



## **ADDENDUM: ACCESSING MEDI-CAL SERVICES DURING COVID-19 PUBLIC HEALTH EMERGENCY (UPDATED)**

**By NHeLP Los Angeles**

The COVID-19 Public Health Emergency (PHE), declared on March 13, 2020, has changed access to Medi-Cal in many ways: from expanding eligibility to how to access services<sup>1</sup>. In accordance with the federal and state emergencies as well as state and county shelter-in-place orders, the federal Medicaid agency, Centers for Medicare & Medicaid Services (CMS) and the state Medi-Cal agency, California Department of Health Care Services (DHCS) have issued extensive guidance on Medi-Cal eligibility and services.

This addendum is last updated in August 2021 and addresses changes to Medi-Cal coverage, benefits, and the needs of beneficiaries during the PHE.

### **A. ACCESSING MEDI-CAL SERVICES DURING THE COVID-19 PUBLIC HEALTH EMERGENCY**

In March 2020, DHCS directed many providers to limit non-essential, non-urgent, elective procedures during the PHE.<sup>2</sup> California's Public Health Department (CDPH) also issued guidelines on how providers should deliver services during the PHE to ensure the safety of patients and medical staff. Medical offices that were open were screening patients for symptoms of the virus and taking extra precautions with non COVID-19 services.

Although providers currently still have the option to delay certain services, managed care plans (MCPs) cannot delay or cancel medically necessary treatment that would result in harm to a person's health even during a health crisis.<sup>3</sup> Medi-Cal providers must make individualized, clinically appropriate decisions before postponing or cancelling medically necessary treatment. Providers are also obligated to ensure certain medically necessary services are still available, "including but not limited to all acute emergency procedures, procedures necessary due to acute, debilitating symptoms, pregnancy-related services, labor and delivery, organ

transplantation, dialysis, cancer treatments, neurosurgery, trauma, cardiac treatment and limb threatening vascular surgery.”<sup>4</sup> During the PHE, DHCS has directed Medi-Cal providers to provide services via telehealth and/or virtual communications “whenever clinically appropriate and practicable.”<sup>5</sup>

## 1. Prior Authorizations

During the course of the PHE, all prior authorization requirements are waived for fee-for-service (FFS) Medi-Cal beneficiaries.<sup>6</sup> However, providers are still required to submit Treatment Authorization Requests (TARs)/Service Authorization Requests (SARs), including in the request that the “patient was impacted by COVID-19.”<sup>7</sup> Under these flexibilities, providers can submit TARs/SARs *after* services are rendered.<sup>8</sup>

Managed care plans cannot require prior authorization for COVID-19 related testing and treatment services, and no cost-sharing is allowed for COVID-19 related screening and testing.<sup>9</sup> Managed care plans must adhere to the COVID-19 testing requirements outlined in the “COVID-19 Virus and Antibody Testing guidance.”<sup>10</sup> DHCS requested plans to eliminate or expedite prior authorizations for all other services, including but not limited to “elective hospitalizations and/or procedures, durable medical equipment (DME), magnetic resonance imaging (MRI), hearing aids, laboratory services, speech/occupational/physical therapy services, nonemergency medical transportation, etc.”<sup>11</sup>

Regardless of whether a plan is requiring prior authorization, the managed care plans still has to ensure that it is providing access to medically necessary urgent and non-urgent care in a timely manner, as well as adequate networks to handle an increase in the need for services, including by paying for out-of-network care as appropriate. Managed care members should also have 24-hour access to a plan representative with the authority to authorize services.<sup>12</sup>

## 2. Written Affidavits

Medi-Cal beneficiaries or applicants are required to submit documentations at times, such as at initial application, during a change in circumstance, and at annual renewal. In situations when verification is required but documentation to verify the information is unavailable, a signed and dated self-attested affidavits may be submitted as verification.<sup>13</sup>

Prior to the PHE, written affidavits were accepted via several ways. However, “in the event that an individual must provide an affidavit signed under penalty of perjury for purposes of

written verification, where electronic verification was not successful and other methods of paper verification are not available, the affidavit may not be signed telephonically.”<sup>14</sup>

At the start of the PHE, DHCS flexed the affidavits requirement and require counties to accept telephonically signed affidavits during the PHE.<sup>15</sup> Effective July 2, 2021, in accordance of new guidance issued by the CMS, DHCS will permanently allow affidavits signed under penalty of perjury both electronically or telephonically.<sup>16</sup> Electronic and telephonic signature requirements may be found in ACWDL No:19-17.<sup>17</sup>

## **B. TELEHEALTH**

### **1. Telehealth under California Law**

Since 2011, California law has defined telehealth as “the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site (e.g. home) and the health care provider is at a distant site.”<sup>18</sup>

State law and policy require: 1) documentation of either verbal or written consent for the use of telehealth from the patient; 2) compliance with all state and federal laws regarding the confidentiality of health care information; 3) patient’s rights to the patient’s own medical information apply to telehealth interactions; and 4) that the patient not be precluded from receiving in-person health care services after agreeing to receive telehealth services.<sup>19</sup> There is no limitation on the type of setting between a health care provider and a patient when providing covered services appropriately through a telehealth modality.<sup>20</sup> Services provided via telehealth do not require prior in-person contact between a health care provider and a patient.<sup>21</sup> Further, a health care provider is not required to be present with the patient at the originating site unless determined medically necessary by the provider at the distant site.<sup>22</sup>

