

2023 SESSION POSITION PAPER

BILL NO: SB 534

COMMITTEE: Senate Finance Committee

POSITION: SUPPORT WITH AMENDMENTS

TITLE: Preserve Telehealth Access Act of 2023

BILL ANALYSIS

SB 534 - Preserve Telehealth Access Act of 2023 extends through June 30, 2025, certain telehealth coverage and reimbursement provisions passed by the Maryland General Assembly, Chapter 70 (HB 123) and Chapter 71 (SB 3) of the 2021 Laws of Maryland. The bill applies to the Maryland Medical Assistance Program (Medicaid) and certain insurers, nonprofit health service plans, and health maintenance organizations (collectively “carriers”).

POSITION AND RATIONALE

The Maryland Health Care Commission (the “Commission”) supports SB 534 with amendments. The 2021 law temporarily expanded through June 30, 2023, the definition of telehealth to include medically necessary somatic, dental, or behavioral health services to a patient, and removed restrictions on the location of a patient at the time telehealth services are provided. The law requires audio-only telephone conversations between a provider and patient to be reimbursed at the same rate as covered health care services delivered in-person. The Commission was required to study the impact of telehealth as it relates to the use of audio-only and audio-visual technologies in somatic and behavioral health interventions and submit recommendations on telehealth coverage and payment levels relative to in-person care to the Senate Finance Committee and the House Health and Government Operations Committee. The Commission submitted a final recommendations report (“report”).¹

The COVID-19 public health emergency (“PHE”) created unprecedented demand for telehealth. Carriers made telehealth policy changes building on regulatory actions taken by way of State executive orders and federal waivers. Such actions enabled greater flexibility and operational changes in accessing virtual health care services for both COVID-19 and non-COVID-19 health conditions. The

¹ *Maryland Health Care Commission*. “Preserve Telehealth Access Act of 2021, Telehealth Recommendations, Final Report – December 16, 2022.” Available at:

mhcc.maryland.gov/mhcc/pages/hit/hit_telemedicine/documents/hit_tlth_study_recommendations.pdf.

Note: The Maryland Health Care Commission is an independent State agency, and the position of the Commission may differ from the position of the Maryland Department of Health.

PHE demonstrated the utility of telehealth and its potential to address disparities in access to care.^{2, 3} While telehealth utilization has declined as the PHE regresses, its use remains above pre-PHE levels in Maryland and the nation. Most providers strongly support preserving policy changes originating from the telehealth waivers. Carriers are somewhat reluctant on preserving all waivers until sufficient data are available to measure the long-term impact on quality and cost. The Commission’s report noted that more data is needed to compare telehealth to in-person care and fully understand the impact of using audio-only and audio-visual technologies in somatic and behavioral health.

The telehealth study analyzed data available from MHCC’s All-Payer Claims Data Base (“APCD”) through 2021.⁴ Further insights can be derived from analyzing additional claims data. This is necessary to formulate data-driven and evidence-based recommendations to guide future telehealth policy and legislation that takes into consideration the extent telehealth affects quality and cost, and its impact on health equity. The Commission recommends that the bill be amended as follows:

AMENDMENT:

- Page 5, after line 11 insert:

THE MARYLAND HEALTH CARE COMMISSION SHALL STUDY PAYMENT PARITY FOR AUDIO-VISUAL AND AUDIO-ONLY TECHNOLOGIES AND SUBMIT A REPORT TO THE MARYLAND GENERAL ASSEMBLY BY DECEMBER 1, 2024 THAT ADDRESSES THE FOLLOWING:

(A) DOES IT COST MORE OR LESS FOR PROVIDERS TO DELIVER TELEHEALTH;

(B) DOES TELEHEALTH REQUIRE MORE OR LESS CLINICAL EFFORT FOR A PROVIDER;

² Colbert, G. B., Venegas-Vera, A. V., & Lerma, E. V. (2020). “Utility of telemedicine in the COVID-19 era.” *NIH National Library of Medicine Reviews in Cardiovascular Medicine*, 21(4), 583-587. Available at: pubmed.ncbi.nlm.nih.gov/33388003/.

³ Chen, J., Li, K. Y., Andino, J., Hill, C. E., Ng, S., Steppe, E., & Ellimoottil, C. (2022). “Predictors of Audio-Only Versus Video Telehealth Visits During the COVID-19 Pandemic.” *Springer Link, Journal of General Internal Medicine*, 37(5), 1138-1144. Available at: link.springer.com/article/10.1007/s11606-021-07172-y.

⁴ APCD data used in the study for commercial payers, Medicaid, and Medicare was for the period 2018 through 2021. Claims level detail for 2021 Medicare data was unavailable; summary level data provided by the Health Services Cost Review Commission to aggregate select data to certain specifications.



(C) ARE THERE ASPECTS OF TELEHEALTH THAT YIELD LOWER VALUE, OVERUSE, OR CONVERSELY GREATER VALUE THAT INFORM THE DEBATE ON PAYMENT PARITY;

(D) THE ADEQUACY OF REIMBURSEMENT FOR BEHAVIORAL HEALTH SERVICES DELIVERED IN-PERSON AND BY TELEHEALTH; AND

(E) ANY OTHER FINDINGS AND RECOMMENDATIONS.

