MARYLAND HEALTH CARE COMMISSION

Telehealth Policy Workgroup
Virtual Kick-Off Meeting

September 30, 2020 | 2:00pm-4:00pm EDT

Join with Google Meet: meet.google.com/xfj-uqqv-yrv
Join by Phone: (US) +1 402-752-0291 PIN: 761 526 578#

Agenda

    I.   **INTRODUCTIONS**

   II.   **OPENING REMARKS/PURPOSE OF THE WORKGROUP**

  III.   **OVERVIEW OF TELEHEALTH POLICY CHANGES IMPLEMENTED IN RESPONSE TO COVID-19**

  IV.   **STAKEHOLDERS – LEGISLATIVE PLANS**

   V.   **POLICY DISCUSSION**

  VI.   **OTHER**

 VII.   **NEXT STEPS**

For technical assistance during the meeting, please email:
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TELEHEALTH POLICY WORKGROUP

VIRTUAL KICK-OFF MEETING

SEPTEMBER 30, 2020

MHCC | MARYLAND HEALTH CARE COMMISSION

* Presented to the Maryland Hospital Association's Stakeholder Innovation Group on September 16, 2020

REGULATORY RELIEF PROPELS TELEHEALTH TO THE FOREFRONT OF HEALTH CARE DELIVERY

- Rapid diffusion supported by the relaxation and expansion of telehealth policies brought on by a public health crisis

  - Enabled by Executive Orders from Governor Hogan and waivers from the federal government

- In March, telehealth visits surged 50 percent nationally*

  - Analysts estimate more than 900 million visits are expected by the end of 2020

According to research from Frost and Sullivan consultants – more information available at:
www.cnbc.com/2020/04/03/telehealth-visits-could-top-1-billion-in-2020-amid-the-coronavirus-crisis.html

KEY TELEHEALTH POLICY CHANGES

- HIPAA requirements – enforcement discretion on the use of certain technologies for the good faith provision of telehealth services

- Telehealth waivers (some variances across payors)

  - Patient location – lessening of geographical restrictions

  - Licensing – greater flexibilities to practice across state lines

  - Patient-provider relationship – redefined what constitutes a treatment relationship

  - Eligible providers – expanded the provider types that can deliver telehealth services

  - Types of services covered – increased the number of services payable when furnished via telehealth

- Cost-sharing – patient obligation eliminated or reduced

HIPAA

- The Office for Civil Rights is exercising enforcement discretion and not imposing penalties for noncompliance with the regulatory requirements under HIPAA Rules against covered health care providers during the COVID-19 nationwide public health emergency

- Covered health care providers may use popular non-public facing applications to deliver telehealth services
  - Video chat applications include: Apple FaceTime, Facebook Messenger video chat, Google Meet, Zoom, and Skype
  - Text-based applications include: Signal, Jabber, Facebook Messenger, Google Hangouts, WhatsApp, iMessage

- Public-facing applications, such as Facebook Live, Twitch, and TikTok are not permitted

LICENSING AND MEDICAL LIABILITY COVERAGE

- Providers with an active license in good standing in another state may practice across state lines*

  - The standard of care for telehealth treatment and documentation is the same as an in-person encounter

- Medical liability coverage for telehealth is dependent on a carrier's policies

  - Medical liability carriers may not cover the use of telehealth when the provider is delivering telehealth to a patient living outside of the state where the medical liability contract is written

Subject to licensing board requirements in each state

PATIENT LOCATION AND SERVICE DELIVERY

- Telehealth services can be furnished using audio/visual or audio-only technology wherever the patient is located, including at home, regardless of rural designation

- Certain types of services no longer require both audio and video — visits can be conducted over the telephone or through a web portal

PATIENT AND PROVIDER RELATIONSHIP

- Providers may deliver telehealth services to new and established patients

  - A patient may present photo identification, or a provider may use any other means to identify a patient that would be accepted for an in-person encounter

