HOW TELEHEALTH POLICY IN THE UNITED STATES IS STRUCTURED

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CENTER FOR CONNECTED HEALTH POLICY (CCHP)
is a non-profit, non-partisan organization that seeks to advance state and national telehealth policy to promote improvements in health systems and greater health equity.
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• Always consult with legal counsel.

• CCHP has no relevant financial interest, arrangement, or affiliation with any organizations related to commercial products or services discussed in this program.
ABOUT CCHP

- Established in 2009
- Program under the Public Health Institute
- Became federally designated national telehealth policy resource center in 2012
- Work with a variety of funders and partners
CCHP PROJECTS

- 50 State Telehealth Policy Report
- Administrator National Consortium of Telehealth Resource Centers
- Convener for California Telehealth Policy Coalition
Search by Category & Topic

Medicaid Reimbursement
- Live Video
- Store & Forward
- Remote Patient Monitoring Reimbursement

Private Payer Reimbursement
- Private Payer Laws
- Parity Requirements

Professional Regulation/Health & Safety
- Cross-State Licensing
- Consent
- Prescribing
- Misc (Listing of Practice Standards)

Information updated through February 2020
How we engage with each other has fundamentally changed due to COVID-19.
POLICY LANDSCAPE IN THE UNITED STATES
TELEHEALTH POLICY LANDSCAPE IN THE US

➢ Patchwork quilt among the states
➢ Policy on the Federal Level Differs
SOURCES OF EXISTING TELEHEALTH POLICY

FEDERAL LAW
- MEDICARE
- PRESCRIBING
- HIPAA
- STARK

REGULATIONS

CMS POLICY

Example:

Social Security Act Sec 1834(m)(1) – “The Secretary shall pay for telehealth services that are furnished via a telecommunications system…”

42 CFR Section 410.78(a)(3) “Interactive telecommunications system means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication…”
**Sources of Existing Telehealth Policy**

- **State Law**
  - Medicaid
  - Prescribing
  - Privacy
  - Boards

- **Regulations**

- **Multiple Govt Agencies**

**Example:**

- State Medicaid program reimburses for therapy/behavioral health services for treating OUD via live video
- State regulations for drug treatment require group therapy to be in-person
- Licensing Board requires the first visit to be in-person
- Counties that run the drug treatment programs don’t allow for telehealth
SOME TELEHEALTH POLICY AREAS

➢ Reimbursement
➢ Licensure/Credentialing
➢ Prescribing/provider-patient relationship establishment
➢ Privacy/Security
➢ Malpractice
➢ Lack of inclusion of telehealth during national/state emergency policies
REIMBURSEMENT
Much of the telehealth policy that exists revolves around reimbursement. The elements that usually make up the policy is based on who, what, where and how.
The Medicare policy on the use of technology to provide services is in two buckets:

- **TELEHEALTH**
- **TECH-ENABLED/COMM-BASED SERVICES**
MEDICAID REIMBURSEMENT BY SERVICE MODALITY (Fee-for-Service)

- **Live Video**: 50 states and DC
- **Store and Forward**: Only in 16 states
- **Remote Patient Monitoring**: 23 states

As of February 2020
42 states and DC have telehealth private payer laws. Some go into effect at a later date.

Parity is difficult to determine:

- Parity in services covered vs. parity in payment
- Many states make their telehealth private payer laws "subject to the terms and conditions of the contract"

As of February 2020
# Telehealth Policy Changes in COVID-19

## Federal

<table>
<thead>
<tr>
<th>Medicare Issue</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Geographic Limit</td>
<td>Waived</td>
</tr>
<tr>
<td>Site limitation</td>
<td>Waived</td>
</tr>
<tr>
<td>Provider List</td>
<td>Expanded</td>
</tr>
<tr>
<td>Services Eligible</td>
<td>Added additional 80 codes</td>
</tr>
<tr>
<td>Visit limits</td>
<td>Waived certain limits</td>
</tr>
<tr>
<td>Modality</td>
<td>Live Video, Phone, some srvs</td>
</tr>
<tr>
<td>Supervision requirements</td>
<td>Relaxed some</td>
</tr>
<tr>
<td>Licensing</td>
<td>Relaxed requirements</td>
</tr>
<tr>
<td>Tech-Enabled/Comm-Based (not considered telehealth, but uses telehealth technology)</td>
<td>More codes eligible for phone &amp; allowed PTs/OTs/SLPs &amp; other use</td>
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## Medicaid Issue

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<tbody>
<tr>
<td>Medicaid Issue</td>
<td>Change</td>
</tr>
<tr>
<td>Modality</td>
<td>Allowing phone</td>
</tr>
<tr>
<td>Location</td>
<td>Allowing home</td>
</tr>
<tr>
<td>Consent</td>
<td>Relaxed consent requirements</td>
</tr>
<tr>
<td>Services</td>
<td>Expanded types of services eligible</td>
</tr>
<tr>
<td>Providers</td>
<td>Allowed other providers such as allied health pros</td>
</tr>
<tr>
<td>Licensing</td>
<td>Waived some requirements</td>
</tr>
</tbody>
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- Private payer orders range from encouragement to cover telehealth to more explicit mandates
- Relaxed some health information protections

**DEA** – PHE prescribing exception/allowed phone for suboxone for OUD

**HIPAA** – OCR will not fine during this time
POST-COVID-19 WORLD

- Executive orders/waivers will begin to expire unless extended
- The next steps, what can be done and how quickly
- Senate HELP Committee Hearing
- Physician Fee Schedule proposals for FY 2021 (July 2020)
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Thank You!

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