

NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL HEALTH  
LEGAL AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T KNOW  
YOU DON'T KNOW

# Dollars & Cents: Medicare, Medicaid & Private Pay Telehealth Reimbursement

NAVIGANT

COZEN  
O'CONNOR

Gallagher

DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# US Healthcare System (JAMA Study)

- 18% of GDP on health care
- \$9,400 per capita spending
  - Double other developed countries
- Higher costs for:
  - Drugs
    - \$1,443 per capita
    - \$750 avg. per capita (other countries)
  - Providers
    - Avg. salary for US PCP \$218K (\$87K in Sweden; \$154K in Germany)
  - Hospital services
  - Diagnostic tests
    - \$1,145 for MRI in US (\$350 in Australia and \$461 in the Netherlands)

Source: <https://jamanetwork.com/journals/jama/article-abstract/2674671?redirect=true>

NAVIGANT

COZEN  
O'CONNOR

Gallagher

DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Overview – Some Numbers

Medicare

- 57 million beneficiaries

Medicaid/CHIP

- 74 million beneficiaries

Dual-Eligibles

- 12 million

Tricare

- 9.5 million beneficiaries

Private Payers

- 65% of those under 65 have private insurance
- 55% employer-based insurance

NAVIGANT

COZEN  
O'CONNOR

Gallagher

DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicare by the Numbers

## Medicare

- 33% 75 and over
- 16% under 65
- 66% have two or more chronic conditions
  - 30% have five or more
- 81 million beneficiaries by 2030

