



To: The Honorable Gavin Newsom, Governor, State of California  
Cc: Richard Figueroa, Deputy Cabinet Secretary  
Dr. Mark Ghaly, Secretary, California Health and Human Services Agency  
Dr. Alice Chen, Deputy Secretary for Policy, California Health and Human Services Agency  
Dr. Brad Gilbert, Director, Department of Health Care Services  
Tam Ma, Deputy Legislative Secretary, Office of the Governor  
Mike Wilkening, Special Advisor on Innovation and Digital Services, Office of the Governor  
From: California Telehealth Policy Coalition  
Date: March 18, 2020  
**RE: Recommendations to Quickly Promote the Use of Telehealth In California During the COVID-19 Pandemic**

With COVID-19 infections and mortality rapidly rising in the state, California lawmakers and policymakers must take swift action to stem the spread of the virus. Public health experts have pointed to human-to-human contact as the primary mode of transmission, and many leaders and experts, including the Centers for Disease Control and Prevention and President Trump in his recent address to the nation, have pointed to telehealth as key to providing ongoing access to care while keeping people out of health care facilities during this pandemic.

As a coalition of over 70 organizations dedicated to the advancement of telehealth policy in California, the California Telehealth Policy Coalition respectfully requests that Governor Newsom use his emergency powers to direct state agencies to work to expand access to telehealth services swiftly, as outlined below. In addition, we request that the Governor work with the Legislature to pass AB 2164 and an emergency funding bill that would provide much-needed start-up funds for technical assistance to community health centers, which will bear much of the primary care burden during this crisis. Given that CMS has taken action to expand access to telehealth services in the Medicare program, we believe that California can do the same to ensure access to care in the Medi-Cal program and the commercial insurance space.

In developing this call to action, several principles that underpin our work promoting telehealth guided the development of our recommendations below. Specifically, the Telehealth Policy Coalition's principles include

- **Promote access and coverage.** Policies, legislation and activities should promote access to care through telehealth and coverage of telehealth services.
- **Enhance care coordination.** Policies, legislation and activities should reinforce the patient-centered medical home model and reduce care fragmentation both within and among systems.
- **Promote provider and patient engagement.** Policies, legislation and activities should promote the participation of providers in efforts that improve performance and patient health outcomes, and the involvement of patients in their health care.

- **Reinforce clinical quality.** Policies, legislation and activities should reinforce desirable, measurable outcomes, specifically those used by regulators and produced by standard-setting organizations.
- **Ensure data privacy and security.** Policies, legislation and activities should ensure data privacy and security, particularly as those standards are prescribed by law and industry standards.

Given that under Government Code section 8627, the Governor presently has complete authority over all government agencies and the power to promulgate, issue and enforce all regulations as he deems necessary during this state of emergency, we respectfully ask that the Governor and his advisors take the following actions to support telehealth:

**Sign an executive order requesting all primary and urgent care providers institute a “telehealth triage” for all visits conducted in the state**

We request that the Governor communicate the urgent need for all primary and urgent care providers to institute “telehealth triage” into their practices to prevent ill patients from presenting in physical health centers. CDC’s Interim Guidance for Healthcare Facilities recommends that practices shift health care delivery by triaging and assessing ill patients uses nurse advice lines, provider telephone systems, text monitoring systems, video conference or other telehealth.<sup>1</sup> This request could be part of a larger education program for providers on how best to treat patients during the COVID-19 pandemic.

**Pass and fund A.B. 2164 (2020) to create a E-Consult Services and Telehealth Assistance Program for community health centers and networks**

We ask that the Governor work with the state Legislature to immediately pass and enter into law A.B. 2164 (Rivas) and to disperse necessary funds in an emergency budget bill. These funds will be available for community health centers and networks to stand up provider-to-provider consultation programs available to all front-line primary care providers on a 24/7 basis. In this pandemic, primary care providers need clinical advice from specialist colleagues, particularly infectious disease specialists, but many of these providers in community health centers do not have easy access to such specialists at the moment.

**Work with payers to find a solution that requires health plans to cover all telehealth services, not just those with a face-to-face equivalents, in alignment with Medicare coverage**

We thank the Governor and the DMHC for their action on March 18, 2020 (APL 20-009) notifying all health care service plans of the needs to reimburse for telehealth services with face-to-face

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<sup>1</sup> Centers for Disease Control and Prevention. Interim Guidance for Healthcare Facilities: Preparing for Community Transmission of COVID-19 in the United States. Last updated February 29, 2020. Available at <https://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/guidance-hcf.html>.

equivalents, and the DOI for publishing insurer guidance on the Emergency Notification Filing Requirements, requesting information on how insurers are ensuring access to medically necessary health services.

We ask that the Governor work with the health plans to ensure all health plans regulated by the Department of Insurance, licensed by the Department of Managed Health Care and contracted with the Department of Health Care Services for Medi-Cal Managed Care cover all telehealth services not currently mandated under law. Given how critical is it to ensure that patients are not required to present at health care facilities during this pandemic to slow the exposure and infection rates, the Governor should require that *all* telehealth services be eligible for reimbursement, not just those related to COVID-19 treatment.

