This presentation was made possible by grant number U1UTH42530 from the Office for the Advancement of Telehealth, Health Resources and Services Administration, DHHS
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Overview

Federal Legislation

State Laws

Payor Policies
Federal Public Health Emergency Extended

- Renewed January 14, 2022
- Anticipated to continued at least until April 14, 2022
**Ensuring Telehealth Expansion Act**

- FQHC, RHCs could be distant site providers
- Eliminate face to face requirements between home dialysis patients, providers
- Eliminate Hospice recertification face to face requirement
- Would make originating site “any site at which the eligible telehealth individual is located at the time the service is furnished via a telecommunications system”

**Introduced in House**

January 2021

**No further action**
CONNECT for Health Act 2019

- Bipartisan
- Would give HHS authority to waive telehealth requirements that would not deny or limit coverage; can be expected to reduce spending without compromising quality
- Would waive all geographic restrictions of telehealth for mental health services
- Would add home as eligible originating site for mental telehealth
- Would add RHCs, FQHCs as originating sites regardless of geographic area
- Would make RHCs, FQHCs permanently eligible distant sites
- Would allow hospice recertificate face to face as telehealth
Telemental Health Expansion Act

- Would expand the provisions of the SUPPORT Act for telehealth to ‘certain mental health services’
Introduced in the Senate June 2021
Read twice and referred to the Committee on Finance

Has not advanced

**Telemental Health Care Access Act**
- Would remove current statutory requirement for in-person, non-telehealth visit 6 months before telemental health service
Telehealth Modernization Act

- Would remove originating site restrictions
- Would allow HHS to expand eligible practitioners, but doesn’t mandate any particular professionals
- Would retain category 3 telehealth services permanently
Protecting Access to Post-COVID–19 Telehealth Act of 2021

• Would make permanent changes to SSA for telehealth
• Removal of geographic restriction
• Adding home and any location as determined by the Secretary as originating site
• FQHCs/RHCs as distant sites
Introduced in the Senate June 2021
Read twice and referred to the Committee on Finance

Protecting Rural Telehealth Access

- Would permanently waive geographic restriction
- Would add home as originating site
- Would permanently allow Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs) to serve as distant sites for providing telehealth services
- Would expand coverage for asynchronous (store-and-forward) telehealth services
Permanency for Audio-Only Telehealth Act

- Would allow use of audio-only equipment to furnish services described by the codes for audio-only telephone E/M, mental and behavioral health services, and substance use disorder services
- Would give HHS authority to add coverage of more audio-only services
Payors must be able to accept POS 10 by April 4, 2022 effective for DOS January 1, 2022

New Telehealth Place of Service Code

- **02**: Telehealth Provided Other than in Patient’s Home Descriptor: The location where health services and health-related services are provided or received through telecommunication technology. The patient is not located in their home when receiving health services or health-related services through telecommunication technology.

- **10**: Telehealth Provided in Patient’s Home Descriptor: The location where health services and health-related services are provided or received through telecommunication technology. The patient is located in their home (which is a location other than a hospital or other facility where the patient receives care) when receiving health services or health-related services through telecommunication technology.
15-Day Disaster Proclamation

January 6, 2022

- Executive Order 22-01: supervision, delegation, related issues for healthcare providers suspended
- Students can provide services consistent with education and training within a licensed facility
- Professionals licensed in good standing in any state can provide care in KS
January 6, 2022

15-Day Disaster Proclamation

- Executive Order 22-02: Similar provisions for KDADS licensed professionals
KANSAS TELEMEDICINE ACT

• KSA 40-2,210
• Went into effect January 1, 2019
• Telemedicine can be used to establish provider-patient relationship
• Created coverage (but not payment) parity
• Challenged in 2018 leading up to effective date
  • Judge said section of the Act under review didn’t create standing until previous injunctions were resolved
KANSAS TELEMEDICINE ACT

• House Bill 2552
  * Referred to Committee on Health and Human Services January 25, 2022

  • Distant site would include an unlicensed or private location where provider delivers service
  • In-state practitioner would mean provider has a physical practice location in KS
  • Interstate telehealth practitioner would mean provider without physical practice location in KS
  • Telehealth would explicitly include remote patient monitoring
  • Changes many “physician” references to “provider”
  • In-state provider: audio-only for established patients if A/V not reasonably available
  • No health plan could require the use of any specific information technology application by an in-state practitioner
  • Health plans could not impose higher cost sharing than in person services for in-state practitioners
KANSAS MEDICAID

