

**MEDICAID & STATE TELEHEALTH POLICY:**

The Webinar Series

# TELEHEALTH PRIVATE PAYER LAWS

JUNE 17, 2022



**Center for Connected  
Health Policy**

THE NATIONAL  
TELEHEALTH POLICY  
RESOURCE CENTER

## 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.

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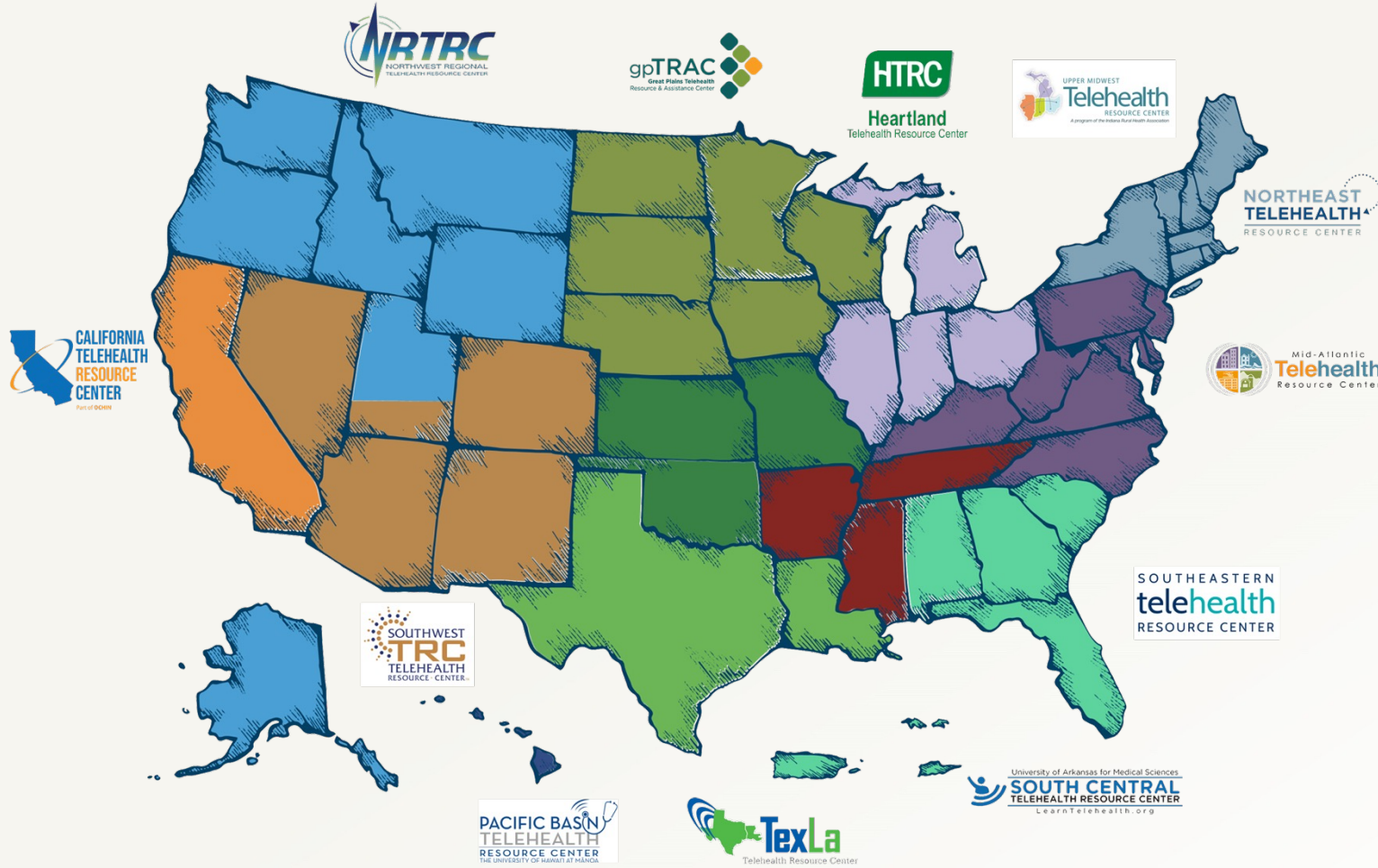


# ABOUT CCHP

- Established in 2009 as a program under the Public Health Institute
- Became federally designated national telehealth policy resource center in 2012 through a grant from HRSA
- Work with a variety of funders and partners on the state and federal levels
- Administrator National Consortium of Telehealth Resource Centers
- Convener for California Telehealth Policy Coalition



