questions about a specific service.

Medicaid Memo: Provider Flexibilities Related to COVID-19 (3/19/20)

- "In order to maximize access to medically necessary services during the current public health emergency, DMAS is expanding coverage of telehealth as a method of service delivery. This is an initial policy memo; the agency is working as quickly as possible to leverage additional needed flexibilities in this area; for example, in the area of remote patient monitoring. Medicaid MCOs may offer additional flexibilities."
- "DMAS is waiving the requirement that services delivered via telehealth (real-time, two-way communications) must utilize both audio and visual connection. DMAS is allowing the use of audio connections in addition to audio-visual connections."
- "During the current emergency, DMAS will allow the home as the originating site. This is particularly important for members who are quarantined, those who are diagnosed with or demonstrating symptoms of COVID-19, or those who are at high risk of serious illness from COVID-19. Clinicians shall use clinical judgment when determining the appropriate use of home as the originating site. No originating site fee shall be paid for telehealth in the home."
- "DMAS will allow for telehealth (including telephonic) delivery of all behavioral health services with several exceptions. Services that will be allowable via telehealth include:

"Care coordination, case management, and peer services"

"Service needs assessments (including the Comprehensive Needs Assessment and the IACCT assessment in mental health and the Multidimensional Assessment in ARTS) and all treatment planning activities"

"Outpatient psychiatric services"

"Community mental health and rehabilitation services"

"Addiction Recovery and Treatment Services"

- "The per diem rates for therapeutic group homes, psychiatric residential treatment facilities, and inpatient psychiatric hospitalization will not be billable through telehealth; however, within these services, activities including assessments, therapies (individual, group, family), care coordination, team meetings, and treatment planning are allowable via telehealth."
- "Early Intervention (EI) providers are permitted to use telehealth or remote care delivery for all ongoing services to include developmental services, physical therapy, occupational therapy, and speech-language pathology to include monitoring of successful program and instructional implementation, coaching, treatment teaming and service plan development. Assessments for new cases can be done on a limited basis in person or using synchronous telehealth technologies at the discretion of the local service provider with the child and families consent."
- "During the Governor's State of Emergency, DMAS is allowing the counseling component of Medication Assisted Treatment (MAT) to be provided via telehealth or telephone communication."
- "DMAS will allow a member's home to serve as the originating site for prescription of buprenorphine in accordance with the Ryan Haight Act which allows exceptions in the event of a Public Health Emergency"

WASHINGTON

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Washington Senate Bill No. 5036 (passed 3/30/23)

- "(d) "Established relationship" means the provider providing audio-only telemedicine has access to sufficient health records to ensure safe, effective, and appropriate care services and:
    - (ii) For any other health care service:
        - (A) The covered person has had, within the past two years, at least one in-person appointment, or, until ((~~January~~)) July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or
        - (B) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past two years, at least one in-person appointment, or, until ((~~January~~)) July 1, 2024, at least one real-time

interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine;"

Washington Senate Bill No. 5481 (introduced 1/19/23)

- "NEW SECTION. Sec. 4. TELEMEDICINE AUTHORIZATION.
  - (1) A health care practitioner may provide telemedicine services to a patient located in this state if the services are consistent with the health care practitioner's scope of practice in this state, applicable professional practice standards in this state, and requirements and limitations of federal law and law of this state.
- NEW SECTION. Sec. 5. PROFESSIONAL PRACTICE STANDARD. A health care practitioner who provides telemedicine services to a patient located in this state shall provide the services in compliance with the professional practice standards applicable to a health care practitioner who provides comparable in-person health care in this state. Professional practice standards and law applicable to the provision of health care in this state, including standards and law relating to prescribing medication or treatment, identity verification, documentation, informed consent, confidentiality, privacy, and security, apply to the provision of telemedicine services in this state.
- NEW SECTION. Sec. 6. OUT-OF-STATE HEALTH CARE PRACTITIONER. An out-of-state health care practitioner may provide telemedicine services to a patient located in this state if the out-of-state health care practitioner:
  - (1) Holds a current license or certification required to provide health care in this state or is otherwise authorized to provide health care in this state, including through a multistate compact of which this state is a member; or
  - (2) Provides the telemedicine services:
    - (a) In consultation with a health care practitioner who has a practitioner-patient relationship with the patient; or
    - (b) In the form of a specialty assessment, diagnosis, or recommendation for treatment.
- NEW SECTION. Sec. 7. LOCATION OF CARE—VENUE.
  - (1) The provision of a telemedicine service under this chapter occurs at the patient's location at the time the service is provided."

Washington Senate Bill No. 5335 (introduced 1/12/23)

- "NEW SECTION. Sec. 103. WASHINGTON HEALTH TRUST. The Washington health trust is created within the department. The purpose of the trust is to provide coverage for a set of essential health benefits to all Washington residents.
- NEW SECTION. Sec. 109. PARTICIPATING PROVIDERS.
  - (7) The board shall adopt rules ensuring that payment schedules for care provided via telemedicine, as defined in RCW 70.41.020, are at parity levels with equivalent care provided in person."

Washington House Bill No. 1027 (introduced 1/9/23)

- "(d) "Established relationship" means the provider providing audio-only telemedicine has access to sufficient health records to ensure safe, effective, and appropriate care services and:

- (ii) For any other health care service:
  - (A) The covered person has had, within the past two years, at least one in-person appointment, or, until ((~~January~~)) July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or
  - (B) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past two years, at least one in-person appointment, or, until ((~~January~~)) July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine."

Washington House Bill No. 1079 (introduced 1/9/23)

- "Sec. 3. RCW 28B.20.830 and 2021 c 157 s 9 are each amended to read as follows:
  - (1) The collaborative for the advancement of telemedicine is created to enhance the understanding and use of health services provided through telemedicine and other similar models in Washington state.
  - (7) The collaborative shall consider strategies to promote and expand the use of telemedicine to provide genetic counseling services, especially in rural parts of Washington. The collaborative shall provide a report to the governor and the relevant committees of the legislature by December 1, 2023, with a description of the obstacles to providing genetic counseling services through telemedicine and recommendations for promoting and expanding the use of telemedicine to provide genetic counseling services, especially in rural areas."

Washington House Bill No. 1708 (passed 3/24/22)

- "A hospital that is an originating site for audio-only telemedicine may not charge a facility fee."

Washington House Bill No. 1821 (engrossed 2/8/22)

- A health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2017, shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:
  - (i) The plan provides coverage of the health care service when provided in person by the provider;
  - (ii) The health care service is medically necessary;
  - (iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015;
  - (iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health

care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and
    - (v) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.
- Except as provided in (b)(ii) of this subsection, a health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2021, shall reimburse a provider for a health care service provided to a covered person through telemedicine the same amount of compensation the carrier would pay the provider if the health care service was provided in person by the provider."

Office of Insurance Commissioner Audio-Only Telemedicine Rules (12/1/21)

- "The audio-only telemedicine law requires payers to reimburse providers for audio-only telemedicine services at the same rate of compensation the carrier would pay the provider if the health care service was provided in person by the provider.
- Under new WAC 284-170-433, each patient must consent to be billed for audio-only telemedicine and their consent must be documented in their medical record. According to WAC 284-170-433(6)(b)(iii), consent may be obtained:
    - As part of the process for making the audio-only telemedicine appointment; or
    - Verbally as part of the audio-telemedicine encounter record.
- Consent may be obtained either verbally or in writing by the provider or auxiliary personnel under the provider's general supervision. The patient's initial consent is valid for 12 months before expiring and must be reobtained for each subsequent 12-month period to continue billing for audio-only telemedicine services. The documentation of the patient's consent must be retained for a minimum of five years and made available to payers as needed as a condition for claim payment. WAC 284-170-433(6)(b)(iv) authorizes patients to revoke their consent for billing either verbally or in writing. If a patient revokes their consent, the revocation must also be documented in the patient's medical record and retained for a minimum of five years.
- The new regulations also specify in WAC 284-170-433 (7) that an insurance carrier cannot deny or reduce payment for an audio-visual telemedicine encounter that shifts to audio-only telemedicine due to unanticipated circumstances."
- "A covered person's consent must be obtained prior to initiation of the first audio-only encounter with a provider and may constitute consent to such encounters for a period of up to 12 months. If audio-only encounters continue beyond an initial 12-month period, consent must be obtained from the covered person for each prospective 12- month period."

Washington House Bill No. 1477 (passed 5/13/21)

- "Health plans issued or renewed on or after January 1, 2023, must make next-day appointments available to enrollees experiencing urgent, symptomatic behavioral health conditions to receive covered behavioral health services. The appointment may be with a licensed provider other than a licensed behavioral health professional, as long as that provider is acting within their scope of practice, and may be provided through telemedicine consistent with RCW 48.43.735. Need for urgent symptomatic care is associated with the presentation of behavioral health signs or symptoms that require immediate attention, but are not emergent."

Washington House Bill No. 1196: AN ACT Relating to audio-only telemedicine (passed 5/3/21)

- "A health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2017, shall reimburse a provider for a health care service provided to a covered person through telemedicine
- Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.
    - (i) Except as provided in (b)(ii) of this subsection, a health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2021, shall reimburse a provider for a health care service provided to a covered person through telemedicine the same amount of compensation the carrier would pay the provider if the health care service was provided in person by the provider
- Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate an amount of compensation for telemedicine services that differs from an amount of compensation for in-person services.
- A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee."

Washington Senate Bill No. 5325 (passed 4/16/21)

- "Upon initiation or renewal of a contract with the authority, behavioral health administrative services organizations and managed care organizations shall reimburse a provider for a behavioral health service provided to a covered person through telemedicine or store and forward technology if:
    - (a) The behavioral health administrative services organization or managed care organization in which the covered person is enrolled provides coverage of the behavioral health service when provided in person by the provider; and
    - (b) The behavioral health service is medically necessary.
- (2)(a) If the service is provided through store and forward technology there must be an associated visit between the covered person and the referring provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.
- (b) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the behavioral health administrative services organization, or managed care organization, and the provider.
- (e) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical or behavioral health information from an originating site to the provider at a distant site which results in medical or behavioral health diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and
- (f) "Telemedicine" means the delivery of health care or behavioral health services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email."

Office of Insurance Commissioner: Further Partially Extending Emergency Order 20-02 Pursuant to RCW 48.02.060(5) (8/14/20)

- "Insurance Commissioner Mike Kreidler extended his emergency order again, directing all state-regulated health insurers to make additional coverage changes to aid consumers during the coronavirus pandemic. His order is in effect until Sept. 15 and requires health insurers to:
    - Continue coverage for providing telehealth via methods including telephone and video chat tools such as Facetime, Facebook Messenger video chat, Google Hangout video, Skype and Go-to-Meeting."

Washington, Colorado, Nevada and Oregon announce coordination on telehealth (8/5/20)

- "Building on a previous announcement regarding COVID re-opening, Gov. Jay Inslee joined Colorado Gov. Jared Polis, Nevada Gov. Steve Sisolak and Oregon Gov. Kate Brown to announce that their states will be working together on telehealth issues.
- To ensure that the nation benefits from our knowledge as changes to federal regulations are contemplated, to support continued application and availability of telehealth in our states, and to ensure that we address the inequities faced in particular by tribal communities and communities of color, we are announcing that Oregon, Washington, Colorado, and Nevada have agreed to work together to identify best practices that support telehealth services for residents of our states. We will have individual state-driven approaches to implementing telehealth policies, but our work will be guided by seven overarching principles:
    - 1. Access: Telehealth should be used as a means to promote adequate, culturally responsive, patient-centered equitable access to health care, and to ensure provider network adequacy.
    - 2. Confidentiality: Patient confidentiality should be protected, and patients should provide informed consent to receive care and the specific technology used to provide it.
    - 3. Equity: We will focus on improving equitable access to providers and addressing inequities and disparities in care. Telehealth should be available to every member, regardless of race, ethnicity, sex, gender identity, sexual orientation, age, income, class, disability, immigration status, nationality, religious belief, language proficiency, or geographic location.
    - 4. Standard of Care: Standard of care requirements should apply to all services and information provided via telehealth, including quality, utilization, cost, medical necessity, and clinical appropriateness.
    - 5. Stewardship: Our states will require the use of evidence-based strategies for the delivery of quality care, and will take steps to mitigate and address fraud, waste, discriminatory barriers, and abuse.
    - 6. Patient choice: Patients, in conjunction with their providers, should be offered their choice of service delivery mode. Patients should retain the right to receive health care in person.
    - 7. Payment/reimbursement: Reimbursement for services provided via telehealth modalities will be considered in the context of the individual state's methods of reimbursement."

