
 <p><b>Behavioral Health Department</b> Alameda County Health</p>	<p>DocuSigned by:    By: <u>BA16ZCAUC0D44A</u>  <b>Karyn L. Tribble, PsyD, LCSW, Director</b></p>
<p><b>POLICY TITLE</b></p> <p><b>Telehealth Policy</b></p>	<p><b>Policy No: 100-2-5</b></p> <p><b>Date of Original Approval: 8/23/2022</b></p> <p><b>Date(s) of Revision(s): 7/9/2024</b></p>

**PURPOSE**

This policy provides telehealth guidance to providers of Specialty Mental Health Services (SMHS) and Substance Use Disorder (SUD) services that complies with Federal and State authorities. The provision of services via telehealth may expand and improve clinically appropriate care within the Alameda County Health Behavioral Health Department (ACBHD), comprised of the Mental Health Plan (MHP) and Drug Medi-Cal-Organized Delivery System (DMC-ODS). Telehealth may be provided to both new and existing members.

**AUTHORITY**

- Business and Professions Code [§2290.5](#)
- California Code of Regulations [Title 16 §1815.5](#): Standards of Practice for Telehealth
- [DHCS Medi-Cal & Telehealth Webpage](#)
- [DHCS BHIN 23-018](#) Updated Telehealth Guidance for Specialty Mental Health Services and Substance Use Disorder Treatment Services in Medi-Cal
- [DHCS Telehealth Provider Manual](#)

**SCOPE**

All County-Operated programs, in addition to entities, programs, and individuals providing SMHS and SUD services under a contract or subcontract with ACBHD, are required to adhere to this policy.

**BACKGROUND**

Medi-Cal’s telehealth policy was originally established pursuant to Assembly Bill 415 (Logue, Chapter 547, Statutes of 2011), known as the [California Telehealth Advancement Act of 2011](#). In 2019, the Department of Health Care Services (DHCS) revised the policy, which afforded substantial flexibility to licensed providers to make clinically appropriate decisions regarding the use of synchronous and asynchronous telehealth modalities across both fee-for-service (FFS) and managed care programs. In March 2020, a national public health emergency (PHE) was declared regarding the Novel Coronavirus Disease (COVID-19) outbreak. This resulted in numerous federal waivers and flexibilities, inclusive of telehealth, to support the various health care delivery systems.

While telehealth has been available for decades as a promising solution to reduce barriers to care, utilization and adoption of these modalities has been historically slow. Prior to the PHE, very few providers had opted to adopt the use of various telehealth modalities, and thus it

remained unavailable as a widespread option for most Medi-Cal members. The COVID-19 PHE led to the adoption of the use of telehealth modalities at an accelerated pace that had been unthinkable prior to the PHE. Providers quickly learned how to deliver a variety of services through new technology platforms, and Medi-Cal managed care plans learned how to reimburse those services.

## **POLICY**

Telehealth is not a distinct service, but an allowable mechanism to provide clinical services. Providers determine if a benefit or service is clinically appropriate to be provided via a telehealth modality, subject to member consent. Member choice must be preserved; therefore, members have the right to request and receive in-person services. The standard of care is the same whether the member is seen in-person, via telehealth or via telephone.

Medi-Cal covered services delivered via telehealth and telephone modalities are reimbursable in fee-for-service, managed care (physical health care), SMHS, and DMC-ODS programs, including DMC-ODS initial assessments. 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 HIPAA of 1996 found in Parts 160 and 164 of Title 45 of the Code of Federal Regulations (CFR), Part 2 of Title 42 of the CFR, the Medicaid State Plan, and any other applicable state and federal statutes and regulations.

## **PROCEDURE**

DHCS allows Medi-Cal managed care plans, county MHPs and county DMC-ODS plans to use clinically appropriate video synchronous interaction as a means of demonstrating compliance with the network adequacy time or distance standards.

### **Provider Requirements**

#### **Clinical Appropriateness**

Providers should use clinical judgment about the safety of using telehealth or telephone appointments with each member. In accordance with HIPAA, for disclosures, providers must make reasonable efforts to limit the information disclosed to that which is the “minimum necessary” to accomplish the purpose.

#### **Telehealth Regulations**

Providers that offer telehealth services to Medi-Cal members must meet all applicable Medi-Cal licensure and program enrollment requirements.

As a general rule, DHCS requires that every provider offering covered services to a member via telehealth must also meet the requirements of Business and Professions Code (BPC) Section 2290.5(a)(3), or otherwise be designated by DHCS as able to render Medi-Cal services via telehealth. 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.

Effective no sooner than January 1, 2024, all providers furnishing applicable covered services via synchronous audio-only interaction must also offer those same services via synchronous video interaction to preserve member choice.

