Special Committee on Mental Health Modernization
Telehealth Working Group Meeting
December 2, 2021
11am-12:30pm

Meeting Notes
Meeting Materials: https://www.khi.org/pages/2021-MHMR

Agenda:
11:00am – Working Group Member Introductions and Meeting Commitments
11:05am – Telehealth Claims Data
11:15am – Finalize Revisions to 2020 Recommendations
11:45am – Discussion on Telehealth Payment Parity
12:28pm – Administrative Updates
 2:30pm – Adjourn

Meeting Commitments:
- Come ready to discuss and compromise
- Keep remarks succinct and on topic
- Don't hesitate to ask clarifying questions
- Start and end on time

Attendees
Working group members:
Sunee Mickle, BCBS-KS; Rep. Brenda Landwehr; Jennifer Findley, KHA; Stuart Little, BHAK; Brittney Nichols, KDHE; Rennie Shuler-McKinney, AdventHealth; Dr. Shawna Wright, KU Center for Telemedicine & Telehealth; Sarah Fertig, Medicaid Director; Sandra Berg, United Healthcare; Christina Morris, Aetna; Claudia Duck Tucker, Teledoc Health Inc; David Fye, BSRB; Leslie Allen, BSRB; Dennis Shelby, Wilson Medical Center; Chad Johanning, KS Academy of Family Physicians

Staff:
Hina Shah, KHI; Kari Bruffett, KHI; Samiyah Para-Cremer, KHI; Leighann Thone, KLRD; Melissa Renick, KLRD

Telehealth Claims Data
The following material was shared during the meeting:

Medicaid Telehealth Codes and Changes Due to COVID-19
Overview and Materials:
Medicaid Director Sarah Fertig shared the TM Codes and Changes Due to COVID-19 document and discussed which behavioral health codes were opened during the pandemic.

Questions and Discussion:
- How long will these new codes remain open?
  - There are no present plans to close these codes; however, the state will need to follow CMS guidance should CMS recommend closing a code.
- Do these codes allow for telehealth provided in a home setting?
  - To my knowledge, yes. I would need to follow up to ensure there are no caveats.
- Did these codes expand the number of providers allowed to provide telehealth?
  - Some case management and peer-support codes were added during the pandemic. As a result, there were more providers able to use these codes but

the scope of providers' work and what they are certified to provide via telehealth did not change.

Medicaid Claim Counts
Overview and Materials:
Medicaid Director Sarah Fertig shared the following documents describing Medicaid claim data for both behavioral and non-behavioral telehealth codes
- Medicaid Claim Count for Behavioral Codes, Telehealth and In-Person, 2018-Oct 2021
- Medicaid Claim Count for Non-Behavioral Codes, Telehealth and In-Person, 2018-Oct 2021

Questions and Discussion:
- Why was their such a substantial drop between 2020 and 2021 claims data?
  - Because there is a lag in 2021 claims data availability, we only have claims data for 2021 through October. Since that data is not complete yet, we cannot compare 2020 and 2021 at this time.

Telehealth Claims Data by Age
Overview and Materials:
Medicaid Director Sarah Fertig, Christina Morris of Aetna, and Sunee Mickle of BCBS-KS shared Telehealth Claims by Age for their respective organizations.

Questions and Discussion:
Presenters observed that there were dramatic increases in telehealth claims for all age groups. No questions were asked by the workgroup.

Finalize Revisions to 2020 Recommendations
The working group discussed final wording of the 2020 revised recommendations and scored the recommendations for ease of implementation and potential for high impact. Any revisions are explained below.

2021 Telehealth Vision Statement:
There were no further changes to the Vision Statement during the December 2 meeting and this language was ratified by the working group on December 6.
- Vision Statement: A modernized behavioral health system will deliver technologically current telehealth services, with the Kansas Telemedicine Act as a foundation, as a strategy to provide meaningful access to care across rural, frontier and urban areas and regardless of socioeconomic status. These services will be high-quality, integrated with other modes of care delivery and ensure consumer choice and privacy, in addition to supporting the full spectrum of behavioral health care.

