

Legislation Committee

February 10, 2022



California
Telehealth
Policy
Coalition

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Final 2022 Charter







Please see attachment with today's materials.

Final Charter will be submitted to full Coalition for a vote.

DHCS Post-COVID-19 Public Health Emergency Telehealth Policy Recommendations (1/6)

- Released on Friday, February 4
- Published in follow up to the Telehealth Advisory Workgroup Final Report, published in December 2021
- Materials available on DHCS website:
<https://www.dhcs.ca.gov/provgovpart/Pages/TelehealthAdvisoryWorkgroup.aspx>

DHCS Post-COVID-19 Public Health Emergency Telehealth Policy Recommendations (2/6)

Policy Area	Proposal Continues Current Policies?	Additional Detail/Notes
Baseline coverage of synchronous telehealth		<ul style="list-style-type: none"> Continue coverage of synchronous video, audio-only telehealth Adopt new audio-only visit 93 modifier Additional policies to be implemented to encourage appropriate use of synchronous video/audio-only telehealth
Baseline coverage of asynchronous telehealth		<ul style="list-style-type: none"> Continue coverage across services and systems, including 1915(c) waivers, TCM and LEA-BOP
Payment parity		<ul style="list-style-type: none"> Continue to exclude virtual communications from payment parity Continue use of cost-based reimbursement for TCM/LEA-BOP; county-behavioral health to be cost-based via CalAIM payment reform
Virtual Communications & Check-Ins		<ul style="list-style-type: none"> Continue coverage in physical health To be added to 1915(c) waivers, TCM and LEA-BOP Excluded from payment parity Adding 99441-3 E&M and 98966-8 (A&M) telephone codes to available services list by July 1, 2022. Also likely excluded from parity
Telehealth in FQHCs & RHCs		<ul style="list-style-type: none"> Continue reimbursement at PPS rate for otherwise billable visits delivered via all telehealth modalities including audio-only and asynchronous Continue exemption from site limitations for patient or provider
Establish New Patients via Telehealth		<ul style="list-style-type: none"> Clarify providers may only establish a relationship with new patients in-person or via synchronous video telehealth visits Prohibit establishment of new patient relationship using telehealth modalities other than video, allow DHCS to provide for specific exceptions <ul style="list-style-type: none"> Exception for FQHCs/RHCs to establish patient-provider relationships via asynchronous telehealth when certain conditions are met, including that the patient is present at an originating site that is a licensed/intermittent site of

DHCS Post-COVID-19 Public Health Emergency Telehealth Policy Recommendations (3/6)

Policy Area	Proposal Continues Current Policies?	Proposed Approach
Patient Consent	<p style="text-align: center;">×</p> <p style="text-align: center;">+ <i>additional requirements</i></p>	<ul style="list-style-type: none"> • New consent requirements for additional information be shared with beneficiaries regarding: <ul style="list-style-type: none"> • Right to in-person services • Voluntary nature of consent • Availability of transportation to access in-person services • Limitations/risks of receiving services via telehealth • Availability of translation services
Third Party Corporate Telehealth Providers	<i>New policy</i>	<ul style="list-style-type: none"> • Consider methods to identify third-party corporate telehealth providers and examine data related to services provided by these providers. • Further evaluate requirements set forth by AB 457 to determine <ul style="list-style-type: none"> • potential benefit in light of complimentary policy approaches in Medi-Cal • level of effort needed to apply to Medi-Cal • necessity for alignment with commercial plans and across Medi-Cal delivery systems • potential implementation design applicable to providers outside of Knox Keene licensed plan networks
Utilization Review	<i>New policy</i>	<ul style="list-style-type: none"> • Continue to expand analytics and algorithm development to effectively identify suspect telehealth activity to be investigated. Potential risks include, but are not limited to, the following: <ul style="list-style-type: none"> • Up-coding time and complexity of services provided. • Misrepresenting the virtual service provided. • Billing for services not rendered. • Kickbacks

DHCS Post-COVID-19 Public Health Emergency Telehealth Policy Recommendations (4/6)

