



Telehealth Services - Expansion – HB 731
House Health and Government Operations Committee Hearing
February 10, 2021
Support

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 HB 731, Telehealth Services – Expansion, 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 HB 731 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.

We are concerned that the failure to require Medicaid reimbursement for audio-only telehealth services at the same level as in-person or audio-visual telehealth services will undermine the State’s ability to meet the needs of Maryland’s most vulnerable residents. LAC also urges the Committee to adopt additional protections, set out in HB551, that would:

- Expand originating sites in private insurance;
- Ensure reimbursement for telehealth services delivered by licensed and certified mental health and substance use disorder providers and programs;
- Authorize reimbursement of remote patient monitoring for mental health and substance use disorders in private insurance and Medicaid;
- Require all health care plans to comply with the Mental Health Parity and Addiction Equity Act in their coverage of telehealth services; and
- Preserve a consumer’s right to choose how to receive their health care services.

Authorizing Audio-Only Telehealth is Necessary for Health Equity

Approximately 36% of Marylanders lack access to high-speed internet, based on the FCC standard.¹ 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 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

¹ 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.

communities without information technology resources and regions that lack suitable broadband infrastructure.”²

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, if not greater than, 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 cannot continue to offer services that are not sustainable for their practices and will be less willing to invest in the costs of purchasing and maintaining telehealth equipment and HIPAA-compliant platforms. For telehealth to be an effective tool for improving access to health care in Maryland, it must continue to be reimbursed at the same rate as in-person services.

Medicaid beneficiaries rely on audio-only telehealth to a far greater extent than individuals with private insurance because they are less likely to have access to high-speed internet, audio-visual capable technologies, and the technological literacy to use such devices. Maryland needs to protect its most vulnerable residents and ensure they have access to the same health care – and meaningful choice in how they receive their health care – as individuals enrolled in private insurance. Whereas HB 731 expressly requires payment parity in commercial insurance and does not do so for Medicaid, **LAC urges the Committee to adopt the HB 551 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.**

Expanding Originating Sites Improves Access to Health Care.

LAC supports the provision in HB 731 to ensure that Medicaid enrollees 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.³ 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.

LAC urges the Committee to adopt this same standard for private insurance, as proposed in HB 551, to ensure consistency across payers and to preserve health care access for consumers in need of mental health and substance use disorder care.

² 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>.

³ 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>.

Additional Considerations are Necessary to Protect Access to Telehealth for Marylanders with Mental Health and Substance Use Disorders.

In addition to payment parity in Medicaid and expanding originating sites in private insurance, we urge the Committee to adopt the following provisions from HB 551 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 services 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.
- Authorize reimbursement for remote patient monitoring (RPM) for mental health and substance use disorders in private insurance and Medicaid, as these services have been effective tools for medication management and they can help alleviate some of the burden of the significant behavioral health workforce shortage.
- 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 the mode of service delivery – whether it be in person, audio-visual telehealth, or audio-only telehealth – that is the most appropriate for them, and ensure that commercial plans are permitted to count telehealth visits only if the patient elects to receive services via telehealth, consistent with the existing standard.

For these reasons, we encourage you to support HB 731 and to consider the additional protections in HB 551 to ensure comprehensive access to telehealth for Marylanders with mental health and substance use disorders.

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