

Telehealth

Key Initiatives & Studies Update

Senate Bill 534, *Preserve Telehealth Access Act of 2023*

House Bill 1148, *Behavioral Health Care - Treatment and Access (Behavioral Health Model for Maryland)*

May 16, 2024

Background



MHCC has supported telehealth diffusion for over a decade

- ▶ Legislation passed in 2013 required MHCC to study the use of telehealth and identify strategies for expanding telehealth adoption (SB 776, *Telemedicine Task Force – Maryland Health Care Commission*)
- ▶ Awarded 17 grants (2014-2020) that helped fund innovative telehealth projects to advance adoption in the State
- ▶ Developed the *Telehealth Readiness Assessment Tool* (TRA tool), an online self-assessment questionnaire to guide ambulatory practices in assessing readiness to implement or scale telehealth services
 - The TRA tool had over 7,000 visits over three years (2020-2023); recently, Brazil (São Paulo state) requested permission to use the TRA tool to support a three-year project to advance digital transformation
- ▶ Expanded initiatives to support providers and consumers with the rapid transition to telehealth during the COVID-19 public health emergency (PHE)
 - Developed the *Telehealth Virtual Resource Center*, a dedicated webpage with information on payer telehealth policies, considerations for selecting a telehealth vendor, best practice tips for virtual engagement, and guidance on telehealth liabilities and risks
 - Launched public service initiatives to build consumer awareness of telehealth and how to become better users of the technology

Background *(continued...)*



- ▶ In 2020, stakeholders requested staff to convene a Telehealth Policy Workgroup (Workgroup); discussions centered on the broadened scope of telehealth, benefits and barriers to patients and providers, and the permanency of certain policy changes beyond the COVID-19 PHE
 - The Workgroup generally concluded there was need to study telehealth and recommended MHCC examine use of audio-only and audio-visual technologies and the comparative effectiveness of telehealth to in-person services

Legislative Studies

- ▶ *Preserve Telehealth Access Act of 2021* (HB 123, 2021): Included a study on the impact of providing expanded telehealth coverage and reimbursement for somatic and behavioral health services
 - Final report (2022) contained 15 recommendations consistent with policy changes adopted by CMS and HIPAA rules; recommended further study of telehealth payment levels to appropriately inform potential approaches to future legislation
- ▶ Interstate telehealth expansion (study request letter, 2022): Explored barriers and opportunities to expand the delivery of telehealth services across state lines
 - Final report (2023) included recommendations that build upon actions taken by health occupation boards to enable alternative pathways to licensure (e.g., compacts and reciprocity)

* See Appendix for more information on completed telehealth studies

Current Telehealth Studies – Overview



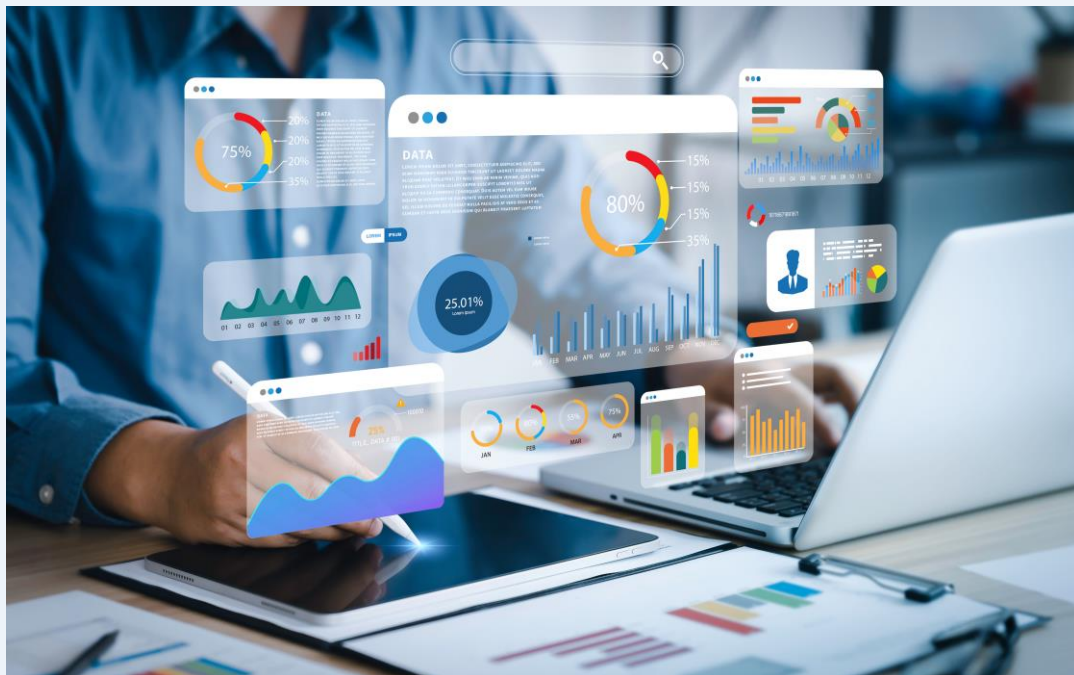
- ▶ *Preserve Telehealth Access Act of 2023 (SB 534, 2023)*
 - Scope of work: Research and quantitative analyses using data from MHCC’s All-Payer Claims Database (APCD) to examine and compare claim paid amounts for services delivered in-person and via telehealth by provider type
 - Final report will address: (1) Does it cost more or less for providers to deliver telehealth; and (2) does telehealth require more or less clinical effort for a provider

