



Maryland
Hospital Association

Senate Bill 582 - Behavioral Health Care – Treatment and Access (Behavioral Health Model for Maryland)

Position: *Support with Amendments*

March 7, 2023

Senate Finance Committee

MHA Position

On behalf of the Maryland Hospital Association’s (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment in support of Senate Bill 582.

In Maryland, over 781,000 adults are diagnosed with a mental health condition.¹ Across the U.S., one in six youth between 6 and 17 years old, experience a mental health disorder each year, and about 57,000 Marylanders between 12 and 17 experience depression or depression-like symptoms.² For Marylanders of all ages, mental health conditions are more prevalent and affect their lives, as well as their families, friends, and colleagues.

Some challenges related to mental health services stem from mental health workforce shortages. As of September 2021, Maryland had a 79% deficiency in mental health professionals—designating behavioral health as a Health Professional Shortage Area (HPSA) for Maryland.³ SB 582 addresses ongoing behavioral health challenges by establishing a commission and pilot program.

Specifically, SB 582 institutes a commission to study, review, and report on the status of behavioral health in Maryland. In particular, the commission enacts work groups to study geriatric and youth behavioral health needs, as well as the behavioral health workforce, infrastructure, and financing. It is worth noting, of the 252,000 adults in Maryland who did not receive needed mental health care, 33.7% did not because of cost.⁴ The proposed study and subsequent analyses will help identify barriers to administering care and the cost associated with these services—ultimately improving the behavioral health system.

This bill also builds on the success of the Preserve Telehealth Access Act of 2021 and extends the sunset provisions for audio-only modalities and reimbursement parity for two years until June 30, 2025.

¹ National Alliance on Mental Illness (NAMI). “Mental Health in Maryland.” [nami.org/NAMI/media/NAMI-Media/StateFactSheets/MarylandStateFactSheet.pdf](https://www.nami.org/NAMI/media/NAMI-Media/StateFactSheets/MarylandStateFactSheet.pdf) (accessed February 23, 2023).

² *Id.*

³ Kaiser Family Foundation (KFF). “Mental Health in Maryland.” [kff.org/statedata/mental-health-and-substance-use-state-fact-sheets/maryland/](https://www.kff.org/statedata/mental-health-and-substance-use-state-fact-sheets/maryland/) (accessed February 23, 2023).

⁴ *Supra* Note 1.

To fully address health equity in telehealth, the value of audio-only telehealth cannot be overstated. The digital divide in Maryland between households with high-speed internet and corresponding devices with audio-visual capabilities is significant and cuts across traditional rural/urban lines. For urban *and* rural areas, audio-only health services may be the only modality a significant portion of their population can access. To restrict coverage and reimbursement for audio-only health services would essentially isolate these Marylanders from necessary health care, especially in the aftermath of a pandemic.

MHA supported Senate Bill 534 the Preserve Telehealth Access Act of 2023, which also extends the sunset provisions for audio-only modalities and reimbursement parity for two years until June 30, 2025. This bill passed unanimously in the Senate Finance Committee with amendments. The amendments were developed by the Maryland Health Care Commission (MHCC) to continue to study telehealth and to report to the General Assembly recommendations for future telehealth policy, including through the provision of audio-only services. MHCC's SB 534 testimony, including the amendments, is attached. All stakeholders, including Maryland insurance carriers, were in support of this bill and the MHCC amendments. We request that SB 582 also be amended to include the MHCC study language.

For these reasons, we respectfully request that the Committee adopt the MHCC study amendments and give a *favorable* report on SB 582.

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2023 SESSION POSITION PAPER

BILL NO: SB 534

COMMITTEE: Senate Finance Committee

POSITION: SUPPORT WITH AMENDMENTS

TITLE: Preserve Telehealth Access Act of 2023

BILL ANALYSIS

SB 534 - Preserve Telehealth Access Act of 2023 extends through June 30, 2025, certain telehealth coverage and reimbursement provisions passed by the Maryland General Assembly, Chapter 70 (HB 123) and Chapter 71 (SB 3) of the 2021 Laws of Maryland. The bill applies to the Maryland Medical Assistance Program (Medicaid) and certain insurers, nonprofit health service plans, and health maintenance organizations (collectively “carriers”).