Proclamation by the Governor Amending and Extending Proclamations 20-05, 20-29 and 20-29.1: 20-29.2 Telemedicine (5/5/20)

- "[Proclaim] that a State of Emergency continues to exist in all counties of Washington State, that Proclamation 20-05 and all amendments thereto remain in effect as otherwise amended, and that Proclamations 20-29 and 20-29.1 are amended to (1) recognize the extension of statutory waivers and suspensions therein by the leadership of the Washington State Senate and House of Representatives until the termination of the COVID-19 State of Emergency or May 31, 2020, whichever occurs first, and (2) similarly extend the prohibitions therein to May 31, 2020."

School-Based Health Care Services (SBHS) COVID-19 Billing FAQ (4/8/20)

- "Q. During COVID-19 related school closures, does the SBHS program pay for services provided through telemedicine?
    - A: The SBHS program reimburses SBHS-contracted school districts for providing IEP/IFSP health-related services when provided through HIPAA-compliant audio/visual telemedicine technologies when a student is at home or in an alternate setting. During COVID-19 related school closures, the SBHS program is also temporarily reimbursing for telehealth provided through non-HIPAA compliant audio/visual technologies such as non-HIPAA compliant versions of Zoom, Skype, FaceTime, Google Hangouts video, as well as services provided via telephone-only
- Q: How do school districts bill the SBHS program for services provided through telephone-only during COVID-19 related school closures?
    - A: When using the telephone to deliver services (audio-only/no visual component), providers do not use existing SBHS codes found in the SBHS Billing Guide. Instead, providers will use the following CPT codes, modifiers, and place of service (POS) to bill for phone-only services: 98966, 98967, 98968
- Q: What is the reimbursement rate for services provided through telemedicine and/or over the phone?
    - A: School districts are reimbursed for services provided through telemedicine at the same rate as if the service was performed face-to-face. Current rates for all SBHS codes are located in the SBHS Fee Schedule. Rates for 98966-98968 are located in the COVID-19 Fee Schedule."

COVID-19 Behavioral Health Providers & Programs (4/7/20)

- The linked document includes a list of state behavioral health providers and programs, along with updates as to whether they are allowing telehealth services.

HCA: The Use of Telehealth in Behavioral Health and Recovery Services in Response to COVID-19 (4/3/20)

- "As of March 16, 2020, and for as long as the Secretary's designation of a public health emergency remains in effect, DEA-registered practitioners in all areas of the U.S. may issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided all of the following conditions are met:
    - The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice;
    - The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and
    - The practitioner is acting in accordance with applicable Federal and State laws"

HCA Statement on Security in Telehealth Technology (4/3/20)

- "In response to the COVID-19 pandemic, HCA purchased a limited number of licenses for Zoom, a video conferencing technology that helps health care providers continue seeing patients without a physical encounter. HCA has made those licenses available to providers using an application process.
- HCA has heard concerns about the security and privacy of telehealth technology. We want to assure providers who are using HCA-purchased licenses that we have been careful to offer licenses that are as secure as possible:
- The licenses HCA purchased are under the Zoom for Healthcare. This is under a Health Insurance Portability and Accountability Act (HIPAA)-compliant business associate agreement.
- We have configured the licenses to protect against video conference intrusions. This includes:
    - Clients coming into an appointment enter a virtual waiting room and can only be admitted by the provider.
    - Only the provider can share content via video screen.
    - Providers sending links only to patients.
    - Recording is disabled.
- If you were granted a license from HCA, when you access Zoom, please do so by going to the Zoom login page, and supplying the email address you used to register with HCA, and entering the password you created when you registered. If you created a Zoom account separate from this process, it is most likely a public account and does not have the same security features."

Washington State Legislature: Reimbursement of Healthcare Services Provided Through Telemedicine or Store and Forward Technology (March 2020)

- "For health plans issued or renewed on or after January 1, 2017, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:
    - The plan provides coverage of the health care service when provided in person by the provider;
    - The health care service is medically necessary;
    - The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015; and
    - The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information.
- An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:
    - Hospital;
    - Rural health clinic;

- Federally qualified health center;
- Physician's or other health care provider's office;
- Community mental health center;
- Skilled nursing facility;
- Home or any location determined by the individual receiving the service; or
- Renal dialysis center, except an independent renal dialysis center."

Washington State Department of Labor & Industries: Temporary TeleSIMP Policy (Chronic Pain Management) (3/25/20)

- "Labor and Industries (L&I) is temporarily allowing the delivery of Structured Intensive Multidisciplinary Program (SIMP) services via telehealth under the Department's current Chronic Pain Management payment policy.
- The worker must be an established patient."

Proclamation by the Governor Amending Proclamation 20-05: 20-29 Telemedicine (3/25/20)

- "I also prohibit the following activities by health carriers to encourage health care providers to provide telemedicine services by providing for payment parity between telemedicine and in-person medical services:
  - 1. Reimbursing in-network providers for telemedicine claims for medically necessary covered services at a rate lower than the contracted rate that would be paid if the services had been delivered through traditional (in-person) methods.
  - 2. Denying a telemedicine claim from an in-network provider for a medically necessary covered service due to an existing provider contract term with that provider that denies reimbursement for services provided through telemedicine.
  - 3. Establishing requirements for the payment of telemedicine services that are inconsistent with the emergency orders, rules or technical advisories to carriers issued by the Office of the Insurance Commissioner."

Office of Insurance Commissioner Emergency Order No. 20-02 (3/24/20)

- "The Office of Civil Rights of the United States Department of Health and Human Services is effectively permitting the use of non-HIPAA compliant platforms to provide telehealth.
- All Regulated Entities shall treat the use of audio-only telephone as telemedicine, despite contrary language in RCW 48.43.735(8)(g)."

HCA offers limited number of no-cost telehealth technology licenses for providers (3/20/20)

- "In response to the COVID-19 pandemic, the Health Care Authority has purchased a limited number of licenses for Zoom, a video conferencing technology that helps health care providers continue seeing patients without a physical encounter.
- Zoom is an easy-to-use software in which providers will have the ability to host a virtual "meeting room" (i.e., a dedicated, provider specific URL) in which patients can enter and exit for their appointments.

- We want to distribute this limited number of licenses free of charge to providers who have a meaningful need for this platform to support continuity of care, and don't already have access to telehealth technology."

Washington Senate Bill 5358: AN ACT Relating to reimbursing for telemedicine services at the same rate as in person; amending RCW 48.43.735, 41.05.700, 74.09.325,2and 28B.20.830; and declaring an emergency. (signed by Governor 3/19/2020)

- "For health plans issued or renewed on or after January 1, 2017, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:
    - The plan provides coverage of the health care service when provided in person by the provider;
    - The health care service is medically necessary;
    - The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015; and
    - The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service.
- For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health carrier and the health care provider."

Washington submits waiver request seeking Medicaid flexibility for coronavirus response (3/18/20)

- "Flexibility for provision and payment of telehealth services. Apple Health has already opened new billing codes for both telehealth and telephonic services, including for behavioral health services to cover telehealth services in the same manner and at the same rate as in-person care"
- "Broadly waive any other face-to-face patient/provider or similar requirement"

Washington State Healthcare Authority: Telemedicine technology for providers (3/17/20)

- The Health Care Authority has obtained a limited number of Zoom licenses to be distributed to providers who have meaningful need for access to a telemedicine video platform.

Washington Medical Commission Bulletin (3/12/20)

- "As Washington takes more steps to reduce the spread of COVID-19 the Department of Health (DOH) will now enroll and activate emergency volunteer health practitioners in preparation for health system requests and surging. This will help the state meet emerging demands for healthcare workers."
- "If volunteers are registered in the volunteer health practitioner system and verified to be in good standing in all states where they are licensed, they may practice in Washington without obtaining a Washington license once activated and assigned by DOH."

State Licensure Laws, Policy, and Guidance

Washington House Bill No. 1069 (passed 4/13/23) / Senate Bill No. 5219 (introduced 1/10/23)

- "Sec. 1. The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
- Sec. 7.
    - (1) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with section 3 of this act and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.
    - (2) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state."

Washington House Bill No. 1001 (passed 4/13/23) / Senate Bill No. 5021 (introduced 1/9/23)

- "Sec. 1. (1) The purpose of this compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient, client, or student is located at the time of the patient, client, or student encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
- Sec. 5. Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with section 3 of this act and under rules promulgated by the commission, to practice audiology or speech language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission. A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the state where the patient, client, or student is located."

Washington Proclamation P20-24.2 (11/25/20)

- "Until there is a widely available effective vaccine or herd immunity, hospitals, emergency management agencies, regional healthcare coalitions, professional associations, unions and local health jurisdictions will work together to maintain surge capacity in our health care system and use PPE so that we can keep health care workers safe and provide the needed health care to our communities. To this end, the following must be met by health care, dental and dental specialty facilities, practices, and practitioners in order to provide non-urgent services, procedures, and surgeries. If a health care facility, practice, or practitioner cannot or does not comply with any of these requirements, non-urgent services, procedures, and surgeries must be reduced or stopped until compliance is achieved and in accordance with the direction, order, requirements, or guidance issued by the Department of Health (DOH) or Department of Labor & Industries (L&I), if any:

Utilize telemedicine as permitted by law for the type of care being provided in order to facilitate access to care while helping to minimize the spread of the virus to other patients and/or health care workers."

Washington Proclamation P20-29.9 (reissued 11/10/20)

- "I, Jay Inslee, Governor of the state of Washington, as a result of the above-noted situation, and under Chapters 38.08, 38.52, and 43.06 RCW, do hereby proclaim that a State of Emergency continues to exist in all counties of Washington State, that Proclamation 20-05 and all amendments thereto remain in effect as otherwise amended, and that Proclamations 20-29, et seq., are amended to (1) recognize the extension of statutory waivers and suspensions therein by the leadership of the Washington State Senate and House of Representatives until the termination of the COVID-19 State of Emergency or 11:59 p.m. on December 7, 2020, whichever occurs first, and (2) similarly extend the prohibitions therein to 11:59 p.m. on December 7, 2020."

Washington Senate Bill 6061: AN ACT Relating to requiring training standards in providing telemedicine services; and amending RCW 43.70.495. (passed 3/25/20)

- "Except as permitted under subsection (3) of this section, beginning January 1, 2021, a health care professional who provides clinical services through telemedicine other than a physician licensed under chapter 18.71 RCW or an osteopathic physician licensed under chapter 18.57 RCW, shall complete a telemedicine training. By January 1, 2020, the telemedicine collaborative shall make a telemedicine training available on its web site for use by health care professionals who use telemedicine technology. If a health care professional completes the training, the health care professional shall sign and retain an attestation."

