Legislative Briefing:
Telehealth Policy for a Post-Pandemic California

October 15, 2021
Welcome and Introduction to the Legislative Briefing

Mei Wa Kwong, JD
Executive Director
Center for Connected Health Policy
About the California Telehealth Policy Coalition

Please visit our website for more information or if you are interested in joining.
https://www.cchpca.org/about/projects/california-telehealth-policy-coalition
Thank you to today’s sponsors
Purpose and key objectives of today’s webinar

Discuss direction of state telehealth policy in context of broader policy landscape and current state administrative efforts.

- **Provide an overview of state and federal telehealth policy**, including prior-to pandemic expansions as well as post-pandemic policies.
- **Discuss stakeholder perspectives and the impact on patients** and issues to keep in mind when developing long-term telehealth policies.
- **Panelist discussion** on ongoing considerations and next steps.
- **Answer key questions** about existing and proposed legislation as well as the future outlook for telehealth in California.
Agenda and preliminary announcements

Welcome
• Mei Wa Kwong, Executive Director, Center for Connected Health Policy

State and Federal Telehealth Policy Landscape Overview
• Mei Wa Kwong, Executive Director, Center for Connected Health Policy

Panelist Session – Opening remarks followed by discussion
• Moderated by Diana Camacho, Senior Program Officer, Improving Access, California Health Care Foundation

Speakers
• Yohualli B. Anaya, MD, MPH, Anaya, Assistant Clinical Professor, Department of Family Medicine, Family Medicine Clerkship, Co-Chair, David Geffen School of Medicine, UCLA
• Sarah Hesketh, Senior Vice President of External Affairs, California Association of Public Hospitals and Health Systems (CAPH)
• Rebecca Picasso, Principal Program Manager, Virtual Care & Telehealth Innovation, Blue Shield of California
• Cary Sanders, Senior Policy Director, California Pan-Ethnic Health Network (CPEHN)

Q&A

Attendees will remain muted during the webinar.

Please submit any questions you have during the webinar in the Q&A box, not the chat box.
State and Federal Telehealth Policy Landscape
# STATE & FEDERAL TELEHEALTH POLICY CHANGES IN COVID-19

<table>
<thead>
<tr>
<th>FEDERAL</th>
<th>STATE (Most Common Changes)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MEDICARE ISSUE</strong></td>
<td><strong>CHANGE</strong></td>
</tr>
<tr>
<td>Geographic Limit</td>
<td>Waived</td>
</tr>
<tr>
<td>Site limitation</td>
<td>Waived</td>
</tr>
<tr>
<td>Provider List</td>
<td>Expanded</td>
</tr>
<tr>
<td>Services Eligible</td>
<td>Added additional 80 codes</td>
</tr>
<tr>
<td>Visit limits</td>
<td>Waived certain limits</td>
</tr>
<tr>
<td>Modality</td>
<td>Live Video, Phone, some srvs</td>
</tr>
<tr>
<td>Supervision requirements</td>
<td>Relaxed some</td>
</tr>
<tr>
<td>Licensing</td>
<td>Relaxed requirements</td>
</tr>
<tr>
<td>Tech-Enabled/Comm-Based (not considered telehealth, but uses telehealth technology)</td>
<td>More codes eligible for phone &amp; allowed PTs/OTs/SLPs &amp; other use</td>
</tr>
</tbody>
</table>

- **DEA – PHE prescribing exception/allowed phone for suboxone for OUD**
- **HIPAA – OCR will not fine during this time**

- Private payer orders range from encouragement to cover telehealth to more explicit mandates
- Relaxed some health information protections
2021 Trends

Federal Activity

- CCHP tracking over 100 pieces of federal telehealth legislation
- Re-introduction of bills to make some of the temporary changes permanent
  - Removing originating site restrictions, adding audio-only, parity, mental health focus
- CMS Proposed Physician Fee Schedule
  - Extending some temporary eligible telehealth services – just Category 3 until end of CY 2023
  - Expansions for audio-only and FQHC/RHCs but many caveats and limited to mental health

State Activity

- Payment parity
  - Reimbursement limits by service, provider, modality
- Audio-Only
- Licensing for out of state providers
- Data requirements/workgroups established
- Broadband (infrastructure, affordability, digital literacy)
PERMANENT FEDERAL
TELEHEALTH POLICY UPDATES

ADMINISTRATIVE

- Physician Fee Schedule Changes
  - Added some services from the temporary list to the permanent list
  - Created a “Category 3” for approval of services. Temporarily allows some services to continue to determine if they should be permanent

*Proposed changes extend Category 3 until end of CY 2023 and allow audio-only for mental health services with many caveats*

LEGISLATIVE

- **HR 133**
  - Added rural emergency to originating site
  - Expansion of mental health services to be without geographic restriction and allows the home
    - **BUT** - one in-person visit with telehealth provider within 6-month period prior to telehealth encounter
  - Additional funding for broadband and FCC Telehealth COVID-19 Program
PERMANENT STATE UPDATES: MEDICAID REIMBURSEMENT BY SERVICE MODALITY
(Fee-for-Service)

Live Video
50 states and DC

Store and Forward*
22 states

Remote Patient Monitoring*
29 states

Allow audio-only*
22 states

*Some states reimburse this modality solely as part of Communication Technology-Based Services, which have their own separate codes and reimbursement rates.