Also, effective no sooner than January 1, 2024, to preserve a member's right to access covered services in person, a provider furnishing services through telehealth must do one of the following:

1. Offer those same services via in-person, face-to-face contact; or
2. Arrange for a referral to, and a facilitation of, in-person care that does not require a member to independently contact a different provider to arrange for that care.

### Establishing New Member Relationships

As a general rule, State law prohibits the use of asynchronous store and forward, synchronous audio-only interaction, or remote member monitoring when providers establish new member relationships with Medi-Cal members.

For the SMHS, DMC, and DMC-ODS delivery systems, DHCS defines the establishment of new member relationships as follows:

- For SMHS, the establishment of care for a new member refers to the mental health assessment done by a licensed clinician.
- For SUD treatment in DMC and DMC-ODS, the establishment of care for a new member refers to the American Society of Addiction Medicine (ASAM) Criteria assessment.

However, SMHS, DMC, and DMC-ODS providers may establish a relationship with new members via synchronous audio-only interaction in the following instances<sup>1</sup>:

- When the visit is related to sensitive services as defined in subsection (n) of Section 56.06 of the Civil Code<sup>2</sup>. This includes all covered SMHS, DMC, and DMC-ODS services.
- When the patient requests that the provider utilizes synchronous audio-only interactions or attests they do not have access to video.
- When the visit is designated by DHCS to meet another exception developed in consultation with stakeholders.

SMHS, DMC, and DMC-ODS providers shall comply with all applicable federal and state laws, regulations, bulletins/information notices, and guidance when establishing a new member relationship via telehealth.

### Telehealth Communication Products

States have broad flexibility to cover and pay for Medicaid services delivered via telehealth, including to determine which telehealth modalities may be used to deliver Medicaid-covered services. Nothing in federal Medicaid law or policy prevents states from covering and paying for Medicaid services that are delivered via audio-only technologies. This broad flexibility to cover and pay for Medicaid services delivered via telehealth, including via audio-only technologies, was in place prior to the COVID-19 PHE, has not changed during the COVID-19 PHE, and will continue to be available to states after the end of the COVID-19 PHE<sup>3</sup>.

Per the U.S. Department of Health and Human Services Office of Civil Rights (HHS-OCR), providers can use various [non-public facing remote communication products](#)<sup>4</sup> that are available

<sup>1</sup> This policy applies to all Medi-Cal delivery systems and will be included in Medi-Cal provider manuals.

<sup>2</sup> "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.

<sup>3</sup> [State Medicaid & CHIP Telehealth Toolkit: Policy Considerations for States Expanding Use of Telehealth](#).

<sup>4</sup> HHS, [What is a "non-public facing" remote communication product?](#)

to communicate with new and existing members. However, public facing applications such as Facebook Live, Twitch, TikTok, and similar video communication applications should not be used in the provision of telehealth. DHCS does not impose requirements about which video chat applications can be used to provide services via telehealth beyond the guidance established by HHS-OCR. DHCS recommends providers use HIPAA compliant video communication products and enter into HIPAA business associate agreements (BAAs) in connection with the provision of their video communication products. Additional information regarding telehealth policy changes after the COVID-19 PHE can be found on the [HHS webpage](#).

### Telehealth Location

Providers should always use private locations and members should not receive telehealth services in public or semi-public settings, without the member's consent or urgent circumstances. Providers should implement reasonable safeguards to limit incidental disclosures of protected health information (PHI). This could include using lowered voices, refraining from using speakerphone, and encouraging the member move a distance away from others when discussing PHI.

DHCS does not restrict the location of the provider while providing services via telehealth or telephone, or of the member receiving the services. Providers may deliver services via telehealth or telephone from anywhere in the community, including outside a clinic or other provider site, and members may receive services via telehealth or telephone in their home or in other locations. Telehealth services may continue to be provided to members who are temporarily out of state or country. Out of country providers are not permissible, per California's telehealth laws and the policies of the Board of Behavioral Sciences and the Board of Psychology.

### Out of State Services

If clinically appropriate, providers residing outside California, may provide synchronous telehealth services to a Medi-Cal member as long as all of the following requirements are met:

1. All California licensure and requirements must be met.
2. They must be licensed in California.
3. They must be enrolled as a Medi-Cal rendering provider.
4. They must be 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<sup>5</sup>.
5. They are aware of and agree to the responsibility to refer and connect a member to in-person services (e.g., contact ACBHD ACCESS for referral) should a member, at any point during receiving telehealth services, decide to switch to in-person services.

### Documentation and Consents

#### Member Consent

Prior to initial delivery of covered services via telehealth, providers are required to obtain verbal or written consent for the use of telehealth as an acceptable mode of delivering services, and must explain the following to members:

- The member has a right to access covered services in person.

<sup>5</sup> CA DHCS, [Post-COVID-19 Public Health Emergency Final Telehealth Policy Proposal](#), December 2022, and [Medi-Cal Provider Manual](#), January 2023.

