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.
CCHP is an independent, *public interest* organization that strives to advance state and national telehealth policies that promote better systems of care improved health outcomes and provide greater *health equity of access to quality, affordable care and services.*
THE CONSORTIUM

• National Consortium of Telehealth Resource Centers

• An affiliation of the 14 TRCs who have come together to combine resources on common areas of work to provide accurate information while using resources efficiently

• CCHP selected to act as the Administrator
THE CONSORTIUM

- Central Website
- Collaboration on fact sheets
- Exhibiting/Conferences
- Special projects
ALL TRCS WORKING COLLABORATIVELY

Consistency

Efficiency

Collaboration

Resources

Outreach
FEDERAL & STATE POLICY TRENDS

For the California Telehealth Resource Center Conference
May 17, 2018
TELEHEALTH STATE-BY-STATE POLICIES, LAWS & REGULATIONS

The Center for Connected Health Policy helps you stay informed about telehealth-related laws, regulations, and Medicaid programs. We cover current and pending rules and regulations for the U.S. and all fifty states.

Interactive Policy Map
RECENT FEDERAL ACTIONS
FEDERAL UPDATE

- Current Legislation
- MEDPAC/MACPAC
- Office of the Inspector General Report
- Recently passed policies
- Net neutrality
FEDERAL UPDATE

• Current Legislation
  – Opioid bill passes Senate Health Panel – Opioid Crisis Response Act of 2018 (S 2680) – Makes changes to Ryan Haight
    • Forces DEA to create special registration to prescribe via telehealth without an in-person exam
  – Existing legislation that continues to look at expanding the utilization of telehealth, but has not moved
  – **HR 5603 (Matsui)** - Access to Telehealth Services for Opioid Use Disorders Act – For treatment of SUD waive certain telehealth limitations under Medicare around originating site, geography and S&F.
  – VA legislation passed Senate but remains in the House – House introduced VA Mission Act of 2018
    • VA proposed regs became final May 14 – allows providers practice across state lines regardless of provider or patient location.
  – RAND ECHO report
FEDERAL UPDATE

• MEDPAC/MACPAC
  – Recent reports from both MEDPAC & MACPAC
  – MACPAC more general recommendations, first report on telehealth
  – MEDPAC continues to express caution in expanding telehealth suggestions mainly for pilots and in Medicare Advantage and ACOs
FEDERAL UPDATE

• Office of the Inspector General Report
  – Reported that $3.7 million in payments that should not have been made
  – Issues were primarily regarding oversight in not disallowing inaccurate payments, certain edits/requirements not put in place and lack of knowledge by providers on what and how to bill
MEDICARE ADVANTAGE

• Beginning 2020 – MA plans *allowed* to provide “additional telehealth benefits”
  • Treated the same as Medicare fee-for-service option
• Additional telehealth benefits include:
  • Part B benefits without restrictions
  • Other services identified as clinically appropriate
• HHS Secretary must solicit comments on types of telehealth services that should be considered additional telehealth benefits by Nov. 30, 2018.
• Secretary shall establish requirements around:
  • Physician or practitioner licensure
  • Care coordination with in-person services
  • Other areas specified by the Secretary
ACCOUNTABLE CARE ORGANIZATIONS

• Beginning 2020 ACOs have the ability to expand telehealth services by:
  • Including home as originating site
  • Eliminating geographic requirements

• The Secretary required to conduct study on utilization and expenditures for telehealth by applicable ACOs and report to Congress no later than Jan. 1, 2026.

• Similar waiver made in:
  • Next Generation ACO
  • Comprehensive Care for Joint Replacement Model
ACUTE STROKE AND END STAGE RENAL DISEASE

• Beginning Jan. 1, 2019, the following sites are eligible originating sites and exempt from the rural geographic requirement, but NOT eligible for the facility fee:

ESRD-related visits
  • Renal dialysis facility *
  • Hospital based or CAH based renal dialysis center
  • Home (in-person visit 1/month) *

Acute Stroke Treatment
  • Hospital
  • CAH
  • Mobile Stroke Unit*
  • Any site determined appropriate by the Secretary*

* Not currently an eligible originating site.
PROPOSED LEGISLATIVE SOLUTIONS

- **HR 2550 (Thompson & Harper) - Medicare Telehealth Parity Act of 2017**
  - Expands under Medicare eligible facilities and a phased-in approach to eliminate geographic restrictions
  - *Allow FQHCs and RHCs to act as distant sites*
  - Expand list of eligible providers
  - Include RPM

- **HR 2291 (Duffy) - Helping Expand Access to Rural Telemedicine (HEART) Act of 2017**
  - For Medicare, allow S&F for CAHs, RHCs and sole community hospitals
  - Allow for RPM under certain circumstances
  - *Distant site can be an RHC*
  - Adds sole community hospital to originating site
  - Expands list of eligible providers to some allied professionals (PT, OT, etc.)

