# COVID-19 and Telehealth

## Washington and California

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# COVID-19: Telehealth Service Categories

- Virtual Office Visit
- Virtual Check-In
- eVisits
- Remote Patient Monitoring
- Telephone E/Ms

# Virtual Office Visit

- **Description**: Office or other outpatient visit for the evaluation and management
- **Codes and Payment**:
  - New Patients – 9920X
  - Established Patients – 9921X
- **Requirements**:
  - History
  - Examination
  - Medical Decision Making

**COVID Issues:**

- Care for COVID 19 patients at home
- Care for “worried well” at home
- Some existing payor requirements may be waived during Emergency Period

# Washington Payors: Virtual Office Visits

| | Covered | Notes |
|---|---|---|
| ***Apple Health (FFS)*** | Yes | - See WAC 182-531-1730 requirements |
| ***WA Medicaid MCOs & HCSCs & HMOs*** | Yes | - Patient at home OK<br>- Covered by parity law<br>- Payment parity not required |

# Virtual Check-In

## *(Smart Phone or Telephone Visit)*

- **Description**: Brief communication technology-based services
- **Codes and Payment**: HCPCS G2012
- **Requirements**:
  - Synchronous (audio-video, or audio-only okay)
  - Patient-initiated
  - Established patients only
  - Performed by physician, NP or PA
  - 5-10 minutes of medical discussion
  - Not originating from office visit in last 7 days
  - Does not result in office visit in next 24 hours (or next available)
  - Annual consent required

**COVID Issues:**

- Use to screen symptoms
- Use to determine appropriate care/triage
- Not billable if screen results in office visit
- Patient cost-sharing may be waived

# Washington Payors: Virtual Check-Ins

| Payor | Covered | Notes |
|---|---|---|
| ***Apple Health (FFS)*** | Yes | Add Modifier CR |
| ***Molina*** | Yes | Following HCA COVID Policy |
| ***United*** | Yes | During Emergency Period only |
| ***Amerigroup*** | Unclear | Not mentioned in COVID Policy |
| ***CHPW*** | Yes | Following HCA COVID Policy |
| ***Coordinated Care*** | Unclear | Not mentioned in COVID Policy |
| ***HCSCs & HMOs*** | Check with each plan | Not covered by parity law |

# eVisit

## *(Physician, NP or PA Online E/M Service)*

- **Description**: Online digital evaluation and management service, for up to 7 days, cumulative time during the 7 days.
- **Codes and Payment**:
  - CPT 99421 – 5-10 minutes
  - CPT 99422 – 11-20 minutes
  - CPT 99423 – 21 or more minutes
- **Requirements**:
  - Asynchronous
  - Patient-initiated, by established patients only
  - Performed by physician, NP or PA
  - Cumulative time during 7 days
  - Annual consent required

**COVID Issues:**

- Screen for COVID-19
- Questionnaire with CDC symptom checker

# eVisit

## *(Non-Physician Online Assessment)*

- **Description**: Qualified nonphysician healthcare professional online assessment, for up to 7 days, cumulative time during the 7 days.
- **Codes and Payment**:
  - HCPCS G2061 – 5-10 minutes
  - HCPCS G2062 – 11-20 minutes
  - CPT 99423 – 21 or more minutes
- **Requirements**:
  - Asynchronous
  - Patient-initiated, by established patients only
  - Performed by “qualified nonphysician healthcare professional”
  - Cumulative time during 7 days
  - Annual consent required

**COVID Issues:**

- Providers can staff using non-physician practitioners

# Washington Payors: eVisits

| Payor | Covered | Notes |
|---|---|---|
| ***Apple Health (FFS)*** | Yes | MD Codes Only |
| ***Molina*** | Yes | MD Codes Only |
| ***United*** | Yes | MD and NPP Codes |
| ***Amerigroup*** | Unclear | Not mentioned in COVID Policy |
| ***CHPW*** | Yes | MD and NPP Codes |
| ***Coordinated Care*** | Unclear | Not mentioned in COVID Policy |
| ***HCSCs & HMOs*** | Check with each plan | Not covered by parity law |