Recommendation 10.1 Quality Assurance
The working group discussed the following language:
- "Direct professional regulatory and licensing boards to develop quality assurance standards [elements] to ensure high-quality telehealth services are provided. This includes:
  - Establishing consistent guidelines and measures for telehealth in collaboration with licensing and regulatory agencies.
  - Directing licensing boards to require standard provider education and training
  - ~~Ensuring patient privacy~~
  - ~~Educating patients on privacy-related issues~~
  - Allowing telehealth supervision hours to be consistently counted toward licensure requirements.

- o Allowing services to be provided flexibly <s>when broadband access is limited</s> using any technology that is able to meet the standard of care
- o Improving provider and patient education around telehealth literacy in relation to privacy, efficacy, access and cybersecurity practices."

Revisions:
The working group recommended the following language on December 2
- "Develop quality assurance standards [elements] to ensure high-quality telehealth services are provided. This includes:
  - o Establishing consistent guidelines and measures for telehealth in collaboration with licensing and regulatory agencies.
  - o Allowing telehealth supervision hours to be consistently counted toward licensure requirements.
  - o Allowing services to be provided flexibly as stated under the Telemedicine Act.
  - o Improving provider and patient education around telehealth literacy in relation to privacy, efficacy, access and cybersecurity practices."

Context for Revisions:
- **Concern around Additional Burdens on Providers:** Working group members argued that developing these standards and then requiring them may put too much strain on providers if not done in a thoughtful way. Working group members suggested that instead, the initial focus should be to develop these measures
- **Clarity:** Working group members removed bullet points 2-4 in the initial language because it was deemed too repetitive
- **Standard of Care Language:** The working group members expressed concern that there would be confusion around "standard of care" and "practice standards" particularly in relation to HIPAA compliance. Instead, the working group proposed referencing the Telemedicine Act's pre-existing standards

Final Language:
On December 6, the working group ratified the following language for Recommendation 10.1 Quality Assurance
- Develop quality assurance standards to ensure high-quality telehealth services are provided, including:
  - o Establishing consistent guidelines and measures for telehealth in collaboration with licensing and regulatory agencies.
  - o Allowing telehealth supervision hours to be consistently counted toward licensure requirements.
  - o Allowing services to be provided flexibly <s>as stated under</s> utilizing the Kansas Telemedicine Act.
  - o Improving provider and patient education around telehealth literacy in relation to privacy, efficacy, access and cybersecurity practices.

Context for Final Language Revisions:
- **Kansas Telemedicine Act:** The Office of the Revisors clarified that the Kansas Telemedicine Act does not have specific language to this effect and therefore the language should be "utilizing"
- **Clarity:** The working group proposed the other changes to improve understanding of the recommendation

Recommendation 10.2 Telehealth Reimbursement Codes
The working group discussed the following language. There were no further changes to the recommendation during the December 2 meeting and this language was ratified by the working group on December 6.

- <u>As CMS rules allow</u>, maintain Medicaid reimbursement codes added during the public health emergency for <u>telehealth</u> services and consider options to prevent loss of facility fees so that providers are not losing revenue by delivering telehealth services.

Recommendation 10.3 Telehealth for Crisis Services
The working group discussed the following language.
- Establish coverage of telehealth for crisis services to allow for the use of telehealth with law enforcement and mobile crisis services. Explore virtual co-responder models for law enforcement to aid police departments and other law enforcement agencies as they respond to mental health crisis in rural and frontier communities. ~~Increase~~ Engage professional associations statewide to develop appropriate education for providers, practitioners and law enforcement officers on using telehealth for crisis services.

