



ADDRESSING DIGITAL HEALTH EQUITY

DEVELOPING A TELEMEDICINE PROGRAM ARIZONA TELEMEDICINE PROGRAM MAY 1, 2023

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Reminder

The information contained and delivered in this presentation is for educational and informational purposes only and should not be considered legal advice.

The views, opinions, and positions expressed are mine alone and do not necessarily reflect the views, opinions, or positions of my employers or affiliated organizations.

I hope the information presented will help you better navigate telehealth policy issues and support adding your voice to the discussions.



Overview

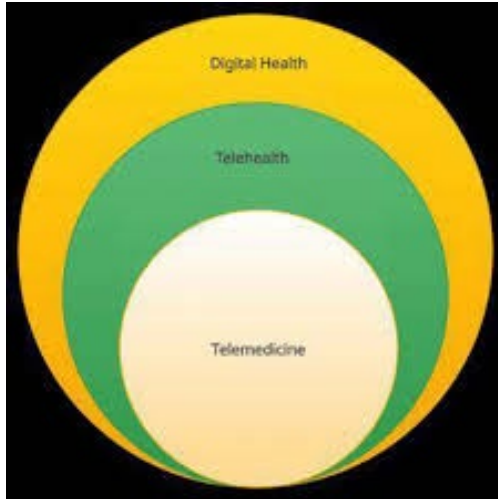
Defining and Addressing Digital Health Equity

- Definitions Matter
- Payment Parity
- PHE and Virtual Prescribing of Controlled Substances

Looking Ahead

- Strategies to Achieve Digital Health Equity

Definitions and Advancements



Telehealth
Delivering Care
at a Distance

Telemedicine
Practicing Medicine
at a Distance



Interactive Patient Care (IPC)

Live Video, Chat, or Phone Interaction
between a Clinician and a Patient



Remote Patient Monitoring (RPM)

Continuous & Periodic Transmission
of Vital Signs

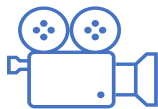


Store & Forward (S&F)

Asynchronous Transmission
of Images, Video, Sound, etc.

Emerging Digital Health Tools and Patient's Role

Services carried out using a **variety of digital health technologies** such as:



Synchronous Tools
(videoconferencing)



Asynchronous Tools
(secure messaging, SMS)



Audio Digital Tools
(phone calls)

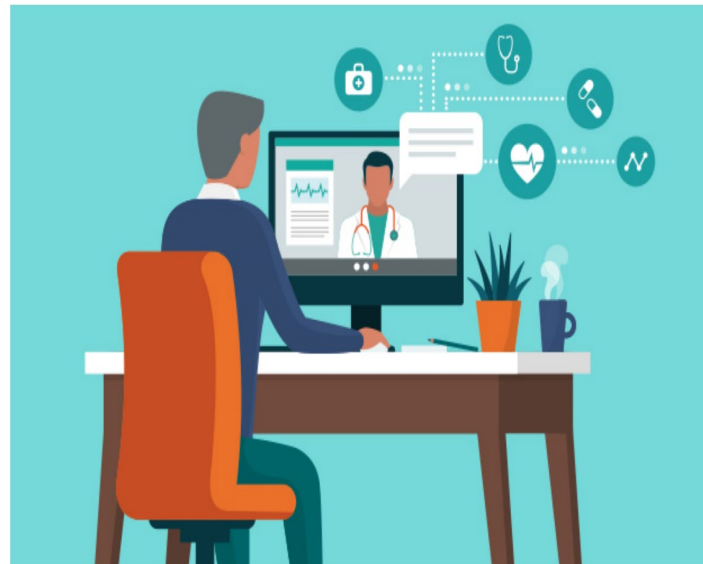


Digital Self-Care Tools
(applications that collect and store biometric data)

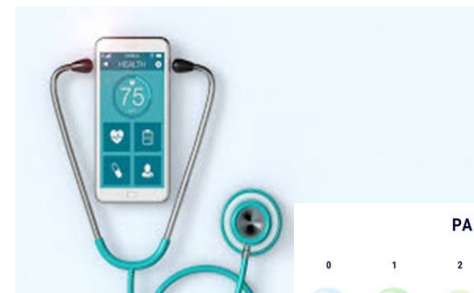


Remote Home Monitoring

Only 5% of Medicare beneficiaries use RPM. Estimates project 25% by 2025.



[HTTPS://WWW.OUTSOURCING-PHARMA.COM/ARTICLE/2021/04/07/PATIENT-CENTRIC-APPROACH-MORE-IMPORTANT-THAN-EVER-DELOITTE](https://www.outsourcing-pharma.com/article/2021/04/07/patient-centric-approach-more-important-than-ever-deloitte)



PAIN MEASURING



What is Digital Health Equity?

Everyone should have a **fair and just opportunity** to engage with and benefit from **digital health tools.**



Disparities, HealthyPeople.gov, <https://www.healthypeople.gov/2020/about/foundation-health-measures/Disparities>.

Paula Braveman et al., What is Health Equity?, Robert Wood Johnson Found. (2017),

<https://www.rwjf.org/en/library/research/2017/05/what-is-health-equity-.html>.

