



CALIFORNIA TELEHEALTH POLICY: Post-PHE Updates

FACT SHEET | July 2021



▶ **BACKGROUND:** **California Telehealth Policy and Budget Updates**

In early February, the [Department of Health Care Services](#) (DHCS) released their [initial proposed post-pandemic telehealth policy recommendations for Medi-Cal](#). The proposal only made a few of the temporary COVID-19 telehealth policies permanent, while some pieces of the proposal appeared to narrow pre-pandemic policies related to store-and-forward reimbursement. Coverage of remote patient monitoring (RPM) was additionally proposed as a new benefit under the recommendations, but subject to an undetermined fee schedule. For additional details on the initial proposal, as well as pre-pandemic and temporary telehealth policies in California, please see the [CCHP Fact Sheet](#).

On May 14th, the Administration published a [revised budget draft](#) including an updated telehealth proposal with several changes to the previously released version. The main adjustment was related to audio-only services. The previous proposal excluded federally qualified health centers (FQHCs) and rural health centers (RHCs) from using audio-only. In the May proposal, FQHCs and RHCs would be allowed to provide services via audio-only, but reimbursed through an alternative payment methodology. The previous proposal had left the audio-only rate for other providers unspecified, while the revised policy set reimbursement at 65% of the in-person/synchronous reimbursement rate for the service provided. The revision also required all providers furnishing services via synchronous and/or telephonic/audio-only modalities to

offer those services in-person and reiterated a plan for DHCS to create utilization management protocols for all telehealth services prior to implementation of post-pandemic telehealth services.

These changes to the initial proposal still caused significant concern that California was poised to take their once progressive telehealth policies backwards. Stakeholders, including the [California Telehealth Policy Coalition](#), continued to urge the Administration to align their proposal with [AB 32](#) (Aguiar-Curry), in order to meet the health care demands for Medi-Cal beneficiaries and close disparities and access gaps. These recommendations included:

- Maintain payment parity across all telehealth modalities
- Uphold FQHC/RHC flexibilities and payment for audio-only modalities
- Equitably expand remote patient monitoring
- Continue remote enrollment in Medi-Cal

The Legislature echoed the Coalition's position, rejecting the Administration's revised proposal and affirming adoption of budget language consistent with AB 32. Over the next few weeks, an agreement was reached between the Administration and Legislature that would be included in [AB 133, a budget trailer bill](#).

► Health Budget Trailer Bill and Telehealth Agreement

The omnibus health trailer bill is necessary to implement various provisions of the Budget Act of 2021, affecting health-related departments and other state entities. It is a lengthy piece of legislation touching on a variety of health issues. For purposes of telehealth, the most significant piece and heart of the compromise related to Medi-Cal reimbursement is that it temporarily extends existing telehealth COVID-19

flexibilities until December 31, 2022, preserving payment parity for live-video, store-and-forward, and audio-only modalities, including those policies for FQHCs/RHCs. However, four other sections of AB 133 also touch on telehealth policies as well. The main points of these five sections within the budget bill and their telehealth components are summarized below:

1. Extends Emergency Telehealth Expansions until December 31, 2022 – Creates an Advisory group to recommend long-term telehealth protocols (Section 380)

This section of the bill contains the main telehealth policy provision in requiring the department to extend emergency flexibilities related to the delivery and reimbursement of services via telehealth modalities in the Medi-Cal program, subject to approval by the Department of Finance.

- 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
 - Extends payment parity for live-video, store-and-forward, and audio-only modalities, and for all providers including FQHCs/RHCs
- DHCS to convene an advisory group to inform the department in establishing and adopting billing and utilization management protocols
 - Supposed to be completed in time to incorporate into 2022-23 budget
- Protects pre-COVID-19 policies, including store-and-forward
- Allows Department to authorize RPM with separate fee schedule

2. Authorizes State Hospital Use of Video Telehealth – Ensuring more timely treatment transfers (Section 344)

The purpose of this section is to establish a program for the [Department of State Hospitals](#) (DSH) to perform reevaluations through telehealth for felony incompetent to stand trial (IST) individuals in jail, who have been waiting for admission to the department 60 days or more from the date of commitment.

