



Telehealth Policy

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Policy It is the policy of the San Bernardino County (County) Department of Behavioral Health (DBH) for department programs and contract agencies to make telehealth services available as an alternative method to in-person care, when deemed appropriate, upon client request, and in accordance with the applicable state and federal laws, and Department of Health Care Services (DHCS) and Centers for Medicare and Medicaid Services (CMS) standards.

Purpose To outline requirements for delivering behavioral health services via telehealth, both audio only and audio-video capabilities, in compliance with applicable state and federal laws, and DHCS and CMS standards.

Definition(s) **Asynchronous Store and Forward:** Transmission of a client’s medical information from an *originating site* to the health care provider at a *distant site* without the presence of the client.

Border Community: A community outside of the State of California that is not considered to be out of state for the purpose of excluding coverage by the Mental Health Plan (MHP) because of its proximity to California and historical usage of providers in the community by Medi-Cal beneficiaries.

Distant Site: Physical location of a health care provider while providing behavioral health services via telehealth.

Interactive Telecommunications Systems: Multimedia communications equipment that includes, at minimum, audio **and** visual equipment permitting two-way, real time interactive communication between the client and *distant site* health care provider or practitioner. Telephones, facsimile machine and electronic mail systems **do not** meet this definition.

Originating Site: Physical location where the client receives behavioral health services via an interactive telecommunications system. This can be a client’s residence, a behavioral health clinic or an alternate location of a client’s choosing.

Synchronous Interaction: Real-time interaction between a client and a health care provider located at a *distant site*.

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Telehealth Policy, Continued

**Definition(s),
continued**

Telehealth: Method of delivering behavioral health, either clinical or non-clinical services, via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a client’s behavioral health care while the client is at an *originating site*, and the health care provider is at a *distant site*.

Telemedicine: Provision of medical or clinical services from a distance and is facilitated through the use of electronic communication and information technologies to provide and support health care when distance separates the participants. Telemedicine is a component of telehealth.

**Elements
Required**

The following elements must be satisfied when rendering telehealth services:

- Benefits or services are clinically appropriate;
- Benefits or services utilize evidence-based theories, medicine and/or best practices;
- All laws regarding confidentiality of health care information and a patient’s right to their medical and/or behavioral health information are continuously met;
- The equipment used must be either an interactive audio, video, or data telecommunications system that permits real-time communication between the health care provider and client;
- Client consent to telehealth services is obtained (see *Consent Requirement* block for additional information.) **and**,
- Services occur via a HIPAA compliant mechanism.

Note: While delivering telehealth, service provider must ensure privacy and security safeguards are maintained including, but not limited to: stating your name and credentials at the beginning of the encounter, confirming client’s identity at the beginning of each encounter, ensuring encounter is conducted in a private area (distant and originating site) to ensure confidential information is not overheard by others, use of issued devices, etc.

**Telehealth and
5150
Assessments**

California Welfare and Institutions Code (WIC) §5150.5 (a) provides for an examination or assessment pursuant to WIC 5150 or 5151, may be conducted via telehealth. Per WIC §5151(b), the qualified professional must assess the individual for appropriateness of involuntary detention. The assessment shall be made “face-to-face” either in person or by synchronous interaction through a mode of telehealth that utilizes both audio and visual components.

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Telehealth Policy, Continued

Consent Requirement

Informed consent must be obtained from a client prior to rendering a telehealth service. Verbal or written consent from the client accepting delivery of services via telehealth shall be documented in the client's medical record. Consent is only required to be obtained/documentated once during the entire duration of treatment services with DBH.

For DBH staff, the approved Telehealth Consent Form (MDS042) must be utilized if written consent is obtained. If verbal consent is obtained, the following must be communicated and notated in the client's medical record as being verbally communicated and acknowledged by the client:

“Under Medi-Cal you have the option to receive services in person in a face-to-face visit or via telehealth. If you have trouble accessing in person services due to transportation, Medi-Cal provides coverage for transportation services when other resources have been reasonably exhausted. There may be limitations or risks related to receiving services through telehealth rather than in person. For example, technical glitches, disconnection, compromised privacy/security, etc. If you choose to receive services by telehealth, you may change your mind at any time by letting us know. If you change your mind about using telehealth, you will still have access to Medi-Cal covered services. Knowing all of this, do you want to have the option of receiving services from us now or in the future via telehealth? (Yes/No).”