# Remote Patient Monitoring

- **Description**: Set-up, education and remote monitoring of physiologic parameters (e.g., body temp, blood oxygen, respiratory flow rate, other vitals)
- **Codes and Payment**:
  - CPT 99453 – Set-Up and Education
  - CPT 99454 – 30 days of Remote Monitoring
  - CPT 99457 – 20 minutes of professional time
  - CPT 99458 – Additional 20 minutes of professional time

# Remote Patient Monitoring

- **Requirements**:
  - Type of technology/equipment not specified
  - RPM services may be performed by the physician or clinical staff
    - Clinical staff includes RNs and MAs subject to state scope of practice laws.
    - Can be billed as “incident to” the billing practitioner
    - RPM is a “Designated Care Management Service” and therefore only requires auxiliary staff’s RPM service to be furnished under “general supervision” of a physician
  - Patient consent is required and must be documented in the medical record
  - Unclear whether RPM services must be preceded by an in-person visit or must be provided to established patients only

**COVID Issues:**

- Effective way to monitor vulnerable populations for symptoms
- Non-physician practitioners can staff

# Washington Payors: RPM Services

| Payor | Covered | Notes |
|---|---|---|
| ***Apple Health (FFS)*** | Yes | Covered under OPPS Fee Schedule |
| ***Molina*** | Yes | Covered |
| ***United*** | Yes | Covered |
| ***Amerigroup*** | Yes | Covered |
| ***CHPW*** | Yes | Covered |
| ***Coordinated Care*** | Yes | Covered |
| ***HCSCs & HMOs*** | Check with each plan | Not included in parity law |

# Telephone E/M Services

- **Description**:
  - Telephone evaluation and management service provided by a physician to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days or leading to an E/M service or procedure within the next 24 hours or soonest available appointment.
- **Codes and Payment**:
  - CPT 99441: 5-10 minutes medical discussion
  - CPT 99442: 11-20 minutes of medical discussion
  - CPT 99443: 21-30 minutes of medical discussion
- **Requirements**:
  - Established patients
  - Not originating from office visit in last 7 days
  - Does not result in office visit in next 24 hours (or next available)

**COVID Issues:**

- Use to assess symptoms
- Not billable if assessment results in office visit

# Washington Payors: Telephone E/M Services

| Payor | Covered | Notes |
|---|---|---|
| ***Apple Health (FFS)*** | Yes | Waiving “Established Patient” Rule |
| ***Molina*** | Yes | Following HCA COVID Policy |
| ***United*** | No | Waiving “Established Patient” Rule |
| ***Amerigroup*** | Unclear | Not mentioned in COVID Policy |
| ***CHPW*** | No | Unclear is patient must be “Established” |
| ***Coordinated Care*** | Unclear | Not mentioned in COVID Policy |
| ***HCSCs & HMOs*** | Check with plan | Not covered by parity law |

# Must Providers Be Licensed in Washington?

- **Medicare & Medicaid**
  - Temporarily waived requirements that out-of-state providers must be licensed in the state where they are providing services when they are licensed in another state
- **Physicians Must Be Licensed to Practice in Washington**
- **Options for Expediting**
  - Emergency Volunteer Health Practitioner
  - Interstate Medical License Compact
  - Temporary Practice Permits
  - Medical Reserve Corps
  - Retired Active License (WMC Rulemaking Meeting on March 25, 2020)

# Can Providers Waive Member Cost-Sharing?

- **OIG Federal Waivers**
- **Apple Health (FFS)**
  - Yes, if the telehealth services are furnished consistent with applicable coverage and payment rules, and are furnished during the COVID-19 emergency period
- **WA Medicaid MCOs**
  - **Molina**: Yes, Molina is offering zero copay and cost share for telehealth visits, for any diagnosis until May 1, 2020.
  - **Amerigroup**: Yes, for 90 days starting on March 17th, Amerigroup will waive member cost sharing for any telehealth visits
  - **United; CHPW; Coordinated Care**: No
- **HCSCs and HMOs**
  - Check with individual plans