- **HR 3360 - Telehealth Enhancement Act Of 2017**
  - Exempt new sites from Medicare’s current geographical restrictions (CAHs, sole community hospitals, home)
  - Allow for S&F for CAHs and sole community hospitals
  - Encourages but not mandates use of telehealth in certain programs such as authority to CMS to contract with State Medicaid agencies to coordinate care through a home health for patients with chronic conditions and requires provider to report a plan for use of RPM
FEDERAL UPDATE

• Net neutrality
  – FCC Roll back of net neutrality is partly in effect
  – Parts of the rollback delayed by the FCC because they say OMB needs to sign off on parts of it. Would need to publish these parts in the Federal Register.
  – More than two dozen states looking to pass own net neutrality state laws
  – Fully in effect June 11, 2018
  – Likely lawsuits will be filed
  – Congress also looking at possibly taking action
STATE POLICY TRENDS
2018 LEGISLATIVE TRENDS

2018 State Legislation So Far

- Broadband: 19%
- Licensing: 11%
- Miscellaneous: 11%
- Medicaid Reimbursement: 16%
- Pilots: 4%
- Prescribing: 13%
- Practice Standards: 12%
- Private Payer: 8%
- Worker’s Comp: 6%
**2018 BILLS IN STATE LEGISLATURES**

- **Connecticut HB 5152:** Creates an exception to Connecticut’s requirement that no provider is allowed to prescribe a controlled substance through telehealth, allowing for only the prescribing of controlled substances used in medication-assisted treatment of substance use disorders through the use of telehealth. *(2/16/18: Joint Committee on Public Health)*

- **New Hampshire HB 1471:** This bill requires the same rate of payment for services delivered through telehealth, as those delivered in the office or facility as long as the rate doesn’t exceed the rate for an in-person consultation at the originating site. *(3/2/18: Subcommittee work session)*

- **Kansas HB 2674:** Establishes telehealth practice standards and coverage parity between in-person and telemedicine-delivered healthcare services and providers. *(3/1/18: To Senate Committee on Public Health and Welfare.)*
2018 Bills in State Legislatures

• **Minnesota HB 2919 & SB 2765:** Allows community health workers to provide telemedicine services and eliminates the medical assistance limit for certain telemedicine encounters. (2/20/18: House Committee on Health and Human Services Reform)

• **Hawaii SB 2718:** Specifies that a physician-patient relationship or bona fide APRN-patient relationship may be established via telehealth. (2/13/18: Senate Committee on Judiciary; Ways and Means)

• **Illinois HB 5473:** Requires insurers maintain provider directories that include whether the provider offers the use of telehealth or telemedicine to deliver services, what modalities the provider uses and what services through telehealth or telemedicine are provided, and whether the provider has the ability and willingness. (2/26/18: House Committee on Insurance)
OTHER COMMON THEMES

• Allowing schools to be originating sites
• Prohibiting insurers from limiting reimbursement to a specific technology
• Allowing telehealth to meet network adequacy standards
• Pilots related to incorporating telehealth into substance use treatment programs
STATE TELEHEALTH PROGRAMS – NO TWO ARE ALIKE!

45 states have a definition for telemedicine

36 states (and DC) have a definition for telehealth

1 state

Alabama has no definition for either
MEDICAID REIMBURSEMENT BY SERVICE MODALITY

Live Video
49 states and DC

Store and Forward
Only in 15 states

Remote Patient Monitoring
20 states

As of April 2018
PARITY IN PAYMENT WITH IN-PERSON

38 states and DC have telehealth private payer laws
Some go into effect at a later date.
This is the most common policy change at the state level!

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”
• **AB 2315**: Requires CDE and DHCS to create guidelines for appropriate use of telehealth in public schools to provide mental and behavioral health services

• **AB 2576**: Authorizes the Governor, during a state of emergency, to direct all state agencies to utilize, employ, and direct state personnel, equipment, and facilities for the performance of any and all activities that are designed to allow community clinics and health centers to provide and receive reimbursement for services provided during or immediately following the emergency. Authorizes any agency directed by the Governor to perform those activities to expend any of the moneys that have been appropriated to it. Includes telehealth services.

• **AB 2861**: Requires the State Department of Health Care Services to allow a licensed practitioner of the healing arts or a certified substance use disorder counselor to receive Medi-Cal reimbursement for substance use disorder services provided through telehealth in accordance with the Medicaid state plan.

• **SB 1023**: Clarifies that health service plans, health insurers, and Medi-Cal managed care plans may cover sexual and reproductive health services provided appropriately through telehealth.
OTHER STATE DEVELOPMENTS

• Medi-Cal Call for Comments Changes to Provider Manual
  – December 2017 call for comments on proposed changes
  – Comments on allowing home as an originating site
  – Increase number of CPT codes eligible for reimbursement

• California Children Services Changes
  • All CCS and GHPP providers can bill new codes.
  • New codes include approx. 40 new codes
  • Examples include:
    • Genetic counseling
    • Audiology
    • Speech language pathology
    • Physical therapy services
    • Occupational therapy services
    • Physician/Dentist coordinating activities
DHCS UPDATES

• California Department of Health Care Services, Integrated Systems of Care Division
• California Children’s Services (CCS)/Genetically Handicapped Persons Program (GHPP)
• Telehealth Update - WHAT’S NEW!
  • CCS NL: 16-1217: “Telehealth Services Code Update for CCS Program and GHPP”: Updates and clarifies codes that be used to bill for CCS/GHPP telehealth services.
  • CCS is also working on updating additional teleaudiology and teleophthalmology codes.
  • Summer of 2018: Webinar: How to Bill for CCS/GHPP Telehealth Services, dates to follow
  • Contact for questions about CCS/GHPP telehealth services: Dr. Seleda Williams: Seleda.williams@dhcs.ca.gov
THANK YOU!
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