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Children's
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March 14, 2022

Sent via email to: Medi-Cal_Telehealth@dhcs.ca.gov

California Department of Health Care Services
1501 Capitol Avenue, MS 4000
Sacramento, CA 95899

Dear DHCS,

The California Alliance of Child and Family Services (The Alliance) and the California Children's Trust (CCT) appreciate the opportunity to respond to the draft DHCS Telehealth Policy Recommendations. CCT was a member of the Advisory Workgroup, and we believe the workgroup's [recommendations](#) make significant progress toward essential telehealth reforms. These new policies, however, focus primarily on physical health services. Even though the pandemic has demonstrated the vital importance of behavioral health telehealth care, some of DHCS's recommendations fall short and do not include comparable coverage for behavioral health benefits. As a result, far more work remains to ensure that our telehealth policies are centered on the needs of children and families. We strongly recommend the following additions to the DHCS Telehealth Policy Recommendations:

- **Cover brief virtual communications for all behavioral health services.**

We support DHCS's decision to cover brief virtual communications (e.g. web-based modalities such as web-based interfaces, live chats, etc.) for Targeted Case Management and LEA-BOP services, and we strongly encourage DHCS to **extend this coverage to all other behavioral health services**. Because DHCS has recommended covering brief virtual communications for all physical health care services, we believe that a failure to provide comparable coverage to all behavioral health services would violate mental health parity laws. More importantly, many youth are more comfortable with chat-based conversations than with phone and video communications. These platforms also offer more privacy to teenagers who wish to keep their therapeutic conversations private from family members living in the same household. Several states already provide Medicaid coverage for these modalities, including communications via a secure online patient portal (Ohio,¹ North Carolina,²

¹ [The Ohio Department of Medicaid. Telehealth Billing Guide. Revised 2/8/2021](#), page 3; [Behavioral Health Telehealth Services e-news, July 17, 2020](#).

² [NC Medicaid Telehealth, Virtual Communications and Remote Patient Monitoring, Medicaid and Health Choice Clinical Coverage Policy No: 1H](#), November 15, 2020, Section 1.1.2

Montana³), as well as HIPAA complaint clinical text chat platforms (Kentucky⁴) and “live chat” modalities (Colorado⁵).

- **Cover texting.**

We similarly urge DHCS to cover text-based behavioral health services as well. Text communications are more accessible than chat-based modalities for many youth because they do not require an internet connection. Washington state has obtained an 1135 waiver that allows it to cover texting during the pandemic as a modality to “provide assessment, diagnosis, intervention, consultation, supervision and information in lieu of an in-person visit.”⁶ California also has recognized the key role of this modality; it chose to include texting in its Family Urgent Response System hotline and in the planned 988 crisis hotline

- **Allow the establishment of new patient visits via modalities other than video with a specific inclusion of audio only**

We support DHCS’ approach of allowing new client visits to be provided via telehealth. However, based on the well documented barriers found in limiting care to the use of video only telehealth modalities, we encourage the Department to allow new clients to establish care **using either audio and video visits**. We appreciate the efforts DHCS has taken to ensure consumer protections are in place and feel confident that just those used for established telehealth care provided via audio visits can be also be leveraged for new visits to protect against fraud, waste, and abuse.

- **Clarify that that new telehealth documentation requirements will not constitute reasons for recoupment.**

Through CalAIM, DHCS is implementing much needed documentation streamlining measures. New paperwork requirements related to telehealth, however, have the potential to undermine these essential reforms. If DHCS does chose to add new documentation rules, it can reduce the associated administrative burdens by clarifying that the new requirements will not form the basis for recoupments. This approach would align with DHCS’s efforts to reform Medi-Cal’s “audit culture” by limiting recoupments to instances of fraud, waste, and abuse.

We recommend, for example, that DHCS clarify that the rules below will not create new reasons for recoupments.

- Requirements to use specific modifiers to delineate visits by telehealth modality, such as video visits or audio-only visits. As several members of the task force emphasized, technical and logistical challenges often cause a single visit to switch between video and audio-only modalities, making it difficult for providers to determine which type

³ [Medicaid Coverage and Reimbursement Policy for Telemedicine/Telehealth Services During the Montana State of Emergency.](#)

⁴ [Statement of Emergency](#), 900 KAR 12:005, Section 2.

⁵ [Colorado Access Telemedicine Guidance – Updated March 20, 2020](#)

⁶ [Apple Health \(Medicaid\) Telemedicine and Telehealth Brief](#), July 1, 2021. The state obtained permission from the federal government to cover these services via an [1135 waiver](#).

of modifier should be used. These types of issues are inevitable with some telehealth services and are not indicators of fraud, waste, or abuse.

- Requirements to provide additional information before obtaining client consent. We agree that informed consent is a critical component of behavioral health care. However, we urge DHCS to clarify that a failure to check the right box regarding which types of information were provided to the client should not be considered an example of fraud, waste, or abuse.

We appreciate the opportunity to provide suggestions regarding these telehealth recommendations and we look forward to continuing to collaborate with DHCS to ensure that the needs of California's children and families remain at the heart of our telehealth policies.

With appreciation,



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