

Legislation Committee

September 8, 2022



California
Telehealth
Policy
Coalition

Contents

Welcome and Introductions	5 min.
State Legislation Update	10 min.
Broadband Updates	10 min.
Policy Briefing/Priorities Planning	15 min.
Next Steps and Wrap-up	5 min.

California Legislative Developments (1/4)

Bill No.	Coalition Support?	Recent Developments	Brief Description
AB 1758 (Aguiar-Curry)	Continue to monitor.	Passed Senate (8/18); Approved by Governor (8/24); Chaptered by Secretary of State - Chapter 204, Statutes of 2022 (8/29)	<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
AB 1759 (Aguiar-Curry)	Continue to monitor.	Passed Senate (8/24); Ordered to Engrossing and Enrolling (8/24) Enrolled and presented to the Governor (8/31)	<ul style="list-style-type: none"> Authorizes associate clinical social workers, associate professional clinical counselors, and clinical counselor trainees to provide services via telehealth Requires 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. Approps. (8/11); Passed Senate (8/24); Passed Assembly w/ Sen. Amends (8/25); To Engrossing and Enrolling (8/25); Enrolled and presented to the Governor (8/31)	<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)		Passed Sen. Approps. (8/11); Passed Senate (8/31); Passed Assembly w/ Senate amends. (8/31); Senate amendments concurred in. To Engrossing and Enrolling (8/31)	<ul style="list-style-type: none"> 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. Recent amendments minor
AB 2089 (Bauer-Kahan)	Continue to monitor.	Passed Senate (8/17); Passed Assembly (8/22); Enrolled and presented to the Governor (8/29)	<ul style="list-style-type: none"> Includes “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. Recent amendments clarify that “health care providers” under this subdivision are not intended to be considered health care providers under other laws



California Legislative Developments (2/4)

Bill No.	Coalition Support?	Recent Developments	Brief Description
<u>AB 2117</u> (Gipson)	Continue to monitor.	Passed Sen. Approps (8/11); Passed Senate (8/29); Passed Assembly (8/30); Ordered to engrossing and enrolling (8/30)	<ul style="list-style-type: none"> 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. No substantive amendments made. Recent amendments change section of Health and Safety Code affected
<u>AB 2754</u> (Bauer-Kahan)	Continue to monitor.	Passed Senate (8/8); Chaptered by Secretary of State - Chapter 163, Statutes of 2022. (8/22)	<ul style="list-style-type: none"> This bill would allow psychology trainees to be supervised remotely over audio and visual modalities. Recent amendments include adoption of urgency clause
<u>SB 717</u> (Dodd)	Continue to monitor.	Passed Assembly Approps (8/11); Passed Assembly (8/29); Passed Sen. Energy, Utilities and Comms (8/30); Passed Senate (8/31); Ordered to engrossing and enrolling (8/31)	<ul style="list-style-type: none"> Requires 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. Requires 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. Recent amendments remove legislative findings
<u>SB 1475</u> (Glazer)		Passed Senate (8/30); Passed Assembly (8/30); Assembly amendments concurred in. Ordered to engrossing and enrolling (8/30)	<ul style="list-style-type: none"> 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, and providing written procedures for adverse events. Amendments require written procedures re adverse reactions per the request of the department

California Legislative Developments (3/4)

Bill No.	Coalition Support?	Recent Developments	Brief Description
<u>AB 2751</u> (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.
<u>AB 1669</u> (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.
<u>AB 2092</u> (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.
<u>SB 1337</u> (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 (4/4)

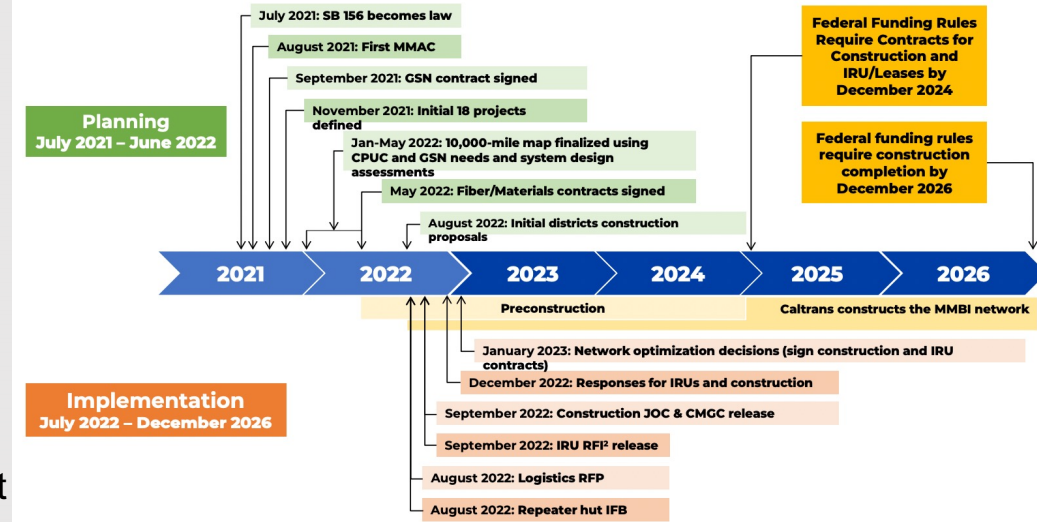
Bill No.	Coalition Support?	Recent Developments	Brief Description
AB 552 (Quirk-Silva)		Passed Senate Approps (8/11); Passed Senate (8/23); Passed Assembly (8/24); Enrolled and presented to the Governor (8/31)	<ul style="list-style-type: none"> Integrated School-Based Behavioral Health Partnership Program; 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. Minor recent amendments
AB 32 (Aguilar Curry et al.)	 (2021)	Passed Senate Approps (8/11); Passed Senate (8/31); Passed Assembly (8/31); Senate amendments concurred in. To Engrossing and Enrolling (8/31)	<p>Recent amendments create limited exceptions to allow Medi-Cal providers, including FQHCs/RHCs, to establish a new patient relationship using audio-only telehealth in certain circumstances:</p> <ul style="list-style-type: none"> When the visit is related to sensitive services (includes mental/behavioral/reproductive health amongst other services) When the patient requests an audio-only modality or attests they do not have access to video <p>There is also language added that in making exceptions to the audio-only prohibition, the department may also take into consideration the availability of broadband access based on speed standards set by the FCC or other applicable federal laws/regulations.</p> <p>The bill still tweaks the asynchronous new patient relationship piece for FQHCs/RHCs as well, removing the reference to “licensed originating” FQHC/RHC sites so that the limited allowances in that regard initially implemented in SB 184 apply whenever the patient is present at the FQHC/RHC or an intermittent site regardless of their licensed status, in addition to the other requirements.</p>
SB 371 (Caballero)	 (2021)	Failed passage	Creates a Deputy Secretary for Health Information Technology to coordinate health information technology efforts regarding hie, broadband, and telehealth

