



NATIONAL CONSORTIUM OF
TELEHEALTH
RESOURCE CENTERS

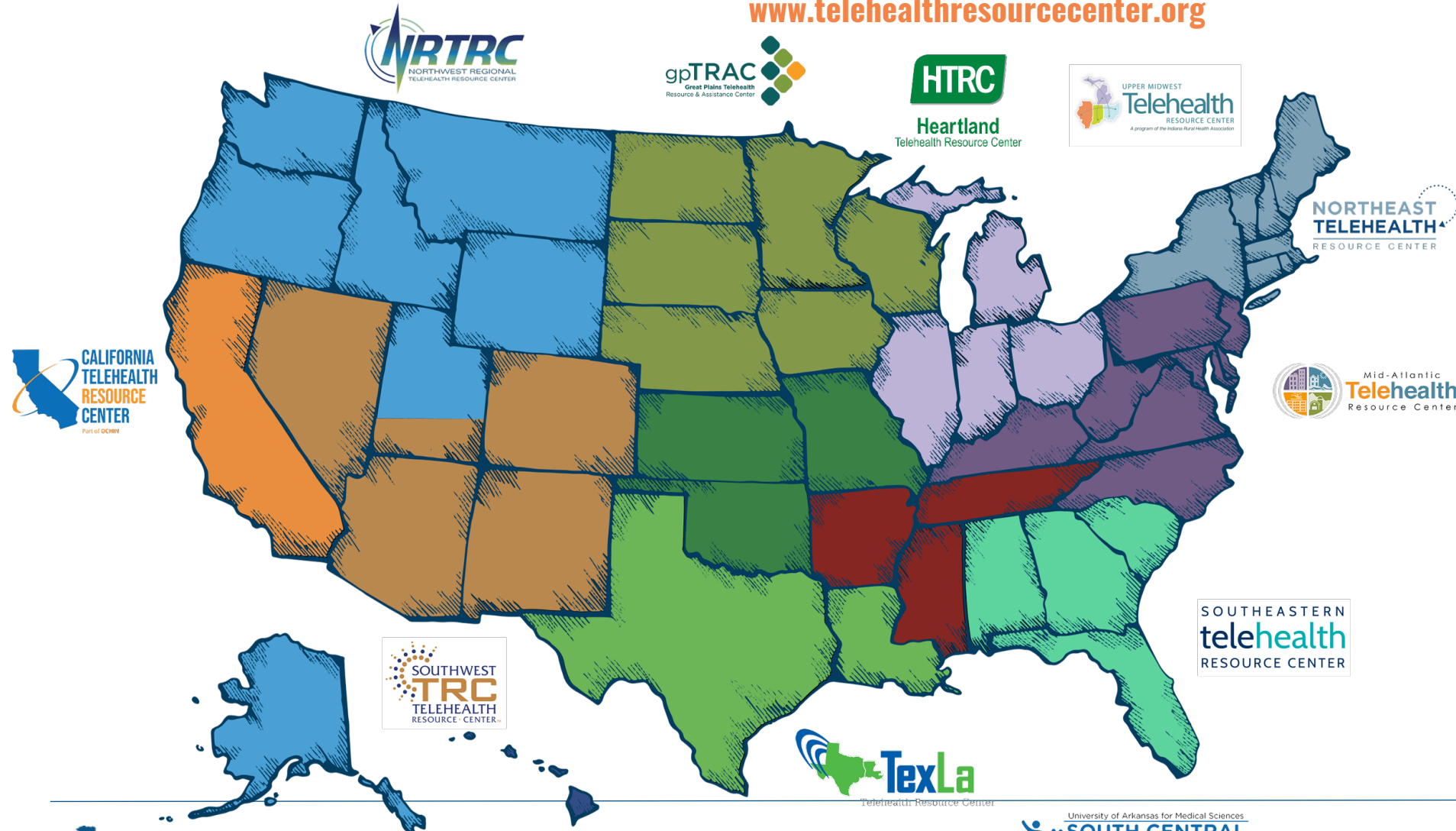
**Telehealth Policy Update: What
Has Happened and What to
Look for in 2022**

January 20, 2022



HRSA Funded Telehealth Resource Centers

www.telehealthresourcecenter.org



NTRC	gpTRAC	NETRC
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PBTRC	TexLa	SETRC

12 REGIONAL RESOURCE CENTERS




2 NATIONAL RESOURCE CENTERS



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TELEHEALTH POLICY UPDATE

January 20, 2022

National Consortium of Telehealth Resource
Centers Monthly Webinar



Center for Connected
Health Policy

THE NATIONAL
TELEHEALTH POLICY
RESOURCE CENTER



CENTER FOR CONNECTED HEALTH POLICY (CCHP)

is a non-profit, non-partisan organization that seeks to advance state and national telehealth policy to promote improvements in health systems and greater health equity.

