

Telehealth & COVID-19

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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.


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

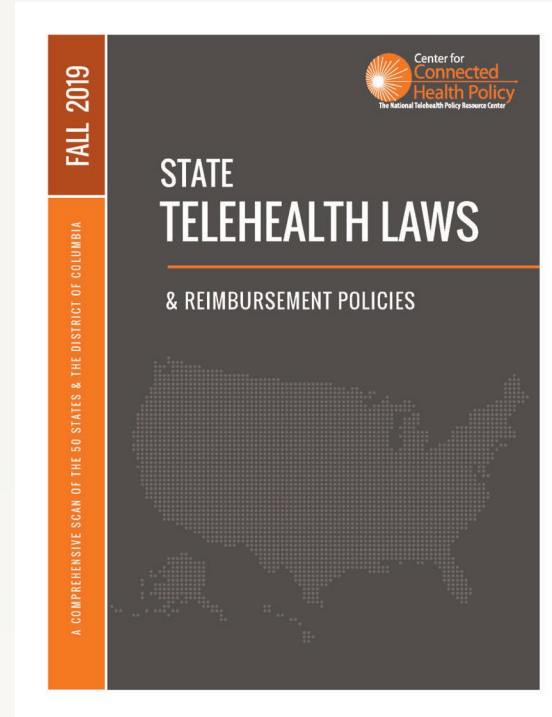
- Established in 2009
- Program under the Public Health Institute
- Became federally designated national telehealth policy resource center in 2012
- Work with a variety of funders and partners



 To help protect your privacy, PowerPoint has blocked automatic download of some pictures from the Internet.

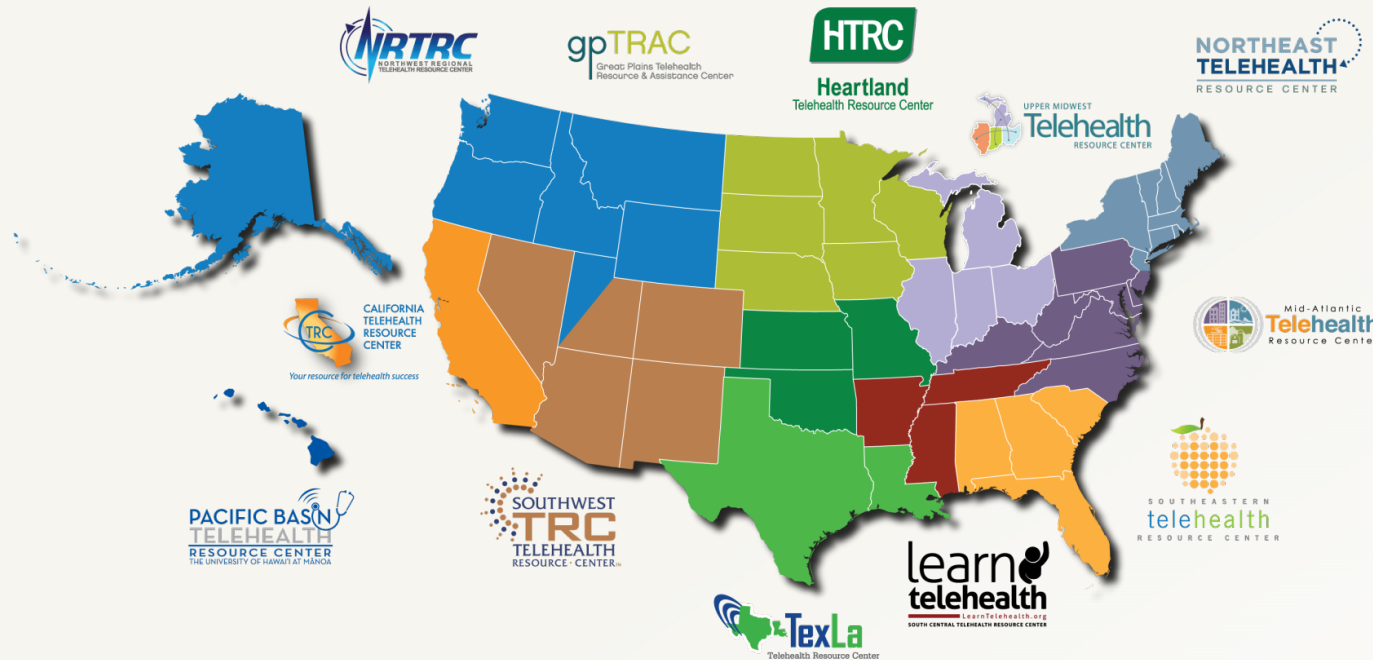
CCHP PROJECTS

- 50 State Telehealth Policy Report
- Administrator National Consortium of Telehealth Resource Centers
- Convener for California Telehealth Policy Coalition



