

Legislation Committee

August 11, 2022



California
Telehealth
Policy
Coalition

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California Legislative Developments (1/3)

Bill No.	Coalition Support?	Recent Developments	Brief Description
AB 1758 (Aguiar-Curry)	Recommendation not to take a position.	Passed Senate BP&ED Comm. (6/6), read second time and ordered to third reading (6/21); on Sen. Floor	<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 Recent amendments removed references to telehealth.
AB 1759 (Aguiar-Curry)	Continue to monitor.	Passed Senate BP&ED (6/6) and Sen. Approps (6/20); on Sen. Floor	<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 1940 (Salas)	Continue to monitor.	Passed Sen. Health (6/8) and Sen. Ed (6/30); in Sen. Approps, referred to suspense file (8/1) – Suspense hearing 8/11	<ul style="list-style-type: none"> The bill would authorize a school-based health center to provide primary medical care, behavioral health services, or dental care services onsite or through mobile health or telehealth.
AB 1982 (Santiago)		Read second time, amended, re-referred to Sen. Approps (8/1), placed on suspense file (8/8) – Suspense hearing 8/11	Adds to AB 457 (Santiago, 2021) private payer statutes regarding third-party telehealth providers that dental plans shall disclose information related to any contracted third-party telehealth providers. Amendments define third-party corporate telehealth providers.
AB 2089 (Bauer-Kahan)		Read second time, amended, and re-referred to Sen. Approps (8/1), ordered to second reading pursuant to 28.8 (8/8); on Sen. Floor	This bill would include “mental health application information” within the definition of “medical information” in California’s Confidentiality of Medical Information Act (CMIA) and provide that a business that offers a mental health app to consumers is a provider of health care. Minor amendments made.
SB 717 (Dodd)		Placed on suspense file (8/3) – Suspense hearing 8/11	This bill would require the Office of Planning and Research to conduct, complete, and submit a report to specified legislative committees that reviews and identifies barriers to, and opportunities for, investment in, and efficient building of, broadband access points on government-owned structures and property, private and public lands and buildings, and public rights of way. The bill would further require the review to provide recommendations on how to accelerate deployment of broadband access points to serve tribes, low-income customers, and disadvantaged or underserved communities. Amended to include “income of households in the area and the economic feasibility for internet service providers to deploy in

California Legislative Developments (2/3)

Bill No.	Coalition Support?	Recent Developments	Brief Description
AB 2117 (Gipson)	Continue to monitor.	Placed on Sen. Approps suspense file (8/1) – Suspense hearing 8/11	This bill would a mobile stroke unit to mean a multijurisdictional mobile facility that serves as an emergency response critical care ambulance under the direction and approval of a local emergency medical services (EMS) agency, and as a diagnostic, evaluation, and treatment unit, providing radiographic imaging, laboratory testing, and medical treatment under the supervision of a physician in person or by telehealth, for patients with symptoms of a stroke.
AB 2754 (Bauer-Kahan)	Continue to monitor.	Passed Senate (8/8) with urgency clause; ordered to engrossing and enrolling	This bill would allow psychology trainees to be supervised remotely over audio and visual modalities.
SB 1475 (Glazer)		On Assembly Floor	Speaks to suspending telehealth requirements around consent for purposes of blood banks when a physician is not present. Amendments now state only as long as the method of telehealth is synchronous. Amended to include reporting of adverse events to dept.
AB 2751 (E. Garcia)	Recommendation to support with a suggestion that speed requirements be increased	Failed passage in Sen. G.O. Committee (6/14)	Affordable Internet and Net Equality Act of 2022: Creates Net Equality Program and requires state agencies to only do business with ISPs offering affordable (no more than \$40 a month) home internet service to households participating in certain public assistance programs. Requires minimum speed requirements defined as 25mbps/3mbps and speed and latency to support distance learning and telehealth services.
AB 1669 (Cunningham)		Hearing canceled at the request of author. (03/23)	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 2092 (Weber)	Recommendation to support.	Held in Asm. Health Comm. (4/26)	This bill would allow CDPH to establish approval process to deliver care in home setting including via telehealth.
SB 1337 (McGuire)		Held in Sen. Approps. (5/19)	This bill requires coverage of coordinated specialty care (CSC) services for the treatment of early psychosis. Amendments removed references to telehealth.