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Executive Director, CCHP

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- **Any information provided in today's talk is not to be regarded as legal advice. Today's talk is purely for informational purposes.**
- **Always consult with legal counsel.**
- **CCHP has no relevant financial interest, arrangement, or affiliation with any organizations related to commercial products or services discussed in this program.**



ABOUT CCHP

- Established in 2009 as a program under the Public Health Institute
- Became federally designated national telehealth policy resource center in 2012 through a grant from HRSA
- Work with a variety of funders and partners on the state and federal levels
- Administrator National Consortium of Telehealth Resource Centers
- Convener for California Telehealth Policy Coalition



TELEHEALTH POLICY CHANGES IN COVID-19

FEDERAL

MEDICARE ISSUE	CHANGE
Geographic Limit	Waived
Site limitation	Waived
Provider List	Expanded
Services Eligible	Added additional 80 codes
Visit limits	Waived certain limits
Modality	Live Video, Phone, some srvs
Supervision requirements	Relaxed some
Licensing	Relaxed requirements
Tech-Enabled/Comm-Based (not considered telehealth, but uses telehealth technology)	More codes eligible for phone & allowed PTs/OTs/SLPs & other use

- DEA – PHE prescribing exception/allowed phone for suboxone for OUD
- HIPAA – OCR will not fine during this time

STATE (Most Common Changes)

MEDICAID ISSUE	CHANGE
Modality	Allowing phone
Location	Allowing home
Consent	Relaxed consent requirements
Services	Expanded types of services eligible
Providers	Allowed other providers such as allied health pros
Licensing	Waived some requirements

- Private payer orders range from encouragement to cover telehealth to more explicit mandates
- Relaxed some health information protections



FEDERAL POLICIES



MEDICARE POLICY

The Medicare policy on the use of technology to provide services is in two buckets

- In Federal Statute
- Only Live Video unless in a demonstration project in AK or HI
- Limited list of providers
- Limited list of eligible services
- Geographic and site limitations

