

# Maryland Insurance Administration

Health Occupations and Long Term Care Subcommittee and  
Health Insurance Subcommittee  
Briefing: Telehealth  
October 15, 2020

Kathleen A. Birrane – Commissioner  
David Cooney – Associate Commissioner - Life and Health  
Michael Paddy – Director of Government Relations



## **I. Existing Statutory Requirements for Telehealth in the Commercial Insured Market**

### **§15–139, Insurance Article**

(a)(1) In this section, “telehealth” means, as it relates to the delivery of health care services, the use of interactive audio, video, or other telecommunications or electronic technology by a licensed health care provider to deliver a health care service within the scope of practice of the health care provider at a location other than the location of the patient.

(2) “Telehealth” includes the delivery of mental health care services to a patient in the patient’s home setting.

(3) “Telehealth” does not include:

- (i) an audio-only telephone conversation between a health care provider and a patient;
- (ii) an electronic mail message between a health care provider and a patient; or
- (iii) a facsimile transmission between a health care provider and a patient.

(b) This section applies to:

- (1) insurers and nonprofit health service plans that provide hospital, medical, or surgical benefits to individuals or groups on an expense-incurred basis under health insurance policies or contracts that are issued or delivered in the State; and
- (2) health maintenance organizations that provide hospital, medical, or surgical benefits to individuals or groups under contracts that are issued or delivered in the State.

(c) (1) An entity subject to this section:

- (i) shall provide coverage under a health insurance policy or contract for health care services appropriately delivered through telehealth; and
- (ii) may not exclude from coverage a health care service solely because it is provided through telehealth and is not provided through an in-person consultation or contact between a health care provider and a patient.

(2) The health care services appropriately delivered through telehealth shall include counseling for substance use disorders.

(d) An entity subject to this section:

(1) shall reimburse a health care provider for the diagnosis, consultation, and treatment of an insured patient for a health care service covered under a health insurance policy or contract that can be appropriately provided through telehealth;

(2) is not required to:

(i) reimburse a health care provider for a health care service delivered in person or through telehealth that is not a covered benefit under the health insurance policy or contract; or

(ii) reimburse a health care provider who is not a covered provider under the health insurance policy or contract; and

(3) (i) may impose a deductible, copayment, or coinsurance amount on benefits for health care services that are delivered either through an in-person consultation or through telehealth;

(ii) may impose an annual dollar maximum as permitted by federal law; and

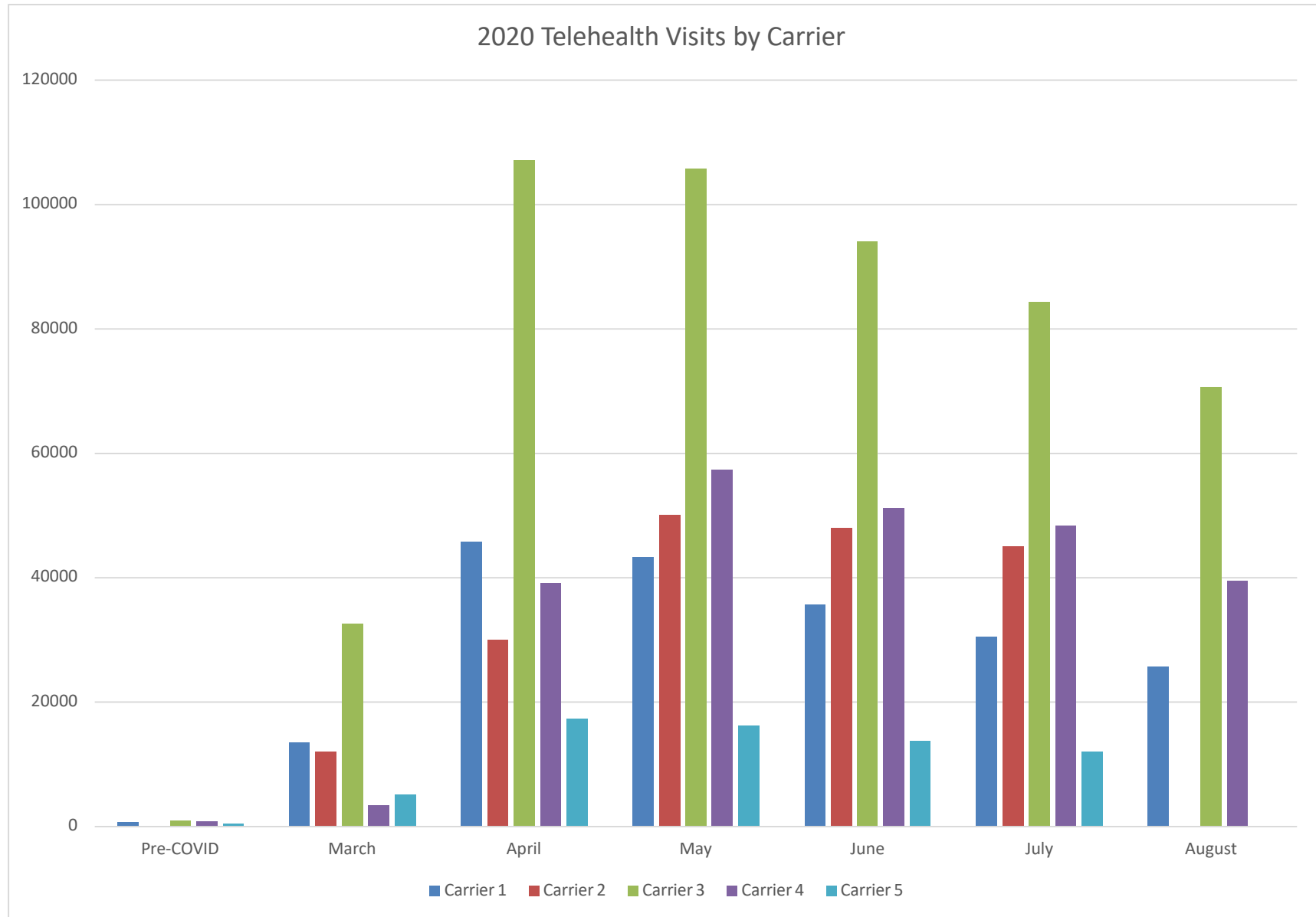
(iii) may not impose a lifetime dollar maximum.

