

# Telehealth Policy Update California

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Informational Hearing



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## CENTER FOR CONNECTED HEALTH POLICY (CCHP)

is a non-profit, non-partisan organization that seeks to advance state and national telehealth policy to promote improvements in health systems and greater health equity.

# DISCLAIMERS

- Any information provided in today's talk is not to be regarded as legal advice. Today's talk is purely for informational purposes.
- Always consult with legal counsel.
- CCHP has no relevant financial interest, arrangement, or affiliation with any organizations related to commercial products or services discussed in this program.

# ABOUT CCHP

- Established in 2009 as a program under the Public Health Institute
- Became federally designated national telehealth policy resource center in 2012 through a grant from HRSA
- Work with a variety of funders and partners on the state and federal levels
- Administrator National Consortium of Telehealth Resource Centers
- Convener for California Telehealth Policy Coalition



# WHAT IS TELEHEALTH?

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# WHAT IS TELEHEALTH?

- Definition of “telehealth” (or “telemedicine”) varies from jurisdiction to jurisdiction

**Example:** “Telehealth” means 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.

[CA B&P Code 2290.5](#)

- Use of technology to delivery health services when parties are in a different location

# WHAT IS TELEHEALTH?

## ➤ 4 Modalities of Telehealth – Pre-COVID

### Synchronous/Live Video

Real-time

Video system

### Store & Forward

Capture, store & transmit information

Not in real-time also called “asynchronous”

### Remote Patient Monitoring (RPM)

Continuous monitoring of condition

Can be in Real-time or asynchronous

### mHealth

Use of mobile technology to provide service

Usually done through apps

➤ CMS/Medicare has another category for technology delivered health services: Communication Technology Based Services (CTBS) which utilizes telehealth technologies but is not considered telehealth by CMS. Includes audio-only.

# MEDICARE POLICY – TELEHEALTH VS CTBS

The Medicare policy on the use of technology to provide services is in two buckets

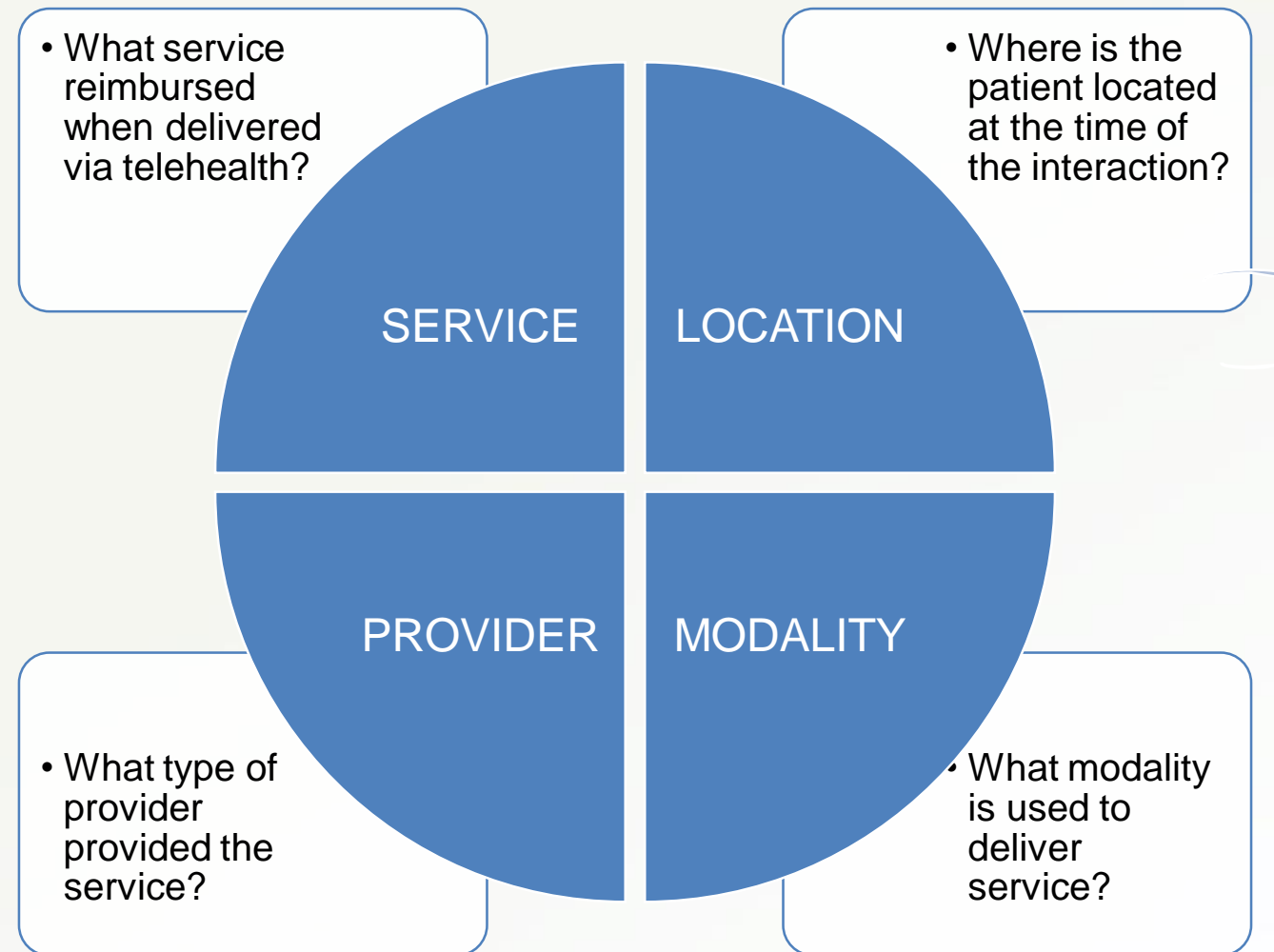
- In Federal Statute
- Only Live Video unless in a demonstration project in AK or HI
- Limited list of providers
- Limited list of eligible services
- Geographic and site limitations

