

Federal and State Telehealth Policy Update

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Thanks for Making Today's Presentation Possible!



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SOUTH CAROLINA

NOVEMBER 9 - 10 | 2022

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LOOKING THROUGH THE TELEHEALTH LENS:
DIGITALLY FOCUSED. EQUITY DRIVEN.

What Happened Last Night? (Federal)

- U.S. Senate control unclear
 - Maybe stays blue?
 - Maybe hinges on a Georgia run-off?
- U.S. House goes back to the GOP?
 - If so, it's not a "working majority"



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**LOOKING THROUGH THE TELEHEALTH LENS:
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What's the Baseline?

- 2023 Physician Fee Schedule (final rule)
 - Adds 59 telehealth services to “Category 3” (cover through CY23)
 - Audio-only E&M (non-BH) won't continue through 2023
 - 3.8% increase for the originating site fee



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LOOKING THROUGH THE TELEHEALTH LENS:
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What's the Baseline?

- FY22 spending package
 - Medicare telehealth flexibility generally continues for 151 days post-PHE
 - No originating site restrictions, including a patient's home
 - FQHCs and RHCs can be originating or distant sites
 - Occupational therapists, physical therapists, speech-language therapists, and audiologists continue to be eligible to bill
 - HSA-eligible plans can provide pre-deductible telehealth services



Priorities for the New Congress?



- House GOP group preparing for the majority, with five subcommittees:
 - Affordability
 - Treatment
 - Security
 - Modernization
 - Doctor/Patient Relationship



Priorities for the New Congress?



- Co-chairs:
 - Rep. Vern Buchanan (FL)
 - Rep. Brett Guthrie (KY)
- Key GOP players on Ways and Means, Energy and Commerce Committees



Modernization Task Force

- Statement from the co-chairs:
 - “We commend Representatives Miller-Meeks, Griffith, and Kelly for their work with us on the Healthy Future Task Force to put forward solutions **to advance telehealth** and expand access to patient-centered technologies.”
- From the “Overview of Solutions”:
 - “Safeguard and maintain **expanded telehealth access** after the COVID-19 public health emergency declaration expires”



Modernization Task Force

SAFEGUARD AND MAINTAIN EXPANDED TELEHEALTH ACCESS

The problem: Americans came to rely on telehealth services during the pandemic, but their ability to access those services is largely dependent upon the COVID-19 declared public health emergency. To ensure long-term availability of appropriate telehealth services, we must:

- Address originating site requirements and geographic restrictions, allowing patients – particularly seniors on Medicare – to visit with doctors from the comfort of their homes, or wherever is most convenient for them.
- Maximize employer-sponsored coverage of telehealth and related remote care services through health savings accounts (HSAs) or other innovative payment models.

- Originating sites
- Geographic restrictions
- Medicare-only?
- *That last bullet, though...*



Modernization Task Force

EXPAND ACCESS TO INNOVATIVE, PATIENT-CENTERED TECHNOLOGIES

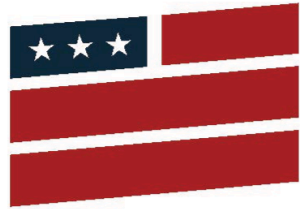
The problem: Our health care system fails to optimize available data and resources. To ensure the long-term feasibility of keeping up with new developments in a way that is trusted by patients, we must:

- Empower patients by giving them ownership of who can access their personal health care information and establish data-sharing standards that prioritize privacy and security.
- Streamline and clarify regulatory approaches to medical devices, wearable technology, and AI to provide more health care products that improve individuals' well-being.
- Ensure Electronic Health Records are built around patients and are interoperable, leading to a reduction in the amount of time spent on paperwork, lower risk of missed information, and more effective communication between medical devices to improve patient care coordination.

- Faster approvals for devices?
- Back to “Blue Button” pitch?
- Familiar EHR references



The Next Speaker?



COMMITMENT TO AMERICA



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LOOKING THROUGH THE TELEHEALTH LENS:
DIGITALLY FOCUSED. EQUITY DRIVEN.

Commitment to America

- Four key themes:
 - An economy that's strong
 - A nation that's safe
 - A future that's built on freedom
 - A government that's accountable



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Where's healthcare?



Commitment to America

A Future That's Built on Freedom

Make Sure Every Student Can Succeed and Give Parents a Voice

- ✓ Advance the Parents' Bill of Rights, recover lost learning from school closures, and expand parental choice so over a million more students can receive the education their parents know is best
- ✓ Defend fairness by ensuring that only women can compete in women's sports

Achieve Longer, Healthier Lives for Americans

- ✓ Personalize care to provide affordable options and better quality, delivered by trusted doctors
- ✓ Lower prices through transparency, choice, and competition, invest in lifesaving cures, and improve access to telemedicine

Confront Big Tech and Demand Fairness

- ✓ Provide greater privacy and data security protections, equip parents with more tools to keep their kids safe online, and stop companies from putting politics ahead of people



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Other Potential Federal Legislation

- 264 bills filed in this Congress reference “telehealth” – some of the most recent examples...
- S. 4965 (Sullivan – R, AK)
 - Remove in-person requirements for Medicare telehealth services for MH or SUD care
- H.R. 8976, Protecting Reproductive Freedom Act (Ryan – D, NY)
 - Preempts state restrictions on prescribing, shipping, dispensing RU-486



Other Potential Federal Legislation

- Which bills have the most co-sponsors?
 - Black Maternal Health Momnibus Act of 2021 (187)
 - Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT) for Health Act of 2021 (147)
 - Lifts geographic restrictions on originating sites, allows home as originating site
 - Lets FQHCs and RHCs serve as the distant site
 - Telehealth Modernization Act (130)
 - Also focuses on adding to the list of provider types who can bill for telehealth
- Senate list looks similar



What Happened Last Night? (S.C.)