TELEHEALTH

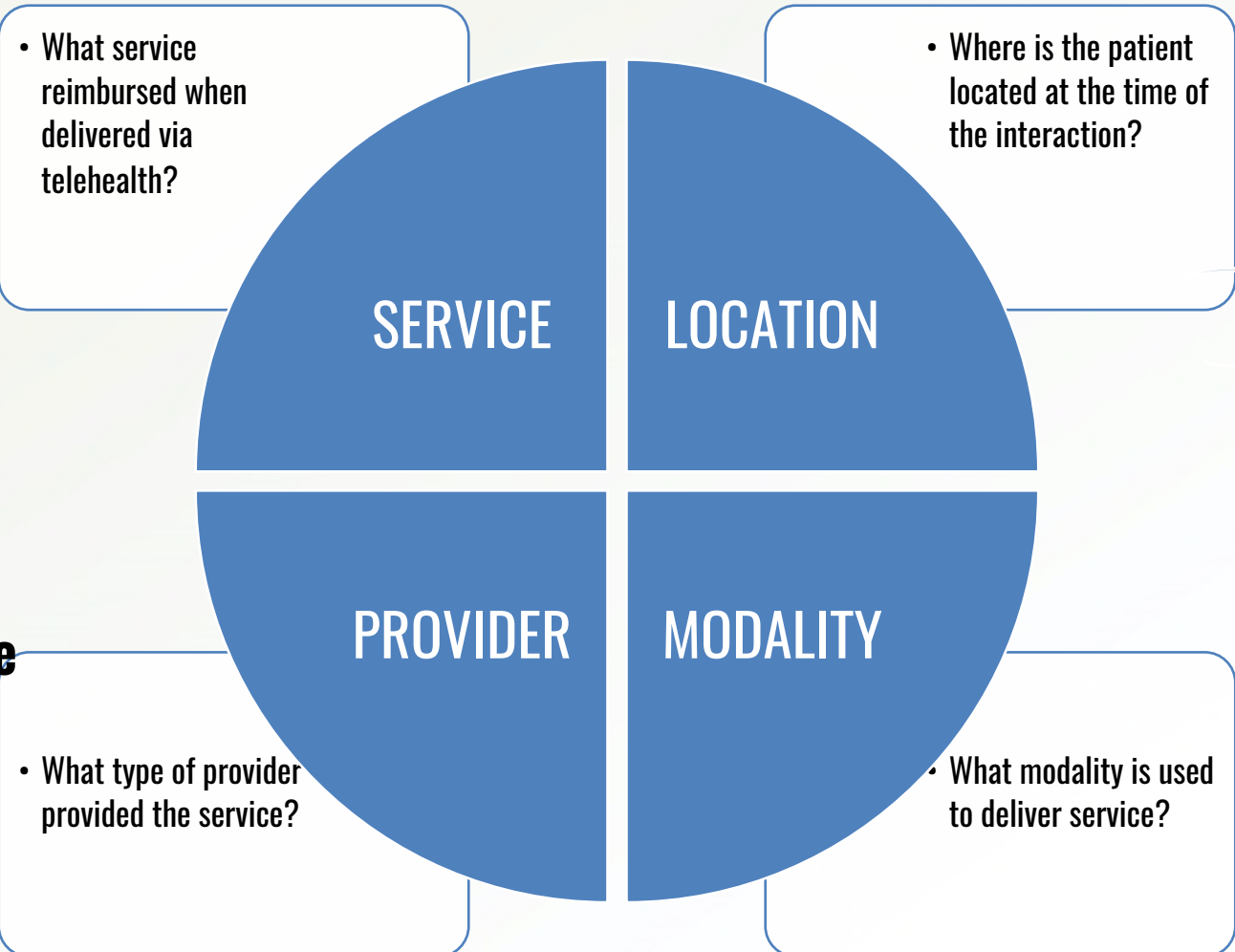
COMMUNICATIONS
TECHNOLOGY-BASED
SERVICES

- Utilizes telehealth technology but is called “Communications Technology-Based Services” (CTBS)
- Is not limited by federal law telehealth restrictions
- Other restrictions in place such as informed consent requirements
- All modalities found here



FEDERAL POLICY CHANGES DURING COVID-19

- **Most established telehealth policies are on reimbursement**
 - 4 typical elements make up reimbursement policy
 - Most limitations are around these 4 elements
- **Medicare made changes to all of these elements in response to COVID**
- **Permanent federal changes made so far have centered on eligible services and a narrow expansion of originating site**



FINALIZED PFS CY 2022



Physician Fee Schedule

- Released every summer for the following year proposing changes to the Medicare program
- Telehealth policy changes that can be made administratively typically are made here
- Public comment period for 60 days
- Final CY 2022 released November 2, 2021, and officially published November 19, 2021. <https://www.federalregister.gov/public-inspection/2021-23972/medicare-program-cy-2022-payment-policies-under-the-physician-fee-schedule-and-other-changes-to-part>



FINAL PFS CY 2022

- **Adding services to the permanent eligible telehealth list for Medicare**
 - Adding services to the list is within CMS purview
 - Did not accept any suggestion received from public to add additional services
 - Category 3 services will be extended to end of CY 2023
 - Added additional codes to Category 3
 - 93797 – Physician or other qualified health care professional services for outpatient cardiac rehabilitation; without continuous ECG monitoring (per session)
 - 93798 – Physician or other qualified health care professional services for outpatient cardiac rehabilitation; with continuous ECG monitoring (per session)
 - G0422 – Intensive cardiac rehabilitation; without or without continuous ECG monitoring with exercise, per session
 - G0423 – Intensive cardiac rehabilitation; without or without continuous ECG monitoring; without exercise, per session



FINAL PFS CY 2022

- **Significant Changes Made Mental Health Services Provided Via Telehealth**
 - Consolidated Appropriations Act (CAA) passed in Dec 2020 implementation related to provision of mental health visits via telehealth. Certain conditions applied
 - Allowing use of audio-only to provide mental health visits if certain conditions met
 - FQHC/RHC redefinition of mental health visit, not considered telehealth



