



# COUNTY OF YOLO

## HEALTH AND HUMAN SERVICES AGENCY

### POLICIES AND PROCEDURES

#### SECTION 5, CHAPTER 5, POLICY 006

#### TELEHEALTH SERVICES

<b>POLICY NUMBER:</b>	5-1-006
<b>SYSTEM OF CARE:</b>	BEHAVIORAL HEALTH
<b>FINALIZED DATE:</b>	07/24/2023
<b>EFFECTIVE:</b>	04/25/2023
<b>SUPERSEDES # :</b>	Supersedes Policy #'s: Telepsychiatry 8-10-17

**A. PURPOSE:** To establish a uniform Telehealth Service policy to ensure the provision of appropriate access to timely and medically necessary outpatient telehealth services for patients of Yolo County Health and Human Services Agency (HHS) Behavioral Health (BH).

**B. FORMS REQUIRED:** N/A

**C. DEFINITIONS:**

1. **Drug Medi-Cal Organized Delivery System (DMC-ODS):** Created by the California Department of Health Care Services as part of an 1115 demonstration waiver, the DMC-ODS provides a continuum of care modeled after the American Society of Addiction Medicine Criteria for substance use disorder treatment services.
2. **Establishing New Patient Relationships:**
  - a. For Specialty Mental Health Services (SMHS) the establishment of care for a new patient refers to the mental health assessment done by a licensed clinician.
  - b. For substance use treatment in DMC and DMC-ODS, the establishment of care for a new patient refers to the American Society of Addiction

## Medicine Criteria assessment.

3. **Mental Health Services Act (MHSA):** State voters approved Proposition 63, known as the MHSA, in 2004 to fund nearly 25% of the state's public mental health system. Proceeds support a wide range of prevention, early intervention, treatment services, and development of the infrastructure, technology, and workforce needed to deliver them.
4. **Sensitive Services:** "Sensitive services" means all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence, and includes services described in Sections 6924, 6925, 6926, 6927, 6928, 6929, and 6930 of the Family Code, and Sections 121020 and 124260 of the Health and Safety Code, obtained by a patient at or above the minimum age specified for consenting to the service specified in the section.
5. **Specialty Mental Health Services (SMHS):** as defined by the MHP Contract between HHSa BH and the California Department of Health Care Services (DHCS), Exhibit A, Attachment 2, Scope of Services.
6. **Telehealth:** "Telehealth" means the mode of delivering covered services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management and self-management of a patient's health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. For the purpose of this policy, the term telehealth is used to describe both synchronous audio-only and synchronous video interactions but does not include asynchronous store and forward communications or remote patient monitoring, such as E-Consults.
7. **Telephone:** "Telephone" is defined as synchronous audio-only interaction.

### D. POLICY:

1. Telehealth is not a distinct service, but an allowable mechanism to provide clinical services. The standard of care is the same whether the patient is seen in-person, or via telehealth, and the use of telehealth must be clinically appropriate and safe for the beneficiary. Medi-Cal covered services via telehealth (synchronous audio-only and synchronous video interactions) are reimbursable in the Medi-Cal SMHS and DMC-ODS systems, including initial assessments as set forth in this policy. Beneficiary choice must be preserved; therefore, beneficiaries have the right to request in-person services.

2. Starting July 1, 2023, all Licensed Clinical Social Workers, Licensed Marriage and Family Therapists, and Licensed Professional Clinical Counselors must show evidence of having completed 3-hours of training or coursework in the provision of mental health services via telehealth services.
3. Effective no sooner than January 1, 2024:
  - a. All providers furnishing applicable covered services via synchronous audio-only interaction shall also offer those same services via synchronous video interaction to preserve beneficiary choice.
  - b. To preserve a beneficiary's right to access covered services in person, a provider furnishing services through telehealth shall do one of the following:
    - i. Offer those same services via in-person, face-to-face contact; or
    - ii. Arrange for a referral to, and a facilitation of, in-person care that does not require a beneficiary to independently contact a different provider to arrange for that care.
4. All covered SMHS and DMC-ODS services delivered via telehealth shall be provided in compliance with the privacy and security requirements contained in the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996 found in Parts 160 and 164 of Title 45 of the Code of Federal Regulations, Part 2 of Title 42 of the Code of Federal Regulations, the Medicaid State Plan, and any other applicable state and federal statutes and regulations. All applicable regulations and statutes relating to patients' rights shall be adhered to. This requirement shall survive the termination, expiration, or cancellation of any agreement for the provision of telehealth services.
5. Provider Requirements: Providers that offer telehealth services to Medi-Cal beneficiaries must meet all applicable Medi-Cal licensure and program enrollment requirements.
  - a. If the provider is not located in California, they must be licensed in California, enrolled as a Medi-Cal rendering provider, and affiliated with a Medi-Cal enrolled provider group in California or a border community, as outlined in DHCS' Telehealth Policy Paper and the Medi-Cal Provider Manual.
  - b. As a general rule, DHCS requires that every provider offering covered services to a beneficiary via telehealth must also meet the requirements of Business and Professions Code Section 2290.5(a)(3), or otherwise be designated by DHCS as able to render Medi-Cal services via telehealth.
  - c. All providers that are listed in the California Medicaid State Plan as qualified providers of SMHS, DMC, or DMC-ODS services are designated by DHCS as able to render covered services, within their scopes of practice, via telehealth

