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**TELEHEALTH**  
RESOURCE CENTERS

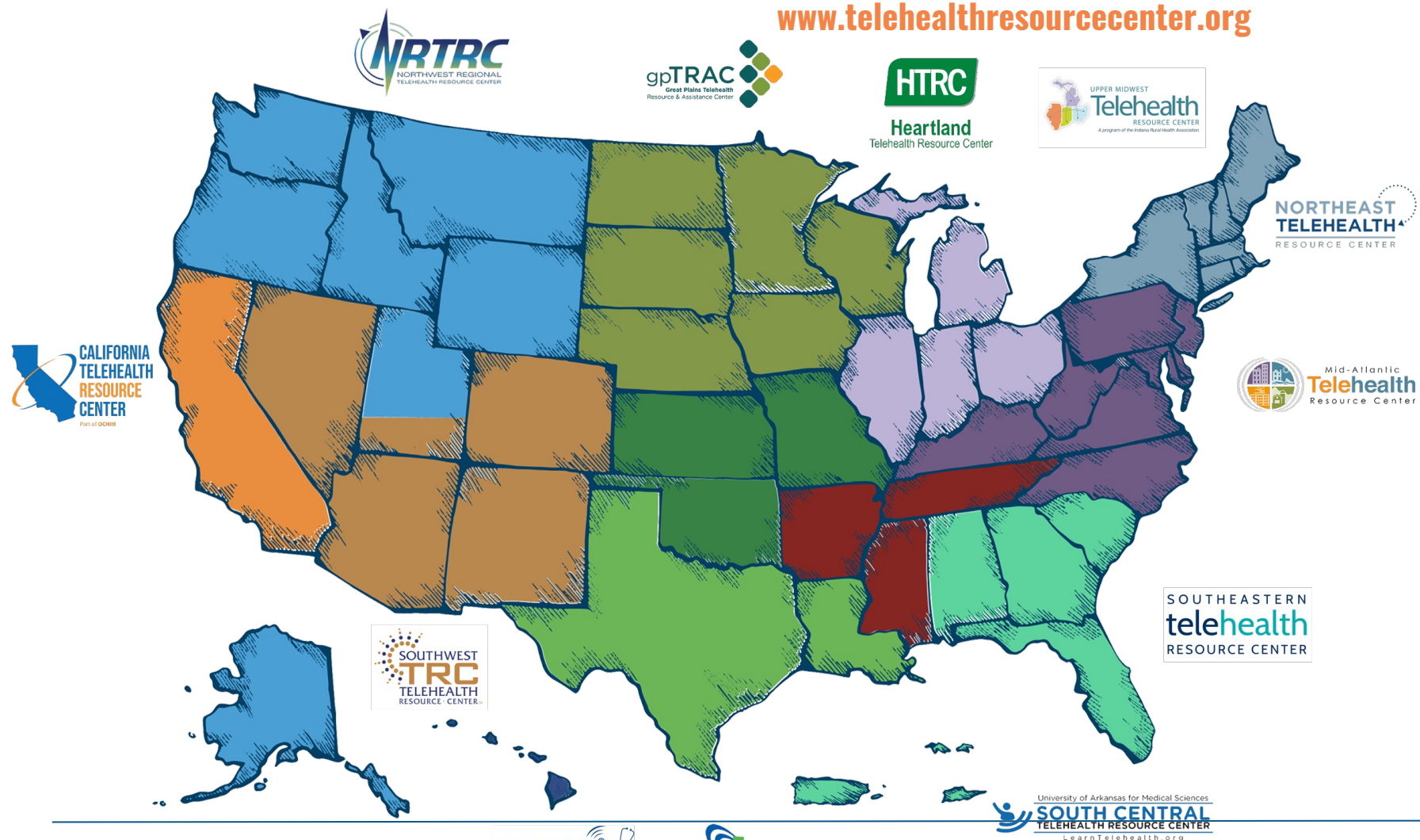
## Telehealth Policy in 2023

January 18, 2023



# HRSA Funded Telehealth Resource Centers

[www.telehealthresourcecenter.org](http://www.telehealthresourcecenter.org)



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# Telehealth Federal Policy in 2023

January 18, 2023



Center for Connected  
Health Policy

THE NATIONAL  
TELEHEALTH POLICY  
RESOURCE CENTER



## CENTER FOR CONNECTED HEALTH POLICY (CCHP)

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*Executive Director, 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.

