



Asynchronous telehealth in states that cover abortions for Medicaid beneficiaries

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Introduction

During the COVID-19 pandemic, the possibility for health care practitioners to provide medication abortion through telehealth reduced both barriers to abortion access and risk of transmission.¹ Thanks to the temporary flexibilities offered during various times throughout the pandemic and the December 2021 FDA decision to permanently allow the mailing and delivery of medication abortions, many abortion patients can access abortion care through telehealth assessment and counseling.² Telehealth care can occur in various forms—principally synchronous, video conferencing; audio-only, phone services; as well as asynchronous, store-and-forward methods.³ Research published in *Obstetrics and Gynecology* found no difference in quality of care, safety, and efficacy

¹ See Fabiola Carrión, Madeline Morcelle & Alexis Robles-Fradet, Nat'l Health Law Prog., *Medicaid Coverage of Medication Abortion Delivered via Telehealth* (June 7, 2021), <https://healthlaw.org/resource/medicaid-coverage-of-medication-abortion-delivered-via-telehealth/>.

² *Id.* See also, Nat'l Health Law Prog., *FDA Eases Restrictions on Medication Abortion* (Dec. 17, 2021), <https://healthlaw.org/news/fda-eases-restrictions-on-medication-abortion/>.

³ See Fabiola Carrión, Nat'l Health Law Prog., *Medicaid Principles on Telehealth* (May 11, 2020), <https://healthlaw.org/resource/medicaid-principles-on-telehealth/> (defining each telehealth modality).

between in-person services, other telehealth modalities, and asynchronous care for telehealth assessment and counseling of abortion services.⁴

Methodology

In this fact sheet, NHeLP identifies and analyzes how the sixteen states that cover abortions for Medicaid beneficiaries have decided to cover asynchronous, store-and-forward modalities in ways that could be potentially helpful for increased abortion access.⁵ We draw our analysis from the Center for Connected Policy's State Policy Review, highlighting how states define "store-and-forward" or "asynchronous" care.⁶ We also examine whether each state guarantees payment parity for asynchronous or store-and-forward delivery, and whether this telehealth modality can be used to establish a patient-provider relationship. This fact sheet does not constitute legal advice nor can we guarantee that the laws and policies change at the time of reading since they have been rapidly evolving at the time of writing. Furthermore, a lot of the information sought was difficult to obtain. This may also mean that the links could be changed at the time of reading. Many policies were not clear in many states; to this end, we added a quote of the text and links to the policies so that they can be subject to interpretation and welcome any feedback. Lastly, many states reimburse for abortion services through bundled payments, which may alter how reimbursement can take place whenever there is a mix of telehealth modalities.

⁴ See Ushma D. Upadhyay et al., *Safety and Efficacy of Telehealth Medication Abortions in the US During the COVID-19 Pandemic*, 4 OBSTETRICS & GYNECOLOGY 8 (Aug. 24, 2021), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2783451>.

⁵ An annual appropriations bill rider known as the Hyde Amendment limits federal funding for abortion services in Medicaid to cases of rape, incest, or life endangerment. However, states may use their own funding to pay for abortions past these circumstances and sixteen states have opted to do so. See Guttmacher Inst., *State Funding of Abortion Under Medicaid* (As of Mar. 1, 2022), <https://www.guttmacher.org/state-policy/explore/state-funding-abortion-under-medicaid>.

⁶ Ctr. for Connected Health Pol'y, <https://www.cchpca.org/>.

Policy Analysis

In our analysis we found that each state has a different definition of “asynchronous” and “store-and-forward” modalities, which sometimes are used interchangeably. Nevertheless, most states define it as the transmission of a patient's medical information—such as digital images, documents, and pre-recorded videos—from an originating site to the provider at the distant site. The good news is that most of these states cover asynchronous/store-and-forward modalities; only a couple of states limit coverage to very few services or do not cover the modality at all. Notably, most states require either an in-person or a synchronous, video-conferencing visit before the state covers the asynchronous modalities. This means that the Medicaid provider can first have a synchronous, video-conferencing assessment and counseling session and then do any follow-up on abortion completion through asynchronous, store-and-forward methods. In addition, most states do not offer payment parity for asynchronous/store-and-forward services. For example, New York reimburses only 75 percent of what the service is paid when delivered via synchronous care. California has only established payment parity between in-person services and synchronous video-conferencing as well as audio-only, phone services and not for asynchronous, store-and-forward modalities. We also observe that while neither of the highlighted policies are attached to the COVID-19 public health emergency, a couple have end dates. These states and others have passed bills that require research of the impact of telehealth among beneficiaries to determine what a permanent policy should look like in the future. As such, these policies are subject to change.