ELIGIBLE PROVIDERS AND COVERED SERVICES

- In general, more non-physician provider types can bill for an expanded list of telehealth services, including licensed clinical social workers, clinical psychologists, physical therapists, occupational therapists, speech language pathologists, chiropractors, and dentists

- Home health agencies and hospice providers can provide more services through telehealth, as appropriate and consistent with the patient's plan of care

  - Patients that a provider determines should not leave home because of medical contraindications, or due to suspected or confirmed COVID-19, qualify for home health benefits

- Providers can provide remote patient monitoring (RPM) services for patients with COVID-19 and other chronic conditions

COST SHARING

- Patient obligation reduced or waived under certain circumstances, including payor sponsored telehealth programs

  - Subject to payor requirements and timelines; providers will not face administrative sanctions by federal or State health care programs

POST COVID-19

- Momentum is increasing nationally to make some telehealth policy changes permanent; a complete return to pre-COVID-19 policies viewed largely by providers and policy makers as unrealistic

  - Variation is likely across states on permitted uses of telehealth

  - Payors are beginning to signal that some dialing back will occur following the end of the federal/State public health emergency

- The need for an evaluation of the impact of telehealth exists; timing is an issue

  - Evaluations of telehealth are just beginning; NQF recommended domains: access to care, financial impact, patient and provider experience, effectiveness

- The MHCC will convene a *Telehealth Policy Workgroup* (workgroup) this fall to deliberate on telehealth policies post COVID-19 and identify stakeholder alignment opportunities

THE END

QUESTIONS?

APPENDIX

PAYOR TELEHEALTH POLICIES

Slides 14 – 18

Note: Italicized items represent temporary measures waiving certain use requirements for telehealth during the COVID-19 public health emergency

Category	Maryland Medicaid
Distant Site Providers (that can bill for telehealth services)	- Somatic Services: As permitted by licensing board *Licensed Physical Therapists* *Individualized Education Program (IEP)/Individualized Family Service Program (IFSP)* *Licensed Speech Pathologists* *Licensed Occupational Therapists* *Qualified Service Coordinators per COMAR 10.09.40 or COMAR 10.09.52* *Dentists* - Behavioral Health:* - Psychiatrists - Psychiatric Nurse Practitioners (CRNP-PMH) - Advanced Practice Nurses (APRN-PMH) - LCPC, LCMFT, LCADC, LCPAT - LCSW-C - In Outpatient Mental Health Clinics - only under supervision - LMSW or LCSW, LGPC, LGADC LGMFT, LGPAT - In ASAM Level 1 outpatient SUD program, State licensed providers only – CAC-AD, CSC-AD - FQHCs who bill through the Specialty Behavioral Health System - Licensed Psychiatric Rehabilitation Program *Licensed Substance Use Disorder Intensive Outpatient Centers* *Substance Use Disorder Residential Treatment Program*
Locations (originating site: where the patient and possibly a provider are located; distant site: where the provider is located)	- Originating site - A college or university student health or counseling office; - A community-based substance use disorder provider; - A deaf or hard of hearing participant's home or any other secure location as approved by the participant and the provider; - An elementary, middle, high, or technical school with a supported nursing, counseling or medical office; - A local health department; - A Federally Qualified Health Center (FQHC); - A hospital, including the emergency department; - A nursing facility; - A private office (physician, physician assistant, psychiatric nurse practitioner, nurse practitioner, or nurse midwife); - An opioid treatment program; - An outpatient mental health center (OMHC); - A renal dialysis center; or - A residential crisis services site *Patient's home or another secure location* - Distant site - Any secure, private location

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Behavioral health providers must be enrolled in the Maryland Department of Health's Specialty Behavioral Health Program

Category	Maryland Medicaid

Services	• Audio-visual
	  ○ Somatic Care: Services permitted within a provider's scope of practice by the licensing board
	  ○ *Physical Therapy (PT)*
	  ○ *IEP/IFSP Physical Therapy, Occupational Therapy, Speech Therapy, Psychotherapy, Nutrition Services*
	  ○ *Outpatient and Residential Substance Use Disorder Treatment*
	  ○ *Dental*
	
