MWAETC Implementing Telemedicine Webinar Series

Session #3:
Telehealth Privacy and Policy

John Scott, MD, MSc, FIDSA
Medical Director, Digital Health
UW Medicine

Last Updated: Jun 26, 2020

Acknowledgement

- This telemedicine webinar series is being supported with federal resources from the Coronavirus Aid, Relief and Economic Security Act, otherwise known as the CARES-ACT and the HRSA Ryan White Program.

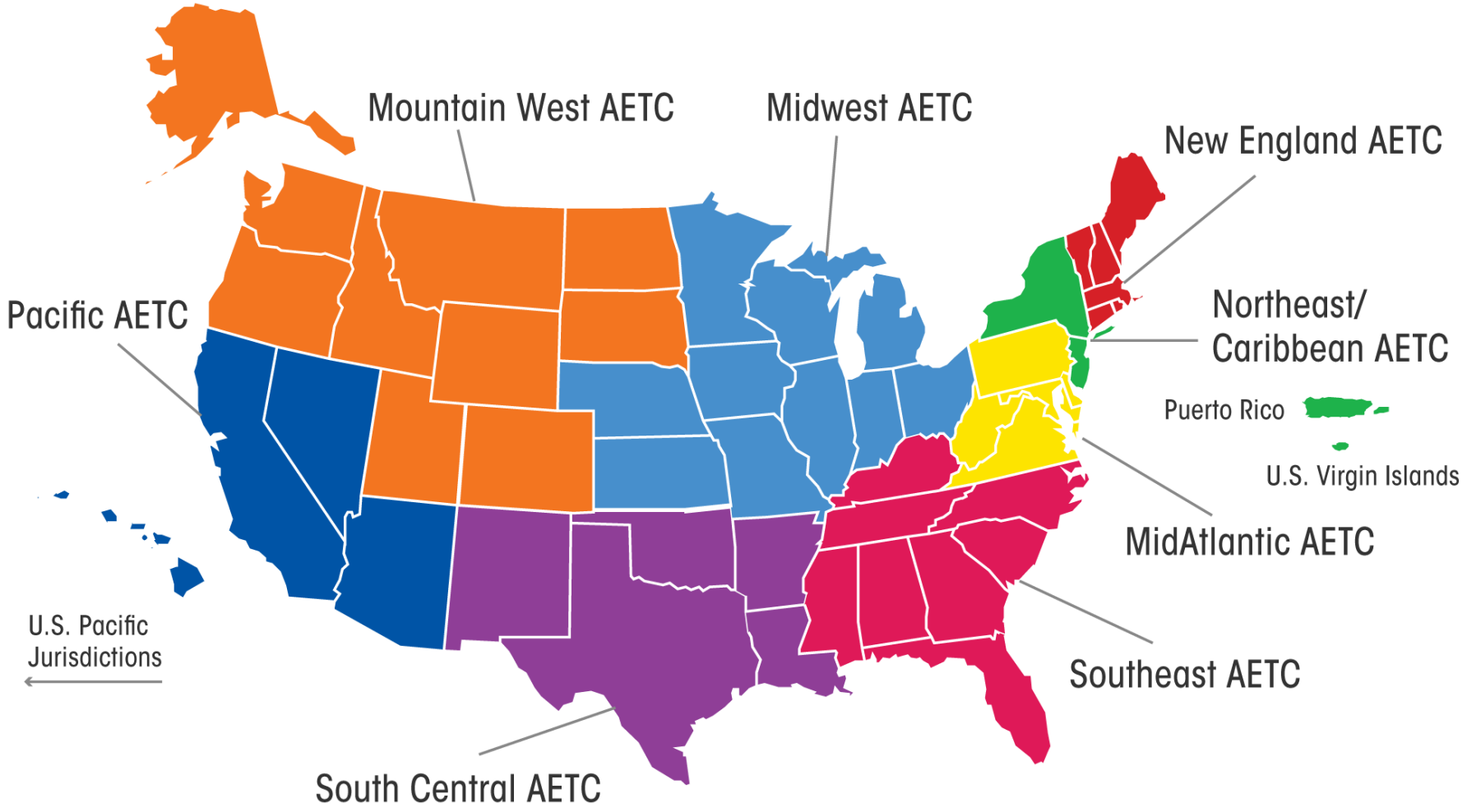
MWAETC

Logistics

- This webinar is being recorded.
- All participant microphones are muted.
- Type in questions or comments through the chat box to **Everyone** or to **Laurie Sylla**. Laurie Sylla, our director, will be compiling the questions and sharing them with our presenter during the Q&A portion of the program. Please do not submit your questions directly to the presenter. He will be not be monitoring the chat box.
- After today's session you will receive an email with a link to an evaluation for today's session- we would appreciate you filling this out, and another link to a portal where you will be able to submit questions for an FAQ that we will post on our website, or request an individualized technical assistance session with our presenter and his team members.

MWAETC

AETC Regional Training Centers



mwaetc.org/

aidsetc.org/about

MWAETC

SESSION #3:
TELEHEALTH PRIVACY AND POLICY

John Scott, MD, MSc, FIDSA
Medical Director, Digital Health
Rachel Abramson, MHA
Internal Consultant
UW Medicine

MWAETC

Disclosures

In the last year, I have served as a consultant to Gilead Sciences and Premera.

Format for webinar and office hours

- Theme of the week
