

BACKGROUND: Current California telehealth policies

Prior to COVID-19, California's Medicaid program (Medi-Cal) had one of the most robust telehealth policies in the nation. While Medi-Cal had updated their Provider Manual in the summer of 2019 with more expansive policy around telehealth, even with these progressive policies, temporary changes were needed to allow telehealth to be utilized more widely and effectively in the face of COVID-19. Therefore, as a result of the public health emergency (PHE), the Department of Health Care Services (DHCS) implemented additional temporary flexibilities to expand telehealth utilization even further and ensure continued health care access for all Californians.

California Pre-COVID Policies:

- Reimbursement parity for:
 - o All live video and store-and-forward modalities
 - o All covered services, at the provider's discretion
 - o Both fee for service (FFS) and managed care
- E-Consult reimbursement
- Home as an eligible originating site
- Allowing most telehealth modalities to be provided for new and established patients
- Limitations for Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs)

California COVID-19 Temporary Policies:

- Requiring payment parity for:
 - o Telehealth modalities of live video and store-and-forward as well as including telephonic/ audio-only
 - o All services that could appropriately be provided via telehealth, including home and community-based services, Local Education Agency (LEA) and Targeted Case Management (TCM) services
 - o All providers, including FQHC/RHC
 - o Both FFS and managed care
- Waiving remaining site requirements and limitations on reimbursing services to new patients through telehealth which included allowing FQHCs and RHCs to treat patients in the home.
- Allowing most telehealth modalities to be provided for new and established patients.
- Allowing for expanded access to telehealth through non-public technology platforms (exemption granted by federal Office for Civil Rights, which would otherwise not be allowed under federal Health Insurance Portability and Accountability Act (HIPAA) requirements).



MOVING FORWARD: Proposed telehealth policies

Last month as part of the Governor's FY 2022 Budget, it was announced that \$94 million in total funds (\$34 million General Fund) would be included to implement Medi-Cal coverage of remote patient monitoring services (RPM) and make permanent certain telehealth flexibilities allowed during the pandemic. On February 2, 2021, DHCS released a description of proposed policy changes for Medi-Cal and simultaneously, trailer bill language for telehealth policy proposals contained in the Governor's budget was also released. Both provide additional details on which of those flexibilities are proposed to become permanent post-pandemic. DHCS in its proposal cited significant uptake and implementation by providers and plans, reduced no-show rates, and patient preference for accessing services through telehealth due to reduced travel-time and wait-times as the basis for the recommendations it is proposing.

Both the DHCS proposal and the trailer bill language propose that the following temporary changes become permanent, effective July 1, 2021, or in accordance with federal approvals:

- Requiring payment parity for, as designated by the department:
 - Synchronous or real-time telehealth modalities, excluding telephonic/audio-only and asynchronous/store-and-forward
 - Real-time services that meet all associated requirements of the underlying billing code(s)
 - Providers, including FQHCs/RHCs, limited to use of synchronous modalities
 - Synchronous modalities and services in both FFS and managed care
- Allow the use of clinically appropriate telephonic/audio-only, other virtual communication, and RPM for established patients only
 - These modalities would not be billable by FQHCs/RHCs and would be subject to a separate fee schedule and additional/unspecified billing, reimbursement, and utilization management policies of DHCS
- Removing site limitations for FQHCs and RHCs (allowing the home to be an eligible originating site) if within their federal designated service area.
- Allow specified FQHC and RHC providers to establish a new patient through synchronous telehealth if the patient is located within its federal designated service area and the service is provided through synchronous telehealth.
- Expand synchronous and asynchronous telehealth services to 1915(c) waivers, Targeted Care Management (TCM) and Local Education Agency Medi-Cal Billing Option Program (LEABOP).
- Add synchronous telehealth and telephonic-audio-only services to State Plan Drug-Medi-Cal, subject to DHCS' billing, reimbursement and utilization management policies
 - Excludes all other asynchronous telehealth modalities
 - Excludes ability to establish a new beneficiary relationship through audio-only
- DHCS may authorize a Medi-Cal managed care plan to use clinically appropriate synchronous interactions to meet time or distant standards for network adequacy.



ANALYSIS

The proposed changes from DHCS and in the budget trailer bill language only make a few temporary allowances permanent or add new ones, such as RPM, but largely these changes clarify and codify policies that existed before the pandemic. In some cases, the proposed changes actually appear to narrow the ability to utilize telehealth even further than pre-pandemic policies, for instance decreasing allowances and reimbursement of store-and-forward telehealth modalities.