	• Audio-only Telephone
	  ○ *Somatic Services: Evaluation and management of an established patient (5-15 minutes)*
	  ○ *Behavioral Health*
	    ▪ *Evaluation and management of an established patient*
	    ▪ *Psychotherapy: Individual and families*
	    ▪ *Outpatient and Residential substance use disorder treatment*
	    ▪ *Group Therapy Treatment*

Types of Technology	• Must have the following:
	  ○ A camera that has the ability to manually, or under remote control, provide multiple views of a patient with the capability of altering the resolution, focus, and zoom requirements according to the consultation;
	  ○ Have display monitor size sufficient to support diagnostic needs used in the service via telehealth;
	  ○ Bandwidth speed and image resolution sufficient to provide quality video to meet a minimum of 15 frames per second, or higher, as industry standards change;
	  ○ Unless engaging in a telehealth communication with a participant who is deaf or hard of hearing, audio equipment that ensures clear communication and includes echo cancellation;
	  ○ Creates audio transmission with less than 300 millisecond delay;
	  ○ Secured and HIPAA compliant telehealth communication (COMAR 10.09.36 General Medical Assistance Provider Participation Criteria)
	• *Notebook computers and smartphones that do not fully meet the qualifications outlined in the Program Manual (above)*
	• *Audio-only telephone*
	• *For video applications that do not meet State regulations and audio-only telephone services, patient must be provided with a clear explanation of potential limitations, including confidentiality, and provide explicit*

Cost-Sharing	• Same as in-person visits

Category	Aetna	CareFirst	Cigna	UnitedHealthcare

Distant Site Providers (that can bill for telehealth services)	• In-network providers	• Clinicians and Associated Nurse Practitioners in:
		  ○ Primary Care
		  ○ General Practice
		  ○ Internal Medicine
		  ○ Pediatrics
		  ○ OBGYN
		• Behavioral Health
		  ○ *Psychiatrists*
		  ○ *Nurse Practitioners*
		  ○ *Psychologists*
		  ○ *Licensed Certified Social Workers*
		  ○ *Licensed Professional Counselors*
		• Dentists
			• In-network providers	• Physicians
				• Nurse Practitioners
				• Physician Assistants
				• Nurse-Midwives
				• Clinical Nurse Specialists
				• Registered Dietitian or Nutrition Professionals
				• Clinical Psychologists
				• Clinical Social Workers
				• Certified Registered Nurse Anesthetists
				• *Physical Therapists*
				• *Occupational Therapists*
				• *Speech Therapists*
				• *Chiropractic Therapists*
				• *Home health*
				• *Hospice*
				• *Dentists*

Locations (originating site: where the patient and possibly a provider are located)	• Check with carrier	• Check with carrier	• Check with carrier	• The office of a physician or practitioner; • A hospital (inpatient or outpatient); • A critical access hospital (CAH); • A rural health clinic (RHC); • A federally qualified health center (FQHC); • A hospital-based or critical access hospital-based renal dialysis center (including satellites); NOTE: Independent renal dialysis facilities are not eligible A skilled nursing facility (SNF); and • A community mental health center (CMHC) • Mobile Stroke Unit • Patient home only for monthly ESRD, ESRD-related clinical assessments, and for purposes of treatment of a substance use disorder or a co-occurring mental health disorder • *Patients home or other secure location for any visit type*