# NATIONAL CONSORTIUM OF TRCS



**TELEHEALTH**  
RESOURCE CENTERS

# Telehealth & Medicaid: A Policy Webinar Series



**June 24 2022: Substance Use Disorders**

*Image source: American Psychological Association*

*This webinar is sponsored by the Center for Connected Health Policy through non-federal funding.*

# TODAY'S SPEAKERS



**Representative David Bentz**  
**Delaware House of Representatives**  
**18<sup>th</sup> District**

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**Kevin P. Beagan**  
**Deputy Commissioner**  
**Massachusetts Division of Insurance**

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**Mike Rhoads**  
**Deputy Commissioner of Health and Life Insurance**  
**Oklahoma Department of Insurance**

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**Chelsey Matter, RRT, MPH**  
**Executive Director of Government Programs Health Integration**  
**Blue Cross Blue Shield of North Dakota**



# Telehealth Policy Development in Delaware

JUNE 17, 2022

# Telehealth Policy Timeline

2011-2015	Spread of utilization and work on statutory framework.
May 2015	Legislation passed establishing telehealth statute.
March 2020	State of emergency related to COVID 19 pandemic.
June 2020	COVID 19 related policy changes placed into law.
June 2021	Entire statute revisited to modernize.
May 2022	Interstate reciprocity expanded.



# Initial Use and Advocacy

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- Spread of technology, increased demand, and inconsistent coverage creates need for statutory framework.
- Creation of Delaware Telehealth Coalition, Medicaid begins reimbursing, Delaware Telehealth Roundtable, Strategic Action Plan developed.
- Development and passage of legislative framework, HB 69, in May of 2015.



**DELAWARE'S  
COVID-19 RESPONSE**



# COVID-19 Pandemic

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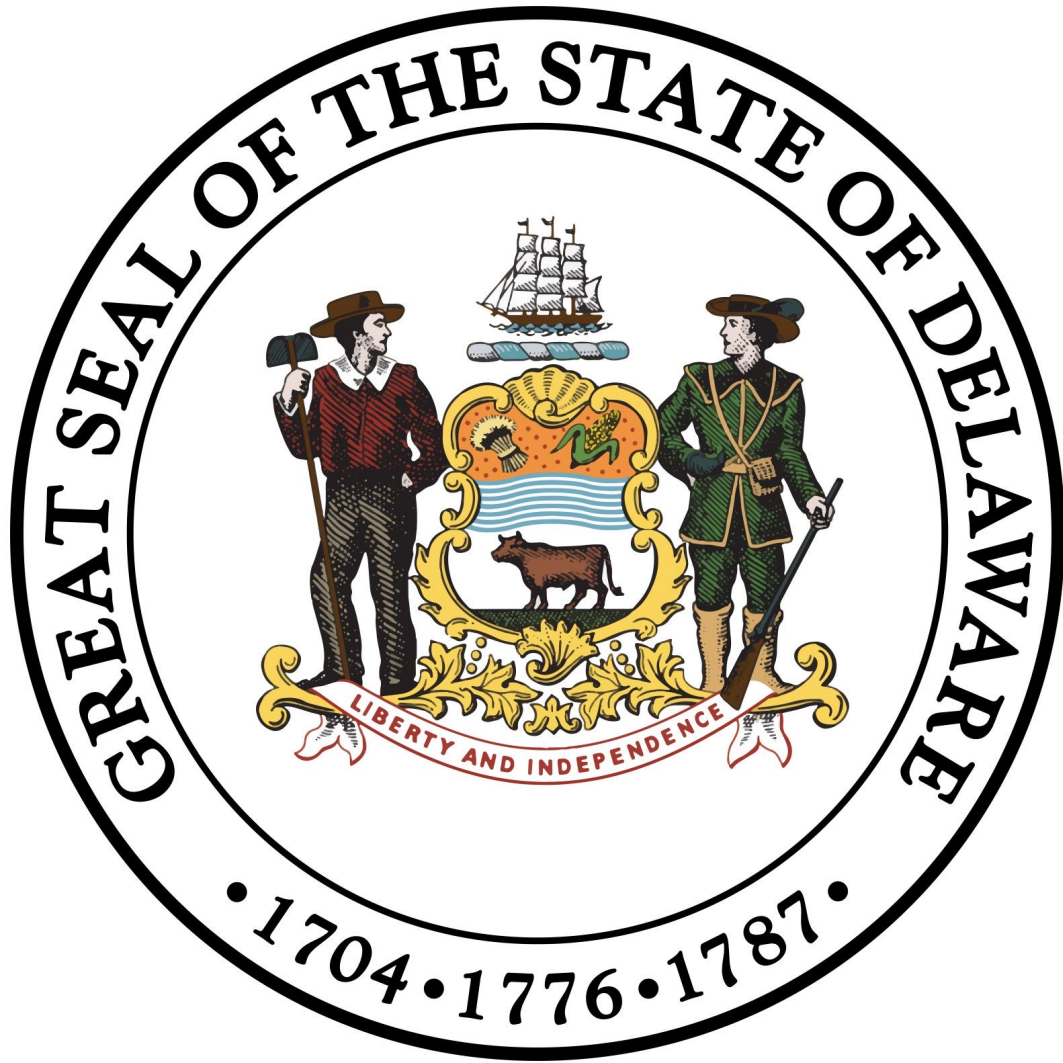
- Utilization expanded dramatically; regulations suspended.
- Learning period for patients and providers alike.
- Industry requests to make certain changes permanent.
- Legislative extension to several emergency order provisions.