Proclamation by the Governor Amendment Proclamation 20-05 (3/26/20)

- "I also find that strict compliance with the following statutory and regulatory obligations or limitations will prevent the Washington State healthcare system from meeting the demand for healthcare staffing to meet the demands of the COVID-19 State of Emergency under Proclamation 20-05, and that the language of each statutory and regulatory provision specified below is hereby waived and suspended in its entirety, except as otherwise provided herein, until midnight on April 25, 2020:

Barriers to continued and uninterrupted healthcare practice, including continuing education and other training requirements and license renewal deadlines

Barriers to the practice of health care provider volunteers

Barriers to physician assistant movement related to delegation agreements

Barriers to broader practice by allopathic and osteopathic physicians currently limited to practice in post-graduate, fellowship, instructional, or other limited settings"

Section 1135 Waiver Flexibilities (3/19/20)

- "With respect to providers not already enrolled with another SMA or Medicare, CMS will waive the following screening requirements so the state may provisionally, temporarily, enroll the providers:

"In-state/territory licensure requirements - 42 C.F.R §455.412"

- "For those providers located out of state and from which Washington Medicaid participants seek care, enrollment is not necessary if the following criteria are met:

"The item or service is furnished by an institutional provider, individual practitioner, or pharmacy at an out-of-state/territory practice location– i.e., located outside the geographical boundaries of the reimbursing state/territory's Medicaid plan,

The National Provider Identifier (NPI) of the furnishing provider is represented on the claim,

The furnishing provider is enrolled and in an "approved" status in Medicare or in another state/territory's Medicaid plan,

The claim represents services furnished, and;

The claim represents either:

  - A single instance of care furnished over a 180-day period, or
  - Multiple instances of care furnished to a single participant, over a 180-day period"

Washington State Department of Health Waiver of Certain Behavioral Health Agency Licensing and Certification Requirements (3/17/20)

- "The Washington State Department of Health (Department) is waiving certain behavioral health agency licensing and certification requirements that impose an obligation on licensed behavioral health agencies to provide certain assessments and services 'in person' or 'face-to-face.'"

Emergency Volunteer Health Practitioner Act (3/12/20)

- If volunteers are registered in the volunteer health practitioner system and verified to be in good standing in all states where they are licensed, they may practice in Washington without obtaining a Washington license once activated and assigned by DOH.

Medicaid Law, Policy and Guidance Related to Telehealth

Apple Health (Medicaid) telemedicine & telehealth brief (*revised* 5/10/21, effective 7/1/21)

- "In response to the COVID-19 pandemic, the Health Care Authority (HCA) and the Apple Health (Medicaid) managed care organizations are allowing the use of a variety of telehealth technologies to meet the healthcare needs of providers, clients and families. In the health care community, the words telehealth and telemedicine are often used interchangeably. However, for Apple Health, telemedicine is defined in a very specific way.
- Telemedicine is a form of telehealth that supports the delivery of health care services. HCA has covered telemedicine for many years. HCA's policy for using telemedicine to deliver services is consistent with Medicaid state and federal requirements. RCW 74.09.325 defines telemedicine as the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment."

Apple Health (Medicaid) clinical policy and billing for COVID-19 (*Updated as of* 4/29/21*)*

- "This FAQ reinforces HCA's current policies regarding telemedicine as defined in WAC 182-531-1730 and covers the new telehealth policies that will only be in effect during this health care crisis.
- What telemedicine services are covered?

All Apple Health programs (FFS and MCOs) cover telemedicine when:

  - Delivered via HIPAA-compliant, interactive, real-time audio and video telecommunications (including webbased applications), and
  - The provider works within their scope of practice to provide a covered service to an Apple Health eligible client.

FFS AND MCOs will reimburse telemedicine for professional services in the following settings:

  - Inpatient hospital, including ICU and CCU
  - Outpatient Hospital, including ER, hospital- based clinics
  - Free standing clinic and office services

What if telemedicine is used to provide services when the client and the provider are within the same facility?

  - Yes. During this time, HCA wants Apple Health providers to be able to use telemedicine services to provide patient care even if it is within the same facility. When providing telemedicine services within the same facility, do not submit a claim for the originating site. *HCA-contracted MCOs will also follow this policy"

Apple Health (Medicaid) School-Based Health Care Services (SBHS) COVID-19 Billing FAQ (*Updated as of* 11/23/20)

- "During COVID-19 related school closures, does the SBHS program pay for services provided through telemedicine?

The SBHS program reimburses SBHS-contracted school districts for providing IEP/IFSP health-related services when provided through HIPAA-compliant audio/visual telemedicine technologies when a student is at home or in an alternate setting. During COVID-19 related school closures, the SBHS program is also temporarily reimbursing for telehealth provided through non-HIPAA compliant audio/visual technologies such as non-HIPAA compliant versions of Zoom, Skype, FaceTime, Google Hangouts video, as well as services provided via telephone-only."

Family Planning Only (FPO) Program Billing Guide for telemedicine/telehealth services offered during the COVID-19 outbreak (*Updated* as of 11/20/20)

- Q: "Can providers use telemedicine/telehealth to serve clients receiving Family Planning Only benefits?

A: Yes. Clients under the Family Planning Only – Pregnancy Related program and the Family Planning Only program (formerly referred to as TAKE CHARGE) are eligible for telemedicine/telehealth services temporarily during the COVID19 outbreak.

The availability of telemedicine/telehealth during the pandemic allows Family Planning Only clients, particularly those in medically underserved areas of the state, improved access to essential family planning services that may not otherwise be available.

ProviderOne has been updated to allow reimbursement for telemedicine/telehealth services for Family Planning Only clients, dating back to the start of the pandemic."

Apple Health (Medicaid) telehealth requirements for physical, occupational and speech therapy during COVID-19 pandemic (*Updated as of* 11/20/20)

- "All Apple Health programs (FFS and MCOs) cover telemedicine for OT/PT/ST when they meet the definition for telemedicine. Telemedicine services are paid at the same rate as if the services was provided as an in person visit."

Apple Health (Medicaid) home health services billing and policy during COVID-19 pandemic (FAQ) (*Updated as of* 11/20/20)

- "Q: What telemedicine services are covered?

A: All Apple Health programs (fee-for-service and managed care) cover telemedicine for skilled nursing services or rehabilitative therapy when they meet the definition for telemedicine. Telemedicine and telehealth services are paid at the same rate as an in person visit.

- Q: How do I bill Home Health services if I am using telehealth modalities to provide services?

A: Report the service code (Revenue, CPT or HCPC code) as you would if the encounter was in person and add CR modifier. Always document the modality used for delivery in the health care record.

- Q: If the home health aide contacts the patient to gather information regarding the need to further assessments by a nurse, how can I bill for that service?

A: Apple Health will reimburse for phone calls made by home health aides to clients to help keep clients out of the emergency room and engaged with their home health agency when they have less in-person contacts. The phone call is in lieu of a home health aide visit for that day and can only be billed one time per day. Please see the COVID-19 fee schedule for rates. The MCOs are adopting these policies as well."

Apple Health (Medicaid) dental emergency coverage related to COVID-19 pandemic (*updated as of* 8/27/20)

- "D9992 (care coordination) will be allowed as a temporary code to be used for phone triage. This is not a teledentistry code and should not be billed with any teledentistry codes. It is intended to be used in the absence of tele dentistry. This code can be used to assess, coordinate care and/or triage clients with pre-existing or emergency dental needs by dentists or hygienists under the general supervision of a dentist."

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (8/3/20)

- "Case Managers may complete all Initial and reassessments telephonically or via other audio/video options in lieu of face-to-face assessments. If an assessment is done telephonically all components of the CARE assessment will still be completed except the MMSE, which cannot be done over the phone.
- Case Managers may complete the person-centered service planning process telephonically or via other audio/video options in lieu of meeting face-to-face."

Apple Health (Medicaid) behavioral health policy and billing during the COVID-19 pandemic (*Updated as of* 6/30/20)

- "Q: What modes of technology can I use to provide outpatient BH services to my patients?

A: Under the circumstances, Medicaid is covering a variety of technology modalities in lieu of in person visits to support evaluation, assessment and treatment of clients. These modalities include: telemedicine for HIPAA compliant, interactive, real-time audio and video telecommunications, which is already covered; and other forms of telehealth, such as online digital exchange through a patient portal; and telephone calls, FaceTime; Skype; or email.

- Q: How will I be paid for telemedicine services?

  A: The agency policy is to reimburse for telemedicine services equivalent to the payment for the CPT or HCPC code billed if it were conducted in-person. The Medicaid MCOs should also follow this policy*"

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (6/10/20)

- "Telephonic assessments may occur in place of face-to-face assessments on a case by case basis until impacts of COVID-19 are resolved. Telephonic Initial Assessments will be conducted when needed to prevent exposure related to COVID-19."

Apple Health (Medicaid) telemedicine / telehealth services in long term care facilities and skilled nursing facilities during the COVID-19 pandemic (*Updated as of* 5/27/20)

- "For Apple Health (Medicaid), what is considered telemedicine and what is considered telehealth?
- Telemedicine

Delivered via HIPAA compliant interactive, audio and video telecommunications (including web-based applications), and

The provider works within their scope of practice to provide a covered service to an Apple Health eligible client.

- Q: Can the routine 60-day visit the routine 60-day visit as required by DSHS be done via telemedicine or telehealth?

Yes, HCA is following CMS guidance and allowing telehealth to fulfill face-to face requirements for clinicians.

- Q: Can you complete the Preadmission Screening and Resident Review (PASRR) via telemedicine or telehealth?

Yes, document which modality was used to gather the information.

- Q: Can a Medicaid client receive services via telemedicine or telehealth?

Yes, the clients in your facility are eligible to receive services via telemedicine or telehealth. Please have the provider see our guidance on the HCA COVID-19 information page. Please note that policies are updated frequently and it is important to check the main page for the following information."

Apple Health (Medicaid) Behavioral health provider COVID-19 Information (5/22/20)

- "Technical Help to clients – You can count time spent to assist a client with access and use of the telehealth platform as part of the service time.
- After-Hours Rate – If you are an office that offers regular office hours outside the norm of 8am-5pm M-F, you may receive an additional 5 dollars for any Medicaid service provided using a telecommunication method if you bill the additional add-on code 99051 on the claim with your basic service.

- Face to face visits - Nothing has changed in terms of guidance for face to face visits. Telehealth visits should be prioritized. If they must occur, they should occur with social distancing, at least 6 feet apart between people. Group activities should be limited or moved to online groups. Hand washing and environmental cleaning remain important."

Apple Health (Medicaid) telemedicine & telehealth brief (4/23/20)

- "For the duration of the pandemic, telehealth can be considered an umbrella term that includes telemedicine as well as these temporary policies, some of which are reimbursed at rates comparable to in-person visits. In contrast to telemedicine, some telehealth technologies may not be HIPAA compliant and some are not conducted through interactive audio-video exchange. Under telehealth, HCA is standardizing the application of these policies with our partners, the managed care organization (MCOs) and the Administrative Service Organizations (ASOs)."

APPENDIX K: Emergency Preparedness and Response (4/21/20)

- "Case Managers may complete all Initial and reassessments telephonically or via other audio/video options in lieu of face-to-face assessments. If an assessment is done telephonically all components of the CARE assessment will still be completed except the MMSE, which cannot be done over the phone.
- Case Managers may complete the person-centered service planning process telephonically or via other audio/video options in lieu of meeting face-to-face.
- For areas in which COVID-19 has closed an Adult Day Health Center, and to ensure continuity of care is maintained for health and safety, services provided by Adult Day Health Centers will be delivered in the client's residence, or through telephonic wellness checks.
- During COVID-19, the provider may be allowed to provide Adult Day Care activities and wellness checks through telephonic or other audio/video options, and may provide a face to face visit to the client's home and provide a meal if needed."

Apple Health (Medicaid) frequently asked questions (FAQ) for diabetes education providers in the COVID-19 pandemic (4/17/20)

- "Q: How do I bill for diabetes education if I am using telehealth modalities to provide services?

A: Report the appropriate HCPCS or Rev code as you would if the encounter was in person. Always document the modality used for delivery in the health care record.

The MCOs are adopting these policies as well.

Telehealth services are paid at the same rate as if the services was provided as an in-person visit."

Apple Health (Medicaid) dental phone triage – emergency coverage related to COVID-19 pandemic (Updated 4/15/20)

- "Effective immediately, in response to the COVID-19 pandemic, the Health Care Authority (HCA) will cover CDT code D9992 (care coordination) to allow dentists to provide phone triage of clients with emergency dental needs. HCA is extending the end date for these policies on a "to be determined" basis. We will continue to reevaluate and give sufficient notice when these policies do expire.

- The rate for CDT code D9992 is $15, per client, per day. This is not a teledentistry procedure code and is not billable with teledentistry procedure codes. This code is intended to be separate from teledentistry. Do not use CDT D9992 for routine phone conversations used to conduct normal business operations in the dental office, such as scheduling appointments."