# DISCLAIMERS

- Any information provided in today's talk is not to be regarded as legal advice. Today's talk is purely for informational purposes.
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# 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



# PUBLIC HEALTH EMERGENCY

- First declared on January 31, 2020
- Renewed 12 times
- Last renewed on January 11, 2023
- End date of April 11, 2023
- Potential renewal one more time?



# DEVELOPMENT OF TELEHEALTH POLICY





# LEGISLATION

- **Consolidated Appropriations Act of 2021**
  - Expanded permanent telehealth policy to allow for mental and behavioral health services to be provided in the home without geographic requirement applying IF certain conditions met (in-person visit w/telehealth provider 6 months prior to telehealth services taking place)
- **Budget Act of 2022**
  - Delayed implementation of certain policies and expiration dates on some temporary waivers until 151 days after the PHE is declared over
    - FQHC, RHC, PT, OT, SLP remain eligible providers
    - Geographic limitation waive; home still eligible site for services
    - Audio-only can continue to be used
- **Consolidated Appropriations Act of 2023**
  - Changed end date of temporary waivers to December 31, 2024



# LEGISLATION - Consolidated Appropriations Act of 2023

- **Consolidated Appropriations Act of 2023**

- Changed end date of temporary Medicare waivers to December 31, 2024. Waivers include:
  - Location- suspends geographic requirement; allows home to be an eligible site
  - Allows some providers to continue to be reimbursed for telehealth delivered services including PT, OT, audiologists
  - Allows FQHCs and RHCs to continue to provide services via telehealth
  - Allows audio-only to be used to provide some services
  - Delays implementation of permanent policy regarding mental health services & telehealth (the prior in-person visit requirement) to January 1, 2025
  - Requires a study on telehealth that will look at the data gathered from services provided in the 2022-2024 period. Interim report due October 1, 2024; final report due April 1, 2026
  - Extension of safe harbor for absence of a deductible for telehealth



# PHYSICIAN FEE SCHEDULES

- Will allow some of the temporarily eligible telehealth services made available during COVID-19 to remain eligible for reimbursement until 2023 (“Category 3”)
- For permanent policy, audio-only may be used to provide mental and behavioral health services if certain conditions met
- Redefined “mental health visit” for FQHC/RHCs to include the use of live video and audio-only. Does NOT mean FQHCs/RHCs are telehealth providers or providing services via telehealth. Special billing instructions post-PHE
- During the 151-day “grace period” COVID-19 eligible telehealth services list will be available. (Needs to reconcile with new language passed in budget act)