• Emergency declaration expired
• **Permanent telemedicine license waiver**
  • The permanent telemedicine waiver is available for all healthcare professions regulated by the KSBHA. Those who hold a telemedicine waiver in Kansas will be subject to all the rules and regulations pertaining to the practice of the licensed profession in this state and will be considered a licensee for the purposes of the applicable professional practice act.
  • Must hold a full, active, and unrestricted license in another state or meets the qualifications required under Kansas law to practice your profession
• Medicaid flexibilities still in effect – until rescinded
MISSOURI

- **Emergency due to staff shortages**
  - “I do hereby order suspension of certain statutory and regulatory provisions related to telemedicine”
  - Temporarily waived requirement to have provider-patient relationship before prescribing medications
  - Temporarily would allow prescriptions based on internet request or questionnaire
- **Expired December 31, 2021**
MISSOURI

- Significant telehealth questions remained
  - Audio-only
  - Provider licensure
  - Establishing provider-patient relationship

- RSMo 191.1146 had been waived: In order to establish a physician-patient relationship through telemedicine: (1) The technology utilized shall be sufficient to establish an informed diagnosis as though the medical interview and physical examination has been performed in person

- January 14, 2022 Memo to All Missouri Hospitals from MO DHHS:
  a physician-patient relationship may be established through a physical examination conducted in-person or through telemedicine.
MISSOURI

• During the Public Health Emergency, MHD waived some requirements, including:
  • The requirement that physicians must have an established relationship with the patient before providing services via telehealth, per RSMo 191.1146
  • The requirement that, in order to treat patients in this state with telehealth, health care providers shall be fully licensed to practice in this state. The flexibility allowed providers to treat patients in this state if they are licensed in the state in which they practice.
  • While the State of Emergency in Missouri concluded December 31, 2021, MHD must submit requests to the Centers for Medicare & Medicaid Services (CMS) to discontinue any of the flexibilities allowed during the Public Health Emergency (PHE). Therefore, the flexibilities continue temporarily until CMS approval is granted. Providers will be notified when the state is approved to discontinue the two flexibilities listed above.
  • MHD also allowed the use of telephone for telehealth services, and allowed quarantined providers and/or providers working from alternate sites or facilities to provide and bill for telehealth services. These services should be billed as distant site services using the physician’s and/or clinic provider number. MHD did not require additional CMS flexibility for these options, and they will continue.
OKLAHOMA

- Telehealth payment parity passed May 2021
- Effective Jan 1 2022
- “mhealth” also referred to as "mobile health", means patient medical and health information and includes the use of the Internet and wireless devices by patients to obtain or create specialized health information and online discussion groups to provide peer-to-peer support
- "Originating site" means a site at which a patient is located at the time health care services are provided to him or her by means of telemedicine, which may include, but shall not be restricted to, a patient's home, workplace or school
- "Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose and other condition-specific data, medication adherence monitoring and interactive video conferencing with or without digital image upload
OKLAHOMA

• “Telemedicine”, “telehealth” includes synchronous mechanisms; asynchronous (including store and forward); remote patient monitoring; mhealth; “other electronic means”
• Any health benefit plan that is offered, issued or renewed in this state by an insurer on or after the effective date of this act shall provide coverage of health care services provided through telemedicine, as provided in this section
• An insurer **shall not exclude** a service for coverage **solely because the service is provided through telemedicine** and is not provided through in-person consultation or contact between a health care professional and a patient when such services are appropriately provided through telemedicine. An insurer **may limit** coverage of services provided by telehealth **consistent with coding and clinical standards** recognized by the American Medical Association or the Centers for Medicare and Medicaid Services as covered if delivered by telehealth or telemedicine, except as agreed to by the insurer and provider
OKLAHOMA

• An insurer shall reimburse the treating health care professional or the consulting health care professional for the diagnosis, consultation or treatment of the patient delivered through telemedicine services on the same basis and at least at the rate of reimbursement that the insurer is responsible for coverage for the provision of the same, or substantially similar, services through in-person consultation or contact.

• An insurer shall not apply any deductible to telemedicine services that accumulates separately from the deductible that applies in the aggregate to all items and services covered under the health benefit plan; no higher copay/coinsurance for telemed; no lifetime max benefits for telemed.

• No utilization review unique to telemedicine.

• An insurer shall not place any restrictions on prescribing medications through telemedicine that are more restrictive than what is required under applicable state and federal law.

• Insurer can’t require use of particular telemed vendors.
Questions?

This presentation was made possible by grant number U1UTH42530 from the Office for the Advancement of Telehealth, Health Resources and Services Administration, DHHS

Available Through Heartland Telehealth Resource Center for Technical Assistance
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