HCA Supports Increased Telehealth Options for Medicaid Clients, Public and School Employees (3/23/20)

- Apple Health (Medicaid)

"Policies put into place for the outbreak: We have increased the fee paid to matched audio (phone) only visits and online digital services through a patient portal (both not considered telemedicine per state rule, but considered telehealth) to in-person visit rates. This will support patients' access to services through the telephone.

Existing policies to support telehealth: HCA will continue reimbursing telehealth clinical services (evaluation and management procedure codes) for Apple Health clients in cases where face-to-face visits may not be a feasible option, and when it is medically appropriate for the member to be evaluated and managed by telehealth. HCA was already paying the same as in-person visits for telemedicine services as described in WAC 182-531-1730 (audio and video together, not audio alone) for Medicaid fee-for-service and managed care before COVID-19, and will continue doing so afterward. HCA has provided billing codes and guidance for providers."

- Public and school employees

"Uniform Medical Plan (UMP)—HCA's self-insured plan that serves more than 353,000 Washingtonians through our Public Employees Benefits Board and School Employees Benefits Board programs—has updated its telehealth guidance for providers. HCA will reimburse telehealth services at the same rate as the same services provided for in-person; and telephone-only care is reimbursable for counseling visits during the pandemic."

HCA offers limited number of no-cost telehealth technology licenses for providers (3/20/20)

- "In response to the COVID-19 pandemic, the Health Care Authority has purchased a limited number of licenses for Zoom, a video conferencing technology that helps health care providers continue seeing patients without a physical encounter.
- We want to distribute this limited number of licenses free of charge to providers who have a meaningful need for this platform to support continuity of care, and don't already have access to telehealth technology. HCA will prioritize Zoom licenses for those providers who need them most, including those who:

Serve a meaningful number of Medicaid clients.

Do not already have other HIPAA or 42 CFR Part 2-compliant video capabilities.

Are in smaller practices with less infrastructure.

Serve children, adolescents, pregnant or parenting women or tribal members.

Are primary care providers.

- Are licensed behavioral health professionals or paraprofessionals, including those who:

Are opioid treatment programs.

Prescribe or support prescribers of medications to people diagnosed with significant mental illness or substance use disorder.

Serve as community mental health centers."

Family Planning Only Program telemedicine services offered during the COVID-19 outbreak (3/13/20)

- "Using telemedicine when it is medically necessary enables the health care practitioner and the client to interact in real-time communication as if they were having a face-to-face session. Telemedicine allows agency clients, particularly those in medically underserved areas of the state, improved access to essential health care services that may not otherwise be available without traveling long distances."

WASHINGTON D.C.

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Washington DC Legislative Bill No. 125 (introduced 2/24/23)

- BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Uniform Telehealth Act of 2023".
- Sec. 2. Definitions.
  - (13) "Telehealth" means use of synchronous or asynchronous telecommunication technology by a practitioner to provide health care to a patient at a different physical location than the practitioner.
- Sec 3. Scope.
  - (a) This chapter applies to the provision of telehealth services to a patient located in the District.
  - (b) This chapter does not apply to the provision of telehealth services to a patient located outside the District.
- Sec 4. Telehealth authorization.
  - (a) A practitioner may provide telehealth services to a patient located in the District if the services are consistent with the practitioner's scope of practice in the District, applicable professional practice standards in the District, and requirements and limitations of federal law and law of the District.
  - (b) This chapter does not authorize the provision of health care otherwise regulated by federal law and law of the District, unless the provision of the health care complies with the requirements, limitations, and prohibitions of the federal law and law of the District.
  - (c) A practitioner-patient relationship may be established through telehealth.
- Sec. 5. Professional practice standard.
  - (a) A practitioner who provides telehealth services to a patient located in the District shall provide the services in compliance with the professional practice standards applicable to a practitioner who provides comparable in-person health care in the District.

Professional practice standards and law applicable to the provision of health care in the District, including standards and law relating to prescribing medication or treatment, identity verification, documentation, informed consent, confidentiality, privacy, and security, apply to the provision of telehealth services in the District.
    - (b) A board or agency in the District shall not adopt or enforce a rule that establishes a different professional practice standard for telehealth services or limits the telecommunication technology that may be used for telehealth services.
- Sec. 6. Out-of-state practitioner.
    - (a) An out-of-state practitioner may provide telehealth services to a patient located in the District if the out-of-state practitioner…
- Sec. 7. Board registration of out-of-state practitioner.
    - (a) A board established under any one of the provisions cited in District of Columbia Health Occupations Revision Act of 1985, D.C. Code § 3-1201.01 et seq, shall register, for the purpose of providing telehealth services in the District, an out-of-state practitioner not licensed, certified, or otherwise authorized to provide health care in the District if the practitioner…
- Sec. 10. Location of care.
    - (a) The provision of a telehealth service under this chapter occurs at the patient's location at the time the service is provided."

Declaration of Limited Public Health Emergency Related to Healthcare Capacity (1/11/22)

- "A limited public health emergency is hereby declared, effective immediately until January 26, 2022.
- The Director of the Department of Health ("DC Health"), or the Director's designee, shall promptly issue administrative orders consistent with and authorized by section Sa(d) of the District of Columbia Public Emergency Act, D.C. Official Code§ 7-2304.0l(d), and may issue updates during the period of this public health emergency, notwithstanding any other laws or rules to the contrary.
- All administrative orders issued by DC Health shall be drafted in consultation with the Deputy Mayor for Health and Human Services and approved by the City Administrator and shall have the force and effect of orders and regulations issued as a public health emergency executive order or regulation under the District of Columbia Public Emergency Act of 1980.
- This Order shall be effective immediately and shall continue to be in effect through January 26, 2022, or until this Order is repealed, modified, or superseded."

Washington DC Postpartum Coverage Expansion Amendment Act of 2020 (Act A23-0390 Published in DC Register Vol 67 and Page 6887 8/21/20, Projected Law Date of 11/16/20)

- "Health insurance coverage through Medicaid or the D.C. Healthcare Alliance program shall cover and reimburse health care services and expenses for:

(1) Home visits via telehealth, face-to-face interaction, or digital health for a pregnant woman; and

(2) Provider delivered digital health interventions that are used to directly manage a patient's pregnancy."

Washington DC Legislative Bill No. 760: To enact and amend provisions of law necessary to support the Fiscal Year 2021 budget. (introduced 7/14/20)

- "To fund telehealth programs including:

Maintaining audio-only telehealth programs after a public health emergency, notwithstanding section 2(4) of the Telehealth Reimbursement Act of 2013, effective October 17, 2013 (D.C. Law 20-26; D.C. Official Code § 31-3861(4);

Coronavirus (COVID-19) Online Consultation/Telemedicine Via Electronic-Mail for Medical Marijuana Recommenders (3/25/20)

- "During this public health emergency, DC Health is temporarily allowing recommenders to utilize telehealth to make medical marijuana recommendations.
- To perform online consultations and/or telemedicine the practitioner must:

"Be an authorized practitioner who is licensed and in good standing to practice medicine, osteopathy, advanced practice registered nursing, dentistry, naturopathic medicine or as a physician assistant in the District of Columbia

Be in a bona fide relationship with the qualifying patient

Have completed a full assessment of the patient's medical or dental history and current medical or dental condition, not more than ninety (90) days prior to making the recommendation"

Guidance on the Use of Telehealth in the District of Columbia (3/12/20)

- 1. Licensure

a. "…In the case of a public health emergency, the Mayor of the District of Columbia has the authority to waive licensure requirements for healthcare practitioners so they may practice their profession in the District. Such a declaration would only address treatment of patients in the District, not other jurisdictions like Maryland or Virginia. Practitioners are encouraged to check with the relevant state licensing authority as to what licensure requirements will apply during a public health emergency"

- 2. Standard of Care

a. "…For new patients, it is possible for a practitioner to establish a practitioner-patient relationship via the use of real-time telehealth."

- 3. Reimbursement

a. "Telehealth services are generally reimbursable by most insurance carriers, and Medicaid covers any services for which in-person services would also be covered. However, there may be limitations on the method in which telehealth services are provided. Both patients and providers are strongly encouraged to check with their insurance carriers to determine costs and coverage before utilizing any telehealth services. This is especially important regarding COVID-19, as some insurance carriers are modifying their plans or waiving co-pays for services which were previously not covered. Additionally, should a public health emergency be declared, certain limitations on insurance coverage may change."

State Licensure Laws, Policy, and Guidance

Executive Order 2020-046 (3/11/20)

- The Executive Order refers to the authority established in the District of Columbia Public Emergency Act of 1980 (Official Code 7-2304.01) which permits, upon issuance of public health emergency orders, the district to "(4) Waive any licensing requirements, permits, or fees otherwise required by District of Columbia law to allow health care providers from other jurisdictions appointed as temporary agents to respond to the public health emergency pursuant to this subsection; provided, that the appointed temporary agents are licensed in their home jurisdictions in their fields of expertise."

Medicaid Law, Policy and Guidance Related to Telehealth

Department of Health Care Finance – Telemedicine Provider Guidance (1/7/22)

- "Telemedicine is a service delivery model that delivers healthcare services through a two-way, real-time interactive video-audio communication or audio-only communication for the purpose of evaluation, diagnosis, consultation, or treatment. Eligible services can be delivered via telemedicine when the beneficiary is at the originating site, while the eligible "distant" provider renders services via the audio/video or audio-only connection."

Provider to Beneficiary Education and Counseling for the COVID-19 Vaccine (4/15/21)

- "DHCF supports good disease management practice and encourages providers to schedule appointments with patients at high risk of illness or death from COVID-19 to conduct COVID-19 vaccine counseling.
- As part of a routine primary care or evaluation and management visit (e.g. CPT codes 99201- 99205, 99211-99215 as applicable) physicians and other qualified providers can bill for counseling and educating their patients to support medical treatment. These services can be delivered via telemedicine, under both Medicaid Fee-For-Service (FFS) and Medicaid Managed Care delivery systems with GT modifier for telemedicine visits and place of service code "02" if the beneficiary is receiving services in their home.
- My DC Health Home Health Homes providers have similar flexibility. As clarified in District rulemaking at 22-A DCMR 2507.1, Care Coordination is the facilitation or implementation of the comprehensive care plan through appropriate linkages, referrals, coordination, and follow-up to needed services and support. Care Coordination is a function shared by the entire Health Home Team and may involve but is not limited to, providing telephonic consults and outreach."

Documentation Standards for Services Delivered Via Telemedicie (11/30/20)

- "Effective January 1, 2021, for the purposes of services delivered via telemedicine, for providers to "maintain complete and accurate beneficiary records of services provided" required under the rule they must document:

The modality of service used to deliver the service (e.g. audio/visual, audio-only, etc.);

The patient's telephone number, cellphone number, or other information on how communications were established with the patient based on the mode of communication used to deliver the service via telemedicine; and

Any other requirements applicable to the specific health service, per District law or regulation."

Delivering Psychosocial Rehabilitation Clubhouse Services via Telemedicine (10/21/20)

- This guidance provides that Clubhouse services can be reimbursed by Medicaid when delivered via telemedicine during the public health emergency if they meet the following conditions. First, the services must meet the program requirement of three hours of contact delivered during the Work-Ordered Day, including both direct engagement and unsupervised assignments, as indicated in greater detail below. Second, the services must adhere to Clubhouse International guidance around the maintenance of Virtual Clubhouse communities. Third, the services must adhere to DBH Clubhouse guidance and DHCF telemedicine guidance and be documented in accordance with the standards outlined in this transmittal.

Billing for Telemedicine Encounters (7/9/20)

- "The purpose of this transmittal is to inform all Medicaid providers that the Department of Health Care Finance (DHCF) will reimburse for telemedicine services delivered to a beneficiary's home as the originating site, pursuant to emergency and proposed rulemaking issued on March 12, 2020. DHCF has authority to continue to provide these services even if there is a lapse in rulemaking authority under the Mayor's Executive Order #20-0052 as part of its commitment to ensuring DC Medicaid beneficiaries have access to services during the COVID-19 public health emergency."