TELEHEALTH

COMMUNICATIONS  
TECHNOLOGY-  
BASED SERVICES

- Utilizes telehealth technology but is called “Communications Technology-Based Services” (CTBS)
- Is not limited by federal law telehealth restrictions
- Other restrictions in place such as informed consent requirements
- All modalities found here

# REIMBURSEMENT MAKES UP MUCH OF KNOWN POLICY





# TELEHEALTH POLICY CHANGES IN COVID-19

## FEDERAL

MEDICARE ISSUE	CHANGE
Geographic Limit	Waived
Site limitation	Waived
Provider List	Expanded
Services Eligible	Added additional 80 codes
Visit limits	Waived certain limits
Modality	Live Video, Phone, some services
Supervision requirements	Relaxed some
Licensing	Relaxed requirements
Tech-Enabled/Comm-Based (not considered telehealth, but uses telehealth technology)	More codes eligible for phone & allowed PTs/OTs/SLPs & other use

- DEA – PHE prescribing exception/allowed phone for suboxone for OUD
- HIPAA – OCR will not fine during this time

## STATE (Most Common Changes)

MEDICAID ISSUE	CHANGE
Modality	Allowing phone
Location	Allowing home
Consent	Relaxed consent requirements
Services	Expanded types of services eligible
Providers	Allowed other providers such as allied health pros
Licensing	Waived some requirements

- Private payer orders range from encouragement to cover telehealth to more explicit mandates
- Relaxed some health information protections

# CALIFORNIA POLICIES

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# FEDERAL VS. CALIFORNIA FFS PRE-COVID

CA Medicaid had one of the most progressive telehealth policies in the nation prior to the pandemic. By comparison, Medicare had one of the most narrow, limited telehealth policy. Both pay parity with in-person.

