Telehealth Policy Update: AB 32

In September 2022, California passed [Assembly Bill 32](https://legiscan.com/CA/text/AB32/2021), which authorizes the State Department of Health Care Services to authorize a health care provider to establish a new patient relationship using audio-only synchronous interaction and other modalities and permits exceptions from requirements to ensure beneficiary choice of modalities.

Understanding AB 32

Under DHCS, FQHCs and RHCs can establish a new patient relationship via audio-only visits. This is permissible when the interaction involves sensitive services, and when the patient requests an audio-only visit or attests they do not have access to video. In summary:

* **It’s the law.** There is no longer an unknown Medi-Cal telehealth reimbursement policy for FQHCs in California.
* Live synchronous video and audio-only are reimbursable under Medi-Cal with payment parity law in place.
* You can establish new patients with audio-only visits who request audio only as their modality of choice or attests that they do not have video capabilities. **Attestations need to be documented in the patient’s health record.**
* You can continue to provide telehealth visits to established Medi-Cal patients through synchronous video and audio-only telehealth. **Remote patient monitoring remains a covered benefit under Medi-Cal and is subject to a separate fee schedule not billable for FQHCs.**
* Sensitive services include all health care services outlined in Sections [6924](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6924.&nodeTreePath=13.5.3&lawCode=FAM), [6925](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6925.&nodeTreePath=13.5.3&lawCode=FAM), [6926](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6926.&nodeTreePath=13.5.3&lawCode=FAM), [6927](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6927.&nodeTreePath=13.5.3&lawCode=FAM), [6928](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6928.&nodeTreePath=13.5.3&lawCode=FAM), and [6929](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6929.&nodeTreePath=13.5.3&lawCode=FAM) of the Family Code, and Sections [121020](https://codes.findlaw.com/ca/health-and-safety-code/hsc-sect-121020.html) and [124260](https://codes.findlaw.com/ca/health-and-safety-code/hsc-sect-124260.html) of the Health and Safety Code.

Telehealth Consent Requirements:

In July 2022, California passed [SB 184](https://legiscan.com/CA/text/SB184/id/2600107), which allows continued coverage of and payment parity for synchronous telehealth, including video and audio-only modalities, effective January 1, 2023. It also requires that verbal or written consent to telehealth services must be provided “on at least one occasion, prior to, or concurrent with, initiating the delivery of one or more health care services via telehealth and include the following information:

* Patients have the right to in-person services
* Telehealth is voluntary in nature
* Transportation availability to in-person visits
* Potential limitations and risks specific to telehealth

If a healthcare provider, whether at the originating or distant site, maintains a general consent that specifically mentions use of telehealth as an acceptable modality for delivery of services, then this is sufficient for documentation of patient consent. All other documentation for benefits or services delivered via telehealth should be the same as for comparable in-person services. **All documentation should be maintained in the patient’s medical record.**

Additional Telehealth Updates:

* California passed [AB 1759](https://legiscan.com/CA/text/AB1759/2021), which:
  + Permits associate clinical social workers, associate professional clinical counselors, and clinical trainees to fit in the definition of a health care provider for purposes of delivering services via telehealth within their scope of practice.
  + Requires marriage and family therapists, licensed educational psychologists, licensed clinical social workers, and licensed clinical counselors to show that they have completed 3 hours of training in delivering mental health services via telehealth, including training in law and ethics relating to telehealth, to attain licensure.
* California passed [AB 2275](https://legiscan.com/CA/text/AB2275/2021), which allows for the assessment and determination of appropriate involuntary detention and treatment of a person with a mental health disorder to be made by synchronous interaction through a mode of telehealth that utilizes both audio and visual components.
* California passed [SB 1438](https://legiscan.com/CA/text/SB1438/2021), which allows for a physician, surgeon, or podiatrist to perform patient examinations and evaluation of the patient’s condition in connection with their approval of the physical therapist’s plan of care by mode of in-person interaction or via telehealth.