### **2. Medi-Cal Telehealth Provider Manual**

Medi-Cal offers providers flexibility to determine if a particular service or benefit is clinically appropriate based on evidence-based medicine. The DHCS Medi-Cal Telehealth Provider Manual (“Telehealth Manual”) currently allows for increased flexibility in providers’ use of telehealth as a modality for delivering medically necessary services to their patients.<sup>23</sup> Patients can provide consent either orally or in writing and the health care provider at the originating site must inform the patient, where appropriate, of the option to utilize a telehealth modality.<sup>24</sup> Only the provider can assess the appropriateness of the telehealth modality to the patient’s

level of acuity at the time of the service.<sup>25</sup> Consultations via asynchronous electronic transmission cannot be initiated directly by patients.<sup>26</sup> In other words, e-consults are permissible only between health care providers.<sup>27</sup> Telehealth may also be used for purposes of meeting network adequacy.<sup>28</sup>

The Telehealth Manual also includes a special chapter on California's family planning Medicaid program, Family Planning, Access, Care and Treatment (Family PACT). Family PACT services are designed to support the use of contraceptive methods by assisting individuals who have a medical necessity for family planning services. This program allows providers to utilize existing telehealth policies as an alternative modality for delivering Family PACT-covered services when medically appropriate.<sup>29</sup>

### 3. Updates on Medi-Cal Telehealth Policy as a Result of the COVID-19 Public Health Emergency

Prior to the PHE, Medi-Cal only reimbursed providers who were licensed in California and enrolled as Medi-Cal providers.<sup>30</sup> In order to fill the needs for additional providers during the COVID-19 PHE, these licensure requirements were relaxed.<sup>31</sup> Beginning March 23, 2020 (and effective retroactively to March 1, 2020), out-of-state providers may apply for enrollment in the Medi-Cal Fee-for-Service (FFS) program.<sup>32</sup> Among other flexibilities, these providers can be licensed to practice in another state.<sup>33</sup> These out-of-state providers, however, can only provide services to a Medi-Cal beneficiary who has been affected by COVID-19.<sup>34</sup> Medi-Cal FFS and Medi-Cal MCPs must reimburse providers at the same rate—whether a service is provided in-person or through telehealth—if the service is the same regardless of the modality of delivery, as determined by the provider's description of the service on the claim.<sup>35</sup>

As a result of the PHE, Medi-Cal and Medi-Cal Managed Care Plans also began reimbursing providers for services rendered over the phone and at the same rate as services rendered via video as long as those services are medically appropriate for the beneficiary.<sup>36</sup> Virtual or telephonic communication may include a brief communication with another practitioner or with the patient, who because of COVID-19, cannot or should not be physically present.<sup>37</sup> Providers are allowed to render all applicable Medi-Cal services that can be appropriately provided via telehealth modalities – including those historically not identified or regularly provided via telehealth and to new patients.<sup>38</sup>

During the PHE, health care providers, facilities, and administrators are still required to comply with the Health Insurance Portability and Accountability Act (HIPAA) and if applicable, enter into business association agreements (BAAs) in connection with the provision of their video

communication products. To allow flexibilities, from April 3, 2020 to June 30, 2021, criminal penalties for any inadvertent, unauthorized release of confidential information during the good faith provision of telehealth services were temporarily suspended.<sup>39</sup>

On July 27, 2021, following some compromises with the state legislature, AB 133 was signed into law. Under this bill, coverage of remote patient monitoring becomes permanent and many Medi-Cal telehealth flexibilities available during the PHE (including payment parity for audio-only modalities) will remain available until December 31, 2022.<sup>40</sup>

## 4. Specific Medi-Cal Services

### 1) Prescription Drugs

Medi-Cal relaxed the rules for accessing prescription drugs in an effort to minimize in-person contact during the PHE. Currently, beneficiaries can get up to a 100-day supply of most prescriptions, including early refills and Medication Assisted Treatment (MAT) for substance use disorders (SUD).<sup>41</sup> DHCS allows for additional flexibilities in drug utilization controls, including for the six-month prescription limit and emergency prescriptions.<sup>42</sup> Medi-Cal also covers over-the-counter acetaminophen (Tylenol) and cough medications, which are available without prior authorization in fee-for-service Medi-Cal.<sup>43</sup> Managed care plan enrollees can contact their health plans to learn how to access this benefit.<sup>44</sup> Medi-Cal plans can also cover the cost of certain disinfectant solutions and wipes to help prevent the spread of COVID-19.<sup>45</sup>

From April 24, 2020 to June 30, 2021, Medi-Cal temporarily allowed for mailed and home delivery of prescription drugs, supplies, and equipment without the signature of the beneficiary.<sup>46</sup> Currently, beneficiaries and clients, or their representatives must sign for certain medications in person from their home or sign onsite at their provider location as required before the PHE.<sup>47</sup>