- ▶ *Behavioral Health Care - Treatment and Access (Behavioral Health Model for Maryland) (HB 1148, 2023)*
 - Scope of work: Research and quantitative analyses using data from MHCC’s APCD to develop a payment adequacy framework (framework) that enables general measurement of payment adequacy for private payers and Maryland Medicaid through relative comparison to the Medicare Physician Fee Schedule
 - Final report will address: (1) Are there aspects of telehealth that yield lower value, overuse, or conversely greater value that inform the debate on payment parity; and (2) the adequacy of reimbursement for behavioral health services delivered in-person and by telehealth

- ▶ Reports are due to the General Assembly by December 1, 2024; findings will inform the debate on payment parity and permanency of telehealth flexibilities put in place during the COVID-19 PHE



Current Telehealth Studies – Contractor



- ▶ Milliman, Inc. was competitively awarded contracts to complete the telehealth studies
 - Over 60 years of experience conducting data analysis, expertise in claims data, and proficient in utilizing actuarial methods
 - Actuarial teams for each study differ

A total of 12 vendors with subject matter expertise in actuarial science methods submitted proposals; seven for SB 534 and five for HB 1148

Tasks Underway



Preserve Telehealth Access Act of 2023

- An analysis of evaluation and management (E/M) codes to identify the distribution of services provided (2019-2023)
- Examination of E/M codes – time and intensity
- Stakeholder engagement on analysis results and conceptual ideas for the recommendations



Tasks Underway *(continued...)*



Behavioral Health Care – Treatment and Access (Behavioral Health Model for Maryland)

- An analysis of E/M codes (2019-2023) by select categories for behavioral health and primary care, the foundation of the framework
- Finalizing framework design and presentation features
- Stakeholder engagement – feedback on the framework and conceptual ideas for the recommendations
- Note: Other activities underway in support of the legislation include a behavioral health workforce assessment, and the Executive Director’s participation on the Behavioral Health Care Treatment and Access Commission*



* *The Commission is tasked with recommending ways to provide appropriate, accessible, and comprehensive behavioral health services, available on demand, to individuals in Maryland across the behavioral health continuum*

Preliminary Observations



Overall

- ▶ Telehealth usage has declined locally and nationally but remains higher than pre-pandemic levels, particularly for behavioral health
 - Telehealth experiences tend to be positive, although providers and patients prefer in-person care
- ▶ Views are mixed on the continuation of telehealth waivers beyond the sunset date (June 2025); greater congruence for policies that protect against overutilization of audio-only telehealth

Preserve Telehealth Access Act of 2023

- ▶ Clinical time and intensity is largely comparable between audio-visual and in-person encounters
 - Impact of audio-only - pending further claim data analysis

Behavioral Health Care – Treatment and Access (Behavioral Health Model for Maryland)

- ▶ Reimbursement policies are a key factor in network participation
 - Mental health and substance use providers have some of the greatest shortages and highest out-of-network participation
- ▶ Clinical social workers bill the largest share of E/M codes followed by counselors, psychologists, and psychiatrists

Activities on the Horizon



Preserve Telehealth Access Act of 2023

- Finalize analysis of E/M codes
- Complete assessment of time and intensity necessary to perform select services
- Draft findings and recommendations report
- Vet draft report with stakeholders, consider feedback, and present to the Commissioner this fall