New & Made Permanent Policies

RPM was not a service covered before the pandemic and both the DHCS report and budget propose adding it to Medi-Cal, along with clarifying that audio-only and other virtual communication services will be as well. However, language indicates that this will likely be limited as it allows DHCS to specify what those services will be and which providers may provide them. This lacks the expansiveness seen with policy applying to synchronous or live video telehealth.

Synchronous telehealth would receive payment parity in both fee-for-service and managed care, which was typically the case pre-pandemic as well. There will be a separate pay schedule for store-and-forward, audio-only and virtual communication. Prior to the pandemic, store-and-forward appeared to be reimbursed at the same rate as live video. Should this proposal be approved, store-and-forward and other modalities will be reimbursed at a different rate, most likely at a lower one, than what is provided for an in-person encounter.

Also clarified was the use of telehealth in Drug Medi-Cal and continued use in LEA BOP and TCM which were temporary waivers. Limitations on where FQHCs and RHCs may treat patients have been lifted as long as the patient is within the FQHC/RHC's federal designated service area. This was an issue prior to COVID-19 as FQHCs and RHCs could not treat their patients in the home. However, some of the temporary flexibilities DHCS is not recommending making permanent related to FQHC/RHC providers are telephonic modalities which they argue are "less involved and less costly." Therefore, they do not believe it is appropriate to reimburse them at the same rate as in-person or synchronous telehealth visits. They do note, however, that they wish to engage in future discussions with stakeholders regarding these additional modalities in the context of an Alternative Payment Methodology.

Conflicts with existing laws

Requiring that a new patient relationship can only be established through synchronous telehealth counters existing laws and practice, including the ability to provide an appropriate prior examination for purposes of prescribing via questionnaire and other store-and-forward technologies ([AB 1264, Petrie-Norris, 2019](#)). This requirement for a relationship to only be established through synchronous telehealth will now only exist for the Medi-Cal program. These policies also will create a discrepancy between Medi-Cal patients and commercial patients given the existing private payor telehealth coverage and reimbursement parity requirements in the state ([AB 744, Aguiar-Curry, 2019](#)), which will likely exacerbate existing disparities in access to care through telehealth for low-income and underserved communities.



Other Changes

For network adequacy, Medi-Cal managed care plans may only submit plans involving synchronous telehealth to meet time and distant standards. This eliminates the use of store-and-forward and eConsult.

Telehealth is subject to the reimbursement, billing and **utilization management** policies of DHCS. It is unclear what “utilization management policies” will mean. It could provide another limitation on telehealth such as frequency limits.

HIGHLIGHTS OF PROPOSED CHANGES IN COMPARISON TO PRE & DURING COVID POLICIES

Pre-COVID	COVID Temporary Changes	Proposed Permanent Changes (DHCS)	Trailer Bill Language
<p>PARITY: Allow reimbursement for live video & store-and-forward based upon provider’s decision if certain conditions met. Option not available to FQHCs/RHCs. While not explicitly stated, payment parity appeared provided for both modalities</p>	<p>Allow for payment parity for live video & store-and-forward based upon provider’s decision if certain conditions met. Allow this option to FQHCs/RHCs. Payment parity in fee-for-service & managed care.</p>	<p>Allow payment parity for synchronous telehealth including for FQHCs. Separate pay schedule for asynchronous and telephonic.</p>	<p>Asynchronous and telephonic would be subject to utilization management policies established by DHCS</p>
<p>No audio-only</p>	<p>Allow audio-only as a modality if certain conditions met</p>	<p>Allow audio-only for Drug Medi-Cal. No parity of payment. Separate fee schedule may be established.</p>	<p>Cannot establish relationship through audio-only in Drug Medi-Cal</p>
<p>RPM not reimbursed</p>	<p>N/A</p>	<p>Allow RPM for established patients as well as audio-only and other virtual communication. All are subject to separate fee schedule. FQHC/RHCs not allowed to use.</p>	<p>DHCS will specify what services and what providers can utilize RPM</p>
<p>Allow for the use of telehealth to be part of a submitted plan to meet network adequacy.</p>	<p>N/A</p>	<p>N/A</p>	<p>Medi-Cal managed care plan may use clinically appropriate synchronous interaction as way of annual compliance with time or distance standards. Must submit plan to DHCS for approval.</p>



Next Steps

The proposals will go into effect July 1, 2021, however, DHCS notes that should the PHE continue beyond that date, the temporary policies enacted in response to the PHE will continue and not the proposed changes. Conversations and evaluations regarding these proposals will continue through the state budget and legislative processes over the next few months. For more information relative to DHCS' full post-PHE telehealth policy recommendations, please review the telehealth policy recommendations document, which is available on both [DHCS' Telehealth webpage](#) and [DHCS' COVID-19 Response page](#). DHCS's proposed trailer bill language (TBL) can be found on the [Department of Finance's TBL webpage](#).