# Telehealth Modernization

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- Entry into interstate licensing compacts
- Addressing broadband shortage challenges
- Behavioral health expansions
- Licensure reciprocity
- Additional payment parity efforts.





# Thank You!

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David Bentz

Delaware State Representative  
Chair, House Health and Human  
Development Committee

[David.Bentz@delaware.gov](mailto:David.Bentz@delaware.gov)



## OKLAHOMA TELEMEDICINE – PRIVATE PAYER REGULATION TIMELINE

- 1993** – 45 rural, 15 regional hospitals with OU Health Services Center – development and reimbursement of store and forward telemedicine.
- 1997** – Passage of Oklahoma Telemedicine Act (36 O.S. 6803) – Mandate reimbursement for all healthcare benefit plans (including disability, Workers’ Comp, Medicaid, Managed Care).
- 2011** – Passage of Oklahoma Special Universal Services Fund – No charge broadband to eligible healthcare entities – rural NFP hospitals, public health departments, correctional facilities, FQHC’s, community mental health clinics.
- 2016** – 6803 amended to prohibit exclusion of telemedicine, expanded modalities.
- 2021** – 6803 amended to include reimbursement and benefit parity – effective 1/1/2022.





## PROJECT ECHO (2019) “EXTENSION FOR COMMUNITY HEALTHCARE OUTCOMES”

- Sponsored by OSU Health Sciences providing virtual clinics to rural PCP’s in underserved populations.
- Specialist teams to discuss treatment for chronic and complex medical conditions including:
  - Mental Health ECHO
  - Education ECHO
  - Veterans ECHO
- Heal the Harvester ECHO
- Help the Healer ECHO





**OKLAHOMA**  
**INSURANCE**  
DEPARTMENT

## REGULATORY AND MARKET TRENDS

- No reported compliance issues regarding 6803.
- Passage of parity in 2021 session allowed for inclusion in rate and form filing for PY2022.
- Consumer complaints on misleading ACA issuer marketing names displayed on healthcare.gov regarding virtual care benefits – copay confusion:
  - CMS required benefit description clarification
    - CMS imposed SEP on one carrier
- No virtual-first primary care product filings (yet) in Oklahoma.
- Decline in telehealth visits in last half of 2021.
- Infrastructure issues continue: one-third of rural counties have limited broadband. ARPA funds being discussed in current special session of legislature.





OKLAHOMA  
INSURANCE  
DEPARTMENT







**Commonwealth of Massachusetts**



# **Telehealth in Massachusetts**

*June 17, 2022*



## Prior to COVID-19 Public Health Emergency



### Law permitted carriers to cover services when provided via telehealth

Chapter 224 of the Acts of 2012 created M.G.L. c. 175, Section 47BB

- “Telemedicine“ defined as use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment. “Telemedicine” shall not include the use of audio-only telephone, facsimile machine or e-mail.
- An insurer may limit coverage of telemedicine services to those health care providers in a telemedicine network approved by the insurer.
- Coverage for health care services under this section shall be consistent with coverage for health care services provided through in-person consultation.

### Limitations of Chapter 224

- Law did not apply to HMOs and did not require coverage of telehealth services
- Law did not comment on reimbursement nor platform to use for telehealth services

### Impact of Chapter 224

- Providers and carriers did not develop contracts to include telehealth services
- Limited availability of telehealth through dedicated telemedicine networks



# COVID-19 Public Health Emergency



## **Bulletin 2020-04 issued March 16, 2020**

### **“Emergency Measures to Address and Stop the Spread of COVID-19 (Coronavirus)”**

For the duration of Governor Baker’s Emergency Order:

- Carriers must reimburse providers for services delivered via telehealth at least at the rate of reimbursement that the Carrier would reimburse for the same services when provided via in-person methods.
- Providers must be willing to certify that they comply with all applicable state/federal statutes and regulations governing medication management and prescribing services when delivering these services via telehealth.
- Reimbursement should not include any so-called facility fees for distant or originating sites.