- Use of telehealth is voluntary and consent for the use of telehealth can be withdrawn at any time without affecting the member's ability to access Medi-Cal covered services in the future.
- Non-medical transportation benefits are available for in-person visits.
- Any potential limitations or risks related to receiving covered services through telehealth as compared to an in-person visit, if applicable.

Providers must also document the member's verbal or written consent to receive covered services via telehealth prior to the initial delivery of the services. The member's consent must be documented in their medical record<sup>6</sup> and made available to DHCS upon request.

A provider 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 member record<sup>7</sup>.

Providers may also utilize Alameda County Behavioral Health Department's (ACBHD) [Telehealth Consent Form](#), which captures all DHCS requirements.

### Signatures

If a member is receiving services via telehealth or via telephone, and a member signature on the treatment plan is required, electronic signatures are allowable. If it is not possible to obtain an electronic signature, a written explanation in the member record is sufficient. It is not necessary to obtain a signature when the member returns for an in-person visit.

### Program Specific Requirements

#### Drug Medi-Cal Organized Delivery System (DMC-ODS)

- DHCS supports the use of telehealth and telephone for DMC-ODS services when it is appropriate and when all relevant federal and state requirements are met.
- The initial clinical assessment and establishment of a new member relationship, including any determination of diagnosis, medical necessity, and/or level of care may be delivered through synchronous video interaction, or in-person.
- The initial clinical assessment and establishment of a new member relationship, including any determination of diagnosis, medical necessity, and/or level of care may be delivered through synchronous audio-only interaction in the instances noted in the "Establishing New Member Relationships" section of this policy.
- Licensed providers and non-licensed staff may provide services through telehealth and telephone, as long as the service is within their scope of practice.
- Covered DMC-ODS services may be delivered through telehealth when those services meet the standard of care.

<sup>6</sup> Additionally, if applicable, providers must document the appropriate service location (e.g., Telehealth Synchronous Video and Audio, Telephone Audio-Only) in the member's electronic health record.

<sup>7</sup> DHCS has created model telehealth patient consent language that providers may incorporate into their existing consent forms or communications. The language can be found [here](#).

- Certain services, such as residential services, require a clearly established site for services and in-person contact with a member 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 member quarantined in their room in a residential facility due to illness).
- DMC-ODS member or group counseling services that a provider determines to be clinically appropriate can also be provided via telehealth and telephone (examples include member education, crisis intervention, case management, medication support services). The group size limit still applies for group counseling provided via telehealth<sup>8</sup>.
- DHCS supports the use of store and forward communications for DMC-ODS physician consultation services (E-Consults).
- DHCS does not impose any limitations regarding telehealth flexibilities for the provision of medications for treating SUD, commonly referred to as medication-assisted treatment (MAT), above and beyond applicable federal guidance.

### Specialty Mental Health Services (SMHS)

- The initial clinical assessment and establishment of a new member relationship, including any determination of diagnosis and/or medical necessity, may be delivered through synchronous video interaction, or in-person.
- The initial clinical assessment and establishment of a new member relationship, including any determination of diagnosis and/or medical necessity, may be delivered through synchronous audio-only interaction in the instances noted in the "Establishing New Member Relationships" section of this policy.
- SMHS member or group counseling services that can be provided by telehealth, telephone, or in-person are reimbursable in all counties (examples include mental health services, crisis intervention services, targeted case management, intensive care coordination, and medication support services). The group size limit still applies for group counseling provided via telehealth<sup>9</sup>
- Covered SMHS may be delivered through telehealth when those services meet the standard of care.
- Licensed providers and non-licensed staff may provide services via telehealth or telephone, as long as the service is within their scope of practice.
- 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 member 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 member quarantined in their room due to illness).

### 5150 Evaluations and 5151 Assessments

Welfare and Institutions Code (WIC) 5150 evaluations and 5151 assessments may be performed by authorized providers face-to-face via telehealth, per [WIC 5008\(a\)](#) and [WIC 5151\(b\)](#). This may

<sup>8</sup> Group counseling sessions may be conducted via telehealth if the provider obtains consent from all the participants and takes the necessary security precautions, in compliance with HIPAA and 42CFR Part 2.

<sup>9</sup> Group counseling sessions may be conducted via telehealth if the provider obtains consent from all the participants and takes the necessary security precautions, in compliance with HIPAA and 42CFR Part 2.



include releases from involuntary holds for evaluation and treatment, as appropriate. These services are billable to Medi-Cal regardless of whether they are provided in person or through telehealth as long as the member has Medi-Cal coverage for the service and all Medi-Cal requirements are met. These assessments 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.