Broadband Updates (1/2)

Broadband Middle Mile Meeting, August 2022

- CDT contractor forums
 - Plans for going out to bid on construction and IRUs for the broader MMBI network.
- Caltrans updates
 - “Dig Smart” and early construction contract efforts
 - Walk-through of the state’s permit streamlining efforts: permitting timeframes have been reduced from an average of 30 months to as little as 10 or 11 months in most cases.
- Broadband for All Action Plan update given on July 29
 - Broadband for All Portal [Funding Opportunities page](#) was updated with the latest CPUC Last-Mile funding opportunities such as the Local Agency Technical Assistance, Loan Loss Reserve Fund and Last-Mile Federal Funding Account.
 - [Broadband Planning Resources page](#) has been updated to include a Handbook created by Native Nations Communications Task Force intended to bring awareness of the various steps involved in broadband deployment.

MMBI Project Timeline



Broadband Updates (2/2)

Last Mile Updates, August 2022

Local Agency Technical Assistance Applications

- In August, the CPUC began accepting applications for pre-construction work facilitating broadband network projects to areas in need
- The program has a \$50 million budget for eligible local agencies and tribal entities in California, including \$5 million set aside for tribes

Get Connected, California!

- Get Connected California! was Saturday, Aug. 27
- Enrollment events took place throughout the state to help more households start saving on their Home Internet bill. These efforts are ongoing

Broadband Site Visits

- CDT and CPUC staff joined the National Telecommunications and Information Administration's Digital Equity Team for a series of listening sessions and public housing site visits in Fresno, Oakland, and San Francisco in late August

Local Agency Technical Assistance

\$50 Million for Local and Tribal Governments

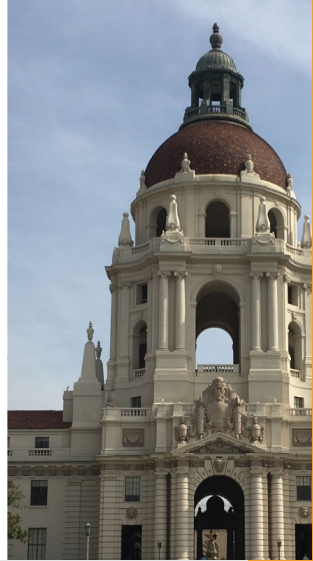
- To facilitate last-mile broadband infrastructure projects
- Supporting local agency and Tribal efforts expanding broadband to families and communities lacking sufficient internet access

Eligibility

- Application window opened on August 1, 2022
- Broad eligibility includes cities, counties, community service districts, municipal utilities districts, school districts, electrical cooperatives, sovereign tribal governments, and Joint Powers Authorities

Examples of Local Agency Technical Assistance

- Includes pre-construction costs, environmental, feasibility, and engineering design studies or reports; needs assessments, broadband studies and plans



Bridging the Digital Divide in California

SAVE MONEY ON HOME INTERNET WITH THE AFFORDABLE CONNECTIVITY PROGRAM

Californians can now save on high-speed Internet with the Affordable Connectivity Program (ACP). Through this federally funded program, eligible households can now save \$30 per month on Home Internet.

Even better: when the ACP discount is used with the right internet plan, Home Internet can be FREE for your family.

APPLY NOW

Annual Legislative/Policy Briefing – October 13th

- ❑ Cover history of telehealth policy in CA, where we've been and where we are, provide context in comparison to other states/federal, as well as remaining gaps between commercial and Medi-Cal patients
- ❑ Provide federal updates, issues, as part of policy overview
- ❑ Outreach to state speakers to cover CA history as well as speakers with federal perspective/experience

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?

Next Steps

- ❑ Continue monitoring legislation and budget updates through the fall
- ❑ Legislative Briefing preparation
- ❑ Continue developing ideas for policy priorities for 2023
- ❑ Upcoming meetings

Closing Announcements

Upcoming Meetings

Education Committee

September 14, 2-3pm

Monthly Meeting

September 16, 1pm-2pm

Legislative Briefing

October 13, 1-2pm

Annual Meeting

November 10

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	 (Additional Requirements)	<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	New Policy	<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