### 2) Behavioral Health Services

Medi-Cal covers behavioral and mental health care services, including specialty mental health and substance use disorders programs.<sup>48</sup>

During the PHE, Medi-Cal County Mental Health Plans and Drug-Medi-Cal (DMC) programs must continue to assist individuals with finding a provider and most behavioral health services are available at least through telehealth to facilitate sheltering in place, whether it is fee-for-service or managed care.<sup>49</sup> At a time when beneficiaries may be facing heightened conditions such as depression, anxiety, trauma, or other stressful or obsessive thoughts by the PHE,

Medi-Cal beneficiaries can get specialty mental health services (SMHS) and services with an in-person component (i.e. residential treatment) via telehealth or telephone as determined clinically appropriate.<sup>50</sup>

Beneficiaries in need of SUD services can also access most services via telehealth. In the DMC-Organized Delivery System (ODS) program, DHCS clarified that most SUD services may be provided via telehealth, including initial evaluations and follow-up interventions.<sup>51</sup> However, while DHCS has not included similar guidance for non-DMC-ODS counties, CMS issued guidance explaining that states may expand telehealth services as long as there are no distinctions between reimbursement for services provided through telehealth and services provided through other ways.<sup>52</sup>

While the federal government waived some of the strict requirements for delivery of opioid medication, DHCS also released guidance encouraging Narcotic Treatment Programs (NTP) to submit blanket exception requests for patients to receive their medications.<sup>53</sup> Stable patients can receive 28 days of take-home doses and less stable patients can receive 14 days of take-home doses.<sup>54</sup> Flexibilities also allow for NTPs to provide medication delivery to patients at home or in a controlled treatment environment as long as it is done by an authorized NTP staff member, law enforcement officer, or National Guard personnel.<sup>55</sup>

### 3) Reproductive and Sexual Health Services

DHCS instituted various changes to facilitate the availability of comprehensive reproductive and sexual health services during the PHE.

**Family PACT.** Family PACT providers are permitted to utilize telehealth modalities to deliver family planning services, a policy that was already in place before the COVID-19 PHE. As a result of the PHE, DHCS broadened the use of telehealth to allow eligible individuals to virtually/telephonically enroll and be recertified for Family PACT for the duration of the PHE.<sup>56</sup> Virtual or telephonic modalities may include client giving verbal consent over the phone and providing e-signature through secure signature services, such as DocuSign.<sup>57</sup> DHCS also temporarily allowed Medi-Cal beneficiaries to access subcutaneous Depo-Provera directly from their pharmacy for self-administration.<sup>58</sup> DHCS later adopted the flexibility as a permanent pharmacy benefit.<sup>59</sup>

**Breast and Cervical Cancer Screening and Care.** Every Woman Counts (EWC), which provides free breast and cervical cancer screening and diagnostic services, is requiring that providers accept applications and recertifications by telephone, including with telephonic signatures. The Breast and Cervical Cancer Treatment Program (BCCTP) provides cancer

treatment to eligible individuals diagnosed with breast and/or cervical cancer and who are in need of treatment. EWC and Family PACT providers who enroll individuals in BCCTP may accept telephonic signatures for BCCTP applications for immediate enrollment.<sup>60</sup>

**Doulas.** In November 2020, CDPH updated their COVID-19 visitor guidance to allow doulas to accompany a labor and delivery patient, in addition to a support person.<sup>61</sup> As of June 2021, CDPH continues to allow doulas and up to two support persons to accompany labor and delivery patients.<sup>62</sup>

**Minor Consent Program.** Prior to the PHE, a person under the age of 21 could only submit an in-person application or renewal for Medi-Cal Minor Consent coverage of certain services like family planning, pregnancy services, sexually transmitted infections testing and treatment, substance use, and outpatient mental health.<sup>63</sup> To mitigate the effects of the COVID-19 pandemic, counties were permitted to accept applications and signatures telephonically.<sup>64</sup> In June 2021, DHCS adopted this policy permanently to allow minors to apply or renew eligibility for the Minor Consent program either in-person or by telephone.<sup>65</sup>

**Medi-Cal Access Program.** Lastly, monthly premiums for the Medi-Cal Access Program (MCAP) have been waived for pregnant individuals who have been impacted by the public health emergency.<sup>66</sup> However, the waiver is not automatic so MCAP enrollees must call 1-800-433-2611 to request a premium waiver and may also request credit for past payments made during the PHE.<sup>67</sup>

#### 4) Dental Services

At the start of the PHE, dental providers were allowed to cancel or postpone appointments. DHCS also encouraged dental providers to utilize tele-dentistry whenever possible.<sup>68</sup> Beneficiaries may access IV sedation or general anesthesia to treat emergency dental services.<sup>69</sup> In April 2020, California announced that dentists could begin scheduling patients again for preventive and routine services, including if the appointment was cancelled before.<sup>70</sup> The Department also reminded providers and beneficiaries that dental providers cannot charge Medi-Cal beneficiaries for PPE costs or any other COVID-19 administrative fees.<sup>71</sup>

#### 5) Children's Health Services

Children should continue to access the Medi-Cal benefits they need during the COVID-19 PHE, either in person or through telehealth.