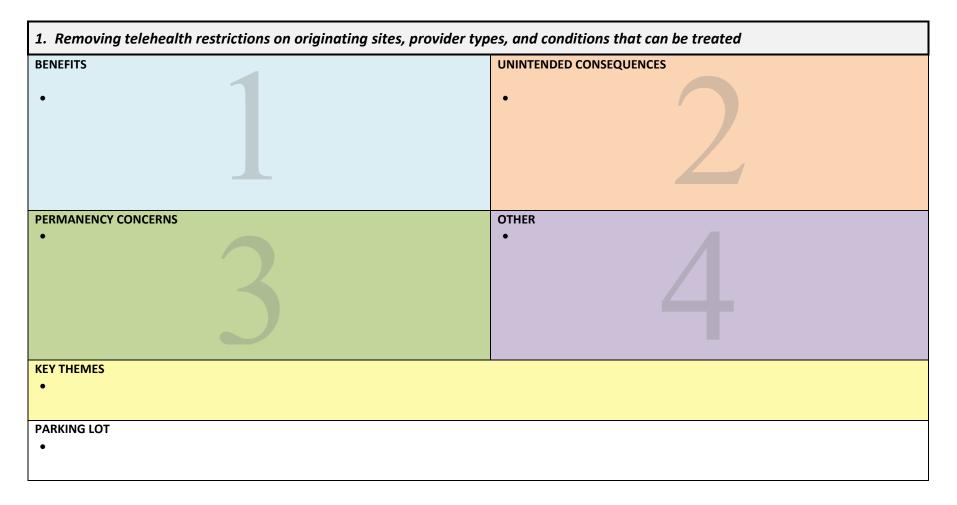| Category	Aetna	CareFirst	Cigna	UnitedHealthcare
Services	**Audio-visual** • Services that can be appropriately delivered via telehealth following requirements of Maryland law* • *Behavioral Health* 　○ *Partial Hospitalization Program* 　○ *Applied Behavioral Analysis* 　○ *Outpatient psychiatric services* 　○ *Psychotherapy* • *Dental* **Audio-visual or Phone** • *Somatic Brief Check-In 5-10 minutes (phone)* • *Behavioral Health* 　○ *Assessment or reassessment* 　○ *Mental health visits* 　○ *Group psychotherapy* 　○ *Alcohol and drug treatment services* 　○ *Medication Management*	**Audio-visual** • Services that can be appropriately delivered via telehealth following requirements of Maryland law* • *Evaluation and Management (E/M)* • *Behavioral Health* 　○ *Outpatient psychiatric services* 　○ *Assessment or Reassessment* 　○ *Applied Behavioral Analysis* 　○ *Developmental Screening* • *End-Stage Renal Disease (ESRD)* • *Advanced care planning* • *Physical Therapy* • *Speech Therapy* • *Occupational Therapy* • *Dental* **Telephone-Only** • *E/M for somatic and behavioral health*	**Audio-visual or Telephone** • Services that can be appropriately delivered via telehealth following requirements of Maryland law* • *Virtual check in existing patient*	**Audio-visual** • Services that can be appropriately delivered via telehealth following requirements of Maryland law* • Annual Wellness Visits • Behavioral Health 　○ Psychotherapy 　○ Neurobehavioral Counseling 　○ Smoking Cessation 　○ Alcohol or substance abuse treatment • ESRD • Genetics Counseling • Retinal Treatment • Assessment and reassessment • Nutrition • Self-Management Education/Training • E/M • Transitional Care Management • Cancer screening • Consultations (inpatient/outpatient) • Chronic Care Management • Cardiac monitoring • *Physical Therapy* • *Occupational Therapy* • *Speech Therapy* • *Chiropractic* • *Home Health* • *Hospice* **Audio-visual or audio-only** • Virtual Check-In (several modalities) • *Evaluation and management of an established patient (5-15 minutes)* • *Dentistry* **E-visit (online portal)**

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Category	Aetna	CareFirst	Cigna	UnitedHealthcare
Types of Technology	• Synchronous audio-visual connection in accordance with Telemedicine Policy • *Telephone only for evaluation, care management, and some behavioral health services*	• Interactive audio, video, or other electronic media • *Telephone only consultations*	• Audio-visual or telephone (audio-only) • Audio-visual technology only for behavioral health	• For a telehealth visit, synchronous audio-visual connection • For a virtual check-in, several communication modalities, including telephone • For e-visits, online portal
Cost-Sharing	• *Waived for outpatient behavioral and mental health counseling*	• Applies to non-COVID-19 visits	• *Waive for virtual screening telephone consult*	• *Cost sharing waived for in-network medical, outpatient behavioral, chiropractic, home health, hospice PT/OT/ST, and dental services*