*****Please see the chart describing each state policy in the next page*****

State Chart Outlining the store-and-forward policies for states that cover abortions for Medicaid beneficiaries

State	Store-and-Forward or Asynchronous Definition	Medicaid Coverage of Store-and-Forward	Payment Parity between in-person and asynchronous/store-and-forward services	Patient-provider relationship established with asynchronous/store-and-forward services
AK	The provider sends digital images, sounds, or previously recorded video to a distant site provider at a different location. The distant site provider reviews the information and reports back. AK Medicaid Manual	Yes AK Medicaid Manual	Not clear (Likely not)	Not clear (Likely not)
CA	“Asynchronous store-and-forward” means the transmission of a patient’s medical information from an originating site to the health care provider at a distant site without the presence of the patient. Business and Professions Code section 2290.5(a)(1) ; DCHS Telehealth Definitions	Yes DCHS Telehealth Definitions	Not for asynchronous modalities CA Post-COVID -19 Public Health Emergency Telehealth Policy Recommendations	Providers may only establish a relationship with new patients in-person or via synchronous video telehealth visits CA Post-COVID -19 Public Health Emergency Telehealth Policy Recommendations
CT	“Asynchronous” means any transmission to another site for review at a later time	Only until June 2023	Not clear	Possibly through June 2023

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	<p>that uses a camera or other technology to capture images or data to be recorded. Store-and-forward transfer means the asynchronous transmission of a patient's medical information from an originating site to the telehealth provider at a distant site.</p> <p>CT General Statute § 19a-906; HB 5596 (2021 Session), CT Statute 17b-245e, (Accessed Mar. 2022)</p>	<p>HB 5596 (2021 Session), CT Statute 17b-245e, (Accessed Mar. 2022)</p>		<p>HB 5596 (2021 Session), CT Statute 17b-245e, (Accessed Mar. 2022)</p>
<p>HI</p>	<p>Telehealth includes "store and forward," "asynchronous information exchange."</p> <p>HI Revised Statutes § 346-59.1 & 431:10A-116.3. (Accessed Mar. 2022)</p>	<p>Yes</p> <p>HI Revised Statutes § 346-59.1 & 431:10A-116.3. (Accessed Mar. 2022)</p>	<p>Yes</p> <p>HI Revised Statutes § 346-59.1 & 431:10A-116.3. (Accessed Mar. 2022)</p>	<p>Yes</p> <p>"In the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship." HI Revised Statutes § 346-59.1 & 431:10A-116.3. (Accessed Mar. 2022)</p>

<p>IL</p>	<p>“Asynchronous Store and Forward Technology’ means the transmission of a patient’s medical information from an originating site to the provider at the distant site. The provider at the distant site can review the medical case without the patient being present. An asynchronous telecommunication system in single media format does not include telephone calls, images transmitted via facsimile machines and text messages without visualization of the patient (electronic mail).”</p> <p>IL Administrative Code 140.403</p>	<p>Yes</p> <p>“[Telehealth] information or data exchanged can occur in real time (synchronous) through interactive video or multimedia collaborative environments or in near real time (asynchronous) through “store and forward” applications.”</p> <p>IL Dept. of Healthcare and Family Svcs., Handbook for Practitioners. Ch. 200, p. 24, June 2021</p>	<p>Not clear; possibly not</p>	<p>Not clear; possibly not</p> <p>Only requirement of an established relationship for e-consults so could be applied to “store and forward”</p> <p>IL Admin. Code 140.403</p>
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<p>ME</p>	<p>“Store and forward transfers” means the transmission of a patient’s recorded health history through a secure electronic system to a health professional.” “Asynchronous encounters” means the interaction or consultation between an enrollee and the enrollee’s provider or between providers regarding the enrollee through a system with the ability to store digital information, including, but not limited to, still images, video, audio and text files, and other relevant data in one location and subsequently transmit such information for interpretation at a remote site by health professionals without requiring the simultaneous presence of the patient or the health professionals.</p> <p>ME Statute Sec. 22:855.3173-H, Sub. Sec. 1 (Accessed Mar. 2022)</p>	<p>Yes</p> <p>ME Telehealth Guidance</p>	<p>Not likely, as seen in the different reimbursement fees of its Telehealth Provider Manual</p> <p>MaineCare Benefits Manual, Telehealth, 10-144 Ch. 101, Ch. 1, Sec. 4. Pg. 5, (June 15, 2020), (Accessed Mar. 2022)</p>	<p>No</p> <p>MaineCare Benefits Manual, Telehealth, 10-144 Ch. 101, Ch. 1, Sec. 4. Pg. 5, (June 15, 2020), (Accessed Mar. 2022)</p>
<p>MA</p>	<p>“Telehealth” is the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology;</p>	<p>Yes</p> <p>MassHealth Provider Bulletin</p>	<p>Yes</p> <p>“Rates of payment for services delivered via telehealth will be the same</p>	<p>Not clear; possibly not</p> <p>“The rate of payment for telehealth services provided via interactive audio-video technology may be</p>