## MEDICARE

Geographic restriction on patient location

Site limitations on patient location

Limited to Live Video; Exception for HI & AK (S&F)

Services - Specific List

Providers - Specific list of providers – FQHC/RHC excluded

## MEDI-CAL

No geographic limits on patient location

No site limitations on patient location; EXCEPT for FQHCs/RHCs

Allow provider to select provision services via live video or S&F if certain conditions met

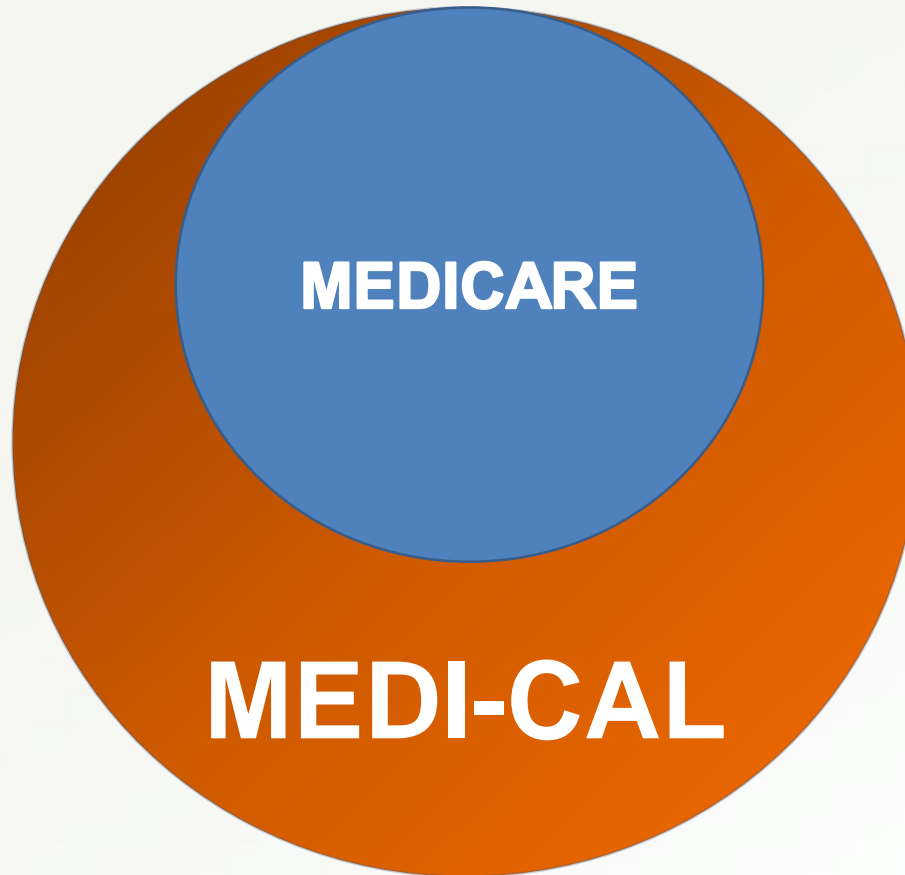
As long as certain conditions met, any covered services