As of Fall 2021
43 states and DC have telehealth private payer laws

20 States have Payment Parity (almost half are new)

Some states have “service parity” others have “payment parity” or both – in addition, some make their telehealth private payer laws “subject to the terms and conditions of the contract” which can limit true parity

As of Fall 2021
EXAMPLES of 2021 STATE UPDATES

Payment Parity and Audio-Only
- Expanding coverage to audio-only (RI, KY, TN)
  - WA HB 1196: Expands existing payment parity laws to include audio-only as well – also for RHCs

Licensing/flexibility for out of state providers (WV, KS, NY)
- AZ HB 2454: Allows out-of-state providers to deliver services via telehealth under certain circumstances
- At least 10 states entered into one or more licensing compacts

Data requirements/workgroups established (MN, MD, RI, AZ)
- NV SB 5 – Requires Dept. to establish an electronic tool to analyze certain data concerning access to telehealth and creation of a data dashboard for analysis of data related to telehealth access by different groups and populations

Limited extension of emergency policies (MD & MN – audio-only and parity – until June 30, 2023)
- CT HB 5596: Extends some policies allowing audio-only until June 30, 2023

Updating Private Payer Laws
- Payment parity requirements (8 new states) – Many with limits by service, provider, modality
- Prohibiting insurers from contracting with just one telehealth company (AR, AZ)
<table>
<thead>
<tr>
<th>PRE-COVID-19</th>
<th>COVID-19</th>
<th>PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Live Video &amp; Store &amp; Forward</td>
<td>Live Video &amp; Store &amp; Forward</td>
<td>Live Video, Store &amp; Forward along</td>
</tr>
<tr>
<td>Reimbursed at parity; Provider</td>
<td>Reimbursed at parity; Provider</td>
<td>w/audio-only, reimbursed at parity,</td>
</tr>
<tr>
<td>chooses when appropriate to use.</td>
<td>chooses when appropriate to use.</td>
<td>pending new DHCS billing protocols</td>
</tr>
<tr>
<td>FQHC/RHC Limited use of both</td>
<td>FQHC/RHC allowed to use both</td>
<td>FQHC/RHC may use all modalities</td>
</tr>
<tr>
<td>modalities</td>
<td>modalities</td>
<td>with no site limitations and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>reimbursed at PPS rate</td>
</tr>
<tr>
<td>FQHCs/RHCs limited in where</td>
<td>FQHC/RHC home eligible</td>
<td>Audio-only reimbursed at parity,</td>
</tr>
<tr>
<td>patient located at time of service.</td>
<td>originating site for all modalities</td>
<td>subject to new DHCS billing protocols</td>
</tr>
<tr>
<td>Home not eligible</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No audio-only.</td>
<td>Audio-only reimbursed for</td>
<td>RPM covered subject to separate fee</td>
</tr>
<tr>
<td>No RPM.</td>
<td>services &amp; parity</td>
<td>schedule</td>
</tr>
<tr>
<td></td>
<td>No RPM.</td>
<td></td>
</tr>
</tbody>
</table>
AB 133 – Extends Medicaid Expansions
- Extends temporary Medi-Cal telehealth policies to December 31, 2022
- DHCS to convene advisory group regarding telehealth billing protocols
- Protects pre-COVID-19 policies, including store-and-forward
- Allows DHCS to authorize RPM with a separate fee schedule
- Creates Children & Youth Behavioral Initiative – Incentivizes school-based telehealth

AB 457 – Expands Private Payer Protections
- Updates private payer law – removes contract specific language
- Patient choice and third party telehealth provider protections
SB 156 – $6 Billion Investment

- Middle Mile Broadband Infrastructure – construction of state-owned open-access broadband middle mile ($3.25 Billion)
- Broadband Last Mile Support – Last mile funding ($2 billion total, staggered out over 2021-24)
- Loan Loss Reserve – Allows counties to acquire funding for acquisition, construction and improvement of broadband infrastructure and operate a broadband services ($750 million)
New California Workgroup Process

Workgroup Charge

The charge of the workgroup is to advise DHCS on how to refine its telehealth policies to ensure the policies are designed optimally for a post-PHE world.