# Use of Skype, FaceTime, etc. in Washington?

- "Notice of Enforcement Discretion for Telehealth Remote Communications during the COVID-19 Nationwide Public Health Emergency" (March 17, 2020)
  - "OCR will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency. This notification is effective immediately."
- No HIPAA-like Security Rule under Washington Law
- WA Medicaid requires "HIPAA compliant" technology (WAC 182-531-1730)
- HCA offering limited number of free Zoom licenses

# California

# California Telehealth

## *Licensing and Professional Practice Standards*

Primary Authority is California Business and Professions Code Section 2290.5, which establishes:

- Appropriate telehealth services could include “diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care”.
- There is no requirement that the patient present from a clinical location such as a hospital, clinic, skilled nursing facility, etc.
- Telehealth services furnished via synchronous interactions and asynchronous store may be appropriate.
- Delivery via telehealth does not alter the scope of practice of any healthcare provider.
- All laws regarding the confidentiality of healthcare information and a patient’s rights to his or her medical information apply to telehealth interactions.
- Telehealth providers must obtain informed consent from patients relating to the delivery of healthcare via telehealth. Patients may give consent either verbally or in writing. Providers must document the patient’s consent.

# California Telehealth

## *Licensing and Professional Practice Standards*

- Unlike many other states, from a regulatory standpoint, California largely treats telehealth like any other medical treatment modality.
  - No special permit or certification required; can be performed within permitted scope of practice of existing licensure categories
  - General consent requirements consistent with what is required for non-telehealth
  - No special documentation standards
  - *** Additional rules may be (and are) imposed by payors as conditions for coverage of telehealth

# Hospital Telemedicine Credentialing

- California Department of Public Health, “All Facilities Letter” (8/3/2011)
  - Conveyed CDPH’s view that credentialing by proxy was **impermissible** under California hospital licensing regulations
- Telehealth Advancement Act effective January 1, 2012
  - California law expressly states—in B&P Code Section 2290.5, subdivision (h)—that a California hospital **may use the CMS telemedicine credentialing-by-proxy process**
  - CDPH confirms in another AFL on 1/25/2012
- CMS Medicare hospital regulations, TJC medical staff standards for hospitals, and California hospital licensing regulations all require hospitals to establish in their medical staff bylaws the procedures they will follow for credentialing and privileging practitioners who will provide services to hospital patients (via telemedicine or otherwise)

# California Telehealth

## *Coverage and Payment*

- COMMERCIAL HEALTH PLANS (Non-discrimination statutes – Ins. Code Sec. 10123.85; Health & Safety Code Sec. 1374.13)
  - Health plans must reimburse providers for covered services delivered through telehealth on the same basis and to the same extent that the plan covers the same service on an in-person basis
  - Telehealth services must be reimbursed at the same rate when provided through telehealth or in person
  - Plans not required to pay out-of-network telehealth providers
  - Exclusive telehealth contracting is not permitted
  - Copayments, deductibles and co-insurance are permitted but cannot exceed the same charges for the same services when furnished on an in-person basis
  - Effective date is January 1, 2021

# California Telehealth

## *Coverage and Payment*

- THE MEDI-CAL PROGRAM
  - By statute, Department of Health Care Services has broad discretion to set Medi-Cal payment policy for telehealth services.
  - Medi-Cal coverage of telehealth has traditionally been more expansive that telehealth benefits available under Medicare.
  - Some restrictions and limitations are in place even under Medi-Cal.

# California Telehealth

## *Coverage and Payment*

- Pre-COVID 19, Medi-Cal effectively covered three different categories of telehealth services:
  - Real-time psychiatric and psychological therapy services;
  - Real-time evaluation and management services; and
  - Select, asynchronous ophthalmology and dermatology evaluation and management services.
  - Medi-Cal also pays for transmission costs, the originating site facility fee and interpretation and reports of x-rays and electrocardiograms performed via telehealth.