**Well Child Visits.** The American Academy of Pediatrics (AAP), in light of their Periodicity Schedule and care recommendations for the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit, developed guidance for providing pediatric well-child visits via telehealth during the PHE. AAP guidance states that well-child visits may happen via telehealth, but some elements should be completed in person. These elements include: the comprehensive physical exam, office and laboratory testing, hearing, vision, and oral health screening, fluoride varnish, and immunizations.<sup>72</sup>

**California Children's Services.** In April 2020, DHCS issued relevant guidance specifically expanding telehealth and relaxing prior authorization protocols for enrollees of the California Children's Services (CCS) program.<sup>73</sup> In June 2021, as California schools begin re-opening and county Medical Therapy Programs (MTPs) return to providing in-person services, MTP staff may resume in-person services and continue utilizing telehealth as an option as appropriate and in accordance with federal, state, and county guidance.<sup>74</sup> All other guidelines described in the April 2020 guidance apply for children who need services during the COVID-19 PHE and the EPSDT criteria still stand.<sup>75</sup>

**Hearing Aid Coverage.** This benefit is an important progress California made during the PHE. Effective July 1, 2021, children under the age of 18, who have a household income of up to 600 percent of the Federal poverty level (FPL) and who are otherwise not eligible for Medi-Cal or CCS may get hearing aid coverage.<sup>76</sup> This benefit extends to those whose health insurance does not cover hearing aids and services.<sup>77</sup>

## **6) Access to Durable Medical Equipment**

Medi-Cal still must ensure access to durable medical equipment (DME) during the PHE. The state of California directed that "rationing care based on a person's disability status is impermissible and unlawful under both federal and state law." This means that Medi-Cal providers, and providers at large, cannot ration care for persons with disabilities.<sup>78</sup>

## **7) Transportation**

During the PHE, beneficiaries in need of non-emergency medical transportation (NEMT) and non-medical transportation (NMT) are not required to obtain a prescription from a provider.<sup>79</sup> However, a TAR is still required to access NEMT and beneficiaries should be able to utilize the "safest available" transportation service between NMT and NEMT, but under the prior authorization flexibilities, may be submitted after services are rendered.<sup>80</sup>



CMS also expanded the list of allowable destinations for ambulance transports, which may include “any destination that is able to provide treatment to the patient in a manner consistent with state and local Emergency Medical Services (EMS) protocols in use where the services are being furnished.”<sup>81</sup>

Managed care plans must approve transportation requests in a timely manner, when a beneficiary needs to see a provider in person, even if the beneficiary may be infected with COVID-19.<sup>82</sup> Plans must determine the appropriate mode of transportation to meet the needs of the beneficiary, especially those with urgent conditions such as dialysis or chemotherapy treatments.<sup>83</sup> DHCS also issued PHE specific recommendations and safety procedures for transportation providers.<sup>84</sup>

## C. COVID-19 TESTING & TREATMENT

### 1. COVID-19 Testing

COVID-19 related testing is available and must continue to be covered by all California health insurance plans, including Medi-Cal managed care plans.<sup>85</sup> Specifically, FDA-approved COVID-19 testing and treatment is covered for all Medi-Cal beneficiaries regardless of their scope of coverage or their immigration status, including for beneficiaries in FFS Medi-Cal or a Medi-Cal plan.<sup>86</sup> All COVID-19 diagnostic tests for the purpose of “individualized diagnosis or treatment of COVID-19” are covered, even if the beneficiary is asymptomatic and does not have recent known or suspected exposure to COVID-19.<sup>87</sup>

COVID-19 testing includes viral and serologic (antibody) testing, testing-related services, as well as medically necessary treatment services, even if rendered outside of a hospital (such as a pharmacy), are deemed emergency services.<sup>88</sup> Medi-Cal beneficiaries with a share of cost are entitled to no cost testing and treatment. Also, billing for a COVID-19 test is not dependent on the result of the laboratory test.<sup>89</sup> The frequency limit for most COVID-19 related tests is up to two per day, per patient, per CPT (Current Procedural Terminology) code. However, antibody tests are limited to one per day, per patient, per CPT code.<sup>90</sup> At-home tests are covered by Medi-Cal as long as it is medically appropriate based on accepted standards of medical practice as ordered by an attending health care provider.<sup>91</sup>

### 2. COVID-19 Vaccine

Currently, every Californian aged 12 and older is eligible for a vaccine at no cost.<sup>92</sup>

Vaccines can be administered at pharmacies, retail clinics, providers (including those enrolled in managed care plans), and any other sites of care receiving and administering COVID-19 vaccinations.<sup>93</sup> Medi-Cal managed care plan and Fee-for-Service beneficiaries may receive transportation assistance to get their vaccine.<sup>94</sup> The vaccine must be provided regardless of coverage and at no cost to the person.<sup>95</sup> The vaccine is covered for full-scope Medi-Cal beneficiaries, restricted-scope Medi-Cal beneficiaries, beneficiaries with a Share of Cost, COVID-19 Uninsured Group Program enrollees, and the Family PACT program enrollees, among others.<sup>96</sup> From “November 2, 2020 through a date that is 60 days after the end of the PHE (including any renewal of the PHE)”, vaccines are reimbursed exclusively through the FFS system.<sup>97</sup>