- Requires that the local jail provide the DSH clinician access and capability to conduct the evaluation through video telehealth to reduce IST waitlists
- Requires that DSH provide funding at a rate set by the department for reimbursement of information technology support and a portion of staff time used to facilitate telehealth interviews and evaluations of felony defendants



3. *Creates the Children and Youth Behavioral Health Initiative – Incentivizes school-based Telehealth (Section 355)*

This section of the bill would require DHCS to, among other things, procure and oversee a vendor to establish and maintain a behavioral health services and supports virtual platform. Additional requirements on DHCS and telehealth components include:

- Offering competitive grants to qualified entities to build partnerships, capacity, and infrastructure supporting ongoing school-linked behavioral health services for children and youth 25 years of age and younger
 - Allowable activities for the grant funding include implementing telehealth equipment and virtual systems in and around schools
- Incentive payments to qualifying Medi-Cal managed care plans that meet certain metrics associated with increasing access to school-affiliated behavioral health providers
 - One of the required metrics includes increasing telehealth in schools and ensuring students have access to technological equipment
- Develop and maintain a school-linked provider network and statewide fee schedule for behavioral health treatment provided to a student at a school-site

4. *Health Information Exchange and Health Information Technology Advisory Group – Includes addressing privacy and security telehealth issues (Section 340)*

On or before July 1, 2022, this provision establishes the California Health and Human Services Data Exchange Framework to include a single data sharing agreement and common set of policies and procedures to govern and require the exchange of health information among health care entities and government agencies in California. The language also calls for creation of advisory group to guide the process:

- [California Health and Human Services Agency \(CHHSA\)](#) to convene a stakeholder advisory group no later than September 1, 2021, to advise on the development and implementation of the framework
- No later than April 1, 2022, CHHSA to submit an update to the Legislature based on the input received from the stakeholder advisory group
- The advisory group would include hospitals, providers, and health information technology professionals
- Advise CHHSA on relevant issues, including how to “address the privacy, security, and equity risks of expanding care coordination, health information exchange, access, and telehealth in a dynamic technological, and entrepreneurial environment, where data and network security are under constant threat of attack”

5. *Provider Telehealth Data – Informing health care workforce policy (Section 4)*

This part of the bill establishes the California Health Workforce Research and Data Center to serve as the state’s central source of health care workforce and education data and to inform state policy regarding health care workforce issues. The language also establishes uniform requirements for the reporting and collection of workforce data from health care-related licensing boards to the data center. The data currently requested covers provider hours spent in direct patient care, including telehealth hours.



► Analysis and Next Steps

While the trailer bill doesn't make the emergency telehealth expansions permanent in Medi-Cal, it does preserve those policies until the end of next year and provide a pathway to permanency. We also now have clarity that it does not seem California will be undoing any pre-pandemic telehealth policies. In addition, it seems that the main focus of the advisory group will be on utilization management and other billing protocols. The timeline being proposed, however, does not offer much time for the advisory group and protocol creation process. Given the stated desire to include these additional components as part of the 2022-23 budget proposal, the advisory group will likely need to be convened within the next month for their feedback to be incorporated into the next proposed budget's release in January.

As far as additional advocacy avenues, not only does the advisory group formalize a process for more stakeholder input, but the state legislature has emerged as a significant and essential ally in telehealth access and advocacy moving forward as well. A broader and more extensive focus on the value of telehealth in California can also be seen in the inclusion of the other telehealth components in the trailer bill. It will be interesting to see how those additional allowances, incentives, and advisory groups, as well as more provider data, continue to shape long-term telehealth policy in the state. Governor Newsom signed AB 133 into effect on July 27th and the conversation is now poised to continue as part of the advisory group and budget process into next year.

For real-time state legislative updates, all telehealth legislation in California can be tracked through CCHP's [Policy Finder Tool](#).

While the trailer bill doesn't make the emergency telehealth expansions permanent in Medi-Cal, it does preserve those policies until the end of next year and provide a pathway to permanency. We also now have clarity that it does not seem California will be undoing any pre-pandemic telehealth policies.

Center for Connected Health Policy

info@cchpca.org

877-707-7172

© Center for Connected Health Policy/
Public Health Institute

www.cchpca.org