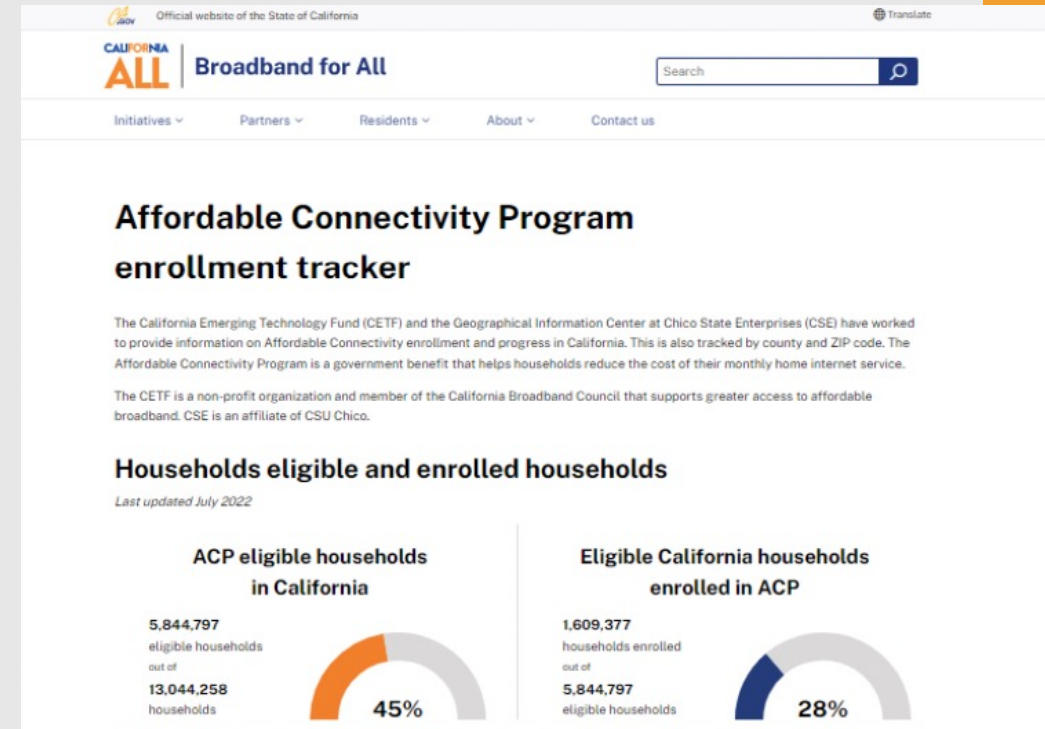
California Legislative Developments (3/3)