Behavioral Health Care - Treatment and Access (Behavioral Health Model for Maryland)

- Finalize E/M selection for inclusion in the framework
- Consider stakeholder views on the utility of the framework and incorporate feedback
- Draft findings and recommendations report
- Vet draft report with stakeholders, consider feedback, and present to the Commissioner this fall



Stakeholder Communication

A dedicated MHCC web page about the studies featuring periodic updates:

mhcc.maryland.gov/mhcc/pages/hit/hit_telemedicine/hit_telemedicine_telehealth_studies.aspx



Thank you

Questions?





Appendix

Preserve Telehealth Access Act of 2021 (HB 123)



- ▶ The 2021 law required MHCC to study the impact of telehealth services as it relates to use of audio-only and audio-visual technologies in somatic and behavioral health interventions
- ▶ The National Opinion Research Center (NORC) at the University of Chicago was competitively selected to complete the study
- ▶ The Maryland Insurance Administration (MIA) was required to conduct a limited-scope study of the role of telehealth in the context of network adequacy, and how changes in access to and coverage of telehealth services under insurance plans impact consumers' ability to choose in-person versus telehealth care
- ▶ A technical findings report prepared by NORC and a recommendations report were submitted to the Senate Finance Committee and the House Health and Government Operations Committee in December 2022



HB 123 Recommendations

Telehealth Coverage

1. Continue to allow use of telehealth by any health care provider licensed, certified, or otherwise authorized under the Health Occupations Article to provide health care in the ordinary course of business or practice of a profession or in an approved education or training program, or for interprofessional consultation
2. Allow a health care provider capable of providing telehealth services using audio-visual technology to deliver services using audio-only technology. Allow use of audio-only for somatic care in the event of an audio-visual technology failure, a request by the patient, or at the clinical discretion of a treating health care provider without requiring documentation in the clinical record. Allow unrestricted use of audio-only for behavioral health based on patient consent to receive care via audio-only technology
3. Allow health care providers using remote patient monitoring to obtain consent at the time services are initiated for new and established patients. Allow remote patient monitoring technologies to minimally collect two days of data over a 30-day period

HB 123 Recommendations *(continued...)*



Telehealth Coverage *(continued...)*

4. Allow a health care provider to use telehealth to provide hospice care services consistent with their profession standard of care to patients in a facility or at home
5. Allow telehealth services to be furnished in a hospital inpatient setting and in a nursing home setting. Require a minimum of at least one in-person visit by any treating physician 24 hours following a telehealth hospital inpatient encounter. Require one in-person visit by any treating physician at least once every 30 days for the first 90 days after admission, and at least every 60 days thereafter in a nursing home setting

Technology

6. Require health care providers to utilize communications technology that complies with privacy and security requirements established by the Office for Civil Rights at the U.S. Department of Health & Human Services to qualify as a telehealth distant site

HB 123 Recommendations *(continued...)*



Telehealth Payment Levels – Future Study

7. Continue payment levels for telehealth services relative to in-person care for 24-months. Require MHCC to study payment parity for audio-visual and audio-only technologies and submit a report to the Maryland General Assembly by December 1, 2024 that addresses the following:
 - (a) Does it cost more or less for providers to deliver telehealth?
 - (b) Does telehealth require more or less clinical effort for a provider?
 - (c) Are there aspects of telehealth that yield lower value, overuse, or conversely greater value that inform the debate on payment parity?
 - (d) The adequacy of reimbursement for behavioral health services delivered in-person and by telehealth
 - (e) Any other findings and recommendations

HB 123 Recommendations *(continued...)*



Clarification of Terms

8. Behavioral Health – Includes mental health and substance use conditions, life stressors and crises, stress-related physical symptoms, and health behaviors (Health General)
9. Communication Technology-Based Services – Includes a variety of non-face-to-face patient care communications, such as two-way audio-only telephone interactions, remote evaluation of patient videos and images, virtual check-ins, e-visits, and remote patient monitoring (Health General)
10. Established Patient – Means an individual who receives professional health care services from a provider, or another provider who belongs to the same group practice, within the previous three years (Insurance Article)
11. Telehealth Consent – Means an affirmation received prior to or upon initiation of a telehealth encounter from the patient, family member, or caregiver for an audio-video or audio-only encounter and documented in the patient record (Health General)
12. Telehealth – Includes the delivery of medically necessary somatic, dental, or behavioral health services to a patient at an originating site by a distant site provider through communications technology (e.g., synchronous and asynchronous) that includes the use of audio-visual or audio-only technology to permit real-time interactive communication (Health General)