Providers - Any eligible provider; restrictions on FQHCs/RHCs

Communication Technology Based Services

# TELEHEALTH IN MEDICARE VS. MEDI-CAL

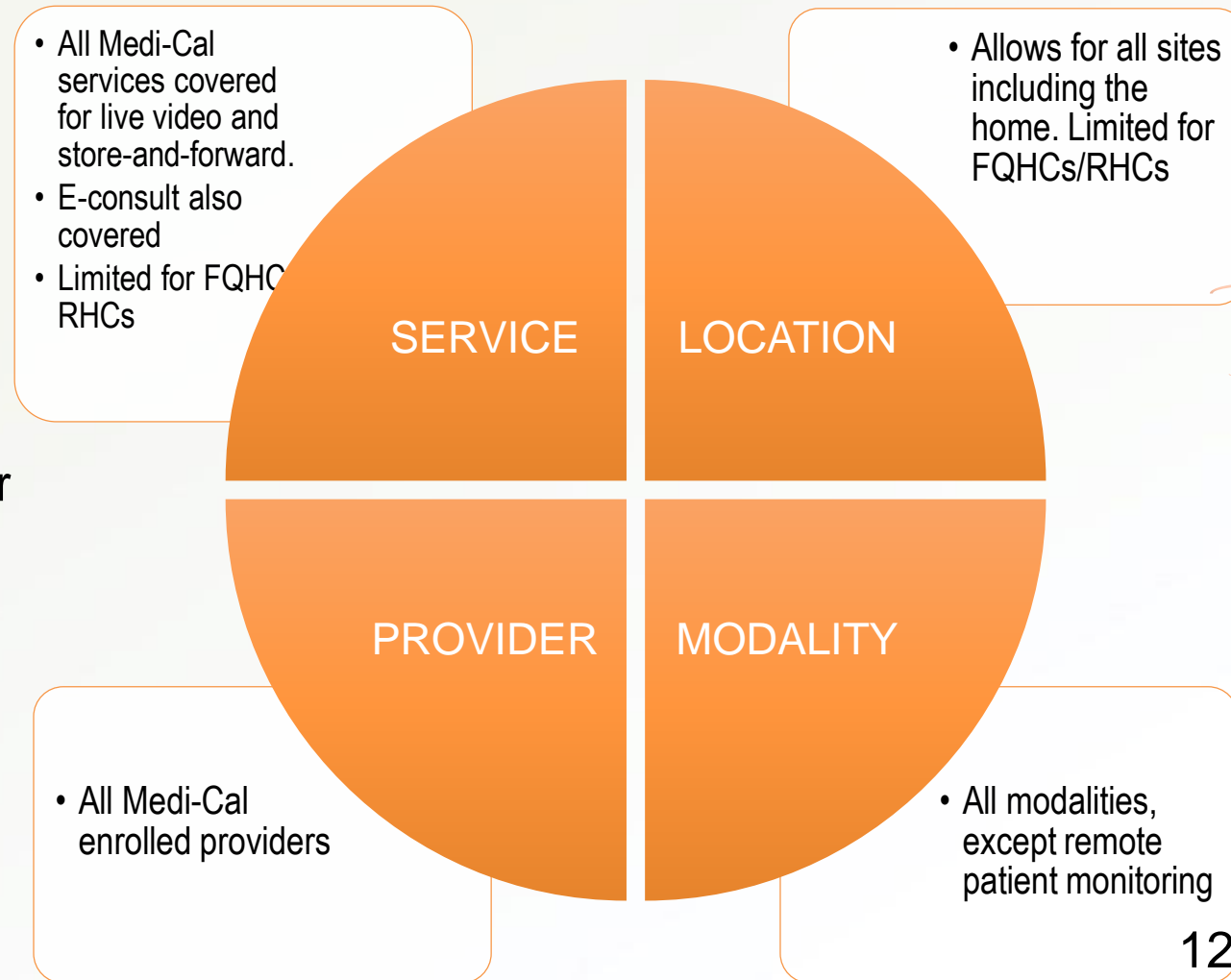
Pre-pandemic, Medi-Cal had one of the most progressive telehealth policy in the nation.



Far out-distancing Medicare, which was 10-20 years behind how the technology had evolved.

# CALIFORNIA POLICY PRE-COVID-19

- **Medi-Cal Policies:** Update Summer 2019 (Administrative)
  - All covered services can be provided by live video or store-and-forward, at the provider's discretion; parity
  - Home is an eligible originating site
  - Certain limitations for FQHCs and RHCs
  - FFS policies, Managed Care must meet these policies at a minimum
  - Providers must be located or affiliated w/facility in CA or border community
- **Consent:** Oral or written (Statutory)
- **Commercial Plans:** AB 744 (2019) requires payment parity for commercial health plans and insurers, for all contracts executed or amended on or after January 1, 2021 (Statutory)
- **Licensure:** Must have license to practice in CA



# CALIFORNIA POLICY DURING COVID-19

## PRE-COVID-19 – MODALITY

Under Medi-Cal Policy provider may provide service via live video or S&F if the provider believes clinically appropriate and meet procedural definition and components of applicable CPT/HCPCS code and is a covered benefit. Appropriate modifier (95 or GQ used) & it does not alter reimbursement for CPT/HCPCS code billed - Parity of reimbursement amount. Some virtual communications services covered.