Previously, CDPH prioritized rollout of the vaccine for individuals with significant physical or behavioral health conditions or disabilities, as well as individuals working in certain industries. In June 2021, CDPH updated its guidance to focus on diagnostic, diagnostic screening, and post-exposure testing.<sup>98</sup> Then, on July 26, 2021, CDPH issued COVID-19 vaccine and diagnostic testing requirements for employees in health care, long-term care, congregate living, and similar types of facilities.<sup>99</sup> On August 5, 2021, CDPH issued two additional orders to require workers in most healthcare facilities to be vaccinated at least partially by September 30, 2021 (with limited exceptions) and visitors to health care facilities to be fully vaccinated or tested negative for COVID-19 before their visits.<sup>100</sup>

In July 2021, DHCS started publishing Medi-Cal COVID-19 vaccination data.<sup>101</sup> The data showed significant disparities across geographical areas of California, age groups, and different race and ethnic groups.<sup>102</sup>

### 3. Access to COVID-19 Testing & Testing Coverage for The Uninsured and Underinsured

#### 1) COVID-19 Uninsured Group Program

Effective August 28, 2020, DHCS implemented the COVID-19 Uninsured Group Program.<sup>103</sup> To align with CMS guidance and automate this coverage option, the COVID-19 Uninsured Group replaced the previous “Presumptive Eligibility for COVID-19” program launched on April 8, 2020.<sup>104</sup>

This program covers diagnostic testing, testing-related services, and related medically necessary treatment services, “including medically necessary care such as the associated office, clinic, or emergency room visits related to COVID-19 at no cost to the individual.”<sup>105</sup> Medical necessity for testing is determined under the Medi-Cal standard while providers should

utilize the CDPH guidelines to determine when testing is necessary.<sup>106</sup> Other than the requirement that the individual must be a California resident to qualify, there are no income, resource, immigration, or other requirements.<sup>107</sup>

Coverage through the COVID-19 Uninsured Group begins on the date of application and ends on the last calendar day of the 12<sup>th</sup> month from the application date when the individual was determined eligible for this program or when the public health emergency ends, whichever is sooner.<sup>108</sup> Individuals can apply at their nearest qualified provider or contact the 24/7 Medi-Nurse helpline to find a qualified provider. Individuals can also retroactively enroll in the program back to April 8, 2020. Despite the name, this program covers *both* uninsured and underinsured individuals.<sup>109</sup> This means that individuals with private insurance that does not *fully* cover COVID-19 screening, testing, and treatment services can apply for this program.<sup>110</sup>

## 2) Hospital Presumptive Eligibility Program

Individuals who need immediate and more extensive services outside of COVID-19 may apply for Hospital Presumptive Eligibility (HPE) at an eligible hospital (also called a “qualified provider”) to receive temporary Medi-Cal coverage while applying for permanent Medi-Cal coverage or other health coverage.<sup>111</sup>

Unlike the COVID-19 Uninsured Group program, HPE provides full scope services immediately upon the HPE Medi-Cal application being submitted via the online portal.<sup>112</sup> Medi-Cal applicants who apply for full scope coverage may also request up to three months of retroactive coverage, as long as they are otherwise eligible. To obtain retroactive coverage, applicants must, “... mark the box that indicates the individual has medical expenses in the last three months and needs help to pay.”<sup>113</sup>

During the PHE, HPE providers can utilize telephonic signatures for HPE applications by noting in the case file “COVID-19 protocol.”<sup>114</sup>

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ENDNOTES

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<sup>1</sup> The COVID-19 PHE was last renewed on 7/19/2021. U.S. Dep't Health & Human Servs., Public Health Emergency Declarations page (July 19, 2021), [phe.gov/emergency/news/healthactions/phe/Pages](https://phe.gov/emergency/news/healthactions/phe/Pages).

<sup>2</sup> Cal. Dep't Health Care Servs., Medi-Cal Guidance Relating to Non-Urgent, Non-Essential or Elective Procedures Relative to the 2019-Novel Coronavirus (COVID-19) (Mar. 24, 2020), [hereinafter Non-Urgent, Non-Essential or Elective Procedures], [dhcs.ca.gov/Documents/COVID-19/Non-Essential-Essential-Procedures-032420.pdf](https://dhcs.ca.gov/Documents/COVID-19/Non-Essential-Essential-Procedures-032420.pdf).

<sup>3</sup> Cal. Dep't of Managed Health Care, All Plan Letter (APL) 20-008: Provision of Health Care Services During Self Isolation Orders (Mar. 18, 2020), [dmhc.ca.gov/Portals/0/Docs/OPL/APL%2020-008%20\(OPL\)%20-%20Provision%20of%20Health%20Care%20Services%20During%20Self%20Isolation%20Orders%20\(3%2018%2020\)%201.pdf](https://dmhc.ca.gov/Portals/0/Docs/OPL/APL%2020-008%20(OPL)%20-%20Provision%20of%20Health%20Care%20Services%20During%20Self%20Isolation%20Orders%20(3%2018%2020)%201.pdf).