6. Audio-only Interaction: As a general rule, State law prohibits the use of asynchronous store and forward, synchronous audio-only interaction, or remote patient monitoring when providers establish new patient relationships with Medi-Cal beneficiaries. However, SMHS, DMC, and DMC-ODS providers may establish a relationship with new patients via synchronous audio-only interaction in the following instances:
  - a. When the visit is related to sensitive services as defined in this policy. This includes all covered SMHS and DMC-ODS services.
  - b. When the patient requests that the provider utilizes synchronous audio-only interactions or attests they do not have access to video.
  - c. When the visit is designated by DHCS to meet another exception developed in consultation with stakeholders.
  - d. SMHS and DMC-ODS providers shall comply with all applicable federal and state laws, regulations, bulletins/information notices, and guidance when establishing a new patient relationship via telehealth.
7. Providers that meet the applicable provider requirements as defined may deliver services via telehealth from anywhere in the community, including outside a clinic or other provider site, and beneficiaries may receive services via telehealth in their home or in other locations

## **E. PROCEDURE**

1. Beneficiary Consent
  - a. The health care provider is required to confirm consent for the telehealth or telephone service, in writing or verbally, at least once prior to initiating applicable health care services via telehealth to a Medi-Cal beneficiary. An explanation of the following shall be communicated to the beneficiary:
    - i. Beneficiaries have the right to access covered services that may be delivered via telehealth through an in-person, face-to-face visit;
    - ii. Use of telehealth is voluntary and that consent for the use of telehealth can be withdrawn at any time by the Medi-Cal beneficiary without affecting their ability to access covered Medi-Cal services in the future;
    - iii. The availability of Medi-Cal coverage for transportation services to in-person visits when other available resources have been reasonably exhausted;
    - iv. The potential limitations or risks related to receiving services through telehealth as compared to an in-person visit, to the extent any limitations or risks are identified by the provider.

2. Claiming
  - a. The fact that a service was performed by telehealth or telephone must be clearly documented in the chart and must be reflected in the claim, using the appropriate billing code and modifier, as described below:
  - b. The use of telehealth and telephone modifiers on SMHS and DMC-ODS claims are mandatory and necessary for accurate tracking of telehealth and telephone usage in behavioral health. Billing codes must be consistent with the level of care provided. The following codes shall be used in DMC-ODS and SMHS:
    - i. Telehealth (synchronous audio and video) service: GT
    - ii. Telephone (audio-only) service: SC
    - iii. Store and forward (e-consult in DMC ODS): GQ
  - c. Effective July 1, 2023, additional modifiers will be required for Current Procedural Terminology (CPT) codes after DHCS implements a successor payment methodology and transitions from Healthcare Common Procedure Coding System (HCPCS) codes to a combination of HCPCS and CPT codes. If a telehealth modifier is used for outpatient services on or after July 1, 2023, the place of service must be "02" or "10" unless the service is Mobile Crisis Services.
  - d. Providers shall be reimbursed at the same rate regardless of the means of delivery (in-person, telehealth, or telephone), provided the means of service delivery is medically appropriate.
3. Services provided by telehealth or telephone may be provided and reimbursed by the following programs:
  - a. Specialty Mental Health Services:
    - i. The initial clinical assessment and establishment of a new patient relationship, including any determination of diagnosis and/or medical necessity, may be delivered through synchronous video interaction.
    - ii. The initial clinical assessment and establishment of a new patient relationship, including any determination of diagnosis and/or medical necessity, shall only be delivered through synchronous audio-only interaction in the situations identified in this policy.
    - iii. Covered SMHS may be delivered through telehealth when those services meet the standard of care.
      1. Individual or group SMHS may be delivered through

telehealth or telephone. (Mental health services, including crisis intervention services, targeted case management, intensive care coordination, and medication support services may be provided via telehealth, telephone, or in-person)