	<p>(ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient’s physical health, oral health, mental health or substance use disorder condition. Massachusetts Senate No. 2984. (Accessed Mar. 2022)</p> <p>MassHealth did not specify clear definitions and broadly address “all modalities.” MassHealth Provider Bulletin</p>		<p>as the rates of payment for services delivered via traditional (i.e., in-person) methods as set forth in the applicable regulations.”</p> <p>MassHealth Provider Bulletin</p>	<p>greater than the rate of payment for the same service delivered by other telehealth modalities.”</p> <p>Massachusetts Senate No. 2984. (Accessed Mar. 2022)</p>
<p>MD</p>	<p>Recently passed legislation requires expanded coverage of asynchronous and remote patient monitoring modalities. HB 123/SB 3 (2021 Session), (Accessed Mar. 2022)</p>	<p>Yes</p> <p>New legislation allows coverage of asynchronous services (HB 123/SB 3 (2021 Session)), (Accessed Mar. 2022), yet the current telehealth Manual only</p>	<p>Yes, but temporarily so far</p> <p>From July 1, 2021, to June 30, 2023, when appropriately provided through telehealth, the Program shall provide reimbursement in accordance on the same basis and the same rate as if the health care service were delivered by the</p>	<p>Not clear; not likely</p>

		<p>defines store-and-forward under some circumstances (See footnote 1 in MD Medicaid Telehealth Program. Telehealth Provider Manual. p. 4, Updated April 2020, (Accessed Mar. 2022). New policies should be reconciling these differences.</p>	<p>health care provider in person.</p> <p>HB 123/SB 3 (2021 Session), (Accessed Mar. 2022)</p>	
MN	<p>Store-and-forward is the asynchronous electronic transfer or transmission of a patient’s medical information or data from the originating site to a distant site for purposes of diagnostic and therapeutic assistance in the care of the patient. Medical information may include, but is not limited to, video clips, still images, X-rays, MRIs, EKGs, laboratory results, audio clips and text. The physician at the distant site reviews</p>	<p>Yes</p> <p>MN Dept. of Human Services, Provider Manual, Physician and Professional Services (Telemedicine), As revised Sept. 2,</p>	<p>Not yet</p> <p>“The commissioner of health, in consultation with the commissioners of human services and commerce, shall study the impact of telehealth expansion and payment parity.”</p>	<p>Not likely; possibly not</p>

	<p>the case without the patient being present. Store-and-forward substitutes for an interactive encounter with the patient present; the patient is not present in real-time.</p> <p>MN MHCP Provider Manual Telehealth Services (Mar. 2022)</p>	<p>2021, (Accessed Mar. 2022)</p>	<p>MN Statute Sec. 256B.0625 Subd. 3b(f)(1). As amended by HF 33 (2021 Session), (Accessed Mar. 2022)</p>	
MT	<p>Telemedicine restrictions limited to interactive video</p> <p>MT Dept. of Public Health and Human Svcs., Medicaid and Medical Assistance Programs Manual, General Information for Providers, Telemedicine (Feb. 2020),(Accessed Nov. 2021).</p>	No	Not applicable	Not applicable
NJ	<p>“Asynchronous store and forward technology” is defined as the acquisition and transmission of a patient’s medical information either to, or from, an originating site to the provider at the distant site, where the provider can review the information without the patient being present. Information includes transmission of images,</p>	<p>Yes</p> <p>(NJ S-2559)</p>	<p>Possibly</p> <p>The State Medicaid program shall provide coverage and payment for health care services delivered to a benefits recipient through telemedicine or telehealth, on the same basis as, and</p>	<p>Possibly</p> <p>An initial face-to-face visit is not required to establish a provider-patient relationship. The provider must review and be familiar with the patient’s history and medical records, when applicable, prior to the provision of any telehealth services.</p>