# COVID-19 Public Health Emergency



## Telehealth Standards

- Prior to each patient appointment, the provider must ensure that the provider is able to deliver the services to the same standard as in-person care and in compliance with the provider's licensure regulations and requirements, programmatic regulations, and performance specifications related to the service (e.g., accessibility and communication access);
- The provider must review the patient's medical history and any available medical records with the patient during the service;
- The provider must inform the patient of how the patient can see a clinician in-person in the event of an emergency or otherwise.
- Carrier may not impose prior authorization barriers to obtain medically necessary health services via telehealth that would not apply to receipt of same services on in-person basis.



# COVID-19 Public Health Emergency

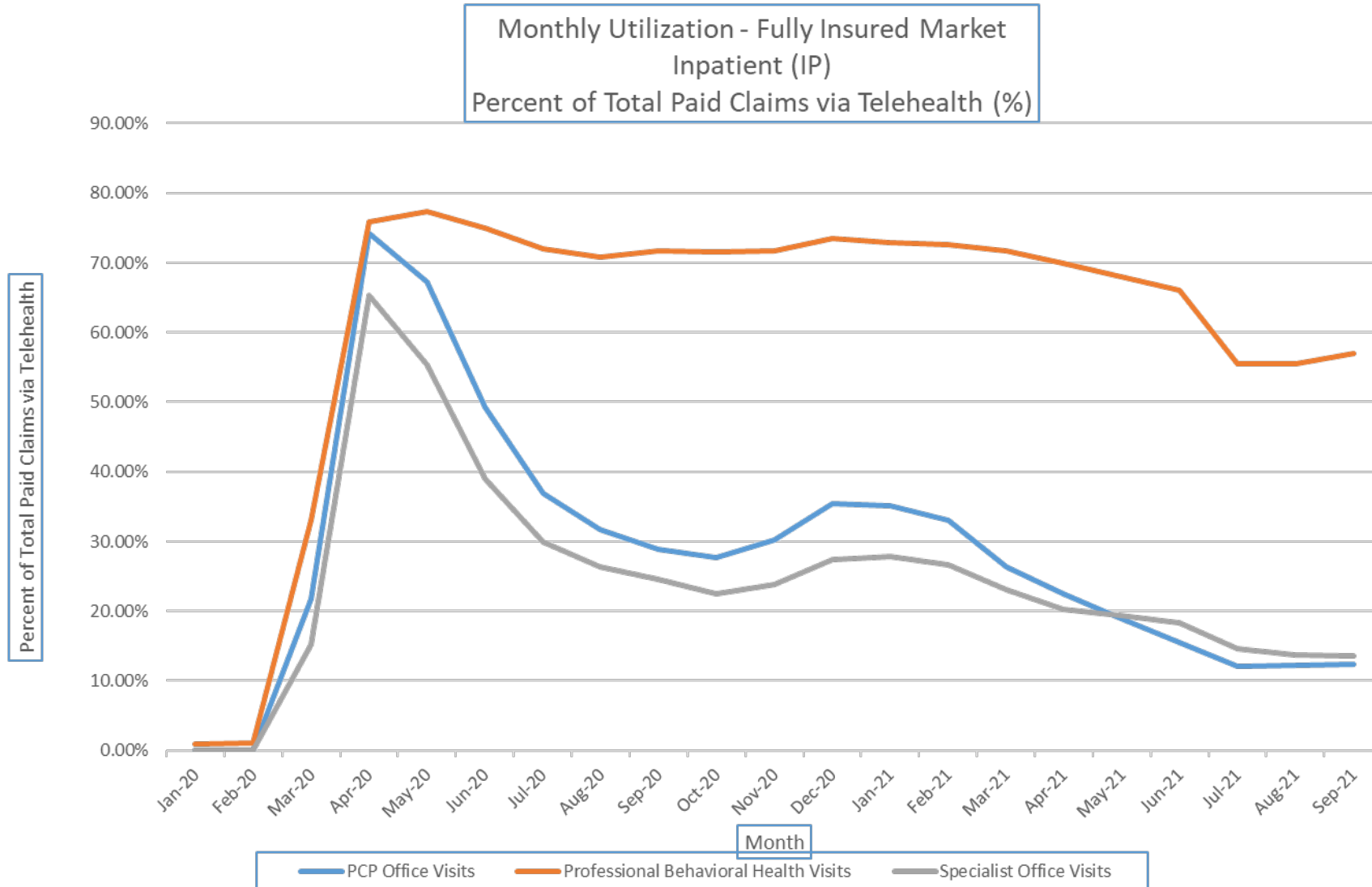


## Reimbursement for Health Service Provided via Telehealth

- clear communication about submitting claims for reimbursement.
- same claim submission documentation guidelines as exams for office and outpatient visits.
- continue to evaluate specific CPT code documentation to review that documented reason for the visit medically supports the extent of the exam, the discussion time noted, and the complexity of the visit and assessment.
- reimburse at the same level as for the same services when provided via in-person methods.