- iv. Licensed providers and non-licensed staff may provide services via telehealth, as long as the service is within their scope of practice.
- v. Certain services, such as crisis stabilization, day rehabilitation, day treatment intensive, psychiatric health facility services, inpatient psychiatric hospital services, crisis residential treatment services, and adult residential treatment services, require a clearly established site for services and require some in-person contact between facility staff and a beneficiary to be claimed. However, California's State Plan does not require that all components of these services be provided in-person (For example, services can be provided via telehealth for a patient quarantined in their room due to illness).

b. Drug Medi-Cal Organized Delivery System:

- i. The initial clinical assessment and establishment of a new patient relationship, including any determination of diagnosis, medical necessity, and/or level of care may be delivered through synchronous video interaction.
- ii. The initial clinical assessment and establishment of a new patient relationship, including any determination of diagnosis, medical necessity, and/or level of care shall only be delivered through synchronous audio-only interaction in the situations identified above in this BHIN.
- iii. Licensed providers and non-licensed staff may deliver services through telehealth, as long as the service is within their scope of practice.
- iv. Covered DMC-ODS services may be delivered through telehealth when those services meet the standard of care. DMC-ODS individual and group counseling services may be delivered through telehealth or telephone (examples of these services include patient education, crisis intervention, case management, and medication support services). The group size limit still applies for group counseling provided via telehealth or telephone.
- v. DHCS does not impose any limitations regarding

telehealth flexibilities for the provision of medications for treating substance use disorder, commonly referred to as medication-assisted treatment, above and beyond applicable federal guidance

- vi. Certain services, such as residential services, require a clearly established site for services and in-person contact with a beneficiary in order to be claimed. However, California's State Plan does not require that all components of these services be provided in-person. (For example, services can be provided via telehealth for a patient quarantined in their room in a residential facility due to illness.)

c. 5150 Evaluations and 5151 Assessments:

- i. W&I 5150 evaluations and 5151 assessments may be performed by authorized providers face-to-face via synchronous video interaction as per W&I 5008(a) and W&I 5151(b). This may include releases from involuntary holds for evaluation and treatment, as appropriate. These services are Medi-Cal reimbursable regardless of whether they are provided in person or through synchronous video interaction as long as the individual is Medi-Cal eligible, the service is Medi-Cal covered, and all Medi-Cal requirements are met. This assessment shall be made face-to-face either in person or by synchronous interaction through a mode of telehealth that utilizes both audio and visual components.

d. Mental Health Services Act (MHSA):

- i. Counties may use MHSA funding to pay for services provided via telehealth as long as the services provided are consistent with MHSA requirements and cannot be covered by any other source of funding. Counties that use MHSA funds to pay for SMHS (and submit claims to DHCS for Federal Financial Participation for the services) must follow the Medi-Cal guidance for telehealth services in this information notice and meet all applicable Medicaid and MHSA requirements.

5. Documentation Requirements

- a. Providers are required to complete service documentation in the patient record in the same manner as an in-person visit and maintain appropriate documentation to substantiate the corresponding technical and professional components of billed CPT or HCPCS codes. Documentation shall meet all current documentation requirements and timelines.

- b. Beneficiary consent for telehealth or telephone services must be documented as described in this policy.
  - i. Providers may utilize a general consent agreement to meet this documentation requirement if that general consent agreement:
    - 1. Specifically mentions the use of telehealth delivery of covered services;
    - 2. Includes the information described above;
    - 3. Is completed prior to initial delivery of services; and
    - 4. Is included in the beneficiary record.
  
- 6. Ryan Haight Online Pharmacy Consumer Protection Act of 2008 (Ryan Haight Act)
  - a. Practitioners that prescribe controlled medications through telemedicine must abide by the Ryan Haight Act, unless otherwise exempt.
    - i. The DEA has granted a temporary exception to the requirement for in-person medical evaluations prior to the use of telehealth to prescribe controlled medications that the prescriber deems medically necessary. *This flexibility was first implemented on January 31, 2020 and will remain in place until November 11, 2023.*
  
- 7. Medicare Beneficiaries
  - a. In addition to complying with the Ryan Haight Act, psychiatrists billing services to Medicare will need to comply with other federal and state rules and policies around the prescription of controlled substances.

**F. REFERENCES:**

- 1. DHCS Information Notice (BHIN) #23-018: Updated Telehealth Guidance for Specialty Mental Health Services and Substance Use Disorder Treatment Services in Medi-Cal
- 2. Ryan Haight Online Pharmacy Consumer Protection Act of 2008

**Approved by:**

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**Date**