<sup>4</sup> Non-Urgent, Non-Essential or Elective Procedures, *supra* at 1-2.

<sup>5</sup> Non-Urgent, Non-Essential or Elective Procedures, *supra* at 2; *See also*, Cal. Dep't Health Care Servs., Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to the 2019-Novel Coronavirus (COVID-19) (last updated Jan. 7, 2021) [hereinafter Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications], [files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom\\_30339\\_02.aspx](https://files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom_30339_02.aspx).

<sup>6</sup> Cal. Dep't Health Care Servs., Medi-Cal Fee-For-Service (FFS) Prior Authorization Section 1135 Waiver Flexibilities Relative to the 2019-Novel Coronavirus (COVID-19) (June 3, 2020) [hereinafter Medi-Cal FFS Prior Authorization], [dhcs.ca.gov/Documents/COVID-19/Section-1135-Waiver-Flexibilities-PA-updated-6-3-2020-Approved.pdf](https://dhcs.ca.gov/Documents/COVID-19/Section-1135-Waiver-Flexibilities-PA-updated-6-3-2020-Approved.pdf).

<sup>7</sup> Medi-Cal FFS Prior Authorization, *supra* at 2.

<sup>8</sup> *Id.*

<sup>9</sup> Cal. Dep't Health Care Servs., Revised APL-20-004: Emergency Guidance For Medi-Cal Managed Care Health Plans In Response To COVID-19 at 4 (Mar. 9, 2021) [hereinafter DHCS Revised APL 20-004], [dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2020/APL20-004-Revised.pdf](https://dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2020/APL20-004-Revised.pdf); *See also*, CMS, COVID-19 Frequently Asked Questions (FAQs) for State Medicaid and Children's Health Insurance Program (CHIP) Agencies (May 5, 2020, last updated Jan. 6, 2021), [medicaid.gov/state-resource-center/downloads/covid-19-faqs.pdf](https://medicaid.gov/state-resource-center/downloads/covid-19-faqs.pdf).

<sup>10</sup> Cal. Dep't Health Care Servs., COVID-19 Virus and Antibody Testing (Dec. 9, 2020), [dhcs.ca.gov/Documents/COVID-19/COVID-19-Antibody-Testing.pdf](https://dhcs.ca.gov/Documents/COVID-19/COVID-19-Antibody-Testing.pdf).

<sup>11</sup> Medi-Cal FFS Prior Authorization, *supra* at 2.

<sup>12</sup> DHCS Revised APL 20-004, *supra* part 2 at 5.

<sup>13</sup> Cal. Dep't Health Care Servs., Letter No: 21-12: Telephonic Signatures For Affidavits Signed Under Penalty of Perjury (July 2, 2021) [hereinafter DHCS Letter No: 21-12], [dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/21-12.pdf](https://dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/21-12.pdf).

<sup>14</sup> Dep't Health Care Servs., ACWDL No: 19-17: Telephonic or Electronic Signature Capability at 2 (June 21, 2019) [hereinafter ACWDL No: 19-17], [dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/c19-17.pdf](https://dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/c19-17.pdf).

<sup>15</sup> Cal. Dep't of Health Care Servs., Letter No: I 20-25: Updated Guidance Due to the COVID-19 Public Health Emergency Superseding MEDIL 20-07 and 20-08 (Aug. 13, 2020), [dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/I20-25.pdf](https://dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/I20-25.pdf); *See also*, Cal. Dep't of Health Care Servs., Letter No: I 20-18: Frequently Asked Questions Due To The COVID-19 Public Health Emergency (June 2, 2020), [dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/I20-18.pdf](https://dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/I20-18.pdf).

<sup>16</sup> DHCS Letter No: 21-12, *supra* at 3-4.

<sup>17</sup> ACWDL No: 19-17, *supra* at 3-7.

<sup>18</sup> The Telehealth Advancement Act, AB 415 (2011), [leginfo.ca.gov/pub/11-12/bill\\_asm/ab\\_0401-0450/ab\\_415\\_bill\\_20111007\\_chaptered.html](https://leginfo.ca.gov/pub/11-12/bill_asm/ab_0401-0450/ab_415_bill_20111007_chaptered.html).

<sup>19</sup> Cal. Bus. & Prof. Code §2290.5.

<sup>20</sup> Cal. Health & Safety Code §1374.13.

<sup>21</sup> Cal. Welf. & Inst. Code §14132.72(c).

<sup>22</sup> Cal. Dep't Health Care Servs., Revised Medi-Cal Telehealth Provider Manual (last updated Aug. 2020) [hereinafter Telehealth Manual], [files.medi-cal.ca.gov/pubsdoco/Publications/masters-MTP/Part2/mednetele.pdf](https://files.medi-cal.ca.gov/pubsdoco/Publications/masters-MTP/Part2/mednetele.pdf); 42 C.F.R. §410.78.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Cal. Dep't Health Servs., Revised APL 19-009 (Oct. 16, 2019), [dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2019/APL19-009.pdf](https://dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2019/APL19-009.pdf).