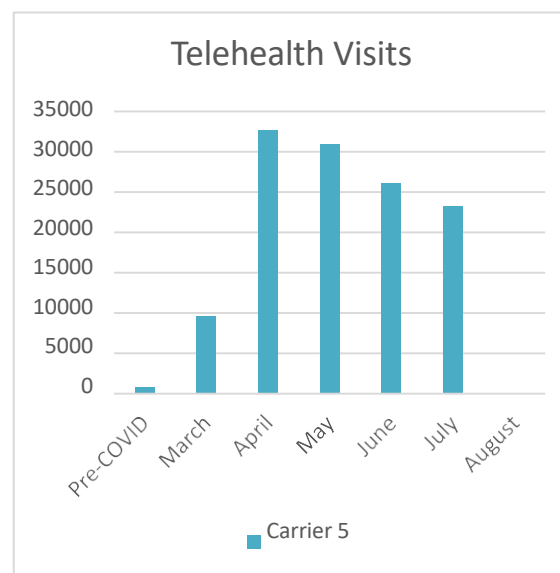
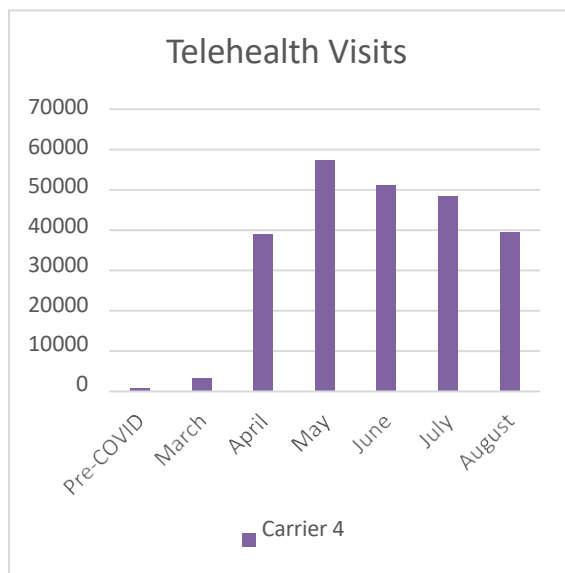
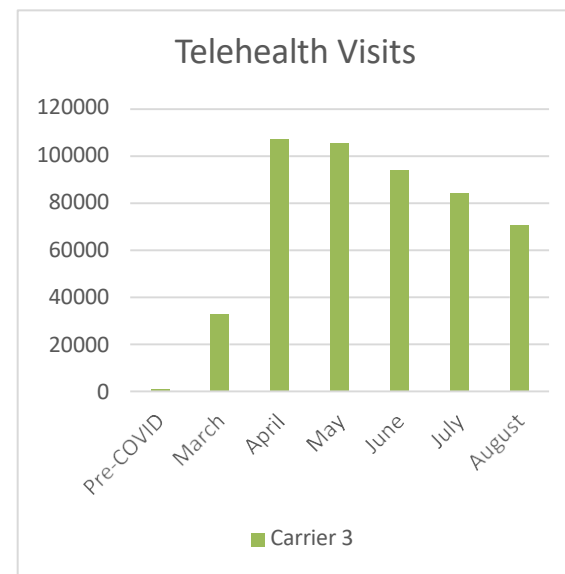
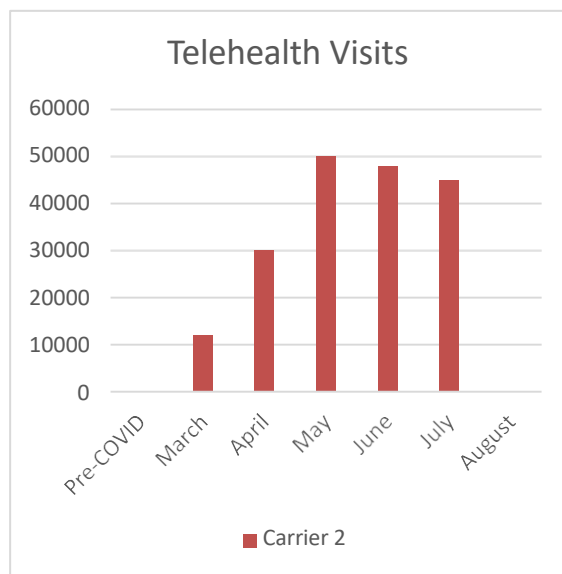
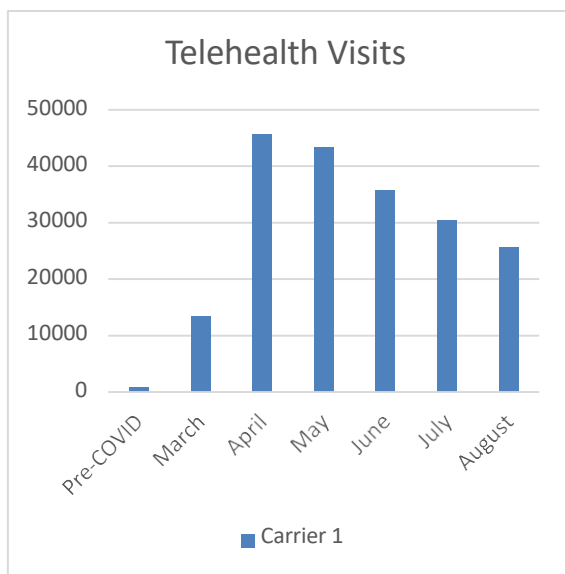
(e) An entity subject to this section may undertake utilization review, including preauthorization, to determine the appropriateness of any health care service whether the service is delivered through an in-person consultation or through telehealth if the appropriateness of the health care service is determined in the same manner.