FINAL PFS CY 2022

➤ **Mental Health Services**

- Consolidated Appropriations Act (CAA) passed in Dec 2020 would allow mental health services to be provided in the home and without geographic limitations if the patient has an in-person visit with the telehealth provider within the 6 months prior to telehealth services taking place.
- 6 month in-person visit will need to take place. Subsequently it will be every 12 months for the in-person visit. Limited exceptions.
- “In-person visit” means that some item or service was rendered to patient “in-person” and was paid for by Medicare.
- In-person visit can be done by another provider in same subspeciality and same group
- Home has an expanded definition to include temporary lodging and if you travel a short distance from your “home”.
- In-person visit requirement does not apply if your telehealth interaction qualifies under the telehealth statutes that did not involve this location exception.



FINAL PFS CY 2022

➤ **Audio-Only**

CMS this year is redefining the definition of “telecommunications system” which is not defined in federal law.

MENTAL HEALTH services can be provided for the evaluation, diagnosis and treatment of mental health disorder **IF**:

- Established patient
- Patient at home
- Provider has capability of doing live video
- Patient cannot or does not want to do it via live video
- Has an in-person visit with the telehealth provider 6 months prior/12 months subsequent



FINAL PFS CY 2022

➤ FQHC/RHC

CMS is redefining what a **mental health visit** is for an FQHC/RHC. The new definition would "also include encounters furnished through interactive-real-time telecommunications technology."

- FQHCs/RHCs may provide mental health services via live video & audio-only (next slide)
- This will not be regarded as "telehealth"
- PPS & AIR rates will be paid
- Will also have the 6 month/12 months subsequent in-person visit requirement if patient receiving services in the home.



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➤ **FQHC/RHC (Audio-Only)**

FQHCs/RHCs may provide **mental health visits** via audio-only as well if

- Patient cannot use live video or consents to the use of audio-only
- Will also have the 6 month/12 months subsequent in-person visit requirement if patient receiving services in the home.



FINAL PFS CY 2022

➤ Remote Therapeutic Monitoring (RTM)

- **98975** – Initial set-up and patient education on use of equipment
- **98976** - Device(s) supply with scheduled (e.g., daily) recording(s) and/or programmed alert(s) transmission to monitor respiratory system, each 30 days
- **98977** -Device(s) supply with scheduled (e.g., daily) recording(s) and/or programmed alert(s) transmission to monitor musculoskeletal system, each 30 days
- **98980** -Remote therapeutic monitoring treatment, physician/other qualified health care professional time in a calendar month requiring at least one interactive communication with the patient/caregiver during the calendar month; first 20 minutes
- **98981** -Remote therapeutic monitoring treatment, physician/other qualified health care professional time in a calendar month requiring at least one interactive communication with the patient/caregiver during the calendar month; each additional 20 minutes



FINAL PFS CY 2022

- Permanent adoption of G2252 (virtual check-in 11-20 minutes)
- CMS is finalizing five codes for Principal Care Management (PCM) and Chronic Care Management (CCM). These codes are:
 - 99437 – CCM service each additional 30 minutes by a physician or other qualified health care professional, per calendar month
 - 99424 – PCM services for a single high-risk disease first 30 minutes provided personally by a physician or other qualified health care professional, per calendar month
 - 99425 – PCM services for a single high-risk disease each additional 30 minutes provided personally by a physician or other qualified health care professional, per calendar month
 - 99426 – PCM for a single high-risk disease first 30 minutes of clinical staff time directed by physician or other qualified health care professional per calendar month
 - 99427 – PCM for a single high-risk disease each additional 30 minutes of clinical staff time directed by a physician or other qualified health care professional per calendar month