Billing for Teledentistry Encounters (5/14/20)

- "Dental providers may render provider-to-patient teledentistry services via synchronous transmission consistent with requirements set forth in Section 910 (Medicaid Reimbursable Telemedicine Services) in Chapter 9 (Medicaid Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations. On March 18, 2020 in response to further guidance from the Centers for Disease Control and Prevention and public need to expand access to telemedicine services, under the Mayor's authority, DHCF authorizes payment for audio-only visits delivered via telephone. To assist providers during the public health emergency period, DHCF highlights that the Centers for Medicare & Medicaid Services (CMS) and the Office for Civil Rights (OCR) issued guidance regarding the HIPAA requirements and the use of telehealth remote communications during the COVID-19 public health emergency.
- Dental providers using teledentistry to triage patients or offering an oral health evaluation to determine if the oral health condition is urgent or emergent shall use the following Current Dental Terminology (CDT) codes for reimbursement and to document the services rendered in the beneficiary's dental record:
- Oral Evaluations:

D0140 Limited Oral Evaluation – Problem focused. An evaluation limited to a specific oral health problem or complaint. This may require interpretation of information acquired through additional diagnostic procedures. Report additional diagnostic procedures separately. Definitive procedures may be required on the same date as the evaluation; and

D0170 Re-evaluation – Limited, Problem focused (Established patient; Not post-operative visit). Assessing the status of a previously existing condition. A traumatic injury where no treatment was rendered but patient needs follow-up monitoring; evaluation for undiagnosed continuing pain; soft tissue lesion requiring follow-up evaluation.

- Dental providers rendering services in a teledentistry environment will report the appropriate teledentistry code in addition to the oral health evaluation codes cited above. The CDT code for synchronous teledentistry is:

D9995 Teledentistry – synchronous; real-time encounter. (Reported in addition to other procedures (e.g., diagnostic) delivered to the patient on the date of service.)"

Temporary Allowance of Telephonic Signature on Long Term Care Applications (05/11/20)

- "Effective March 27, 2020 through 60 days after the termination of the federal Public Health Emergency (PHE) period DHCF will accept "telephonic" signatures for individuals and couples submitting a Long-Term Care Medicaid application for the Elderly and Persons with Disabilities Waiver Program."

Temporary Enhanced Reimbursement Rates for Home Health Agencies (HHA) and Adult Day Health Program (ADHP) Services Due to COVID-19 (4/22/20)

- "In the event an ADHP renders a remote wellness check in addition to another remote ADHP service, to include remote nursing or counseling services, remote individual or group therapy services, or meal delivery, the ADHP should bill without the CR modifier and with an indicate Place of Service code 02 (telehealth) to bill at the full per diem rate."

DC Medicaid Coding for Telemedicine and Coronavirus (April 2020)

- "Telemedicine is allowable for Medicaid services that can reasonably be delivered at the standard of care via telemedicine. Under DHCF's telemedicine rule, Medicaid reimbursement is allowable for four categories of healthcare services: (a) Evaluation and management; (b) Consultation, evaluation and management of a specific healthcare problem requested by an originating site provider; (c) Behavioral healthcare services including, but not limited to, psychiatric evaluation and treatment, psychotherapies, and counseling; and d) speech therapy."

Coronavirus 2019 (COVID-19): Interim Guidance for Outpatient Pediatric Providers in the District of Columbia (04/19/20)

- "Another option is to perform the newborn visit via telemedicine and subsequently bring the infant into clinic for a brief visit in order to obtain vitals, physical exam, and bloodwork if needed.
- Telemedicine Pediatric Preventative Care
- Many aspects of the American Academy of Pediatrics (AAP) Bright Futures guidelines and DC Medicaid's Early and Periodic Screening, Diagnostic and Treatment services (EPSDT) benefit can be performed via telemedicine. Therefore, DC Health recommends utilizing telemedicine, when possible and available, to continue providing pediatric well-child visits.
- An in-person visit can be carried out to complete clinical activities (e.g., vitals, bloodwork, etc.) that were unable to be conducted via telemedicine. The length of time between the telemedicine well-child visit and the in-person visit can be based on the provider's clinical discretion
- The following preventative care activities can be accomplished through telemedicine:

History and Limited Physical Exam,

Measurements and select Vitals if capable at home (i.e. respiratory rate, or weight if family has scale),

Oral Health assessment,

Developmental, Psychosocial, Behavioral surveillance and screening,

Substance use and abuse screening,

Reproductive health counseling,

Maternal Depression, and

Anticipatory Guidance."

DC Medicaid Telemedicine Guide (3/25/20)

- "On March 12, 2020, DHCF adopted an emergency and proposed rule that established authority for Medicaid to pay for telemedicine services delivered in a beneficiary's home.
- On March 19, 2020, in response to the coronavirus (COVID-19) public health emergency under the Mayor's authority, DHCF authorized payment for audio-only visits delivered via telephone, temporarily suspending provisions of the District of Columbia Telehealth Reimbursement Act of 2013 that indicate "services delivered through audio-only telephones…. are not included" in the definition of telehealth.
- Additional guidance has been published clarifying that it is allowable for providers to work remotely and collect consent verbally if services are appropriately documented and meet the standard of care."

Department of Health Care Finance: Public Health Emergency Guidance on Medicaid-Reimbursable Telemedicine Services: Allowance for Audio-Only Visits and HIPAA (3/19/20)

- "On March 18, 2020 in response to further guidance from the centers for Disease Control and Prevention and public need to expand access to telemedicine services, under Mayor's authority, DHCF authorizes payment for audio-only visits delivered via telephone."

Department of Health Care Finance: Telemedicine Provider Guidance *(Updated as of* 3/19/20)

- "D.C. Medicaid enrolled providers are eligible to deliver telemedicine services, using fee-for-service reimbursement, at the same rate as in-person consultations.
- On an Emergency Basis, pursuant to the District's COVID-19 Response Emergency Amendment Act of 2020, DHCF will reimburse providers for audio-only telephone visits throughout the public health emergency and until 60 days after the end of a public health emergency declared by the Mayor of the District of Columbia…"

Medicaid Expands In-Home Telemedicine Services for Medicaid Beneficiaries in Response to COVID-19 (3/14/20)

- "This policy change:

Allows Medicaid beneficiaries to receive telemedicine services at their home.

Requires Medicaid telemedicine providers to ensure that any technology used meets the standards of care when the beneficiary receives telemedicine services at their home."

Medicaid-Reimbursable Telemedicine Services: Reimbursement for Healthcare Services Delivered to a Beneficiary in their Home via Telemedicine (3/13/20)

- "This emergency and proposed rulemaking updates DHCF's Medicaid-Reimbursable Telemedicine Services Notice of Final Rulemaking, which was published in the DC Register on Friday, December 13, 2019…The attached telemedicine provider guidance document provides additional guidance and information regarding providers authorized to bill for services delivered via telemedicine, services that can be delivered via telemedicine, and how providers should bill for these services."
- Refers to the Telemedicine Provider Guidance document noted below.

WEST VIRGINIA

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

West Virginia House Bill No. 3472 (introduced 2/14/23)

- "(b) Unless provided for by statute or legislative rule, a health care board, referred to in §30-1-1 et seq. of this code, shall propose an emergency rule for legislative approval in accordance with the provisions of §29A-3-15 et seq. of this code to regulate telehealth practice by a telehealth practitioner. The proposed rule shall consist of the following:
  - ~~(9) A prohibition of prescribing or dispensing an abortifacient.~~"

West Virginia House Bill No. 3003 (introduced 1/24/23)

- "(b) Unless provided for by statute or legislative rule, a health care board, referred to in §30-1-1 et seq. of this code, shall propose an emergency rule for legislative approval in accordance with the provisions of §29A-3-15 et seq. of this code to regulate telehealth practice by a telehealth practitioner. The proposed rule shall consist of the following:
  - (9) A prohibition of prescribing or dispensing an abortifacient, or otherwise providing abortion services."

West Virginia House Bill No. 302 (passed 9/13/22)

- "(a) For the purposes of this section:
  - "Abortifacient" means mifepristone, misoprostol or any other chemical or drug dispensed with the intent of causing an abortion.
- (b) Unless provided for by statute or legislative rule, a health care board, referred to in §30-1-1 et seq. of this code, shall propose an emergency rule for legislative approval in accordance with the provisions of §29A-3-15 et seq. of this code to regulate telehealth practice by a telehealth practitioner. The proposed rule shall consist of the following:
  - (9) A prohibition of prescribing or dispensing an abortifacient."

West Virginia House Bill No. 4731 (introduced 2/15/22)

- "Telehealth" means the application of telecommunication technology to deliver occupational therapy services for assessment, intervention and/or consultation."

West Virginia Senate Bill No. 1 (engrossed 2/23/21)

- "(b) After July 1, 2020, the plan shall provide coverage of health care services provided through telehealth services if those same services are covered through face-to-face consultation by the policy.
- (c) After July 1, 2020, the plan may not exclude a service for coverage solely because the service is provided through telehealth services
- (d) The plan shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company for virtual telehealth encounters after July 1, 2021. The plan shall provide reimbursement for a telehealth service for an established patient on the same basis and at the same rate under a contract, plan, agreement, or policy as if the service is provided through an in-person encounter rather than provided via telehealth after July 1, 2021.
- (e) The plan may not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan."

West Virginia Insurance Bulletin No. 20 – 13 (6/8/20)

- House Bill 4003 – Relating to telehealth insurance requirements (Effective June 5, 2020)

This bill requires health insurers, after July 1, 2020, to cover telehealth services if the same services are covered through face-to-face consultation by the policy, contract or plan. Telehealth services is defined by the legislation as "the use of synchronous or asynchronous telecommunications technology by a health care practitioner to provide health care services." Reimbursements for telehealth services should be negotiated between the provider and the health insurer. A health insurer may not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy. Similarly, a health insurer may not impose upon a covered person any copayment, coinsurance or deductible amount for telehealth services that is not equally imposed upon all services covered under the policy, contract or plan. The bill further permits the originating site of the telehealth services to charge the health insurer a site fee."

West Virginia House Bill 4003: A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-24, relating to telehealth insurance requirements; defining terms; requiring insurance coverage of certain telehealth services; providing an effective date; and providing limitation of applicability. (passed 3/25/20)

- "An insurer subject […] of this code which issues or renews a health insurance policy on or after July 1, 2020, may not exclude a service for coverage solely because the service is provided through telehealth services and is not provided through face-to-face consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services.

- An insurer subject to […] this code is not required to reimburse the treating provider or the consulting provider for technical fees or costs for the provision of telemedicine services. However, that insurer shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services.
- An insurer subject to […] this code may offer a health plan containing a deductible, copayment, or coinsurance requirement for a health care service provided through telemedicine services, but the deductible, copayment, or coinsurance may not exceed the deductible, copayment, or coinsurance applicable if the same services were provided through face-to-face diagnosis, consultation, or treatment.
- An insurer […] of this code may not impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan."

West Virginia Insurance Bulletin No. 20-03 (3/13/20)

- "House Bill 4003 (2020) was passed by the West Virginia Legislature on March 7, 2020 and mandates coverage for telehealth services. Although House Bill 4003 has not yet been signed into law by the Governor and, therefore, has not yet gone into effect, the Commissioner requests that health insurers immediately review their telehealth or telemedicine services in light of the law's anticipated, impending implementation and the COVID-19 crisis."

Department of Health and Human Resources: Psychological Testing and Evaluation Services (3/12/20)

- "Due to the World Health Organization declaring Coronavirus disease (COVID-19) a pandemic, the West Virginia Bureau for Medical Services (BMS) is allowing Psychological Testing Services to be rendered through the Telehealth Modality through May 31, 2020."

State Licensure Laws, Policy, and Guidance

West Virginia Senate Bill No. 213 (enrolled 3/12/22)

- "(a) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with §30-31A-3 of this code and under the rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.
- (b) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state."