In addition to the actions already taken, we ask that the Governor consider requiring coverage of the following services for all insurers, health care service plans and Managed Care Plans, with the following CPT code. All of the services listed below are currently reimbursed by the Medicare program and included in the CMS Physician Fee Schedule for 2020:

- **Electronic consults/e-consult (interprofessional internet consultations):** CPT 99446-9, 99451, 99452
- **Complex chronic care management:** CPT 99487, 99489
- **Online digital evaluation:** HCPCS G2061-3
- **Principle Care Management:** HCPCS G2064-5
- **Remote patient monitoring:** CPT 99453-4, 99457

**Ensure that DHCS include the entire CPT e-consult code set in implementing the proposed 1135 waiver**

We would like to thank the Department of Health Care Services for submitting the section 1135 waiver on March 16, 2020 and for requesting many waivers related to telehealth. However, should CMS approve the waiver in its entirety, we ask that DHCS include the following codes in the state plan amendment for FQHC/RHC payment methodology: 99446-9 and 99451-2. Adoption of these codes will ensure that both primary care providers and specialists are compensated for their time spent on e-consults.

**Waive California licensing requirement for providers to bill for services provided to Medi-Cal beneficiaries provided during this emergency**

We thank DHCS for requesting flexibility from CMS around Medi-Cal provider enrollment, specifically around administrative processing and licensing. We ask that should the department

be granted such authority, that the department allow for all providers licensed in another U.S. state to serve beneficiaries and be reimbursed for such services so long as California remains in a state of emergency. Relatedly, should CMS approve the 1135 waiver, DHCS should use its flexibility to expedite provider enrollment administration and also suspend enforcement of the provision in the Provider Manual that requires providers to be physically located in California or a border community, so long as California remains in a state of emergency. California already sorely lacks providers, particularly primary care providers, and will need to lean on providers in other states to fill the gaps remotely via telehealth.

**Work with DOI, DHCS and DMHC to ensure that health plans and their delegates do not impose onerous requirements on their providers seeking to use telehealth**

We ask that DOI, DHCS and DMHC request that the health plans they regulate and their delegated entities ensure that they work to process telehealth claims submitted by their providers and work to reduce administrative burdens place on providers seeking to do so. As the COVID-19 pandemic has unfolded, providers including in particular behavioral health providers, have reported numerous barriers imposed by health plans to being able to use telehealth with their patients and encounter those visits. These include requirements that providers receive special telehealth credentialing in order to use telehealth to provide services to patients and registration with a delegated entity to be able to bill for telehealth. While we understand that DOI, DMHC and DHCS cannot limit the contractual and administrative requirements health plans and their delegates impose on their providers, we ask that all three departments reiterate to the health plans they oversee the urgent need their providers have to ensure that they can use telehealth to reach their patients, when medically appropriate, during this pandemic.

**Suspend enforcement of the Confidentiality of Medical Information Act during this emergency, in alignment with similar actions at the federal level**

We ask that the Governor direct the Office of Health Information Integrity within CHHS to waive all potential penalties for Confidentiality of Medical Information Act (CMIA) (Cal. Civil Code sections 56.10-56.16) violations against health care providers that serve patients through health information and communications technologies, including telehealth, during the emergency. Such action would align with the announcement on March 17, 2020 from the US Department of Health and Human Services Office for Civil Rights that it will waive potential penalties for HIPAA violations against providers during the emergency. Given the exigent circumstances and the urgent need to provide serve patients where they are,

**Issue guidance through DHCS to managed care plans that all telehealth services provided during the crisis not currently encounterable will be considered in rate setting for the next coverage year**

Lastly, we ask that the Governor direct DHCS to issue guidance to managed care plans serving Medi-Cal beneficiaries to clarify that all telehealth services provided to beneficiaries during the



crisis that are not currently reimbursable or encounterable per the Provider Manual will be considered in future rate setting. This may include services such as remote patient monitoring which may not be included in any executive orders pertaining to health coverage during this crisis.

**Work with DHCS to ensure that DHCS billing staff receive guidance on allowable telehealth claims to ensure these claims are properly processed**

We again thank DHCS for its intention to expand telehealth services during the COVID-19 pandemic through its 1135 waiver. We ask that DHCS ensure that properly submitted claims are processed quickly and efficiently by the Electronic Data Systems and by ensuring DHCS staff understand and are aware of current telehealth reimbursement policies, per the billing guidelines in the Provider Manual. Our Coalition colleagues have been fielding numerous calls over the past week from providers whose otherwise properly submitted claims for telehealth services are being rejected by the DHCS claims system. This guidance will be critical to minimizing delay and confusion over what services can be offered to Medi-Cal beneficiaries and billed by providers.

**Conclusion**

The COVID-19 crisis presents an unprecedented situation for California, measured both by the numbers of those infected and the opportunity to prove its potential for leadership in the response to the pandemic. We believe that California's Governor is up to the task to address the crisis and reduce its spread by promoting health care providers' use of innovation technologies like telehealth. To do so, California leadership must provide support and reassurances to health care providers and payers that their efforts to expand access will be recognized and reimbursed. Accordingly, the Telehealth Policy Coalition appreciates the Governor's consideration of our recommendations outlined in this letter.

We look forward to working with our members and your Administration as we continue to tackle the COVID-19 pandemic. Please direct any questions regarding this letter to Robby Franceschini at [robby.franceschini@bluepathhealth.com](mailto:robby.franceschini@bluepathhealth.com).

Sincerely,

The Telehealth Policy Coalition