Legislative Telehealth Definition

Interactive use of **audio**, video or other electronic media, including asynchronous store-and-forward technologies and remote patient monitoring technologies, for the practice of health care, assessment, diagnosis, consultation or treatment and the transfer of medical data; and

Audio-only if an audio-visual telehealth encounter is not reasonably available due to the patient's functional status or lack of technology or infrastructure limits, as determined by the healthcare provider.



AZ HB 2454

Enacted May 2021

Title 36, Chapter 36
Public Health & Safety,
Telehealth

[Sec. 3601: Definitions](#)

[Sec: 3601-3608](#)

Legislative Telehealth Definition

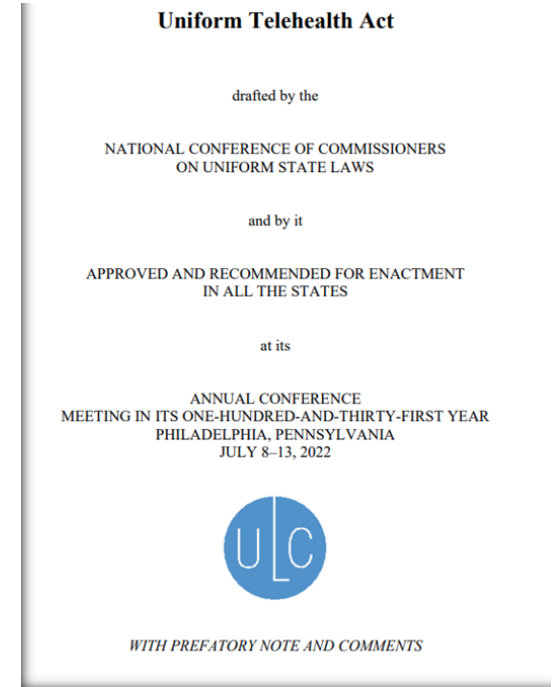
Delivery of medical services through **HIPAA-compliant telecommunications** systems, while the patient is located at an **originating site** and the licensee is located at a distant site.

CO HB 1190
Enacted May 2021



Legislative Telehealth Definition

Use of **synchronous or asynchronous telecommunication technology** by a practitioner to provide health care to a patient at a **different physical location** than the practitioner.



<https://www.uniformlaws.org/committees/community-home?CommunityKey=2348c20a-b645-4302-aa5d-9ebf239055bf>

Telehealth Definition Impacts Reimbursement and Access

MEDICAID REIMBURSEMENT BY SERVICE MODALITY

(Fee-for-Service)