[DHCS Telehealth Provider Manual](#)

## COVID-19 – MODALITY

Allowed for the use:

- Audio-only/telephonic using appropriate code (similar to pre-COVID-19 policies on live video & S&F)

[Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to COVID-19.](#)

# CALIFORNIA POLICY DURING COVID-19

## PRE-COVID-19 – SERVICES

- Under Medi-Cal Policy as long as it is a covered service and the other conditions noted in modality are met, the service will be reimbursed.
- FQHC/RHC limited in what services they can use telehealth for. S&F limited to tele-dermatology/ophthalmology/dentistry. Specific definition of what qualified as a "visit."

[DHCS Telehealth Provider Manual](#)

## COVID-19 – SERVICES

Limitation on what services can be provided via telehealth lifted for FQHC/RHC.

[Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to COVID-19.](#)

# CALIFORNIA POLICY DURING COVID-19

## PRE-COVID-19 – LOCATION

- No location limitations
- FQHC/RHC not allowed to provide services to the patient at home unless homebound, migratory or homeless.

[DHCS Telehealth Provider Manual](#)

## COVID-19 – LOCATION

Limitation on location lifted for FQHC/RHC

[Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to COVID-19.](#)



# CALIFORNIA POLICY DURING COVID-19

## PRE-COVID-19 – PROVIDERS

All eligible providers

[DHCS Telehealth Provider Manual](#)

## COVID-19 – PROVIDERS

All eligible providers

[Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to COVID-19.](#)

# CALIFORNIA POLICY DURING COVID-19

## PRE-COVID-19 – COMMERCIAL PLANS

AB 744 passed in 2019 required commercial plans to cover all services they would typically covered, regardless of whether it was delivered in person or via—telehealth and pay the same amount. Law became active Jan 1, 2021. Additionally, plans cannot discriminate against in-network providers.

## COVID-19 – COMMERCIAL PLANS

Requirement that plans cover services provided via telehealth or in-person in the same manner and pay the same amount, in essence, activating AB 744 nearly a year before it was to go into effect.

# CALIFORNIA POLICY DURING COVID-19

- Other issues raised during COVID-19 that impacted telehealth utilization
  - ❖ Broadband
  - ❖ Licensure
  - ❖ Privacy/Security \*
  - ❖ Outdated forms and mechanisms
  - ❖ Education of providers and patients

\* Along with prescribing of controlled substances, also impacted by federal policy changes made during COVID-19

# PROPOSED PERMANENT CHANGES

## PRE-COVID-19

Live Video & Store & Forward  
Reimbursed at parity; Provider  
chooses when appropriate to use.  
FQHC/RHC Limited use of both  
modalities

FQHCs/RHCs limited in where  
patient located at time of service.  
Home not eligible

No audio-only.

No RPM.

## COVID-19

Live Video & Store & Forward  
Reimbursed at parity; Provider  
chooses when appropriate to use.  
FQHC/RHC allowed to use both  
modalities

FQHC/RHC home eligible  
originating site for all modalities

Audio-only reimbursed for  
services & parity

No RPM.

## PROPOSED

Live Video reimbursed at parity; Store  
& Forward along w/audio-only, RPM  
and other modalities will be limited,  
pending DHCS policies. FQHC/RHC  
not allowed to use anything but Live  
Video

FQHC/RHC may only use Live Video  
to provide services in home

Audio-only treated in different  
category. Likely no parity.

