



MICHELLE BAASS  
DIRECTOR

State of California—Health and Human Services Agency  
Department of Health Care Services



GAVIN NEWSOM  
GOVERNOR

DATE:

Behavioral Health Information Notice No: 23-XXX  
Supersedes BHIN [21-047](#)

TO: California Alliance of Child and Family Services  
California Association for Alcohol/Drug Educators  
California Association of Alcohol & Drug Program Executives, Inc.  
California Association of DUI Treatment Programs  
California Association of Social Rehabilitation Agencies  
California Consortium of Addiction Programs and Professionals  
California Council of Community Behavioral Health Agencies  
California Hospital Association  
California Opioid Maintenance Providers  
California State Association of Counties  
Coalition of Alcohol and Drug Associations  
County Behavioral Health Directors  
County Behavioral Health Directors Association of California  
County Drug & Alcohol Administrators

**SUBJECT:** Updated Telehealth Guidance for Specialty Mental Health Services and Substance Use Disorder Treatment Services in Medi-Cal

**REFERENCE:** [DHCS Telehealth Webpage](#)

**PURPOSE:** Provide updated guidance on the Medi-Cal behavioral health delivery systems telehealth policy

**BACKGROUND:**

Telehealth is not a distinct service, but an allowable mechanism to provide clinical services. The Department of Health Care Services' (DHCS') coverage and reimbursement policies for services provided via telehealth and telephone modalities align with the [California Telehealth Advancement Act of 2011](#) and federal regulations. State law defines telehealth as “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 patient's health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.” ([Bus. & Prof. Code, § 2290.5, subd. \(a\)\(6\).](#))

For purposes of this Behavioral Health Information Notice (BHIN), the term telehealth is used to describe synchronous audio and video interaction and the term telephone is used to describe synchronous audio-only interaction. The standard of care is the same whether a beneficiary is seen in-person, via telehealth or via telephone and the use of telehealth must be clinically appropriate and safe for the beneficiary.

DHCS recently issued a [Telehealth Policy Paper](#) and corresponding guidance for Medi-Cal payers and providers. The updates to DHCS' telehealth policy contained in DHCS' Telehealth Policy Paper and this BHIN were informed by a stakeholder advisory group,<sup>1</sup> and implement 2022 changes to DHCS' statutory authority for coverage of telehealth.<sup>2</sup>

**POLICY:**

Medi-Cal covered services delivered via telehealth and telephone modalities are reimbursable in Medi-Cal Specialty Mental Health Services (SMHS), the Drug Medi-Cal Organized Delivery System (DMC-ODS), and the Drug Medi-Cal (DMC) programs (including initial assessments, only as set forth in this BHIN). Patient choice must be preserved; therefore, patients have the right to request and receive in-person services.

All covered SMHS, DMC, and DMC-ODS services delivered via telehealth or telephone 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. Specific guidance for providers regarding HIPAA and telehealth is available from the external resources listed on [DHCS' Telehealth Resources page](#).

More information on telehealth can be found on the [DHCS Medi-Cal & Telehealth page](#) and the [DHCS Telehealth Resources page](#).

**Provider Requirements**

Providers that offer telehealth or telephone services to Medi-Cal beneficiaries must meet all applicable Medi-Cal licensure and program enrollment requirements. If the provider is not located in California, they must be affiliated with a Medi-Cal enrolled

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<sup>1</sup> See requirements for stakeholder engagement included in Assembly Bill (AB) 133 (Committee on Budget), Chapter 143, Statutes of 2021.

<sup>2</sup> See SB 184 (Chapter 47, Statutes of 2022) and AB 32 (Chapter 515, Statutes of 2022).

provider group in California or a border community, as outlined in the Medi-Cal Provider Manual.<sup>3</sup>

As a general rule, DHCS requires that every provider offering covered services to a beneficiary via telehealth or telephone 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 and telephone. 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 and telephone.<sup>4</sup>

Effective no sooner than January 1, 2024, all providers furnishing applicable covered services via telephone must also offer those same services via telehealth to preserve beneficiary choice. Also effective no sooner than January 1, 2024, to preserve a beneficiary's right to access covered services in person, a provider furnishing services through telehealth or telephone 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 beneficiary to independently contact a different provider to arrange for that care.