Live Video

50 states and DC



Store and Forward

25 states



Remote Patient Monitoring

34 states



Audio-Only

34 states and DC

As of Fall 2022

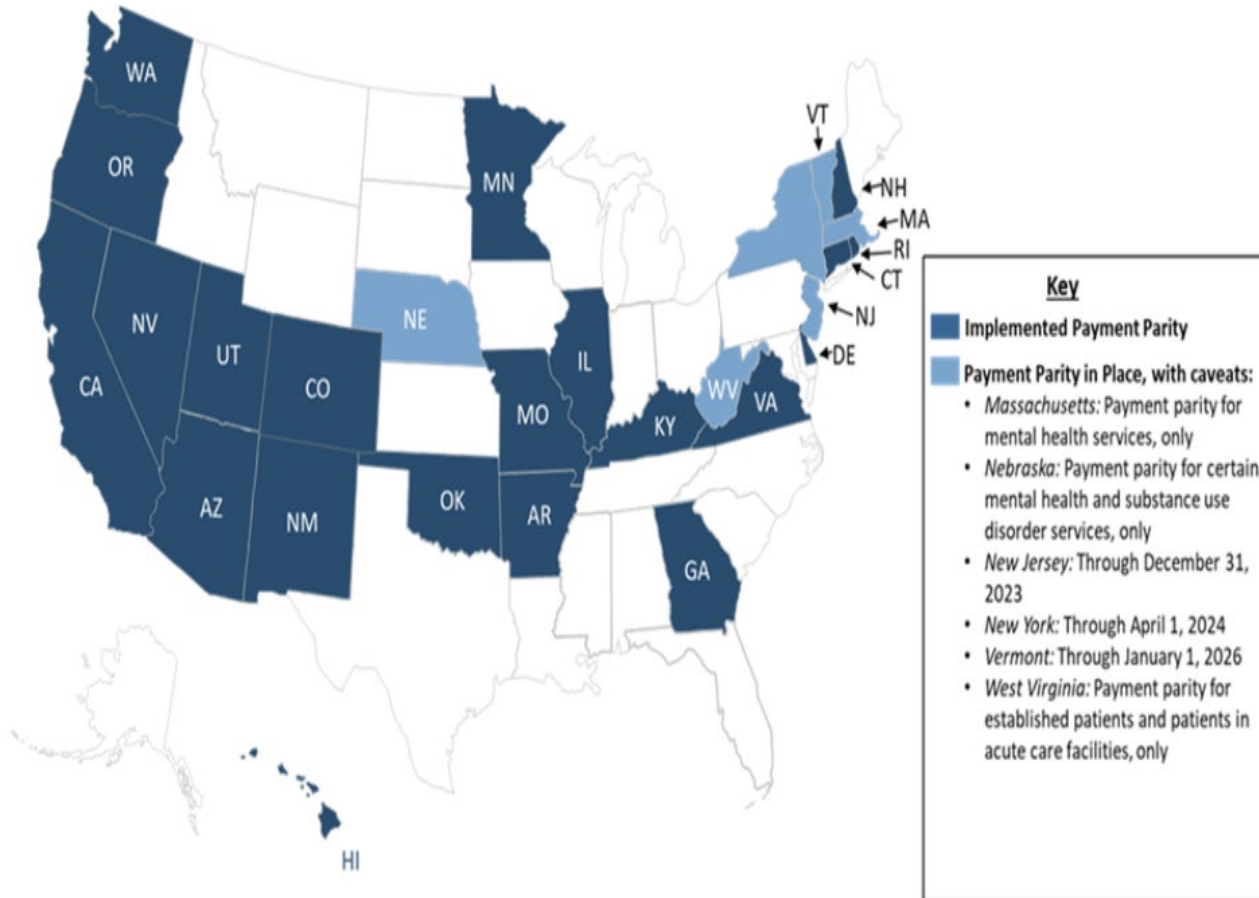


Telehealth Advisory Committee on Best Practices

Submitted [report](#) re: **audio-only** on 12/2021 and [amended](#) on 3/2022.

Payment parity (reimburse at same rate) between audio and video visits helps align financial incentives to cover modalities that meet the standard of care.

Figure 1. Map of States With Laws Requiring Insurers to Implement Payment Parity (as of April 2023)



**21 states:
Payment Parity**

**6 states:
Payment Parity with
Caveats**

**23 states:
No Payment Parity**

<https://www.idsupra.com/legalnews/executive-summary-tracking-telehealth-6103521/>

History of Telehealth Parity

AB292 (2015) – Coverage Parity

“The full benefits of telehealth cannot be realized; now, therefore...Ensure that services provided through telehealth are **covered** by policies of insurance to the same extent as though provided in person or by other means.”

SB5 (2021) – Payment Parity Sunsets with PHE

SB119

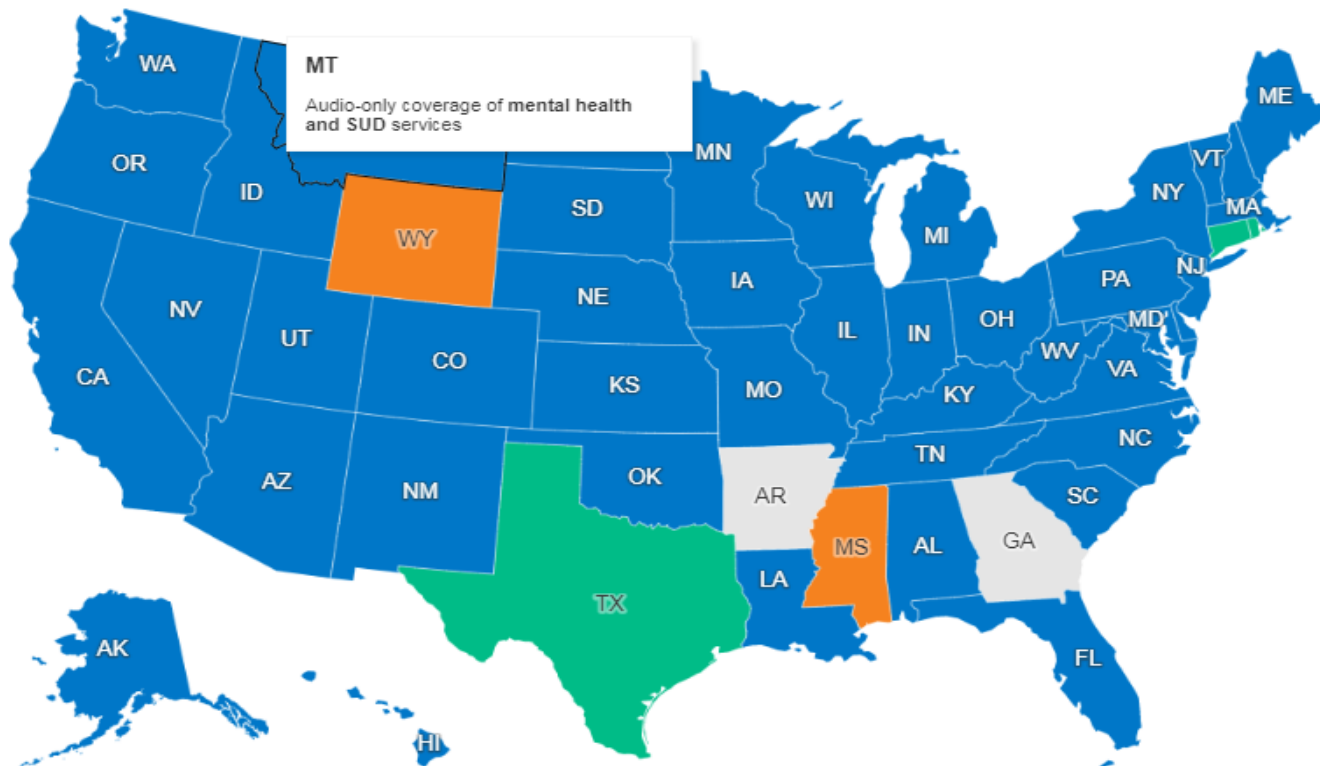
(April 25, 2023, unanimously passed Senate)

“Health insurance must provide reimbursement for services in the **same amount** as though provided in person or by other means” **except audio-only**, unless for behavioral health or substance use.