# California Telehealth

## *Coverage and Payment*

- All categories of telehealth services are subject to the same medical necessity test to qualify for Medi-Cal coverage (Medi-Cal Provider Manual – “Medicine: Telehealth):
  - The treating health care provider at the distant site believes that the benefits or services being provide are clinically appropriate based upon evidence-based medicine and/or best practices to be delivered via telehealth;
  - The benefits or services delivered via telehealth meet the procedural definition and components of the CPT or HCPCS code(s) as defined by the AMA, associated with the Medi-Cal covered service or benefit, as well as any extended guidelines as described in the Medi-Cal provider manual;
  - The benefits or services provided via telehealth meet all laws regarding confidentiality of health care information and patients right to his or her medical information.

# California Telehealth

## *Coverage and Payment*

- Medi-Cal has heightened consent requirements for psychotherapy delivered via telehealth.
  - Provider must document oral consent from patient to be treated via telehealth in the medical record. For each Medi-Cal reimbursable telehealth service, the patient's record must show that the patient received:
    - A description of the risks, benefits and consequences of telemedicine;
    - An explanation that he/she retains the right to withdraw from receiving treatment via telehealth at any time;
    - An explanation that all the same confidentiality protections apply to telehealth as to in-person services;
    - He/she has a right to access to all transmitted medical information; and
    - The patient's information will not be disseminated without further written consent.

# California Telehealth

## *COVID-19 Updates*

- California has not materially changed any policies related to the delivery of and payment for telehealth services in response to the COVID-19 emergency.
  - Both CDPH and DHCS have issued public notices reminding providers that telehealth may be an effective means of treating patients during the pandemic.
  - DHCS has issued special “COVID-19 Guidance for Telehealth and Virtual/Telephonic Communications” – files.medi-cal.gov/pubsdoco/newsroom/newsroom_30339_02.asp
    - Guidance does not create any new rules, but effectively provides a “tip-sheet” on application of existing telehealth rules to COVID-19-related services
    - Guidance covers individual practitioners like physicians, as well as FQHCs, RHCs, and Tribal Clinics

# California Telehealth

## *COVID-19 Updates*

- California seeks even greater flexibility with respect to telehealth through a Section 1135 Waiver Request Submitted to CMS. Request includes the following items:
  - Flexibility to allow for virtual/telephonic communication/telehealth modalities for covered State plan benefits, including but not limited to Behavioral Health Treatment, where medically appropriate and feasible;
  - Waiver of face to face encounter requirement for reimbursement in 42 C.F.R. §405.2463(a)(B)(3) and 42 C.F.R. §440.90 (a) for FQHCs, RHCs, and Tribal 638 Clinics to allow for interprofessional consultation reimbursement for e-consult provided by clinic providers for new or established clinic patients;
  - Allow Licensed Practitioners of the Healing Arts to perform all duties of a Medical Director, and allow medical necessity to be determined via telehealth in Crisis Stabilization and Crisis Residential (Specialty MH).

# California Telehealth

## *COVID-19 Updates*

- California Section 1135 Waiver Requests continued:
  - Waive State Plan requirements for a "face-to-face contact between the beneficiary and a treatment staff person of the facility on the day of service" for Adult Residential Treatment Services and Crisis Stabilization Residential Treatment and allow that requirement to be fulfilled by telephone or telehealth;
  - Waive provisions in Supplement 3 to Attachment 3.1-B for individual group counseling within the State Plan prohibiting use of telehealth in the Drug MediCal program and allow for group or individual counseling by telehealth. Allow services to be provided through telephone or telehealth anywhere in the community, including clinician-to-clinician telephone or telehealth consultation.
  - CMS approved some components of California's Section 1135 Waiver Request on March 23, 2020, but is still considering the elements of the request related to telehealth.
  - Stay tuned…

# Questions?



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# Thank you!


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