(f) A health insurance policy or contract may not distinguish between patients in rural or urban locations in providing coverage under the policy or contract for health care services delivered through telehealth.

(g) A decision by an entity subject to this section not to provide coverage for telehealth in accordance with this section constitutes an adverse decision, as defined in § 15–10A–01 of this title, if the decision is based on a finding that telehealth is not medically necessary, appropriate, or efficient.

## II. Growth of Telehealth During the Pandemic





### III. Carrier Response

- Expansion of telehealth systems and platforms eligible for coverage - any “non-public facing” commercial applications (e.g. FaceTime, Skype, Zoom)
- Increased scope of services eligible for telehealth coverage (conditions/ services/specialties)
- Telehealth coverage of phone-only consultations
- Waiver of member cost-sharing for telehealth visits
- Provider reimbursement parity between virtual consultations and in-person consultations
- Extension of accommodations to self-funded clients

#### IV. MIA Actions

- Examined and reevaluated requirements of current law in a pandemic environment
- Considered options with emergency powers
- Maintained open communication with carriers and advised them of emerging issues
- Ensured carriers were complying with existing law and encouraged carriers to accommodate reasonable provider and consumer requests
- Monitored market conditions and carrier actions - some voluntary accommodations were scaled back as pandemic subsided

## V. Lessons Learned

- Legislation is necessary to make telehealth expansion permanent
- Additional infrastructure and tools are needed to ensure telehealth is available and accessible
- Consideration must be given to interplay between federal and state requirements
- Uniformity across markets is desired but difficult to achieve
- Telehealth can play an important role in improving adequacy of carrier provider networks