States Providing Medicaid Coverage of Behavioral Health Services Delivered via Audio-Only Telehealth, as of 7/1/2022

■ Audio-only coverage of **mental health and SUD** services (44 states incl DC) ■ Audio-only coverage of **mental health** services (not SUD) (3 states) ■ No audio-only coverage of mental health or SUD services (2 states) ■ NR (2 states)



[Telehealth Delivery of Behavioral Health Care in Medicaid: Findings from a Survey of State Medicaid Programs](#)

NOTE: Findings are from KFF's 22nd annual [budget survey](#) of Medicaid officials conducted by KFF and Health Management Associates (HMA).

SOURCE: [Telehealth Delivery of Behavioral Health Care in Medicaid: Findings from a Survey of State Medicaid Programs](#) • PNG

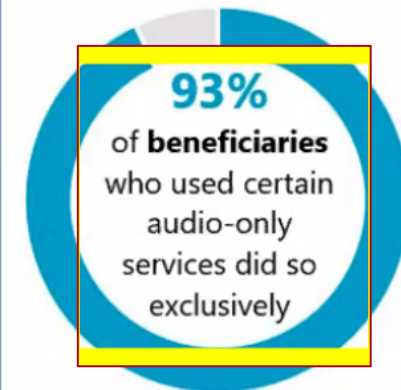


Jan 10, 2023

- **Almost 1 in 5 beneficiaries used certain audio-only telehealth services, with the vast majority of these beneficiaries using them exclusively.**
- **Older beneficiaries were more likely to use these audio-only services than younger beneficiaries.**
 - **Notable because older beneficiaries were less likely to use all telehealth services than younger beneficiaries.**

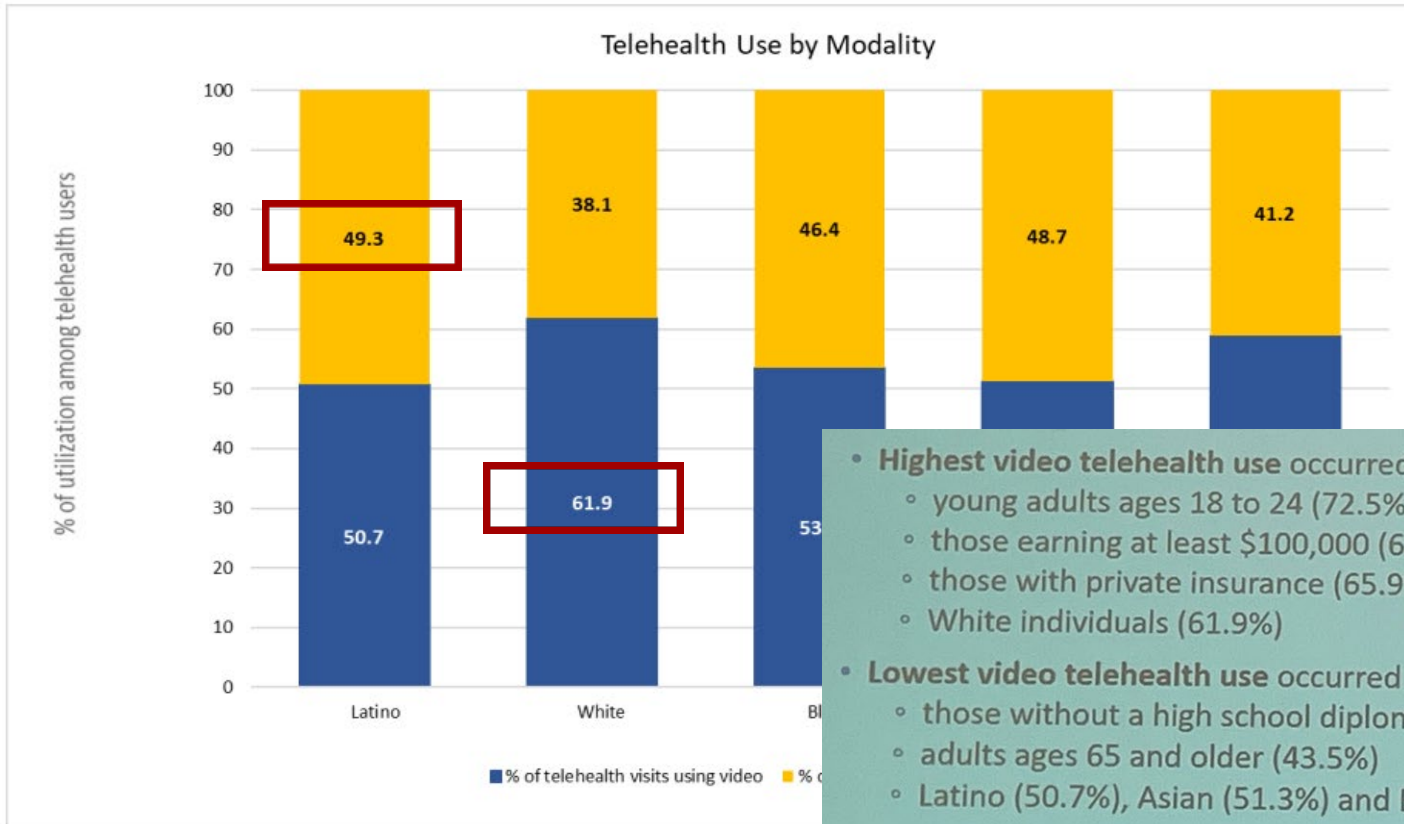
Medicare Telehealth Services During the First Year of the Pandemic:
Program Integrity Risks
<https://oig.hhs.gov/oei/reports/OEI-02-20-00720.pdf>