### **Beneficiary Consent**

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

- The beneficiary has a right to access covered services in person.
- Use of telehealth or telephone is voluntary and consent for the use of telehealth or telephone can be withdrawn at any time without affecting the beneficiary's ability to access Medi-Cal covered services in the future.

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<sup>3</sup> CA Department of Health Care Services, [Post-COVID-19 Public Health Emergency Final Telehealth Policy Proposal](#), December 2022.

<sup>4</sup> The California Medicaid State Plan includes qualified provider lists in [Supplement 3 to Attachment 3.1-B](#), Limitation on Services 13.d.5, Substance Use Disorder Services, Provider Qualifications (Drug Medi-Cal); [Supplement 3 to Attachment 3.1-B](#), Limitation on Services 13.d.6, Expanded Substance Use Disorder Treatment Services, Practitioner Qualifications (Drug Medi-Cal Organized Delivery System); and [Supplement 1 to Attachment 3.1-A](#), Qualification of Providers; [Supplement 2 to Attachment 3.1-B](#), Provider Qualifications; and [Supplement 3 to Attachment 3.1-A](#), Provider Qualifications (Specialty Mental Health).

- Non-medical transportation benefits are available for in-person visits.
- Any potential limitations or risks related to receiving covered services through telehealth or telephone as compared to an in-person visit, if applicable.

Providers must also document the beneficiary's verbal or written consent to receive covered services via telehealth or telephone prior to the initial delivery of the services. The beneficiary's consent must be documented in their medical record 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 and telephone 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.

DHCS has created model verbal and written consent language, which can be found on the DHCS website.<sup>5</sup>

### **Requirements for Establishing New Patient Relationships**

As a general rule, State law prohibits the use of asynchronous store and forward, telephone, or remote patient monitoring when providers establish new patient relationships with Medi-Cal beneficiaries.<sup>6</sup> For the SMHS, DMC, and DMC-ODS delivery systems, DHCS defines the establishment of new patient relationships as follows:<sup>7</sup>

- For specialty mental health services, the establishment of care for a new patient refers to the mental health assessment done by a licensed clinician.
- For substance use treatment in Drug Medi-Cal and the Drug Medi-Cal Organized Delivery System, the establishment of care for a new patient refers to the American Society of Addiction Medicine Criteria assessment. However, SMHS, DMC, and DMC-ODS providers may establish a relationship with new patients via telephone in the following instances:<sup>8</sup>

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<sup>5</sup> The Model Telehealth Patient Consent Language is available at:  
<https://www.dhcs.ca.gov/provgovpart/Pages/Patient-Consent.aspx>.

<sup>6</sup> CA W&I § 14132.725(c)(5) states that "A health care provider shall not establish a new patient relationship with a Medi-Cal beneficiary via . . . telephonic (audio-only) synchronous interaction" and applies to SMHS and DMC-ODS counties. CA W&I § 14132.731(b) applies the same standard to the DMC program. Both code sections permit DHCS to establish "specific exceptions" to these rules.

<sup>7</sup> CA Department of Health Care Services, [Post-COVID-19 Public Health Emergency Final Telehealth Policy Proposal](#), December 2022.

<sup>8</sup> This policy applies to all Medi-Cal delivery systems and will be included in Medi-Cal provider manuals.

- When the visit is related to sensitive services as defined in subsection (n) of Section 56.06 of the Civil Code.<sup>9</sup> This includes all covered DMC, DMC-ODS, and SMHS services.
- When the patient requests that the provider utilize telephone 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 patient relationship via telehealth or via telephone.

### **Program Specific Requirements**

Services provided by telehealth or telephone may be provided and reimbursed by each of the following programs as described below.