Bill No.	Coalition Support?	Recent Developments	Brief Description
AB 552 (Quirk-Silva)		Placed on Sen. Approps suspense file (8/1) – Suspense hearing 8/11	Integrated School-Based Behavioral Health Partnership Program; amendments clarify scope of qualifying behavioral health providers enrolled in Medi-Cal Amended to include following up with parents/guardians and pupils as necessary for consent and case management.
AB 32 (Aguiar Curry et al.)	 (2021)	Amended; Placed on Sen. Approps. suspense file (8/8) – Suspense hearing 8/11	<p>Redrafted bill amends FQHC/RHC rules adopted via SB 184 related to establishing a new patient relationship:</p> <ul style="list-style-type: none"> • Language states that an FQHC/RHC shall not be precluded from establishing a new patient relationship via audio-only – removing SB 184 audio-only establishment prohibition and references to the department providing exceptions to the prohibition • In regard to limited allowance for asynchronous patient establishment language, amends remove requirement that the patient be at an originating and licensed FQHC/RHC site, instead saying the patient must be at the FQHC or RHC or at an intermittent site when service is performed. <p>The bill also adds section related to licensed enrolled clinics providing care via telehealth, listing certain restrictions on the department, including that the department is prohibited from adopting telehealth reimbursement policies that are more stringent than those imposed on equivalent in-person services.</p> <p>Bill still amends existing definition of synchronous telehealth to explicitly add audio-only, applies private payer parity requirements to counties, and allows enrollment and recertification via virtual modalities including telephone for Medi-Cal programs. Bill requires the department to complete an evaluation on the benefits of telehealth in Medi-Cal by July 2025 as well.</p>
SB 371 (Caballero)	 (2021)	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 Updates (1/2)

Broadband Council Meeting, July 2022

- ACP Enrollment
 - [More than 1.6M California households enrolled in affordable broadband program, White House says](#)
 - More households in CA than in any other state
- Get Connected! California
 - 90% of households eligible for ACP are also enrolled in Medi-Cal, CalFresh, and the National School Lunch Program
 - Working with schools, Department of Education for enrollment through National School Lunch Program and PELL grants
 - Many people need assistance/space to log in (enrollment is online)
 - Identifying host sites, recruiting volunteers and staff, organizing for CBOs to be able to take calls, and ISPs are joining effort
 - Welcome any other state agency who wants to join - opportunity for health care agencies and institutions



Get Connected! California

- ACP Mobilization: *Get Connected! California*
- Organizing Partners: All Stakeholders Invited to Join
 - California Department of Technology – California Broadband Council
 - California Department of Education
 - California State Association of Counties
 - State Library
 - California Emerging Technology Fund
- First Month for Focus: August 2022
- First Day for On-Site Enrollment Assistance: August 27

Broadband Updates (2/2)

Broadband Council Meeting, July 2022

State Digital Equity Plan

- Goal is to foster and facilitate educational outcomes, economic and workforce development, access to health care and health care services, civic and social engagement and delivery of social services
- Planning grant application was due July 12, state will unlock another pool of funding for capacity and implementation grants

Broadband Equity Access and Deployment (BEAD) Program

- \$42.5b available nationwide, initial allocation of \$100m to each state and additional allocations based on 5-year plan
- Department of Technology submitted digital equity planning grant application to the NTIA this month
- Funds intended for broadband planning, deployment, multi-tenant building deployment, adoption in digital equity, and workforce development
- Require a minimum of 25% matching funds

What is the State Digital Equity Plan (SDEP)?

California will receive funding to develop a State Digital Equity Plan (SDEP) to identify barriers to digital equity and solutions.

Includes measurable objectives for promoting:	Assesses how digital inclusion impacts outcomes in:
<ul style="list-style-type: none"> • Access to fixed and wireless broadband • Online accessibility and inclusivity of public resources • Digital literacy • Awareness and use of measures to secure online privacy and cybersecurity • Access to devices and technical support 	<ul style="list-style-type: none"> • Education • Economic and workforce development • Health • Civic and social engagement • Delivery of social services

Meaningful engagement that prioritizes **eight “Covered Populations”**

- #1 Low-income individuals
- #2 Aging individuals
- #3 Incarcerated individuals (other than those incarcerated in a Federal correctional facility)
- #4 Veterans
- #5 Individuals with disabilities
- #6 Members of racial or ethnic minority groups
- #7 Individuals residing in a rural area
- #8 Individuals with literacy barriers (including individuals who are English learners and have low levels of literacy)

Tribal engagement will include:

- #1 A coordination, outreach, and collaboration strategy with Tribes
- #2 An inventory of existing resources, programs, strategies or plans among Tribal governments
- #3 Alignment of State Digital Equity Plan with Tribal digital equity plans



Planning for 2023: Coalition Policy Priorities in the Coming Year



What gaps do you see in California telehealth policy?



