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and the Telehealth Alliance of Oregon
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• Audio and video are muted for all participants
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• Moderator will read questions to the speaker
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Moderator: Cathy Britain and Deb LaMarche

Presenters:
- Jeffrey Mitchell, JD, Counsel, Fletcher, Heald & Hildreth, PLC
- Rene Quashie, JD, Vice President, Policy & Regulatory Affairs, Digital Health, Consumer Technology Association
- Emily Wein, JD, Of Counsel, Foley & Lardner LLC
- Mei Wa Kwong, JD, Executive Director, Center for Connected Health Policy
Telehealth & COVID-19: State Updates

April 16, 2020

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Executive Director, CCHP
DISCLAIMERS

• Any information provided in today’s talk is not to be regarded as legal advice. Today’s talk is purely for informational purposes.

• 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
MEDICAID REIMBURSEMENT BY SERVICE MODALITY
(Fee-for-Service)

Live Video
50 states and DC

Store and Forward
Only in 14 states

Remote Patient Monitoring
22 states

As of October 2019
40 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 October 2019
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)
Common telehealth policy changes through Executive/Agency orders
- Allowing home to be an eligible originating site
- Allowing telephone to be used to provide services
- Note: Can be limited. Varies from state-to-state
- Requiring health plans, managed care and private to cover telehealth services and offer parity
Less common telehealth policy changes

- Expanding use of other modalities besides phone
- Expanding the list of eligible providers to include others such as allied health professionals
- Waiving consent requirements, usual an adjustment made such as allowing it to be verbal consent
How much states had to change depended upon where their telehealth policies were pre-COVID-19.
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<tr>
<th>ALASKA</th>
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<tbody>
<tr>
<td><strong>PRE-COVID-19</strong></td>
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<tr>
<td>• Medicaid allowed providers to use Live Video, S&amp;F and RPM</td>
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<td>• No all encompassing private payer law, but for mental health does provide coverage</td>
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<tr>
<td>• Home is an eligible originating site</td>
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<td>• Registry of businesses performing telehealth in the state.</td>
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| **DURING COVID-19** |
| • Medicaid expanded to include phone and online check-ins |
| • Will still need to register with the Business Registry |
| • Expanded coverage of services both telehealth and phone |
**IDAHO**

**PRE-COVID-19**

- Medicaid reimburses for Live Video
- Telehealth provider must provide timely coordination of services with patient’s PCP, within 3 business days
- Specific services are reimbursed, go by codes
- Specific list of providers eligible
- No private payer law

**DURING COVID-19**

- Allow provider – patient relationships to be established over two-way audio or audio-visual interaction
- Allow health insurers to cover telehealth visits for all in-network providers
- All in-network providers to use non-HIPAA compliant communications platform
### PRE-COVID-19

- Medicaid allows providers to use Live Video
- Home is an eligible originating site
- Private payer law
- Specific list of providers that private payer law covers as well as eligible facilities

### DURING COVID-19

- Telephone and secure instant messaging are allowed
- Added additional codes to be reimbursed
- Without state order, health plans in MT took specific actions regarding telehealth coverage. They do differ from plan-to-plan. Common ones across multiple plans include allowing phone and waiving co-pays
OREGON

PRE-COVID-19
- Medicaid reimburse for Live Video and some S&F and RPM
- One of the few states that did allow for some telephone codes
- Does allow for a few instances where email could be used
- Private payers required to cover services provided via live video

DURING COVID-19
- Expanded coverage for live video and telephone
PRE-COVID-19

- Medicaid allowed providers to use Live Video & Home telemetry for outpatient long-term cardiac monitoring
- FQHCs and RHCs allowed to deliver services via telehealth
- Health plans need to disclose if telehealth services are covered
- Plans offering coverage for mental health services need to cover telepsychiatry

DURING COVID-19

- By Executive order relaxed health privacy protections
- Licensing requirements relaxed
PRE-COVID-19

• Medicaid allowed providers to use Live Video
• Medicaid reimburses for some store-and-forward and RPM
• FQHCs/RHCs may serve as distant site providers
• Home health services can be provided for certain patients who have an unstable condition/high risk of sudden changes/risk of hospitalization
• Health plans must cover telehealth if in-person

DURING COVID-19

• WA Health Care Authority purchased limited number of Zoom licenses for providers
• Implementing parity from now to April 24, 2020, had been scheduled to take place in 2021
• Prohibit not paying in-network provider the same rate as would have received in person
• Prohibiting denying a claim by an in-network provider using telehealth if the service delivered was medically necessary
### WYOMING

**PRE-COVID-19**
- Medicaid reimburses for Live Video
- Some services not covered, ex: group psychotherapy
- No private payer law

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**DURING COVID-19**
- For case management, phone or live video can be used
- Health plans were encouraged to “liberalize telehealth benefits”
Issues encountered with state policy changes

• Difficult to institute quickly
• Some payer have limited the use of telehealth to third party companies rather than allowing in-network providers to also utilize telehealth and be paid
• Awareness that these policies have changed - consumers
Some waiver requests by states were covered already in some of the broader federal waivers during the emergency so specific request not addressed.

Allowing providers not enrolled in a state Medicaid program to be paid

Certain case management services to be done via telehealth

Allowing certain in-person/face-to-face visits to be done by telehealth/phone
6 states have COVID-19 legislation & regulation related to telehealth

- AK, FL, IL, MN, NJ, OH

- IL Proposed Regulation – Broadens telehealth rules to accommodate new places of service and means of engagement and communication

- NJ – A 3843 - Requires health insurance and Medicaid coverage for telemedicine and telehealth during COVID-19 state of emergency
CCHP Website – cchpca.org
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Thank You!

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