#### Claiming for Telehealth Services

The use of telehealth modifiers on SMHS, DMC, and DMC-ODS claims is mandatory and necessary for accurate tracking of telehealth usage in behavioral health. Billing codes must be consistent with the level of care provided. The following codes shall be used in SMHS, DMC, and DMC-ODS:

- Synchronous video interaction service: GT
- Synchronous audio-only interaction service: SC
- Asynchronous store and forward (e-consult in DMC-ODS only): GQ

Effective July 1, 2023, additional modifiers are required for Current Procedural Terminology (CPT) codes resulting from DHCS' implementation of a successor payment methodology and transition from Healthcare Common Procedure Coding System (HCPCS) codes to a combination of HCPCS and CPT codes. See [BHIN 22-046](#) for more information and the [MedCCC Library](#) for the Medi-Cal billing manuals that took effect in 2023. If a telehealth modifier is used for outpatient services on or after July 1, 2023, the place of service code must be "02" or "10" unless the service is Mobile Crisis.

#### Telehealth Reimbursement Rates

Rendering services via telehealth does not change the payment methodologies or reimbursement rates to Medi-Cal behavioral health delivery systems. Medi-Cal behavioral health delivery systems must reimburse providers for a covered service, as it is described in the service description included with the claim, at the same rate regardless of the means of delivery (in-person, telehealth, or telephone). For example, if a provider receives \$100 for an in-person visit, the provider should also be reimbursed \$100 for an equivalent visit rendered via telehealth (either through synchronous audio-only interaction or synchronous video interaction), provided the means of service delivery is medically appropriate.

#### **NON-COMPLIANCE**

- I. Definition of non-compliance: Any failure to abide by the stated policy.
- II. Failure to comply with federal and/or State HIPAA and telehealth policy may result in penalties.
- III. Reports of non-compliance shall be communicated verbally or in writing to supervisors and the appropriate AC Health System of Care within 72 hours to ensure timely response and corrective action.
- IV. Staff shall not face retribution for reporting non-compliance.
- V. Any communication that contains PHI or otherwise confidential information should be sent through secure methods such as email with secure encryption.

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VI. Should an emergency situation arise where conformance with this policy is impractical, the supervisor(s) and Division Director will be notified immediately.

## CONTACT

ACBHD	Current Date	Email/Phone
Quality Assurance	5/28/2024	QATA@acgov.org

## DISTRIBUTION

This policy will be distributed to the following:

- ACBHD Staff
- ACBHD County and Contracted Providers
- Public

## ISSUANCE AND REVISION HISTORY

**Original Authors:** Karen Capece, Quality Management Program Director; Laurel Pendleton, Quality Improvement Project and Planning Manager

**Original Date of Approval:** 8/23/2022 by Karyn L. Tribble, PsyD, LCSW, Behavioral Health Director

Revision Author	Reason for Revision	Date of Approval by (Name, Title)
Gina Battaglia, MA, Quality Assurance Supervising Program Specialist	Policy update to be consistent with BHIN 23-108, to incorporate out-of-state requirements, and to update DHCS use of term “member” and branding.	7/9/2024  Karyn L. Tribble, PsyD, LCSW, Behavioral Health Director

## DEFINITIONS

Term	Definition
<b>Asynchronous Store and Forward Transfers</b>	Transmission of a member’s medical information from an originating site to the health care provider at a distant site. Consultations via asynchronous electronic transmission initiated directly by members, including through mobile phone applications, are not covered by Medi-Cal.
<b>Distant Site</b>	Site where a health care provider who provides health care services is located while providing these services via a telecommunications system. The distant site for purposes of telehealth can be different from the administrative location.
<b>E-Consults</b>	These fall under the auspice of store and forward. Asynchronous health record consultation services that provide an assessment and management service in which the member’s treating health care practitioner (attending or primary) requests the opinion and/or treatment advice of another health care practitioner (consultant) with specific specialty expertise to assist in the diagnosis and/or management of the member’s health care needs without



	member face-to-face contact with the consultant. E-Consults between health care providers are designed to offer coordinated multidisciplinary case reviews, advisory opinions, and recommendations of care. E-consults are permissible only between health care providers.
<b>E-Visits</b>	Communications between a member and their provider through an online member portal.
<b>Originating Site</b>	Site where a member is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates. For purposes of reimbursement for covered treatment or services provided through telehealth, the type of setting where services are provided for the member or the health care provider is not limited. The type of setting may include, but is not limited to, a hospital, medical office, community clinic or the member's home.
<b>Synchronous Interaction</b>	Real-time interaction via video plus audio, or audio only, between a member and a health care provider located at a distant site.
<b>Telehealth</b>	The mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a member's health care while the member is at the originating site and the health care provider is at a distant site. Telehealth facilitates member self-management and caregiver support for members and includes synchronous interactions and asynchronous store and forward transfers.

**APPENDICES**

NONE