  - Payment Policy (Today)
  - Technology (Jul 13)
  - Clinical Best Practices (Jul 20)
  - Miscellaneous (Jul 27)
- 15-20 min didactic
- Q&A for remaining time: Please type in questions into Q&A now!
- Posting of recording and Q&A to AETC website
- Request 15 min block on Thurs for technical assistance

MWAETC

Objectives

- To list the billing codes (CPT) and documentation requirements for delivering telehealth services
- To describe the differences between phone and telemedicine documentation and payment
- To identify resources for learning about interstate licensure and practice of telemedicine
- To list critical elements of privacy for telemedicine

MWAETC

Pre-COVID Telehealth Policy from CMS

In general, this was quite restrictive:

- Patient had to be in a rural or medically underserved area (https://data.hrsa.gov/tools/shortage-area)
- Patient could NOT be in their home (list of approved locations such as doctor's office, hospital, etc.)
- Telemedicine visit had to be live, synchronous video visit
- Payment for clinician's service was at parity to in-person visit
- Approved services included outpatient primary and specialty care consultations, inpatient consultations and emergency care
- Facility fee: Q3014, $26.65 in FY20

MWAETC

Pre-COVID CMS Policy (con't)

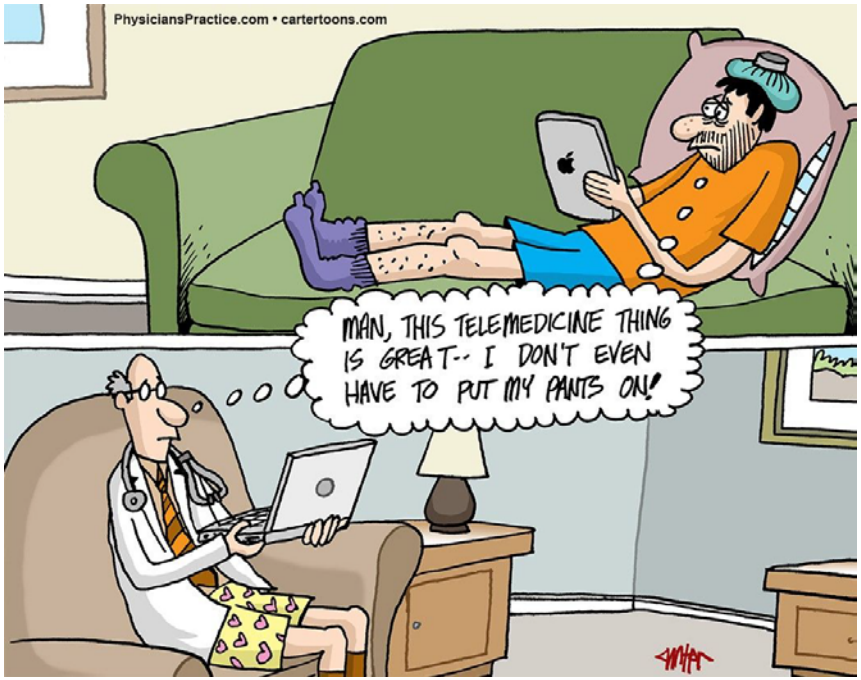
- Asynchronous and remote patient monitoring WAS and STILL IS covered!
- eConsults (99451, 99452): 0.7 RVU ($37) for both ordering and responding specialist
- Remote Patient Monitoring (99453-38): $21-69 for setup of devices, education of patient, collection of data, and physiologic monitoring of data