Qualifying Telehealth Providers

Medicare	Medi-Cal
<p>Treating health care provider must be an enrolled Medicare rendering provider and licensed under State law (See Medi-Cal).</p> <p>The following list of health care providers are eligible to deliver Medicare covered services:</p> <ul style="list-style-type: none"> • Physicians; • Nurse practitioners; • Physician assistants; • Clinical nurse specialists; • Clinical psychologists; • Clinical social workers; • Occupational therapist. 	<p>Treating health care provider rendering Medi-Cal covered services must:</p> <ul style="list-style-type: none"> • Meet the requirements of Business and Professions Code (BPC), § 2290.5(a)(3), or equivalent requirements under California law in which the provider is considered to be licensed (includes associates and trainees/interns); • Be licensed or waived to practice in the State of California; • Be enrolled as a Medi-Cal rendering provider or non-physician medical practitioner and affiliated with an enrolled Medi-Cal provider group;

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Telehealth Policy, Continued

Qualifying Telehealth Providers, continued

Medicare	Medi-Cal
	<ul style="list-style-type: none"> • The enrolled Medi-Cal provider group for which the health care provider renders services via Telehealth must meet all Medi-Cal program enrollment requirements, and • Be located in California or reside in a border community.

Telehealth and Potentially Dangerous Activities

Prior to beginning a session via telehealth, providers must remind the client to not engage in potentially dangerous activities such as operating a motor vehicle or operating heavy machinery during the telehealth session. If providers have any knowledge or indication that the client is engaging in a potentially dangerous activity at the beginning or during a telehealth service – they must ask the client to stop the activity before continuing with the telehealth service.

If the client refuses to stop or the provider believes that the client remains engaged in the potentially dangerous activity despite them requesting the client to stop, staff are required to exercise due diligence and if they believe it is appropriate, terminate the session. In such instances, it **must** be clearly indicated in the client record why the telehealth service was terminated.

Originating and Distant Site Locations

Medicare and Medi-Cal do not currently have restrictions for *originating site* or *distant sites* in the delivery of telehealth. Clients can receive telehealth services from their residence, a behavioral health clinic or an alternate location of the client’s choosing.

Telehealth E-Prescribing

Prescribing, dispensing, or furnishing dangerous drugs as defined in BPC §4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct per BPC §2242(a). An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care.

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Telehealth Policy, Continued

Quality Improvement

All quality improvement activities related to behavioral health service treatment may be conducted in the same manner for telehealth encounters. Results of quality improvement activities may be utilized to modify practices, policies and procedures regarding rendering telehealth services on an ongoing basis.

Video and Audio Transmission

DBH does not currently have the capability to deliver telehealth services using Asynchronous Store and Forward. Video and/or audio recording of services rendered via telehealth is **prohibited**. Video and/or audio recordings of rendered telehealth services shall not be retained or transmitted in any medium, including the medical record.

Emergency Telehealth and Exclusive Telehealth

Telehealth including telephonic services may be utilized exclusively during or immediately following a declared state of emergency per WIC § 14132.723. Neither face-to-face contact nor the physical presence of a client is required to provide services. A declared state of emergency may warrant an 1135 Waiver request of the Social Security Act to temporarily waive certain state and federal requirements. Under these circumstances, guidance separate from the telehealth policy and procedure will be provided as DHCS and/or CMS makes information available specific to each declared state of emergency.

Video synchronous interaction and audio-only synchronous interaction may be used to establish relationships with new patients for behavioral health services, which are determined “sensitive services” per California Civil Code §56.05(s). See **DBH Place of Services Code Descriptions** and **Place of Service Code Guidance** for reference for appropriate place of service selection(s).

Related Policy or Procedure

DBH Standard Practice Manual and Departmental Forms:

- Confidentiality of Protected Health Information (COM0905)
- Electronic Transfer of Client Protected Health Information Internet and Intranet Policy (COM0909)
- Security of Protected Electronic Health Information Policy (COM0923)
- Electronic Mail Use Policy (IT5005)
- Telehealth Procedure (MDS2027-1)
- Transportation of Protected Health Information Policy (COM09048) and Procedure (COM09048-1)
- Telehealth Consent Form (MDS042)

DBH Website-CALAIM Updates (Documentation, Billing and Coding):

- Place of Services Code Descriptions
 - Place of Service Code Guidance
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Telehealth Policy, Continued

- Reference(s)**
- [Board of Behavioral Services, Discussion of Telehealth Laws for Associates and Trainees](#)
 - [California Business and Professions Code, §2242\(a\) §2242.1\(a\), §2290.5, §23.8](#)
 - [California Code of Regulations, §1810.205.1](#)
 - [California Civil Code, §56.05](#)
 - [California Health and Safety Code, §1374.13](#)
 - [California Welfare and Institutions Code, §5328, §14132.72 and 14132.723](#)
 - [Centers for Medicaid and Medicare: Telehealth Services Fact Sheet](#)
 - [Code of Federal Regulations, Title 42 Part 2 Final Rule and §410.78](#)
 - [Code of Federal Regulations, Title 45, §164](#)
 - [Department of Health Care Services – BHIN No. 23-018](#)
 - [Department of Health Care Services – Medi-Cal Provider Manual: Telehealth](#)
 - [Department of Health Care Services – Telehealth FAQs](#)
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