West Virginia Senate Bill No. 660 (introduced 2/16/22)

- "(b) Unless provided for by statute or legislative rule, a health care board, referred to in §30-1-1 et seq. of this code, shall propose an emergency rule for legislative approval in accordance with the provisions of §29A-3-15 et seq. of this code to regulate telehealth practice by a telehealth practitioner. The proposed emergency and legislative rule shall consist of the following:

- (1) The practice of the health care service occurs where the patient is located at the time the telehealth services are provided;
- (2) The health care practitioner who practices telehealth shall be:
- (A) Licensed in good standing in all states in which he or she is licensed and not currently under investigation or subject to an administrative complaint; and
- (B) Registered as an interstate telehealth practitioner with the appropriate board in West Virginia;
- (3) When the health care practitioner-patient relationship is established;
- (4) The standard of care for the provision of telehealth services. The standard of care requires that the patient visit an in-person health care practitioner within 12 months of using the initial telemedicine service or the telemedicine service shall no longer be available to the patient until an in-person visit is obtained. This requirement may be suspended, in the discretion of the health care practitioner, on a case-by-case basis, and it does not apply to the following services: Acute inpatient care, post-operative follow-up checks, behavioral medicine, addiction medicine, or palliative care;
- (5) A prohibition of prescribing any controlled substance listed in Schedule II of the Uniform Controlled Substance Act, unless authorized by another section: Provided, That the prescribing limitations contained in this section do not apply to a physician or a member of the same group practice with an established patient;
- (6) Establish the conduct of a registrant for which discipline may be imposed by the board of registration;
- (7) Establish a fee, not to exceed the amount to be paid by a licensee, to be paid by the interstate telehealth practitioner registered in the state; and
- (8) A reference to the board's discipline process.
- (c) A registration issued pursuant to the provisions of this section does not authorize a health care professional to practice from a physical location within this state without first obtaining appropriate licensure.
- (d) By registering to provide interstate telehealth services to patients in this state, a health care practitioner is subject to:
- (1) The laws regarding the profession in this state, including the state judicial system and all professional conduct rules and standards incorporated into the health care practitioner's practice act and the legislative rules of registering board; and
- (2) The jurisdiction of the board with which he or she registers to provide interstate telehealth services, including such board's complaint, investigation, and hearing process.
- (e) A health care professional who registers to provide interstate telehealth services pursuant to the provisions of this section shall immediately notify the board where he or she is registered in West Virginia and of any restrictions placed on the individual's license to practice in any state or jurisdiction.
- (f) A person currently licensed in this state is not subject to registration but shall practice telehealth in accordance with the provisions of this section and the rules promulgated thereunder."

1135 Waiver Approval (3/30/20)

- "West Virginia currently has the authority to rely upon provider screening that is performed by other State Medicaid Agencies (SMAs) and/or Medicare. As a result, West Virginia is authorized to provisionally, temporarily enroll providers who are enrolled with another SMA or Medicare for the duration of the public health emergency.
- Under current CMS policy, as explained in the Medicaid Provider Enrollment Compendium (7/24/18), at pg. 42, https://www.medicaid.gov/affordable-care-act/downloads/programintegrity/mpec-7242018.pdf, West Virginia may reimburse otherwise payable claims from out-of-state providers not enrolled in West Virginia Medicaid program if the following criteria are met…"

West Virginia Executive Order No. 10-20 (3/23/20)

- "Requirement for telemedicine providers to be licensed in West Virginia, provided that such provider possesses an unrestricted medical license in their own state and otherwise compiles with the provisions."

Executive Order No. 7-20 (3/19/20)

- "…the following statutory regulations are to be suspended for the duration of the State of Emergency:

Requirement that telemedicine be performed by video only"

Executive Order No. 7-20 (3/19/20)

- "…the following statutory regulations are to be suspended for the duration of the State of Emergency:

Requirement that any medical provider "hold an active, unexpired license" issued by the Board of Medicine, with the exception of those with pending complaints, investigations …"

Requirement for telemedicine providers to be licensed in West Virginia, provided that such provider possesses a license within their own state

Procedures for applications for licensure by out-of-state medical practitioners under the Interstate Medical Licensure Compact."

Medicaid Law, Policy and Guidance Related to Telehealth

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (8/3/20)

- "This amendment is to modify the level of care evaluations for individuals who are placed outside of West Virginia in Psychiatric Residential Treatment Facilities. Due to restrictions on state travel and restrictions on face to face contact due to COVID-19 and in order to protect the health and safety of these applicants, the state will temporarily modify the evaluation process by using all telehealth methods available as well as past documentation and records in order to determine eligibility for this waiver."

Department of Health and Human Resources Psychological Testing and Evaluation Services through Telehealth Modality (*Updated as of* 6/11/20)

- "…the West Virginia Bureau for Medical Services (BMS) is allowing for psychological testing services to be rendered through the Telehealth Modality through the federal declaration or until further notification is provided. This applies to all psychological testing codes."

Department of Health and Human Resources Memorandum: Teledentistry (4/1/20)

- "Due to the World Health Organization declaring Coronavirus disease (COVID-19) a pandemic, the West Virginia Bureau for Medical Services (BMS) is allowing teledentistry to determine whether a member needs to come into the office for treatment. This will include the use of live video conferencing or telephonic service in the member's home. The intent is not to provide "well-checks" in lieu of regularly scheduled maintenance visits but is to determine if a member is experiencing an emergency requiring immediate treatment.
- Independent Dental offices and FQHC/RHC dental offices, please use only code D9995 and place of service 02 on the standard ADA form, box 38.
- The reimbursement for D9995 will be $38.50 for all providers listed above. This is the same as a face-to-face limited evaluation. BMS will continue to monitor the situation and work closely with our state and federal partners gathering further information and directives."

APPENDIX K: Emergency Preparedness and Response (3/26/20)

- "Actual visits to the member's homes by outside staff to conduct reassessments and home visits will be waived and these visits will be conducted by telephone or electronically through secure sites. Team meetings will also occur by telephone or electronically.
- Provider agencies may choose to provide on-line training such as CPR and First Aid in lieu of in-person training. Trainings may also be conducted by telephone/electronic means (Skype/Zoom). If member-specific training is provided electronically, it must be through a secure network to protect the member's confidentiality.
- For service plans that are expiring and are currently meeting an affected waiver member's needs, but a new person-centered plan is unable to be developed due to ongoing pandemic issues, the time limit to be approved by the anchor date will be extended by 3 months after the anchor date, when monthly telephonic monitoring is provided to ensure the plan continues to meet the member's needs.
- Waive monthly face-to-face case management home visits for members, but require a monthly telephone call to the member.
- Waive face-to-face enrollment meetings by their Resource Consultant for those members who self-direct their services, but require telephone or electronic enrollments."

Department of Health and Human Resources: Community Psychiatric Support Treatment Providers (CSU) (3/26/20)

- "Telehealth: Available with GT Modifier for medical services provided by a physician, PA, or APRN only in extenuating circumstances. Daily face to face meeting with physician must be in person." BMS is considering the COVID-19 pandemic an extenuating circumstance. Medical and Clinical Staff may utilize Telehealth or Telephonic Modalities if needed to render services."

Department of Health and Human Resources: Educational Handout re: COVID-19 Telehealth (3/24/20)

- "Enrolled Medicaid providers can utilize telehealth services (including telephone) for nonemergent services to allow patients to stay at home during this pandemic. Providers should use their best judgement on what services can be performed in this setting; must work within the scope of their license; and have access to the patient's previous records (for established patients). Consent from the patient, verbal or written, to provide services via telehealth must be obtained and documented in the member's record."

Department of Health and Human Resources: Telehealth Modality for Physical, Occupational or Speech Therapy (3/20/20)

- "Due to the World Health Organization declaring Coronavirus disease (COVID-19) a pandemic, the West Virginia Bureau for Medical Services (BMS) is allowing Nonemergent services to be rendered through the Telehealth Modality. The expansion of this service will include the use of live video conferencing or audio only (telephonic) to the members home with a Medicaid enrolled provider."

Department of Health and Human Resources: Telehealth Modality (3/17/20)

- "…the West Virginia Bureau for Medical Services (BMS) is allowing all existing telehealth services listed in the BMS policy manual, and the telehealth services temporarily approved during the COVID-19 pandemic, referenced in BMS release memos, to use live video conferencing or telephonic service in the member's home."

Department of Health and Human Resources: Non-emergent E&M visits through Telehealth Modality (3/13/20)

- "Due to the World Health Organization declaring Coronavirus disease (COVID-19) a pandemic, the West Virginia Bureau for Medical Services (BMS) is allowing Non-emergent E&M visits to be rendered through the Telehealth Modality. The expansion of this service will include the use of live video conferencing in the appropriately equipped members home with a Medicaid enrolled provider in the originating site."

WISCONSIN

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Wisconsin Assembly Bill No. 43 (introduced 2/15/23) / Wisconsin Senate Bill No. 70 (introduced 2/15/23)

- "The bill requires health insurance policies and self-insured governmental health plans to cover a treatment or service that is provided through telehealth if the treatment or service is covered by the policy or plan when provided in person. A policy or plan may limit its coverage to those treatments or services that are medically necessary. "Telehealth" is defined in the bill as a practice of health care delivery, diagnosis, consultation, treatment, or transfer of medically relevant data by means of audio, video, or data communications that are used either during a patient visit or consultation or are used to transfer medically relevant data about a patient. A self-insured governmental health plan is a self-funded health plan of the state or a county, city, village, town, or school district.
- The bill also sets parameters on the coverage of telehealth treatments and services that is required in the bill. A policy or plan may not subject a telehealth treatment or service to a greater deductible, copayment, or coinsurance than if provided in person. Similarly, a policy or plan may not impose a policy or calendar year or lifetime benefit limit or other maximum limitation or a prior authorization requirement on a telehealth treatment or service that is not imposed on treatments or services provided through manners other than telehealth. A policy or plan also may not place unique location requirements on a telehealth treatment or service. If a policy or plan covers a telehealth treatment or service that has no in-person equivalent, the policy or plan must disclose this in the policy or plan materials."

Wisconsin Senate Bill No. 309 (passed 2/7/22)

- "SECTION 4. 440.01 (1) (ab), (bm), (dg) and (hm) of the statutes are created to read:
  - 440.01 (1) (ab) "Asynchronous telehealth service" means telehealth that is used to transmit medical data about a patient to a health care provider when the transmission is not a 2-way, real-time interactive communication.
  - (bm) "Interactive telehealth" means telehealth delivered using multimedia communication technology that permits 2-way, real-time, interactive communications between a health care provider at a distant site and the patient or the patient's health care provider.
  - (dg) "Remote patient monitoring" means telehealth in which a patient's medical data is transmitted to a health care provider for monitoring and response if necessary.
  - "(hm) "Telehealth" means a practice of health care delivery, diagnosis, consultation, treatment, or transfer of medically relevant data by means of audio, video, or data communications that are used either during a patient visit or a consultation or are used to transfer medically relevant data about a patient. "Telehealth" includes asynchronous telehealth services, interactive telehealth, and remote patient monitoring.
- SECTION 5. 440.17 of the statutes is created to read:
  - 440.17 Telehealth. If the department, an examining board, or an affiliated credentialing board promulgates rules related to telehealth, the department, the examining board, or the affiliated credentialing board shall define "telehealth" to have the meaning given in s. 440.01 (1) (hm)."

Bulletin, Telemedicine Coverage Request Related to COVID-19 (issued 1/20/22)

- "On October 13, 2020, the Office of the Commissioner of Insurance (OCI) issued a bulletin to all Health Plan Issuers regarding minimizing out-of-network barriers for patients seeking telemedicine (i.e., telehealth) services. The requests and positions outlined by OCI in that bulletin remain in effect.
- COVID-19 continues to place a strain on the capacity of health care facilities and the contagious nature of the disease may result in non-COVID-19 related health treatments being canceled or delayed. Because of these issues, Health Plan Issuers are once again strongly encouraged to remove any barriers to their insureds utilizing telemedicine services. Health Plan Issuers are reminded to review provisions in current policies regarding the delivery of health care services via telemedicine and ensure their telemedicine programs with participating providers are robust and will be able to meet any increased demand.
- Where appropriate, Health Plan Issuers are strongly encouraged to not deny coverage for a treatment or service provided through telehealth if that treatment or service is covered under the policy or plan when provided in person by a health care provider. For the purpose of this Bulletin, "telehealth" is defined as the practice of health care delivery, diagnosis, consultation, treatment, or transfer of medically relevant data by means of audio, video, or data communications that are used either during a patient visit or a consultation or are used to transfer medically relevant data about a patient.