Policy Area	Proposal Continues Current Policies?	Proposed Approach
New Video Requirement	<i>New policy</i>	<ul style="list-style-type: none"> No sooner than January 1, 2024, phase in an approach that provides patients the choice of a video telehealth modality when care is provided via telehealth. If a provider offers audio-only telehealth services, the provider will also be required to provide the option for video services to preserve beneficiary choice.
New In-Person Services Requirement	<i>New policy</i>	<ul style="list-style-type: none"> No sooner than January 1, 2024, phase in an approach that requires any provider furnishing services through telehealth to also either offer services via in-person face-to-face contact or link the beneficiary to in-person care. <ul style="list-style-type: none"> If the provider chooses to link the beneficiary to in-person, they must provide for a referral to and a facilitation of in-person care that does not require a patient to independently contact a different provider to arrange for such care. DHCS will consider stakeholder recommendations on ways to ensure access to in-person services and telehealth services without restricting access to either, and work with stakeholders to develop a consumer-friendly brochure to inform enrollees about right to in-person care.
Network Adequacy	<i>New policy</i>	<ul style="list-style-type: none"> Allow Medi-Cal managed care plans, county Mental Health Plans and county Drug Medi-Cal Organized Delivery System plans to use clinically appropriate video synchronous interaction as a means of demonstrating compliance with the network adequacy time or distance standards. DHCS will develop policies for granting credit in the determination of compliance with time or distance standards.

DHCS Post-COVID-19 Public Health Emergency Telehealth Policy Recommendations (5/6)

Telehealth Research and Evaluation Plan

- DHCS staff has conducted literature review, solicited input from Telehealth Advisory Workgroup, assessed claims and encounter data
- Developing plan to study telehealth utilization and its impact on access, quality, outcomes, provider/enrollee experiences
- Plan to include
 - Monitoring and reporting on utilization
 - Assessment of provider and plan compliance with telehealth policies
 - Evaluation of the impact of telehealth on access, quality, specific populations of interest
- Collaborations with external research partners (e.g., UCLA California Health Interview Survey, California Health Care Foundation)

DHCS Post-COVID-19 Public Health Emergency Telehealth Policy Recommendations (6/6)



Next Steps and Associated Action Items

- Trailer Bill Language
- State Plan Amendments
- 1915(c) Home and Community Based Services Waivers
- Promulgating Regulations
- Developing and Issuing Policy Guidance (e.g., Provider Manual, All Plan Letters)
- Informing Materials
- Legislative and Stakeholder Engagement

California Legislative Developments(1/2)

Bill No.	Coalition Support in 2021?	Recent Developments	Brief Description
AB 935 (Maienschein)		Died. (1/31/22)	Requires health plans and insurers to provide access to a telephone mental health consultation program for children and pregnant/post-partum women
AB 34 (Muratsuchi)		Died. (01/31/22)	Authorizes the issuance of bonds in the amount of \$10,000,000,000 pursuant to the State General Obligation Bond Law to support the 2022 Broadband for All Program
AB 1264 (Aguiar-Curry)		Died. (01/31/22)	Creates CHHS Agency Project ECHO grant program for children's hospitals
AB 410 (Fong)		Died. (01/31/22)	Nurse Licensure Compact
AB 1117 (Wicks)		Died. (01/31/22)	Establishes Healthy Start: Toxic Stress and Trauma Resiliency for Children Program
AB 1131 (Wood)		Died. (01/31/22)	Requires participation in statewide health information exchange network
AB 1252 (Chau)		Died. (01/31/22)	Defines privacy protections for personal health record information
SB 508 (Stern)		Died. (01/31/22)	Authorizes a local education agency (LEA) to provide mental health services and includes telehealth as an approved modality

California Legislative Developments (2/2)

Bill No.	Coalition Support in 2021?	Recent Developments	Brief Description
AB 1669 (Cunningham)		Referred to Coms. on C. & C. and P. & C.P. (1/27/22)	California Internet Consumer Protection and Net Neutrality Act of 2018: United States Department of Veterans Affairs: telehealth applications – Specifies that the Act does not prohibit ISPs from exempting from a customer’s data usage allowance the use of telehealth applications administered by the VA.
AB 1758 (Aguiar-Curry)		May be heard in committee 3/5 (2/3)	<ul style="list-style-type: none"> • Defines face-to-face contact for the purposes of “one hour of direct supervisor contact” for Board of Behavioral Sciences to mean in-person contact, contact via two-way, real-time videoconferencing or some combination of these • Requires supervisor w/in 60 days of commencement of supervision to conduct a meeting and assess the appropriateness of allowing the supervisee to gain experience hours via telehealth
AB 1759 (Aguiar-Curry)		May be heard in committee 3/5 (2/3)	<ul style="list-style-type: none"> • Would authorize associate clinical social workers, associate professional clinical counselors, and clinical counselor trainees to provide services via telehealth • Would require applicants for licensure as MFT, LEP, LCSW or LPCC to show they have completed three hours of training via telehealth, including law and ethics relating to telehealth
AB 552 (Quirk-Silva)		Passed Asm. In Senate. Read first time. To Com. on RLS. for assignment. (2/01/22)	Integrated School-Based Behavioral Health Partnership Program
AB 32 (Aguiar Curry et al.)		Two-year bill (in second house)	Makes permanent Covid-19 telehealth flexibilities
SB 371 (Caballero)		Two-year bill (in second house)	Creates a Deputy Secretary for Health Information Technology to coordinate health information technology efforts regarding hie, broadband, and telehealth