# Telehealth in the Massachusetts Market





## Chapter 260 of Acts of 2020

**"AN ACT PROMOTING A RESILIENT HEALTH CARE SYSTEM THAT PUTS PATIENTS FIRST"**  
**Enacted January 1, 2021**



### Telehealth definition

"Telehealth", the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to:

- (i) interactive audio-video technology;
- (ii) remote patient monitoring devices;
- (iii) audio-only telephone; and
- (iv) online adaptive interviews,

for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition.



## Chapter 260 of Acts of 2020

**"AN ACT PROMOTING A RESILIENT HEALTH CARE SYSTEM THAT PUTS PATIENTS FIRST"**  
**Enacted January 1, 2021**



### Telehealth requirements

- May not require mandated telehealth platform
- May apply utilization criteria to determine about what is not appropriate to be provided by telehealth (e.g., lancing a boil)
- Patient must have access to in-person providers
- network adequacy not based on telehealth providers

### Payment parity for telehealth visits

- Behavioral health permanently
- Primary care and chronic care through 12/31/2022
- All other care through mid-September 2021





## Chapter 260 of the Acts of 2020 Implementation Process



Division of Insurance information sessions – February to April 2022

Bulletin 2021-04 issued 4/9/2021; Bulletin 2021-10 issued 9/7/2021

- Continued access to telehealth

- Explain documentation for telehealth visit

- Explain reimbursement codes

- File implementation plans if a carrier wished to reimburse services provided via telehealth at less than 100% of pay for in-person visit with required notice to providers/patients about changes

One carrier filed implementation plan

- Notified providers by January 1 of changes effective April 1, 2022

- Telehealth services for non-behavioral health, non-primary care, non-chronic care services at 80% of in-person visit.

- Plan was permitted but may change with DOI regulation.



# Draft Regulations



Draft regulations released and regulatory hearing held on May 11, 2022

<https://www.mass.gov/doc/g2022-01-hearing-notice-211-cmr-5200-amendments-issued-april-12-2022/download>

<https://www.mass.gov/doc/g2022-01-211-cmr-5200-proposed-revisions-marked-issued-april-12-2022/download>

The Division received comments from over 40 organizations

Key questions about definitions:

Synchronous and asynchronous care

Visit

Primary care

Chronic care

Behavioral health care

Other questions about processes:

Determination of what types of care are appropriate for telehealth

Telehealth information in the directory information

Appropriate coding and billing



# Implementing Telehealth Policy: A Private Payer Perspective

Chelsey Matter, Executive Director of Government Programs  
June 17, 2022

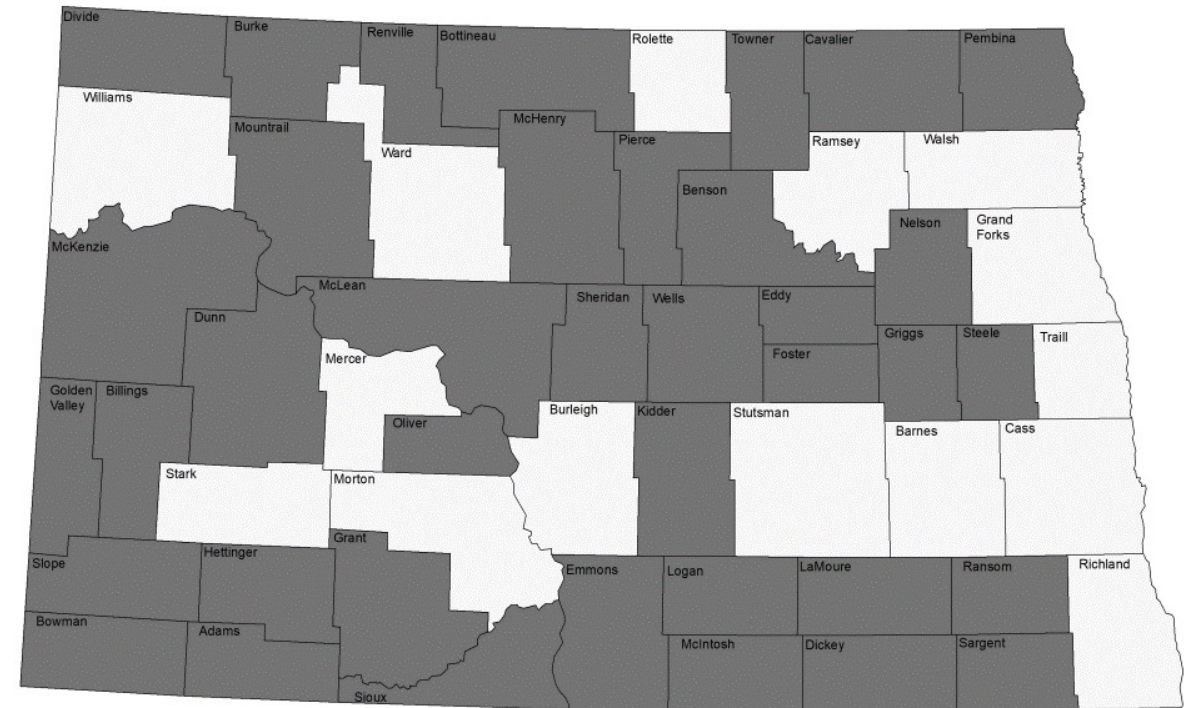


Blue Cross Blue Shield of North Dakota is an independent licensee of the  
Blue Cross & Blue Shield Association

# History of Telehealth

- 1990s: Telehealth in ND begins, BCBSND issues first medical policy
- 2013/14: Interim study on rural health care delivery system (including telehealth)
- 2015: PERS mandate for coverage parity in telehealth
- 2017: Coverage parity mandate
- 2019/20: Interim studies on ND's behavioral health system and rural health needs

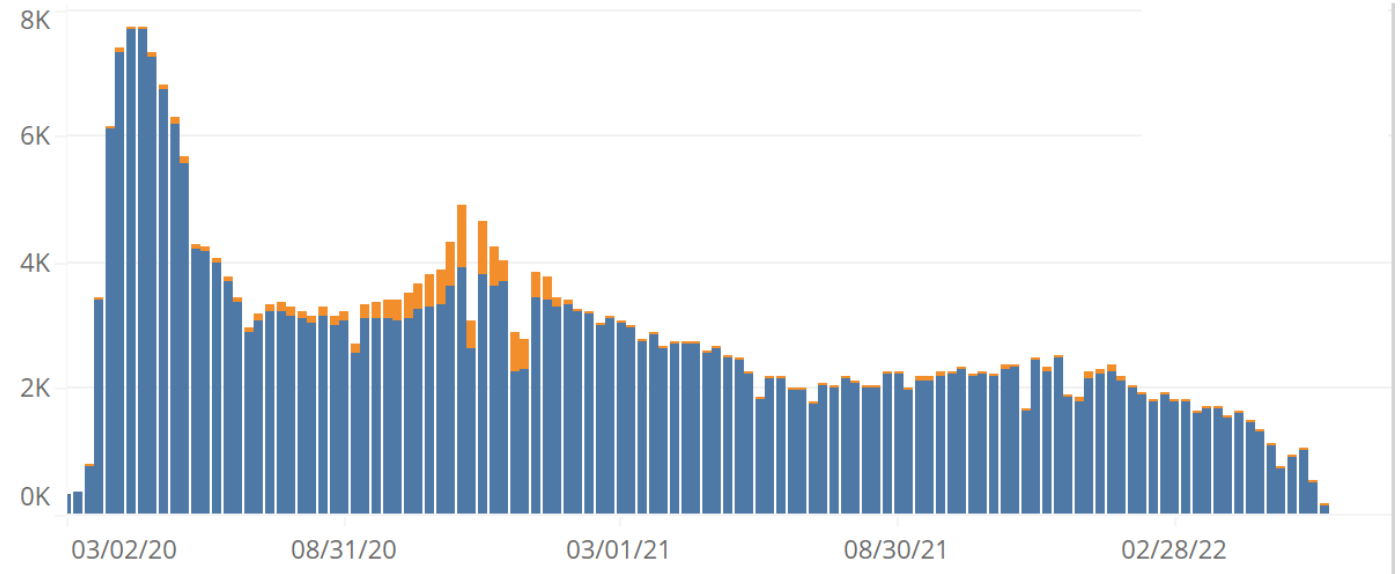
## North Dakota Frontier Counties



Counties in darker shade have less than 7 people per square mile per U.S. Census Bureau 2018 data