Revisions:
The working group recommended the following language on December 2 and was ratified by the working group on December 6:
- <u>Continue</u> coverage of telehealth for crisis services to allow for the use of telehealth with law enforcement and mobile crisis services. Explore virtual co-responder models for law enforcement to aid police departments and other law enforcement agencies as they respond to mental health crisis in rural and frontier communities. <u>Engage professional associations statewide to adopt appropriate education for providers, practitioners and law enforcement officers on using telehealth for crisis services.</u>

Context for Revisions:
- **Encourage Maintenance:** The working group identified that coverage of telehealth for crisis services had already been established and recommended the new language of "continue" to recommend the work be maintained.
- **Acknowledge Existing Resources:** The language of "develop appropriate education" was changed to "adopt appropriate education" to recognize that many of these trainings already exist.

Recommendation 10.4 Originating and Distant Sites
The working group discussed the following language
- The following items should be addressed to ensure that individuals receive — and providers offer — telehealth in the most appropriate locations:
  - <u>Direct _____ to</u> be consistent with the Kansas Telemedicine Act definition of "originating site," which means a site at which a patient is located at the time healthcare services are provided by means of telemedicine.
  - <u>Direct _____ to</u> be consistent with the Kansas Telemedicine Act definition of "distant site," which means a site at which a healthcare provider is located while providing healthcare services by means of telemedicine.
  - Examine issues related to providers practicing, and patients receiving, services across state lines, such as by exploring participation in interstate licensure compacts."

Revisions:
The working group recommended the following language on December 2 and ratified this recommendation language on December 6:

- The following items should be addressed to ensure that individuals receive — and providers offer — telehealth in the most appropriate locations:
  - Examine issues related to providers practicing, and patients receiving, services across state lines, such as by exploring participation in interstate licensure compacts.

Context for Revisions:
- **Improved Understanding of Telemedicine Act:** The working group members determined that with the Office of the Revisor's clarification of what is included in the Kansas Telemedicine Act, bullet points one and two with definitions could be removed.

Recommendation 10.5 Child Welfare System and Telehealth
The working group discussed the following language. There were no further changes to the recommendation during the December 2 meeting and this language was ratified by the working group on December 6.
- Utilize telehealth to maintain service and provider continuity as children, particularly foster children, move around the state. Explore how the unique needs of parents of children in the child welfare system can be met via telehealth.

Discussion on Telehealth Payment Parity
Presentation on Level Setting
Overview and Materials:
- Dr. Shawna Wright presented a provider's perspective on level setting for Telehealth Payment Parity. There were no questions from the working group.

Survey Results
The working group reviewed the results of the Telehealth Payment Parity survey where respondents selected their preferred recommendations. The top two recommendations from the survey included:
- **Telehealth Sustainability:** Enact statutory changes during the 2022 Legislative Session to ensure telehealth can continue to be provided in Kansas for the success of behavioral/mental and overall better health outcomes. Create parity in reimbursement rates from private insurers until we have enough data to create additional policy on the matter.
- **Telehealth Task Force:** Create a task force or allow a third party to collect data from hospitals, providers, and insurers to provide an annual report to the state legislature on telehealth usage in Kansas.

Recommendation:
Based on the survey results, the working group proposed the following recommendation:
- Establish a Telemedicine Modernization Committee for continued discussion and data collection
- Use the structure of the Mental Health Modernization and Reform Special Committee as a model

Context for Recommendation:
- **Need for Further Discussion:** The working group determined that it was not time to decide on payment parity as more discussion and data collection are necessary. However, working group members expressed a need for the discussion to be continued. They proposed the creation of a Special Committee with the purpose of continuing the discussion on telehealth and creating quality assurance standards for the future.

Final Recommendation Language:
The working group ratified the following recommendation language on December 6 and scored the recommendation for ease of implementation and potential for high impact

- The Legislative Coordinating Council shall establish a Special Committee on Telemedicine Modernization.

Administrative Updates
Working group members were asked to review the draft report after dissemination on Friday, December 3 to prepare for the upcoming meeting (December 6).

Additionally, working group members were advised of the following meetings:
- December 6, 11am-12pm, Telehealth Workgroup Meeting (ratify report)
- December 15-16, Special Committee Meeting (*Rescheduled from December 10*)