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Telehealth Policy Workgroup
DISCUSSION ITEMS

1. Removing telehealth restrictions on originating sites, provider types, and conditions that can be treated

BENEFITS
-

UNINTENDED CONSEQUENCES
-

PERMANENCY CONCERNS
-

OTHER
-

KEY THEMES
-

PARKING LOT
-

2: Establishing a provider and patient relationship via telehealth when the appropriate standard of care is met; requiring in-person visits if a provider determines telehealth is not clinically appropriate

BENEFITS	UNINTENDED CONSEQUENCES
•	•
1	**2**

PERMANENCY CONCERNS	OTHER
•	•
3	**4**

KEY THEMES
-

PARKING LOT
-

3: Permitting audio only when the treating provider determines it to be safe, effective, and appropriate

BENEFITS	UNINTENDED CONSEQUENCES
•	•
PERMANENCY CONCERNS	**OTHER**
•	•

KEY THEMES
•

PARKING LOT
•

4: Expanding asynchronous telehealth communications at the discretion of the treating provider

BENEFITS

-

1

UNINTENDED CONSEQUENCES

-

2

PERMANENCY CONCERNS

-

3

OTHER

-

4

KEY THEMES

-

PARKING LOT

-

5: Allowing a treating provider to use modalities (e.g., real-time video conferencing, store and forward, remote patient monitoring, etc.) that meet the appropriate standard of care and improve access to care

BENEFITS

-

1

UNINTENDED CONSEQUENCES

-

2

PERMANENCY CONCERNS

-

3

OTHER

-

4

KEY THEMES

-

PARKING LOT

-

6: Insurers offering telehealth technology, such as smartphones and tablets, to providers and patients to support care delivery

BENEFITS	UNINTENDED CONSEQUENCES
•	•
1	2

PERMANENCY CONCERNS	OTHER
•	•
3	4

KEY THEMES
•

PARKING LOT
•

7: Allowing providers without a Maryland license to establish or maintain a treatment relationship with patients located in Maryland using telehealth as long as the appropriate standard of care is met

BENEFITS	UNINTENDED CONSEQUENCES
•	•

PERMANENCY CONCERNS	OTHER
•	•

KEY THEMES
•

PARKING LOT
•

8: Developing a patient telehealth bill of rights that overviews the standard of care, privacy and security, and patient responsibilities, among other things, that would be provided to the patient before an initial telehealth encounter

BENEFITS

-

1

UNINTENDED CONSEQUENCES

-

2

PERMANENCY CONCERNS

-

3

OTHER

-

4

KEY THEMES

-

PARKING LOT

-

9. Reducing or waiving cost sharing for telehealth services through the end of the public health emergency or until December 31, 2021, whichever occurs first

BENEFITS	UNINTENDED CONSEQUENCES
• 1	• 2
PERMANENCY CONCERNS	OTHER
• 3	• 4

KEY THEMES
•

PARKING LOT
•

10. Reinstating HIPAA technology standards that were relaxed by OCR during the public health emergency

BENEFITS
-

1

UNINTENDED CONSEQUENCES
-

2

PERMANENCY CONCERNS
-

3

OTHER
-

4

KEY THEMES
-

PARKING LOT
-

Telehealth Policy Workgroup

Suggested Reading List

1. [Physician-Focused Payment Model Technical Advisory Committee: Environmental Scan on Telehealth in the Context of Alternative Payment Models (APMs) and Physician-Focused Payment Models (PFPMs) (September 2020)](#)

2. [National Committee for Quality Assurance (NCQA): Taskforce on Telehealth Policy (TTP) Findings and Recommendations (September 2020)](#)

3. [Parity at 10: Delivery of Mental Health and Substance Use Disorder Treatment Via Telehealth to Aid Maryland's Recovery from COVID-19 (July 2020)](#)