<sup>26</sup> *Id.*

<sup>27</sup> Telehealth Manual, *supra* note 14.

<sup>28</sup> Cal. Dep't Health Care Servs., APL 19-002 (Jan. 30, 2019), [dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2019/APL19-002.pdf](https://dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2019/APL19-002.pdf).

<sup>29</sup> Cal. Dep't Health Care Servs., Family PACT (Planning, Access, Care and Treatment) Provider FAQs during COVID-19 page (Apr. 2020), [files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom\\_30339\\_37.aspx](https://files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom_30339_37.aspx); *see also*, Cal. Dep't Health Care Servs., Family PACT, Providing Family PACT Services During COVID-19: Understanding Benefit Changes Questions & Answer Document (Sept. 17, 2020), [familypact.org/wp-content/uploads/2020/12/Understanding-Benefit-Changes-Q-and-A-final-draft.12.8.20cmmsp\\_remEQ.pdf](https://familypact.org/wp-content/uploads/2020/12/Understanding-Benefit-Changes-Q-and-A-final-draft.12.8.20cmmsp_remEQ.pdf).

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<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications, *supra* Sec. III; *See also*, Cal. Dep't Health Care Servs., Supplement to All Plan Letter 19-002 (Mar. 18, 2020), [www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2019/APL19-009COVID-19.pdf](https://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2019/APL19-009COVID-19.pdf).

<sup>36</sup> Cal. Dep't Health Care Servs., APL 20-009: Reimbursement for Telehealth Services (Mar. 18, 2020), [dmhc.ca.gov/Portals/0/Docs/OPL/APL%2020-009%20\(OPL\)%20-%20Reimbursement%20for%20Telehealth%20Services%20\(3\\_18\\_20\).pdf](https://dmhc.ca.gov/Portals/0/Docs/OPL/APL%2020-009%20(OPL)%20-%20Reimbursement%20for%20Telehealth%20Services%20(3_18_20).pdf).

<sup>37</sup> Cal. Dep't Health Care Servs., COVID-19 Medi-Cal Services and Telehealth Notice (Mar. 17, 2020), [files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom\\_30375.aspx](https://files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom_30375.aspx).

<sup>38</sup> Cal. Dep't Health Care Servs., Post-COVID-19 Public Health Emergency Telehealth Policy Recommendations (June 10, 2021) [hereinafter Post-COVID-19 Public Health Emergency Telehealth Policy Recommendations], [dhcs.ca.gov/Documents/COVID-19/DHCS-Telehealth-Policy-Proposal-6-10-21.pdf](https://dhcs.ca.gov/Documents/COVID-19/DHCS-Telehealth-Policy-Proposal-6-10-21.pdf).

<sup>39</sup> Cal. Welf. & Inst. Code § 14100.2(h); *See also*, Cal. Exec. Order N-43-20 (April 3, 2020), [gov.ca.gov/wp-content/uploads/2020/04/4.3.20-EO-N-43-20.pdf](https://gov.ca.gov/wp-content/uploads/2020/04/4.3.20-EO-N-43-20.pdf); *see also*, Cal. Exec. Order N-55-20 at p.11 (Apr. 22, 2020), [gov.ca.gov/wp-content/uploads/2020/04/EO-N-55-20.pdf](https://gov.ca.gov/wp-content/uploads/2020/04/EO-N-55-20.pdf).

<sup>40</sup> Health Trailer Bill, AB 133 (2021), [leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=20210220AB133](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=20210220AB133); *See also*, Cal. Dep't Health Care Servs., Flexibility to Alcohol and Other Drug (AOD) facilities during the COVID-19 Public Emergency (updated July 8, 2021), [dhcs.ca.gov/formsandpubs/Documents/BHIN-20-017-Updated-7-8-2021.pdf](https://dhcs.ca.gov/formsandpubs/Documents/BHIN-20-017-Updated-7-8-2021.pdf); *See also*, Cal. Dep't Health Servs., DHCS COVID-19 FAQs Narcotic Treatment Programs (NTPs) (updated July 8, 2021), [dhcs.ca.gov/formsandpubs/Documents/Narcotic-Treatment-Program-FAQs-Updated-7-8-2021.pdf](https://dhcs.ca.gov/formsandpubs/Documents/Narcotic-Treatment-Program-FAQs-Updated-7-8-2021.pdf); Cal. Dep't Health Care Servs., Guidance on Available Flexibilities pursuant to Governor Newsom's Executive Order N-55-20 for Mental Health Rehabilitation Centers (MHRCs) and Psychiatric Health Facilities (PHFs) during the COVID-19 emergency (Updated July 8, 2021), [dhcs.ca.gov/formsandpubs/Documents/BHIN-20-015-Updated-7-8-2021.pdf](https://dhcs.ca.gov/formsandpubs/Documents/BHIN-20-015-Updated-7-8-2021.pdf).