POSITION AND RATIONALE

The Maryland Health Care Commission (the “Commission”) supports SB 534 with amendments. The 2021 law temporarily expanded through June 30, 2023, the definition of telehealth to include medically necessary somatic, dental, or behavioral health services to a patient, and removed restrictions on the location of a patient at the time telehealth services are provided. The law requires audio-only telephone conversations between a provider and patient to be reimbursed at the same rate as covered health care services delivered in-person. The Commission was required to study the impact of telehealth as it relates to the use of audio-only and audio-visual technologies in somatic and behavioral health interventions and submit recommendations on telehealth coverage and payment levels relative to in-person care to the Senate Finance Committee and the House Health and Government Operations Committee. The Commission submitted a final recommendations report (“report”).¹

The COVID-19 public health emergency (“PHE”) created unprecedented demand for telehealth. Carriers made telehealth policy changes building on regulatory actions taken by way of State executive orders and federal waivers. Such actions enabled greater flexibility and operational changes in accessing virtual health care services for both COVID-19 and non-COVID-19 health conditions. The

¹ *Maryland Health Care Commission*. “Preserve Telehealth Access Act of 2021, Telehealth Recommendations, Final Report – December 16, 2022.” Available at:

mhcc.maryland.gov/mhcc/pages/hit/hit_telemedicine/documents/hit_tlth_study_recommendations.pdf.

Note: The Maryland Health Care Commission is an independent State agency, and the position of the Commission may differ from the position of the Maryland Department of Health.

PHE demonstrated the utility of telehealth and its potential to address disparities in access to care.^{2, 3} While telehealth utilization has declined as the PHE regresses, its use remains above pre-PHE levels in Maryland and the nation. Most providers strongly support preserving policy changes originating from the telehealth waivers. Carriers are somewhat reluctant on preserving all waivers until sufficient data are available to measure the long-term impact on quality and cost. The Commission’s report noted that more data is needed to compare telehealth to in-person care and fully understand the impact of using audio-only and audio-visual technologies in somatic and behavioral health.

The telehealth study analyzed data available from MHCC’s All-Payer Claims Data Base (“APCD”) through 2021.⁴ Further insights can be derived from analyzing additional claims data. This is necessary to formulate data-driven and evidence-based recommendations to guide future telehealth policy and legislation that takes into consideration the extent telehealth affects quality and cost, and its impact on health equity. The Commission recommends that the bill be amended as follows:

AMENDMENT:

- Page 5, after line 11 insert:

THE MARYLAND HEALTH CARE COMMISSION SHALL STUDY PAYMENT PARITY FOR AUDIO-VISUAL AND AUDIO-ONLY TECHNOLOGIES AND SUBMIT A REPORT TO THE MARYLAND GENERAL ASSEMBLY BY DECEMBER 1, 2024 THAT ADDRESSES THE FOLLOWING:

(A) DOES IT COST MORE OR LESS FOR PROVIDERS TO DELIVER TELEHEALTH;

(B) DOES TELEHEALTH REQUIRE MORE OR LESS CLINICAL EFFORT FOR A PROVIDER;

² Colbert, G. B., Venegas-Vera, A. V., & Lerma, E. V. (2020). “Utility of telemedicine in the COVID-19 era.” *NIH National Library of Medicine Reviews in Cardiovascular Medicine*, 21(4), 583-587. Available at: pubmed.ncbi.nlm.nih.gov/33388003/.

³ Chen, J., Li, K. Y., Andino, J., Hill, C. E., Ng, S., Steppe, E., & Ellimoottil, C. (2022). “Predictors of Audio-Only Versus Video Telehealth Visits During the COVID-19 Pandemic.” *Springer Link, Journal of General Internal Medicine*, 37(5), 1138-1144. Available at: link.springer.com/article/10.1007/s11606-021-07172-y.

⁴ APCD data used in the study for commercial payers, Medicaid, and Medicare was for the period 2018 through 2021. Claims level detail for 2021 Medicare data was unavailable; summary level data provided by the Health Services Cost Review Commission to aggregate select data to certain specifications.



(C) ARE THERE ASPECTS OF TELEHEALTH THAT YIELD LOWER VALUE, OVERUSE, OR CONVERSELY GREATER VALUE THAT INFORM THE DEBATE ON PAYMENT PARITY;

(D) THE ADEQUACY OF REIMBURSEMENT FOR BEHAVIORAL HEALTH SERVICES DELIVERED IN-PERSON AND BY TELEHEALTH; AND

(E) ANY OTHER FINDINGS AND RECOMMENDATIONS.