NATIONAL CONSORTIUM OF TRCS

TelehealthResourceCenter.org



2 National Resource Centers

NRTRC	gpTRAC	NETRC
CTRC	HTRC	UMTRC
SWTRC	SCTRC	MATRC
PBTRC	TexLa	SETRC

12 Regional Resource Centers

TELEHEALTH STATE-BY-STATE POLICIES, LAWS & REGULATIONS

The screenshot displays the website's interface. At the top, there are two tabs: "CURRENT STATE LAWS & POLICIES" (selected) and "LEGISLATION & REGULATION TRACKING". Below these is a navigation bar with links: "ABOUT", "TELEHEALTH POLICY", "RESOURCES", and "CONTACT". A search bar is also present. The main content area features a map of the United States with a callout bubble labeled "Interactive Policy Map". To the left of the map, there is a section titled "Current State Laws & Reimbursement Policies" with filters for "Search by Filter" and "Search by Keyword". The filters include "All 50 States & D.C.", "All Categories", and "All Topics", each with a dropdown arrow. An "APPLY" button is below the filters. A legend at the bottom indicates that orange squares represent "Policy Exists/Explicitly Allowed" and grey squares represent "No Policy Exists or Not Explicitly Allowed". A note at the bottom states: "*Key applicable only to topics indicated with an asterisk in drop down menu."

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)

CMS TELEHEALTH POLICY - NOW

PRE-COVID-19	CURRENT STATUS WITH LEGISLATION PASSED & CMS CHANGES
Geographic Limitation (must take place rural area/non-MSA)	Temporarily waived. All geographic locations now qualify
Specific type of health site (specific list of eligible facilities and narrow exceptions for the home)	Temporarily waived. Other locations can now act as the originating site such as the home.
Eligible Providers (specific list of providers)	During emergency situation, FQHC and RHC added as eligible distant site providers (HR 748)
Modality – Live Video with Hawaii & Alaska allowed to use Store & Forward	At this time, appears CMS will stick with the definition of audio/visual capabilities as noted in the Interim Final Rule. Additionally, some services can be provided via “technology-based communications” that are not considered “telehealth” by Medicare
Services	CMS expanded list of eligible services provided via telehealth. HERE . EX: ED Visits, Level 1-5 (99281, 99285) Initial hospital care/hospital discharge (99221-99223, 99238-99239)

CMS TELEHEALTH POLICY - NOW

OTHER QUESTIONS	CURRENT STATUS WITH LEGISLATION PASSED & CMS CHANGES
Facility Fee (some exceptions to receiving the facility fee)	Follow pre-COVID-19 existing law.
HR 6074 said to utilize telehealth to provide services under the waiver, I need a prior existing relationship.	This requirement was removed by changes made in HR 748. Allowed to be used for new and established patients.
Do co-pays and out-of-pockets still apply?	Still applies, but the OIG is providing health care providers flexibility to reduce or waive fees.
How much flexibility do I have under HIPAA now? Is Facetime OK?	OCR “will exercise enforcement discretion and waive penalties for HIPAA violations.” Keep in mind you may still have state requirements to meet. OCR guidance: https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html
Licensure	Temporarily waive requirement in Medicare and Medicaid out-of-state practitioners be licensed in state where providing services if certain conditions met: enrolled in Medicare program, possess valid license in state that relates to that Medicare enrollment, providing services in state where there is an emergency and not excluded from practicing in that state. State requirements still apply.

CMS TELEHEALTH POLICY - NOW

OTHER ISSUES	CHANGES MADE BY HR 748 & CMS CHANGES
Dialysis Patients	Secretary has power to waive requirements that home dialysis patients receiving services via telehealth must have a monthly face-to-face, non-telehealth encounter in the first three months of home dialysis and at least once every three consecutive months.
Hospice	During an emergency period, the Secretary may allow telehealth to be used to meet the requirement that a hospice physician or nurse practitioner must conduct a face-to-face encounter to determine continued eligibility for hospice care.
Providers needing to put their home addresses	Allow physicians and other practitioners to render telehealth services from their home without reporting their home address on their Medicare enrollment while continuing to bill from their currently enrolled location.
Additional Codes for Reimbursement	Including initial nursing facility visits
Expansion of Audio-Only Services	CPT codes 98966 -98968; 99441-9944

CMS TELEHEALTH POLICY - NOW

OTHER ISSUES	CMS
Removal of frequency limits	Subsequent inpatient visit limit of once every three days (CPT codes 99231-99233); Subsequent SNF visit limit of once every 30 days (CPT codes 99307-99310) • Critical care consult of once per day (CPT codes G0508-G0509).
Stark Laws	Some waivers allowed for Stark including hospitals and other health care providers can pay above or below fair market value to rent equipment or receive services from physicians; health care providers can support each other financially to ensure continuity of health care operations
Supervision/Practice Top of Licensure	Some supervision changes including allowing live video for physician supervision.