#### ***Drug Medi-Cal Organized Delivery System:***

- 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 telehealth.
- 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 telephone only in the situations identified above in this BHIN.
- Licensed providers and non-licensed staff may deliver services through telehealth or telephone, as long as the service is within their scope of practice.
- Covered DMC-ODS services may be delivered through telehealth or telephone when those services meet the standard of care. The group size limit still applies for group counseling provided via telehealth or telephone.<sup>10</sup>
- Certain services, such as residential services, require a clearly established site for

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<sup>9</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>10</sup> Group counseling sessions may be conducted via telehealth and telephone if the provider obtains consent from all the participants and takes the necessary security precautions, in compliance with HIPAA and 42CFR Part 2.

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 telephone for a patient quarantined in their room in a residential facility due to illness.)

**DMC:**

- DMC services, as defined in Welfare and Institutions Code (W&I) section 14124.24, provided by a licensed practitioner of the healing arts, or a registered or certified alcohol or other drug counselor or another individual authorized by DHCS to provide DMC services when those services meet the standard of care and the requirements of the service code being billed, may be delivered through telehealth or telephone.<sup>11</sup> The group size limit still applies for group counseling provided via telehealth or telephone.<sup>12</sup>
- 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 telehealth.
- 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 telephone only in the situations identified above in this BHIN.
- Certain services, such as perinatal 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 telephone for a patient quarantined in their room in a residential facility due to illness).

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<sup>11</sup> The telehealth policy in this BHIN supersedes the prohibition on "telephone contacts" in Cal. Code Regs. Tit. 22, § 51341.1(b)(10). All DMC services defined in the California Medicaid State Plan and in Cal. Code Regs. Tit. 22, § 51341.1(b) may be delivered by telephone (audio-only synchronous interaction) and by telehealth (audio and video synchronous interaction) as outlined in this BHIN.

<sup>12</sup> Group counseling sessions may be conducted via telehealth and telephone if the provider obtains consent from all participants and takes the necessary security precautions, in compliance with HIPAA and 42 CFR Part 2.

***Specialty Mental Health Services:***

- The initial clinical assessment and establishment of a new patient relationship, including any determination of diagnosis and/or medical necessity, may be delivered through telehealth.
- The initial clinical assessment and establishment of a new patient relationship, including any determination of diagnosis and/or medical necessity, may be delivered through telephone only in the situations identified above in this BHIN.
- Covered SMHS may be delivered through telehealth or telephone 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 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 telephone for a patient quarantined in their room due to illness).

**5150 Evaluations and 5151 Assessments**

W&I 5150 evaluations and 5151 assessments may be performed by authorized providers face-to-face via telehealth (video) 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 telehealth 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.

**Mental Health Services Act (MHSA)**

Counties may use MHSA funding to pay for services provided via telehealth or telephone 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 and telephone services in this information notice and meet all applicable Medicaid and MHSA requirements.

### **Claiming and Reimbursement for Services Delivered via Telehealth and Telephone**

Providers that meet the applicable provider requirements in this BHIN may deliver services via telehealth or telephone from anywhere in the community, including outside a clinic or other provider site, and beneficiaries may receive services via telehealth or telephone in their home or in other locations.

Providers are required to complete service documentation in the patient record in the same manner as in-person visit. Beneficiary consent for telehealth or telephone services must be documented as described in this BHIN. 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.

The use of telehealth and telephone modifiers on SMHS, DMC-ODS, and DMC claims is 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, DMC and SMHS:

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

Effective July 1, 2023, additional modifiers will be required for Current Procedural Terminology (CPT) codes after DHCS implements successor payment methodology and transitions 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 version of the billing manuals that will take effect in 2023. 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.

#### ***Telehealth Reimbursement:***

Rendering services via telehealth or telephone 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 done via telehealth or telephone, provided the means of service delivery is medically appropriate.

For any questions regarding this BHIN, please contact [CountySupport@dhcs.ca.gov](mailto:CountySupport@dhcs.ca.gov).

Sincerely,

Ivan Bhardwaj, Acting Chief  
Medi-Cal Behavioral Health Division

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