- Health Plan Issuers are requested to verify their provider networks are adequate to handle a potential increase in the need for telehealth services. If Health Plan Issuers do not have sufficient telehealth providers in their network, Health Plan Issuers are requested to develop a plan to address these shortfalls including making exceptions to provide access to an out-of-network provider at the in-network cost-sharing level. Health Plan Issuers who lack access to telehealth services where in-person services are not available may be found by OCI (Office of the Commissioner of Insurance) to lack an adequate provider network as required by Wis. Stat §§ 609.22 and 609.24 and Wis. Adm. Code Ins 9.32."

Wisconsin Senate Bill No. 202 (passed 3/29/21)

- "The bill also specifies that a health care provider granted a temporary credential under the bill may provide services through telehealth to a patient located in this state.
- "If the health care provider provides services other than services provided through telehealth as described in sub. (3), the health care employer of the health care provider attests all of the following to the department within 10 days of the date on which the health care provider begins providing health care services in this state under this section:

a. The health care employer has confirmed that the health care provider holds a valid, unexpired credential granted by another state.

b. To the best of the health care employer's knowledge and with a reasonable degree of certainty, the health care provider is not currently under investigation and no restrictions or limitations are currently placed on the health care provider's credential by the credentialing state or any other jurisdiction."

Wisconsin Senate Bill No. 111: AN ACT relating to: state finances and appropriations, constituting the executive budget act of the 2021 legislature. (introduced 2/16/21)

- "The bill requires health insurance policies and self-insured governmental health plans to cover a treatment or service that is provided through telehealth if the treatment or service is covered by the policy or plan when provided in person. A policy or plan may limit its coverage to those treatments or services that are medically necessary. Health insurance policies are referred to as disability insurance policies in the bill, and a self-insured governmental health plan is a self-funded health plan of the state or a county, city, village, town, or school district. The bill also sets parameters on the coverage of telehealth treatments and services that is required in the bill. A policy or plan may not subject a telehealth treatment or service to a greater deductible, copayment, or coinsurance than if provided in person. Similarly, a policy or plan may not impose a policy or calendar year or a lifetime benefit limit or other maximum limitation or a prior authorization requirement on a telehealth treatment or service that is not imposed on treatments or services provided through manners other than telehealth. A policy or plan also may not place unique location requirements on telehealth treatment or services. If a policy or plan covers a telehealth treatment or service that has no in-person equivalent, the policy or plan must disclose this in the policy or plan materials."

Wisconsin Assembly Bill No. 31 (introduced 2/3/21)

- "The bill prohibits a health insurance policy or a self-insured health plan of the state or a county, city, village, town, or school district from denying coverage for a treatment or service provided through telehealth if that treatment or service is covered under the policy or plan

when provided in person by a health care provider. This prohibition applies through December 31, 2021. Health insurance policies are known as disability insurance policies in the bill. Telehealth is a practice of health care delivery, diagnosis, consultation, treatment, or transfer of medically relevant data by means of audio, video, or data communications that are used either during a patient visit or a consultation or are used to transfer medically relevant data about a patient."

Wisconsin Encourages Patients and Providers to Use Telehealth Options for Health Care Visits During COVID-19 Public Health Emergency (4/2/20)

- "Using computers, tablets, cell phones, and other technology to conduct health care visits at a distance, known as telehealth, can help people get care in a way that protects both patients and health care providers.
- The Wisconsin Department of Health Services (DHS) was working to expand options around telehealth even before the COVID-19 outbreak began. On March 18, DHS notified Medicaid providers of two changes that should increase the use of telehealth. First, Medicaid members can now participate in telehealth visits from any location, including their homes. Second, Medicaid members can now have visits with their doctors over the telephone, not just using face-to-face technology. These changes are permanent and will be available to people who access Medicaid services even after the current emergency ends.
- The DHS Division of Quality Assurance (DQA) made it possible so that healthcare providers no longer need a separate certification to provide services through telehealth."

Insurance Commissioner Asks Malpractice Insurers to Cover Telemedicine and Out-of-State Providers (3/31/20)

- "At the direction of Governor Tony Evers, Insurance Commissioner Mark Afable issued a request to medical malpractice insurers today aimed at expanding access to telemedicine during the COVID-19 pandemic and at ensuring retired and out-of-state health care workers can get the medical malpractice coverage in order to support the state's response to COVID-19. Doctors are required to have medical malpractice insurance to provide care in Wisconsin. The request from the Office of the Commissioner of Insurance (OCI) is aimed at making sure Wisconsin residents can access the care they need at home and at increasing the state's capacity to care for patients throughout the public health emergency."

Office of the Commissioner of Insurance: Removing Barriers to Timely Coverage during the Public Health Emergency (3/31/20)

- "The practice of telemedicine is allowed under existing Wisconsin law unless there is some profession-specific limitation. Providers must use their professional judgment to determine if telemedicine is appropriate for the patient or client being treated.
- OCI asks that medical malpractice insurers recognize that services that have typically been offered in-person will now be provided via telemedicine during the COVID-19 pandemic. Also, healthcare providers that have not engaged in telemedicine in the past may move their practice to telemedicine during the pandemic."

State of Wisconsin, Office of the Commissioner of Insurance (3/6/20)

"Given that COVID-19 is a communicable disease, some insureds may be using telehealth services, if offered, instead of in-person health care services. Health Plan Issuers are reminded to review provisions in current policies regarding the delivery of health care services via telehealth and ensure their telehealth programs with participating providers are robust and will be able to meet any increased demand."

State Licensure Laws, Policy, and Guidance

Wisconsin Senate Bill No. 197 (introduced 4/3/23)

- SECTION 25. 459.30 of the statutes is created to read:
  - 459.30 Practice.
    - (1) PRACTICE UNDER COMPACT.
      - (a) Audiology. An individual who holds a valid audiologist compact privilege may, subject to s. 459.71 (3), do any of the following:
        - 1. Practice audiology in this state, subject to s. 459.70 (4).
        - 2. Practice audiology in this state via telehealth, as defined in s. 459.70 (2) (y), subject to s. 459.70 (5)
      - (b) Speech-language pathology. An individual who holds a valid speech-language pathologist compact privilege may, subject to s. 459.71 (3), do any of the following:
        - 1. Practice speech-language pathology in this state, subject to s. 459.70 (4).
        - 2. Practice speech-language pathology in this state via telehealth, as defined in s. 459.70 (2) (y), subject to s. 459.70 (5)
- SECTION 31. Subchapter III of chapter 459 [precedes 459.70] of the statutes is created to read:
  - "459.70 Audiology and speech-language pathology interstate compact.
    - (1) PURPOSE. (a) The purpose of this compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter.
    - (5) COMPACT PRIVILEGE TO PRACTICE TELEHEALTH. Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with sub. (3) and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission."

Wisconsin Senate Bill No. 196 (introduced 4/3/23)

- "SECTION 67. 457.18 of the statutes is created to read:

- 457.18 Practice under compact. An individual who holds a valid privilege to practice in this state may, subject to s. 457.51 (4), do any of the following:
  - (1) Practice professional counseling in this state, subject to s. 457.50 (4).
  - (2) Practice professional counseling in this state via telehealth, as defined in s. 457.50 (2) (y), subject to s. 457.50 (7).

- SECTION 71. Subchapter II of chapter 457 [precedes 457.50] of the statutes is created to read:
  - 457.50 Counseling compact.
    - (1) PURPOSE. The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
    - (7) COMPACT PRIVILEGE TO PRACTICE TELEHEALTH. (a) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with sub. (3) and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

Wisconsin Assembly Bill No. 537 (introduced 9/10/21)

- "The ability for a psychologist to obtain an E.Passport, which allows a psychologist to practice interjurisdictional telepsychology in another compact state if the psychologist satisfies certain criteria. "Telepsychology" is defined as the provision of psychological services using telecommunication technologies. The compact specifies that a home state, defined as the state where the psychologist is physically located, maintains authority over the license of any psychologist practicing into a receiving state, defined as the compact state where the client or patient is physically located, under the authority to practice interjurisdictional telepsychology. A psychologist practicing into a receiving state under an E.Passport is subject to the receiving state's scope of practice. The compact further provides that a psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority and under circumstances specified in the compact. A receiving state may limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions to protect the health and safety of the receiving state's citizens. If a psychologist's license or authority to practice interjurisdictional telepsychology is restricted, suspended, or otherwise limited, the psychologist's E.Passport is revoked and the psychologist may not practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

Wisconsin Assembly Bill No. 1 (enrolled 2/5/21)

- "A health care provider who practices within the scope of a temporary credential granted under this section may provide services through telehealth to a patient located in this state."

Emergency Order #16: Related to Certain Health Care Providers and the Department of Safety and Professional Services Credentialing (3/27/20)

- "A physician providing telemedicine in the diagnosis and treatment of a patient who is located in this state must have a valid and current license issued by this State, another state, or Canada.
- OCI is directed to continue working with malpractice insurance carriers to facilitate coverage outside of the traditional health care facility settings and to continue working with health insurers to minimize out-of-network barriers for insured patients seeking telemedicine services."

Emergency Order #12: Safer at Home Order (3/24/20)

- "Health and safety. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members, including pets, such as, by way of example only and without limitation, obtaining medical supplies or medication, seeking emergency services, or visiting a health care or behavior health care professional. Individuals should rely on telehealth options whenever feasible."

Medicaid Law, Policy and Guidance Related to Telehealth

ForwardHealth Update 2022-01: Permanent Teledentistry Policy (1/5/22)

- "ForwardHealth will transition to permanent telehealth coverage policy and billing guidelines for synchronous (two-way, real-time, interactive communications) telehealth services effective on the first day of the first month after the public health emergency related to the COVID-19 pandemic expires. For example, if the public health emergency ends on April 12, 2022, permanent policy would become effective for dates of service on and after May 1, 2022. Temporary telehealth policy will remain in effect until the switch to permanent policy occurs. Telehealth-rrelated updates to the ForwardHealth Online Handbook will be available following the implementation of permanent policy.
- This telehealth coverage policy will include coverage for synchronous teledentistry services. Asynchronous teledentistry policy is still in development and will be published in a future ForwardHealth Update.
- The following existing dental codes will be added to teledentistry.
    - D0120: Periodic oral evaluation – established patient
    - D0140: Limited oral evaluation – problem focused
    - D0170: Re-evaluation – limited, problem focused (established patient; not post-operative visit)
    - D0191: Assessment of a patient
- The following code will be used on dental claims to indicate teledentistry.
    - D9995: Teledentistry synchronous; real-time encounter."

ForwardHealth Update 2021-50: Permanent Telehealth Coverage Policy and Billing Guidelines (12/22/21)

- "Only synchronous (two-way, real-time, interactive communications) and remote physiological monitoring services identified under permanent policy may be reimbursed when provided via telehealth effective on the first day of the first month after the federal public health emergency related to the COVID-19 pandemic expires. For example, if the public health emergency ends on April 12, 2022, permanent policy would become effective for dates of service on and after May 1, 2022.
- Temporary telehealth policy will remain in effect until the switch to permanent policy occurs when ForwardHealth will require providers to follow permanent billing guidelines for synchronous telehealth and remote physiological monitoring services."

ForwardHealth Update 2021-21: Transition from Temporary to Permanent Synchronous Telehealth Coverage Policy and Billing Guidance (7/1/21)

- "On January 1, 2022, ForwardHealth will transition to permanent telehealth coverage policy and billing guidelines for synchronous (two-way, real-time, interactive communications) telehealth services. The list of permanent telehealth procedure codes has been updated on the maximum allowable fee schedule.
- To facilitate the transition from temporary to permanent telehealth coverage policy, between July 1, 2021, and December 31, 2021, ForwardHealth will allow providers to submit claims for services identified as permanent telehealth procedure codes under either the temporary or permanent telehealth billing guidelines listed below.
- Beginning January 1, 2022, only services identified under permanent telehealth policy may be reimbursed when provided via telehealth. In addition, temporary billing guidelines will end and ForwardHealth will require providers to follow permanent telehealth billing guidelines for all telehealth services. Refer to the Telehealth topic (#510) of the ForwardHealth Online Handbook for additional permanent telehealth billing guidance."