The vast majority of beneficiaries who used certain audio-only services **did not use any audio-video telehealth services.**



Source: OIG analysis of CMS data, 2022.

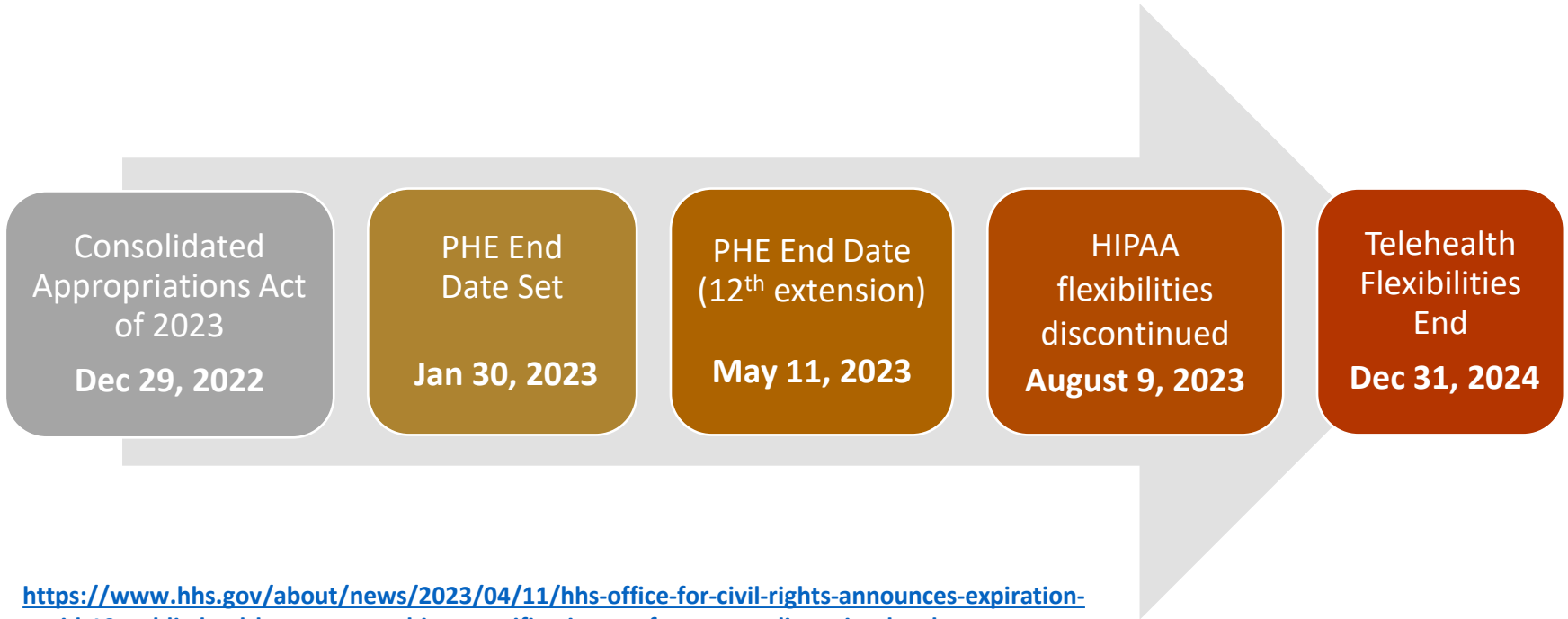
Figure 2. Telehealth Modality (Video vs. Audio) Among Telehealth Users, By Race/Ethnicity



- **Highest video telehealth use** occurred among:
 - young adults ages 18 to 24 (72.5%)
 - those earning at least \$100,000 (68.8%)
 - those with private insurance (65.9%)
 - White individuals (61.9%)
- **Lowest video telehealth use** occurred among:
 - those without a high school diploma (38.1%)
 - adults ages 65 and older (43.5%)
 - Latino (50.7%), Asian (51.3%) and Black individuals (53.6%)

PHE is Ending

Key Dates for Telehealth



<https://www.hhs.gov/about/news/2023/04/11/hhs-office-for-civil-rights-announces-expiration-covid-19-public-health-emergency-hipaa-notifications-enforcement-discretion.html>

Disentangling Telehealth from the Public Health Emergency

By Tara Sklar, JD, MPH on Jan 12, 2023



Five Key Telehealth Takeaways from the Consolidated Appropriations Act of 2023

<https://telemedicine.arizona.edu/blog/disentangling-telehealth-public-health-emergency>

Extended to December 31, 2024

Legislation signed on 12/29/22.