# Telehealth Utilization

- Pre-pandemic
  - 2,000 – 3,000 visit per year
  - Behavioral health and infertility
- First year of pandemic
  - 2,000 – 7,000 visits per week
  - Average: 4,000 per week
  - Behavioral health (anxiety and depression)
- Now
  - Average: 1,500 visits per week
  - Behavioral health



Source: BCBSND claims data incurred 3/1/2022 – 6/10/2022

# COVID-19 Impact on Telehealth

- March 2020: North Dakota Insurance Department brings payers together to discuss telehealth restrictions and removal of barriers to access.
- North Dakota Executive Order 2020-05-1 and NDID Bulletin on pandemic coverage in place until April 20, 2021.

## Highlights of coverage expansion:

- Allowed use of software platforms that are not HIPAA-compliant (based on U.S. Office of Civil Rights notice).
- Added audio-only codes 99441-99443 for providers with established patients.
- Allowed therapy provided in a group setting to be delivered via telehealth. There must be a visual component with group therapy (audio-only is not allowed).

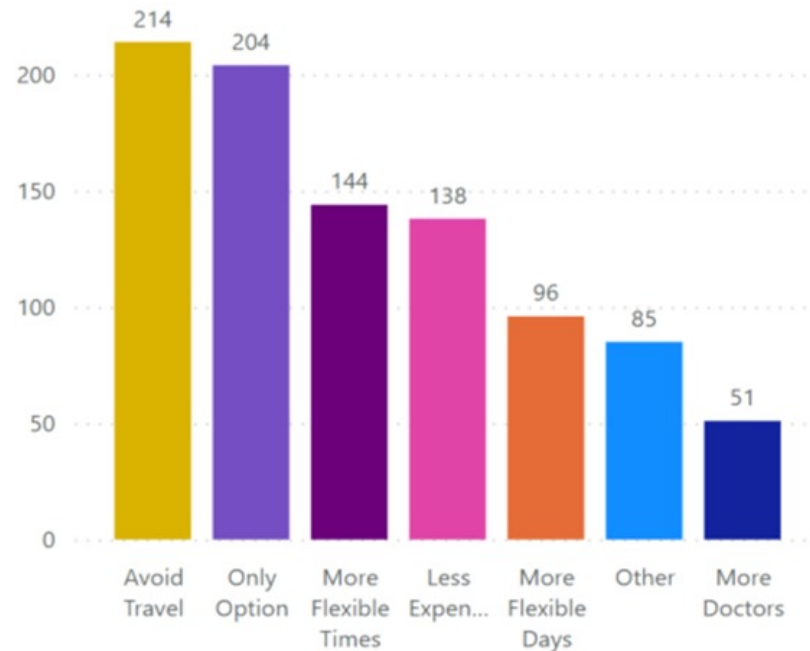
# COVID-19 Impact on Telehealth

- 2021 Legislative session:
  - Heightened awareness and utilization of telehealth combined with frustration with CMS guidance leads providers to propose legislation including teledentistry, telechiropractic and payment parity
  - More utilization amongst different types of providers prompted many questions
- 2021-2022 Interim legislative study focus:
  - Internet service access
  - Electronic device access
  - Reimbursement
  - Regulations
- BCBSND will focus on education and evaluate expanded payment for specific telehealth services

# Member Opinions on Telehealth

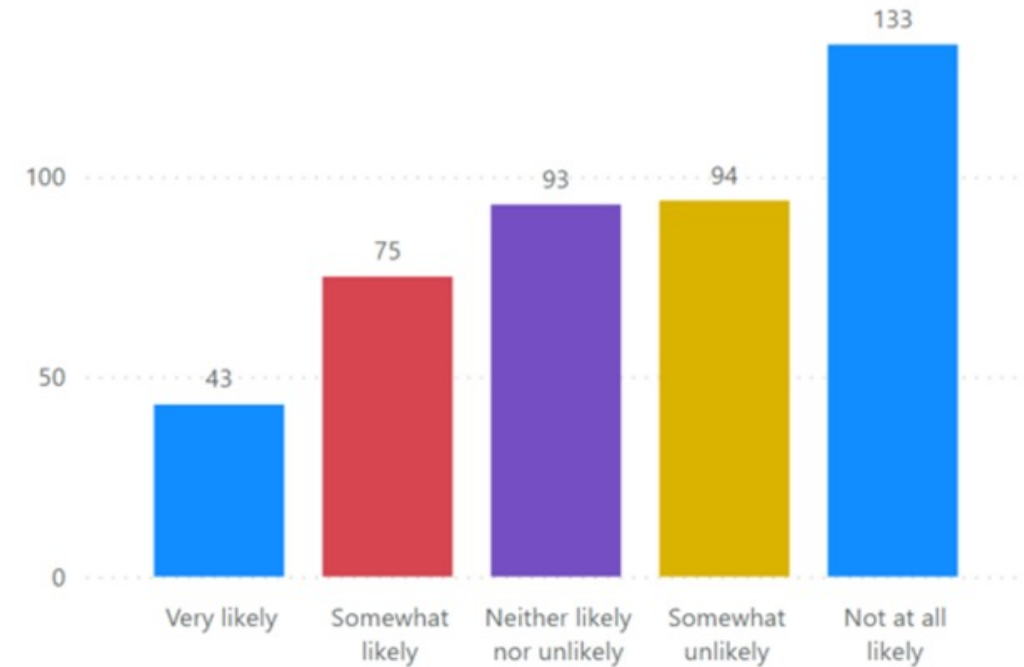
Survey participants were asked to choose from a set of options for accepting a virtual appointment versus an in-person appointment.