https://www.federalregister.gov/documents/2019/11/15/2019-24086/medicare-program-cy-2020-revisions-to-payment-policies-under-the-physician-fee-schedule-and-other

MWAETC

Changes in Medicare Telemedicine Reimbursement

- *Temporarily* removed geographic restrictions (pts can be anywhere, rural or urban, home or office)
- Established or new patient
- Expanded list of provider types (PT, OT, speech therapists, etc)
- Primary care exemption applies for residents doing primary care by telemedicine
- Clinician can do from home



For more info: https://www.americantelemed.org/policy/covid-19

Documentation

- **Document as you normally would** (HPI, etc). Additionally, I recommend stating start and stop times.
- **Physical exam**: enter any patient reported vitals and fact that patient was assisting in exam.
- **This is what we use:** “I conducted this encounter from {location} via secure, live, face-to-face video conference with the patient. Patient was located at *** with { enter who was present with the patient}. Prior to the interview, the risks and benefits of telemedicine were discussed with the patient and verbal consent was obtained.”
- **For situations** where trying to limit face to face contact (patient is in hospital or clinic), we use this phrase: “I saw the patient remotely in the clinic to preserve PPE and reduce exposure via {mode:113319}. The risks and benefits were discussed with the patient and verbal consent was obtained.”

MWAETC

Consent

- Some states require written consent for telemedicine, so please be aware of this requirement!
- Consent language:

  “I cannot provide the same evaluation as in a face to face visit. I may need you to come in for further evaluation or care.”

  “The technology is encrypted and secure; however, no technology is 100% hack-proof. In addition, the technology is dependent on a reliable Internet connection.”

  “If at any time you would like to be seen in-person, we will terminate the visit and connect you to the most feasible in-person care.”

MWAETC

Billing and Coding

- For Telehealth, you can bill on TOTAL time, including review of outside records, actual time with patient and documentation. “I spent 32 minutes on this visit today including chart review prior to the visit, face to face time with the patient, and documentation and coordination of care after the visit." Bill 99214 for outpt f/u.
- Can also bill based on medical decision-making
- Use the GT modifier for video visits only
- Facility fee code: Q3014
- For duration of public health emergency, phone visits will pay at same rate as telehealth and in-person visits

Code	Time
99213	15 min
99214	25 min
99215	40 min
99203	30 min
99204	45 min
99205	60 min
Phone	
99441	5-10
99442	11-20
99443	21-30

Commercial and Medicaid Plans

- Varies from state to state
- Pre-COVID, 39 US states had “parity” laws requiring that telemedicine services be covered, while just a handful had “payment parity” requiring equal payment as in-person (eg. WA and NM)
- Different rules for MD/DO’s vs. nurses and physician assistants
- Different definitions of telemedicine (live, synchronous vs. asynchronous)
- Can find more info through your state medical or hospital association; also local telehealth resource center (https://www.telehealthresourcecenter.org/) and Center for Connected Health Policy (https://www.cchpca.org/)