Sec. 4113. Advancing Telehealth Beyond COVID–19.

#1: Home is considered an originating site.

#2: Medicare reimbursement for **audio-only** telehealth services.

#3: In-person visits for telebehavioral health waived under CAA, but virtual prescribing for controlled substances tied to PHE.

#4: Extend pre-deductible telehealth waiver.

#5: Expand care options with eligible practitioners, safety net providers, and acute hospital care at home programs.

30-day public comment period ended on **March 31, 2023**



FEDERAL REGISTER

The Daily Journal of the United States Government



PR Proposed Rule

Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-Person Medical Evaluation

35,466
comments
submitted

<https://www.regulations.gov/document/DEA-2023-0029-0001>



DEA Telehealth Proposal Brings Risks, Not Patient Protections

[Georgia Gaveras, DO](#)

MARCH 23, 2023

“Choosing a psychiatrist should not simply be determined by proximity.

Expertise, ability, and therapeutic alliance — the trust and safety a patient feels with their psychiatrist— are all critical for successful outcomes.”

Disproportionate impact on marginalized groups, **Medicaid** beneficiaries, and counter to other federal efforts.

Gender affirming care
and access to
testosterone.

Patients at end of life on
palliative care and
hospice at home.

Veterans Health
Administration and Biden
Administration efforts to
improve access to
behavioral health
for veterans.

DEA's Proposed Rules for Telehealth Prescribing of Controlled Substances Post-PHE

Join us: March 23, 2023

9am PDT, 10am MDT, 11am CDT, 12pm EDT

Objectives:

1. Understand key provisions of the proposed rules and new process if the rules go into effect.
2. Increase understanding of the current public comment period and how to participate.
3. Learn what to do now in case the proposed rules go into effect post-PHE.

Presenters:

Christa Natoli, CTeL Executive Director

Ben Steinhafel, CTeL Director of Policy & External Affairs

Tara Sklar, JD, MPH, ATP Associate Director Telehealth Law & Policy

Facilitator: **Elizabeth Krupinski, PhD**, SWTRC Director

ARIZONA
TELEMEDICINE
PROGRAM



CTeL

TELEHEALTH | RESEARCH · POLICY · ACTION



To register visit: www.Telemedicine.Arizona.edu

Webinar recording:

<https://swtrc.wistia.com/medias/xrud2yhaq2>



ARIZONA TELEMEDICINE PROGRAM WEBINAR SERIES

The practice and delivery of healthcare is changing with an emphasis on improving quality, safety, efficiency, & access to care. Telemedicine can help you achieve these goals! The Arizona Telemedicine Program and Southwest Telehealth Resource Center invite you to a free one-hour CME webinar on the implementation and practice of telemedicine.

CME provided by The University of Arizona College of Medicine - Tucson

NAVIGATING TELEHEALTH LEGISLATIVE AND POLICY CHANGES BEYOND THE PUBLIC HEALTH EMERGENCY

WEDNESDAY, APRIL 12, 2023

12:00 pm MST = 1:00 pm CST = 2:00 PM EST

Join us to learn about the latest in telehealth legislation and policy changes.

OUTCOME OBJECTIVES

- Incorporate into telehealth practice current legislation, policies, and regulations.
- Implement recommended processes for complying with telehealth legislation and regulations.
- Gain proficiency in current federal and state legislation that impact telehealth and virtual care options.
- Increase understanding in the impact of telehealth legislation across provider specialty areas and patient population groups.

CONTINUING MEDICAL EDUCATION

Accreditation Statement

The University of Arizona College of Medicine - Tucson is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians.

The University of Arizona College of Medicine - Tucson designates this live activity for a maximum of 1.0 AMA PRA Category 1 CreditsSM.

Physicians should claim only the credit commensurate with the extent of their participation in the activity.

Disclosure Statement

All Faculty, CME Planning Committee Members, and the CME Office Reviewers have disclosed that they do not have any relevant financial relationships with ineligible companies that could constitute a conflict of interest concerning this CME activity.

For more information, contact Melanie Esher, MAdm, at mesh@telemedicine.arizona.edu

This webinar is made possible through funding provided by Health Resources and Services Administration, Office for the Advancement of Telehealth (1U42527).

PRESENTER



Tara Sklar, JD, MPH

*Faculty Director, Arizona Law
Senior Advisor, Arizona Telemedicine
Program*

Tara Sklar is the Faculty Director of the Health Law & Policy Program at Arizona Law. She also holds appointments as Senior Advisor for Telehealth Law & Policy with the Arizona Telemedicine Program and for Innovations in Healthy Aging with the University of Arizona Health Sciences. Sklar currently serves as a telehealth policy consultant with the Department of Health and Human Services, Health Resources & Services Administration in the Office for the Advancement of Telehealth.

REGISTRATION

www.telemedicine.arizona.edu

Webinar recording from April 12, 2023:

<https://swtrc.wistia.com/medias/zapr3125bp>

What happens next?

