

# Manatt on Health

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## State Telehealth Laws and Medicaid Policies: 50-State Survey Findings

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### Introduction

The use of telemedicine services is growing nationwide as providers and payors seek to improve access and better manage patient care, while reducing health care spending. State laws and Medicaid<sup>1</sup> policies related to reimbursement, licensure and practice standards are rapidly evolving in response to the proliferation of technology and the growing evidence base demonstrating the impact of telemedicine on access, quality and cost of care. Some States have been proactive in encouraging the use of telemedicine as a means to enhance services in rural areas, increase access to care for members with complex conditions, and reduce costs associated with unnecessary emergency department visits.

In light of this rapidly changing landscape, Manatt Health has conducted a 50-state survey of state laws and Medicaid program policies related to telemedicine in the following key areas:

- Practice standards and licensure
- Coverage and reimbursement
- Eligible patient settings
- Eligible provider types
- Eligible technologies, and
- Service limitations.

Based on survey results, we classified state telemedicine policies as “progressive,” “moderate,” or “restrictive” across each of these categories. (See Table 1 “State Telemedicine Policies Classification Table”.)

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<sup>1</sup> Unless indicated otherwise, all references to state Medicaid programs refer to Medicaid FFS. Select Medicaid managed care plans from some states were reviewed as part of this survey effort. Generally, Manatt found that these select Medicaid managed care plans encouraged the use of telemedicine and considered Medicaid FFS policies as a foundation for reimbursement.

The survey is intended to inform health systems and providers, state policy makers, and technology companies, regarding state-specific policies for providing health care services via telemedicine generally, and for Medicaid beneficiaries specifically. Survey results are current as of May 2018.

## Key Findings

Nearly all state Medicaid programs provide reimbursement for some telemedicine services. Most states allow several types of providers to administer care via telemedicine, and few limit the specific types of services that can be provided through these modalities. While there has been notable progress, some restrictions on the provision of telemedicine services for Medicaid members remain.

- **Patient's home as a site of service.**

The home is a critical access point for telemedicine services; it enables patients in rural areas to connect with their providers, and enables health systems to increase clinic capacity by conducting many types of routine follow-up or other visits remotely. Twenty six states provide reimbursement for telemedicine services delivered in a patient's home.<sup>2</sup>

- **Reimbursement for technologies beyond live video conferencing.**

Nearly all state Medicaid programs provide coverage and reimbursement for live video conferencing, but fewer states reimburse for telemedicine technologies beyond live video, such as store and forward, remote patient monitoring, or email and phone. Twenty nine states are reimbursing for at least one method in addition to live video, sixteen states are reimbursing for three of the four different telemedicine technologies (most states do not reimburse for care provided via email and phone), and only one state, Colorado, reimburses for all four types of technologies.

- **Physician-patient relationship.** Nine states require a provider to have an established relationship with a patient before they can connect and provide them with care via telemedicine.<sup>3</sup> For example in Mississippi, a "valid physician-patient relationship," which includes a prior physical exam, must exist in order to provide care via telemedicine. Medicaid policies that require such a

### Telemedicine Technology: Key Terms and Definitions

Term	Definition
Live Video Conferencing	Two-way interactive audio-video conferencing between a patient at an originating site and a provider at a distant site.
Store and Forward	The electronic transmission of medical images, records, or pre-recorded videos through secure email transmission.
Remote Patient Monitoring	The ongoing collection and transmission of health data

<sup>2</sup> Some of these twenty six states place limitations on reimbursement when home is the originating site. For example, in New York the home is only an eligible site of care for remote patient monitoring services. In states that had no originating site restrictions or limitations, Manatt assumed that the home is an eligible site for reimbursement.

<sup>3</sup> In some of these states, if specific conditions are met the required provider-patient relationship may be established via telemedicine.

relationship claim to protect patients but also inhibit new market entrants that offer urgent and primary care services from serving the Medicaid market.

- **Frequency limits.** Nine states place limits on the frequency with which Medicaid patients can receive care via telemedicine within a given timeframe. For example, in Georgia, hospital services are limited to one telemedicine visit every three days, and nursing facilities are restricted to one telemedicine visit every thirty days.
- **Geographic limits.** Nine states place geographic restrictions on telemedicine encounters; their Medicaid policies limit reimbursement based on where a patient or originating site provider and the distant site provider are located. For example in Indiana, the state only reimburses for telemedicine services when the hub and spoke sites are greater than twenty miles apart.<sup>4</sup>

## Implications

A growing body of evidence suggests that telemedicine will be critical to delivering health care in the future, and state Medicaid policies are evolving—in some states more quickly than others—to accelerate adoption of telemedicine models. As technology advances and the evidence base for telemedicine expands, state policy will continue to evolve to integrate telemedicine into payment and delivery reforms that support overarching program objectives related to access, quality, and cost of care.

For more information on telehealth, see our June “Health Update” article, “[Telehealth: From Competitive Advantage to Strategic Imperative](#)” and our July *Compliance Today* article, “[Telehealth: A New Frontier for Compliance Officers](#)”.

## Note:

This analysis was conducted for [Insights@ManattHealth](#), a subscription service that provides a searchable archive of all of Manatt Health’s content and features premium content that is available only to subscribers. In addition to access to state profiles providing detailed information on state laws and Medicaid program telemedicine policies, subscribers have access to: other 50-state surveys; weekly updates of key federal and state health policy activity; detailed summaries of federal Medicaid, Medicare and Marketplace federal regulatory and sub-regulatory guidance; and much more. If you are interested in learning more, please contact Patricia Boozang at [PBoozang@manatt.com](mailto:PBoozang@manatt.com).

<sup>4</sup> The following providers are exempt from distance requirements in Indiana: federally qualified health centers, rural health clinics, community mental health centers, and critical access hospitals.

Table 1: State Telemedicine Policies Classification Table

State	Practice Standards and Licensure	Medicaid Coverage and Reimbursement	Medicaid-Eligible Patient Settings	Medicaid-Eligible Provider Settings	Medicaid-Eligible Technologies	Medicaid Service Limitations	Overall Grade
AK							Progressive
AL							Moderate
AR							Restrictive
AZ							Progressive
CA							Progressive
CO							Progressive
CT							Progressive
DC							Moderate
DE							Moderate
FL							Progressive
GA							Restrictive
HI							Progressive
IA							Moderate
ID							Progressive
IL							Moderate
IN							Moderate
KS							Moderate
KY							Moderate
LA							Moderate
MA							Restrictive
MD							Restrictive
ME							Progressive
MI							Moderate
MN							Progressive
MO							Progressive
MS							Moderate
MT							Progressive
NC							Restrictive
ND							Restrictive
NE							Progressive
NH							Restrictive
NJ							Progressive
NM							Progressive
NV							Progressive
NY							Progressive
OH							Restrictive
OK							Moderate
OR							Moderate
PA							Restrictive
RI							Restrictive
SC							Restrictive
SD							Moderate
TN							Moderate
TX							Restrictive
UT							Progressive
VA							Moderate
VT							Progressive
WA							Progressive
WI							Moderate
WV							Moderate
WY							Moderate

**KEY:**

Restrictive	State law and Medicaid policy are restrictive and may inhibit the broad use of telemedicine.
Moderate	State law and Medicaid policy are mixed and/or moderately support the broad use of telemedicine.
Progressive	State law and Medicaid policy enable and incentivize broad use of telemedicine.