BROCATO & SHATTUCK

APTA Maryland Legislative Committee – UPDATE

March 18, 2021

TELEHEALTH

- **House Bill 123/Senate Bill 3 - Preserve Telehealth Act of 2021**

Telehealth has been a primary focus during the 2021 Session of the Maryland General Assembly. House Bill 123 & Senate Bill 3 have become the primary piece of telehealth legislation, by incorporating aspects from the other pieces telehealth legislation that was introduced this Session, including **HB551/SB393** - Maryland Medical Assistance Program and Health Insurance – Coverage and Reimbursement of Telehealth Services.

APTA MD supported each of these bills and has been participating in the work of House and Senate subcommittee work sessions.

It is the stated goal of the lead Sponsors, that these bills maintain many of the expanded authority and financial benefits that have been allowed during the current catastrophic health emergency for the next two years. HB123/SB3 requires a study be conducted to review the impact expanded telehealth benefits has on patient care, access to care, provider involvement, and impact on payors. The study is due on or before December 2022.

Currently, HB123 has passed out of the House and is now in the Senate, for Senate consideration. SB3 is in the House for House consideration. The bills are very similar, and any differences will be reconciled before final passage.

The core components of the bill are as follows with similar requirements for Medicaid and commercial insurers:

- **Continued authority to use audio only communications for 2-years, specifically:**
  FROM JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE, AN AUDIO–ONLY TELEPHONE CONVERSATION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT THAT RESULTS IN THE DELIVERY OF A BILLABLE, COVERED HEALTH CARE SERVICE.

- **Payment parity requirements for commercial carriers to pay the same for telehealth as in person, for 2-years, specifically:**
  FROM JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE, WHEN A HEALTH CARE SERVICE IS APPROPRIATELY PROVIDED THROUGH TELEHEALTH, AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE REIMBURSEMENT IN ACCORDANCE WITH PARAGRAPH (1)(I) OF THIS SUBSECTION ON THE SAME BASIS AND AT THE SAME RATE AS IF THE HEALTH CARE SERVICE WERE DELIVERED BY THE HEALTH CARE PROVIDER IN PERSON.

- **"Remote patient monitoring" included as an approved telehealth service. Specifically:**
  "REMOTE PATIENT MONITORING SERVICES" MEANS THE USE OF SYNCHRONOUS OR ASYNCHRONOUS DIGITAL TECHNOLOGIES THAT COLLECT OR MONITOR MEDICAL, PATIENT–REPORTED, AND OTHER FORMS OF HEALTH CARE DATA FOR PROGRAM RECIPIENTS AT AN ORIGINATING SITE AND ELECTRONICALLY TRANSMIT THAT DATA TO A DISTANT SITE PROVIDER TO ENABLE THE DISTANT SITE PROVIDER TO ASSESS, DIAGNOSE, CONSULT, TREAT, EDUCATE, PROVIDE CARE MANAGEMENT, SUGGEST SELF–MANAGEMENT, OR MAKE RECOMMENDATIONS REGARDING THE PROGRAM RECIPIENT'S HEALTH CARE.

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- **STUDY: The Maryland Health Care Commission is charged to conduct a study and report back to the General Assembly about the impact of telehealth services, including audio-only and audio-visual technologies, on patient access to care, payment parity measures on patients, providers and insurers, network adequacy and other matters. Specifically, the report shall include:**

(1) an analysis of:

(i) the impact of the use of telehealth on disparities in access to health care services including primary care and behavioral health services;

(ii) whether different communities and patient populations have differences in take–up rates of telehealth services; and

(iii) the comparative effectiveness of telehealth and in–person visits on the total costs of care and patient outcomes of care;

(2) a study on the alignment of telehealth with new models of care that addresses:

(i) opportunities for using telehealth to improve patient–centered care;

(ii) health care services for which telehealth can substitute for in–person care while maintaining the standard of care, including the use of remote patient monitoring for somatic and behavioral health care services; and

(iii) the impact of alternative care delivery models on telehealth coverage and reimbursement;

(3) an assessment on the efficiency and effectiveness of telehealth and in–person visits that includes:

(i) a review of peer–reviewed research on the impact of different communication technologies on patient health including patient retention rates and reduced barriers to care;

(ii) a survey of health care providers as defined under § 15–141.2 of the Health – General Article as enacted by this Act;

(iii) a review of the resources required to sustainably provide telehealth services for the continuum of health care providers, including private and small practices;

(4) an assessment of patient awareness of and satisfaction with telehealth coverage and care that includes:

(i) the availability and appropriate uses of telehealth services;

(ii) the privacy risks and benefits of telehealth services and the strategies needed to navigate privacy issues; and

(iii) barriers to care and levels of patient engagement that have been addressed by audio–only and audio–visual telehealth;

(5) a review of the appropriateness of:

(i) telehealth across the continuum of care ranging from virtual telecommunications services used for patient check–ins to in–person evaluation and management services as defined in the Berenson–Eggers type of service typology for somatic and behavioral health services;

(ii) inclusion of clinic hospital facility fees in reimbursement for hospital–provided telehealth; and

(iii)the use of telehealth to satisfy network access standards required under § 15–112(b) of the Insurance Article; and

(6) the study or analysis of any other issues identified by the Commission.

(d) The report shall include recommendations on:

(1) coverage of telehealth services; and

(2) payment levels for telehealth services relative to in–person care.