Practice of Telemedicine Across State Lines

- Pre-COVID19, providers were required to be licensed in state where patient was at time of telemedicine visit
- Temporary relaxation of this requirement in almost all states; however, be sure to read documentation and registration requirements for each state, esp. around prescribing around controlled substances
- Federation of State Medical Boards (FSMB) has latest policies/laws for interstate licensure: http://www.fsmb.org/siteassets/advocacy/pdf/states-waiving-licensure-requirements-for-telehealth-in-response-to-covid-19.pdf
- Idaho and Montana part of Nurse Licensure Compact – Nurses with multistate license can see patients in these states. Patient location determines practice standards.

MWAETC

Current Telehealth Policies

	Alaska	Idaho	Montana	Oregon	Washington
Medicaid coverage expansion or relaxed restrictions	Yes, during PHE.	No. Some video visits covered.	Yes, during PHE.	Yes, during PHE.	Yes, during PHE.
Commercial Insurer Required Coverage	Limited to specific specialties	No. Temporary expansion of coverage by some.	Yes. Same as in-person services.	Yes. Same as in-person services.	Yes, with some restrictions.
Payment Parity	Limited to specific specialties	No.	No.	No.	Yes, for in-network providers.
Consent	Limited to specific specialties	Required.	Same as in person.	Some requirements for specialties.	Yes, required before visit – verbal accepted.
Prescribing	Yes, relaxed temporarily but some documentation needed.	Yes, some regulations relaxed temporarily.	No specific requirements.	No specific requirements.	Yes, same standard as in person.
Out-of-State Providers Can Offer TM	No, but some requirements relaxed.	Yes, during PHE.	Yes, during PHE.	Yes, during PHE with some restrictions.	Yes, during PHE with some restrictions.

MWAETC

Medicolegal Issues

- Practitioners will be held to the same standard of care when using telehealth as in-person care
- Make sure your insurance carrier knows you're doing telemedicine (they may have additional tips/resources/trainings)
- Most common complaints: controlled substance prescribing, misdiagnosis, negligence, failure to respond
- In LEXIS search, there were **no judgments** against DTC telemedicine companies
- Medical Professional Liability Assn reported just 96 claims for telephone care over decade, 0.2% of all losses, avg loss $303k

https://www.thedoctors.com/articles/covid-19-telehealth-resource-center/

Hugel AL and Kvedar J. Reported cases of medical malpractice in direct to consumer telemedicine. JAMA 2019; 321:1309.

For more info: https://www.americantelemed.org/policy/covid-19/

MWAETC

Privacy

- Platform/technology must be HIPAA-compliant
- Strongly advise that you sign a Business Associates Agreement with any telemedicine vendor or platform
- Also, if you have any patients in Europe, it must comply with General Data Protection Regulation (GDPR)
- Lastly, California enacted the California Consumer Privacy Act and it's mandatory as of Jan 1, 2020
- Don't record visits!
- Use waiting room feature, have unique meeting room or unique password

MWAETC

Security and Privacy

Below is usually done as part of IT security review/audit before signing anything

- Ask how much data, type of data, and what access the vendor will have?
- Ask vendor what are mitigation steps, indemnification, breach notification, and insurance coverage ($5 million minimum): are these adequate to cover the risk based on the business use and need? **Get this in writing!**
- Digging deeper: how are users authorized (two factor is best), how critical is service to clinical operations, how many users are there, how confidential is data, what kind of volume of data is being generated, where is data being stored (just in US, Europe/Canada, or internationally), how is network accessed (VPN is best), do they have an external auditor and certification

MWAETC

What is the future of telemedicine reimbursement?