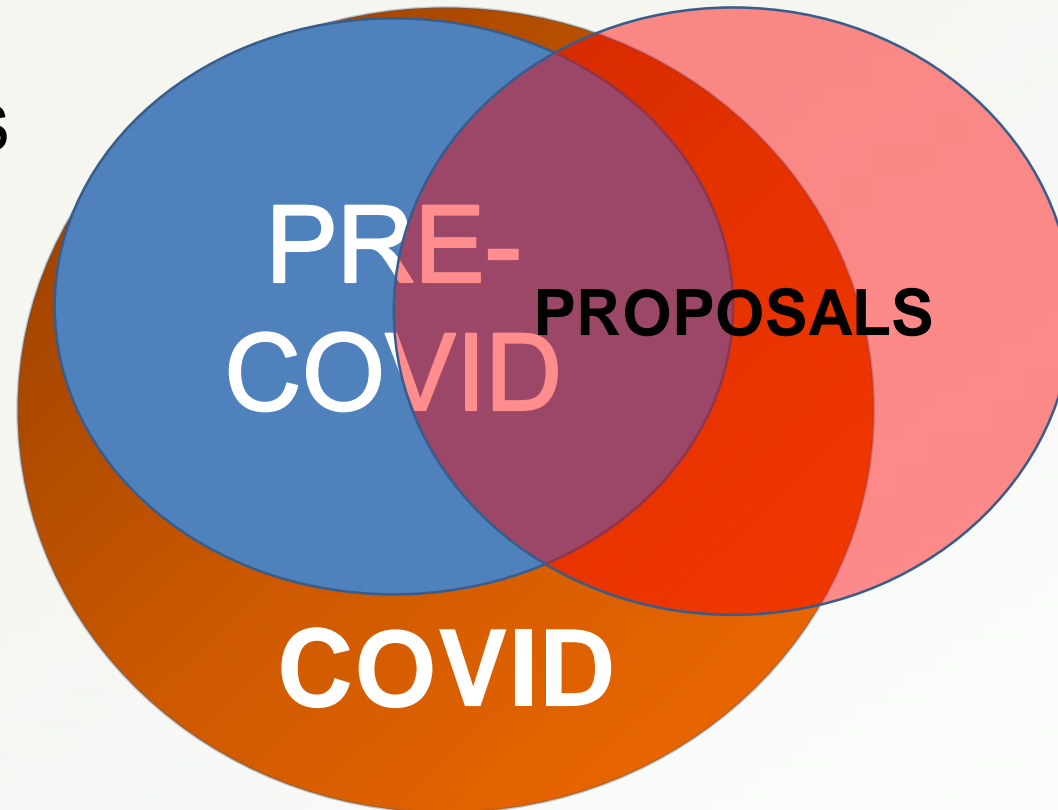
RPM treated in different category.  
Likely no parity.

# PROPOSED PERMANENT CHANGES

PRE-COVID-19 MEDICAL TELEHEALTH POLICIES	PROPOSED CHANGES	IMPACT
Allow providers to utilize synchronous/asynchronous to deliver services & receive parity reimbursement.	Only allow synchronous parity reimbursement. Asynchronous will be placed in a different category w/separate policies.	Separates out asynchronous and likely limit the use and reimbursement for it.
Did not cover for audio-only or RPM.	Will separate out audio-only & RPM into separate category w/separate policies.	Will treat similar to asynchronous. Separate category similar to how Medicare treats CTBS.
FQHC/RHC limited use of synchronous/asynchronous, location options.	Will allow home to be an eligible originating site; Will not allow to use asynchronous, audio-only, RPM	FQHCs while locations such as home will be open to them as eligible sites, limit the modalities they can use to deliver services

# PROPOSED PERMANENT CHANGES

New proposals will make some aspects of telehealth policy in Medicaid narrower than what existed pre-pandemic.



Proposals in some respects move CA more towards approach taken by CMS in Medicare.

# OTHER STATES TELEHEALTH POLICY CHANGES

- Other states have begun to expand and refine their telehealth policies
  - ❖ MA – SB 2984 – Provides coverage parity for Medicaid and private payers (prior to pandemic, very little telehealth policy) - PASSED
  - ❖ NJ – S 3371 – Requires Medicaid parity of payment for telehealth including phone when combined with asynchronous. – INTRODUCED
  - ❖ WA – SB 5325 – Commercial health plans as well as Medicaid managed care plans requires reimbursement of audio-only to be the same as telemedicine - INTRODUCED

# CCHP

- CCHP Website – [cchpca.org](https://www.cchpca.org)
  - Telehealth Federal Policies -  
<https://www.cchpca.org/resources/covid-19-telehealth-coverage-policies>
  - State Emergency Waivers/Guidance -  
<https://www.cchpca.org/resources/covid-19-related-state-actions>
- Subscribe to the CCHP newsletter at [cchpca.org/contact/subscribe](https://www.cchpca.org/contact/subscribe)





# Thank You!

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