Broadband Policy Updates

Upcoming State Meetings:

- **Middle Mile Advisory Committee:**
February 18, 2022, from 10:00 am-11:30 am
 - More information on meeting and maps available [here](#).
- **California Broadband Council:** March 2, 2022, at 9:00 am-11:30 am
 - More information on meeting available [here](#).



Helping Households Connect



FCC Emergency Broadband Benefit Transitioning to Affordable Connectivity Program

- Discount for households range from \$30 to \$75 per month for internet service
- Recipients enrolled in EBB will automatically continue to receive their current monthly benefit until March 1, 2022
- More information on the program available [here](#).

2022 Sponsorship Opportunities

- Webinars
- Newsletter
- Fact Sheet Design
- Legislative Briefing
- Annual Meeting

Next Steps

- Fact sheet on DHCS proposal
- Monitor bills moving forward this session
- Invite bill author offices to present
- Draft letter(s) of support

Closing Announcements

Save the Dates
Upcoming Meetings

Monthly Meeting
Feb 18, 11am -12pm

Please reach to staff if you have any questions

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Appendix

Key Dates in the Legislative Calendar 2022



- Jan. 3: Legislature reconvenes
- Jan. 10: Governor submits budget
- Feb. 18: Last day for bills to be introduced
- May 27: Last day for each house to pass bills introduced in that house
- June 15: Budget bill must be passed by midnight
- July 1: Last day for policy committees to meet and report bills
- Aug. 31: Last day for each house to pass bills
- Sept. 30: Last day for Governor to sign or veto bills passed by the Legislature
- Nov. 8: General Election

Full calendar available at: <https://www.assembly.ca.gov/legislativedeadlines>

Coalition Policy Priorities for 2022

➤ **Maintain and expand coverage of telehealth modalities**

- Advocate for continued coverage of telehealth modalities across all types of coverage
- Support continued FQHC/RHC coverage for telehealth
- Work with members to highlight patient stories on webinars, other materials aimed at policymakers and consumers

➤ **Build the evidence base for telehealth in California**

- Showcase research and evaluation findings from California organizations on monthly calls
- Create educational materials focused on quality and health outcome measurement for telehealth programs

➤ **Bridge the digital divide to ensure patient and provider internet access**

- Monitor and provide comments/ recommendations on the implementation of SB 156 middle-mile and last-mile work
- Showcase the inequitable distribution of internet access/ telehealth for certain communities (i.e., communities of color, the disabled community, older adults)

➤ **Ensure California maintains leadership at the state level on telehealth policy**

- Advocate for state coordination on telehealth and related health technology issues
- Conduct outreach to state agency telehealth leaders
- Highlight telehealth's role in various state health reform and other initiatives (e.g., CalAIM ECM/ILOS, Medi-Cal procurement, payment reform)

Work Plan

Status	Goals	Complete Date
<input type="checkbox"/>	Monitor and analyze bills for potential position	Ongoing
<input type="checkbox"/>	Reach out to bill authors and provide input	Ongoing
<input type="checkbox"/>	Submit support letters for the legislation we support	Ongoing
<input type="checkbox"/>	Support members in introducing legislation that supports coalition priorities	February
<input type="checkbox"/>	Submit response letter to January budget proposal	February
<input type="checkbox"/>	Submit response letter to the May budget revision	May/June
<input type="checkbox"/>	Discuss proposed Physician Fee Schedule Changes and craft response	July/August
<input type="checkbox"/>	Host Capitol Legislation Briefing and Annual Meeting	October/November