- Governor re-elected, and row offices stay with the GOP
- Sen. Scott re-elected, House delegation stays 6D-1R
 - What does it mean for leadership, key committees?
- Few changes in the General Assembly, but...
 - R→D: Rep. Kirkman Finlay defeated? (looked like it at 3AM)
 - D→R: Rep. Krystle Matthews, Rep. Anne Parks...
 - Other GOP pickups through redistricting



What's the Significance?

- Appears likely that the S.C. House will be 2/3 Republican
- S.C. Senate is one seat away from 2/3 (30R-16D)
 - These seats will be up in 2024 – under new boundaries
- Constitutional amendments and constitutional conventions require 2/3 votes in both chambers

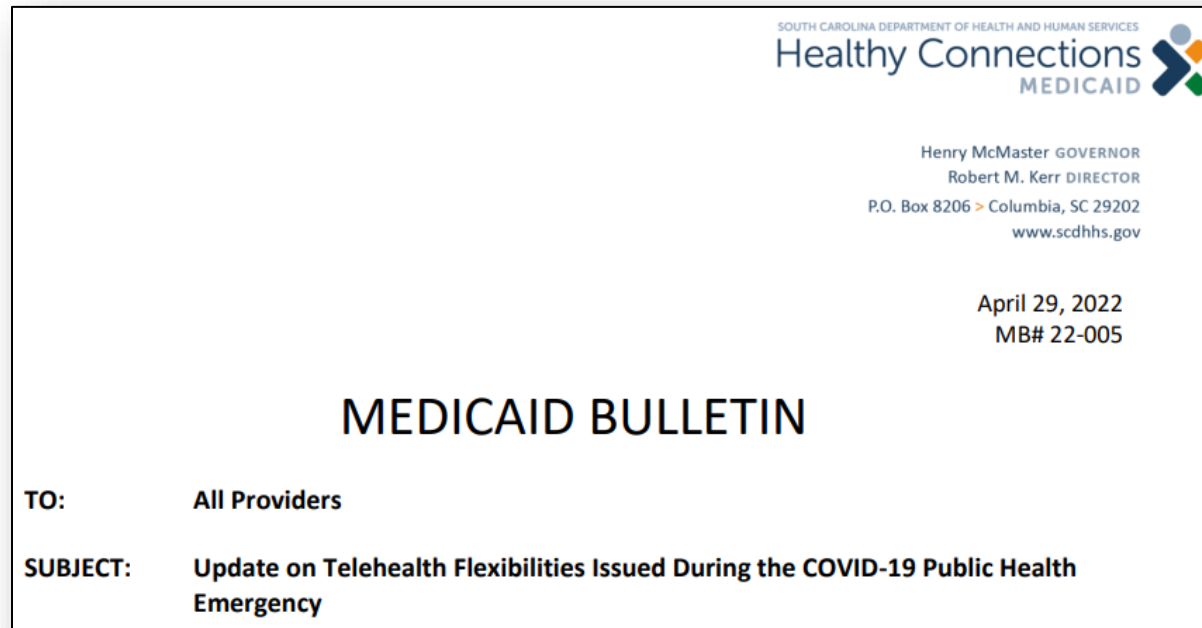


This Is Not a Talk About Abortion (but...)

- Conference committee meets this morning on H. 5399
- Senate positioned to consider adoption today, House tomorrow
 - Contention: Rape/incest exceptions, fetal anomalies, disciplinary proceedings and criminal penalties, etc.
- Relevance?
 - Issue likely carries into the new session
 - Nationwide links between abortion and telehealth, esp. over prescribing



How Is SCDHHS Responding?



- 31-page report
- April 2022 Bulletin
- October 2022 changes



How Is SCDHHS Responding?

- From the Director (April 2022):
 - “Telehealth is a critical component of the future of health care delivery. With today’s announcement, we are taking another step toward further integrating this valuable tool into the Healthy Connections Medicaid program to help meet the needs of vulnerable South Carolinians.”
 - “SCDHHS’ utilization data shows that 53% of the claims we received during the COVID-19 pandemic were for behavioral health services.”



How Is SCDHHS Responding?

■ Permanent:

- E&M services at home from physicians, nurse practitioners (NPs), and physician assistants (PAs)

■ Further Evaluation:

- Behavioral Health
- ABA therapy
- Child well care, EPSDT, and DEC screens
- Physical and speech therapy services
- Audio-only for LIPs

■ Expiring:

- Occupational therapy (non-BabyNet)*
- BMOD, PRS
- Audio-only for OT/PT

** Moved to middle column in Oct. 2022*



What About Next Session?

- Rep. Herbkersman's H. 5161 (Telehealth and Telemedicine Modernization Act):
 - Health insurance policies can't have higher financial participation or prior authorization rules for telehealth, require a presenting provider, or limit telehealth coverage based on patient location
 - Introduced late in the 2022 session
 - Context for off-season discussions among stakeholders
- Telehealth also tends to be referenced in interstate compacts



Questions?



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