



Telementalhealth Position Statement July 2020

The COVID-19 global pandemic has affected our patients, our practices and our physical and psychological health in various and complex ways. In response, and in the unfortunate anticipation of new pandemics that might arise in the future, PsiAN regards the following changes to insurance coverage, professional licensing regulation, and health care policy as necessary in order to protect the continued availability of psychotherapies of depth, insight, and relationship. The array of telehealth options approved for use during this emergency situation need to be continued beyond the aftermath stage of this pandemic, and established as usual practice going forward.

Insurance

- 1) **Payment parity** – Reimbursement rates for telehealth therapy sessions shall remain the same as those for in-office sessions.
- 2) **Technology determined by clinician preference** – Clinicians shall select the appropriate technology platform (HIPAA compliant, encrypted) that works best for the needs of their patients and their practice.
- 3) **Coverage for all levels of care** – All levels of care that can be safely delivered via tele-therapy shall be covered.
- 4) **Coverage for all CPT codes** – All CPT codes (for example, including 90837) that the clinician chooses to use shall be covered, with payment parity.
- 5) **Coverage for first appointment** – Initial appointments with a new patient shall be covered, with payment parity, and without any restrictions or requirements that they occur in-office.
- 6) **Coverage regardless of patient/therapist location** – Patients shall not be required to travel to a physician's office or other designated location in order to access telehealth.
- 7) **Audio-only sessions** – These shall be fully covered by insurance plans and reimbursed at the same rates as video and in-office sessions.
- 8) **Teletherapy substantively equivalent to in-office treatment** – Teletherapy is psychotherapy that is equivalent to in-office treatment, thus excluding text, website or app-based programs.
- 9) **Maintenance of current reimbursement rates, with cost-of-living adjustments** – No reduction in reimbursement rates based on overhead calculations or any assumed reductions in therapists' overhead, as most practitioners will continue to maintain physical offices plus incur added expenses for remote resources.

Licensing

Licensing reciprocity across state lines for practitioners of all mental health disciplines.

Policy

1. **All insurance plans (public and private, including fully-funded and self-funded) shall offer equivalent coverage for in-network and out-of-network services.** The above insurance and licensing criteria will apply equally to all insurance plans, and to all services rendered, including out-of-network services if in-network providers are not available or accessible.
2. **Coverage for mental health services for those who are uninsured** shall be funded at rates equivalent to those mandated by insurance policies.
3. **Coverage for those who have lost employment/insurance due to a pandemic** shall be provided at rates equivalent to those mandated by their immediately prior policies.
4. **Governors' Executive Orders** include acknowledgement of the scope of and provision for comprehensive response to the mental health crisis that is accompanying this pandemic.

Rationale: Insurance

- 1) **Payment parity:** Whether a therapy session takes place in-office or over video/phone, the clinician spends the same amount of time in the session, and draws upon the same levels of experience and expertise. Thus, there should be payment parity for these sessions, i.e., no difference in the amount the therapist is reimbursed.
- 2) **Technology determined by clinician preference:** Prior to the COVID-19 pandemic, several insurance companies invested in proprietary technology platforms (examples are MDLive, or LiveHealthOnline). They then added the requirement that, in order to administer telehealth, any in-network therapists should additionally apply to become in-network with this technology platform. Many therapists chose not to join these proprietary technology networks, as the technology was restrictive, reimbursement rates were up to 50% lower, and only a limited set of CPT codes -- defined by the insurance company, not the clinician -- were allowed. Throughout this pandemic, therapists have researched, chosen and successfully used a wide variety of HIPAA-compliant and encrypted technology platforms. Just as they select their own physical offices, therapists are fully equipped to select technology platforms that best suit their practice and patients.
- 3) **Coverage for all levels of care:** The disruption caused by pandemics and other crises should not be used to restrict procedures or standards of care.
- 4) **Coverage for all CPT codes:** Therapists should be able to determine clinical necessity, and should continue to have the ability to use all existing CPT codes. Unfortunately, there have been some instances in which insurance companies have chosen, seemingly arbitrarily, to limit the array of reimbursable CPT codes when delivered remotely, even though such codes were reimbursed when