Note: Subsequent guidance was published in December 2021 indicating that the effective date for permanent telehealth policy changes is no longer January 1, 2022.

Alert 023: ForwardHealth Will End Coverage for Some Non-Physician Phone Assessment Services (7/28/20)

- "Opioid treatment programs providing phone assessment and management services that do not meet the five-minute medical discussion threshold must submit required modifiers 52 (Reduced services) and GT (Via interactive audio and video telecommunication systems). Modifiers 52 and GT must be submitted with procedure code 98966 and place of service code 02 (Telehealth) on the professional claim.
- ForwardHealth will continue to reimburse procedure code 98966 with modifier 52. ForwardHealth will also continue to cover substance abuse counseling provided to members who are receiving narcotic treatment services under the outpatient substance abuse services provider enrollment.

Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waivers (5/22/20)

- Add an electronic method of service delivery (e.g., telephonic) allowing services to continue to be provided remotely in the home setting for:

Case management

Personal care services that only require verbal cueing

In-home habilitation

Monthly monitoring (i.e., in order to meet the reasonable indication of need for services requirement in 1915(c) waivers).

All other waiver services that can be provided with the same functional equivalency of face-to-face services to occur remotely."

Alert 017: Billing Clarifications for Dental Telehealth Services (*Updated as of* 5/8/20)

- The billing guidance in this Alert is based on the changes outlined in the March 2020 ForwardHealth Update (2020-15), titled "Additional Services to Be Provided via Telehealth," and is valid for as long as that Update is in effect.
- At this time, ForwardHealth (Wisconsin's Medicaid Management Information System (MMIS)) does not follow American Dental Association guidance for billing the following teledentistry dental procedure codes.
- Providers may request a prior authorization amendment to extend the treatment plan timeframe for orthodontic services."

Alert 013: Enhanced Reimbursement for Therapy Provided as Part of the Birth to 3 Program Using Telehealth (*Updated as of* 5/11/20)

- "ForwardHealth will publish additional guidance about the topics addressed in this Alert when the temporary policies related to COVID-19 expire.
- ForwardHealth (Wisconsin's Medicaid Management Information System (MMIS)) will reimburse therapy providers supplying services as part of the Birth to 3 Program at an enhanced rate when occupational therapy, physical therapy, and/or speech therapy is performed using telehealth and the member is located in their natural environment as defined in both 34 C.F.R. 303 and Wis. Admin. Code § DHS 90.03(25). To receive this reimbursement, therapy providers must meet all other requirements and indicate modifier TL (Early intervention/individualized family service plan [IFSP]) when submitting claims."

Alert 002: Temporary Policy Changes for Personal Care Providers (*Updated* as of 5/11/20)

- In response to COVID-19, ForwardHealth published guidance regarding allowable telehealth services in the March 2020 ForwardHealth Update (2020-15), titled "Additional Services to Be Provided via Telehealth." Temporary policies for remote supervision by registered nurses are included in the policies outlined in Update 2020-15. Any changes to this temporary policy will be communicated in revisions to Update 2020-15."

Additional Services to be Provided Via Telehealth (*Updated as of* 5/8/20)

- "ForwardHealth is implementing these changes in response to COVID-19 pursuant to Wis. Stat. § 49.45(61). ForwardHealth will publish additional guidance about the topics addressed in this ForwardHealth Update when the temporary policies related to COVID-19 expire.
- Beginning on March 12, 2020, and for the duration of the Wisconsin public health emergency for COVID-19, ForwardHealth will allow telehealth services utilizing interactive synchronous (real-time) technology, including audio-only phone communication, for currently covered services that can be delivered with functional equivalency to the face-to-face service. This applies to all service areas and all enrolled professional and paraprofessional providers allowable within current ForwardHealth coverage policy

- Special Privacy Considerations for Telehealth-Based Group Treatment Telehealth-based group services will be covered during Wisconsin's public health emergency for group services that are currently covered by ForwardHealth."

Temporary Changes to Telehealth Policy and Clarifications for Behavioral Health and Targeted Case Management Providers (*Updated as of* 5/8/20)

- "ForwardHealth will publish additional guidance that includes a reasonable timeframe to allow providers to adjust to the expiration of the temporary policies addressed in this ForwardHealth Update.
- Beginning on March 12, 2020, and for the duration of the Wisconsin public health emergency for COVID-19, Wisconsin Medicaid will allow remote services utilizing interactive synchronous (real-time) technology, including audio-only phone communication, for services that can be delivered with functional equivalency to the face-to-face service."
- "Beginning on March 12, 2020, and for the duration of the Wisconsin public health emergency for COVID-19, Wisconsin Medicaid will allow mental health screenings to be conducted via telehealth according to the remote technology guidance provided in this Update."
- Services allowed under temporary telehealth guidance have been expanded to include community recovery services, behavioral health treatment, and targeted case management services.

Children's Long-Term Support County Leads and Comprehensive Community Services (3/24/20)

- Clarifications for Behavioral Health and Targeted Case Management Providers

"On March 24, 2020, ForwardHealth published temporary policy around telehealth policy and clarifications for behavioral health and targeted case management providers. Temporary policy changes are effective for dates on and after March 12, 2020, and for the duration of the Wisconsin public health emergency for COVID-19, including:

  - Wisconsin Medicaid will temporarily allow remote services that utilize interactive, real-time technology, including audio-only phone communication, for services that can be delivered with functional equivalency to the face-to-face service.
  - Wisconsin Medicaid will temporarily allow mental health screenings to be conducted with telehealth according to the remote technology guidance provided in Update 2020-12.
  - Wisconsin Medicaid will temporarily allow the following provider types to deliver allowable services via telehealth:
    - All Comprehensive Community Services program providers
    - All Community Support Program providers
  - New allowable services under the temporary telehealth guidance for:
    - Community Recovery Services
    - Behavioral Treatment
    - Targeted Case Management"

Alert No. 004: Tribal and Non-Tribal Federally Qualified Health Centers Billing Guidance for Telehealth Policy Changes in Forward Health Update 2020-09 (3/23/20)

- Non-Tribal Federally Qualified Health Centers

For dates of service on and after March 1, 2020, the Wisconsin Department of Health Services has made changes that will allow services billed with modifier GT (modifier indicating telehealth) to be considered under the Prospective Payment System reimbursement method for non-tribal federally qualified health centers. Billing Healthcare Common Procedure Coding System procedure code T1015 (Clinic visit/encounter, all-inclusive) with a telehealth procedure code will now result in a Prospective Payment System rate for fee-for-service encounters.

- Tribal Federally Qualified Health Centers

For dates of service on and after March 1, 2020, claims for telehealth services will count as encounters as allowed under the encounter counting logic through the interim reporting and cost reporting processes.

Changes to ForwardHealth Telehealth Policies for Covered Services, Originating Sites, and Federally Qualified Health Centers (3/18/20)

- "For DOS on or after March 1, 2020, ForwardHealth will allow coverage of telehealth services for all originating sites.
- Allowable providers may be reimbursed for services currently listed in the Telehealth topic (#510) of the Online Handbook and the services listed in the following tables."

WYOMING

Commercial and Other Statewide Changes to Telehealth Law, Policy, and Guidance

Wyoming Senate Bill No. 165 (introduced 1/24/23)

- "(a) The mental health telehealth pilot program is hereby created. The department of education, in consultation with the department of health, shall select and contract with a telehealth counseling provider to offer telehealth counseling services to public school students within the state. The telehealth counseling services shall be available to all Wyoming public school students in grades kindergarten through twelve (12), shall be provided at no cost to the students and shall be offered beginning January 1, 2024 and ending when the funds appropriated in section 2 of this act are exhausted. The names of students who utilize the telehealth counseling services shall remain confidential and shall not be revealed to the department of education or to the public schools that the students attend."

COVID-19 PUBLIC HEALTH EMERGENCY FREQUENTLY ASKED QUESTIONS (April 2020)

- "FAQ1: Can physicians and physician assistants not licensed in Wyoming practice here during the COVID-19 Public Health Emergency?

A1: Physicians and physician assistants not licensed in Wyoming may qualify to provide care, both in-person and via telehealth, to patients located in Wyoming during declared public health emergency through the "consultation exemption.

- FAQ4: I am licensed as a physician in another state. I have established patients from Wyoming who come to my state to receive care, but now are not traveling due to the Public Health Emergency. May I continue to provide care to them via telehealth (including telephone) without a Wyoming physician license?

If you have an existing physician-patient relationship established in a face-to-face encounter in your state, and the patient is not able to travel to your state now due to the Public Health Emergency, you may continue that patient's care via telehealth, including telephone, without a Wyoming physician license. This includes following up on procedures performed in your home state, adjusting medication dosing, prescription refills, ordering diagnostic testing, etc. The telehealth technology must allow you to meet the standard of care at all times."

State of Wyoming Insurance Department Bulletin 20-01 (3/11/20)

- "Health insurers are encouraged to liberalize telehealth benefits during this period of increased infection. In addition to contracted telehealth services, insurers are reminded that group insurance contracts cannot contain a provision requiring services to be provided by a particular provider or facility. Consumers should have access to telehealth benefits through their current healthcare provider."

State Licensure Laws, Policy, and Guidance

Wyoming Senate Bill No. 10 (passed 2/23/23)

- "33-38-202. Interstate compact for licensed professional counselors.
  - The Interstate Compact for Licensed Professional Counselors as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:
  - SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH
    - A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.
    - B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State."

Wyoming Senate Bill No. 26 (passed 2/15/23)

- "33-27-202. Compact provisions generally.
  - The Psychology Interjurisdictional Compact is enacted into law and entered into on behalf of this state with all other states legally joining in the Compact in a form substantially as follows:
  - ARTICLE IV COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

- A. Compact States shall recognize the right of a psychologist, licensed in a Compact State in conformance with Article III of this Compact, to practice telepsychology in other Compact States (Receiving States) in which the psychologist is not licensed under the Authority to Practice Interjurisdictional Telepsychology as provided in the Compact."

Section 1135 Waiver Flexibilities (3/27/20)

- "For claims for services provided to Medicaid participants enrolled with Wyoming Medicaid program, CMS will waive the fifth criterion listed above under section 1135(b)(1) of the Act. Therefore, for the duration of the public health emergency, Wyoming may reimburse out-of-state providers for multiple instances of care to multiple participants, so long as the other criteria listed above are met.
- If a certified provider is enrolled in Medicare or with a state Medicaid program other than Wyoming, Wyoming may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency.
- With respect to providers not already enrolled with another SMA or Medicare, CMS will waive the following screening requirements under 1135(b)(1) and (b)(2) of the Act, so the state may provisionally, temporarily enroll the providers for the duration of the public health emergency:

Criminal background checks associated with Fingerprint-based Criminal Background Checks - 42 C.F.R. §455.434

Site visits - 42 C.F.R. §455.432

In-state/territory licensure requirements - 42 C.F.R. §455.412

- CMS is granting this waiver authority to allow Wyoming to enroll providers who are not currently enrolled with another SMA or Medicare so long as the state meets the following minimum requirements…"

COVID-19 Public Health Emergency Frequently Asked Questions (March 2020)

- "Physicians and physician assistants not licensed in Wyoming may qualify to work here during the declared public health emergency through the "consultation exemption." If approved to do so, the physician or physician assistant is considered to be "consulting" with the State Health Officer. The exemption from licensure, if approved, will be valid until the earlier of the end of the Public Health Emergency or the termination by the State Health Officer of the physician's or physician assistant's "consultation."
- Current, full and unrestricted licensure in at least one U.S. jurisdiction or country is required. The exemption is not automatic, requires approval of the Board of Medicine and the State Health Officer, and does not apply to all physicians and physician assistants."

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