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	<p>diagnostics, data and other information necessary to the medical process.</p> <p>NJ Division of Medical Assistance and Health Services. Newsletter Vol. 28, No. 17, Sept. 2018, (Accessed Mar. 2022).</p>		<p>at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered when delivered through in-person contact and consultation in New Jersey.</p>	<p>NJ Division of Medical Assistance and Health Services. Newsletter Vol. 28, No. 17, Sept. 2018, (Accessed Mar. 2022).</p>
NM	<p>"To be eligible for payment under store-and-forward, service must be provided through the transference of digital images, sounds, or previously recorded video from one location to another; to allow a consulting provider to obtain information, analyze it, and report back to the referring physician providing the telemedicine consultation... includes encounters that do not occur in real time."</p>	<p>Yes</p> <p>"The New Mexico Medical Assistance Division reimburses for services delivered through store-and-forward."</p> <p>NM Administrative Code 8.310.2.12</p>	<p>Yes</p> <p>"Reimbursement for professional services at the originating-site and the distant-site are made at the same rate as when the services provided are furnished without the use of a telecommunication system."</p>	<p>Not clear</p>

	NM Administrative Code 8.310.2.12 (M) . (Accessed Mar. 2022)	(M) . (Accessed Mar. 2022)	NM Administrative Code 8.310.2.12 (M) . (Accessed Mar. 2022)	
NY	<p>Store-and-forward technology involves the asynchronous, electronic transmission of a member's health information in the form of patient-specific pre-recorded videos and/or digital images from a provider at an originating site to a telehealth provider at a distant site.</p> <p>NY Dept. of Health, Medicaid Update, Vol. 35, Number 2, February 2019, p. 4, (Accessed Mar. 2022)</p>	<p>Yes</p> <p>NY Dept. of Health, Medicaid Update, Vol. 35, Number 2, February 2019, p. 4, (Accessed Mar. 2022)</p>	<p>No</p> <p>Reimbursement for store-and-forward is made to the consulting distant-site practitioner and is paid at 75 percent of the Medicaid fee for the service provided.</p> <p>NY Dept. of Health, Medicaid Update, Vol. 35, Number 2, February 2019, p. 4, (Accessed Mar. 2022)</p>	Not clear
OR	<p>"Asynchronous" means not simultaneous or concurrent in time. For the purpose of this rule, asynchronous telecommunication technologies for telemedicine or telehealth services may include audio and video, audio, or member portal and may include transmission of data from remote</p>	<p>Yes</p> <p>OR Revised Statutes Sec. 414.723, (Accessed Jan. 2022); Oregon Health Authority, Health Evidence</p>	<p>Yes</p> <p>Oregon's contracted Coordinated Care Organizations are required to reimburse their contracted physical and behavioral health</p>	<p>Possibly</p> <p>"Dependent on individual certification or licensing board's scope of practice standards, telemedicine or telehealth delivered services for covered conditions are</p>

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	<p>monitoring. "Asynchronous" does not include voice messages, facsimile, electronic mail or text messages.</p> <p>OAR 410-141-3566, Health Systems Division: Medical Assistance, Oregon Health Plan, Telehealth Service and Reimbursement Requirements (Accessed Mar. 2022); OAR 410-120-1990 Health Systems Division: Medical Assistance Programs, Telehealth. (Accessed Mar. 2022).</p>	<p>Review Commission, Guideline Note Changes for the January 1, 2022 Prioritized List of Health Services, p. AD-3 & 4. (12/01/21), (Accessed Mar. 2022)</p>	<p>providers the same rate for telemedicine and telehealth services as they would for persons in-person.</p> <p>OR Admin. Order DMAP 43-2020</p>	<p>covered for establishing a patient-provider relationship..."</p> <p>OAR 410-141-3566, Health Systems Division: Medical Assistance, Oregon Health Plan, Telehealth Service and Reimbursement Requirements, (Accessed Mar. 2022)</p>
VT	<p>"Store and forward" means an asynchronous transmission of a beneficiary's medical information from a health care professional to a provider at a distant site, through a secure connection that complies with HIPAA, without the beneficiary present in real time.</p> <p>VT. Health Care Admin Rules 3.101</p>	<p>No. Only allowed for tele dermatology and teleophthalmology.</p> <p>VT. Health Care Admin Rules 3.101</p>	<p>Not applicable</p>	<p>Possibly, but perhaps not for store-and-forward modalities outside of tele dermatology and teleophthalmology.</p> <p>VT. Health Care Admin Rules 3.101</p>
WA	<p>"Store and forward technology means use of an asynchronous transmission of a covered person's medical information from an originating site to the health</p>	<p>Only for certain conditions [Would not include abortions].</p>	<p>Not applicable</p>	<p>Not applicable</p>

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	<p>care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email.”</p> <p>WA State Health Care Authority, Medicaid Provider Guide, Physician-Related Svcs./Health Care Professional Svcs., p. 89 (Oct. 2021). (Accessed Nov. 2021; Rev. Code WA 74.09.325 (Accessed Feb. 2022)</p>	<p>Rev. Code WA 74.09.325 (Accessed Feb. 2022)</p>		
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