HB 123 Recommendations *(continued...)*



Network Adequacy – MIA Recommendations

13. Allow the MIA to retain the latitude currently granted by the legislature under § 15-112(d)(2)(viii) of the Insurance Article, which states: “In adopting the [network sufficiency] regulations, the Commissioner may take into consideration...other health care service delivery options, including telemedicine, telehealth...”
14. Consider whether to permanently codify telehealth coverage expansions for health benefit plans into State law
15. Consider whether to codify additional prohibitions on telehealth-only benefits or telehealth first benefits for health benefit plans into State law



Interstate Telehealth Expansion Study

- ▶ In May 2022, the House Health and Government Operations Committee requested MHCC to study the ways interstate telehealth can be expanded to provide more options for State residents to receive telehealth services from out-of-state providers
- ▶ Study questions were informed by House Bill 670, *Maryland Health Care Commission - Study on Expansion of Interstate Telehealth*, which was withdrawn by bill sponsors during the 2022 session
- ▶ A multi-stakeholder workgroup discussed barriers and opportunities to expanding interstate telehealth that informed development of nine recommendations and four notable considerations intended to be a progressive first step and not an exhaustive list of all things to be considered to advance interstate telehealth
- ▶ A final report was submitted to the House Health and Government Operations Committee in September 2023 – need for legislation, regulation, or policy changes is noted in parenthesis next to each recommendation and notable consideration

Interstate Telehealth Expansion Recommendations



Health Insurance Coverage and Medical Liability

1. Payers should continue to expand consumer awareness efforts on potential out-of-pocket costs for in and out-of-network providers when seeking services in-person or by telehealth (policy)
2. Health occupation boards should require medical liability coverage for out-of-state providers who do not have an existing medical liability insurance policy through employment or by contract with an in-State hospital, facility, program, practice, carrier, or managed care organization licensed or certified under Maryland law (policy)

Interstate Health Compacts

3. The General Assembly should continue adopting legislation to implement interstate compacts to improve consumer access to providers, particularly for consumers in communities experiencing a practitioner shortage – uncodified language in Chapter 15/HB 448, Health Care Practitioners – Telehealth and Shortage (2020) (regulation)
4. Health occupation boards should continue to develop new pathways to licensure; continue to begin/renew conversations regarding the development of licensure by reciprocity and endorsement agreements between Maryland and contiguous states (regulation)

Interstate Telehealth Expansion Recommendations



(continued...)

Practitioner Licensure Requirements

5. Allow the adoption of a mutual recognition for licensure by health occupation boards consistent with the Nurse Licensure Compact where the board recognizes the home state license; disciplinary action notifications are pushed to participating boards; any board can investigate and discipline a provider practicing in the State; and any participating board can discipline a provider based on findings in another state except where prohibited by State law (legislation)
6. The General Assembly should enact legislation to allow health occupation boards to adopt a limited use telehealth out-of-state license (legislation)
7. Health occupation boards should permit providers with an active unencumbered license in another state to deliver telehealth services to preserve continuity of care for existing patients (legislation)
8. The General Assembly should enact legislation to allow an out-of-state health care entity* under common ownership with an in-State entity to deliver telehealth services to preserve the continuity of care for existing patients (legislation)

** Includes hospitals and organizations that deliver health care services through a broad array of coverage arrangements or other relationships with practitioners, either by employing them directly or through contractual or other arrangements*

Interstate Telehealth Expansion Recommendations



(continued...)

Promoting Out-of-State Telehealth

9. Health occupation boards should require out-of-state health care providers who treat Maryland residents to access and securely share patient health information electronically with primary care providers, except where prohibited by law (legislation)

Notable Considerations

10. Where practical, health occupation boards should maintain comparable education and training requirements (policy)
11. Encourage health occupation boards to increase licensure digitization processes (policy)
12. Improve processes related to Maryland licensure requirements for service members, veterans, or military spouses (policy)
13. Encourage the Maryland Department of Public Safety and Correctional Services (DPSCS) to identify an alternative pathway to accept electronic background record checks from out-of-state vendors recognized in their state of origin (policy)