- **Billing and coding protocols:** What codes and modifiers should be used to delineate when services are delivered by telehealth and whether services are video or audio-only.
- **Ongoing monitoring and evaluation:** How DHCS should measure and review telehealth utilization to facilitate consumer protection and Medi-Cal program stewardship.
- **Utilization management:** What standards and protections should be in place to ensure expanded telehealth coverage increases access, supports high-quality care, and reduces health disparities, among other goals.

Find more information on the advisory group here: https://www.dhcs.ca.gov/provgovpart/Pages/TelehealthAdvisoryWorkgroup.aspx

Next Scheduled Meeting:
- October 20, 2021 (Wednesday; time not yet released, hold 9:00 am – 1:00 pm)

Topics for Workgroup Advisement

- **Topic 1:** Identify billing and coding protocols that will provide more comprehensive and specific information about telehealth utilization
  - **Issues to be Addressed**
  - Limitations in understanding current telehealth use and impact due to inconsistent and optional use of telehealth modifiers within certain delivery systems
  - Inability to differentiate between video and audio modalities

- **Topic 2:** Identify monitoring policies to support consumer protection and program integrity
  - Lack of monitoring capabilities to support consumer protections and analyze utilization outliers
  - Limited evidence base on the quality of ‘telehealth-only’ or third-party telehealth providers and potential impact on coordination of care

- **Topic 3:** Identify other policies that will help achieve DHCS’ guiding principles for telehealth
  - Ensure Medi-Cal beneficiaries have equitable access to in-person care or care via the telehealth modality that best suits their needs and meets standard of care
PANEL SESSION

Moderated by Diana Camacho Senior Program Officer, Improving Access, California Health Care Foundation
PANELISTS

Yohualli B. Anaya, MD, MPH
Assistant Clinical Professor, Department of Family Medicine, Family Medicine Clerkship, Co-Chair
*David Geffen School of Medicine, UCLA*

Sarah Hesketh, Senior Vice President of External Affairs
*California Association of Public Hospitals and Health Systems (CAPH)*

Rebecca Picasso, Principal Program Manager
*Blue Shield of California*

Cary Sanders, Senior Policy Director
*California Pan-Ethnic Health Network (CPEHN)*
Yohualli B. Anaya, MD, MPH
Assistant Clinical Professor, Department of Family Medicine, Family Medicine Clerkship, Co-Chair
*David Geffen School of Medicine, UCLA*
PANELIST OPENING REMARKS

Sarah Hesketh
Senior Vice President of External Affairs
*California Association of Public Hospitals and Health Systems (CAPH)*
PANELIST OPENING REMARKS

Rebecca Picasso
Principal Program Manager, Virtual Care & Telehealth Innovation
Blue Shield of California
Cary Sanders, Senior Policy Director
California Pan-Ethnic Health Network (CPEHN)
PANEL DISCUSSION

Moderator:
• Diana Camacho, Senior Program Officer, Improving Access, California Health Care Foundation

Panelists:
• Yohualli B. Anaya, MD, MPH, Assistant Clinical Professor, Department of Family Medicine, Family Medicine Clerkship, Co-Chair, David Geffen School of Medicine, UCLA
• Sarah Hesketh, Senior Vice President of External Affairs, California Association of Public Hospitals and Health Systems (CAPH)
• Rebecca Picasso, Principal Program Manager, Virtual Care & Telehealth Innovation, Blue Shield of California
• Cary Sanders, Senior Policy Director, California Pan-Ethnic Health Network (CPEHN)
Facilitated question and answer

Please submit your questions in the Q&A box.
Register for our Annual Meeting!

Annual Meeting
• Tuesday, November 2 from 9am-2pm
• Register here: [https://bit.ly/3lz60Ra](https://bit.ly/3lz60Ra)

Sponsorships are still available!

<table>
<thead>
<tr>
<th>Sponsorship Level</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Platinum Sponsor</td>
<td>$10,000</td>
</tr>
<tr>
<td>Gold Sponsor</td>
<td>$5,000</td>
</tr>
<tr>
<td>Silver Sponsor</td>
<td>$1,000</td>
</tr>
<tr>
<td>Friends of the Coalition</td>
<td>$500</td>
</tr>
</tbody>
</table>
Thank you to today’s sponsors!

California Health Care Foundation

Center for Connected Health Policy

ro
Contact staff with any questions:
Mei Kwong
meik@cchpca.org

Amy Durbin
amyd@cchpca.org

Please visit the California Telehealth Policy Coalition website for more information:
https://www.cchpca.org/about/projects/california-telehealth-policy-coalition