



Preserve Telehealth Access Act of 2021 - SB 3
Senate Finance Committee Hearing
January 27, 2021
Favorable

The Legal Action Center (LAC) is a non-profit law firm that uses legal and policy strategies to fight discrimination, build health equity, and restore opportunity for people with criminal records, substance use disorders, and HIV or AIDS. LAC chairs the Maryland Parity Coalition and advocates for laws and policies in Maryland that will improve access to health care and end discrimination for people with mental health and substance use disorders. **LAC supports SB 3, Preserve Telehealth Access Act of 2021, because telehealth is essential to reducing health disparities and improving access to health care, particularly for mental health and substance use disorder care.**

LAC encourages you to support SB 3 and ensure that Marylanders can continue to access the telehealth services they need in the wake of the COVID-19 pandemic, fight health disparities and address the overwhelming need for mental health and substance use disorder services that will continue long after the public health emergency is over.

Expanding Originating Sites Improves Access to Health Care

LAC supports the provision in SB 3 to ensure that all patients can use telehealth in their homes or wherever they are located. This provision is essential for protecting access to health care for people regardless of their geographic location, physical or mental disability, housing or homelessness situation, and degree of safety or privacy within their home. When patients can receive care wherever they are – especially for behavioral health services which are still encumbered by stigma – they can maintain their privacy and comfort and reduce unnecessary burdens such as transportation, childcare costs, missed work and appointment scheduling rigidity.¹ Providers too have reported additional benefits to using telehealth, since they can see into the patient’s living environment and better tailor their treatment plans to meet their patient’s needs. Expanding originating sites for telehealth is necessary to improve health care access, especially for patients with mental health and substance use disorders.

Authorizing Audio-Only Telehealth is Necessary for Health Equity

Approximately 36% of Marylanders lack access to high-speed internet, based on the FCC standard.² Even more Marylanders are unable to use audio-visual telehealth because they lack the technological literacy to use it effectively or cannot afford the required devices. Some individuals, especially those with eating disorders or other mental health conditions, are more comfortable and willing to get health care when they do not need to look at themselves – or their provider – on a

¹ Client Response to Telehealth: Community Behavioral Health Association Survey, Community Behavioral Health Association of Maryland (July 10, 2020), <http://mdcbh.org/files/manual/169/Telehealth%20Survey.pdf>.

² Task Force Report, Task Force on Rural Internet, Broadband, Wireless and Cellular Service 6 (January 2, 2019), https://rural.maryland.gov/wp-content/uploads/sites/4/2019/01/2018_MSAR11544_Task-Force-for-Rural-Internet-Broadband-Wireless-and-Cellular-Service-Report-1.pdf.

screen. Authorizing audio-only telehealth is necessary to reduce the digital divide and improve health equity. The Lieutenant Governor’s Commission to Study Mental and Behavioral Health in Maryland has made the same recommendation for behavioral health providers, recognizing that the expansion of the use of telehealth is crucial “to reduce barriers to service delivery, especially in communities without information technology resources and regions that lack suitable broadband infrastructure.”³

Enabling Payment Parity Ensures the Sustainability of Telehealth Expansions

Given the myriad of benefits to patients, it is necessary that Maryland incentivize providers to continue to offer telehealth services by reimbursing them at the same rate that they are reimbursed for in-person services. The costs of audio-visual and audio telehealth are the same as services provided in person because the professional salaries, overhead fees, and all of the requirements for the service to be billable – such as length of visit, documentation, quality of care – remain the same. Absent payment parity, providers will be less willing to invest in the costs of purchasing and maintaining telehealth equipment and HIPAA-compliant platforms and most cannot continue to offer services that are not sustainable for their practices. For telehealth to be an effective tool for improving access to health care in Maryland, it must continue to be reimbursed at the rate that has been used during the public health emergency, which is the same rate as in-person services.

Whereas SB 3 requires payment parity in commercial insurance alone, LAC urges the Committee to adopt the SB 393 standard that also requires payment parity in Medicaid to ensure consistency across payers and to prevent Medicaid beneficiaries from losing access to telehealth because their providers cannot afford to sustain it.

Further Telehealth Considerations for Marylanders with Mental Health and Substance Use Disorders

In addition to payment parity in Medicaid, we urge the Committee to adopt the following provisions from SB 393 in any telehealth legislation:

- Ensure reimbursement for telehealth services provided by licensed and certified mental health and substance use disorder providers and programs in Maryland, including those provided by peers and paraprofessionals in such programs, recognizing the elevated need for behavioral health services during and after the COVID-19 public health emergency.
- Require all plans to comply with the federal Mental Health Parity and Addiction Equity Act for coverage of telehealth services to ensure that neither Medicaid nor commercial plans can discriminate against patients with mental health and substance use disorders.
- Preserve consumer consent so that patients can work with their providers to decide on which mode of service delivery – whether it be in person, audio-visual telehealth, or audio-only telehealth – is the most appropriate for them, and ensure that commercial plans cannot distort their compliance with Maryland’s network adequacy standards by counting telehealth visits unless the patient elects to receive services via telehealth, consistent with the existing standard.

For these reasons, we encourage you to support SB 3, and adopt the additional protections in SB 393 to ensure comprehensive access to telehealth for Marylanders with mental health and

³ 2020 Report, Commission to Study Mental and Behavioral Health in Maryland 21 (Dec. 31, 2020), <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/024800/024835/20210033e.pdf>.

substance use disorders.

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