Reasons for Virtual Appointment



N=391 Respondents were able to choose more than one option.

If the cost were the same for a virtual appointment as an in-office visit, how likely would you be to choose the virtual appointment?



N=438



ND



# Moving Forward

- Incorporation of COVID-19 additions in telehealth:
  - Audio only
  - Teledentistry
  - Chiropractic
  - E-visits (subject to definition)
  - Expanded payment for behavioral health (site of service differential removed for highly utilized areas)
- Continued review of policy expansions
- Continued educational efforts related to provider billing
- Audits for inappropriate use of telehealth
- Continued collaboration with State leadership

# Key Takeaways

- Seek input from all stakeholders, including members/patients
- State leadership collaboration with payers to work through the details of coverage is important
- Not all services are equally aligned
- Review for inappropriate utilization and/or services





**ND**

# Panel Q&A

*Please submit questions using the Q&A function.*

# THANK YOU!



**Representative David Bentz**  
**Delaware House of Representatives**  
**18<sup>th</sup> District**

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**Kevin P. Beagan**  
**Deputy Commissioner**  
**Massachusetts Division of Insurance**

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# Webinar Recordings and Resources

The screenshot shows the CCHP website's 'Resources Results' page. At the top, there is a navigation bar with the CCHP logo and links for 'ABOUT', 'TELEHEALTH POLICY', 'PROJECTS', 'RESOURCES', and 'CONTACT'. A search bar is located on the right. The main heading is 'Resources Results' with a sub-heading '14 Resource Results'. Two video results are visible. The first video is titled 'VIDEO: Current Status of Federal and California Telehealth Policy During COVID-19', dated December 15, 2020. The description states: 'CCHP's executive director reviews the current status of telehealth policy in 2020 and what lies ahead. View the slides of the presentation here.' The second video is titled 'VIDEO CCHP Animated Video on Telehealth Reimbursement Basics', dated December 11, 2020. The description begins: 'CCHP knows that telehealth policy is complicated, especially when it comes to the way that reimbursement...'. On the right side of the page, there is a search bar labeled 'ENTER A SEARCH TERM...' and a 'Filter Resource Results' section with checkboxes for 'Bill Analysis', 'Fact Sheet', 'Legislative / Regulatory Update', 'News', 'Newsletter', 'Report, Publication & Policy Brief', and 'Video' (which is checked). A 'GO' button is at the bottom of the filter section, and a '> CITE CCHP' button is next to the 'Fact Sheet' checkbox.

Subscribe to CCHP's email listserv or stay tuned to CCHP's resources page for recordings of this webinar and presentation slide decks!

Remember to fill out the evaluation form!

Previous CCHP webinars available on website or YouTube channel.

# Next Webinar: June 24 – Substance Use Disorders

**Robert Baillieu**

**Physician and Senior Clinical and Practice Advisor  
SAMHSA/CSAT/OD**

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**Patricia Gann**

**Deputy Director, Division of Aging, Adult and Behavioral Health Services  
Arkansas Department of Human Services**

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**Jeffrey Hom**

**Medical Director of the Division of Substance Use Prevention and Harm Reduction  
Philadelphia Department of Public Health**

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**Elizabeth Pitman**

**Division Director, Division of Medical Services  
Arkansas Department of Human Services**

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**Jennifer Shuler**

**Nurse Practitioner, Division of Aging, Adult and Behavioral Health Services  
Arkansas Department of Human Services**

# EVALUATION FORM

**Please don't forget to fill out your evaluation form!**

**Thank you and have a great day!**