- Discussion about CMS not paying at parity vs. in-person
- Anticipate phone only reimbursement going down or even eliminated
- Partly depends on patient experience and associated costs of care
- QI/A will be important!
- Suggest looking at things like antibiotic prescribing, patient surveys, National Quality Forum telehealth metrics

Telemedicine Satisfaction and Usefulness Questionnaire (TSUQ), a 26-item self-report measure validated in both low-literacy English and Spanish. Bakken S, Grullon-Figueroa L, Izquierdo R, et al., the IDEATel Consortium. Development, validation, and use of English and Spanish versions of the Telemedicine Satisfaction and Usefulness Questionnaire, J Am Medical Informatics Ass. 2006;13(6):660–667. doi:10.1197/jamia.M2146

eHealth Literacy Scale, an 8-item measure of telehealth literacy validated in English and Spanish. Norman CD, Skinner HA. eHEALS: The eHealth Literacy Scale. J Med Internet Res. 2006;8(4):e27. doi: 10.2196/jmir.8.4.e27.

https://www.qualityforum.org/Publications/2017/08/Creating_a_Framework_to_Support_Measure_Development_for_Telehealth.aspx

MWAETC

Resources

- Telemedicine Satisfaction and Usefulness Questionnaire (TSUQ), a 26-item self-report measure validated in both low-literacy English and Spanish. Bakken S, Grullon-Figueroa L, Izquierdo R, et al., the IDEATel Consortium. Development, validation, and use of English and Spanish versions of the Telemedicine Satisfaction and Usefulness Questionnaire, J Am Medical Informatics Ass. 2006;13(6):660–667. doi:10.1197/jamia.M2146
- eHealth Literacy Scale, an 8-item measure of telehealth literacy validated in English and Spanish. Norman CD, Skinner HA. eHEALS: The eHealth Literacy Scale. J Med Internet Res. 2006;8(4):e27. doi: 10.2196/jmir.8.4.e27.
- https://www.qualityforum.org/Publications/2017/08/Creating_a_Framework_to_Support_Measure_Development_for_Telehealth.aspx
- https://www.thedoctors.com/articles/covid-19-telehealth-resource-center/
- Hugel AL and Kvedar J. Reported cases of medical malpractice in direct to consumer telemedicine. JAMA 2019; 321:1309.
- http://www.fsmb.org/siteassets/advocacy/pdf/states-waiving-licensure-requirements-for-telehealth-in-response-to-covid-19.pdf
- https://www.telehealthresourcecenter.org/
- https://www.cchpca.org/
- https://www.americantelemed.org/policy/covid-19/
- https://www.federalregister.gov/documents/2019/11/15/2019-24086/medicare-program-cy-2020-revisions-to-payment-policies-under-the-physician-fee-schedule-and-other

Questions?

Reminder

- Evaluation
- Submit Additional Questions
- Request Individualized Technical Assistance

Session #4: Telemedicine Technology

Monday, July 13, 2020

9:30 AM (AKDT), 10:30 (PDT), 11:30 (MDT), 12:30 (CDT)

REGISTER HERE

https://mwaetc.org/event/?ER_ID=39112

Implementing Telemedicine Webinar Schedule

Session #5: Clinical Best Practices for Telemedicine

Monday, July 20, 2020; 9:30 AM (AKDT), 10:30 (PDT), 11:30 (MDT), 12:30 (CDT)

Session #6: Telemedicine Q&A

Monday, July 27, 2020; 9:30 AM (AKDT), 10:30 (PDT), 11:30 (MDT), 12:30 (CDT)

MWAETC

Acknowledgment

The Mountain West AIDS Education and Training (MWAETC) program is supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) as part of an award totaling $2,803,298 and as part of another award totaling $400,000 with 0% financed with non-governmental sources.

The content in this presentation are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by HRSA, HHS, or the U.S. Government.

AETC AIDS Education & Training Center Program Mountain West

THANK YOU!