- treatment was conducted in-office. This restriction on telehealth codes without clinical justification likely violates parity laws as well as best practices.
- 5) **Coverage for first appointment:** Some insurance companies mandate that initial appointments with a new patient (90791) need to occur in-office. This requirement is obsolete, especially as pandemic-related distress has led many people to seek treatment for the first time. In-person intakes would lead to unnecessary risks to the physical health of therapists and patients, or result in a denial of care for those who are suffering.
 - 6) **Coverage regardless of patient/therapist location:** The mandate of Medicare and other carriers that telehealth be conducted only in a physician's physical office is obsolete; it makes no sense within the context of a viral pandemic and defeats the purpose of telehealth.
 - 7) **Audio-only sessions:** Audio-only sessions are critical, especially for those patients who lack access to computers, smart phones, Wi-Fi networks, and the privacy to use them for personal purposes. Further, individuals with serious mental illness are far more at risk of digital exclusion, especially if they are minorities. In addition, some therapists and some patients have a personal preference for using the phone, and this preference should be accommodated.
 - 8) **Teletherapy substantively equivalent to in-office treatment:** The pandemic has brought on a myriad of stressors related to work, home, relationship, finances, and physical and emotional health, creating a groundswell of need for mental health treatment, including by first-time users of mental health services. Many patients, especially those who are uninsured, treatment-naive, or in particularly desperate circumstances, may be susceptible to untested, insufficient and opportunistic "psychotherapy" via mobile apps and other website and messaging services. Insurance companies are increasingly willing to pay for these less expensive, algorithmic interventions that seem to offer convenience and cost-savings. Thus, telehealth legislation and policy should support only established interventions, which are supported by a robust and substantial evidence base, and which are consistent with the Standards of Care for mental health treatment outlined in the 2019 ruling in the *Wit v. United Behavioral Health* lawsuit. Further, there need to be stringent restrictions on telehealth services that save, review, reproduce, bundle, sell or otherwise exploit patient data for reasons other than optimal patient care and practitioner reimbursement.
 - 9) **No devaluation of rates for teletherapy based on overhead.** During states of emergency, most clinicians have as much or more overhead when working remotely; most continue to maintain their original physical offices in addition to equipping a home office.

Rationale: Licensing

During this pandemic, many individuals have been forced or have chosen to move to another state. For example, college students have been sent home, some individuals have relocated to a safer second home, and some have lost jobs and have had to move in with family. Traditionally, therapists are licensed at the state level, and are only allowed to treat patients who are located in states in which they are licensed. In order to allow for continuity of care, and to meet the significant demand for therapy and uneven distribution of therapists, many states have relaxed their licensing requirements, and have allowed therapists to care for patients located in their state of residence, regardless of whether the therapist is licensed in their state.

Rationale: Policy

1. **All insurance plans (public and private, including fully-funded and self-funded) shall offer equivalent coverage for in-network and out-of-network services:** Fully-funded plans are regulated at the state level (by the state's Department of Insurance or Insurance Commissioner) and self-funded plans are regulated at the federal level (by the Department of Labor and ERISA). With approximately one-third of individuals receiving insurance coverage through their place of employment, and a substantial portion (about 60%) of those having self-funded plans, it is essential that both public and private self- and fully-funded plans adopt the recommended improvements outlined above. Additionally, some insurance plans are offering no telehealth benefits when out-of-network providers are used, and are only covering telehealth services if in-network providers are used. It is critical to eliminate this disparity; for some patients, their only options are to seek out-of-network services as demand for mental health treatment is extremely high, and in many cases, exceeding the capacity of in-network providers.
2. **Coverage for mental health services for those who are uninsured:** There is no doubt that COVID-19 and its mental health consequences have hit those without means and status the hardest. Those who are uninsured have been particularly affected, as they are most likely to contract the disease and to feel its financial and mental health effects. People who lack health insurance at this time need to have access to the same treatments as do those who happen to be insured.
3. **Coverage for those who have lost employment/insurance due to a pandemic:** Coverage for individuals in this situation shall continue at rates equivalent to those mandated by their immediately prior policies. Since loss of employment is a major life stressor, as is a public health crisis, it is imperative that those individuals have the opportunity to continue their care and work with trusted practitioners even if they lose their insurance with their employment. They may not be able to access or afford COBRA coverage. If they are then forced to procure insurance through public benefit, it is likely that reimbursement rates will be significantly lower than those offered through their former plans. Practitioners should not be expected to absorb these costs, at threat to their own livelihoods, in order to maintain ongoing treatment relationships.
4. **Governors' Executive Orders:** It is essential that Governors' Executive Orders mandate continued reimbursement by public and private insurance for ongoing mental health treatment at rates consistent with those for in-person treatment. Presently, there is a mix of situations in states across the country: some states do not have executive orders authorizing telehealth; others have orders that will expire with the lifting of stay-at-home policies; and still others have comprehensive orders that outline the advantages of ongoing telehealth provisions until infection risk from COVID-19 is eliminated or beyond. We recommend that all states mandate parity in payment and coverage.