# FEDERAL TELEHEALTH POLICY (1/11/23)

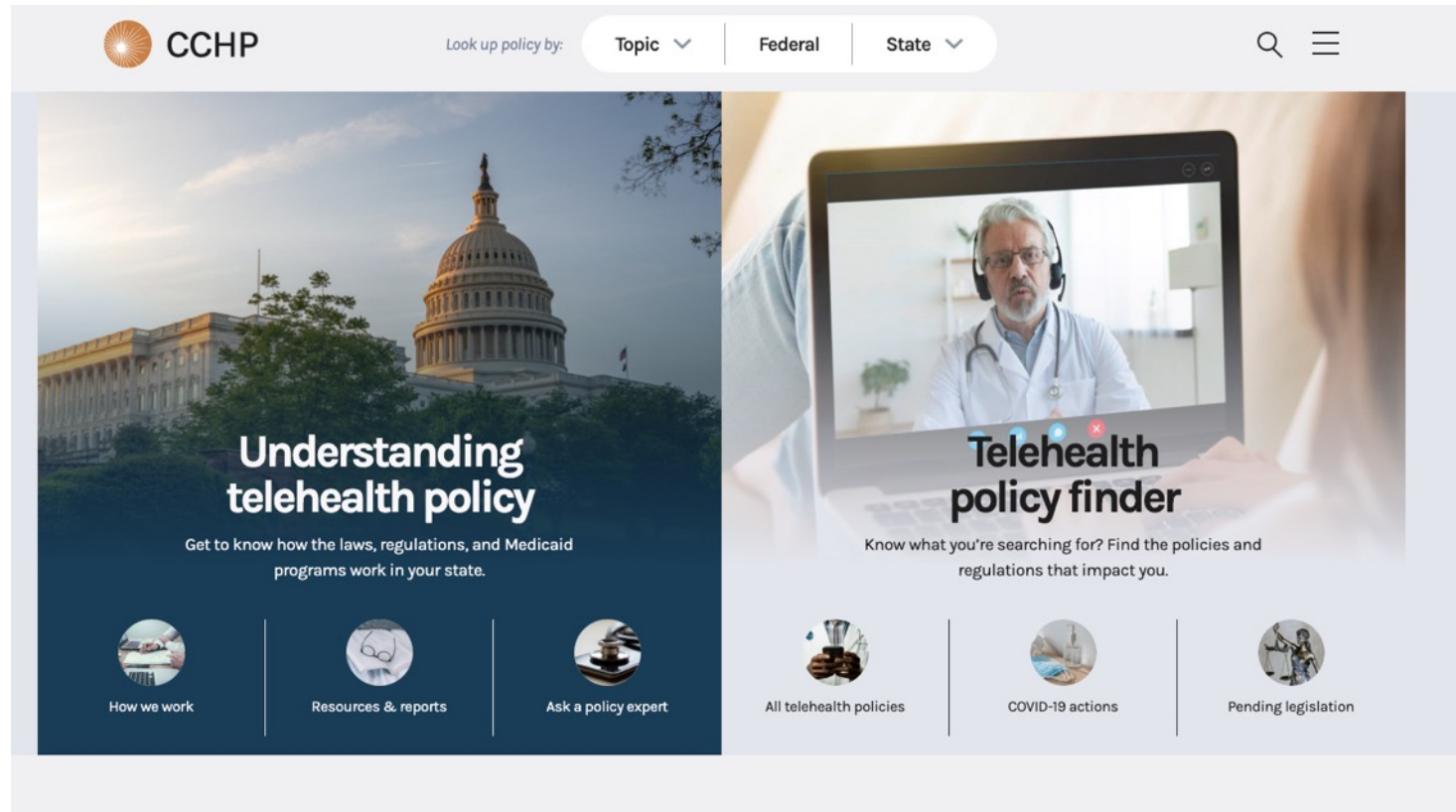
PERMANENT TELEHEALTH POLICY	AUTOMATICALLY GOES AWAY	POST-PHE THROUGH DECEMBER 31, 2024	POST-PHE THROUGH END OF THE YEAR PHE ENDS
<b>Medicare</b> <ul style="list-style-type: none"> <li>Limited the use of telehealth to take place in specific geographic locations and sites (mostly medical facility)</li> <li>Primarily only live video allowed</li> <li>Limited list of providers eligible to provide services</li> <li>Mental health services provided w/o geographic requirement &amp; in the home &amp; audio-only can be used if certain conditions met like prior in-person visit.</li> <li>FQHC/RHC allow use live video &amp; audio-only for mental health visits</li> </ul> <b>Prescribing of Controlled Substances (Ryan Haight Act)</b> <ul style="list-style-type: none"> <li>Narrow exceptions to the use of telehealth one of which is when a PHE is declared</li> </ul>	<ul style="list-style-type: none"> <li>OCR exercising discretion on HIPAA</li> <li>PHE exception of prescribing controlled substances</li> </ul>	<b>Medicare:</b> <ul style="list-style-type: none"> <li>Geographic limitation temporarily suspended</li> <li>Home temporarily continues to be an eligible originating site for services</li> <li>Can continue to use audio-only to provide some services, not just mental health</li> <li>FQHCs, RHCs, OTs, PTs and some other can continue to be eligible providers</li> <li>Suspension of the prior in-person visit requirement to provide mental health services or use audio-only to provide mental health services to Jan. 1, 2025</li> </ul> <p>* At this point, the COVID list of eligible services is still on the 151-day grace period track unless CMS takes further action</p>	<b>Medicare:</b> <ul style="list-style-type: none"> <li>Category 3 services</li> <li>Virtual presence for direct supervision</li> </ul>

# OTHER FEDERAL ACTIONS

- [Proposed](#) regulations by SAMHSA
  - Makes permanent initiation of buprenorphine via audio-only or audio-visual telehealth if an opioid treatment program (OTP) physician PCP or authorized healthcare professional under supervision of program physician determines adequate eval can be done via telehealth.
- [CMS issued letter](#) noting Medicaid programs can cover eConsult, but it is not mandated.



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# Thank You!

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The NCTRC Webinar Series

Occurs 3<sup>rd</sup> Thursday of every month.

**Telehealth Topic: Utilizing Innovations in Telehealth to Advance the Care of Patients in Congregate Settings**

**Hosting TRC: Mid-Atlantic Telehealth Resource Center (MATRC)**

**Date: February 16, 2023**

**Times: 11 AM – 12 PM (PT)**

**\*Please check the NCTRC website for more information on the upcoming webinar.**



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