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<sup>42</sup> *Id.*

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<sup>44</sup> Cal. Dep't Health Care Servs., Fee-for-Service Temporary Reinstatement of Acetaminophen, and Cough and Cold Medicines for Adults (May 13, 2020), [dhcs.ca.gov/Documents/COVID-19/Coverage-of-Acetaminophen-and-CC-051320.pdf](https://dhcs.ca.gov/Documents/COVID-19/Coverage-of-Acetaminophen-and-CC-051320.pdf).

<sup>45</sup> DHCS Revised APL 20-004, *supra* note 9 at 9.

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<sup>51</sup> *Id.* at 13. *See also*, U.S. Dep't of Justice Drug Enforcement Admin. DEA068 (Mar. 31, 2020), [deaddiversion.usdoj.gov/GDP/\(DEA-DC-022\)\(DEA068\)%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20%20\(Final\)%20+Esign.pdf](https://deaddiversion.usdoj.gov/GDP/(DEA-DC-022)(DEA068)%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20%20(Final)%20+Esign.pdf).

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<sup>53</sup> Subs. Abuse and Mental Health Servs. Admin., Opioid Treatment Program (OTP) Guidance (Mar. 19, 2020), [samhsa.gov/sites/default/files/otp-guidance-20200316.pdf](https://samhsa.gov/sites/default/files/otp-guidance-20200316.pdf).

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<sup>56</sup> DHCS, Update to Information on Coronavirus for Family PACT (Mar. 26, 2020), [dhcs.ca.gov/services/ofp/Documents/OFP-Notice-COVID19-Update.pdf](https://dhcs.ca.gov/services/ofp/Documents/OFP-Notice-COVID19-Update.pdf).

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<sup>58</sup> Cal. Dep't Health Care Servs., Information Regarding the Use of Subcutaneous Depot Medroxyprogesterone Acetate During the 2019 Novel Coronavirus Public Health Emergency (Apr. 9, 2020), [dhcs.ca.gov/Documents/COVID-19/Medi-Cal-FFS-Depo-Provera-SQ-Temp-Policy.pdf](https://dhcs.ca.gov/Documents/COVID-19/Medi-Cal-FFS-Depo-Provera-SQ-Temp-Policy.pdf); also see Cal. Dep't Health Care Servs., *DMPA-SQ Administration Guidelines Update* (Apr. 9, 2020), [files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom\\_30339\\_30.aspx](https://files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom_30339_30.aspx).

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<sup>66</sup> Cal. Dep't Health Care Servs., Important information about Medi-Cal and COVID-19 (May 19, 2020), [dhcs.ca.gov/Documents/Beneficiary-Outreach-Letter.pdf](https://dhcs.ca.gov/Documents/Beneficiary-Outreach-Letter.pdf).

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<sup>102</sup> *Id.*

<sup>103</sup> Cal Dep't of Health Care Servs., Frequently Asked Questions (FAQs) Coronavirus (COVID-19) Uninsured Group (Nov. 10, 2020) [hereinafter COVID-19 Uninsured Group FAQs], [files.medi-](https://files.medi-cal.ca.gov/pubsdoco/COVID19_response/COVID19_UninsuredGroupProgram_FAQs.pdf)

[cal.ca.gov/pubsdoco/COVID19\\_response/COVID19\\_UninsuredGroupProgram\\_FAQs.pdf](https://files.medi-cal.ca.gov/pubsdoco/COVID19_response/COVID19_UninsuredGroupProgram_FAQs.pdf); *See also*, Cal. Dep't Health Care Servs., COVID-19 Uninsured Group Program (last updated May 4, 2021), [dhcs.ca.gov/services/medi-cal/eligibility/Pages/COVID-19-Presumptive-Eligibility-Program.aspx](https://dhcs.ca.gov/services/medi-cal/eligibility/Pages/COVID-19-Presumptive-Eligibility-Program.aspx).

<sup>104</sup> *Id.*

<sup>105</sup> COVID-19 Uninsured Group FAQs, *supra* Q1 at 1; *See also*, COVID-19 Virus and Antibody Testing *supra* at 9.

<sup>106</sup> COVID-19 Virus and Antibody Testing, *supra* Q3 at 4; *See also*, Cal. Welf. & Inst. Code §14059.5.

<sup>107</sup> COVID-19 Uninsured Group FAQs, *supra* at 1.

<sup>108</sup> *Id.* *See* 42 C.F.R. § 435.916(b). *See also* CMS, Operationalizing Implementation of the Optional COVID-19 Testing (XXIII) Group Potential State Flexibilities (Aug. 31, 2020), [medicaid.gov/state-resource-center/downloads/potential-state-flexibilities-guidance.pdf](https://www.medicare.gov/state-resource-center/downloads/potential-state-flexibilities-guidance.pdf).

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> Cal. Dep't of Health Care Servs., *Hospital Presumptive Eligibility Program page* (last updated Mar. 23, 2021), [dhcs.ca.gov/services/medi-cal/eligibility/Pages/HospitalPE.aspx](https://dhcs.ca.gov/services/medi-cal/eligibility/Pages/HospitalPE.aspx).

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*