CMS Telehealth Manual: <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/TelehealthSrvcsfctsht.pdf>

CMS FAQ - <https://edit.cms.gov/files/document/medicare-telehealth-frequently-asked-questions-faqs-31720.pdf>

CMS Emergency Declarations - <https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf>

CMS Guidance - <https://www.cms.gov/files/document/covid-19-physicians-and-practitioners.pdf>

OTHER FEDERAL TELEHEALTH POLICY

➤ DEA

The declaration of the national emergency enacted one of the exceptions to the Ryan Haight Act for telehealth (telemedicine as it is referred to in the Act).

For as long as the Secretary's designation of a public health emergency remains in effect, DEA-registered practitioners may issue prescriptions for controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided all of the following conditions are met:

- *The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice*
- *The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system.*
- *The practitioner is acting in accordance with applicable Federal and State law.*

<https://www.deadiversion.usdoj.gov/coronavirus.html>

For treating OUD, may prescribe via phone buprenorphine if certain conditions met.

<https://www.samhsa.gov/sites/default/files/dea-samhsa-buprenorphine-telemedicine.pdf>

FQHC/RHC – What's Allowed?

- FQHC/RHCs can utilize telehealth and act as a distant site provider and it does not impact their scope
- **Medicare** in this emergency period will allow FQHCs/RHCs to act as a distant site provider, however they will not receive their PPS/AIR rates, they will get a special rate based upon FFS. (HR 748)
- Additionally, in **Medicare** there are other services not considered “telehealth” that utilize telehealth technologies that FQHCs and RHCs can provide
- State Medicaid and health plan policies will vary
- At this time CMS still working on guidance

TECHNOLOGY ENABLED/COMMUNICATIONS-BASED SERVICES

SERVICE	MODALITY	AVAILABLE TO FQHC/RHC
Virtual Check-In Codes G2010, G2012	Live Video, Store-and-Forward or Phone	Yes (use G0071)
Interprofessional Telephone/Internet/EHR Consultations (eConsult) 99446, 99447, 99448, 99449, 99451, 99452	Can be over phone, live video or store-and-forward	No
<u>Remote monitoring services:</u> <u>Chronic Care Management (CCM)</u> ; Complex Chronic Care Management (Complex CCM); Transitional Care Management (TCM); Remote Physiologic Monitoring (Remote PM); Principle Care Management (PCM)	RPM	CCM, TCM
Online Digital Evaluation (E-*Visit) – G2061-2063 Online Medical Evaluations – 99421-99423	Online portal	Allow FQHCs/RHCs to use online medical evaluations, 99421-99423 guidance not issued yet*

Interim Final Rule - <https://www.cms.gov/files/document/covid-final-ifc.pdf> No CMS guidance document issued yet

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



Live Video

50 states and DC



Store and Forward

Only in 14 states

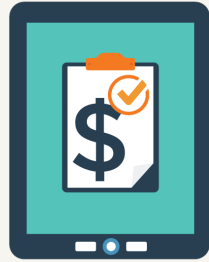


Remote Patient Monitoring

22 states

As of October 2019

REIMBURSEMENT REQUIREMENTS FOR PRIVATE PAYERS



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

COVID-19 WORLD STATES

- Common telehealth policy changes
 - Allowing home to be an eligible originating site
 - Allowing telephone to be used to provide services
 - Requiring health plans, managed care and private to cover telehealth services and offer parity

COVID-19 WORLD STATES

- 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

SOUTH CAROLINA

- Medicaid – SC Health Connections
 - Telephone care by Physician, NP, PA – only for established patient – G2010/G2012; 99441-99443
 - Telephone for licensed psychologists – 98966-98968
 - For telehealth requirements on certified/licensed professional be at the referring site waived; services may be provide w/o regard to patient location
 - FQHCs/RHCs may provide services via telehealth w/in guidelines. Will accept claims beginning May 1, but may be for services provided starting March 15 or April 1, depending on services

SOUTH CAROLINA

➤ Health Plans

- [BlueCross BlueShield of SC](#) – Telephone visits; Live video consults covered to same extent at office visits; Temporary waiver of costs for telehealth visit when using BlueCareOnDemand with code: COVID19
- [Cigna](#) – Will allow providers to bill a standard face-to-face visit for all virtual care services. Does not need to be related to COVID-19.
- [United Health Care](#) – Cost-sharing waived for in-network telehealth visits. Expanded services covered when provided by telehealth.

CCHP

- CCHP Website – [cchpca.org](https://www.cchpca.org)
 - Telehealth Federal Policies -
<https://www.cchpca.org/resources/covid-19-telehealth-coverage-policies>
 - State Emergency Waivers/Guidances -
<https://www.cchpca.org/resources/covid-19-related-state-actions>
- Subscribe to the CCHP newsletter at [cchpca.org/contact/subscribe](https://www.cchpca.org/contact/subscribe)



Thank You!

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