DEA has **41 days** - April 1 to May 11th

DEA must conclude that proposed rule **accomplishes the goals** of the problems identified.

DEA must also consider whether **alternate solutions** would be more effective or cost less.

Alternatives to a blanket in-person requirement

- ❑ Proposal not tenable given **demand** far exceeding supply.
Half of U.S. counties have zero psychiatrists.
- ❑ Recognize **short notice** and lack of infrastructure.
Change care delivery and business models (providers)
Compliance and enforcement (DEA)
- ❑ Propose enforcement discretion by not require in person visit for **established provider-patient relationships** (beyond proposed 180-days) until end of **December 31, 2024** (CAA 2023).

Virtual Prescribing in Arizona



Arizona State Law § 32-1401(27)(tt) – defines unprofessional conduct as:

“Prescribing, dispensing or furnishing a prescription medication or a prescription-only device... licensee first conducts a **physical or mental health status examination** of that person or has previously established a doctor-patient relationship. **The physical or mental health status examination may be conducted through telehealth as defined in section 36-3601.**”

Arizona State Law § 36-3602(E)

Schedule II drugs may be prescribed only after an in-person or **audio-visual examination** and only to the extent allowed by federal and state law.

Trending in Telehealth: March 13 – March 19, 2023

Friday, March 24, 2023

Trending in the past week:

- Interstate Compacts
- Medicaid Reimbursement
- Prescribing
- Health Practitioner Licensing
- Behavioral Health

In Arizona, proposed bill ([SB 1457](#)) permit licensed psychologists to prescribe psychotropic medications by obtaining a “**prescription certificate**” from the Arizona Board of Psychologist Examiners.

Conditional prescription certificate under the supervision of a licensed physician in-person, by phone or via video conference.

Full prescribing authority under a “**prescription certificate**” by satisfying the proposed requirements, including the following:

- Complete an additional practicum of at least 400 hours treating at least 100 patients with mental disorders under physician supervision.
- Complete a practicum of at least 80 hours in clinical assessment and pathophysiology under physician supervision

Withdrawn on 3.31.23

<https://www.natlawreview.com/article/trending-telehealth-march-13-march-19-2023>

Looking Ahead

Strategies to Achieve Digital Health Equity

Medicare Telehealth Policies Post-PHE

MARCH 2, 2023



THE NATIONAL
TELEHEALTH POLICY
RESOURCE CENTER

AT-A-GLANCE: MEDICARE TELEHEALTH/CONNECTED HEALTH WAIVERS POST-PHE

The chart below shows what the status will be for a temporary telehealth-related policy in a post-public health emergency (PHE) landscape. This resource provides an at-a-glance overview of the federal telehealth waivers that were made in response to COVID-19 and is meant to be a summary. Footnotes have also been provided where more explanation may be needed. More detailed information can be found through the [Centers for Medicare and Medicaid Services \(CMS\) fact sheets](#) for each individual provider type. Please note that this at-a-glance chart is divided by provider type, and the page number for each entry refers to that specific CMS fact sheet, which has been hyperlinked in the heading for each section where you can read the full information. The same policy may appear in multiple fact sheets, but the At-A-Glance may only reference it in one fact sheet as the status of that policy post-PHE does not change from fact sheet to fact sheet. The information for this chart was pulled from the CMS fact sheets dated February 24, 2023. Keep in mind that CMS may provide future updates to these documents.

COVID POLICY	PERMANENT ¹	ENDS WITH PHE	ACTIVE THROUGH 2023 ²	EXPIRES 12/31/24 ³	FACT SHEET PAGE
FACT SHEET: PHYSICIAN & OTHER CLINICIANS					
Allowing all eligible Medicare providers to provide services via telehealth.				X	5
Temporarily continue to allow the use of audio-only to provide certain services.				X	5, 8
Temporarily waive site requirements such as patient needing to be in a rural area or in a specified health care site when receiving services via telehealth.				X	5
Temporarily suspend in-person visit requirement for delivery of mental health services via telehealth when patient is not located in a geographically and/or site eligible location.				X	5

¹ Source of change: Physician Fee Schedule

² Source of change: Physician Fee Schedule

³ Source of Change: Consolidated Appropriations Act of 2023.

Infrastructure Investment and Jobs Act

\$65 billion for digital equity

\$42.5 billion
for broadband
infrastructure

\$14.2 billion
for \$30
internet
subsidy

\$2.8 billion for
digital literacy

Additional
funds

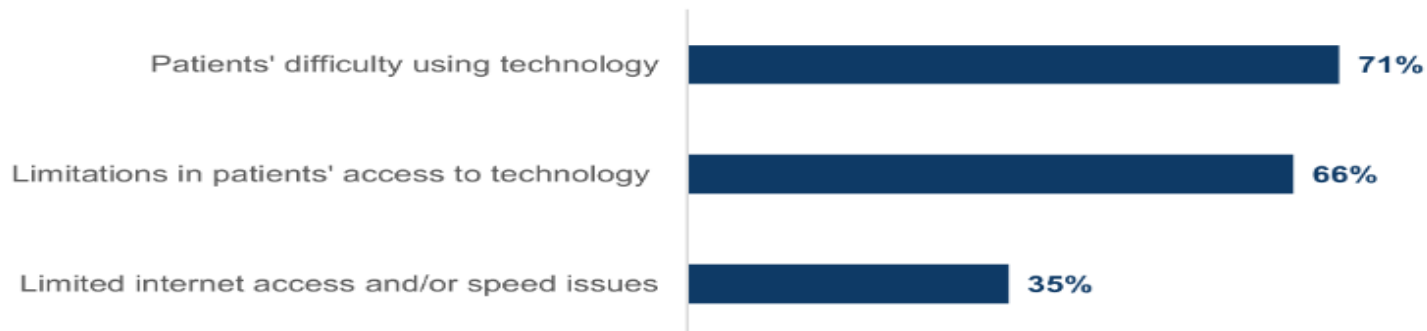
Use of Telemedicine among Office-Based Physicians, 2021