What telehealth topics are of interest as we shape an agenda for 2023?



What are your organization's priorities for next year?

Coalition Code of Conduct & Process

See attachment with today's materials

- Honor Coalition processes, principles, and majority decisions
- Keep discussions and interactions with other members and staff civil and respectful
- Respect your fellow members and speakers
- Remain on mute unless you are speaking
- Do not speak over others
- Do not utilize or share Coalition distribution lists for personal purposes
- Promote a collaborative environment to ensure the free flow of information and communication

Next Steps

- ❑ Continue monitoring legislation and budget updates through the fall
- ❑ Continue developing ideas for policy priorities for 2023

Closing Announcements

Upcoming Meetings

Monthly Meeting

August 19, 1pm-2pm

Legislation Committee

September 8, 1-2pm

Education Committee

September 14, 2-3pm

Please reach to staff if you have any questions

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Appendix


State Budget and Trailer Bill (SB 184) Passed

- Trailer Bill SB 184 implements the DHCS proposal on telehealth for Medi-Cal (see next slides)
- Most Coalition concerns raised in May budget letter not addressed, except for clarification on payment parity provisions


Budget Trailer Bill (SB 184) Medi-Cal Telehealth Provisions (1/4)

Policy Area	Continues Current Policies?	Bill Language
Coverage of Synchronous, Asynchronous, RPM, Virtual Comms., Telehealth		<ul style="list-style-type: none">“...in-person, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for covered health care services and provider types designated by the department, when provided by video synchronous interaction, asynchronous store and forward, ... audio-only synchronous interaction, remote patient monitoring, or other permissible virtual communication modalities, when those services and settings meet the applicable standard of care and meet the requirements of the service code being billed.”
FQHCs/RHCs: Coverage of Synchronous & Asynchronous Telehealth		<ul style="list-style-type: none">A visit shall also include an encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, clinical psychologist, licensed clinical social worker, visiting nurse, comprehensive perinatal services program practitioner, dental hygienist, dental hygienist in alternative practice, or marriage and family therapist using video synchronous interaction, using audio-only synchronous interaction, using an asynchronous store and forward modality, when services delivered through that interaction meet the applicable standard of care.
Payment Parity		<ul style="list-style-type: none">The department shall reimburse health care providers of applicable health care services delivered via video synchronous interaction, synchronous audio-only modality, or asynchronous store and forward, as applicable, at payment amounts that are not less than the amounts the provider would receive if the services were delivered via in-person so long as the services or settings meet the applicable standard of care and meet the requirements of the service code being billed.MCMC: For applicable health care services appropriately provided by a network provider via video synchronous interaction, audio-only synchronous interaction modality, or asynchronous store and forward, as applicable, the MCMC plan shall reimburse the network provider at payment amounts that are not less than the amounts the network provider would have received if the services were delivered via in-person – unless the Medi-Cal managed care plan and network provider mutually agree to reimbursement in different amounts.FQHCs/RHCs: A visit shall be reimbursed at the applicable FQHC’s or RHC’s per-visit PPS rate to the extent the department determines that the FQHC or RHC has met all billing requirements that would have applied if the applicable services were delivered via a face-to-face encounter.