FINAL PFS CY 2022

➤ Other Changes

- Allow Opioid Treatment Programs (OTPs) to use audio-only to furnish therapy and counseling when live video not available to beneficiary after the PHE over. Modifier 95 will need to be used to claims for the counseling and therapy add on code G2080, but not when included in the weekly bundle and for when using live video. After the PHE, OTPs will need to document audio-only was used in patient medical record and along with a modifier. The latter requirement would apply to services taking place after PHE.
- During the PHE, CMS allowed for certain in-person supervision requirements or the availability of the supervisor in-person to be provided virtually through telehealth. After soliciting comments, CMS. Has decided that it will consider addressing the concerns raised in future rules or guidance.
- Originating site facility fee will be \$27.59
- CMS is allowing for inclusion of 99441, 99442 and 99443 in the definition of primary care services used for beneficiary assignment until no longer payable under the physician fee schedule fee for service payment policies under the Shared Savings program for ACOs
- CMS declines to add telephone codes 99441-99443 as permanent services that will be reimbursed
- Medical nutrition therapy (MNT) and diabetes self-management training (DSMT) services may be provided as telehealth services when registered dietitians or nutrition professionals act as distant site practitioners.



KEY POINTS

- **6 month in-person requirement does not kick-in until the federal PHE is over**
- **PHE was renewed for another 90 days on January 16, 2022**
- **Changes to allow FQHCs/RHCs to provide mental health visits via live video and audio-only is not telehealth**
- **For FQHCs/RHCs, the 6 month in-person visit requirement only happens when the patient is receiving services in the home**



FEDERAL LEGISLATION

- **CCHP currently tracking over 100 pieces of federal legislation related to telehealth**
- **Majority of bills address temporary changes or COVID in some way**
- **Licensure**
- **Mental Health**
- **Pilots**



OFFICE OF THE INSPECTOR GENERAL

- Looks at fraud in Medicare
 - Most of what they've found is telemarketing fraud and not necessarily telehealth
 - Looked at Medicaid program and opportunities to strengthen evaluation and oversight of telehealth for behavioral health
 - Looked at Medicaid and use of telehealth to provide behavioral health services
 - **2 reports scheduled to come out in 2022:**
 - Medicare telehealth services during COVID-19, Program integrity risks
 - Use of Medicare telehealth services during COVID-19



OTHER FEDERAL ACTIONS

- **No Surprises Act**
 - Certain notifications or balance billing prohibitions may apply to telehealth-delivered services
 - EX: Out-of-network telehealth provider furnishes services to patient in an in-network facility or provider furnishing services to uninsured/self-pay patient
- **Proposed regulations for 2023 on health plans in the ACA**
 - Plans would need to submit information on services being offered via telehealth. Not counted for network adequacy but used for informational purposes for potential future policies
- **HIPAA** – Executive Order signed December 13, 2021
 - The Secretary of Labor shall “update existing rules and policies, consistent with applicable law and to the extent practicable, to allow individuals entitled to medical treatment under their workers’ compensation plans to conduct their routine medical treatment appointments using telehealth platforms” and
 - The Secretary of Health and Human Services shall “develop guidance for entities regulated pursuant to the Health Insurance Portability and Accountability Act (HIPAA) on providing telehealth in compliance with HIPAA rules, to improve patient experience and convenience following the end of the COVID-19 public health emergency.”



MEDICAID REIMBURSEMENT BY SERVICE MODALITY (Fee-for-Service)



Live Video

50 states and DC



Store and Forward

22 states



Remote Patient Monitoring

28 states



Audio-Only

22 states

As of Fall 2021



REIMBURSEMENT REQUIREMENTS FOR PRIVATE PAYERS



43 states and DC
have telehealth private payer laws

20 States have Payment Parity (almost half are new):

Some states have “service parity” others have “payment parity” or both – in addition, some make their telehealth private payer laws “subject to the terms and conditions of the contract” which can limit true parity