ONC Data Brief | No.65 | March 2023

Patients' difficulty using telemedicine tools was the most common reported barrier affecting physicians' use of telemedicine.

FINDINGS

- ★ The most common barriers for telemedicine use experienced by physicians involved patients' difficulties using and accessing telemedicine technology.
- ★ Over 1 in 3 physicians reported internet access and speed issues as an issue affecting their use of telemedicine.
- ★ Less than 1 in 4 physicians reported telemedicine is not appropriate for their practice (26%) and telemedicine platform is not easy to use (18%).



Population Groups Disproportionately Impacted by the Digital Divide

- Older adults
- Racial and ethnic minority groups
- Disability
- Low socioeconomic status
- Living in rural areas
- Limited English Proficiency



Magnifies a broader concern for digital health equity

Can a company that prioritizes 'profits', adapt to the special needs of vulnerable populations in a fair and equitable way?



Walmart  Health


current health
A Best Buy Health™ Company

SENATE No. 655

The Commonwealth of Massachusetts

PRESENTED BY:

Adam Gomez

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to telehealth and digital equity for patients.

Digital health literacy screening program to identify low digital health literacy and support effective use of telehealth technology, including:

- educational materials about how to access telehealth in **multiple languages**, and in alternative formats;
- hold digital health literacy workshops;
- integrate digital health coaching;
- offer in-person **digital health navigators**; and
- partner with local **libraries** and/or community centers that offer digital health education services and supports.



Home

Online exams
Virtual visits



On the go

Mobile app
Patient portal
Clinical chats
Digital outreach



Schools



Business



Prisons



Rural clinics

Enhanced video visits: preventative, primary, behavioral, specialty care



EMS Transport

Prehospital consults



Hospital

Specialist consults + patient monitoring



Post Acute



Home

Hospital recovery at home
Chronic care monitoring



Ambulatory + Ancillary

Specialist consults
Support services: labs

Expanding care venues into the community – **libraries**

CMS waiver for hospital-at-home designed to address COVID-

19-driven capacity issues

Dec 14, 2020

Leading Health Innovators Launch Alliance To Advance Care In The Home

Coalition to focus on site of service flexibility for clinical care in the wake of pandemic

Amazon Care, Intermountain, Ascension launch hospital-at-home healthcare alliance

Jackie Drees - Wednesday, March 3rd, 2021 Print | Email

Jun 14, 2021, 08:30am EDT | 1,405 views

Where Hospital-At-Home Programs Are Heading After Last Year's Boom



Ashish V. Shah Forbes Councils Member
Forbes Technology Council COUNCIL POST | Membership (Free-Based)
Innovation

[Global Edition](#) [Telehealth](#)

Kaiser, Mayo, Medically Home found coalition to promote advanced hospital-at-home services

Federal regulators should "put guardrails on, but let us continue the good work," says Mayo Clinic's Dr. Michael Maniaci.

Hospital at Home: Users Group

**182 hospitals/systems
now have a program- up
from 5-10 pre-pandemic**

To date:

277 hospitals
across 37 states
participate in the
**Acute Hospital Care
at Home (AHCaH)**
[program](#) since Nov.
2020.

What if You Could Go to the Hospital ... at Home?

Hospital-at-home care is an increasingly common option, and it is often a safer one for older adults. But the future of the approach depends on federal action.

[Give this article](#) [Share](#) [Bookmark](#) [Comment](#)



Raymond Johnson of Boston spent four days as an inpatient while he was being treated for heart failure: one day in a hospital, followed by three in his own apartment receiving hospital-level care in an alternative called hospital at home. Sophie Park for The New York Times

By [Paula Span](#)
Nov. 19, 2022

Late last month, Raymond Johnson, 83, began feeling short of breath. “It was difficult just getting around,” he recently recalled by

A New York City study found that hospital-at-home care also worked well for economically disadvantaged patients .

*“Twenty percent of people **over 65** become delirious during a hospital stay... Studies have found that patients in hospital-at-home programs spend less time as inpatients and, afterward, in nursing homes.*

They are less sedentary, less likely to report disrupted sleep and more apt to rate their hospital care highly.”

ARIZONA
TELEMEDICINE
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THE UNIVERSITY OF ARIZONA
JAMES E. ROGERS COLLEGE OF LAW

Health Law

Thank you

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 @trsklar

<https://telemedicine.arizona.edu/>

<https://southwesttrc.org/>

<https://law.arizona.edu/health>