Budget Trailer Bill (SB 184) Medi-Cal Telehealth Provisions (2/4)

Policy Area	Continues Current Policies?	Bill Language
Patient Establishment via non-live video modalities		<ul style="list-style-type: none"> • “A health care provider and FQHC/RHC may establish a new patient relationship with a Medi-Cal beneficiary via video synchronous interaction consistent with any requirements imposed by the department.” • “A health care provider shall not establish a new patient relationship with a Medi-Cal beneficiary via asynchronous store and forward, telephonic (audio-only) synchronous interaction, remote patient monitoring, or other virtual communication modalities...” • The department may provide for specific exceptions to this prohibition, which shall be developed in consultation with affected stakeholders and published in departmental guidance. • FQHC/RHC may establish patients asynchronously under limited circumstances: <ul style="list-style-type: none"> • Patient is present at an originating site that is a licensed/intermittent site of the clinic; person who creates the record is a FQHC/RHC employee/contractor; patient is otherwise eligible to receive in-person services per HRSA requirements

Budget Trailer Bill (SB 184) Medi-Cal Telehealth Provisions (3/4)

Policy Area	Continues Current Policies?	Bill Language
Patient Consent	<p style="text-align: center;"> <i>(Additional Requirements)</i></p>	<ul style="list-style-type: none">• “...all of the following shall be communicated by a health care provider to a Medi-Cal beneficiary, in writing or verbally, on at least one occasion prior to, or concurrent with, initiating the delivery of one or more health care services via telehealth to a Medi-Cal beneficiary:<ul style="list-style-type: none">• an explanation that beneficiaries have the right to access covered services that may be delivered via telehealth through an in-person, face-to-face visit;• an explanation that use of telehealth is voluntary and that consent for the use of telehealth can be withdrawn at any time by the Medi-Cal beneficiary without affecting their ability to access covered Medi-Cal services in the future;• an explanation of the availability of Medi-Cal coverage for transportation services to in-person visits when other available resources have been reasonably exhausted;• and the potential limitations or risks related to receiving services through telehealth as compared to an in-person visit, to the extent any limitations or risks are identified by the provider.”• Providers must document consent in the patient record• DHCS to develop model language and an informational notice for beneficiaries
Research and Evaluation Plan	<p style="text-align: center;"><i>New Policy</i></p>	<ul style="list-style-type: none">• “On or before January 1, 2023, the department shall develop a research and evaluation plan that does all of the following:<ul style="list-style-type: none">• Proposes strategies to analyze the relationship between telehealth and the following: access to care, access to in-person care, quality of care, and Medi-Cal program costs, utilization, and program integrity.• Examines issues using an equity framework that includes stratification by available geographic and demographic factors, including, but not limited to, race, ethnicity, primary language, age, and gender, to understand inequities and disparities in care.• Prioritizes research and evaluation questions that directly inform Medi-Cal policy.”

Budget Trailer Bill (SB 184) Medi-Cal Telehealth Provisions (4/4)

Policy Area	Continues Current Policies?	Bill Language
New Video Requirement	<i>New policy</i>	<ul style="list-style-type: none">• “Pursuant to an effective date designated by the department that is no sooner than January 1, 2024, a Medi-Cal provider furnishing applicable health care services via audio-only synchronous interaction shall also offer those same health care services via video synchronous interaction to preserve beneficiary choice.”• “The department may provide specific exceptions...based on a Medi-Cal provider’s access to requisite technologies, which shall be developed in consultation with affected stakeholders and published in departmental guidance.”• Similarly applies to FQHCs and RHCs
New In-Person Services Requirement	<i>New policy</i>	<ul style="list-style-type: none">• “Effective on the date on which the video requirement takes effect, a provider furnishing services through video synchronous interaction or audio-only synchronous interaction shall also do one of the following:<ul style="list-style-type: none">• Offer those services via in-person, face-to-face contact.• Arrange 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 that care.”• Similarly applies to FQHCs and RHCs
Network Adequacy	<i>New policy</i>	<ul style="list-style-type: none">• “The department may authorize a Medi-Cal managed care plan to use clinically appropriate video synchronous interaction... as a means of demonstrating compliance with the time or distance standards”• “The department may develop policies for granting credit in the determination of compliance with time or distance standards established pursuant to this section when Medi-Cal managed care plans contract with specified providers to use clinically appropriate video synchronous interaction...”• MCPs still able to utilize telehealth in alternative access standards requests