As of Fall 2021



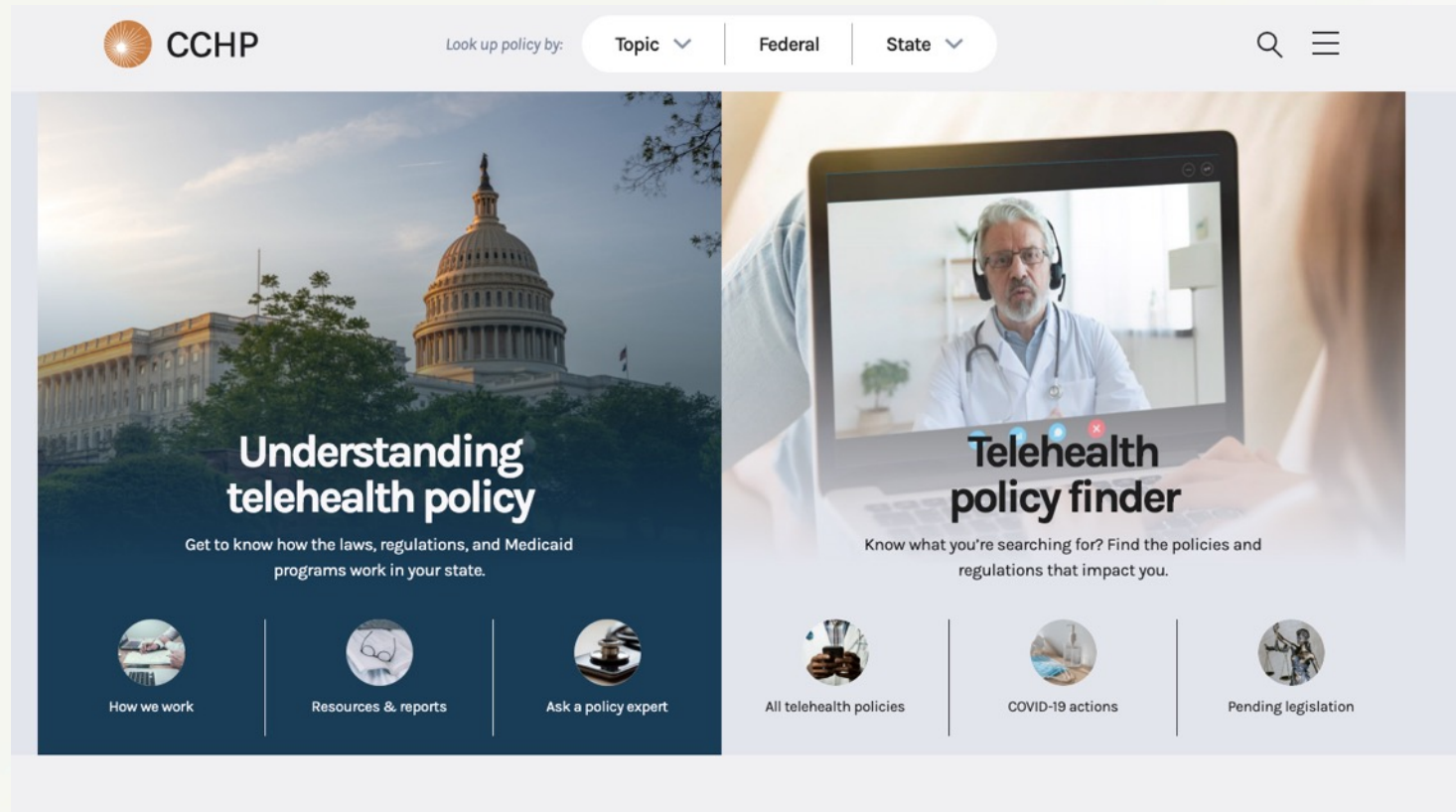
STATE TELEHEALTH 2021

- **47 states passed 201 bills related to telehealth**
 - **Most popular issues were private payer reimbursement, Medicaid reimbursement, cross state licensing**
- **Policies impacting specific professions were also significantly up**
 - **Online prescribing**
 - **Specific language that telehealth was allowed for certain providers**

STATE TELEHEALTH IN 2021

- **Temporary Extension of COVID-19 waivers**
 - CA & CT
- **Licensure changes**
 - AZ & FL not requiring a full state license with their state, but will require registration
- **Private Payer Laws**
 - Payment parity or prohibiting insurers from contracting with just one telehealth company (VA, OK - provider not required to use proprietary tech)
- **Audio-only**
 - Payment parity for audio-only (AZ, RI, WA)
- **End of PHEs**
 - Though for some states, telehealth waivers are tied to federal PHE

➤ CCHP Website – cchpca.org



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The NCTRC Webinar Series

Occurs 3rd Thursday of every month.

Telehealth Topic: Pandemic Response Action Plan And The Opportunity To Use Its Lessons To Improve Healthcare

Hosting TRC: Telehealth Technology Assessment Resource Center

Date: February 17, 2022

Times: 11 AM – 12 PM (PT)

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