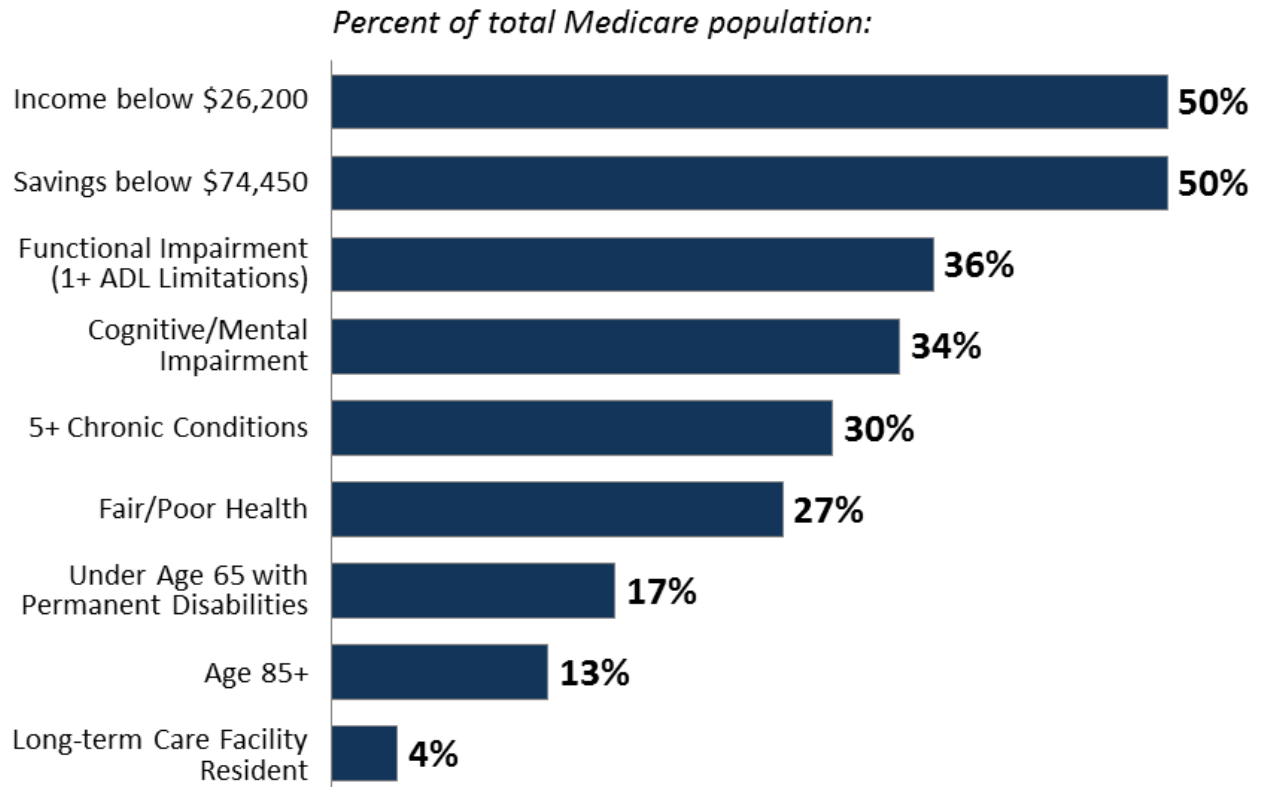
## About to age into Medicare

- 50 percent less likely to smoke
- 55 percent higher prevalence of diabetes
- 9 percent lower prevalence of very good or excellent health status

# Medicare Demographics

Figure 1

## Characteristics of the Medicare Population



NOTE: ADL is activity of daily living.

SOURCE: Kaiser Family Foundation analysis of the Centers for Medicare & Medicaid Services Medicare Current Beneficiary 2013 Cost and Use file; Urban Institute/Kaiser Family Foundation analysis of DYNASIM data, 2017 (for income and savings).

NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicaid Demographics

61% have  
at least  
one  
chronic or  
disabling  
condition

About  
45% of  
enrollees  
are  
children

20% of  
enrollees have  
a behavioral  
health  
diagnosis

- Largest payer for behavioral health services

About half  
of enrollees  
go to  
practices  
with 3 or  
fewer  
providers

NAVIGANT

COZEN  
O'CONNOR

Gallagher

DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Insurance Truisms

All payers cover delivery of health care services subject to certain criteria

Many payers cover medical equipment

- Medicare & Medicaid provide more robust coverage
- Private payers have reduced coverage

New technology/devices

- Public payers more cautious
- Private payers tend to follow Medicare

NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL HEALTH  
LEGAL AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T KNOW  
YOU DON'T KNOW

# MEDICARE



NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicare Overview

Last meaningful expansion in 2001

Mostly for rural beneficiaries

Limited number of services covered

Live interactive audio/video (no coverage for asynchronous, store-and-forward communication in most cases)

\$29 million paid out for telehealth services (2016)

- \$615 billion paid out for all Medicare programs/services

NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicare Telehealth Stats

108,000  
beneficiaries  
accounted for  
over 300,000  
telehealth  
visits

- 56% of users under 65
- 62% dually eligible (Medicare/Medicaid)
- 10% of users accounted for almost half of all telehealth services

Most  
common  
types of  
service:

- Physician office services (E&M)
- Mental health services
- Telestroke

NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicare Definition

Interactive audio and video telecommunications system that permits real-time communication between beneficiary and distant site provider

Asynchronous “store and forward” technology is permitted only in Federal telemedicine demonstration programs in Alaska or Hawaii

# Medicare Coverage for Professional Fees

Beneficiary must present in an "originating site" located in:

Rural HPSA located outside an MSA or in a rural census tract; or

County outside of a Metropolitan Statistical Area;

Beneficiary can also present at an entity participating in a federal telemedicine demonstration project in Alaska and Hawaii

Demonstration projects can use asynchronous communication

NAVIGANT

COZEN  
O'CONNOR

Gallagher

DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicare Coverage for Professional Fees

Physician's office	Critical access hospital
Hospital	Skilled nursing facility
Hospital-based/critical access hospital-based renal dialysis center	Rural health clinic
Federally Qualified Health Center	Community mental health center

NAVIGANT

COZEN  
O'CONNOR

Gallagher

DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicare Coverage for Professional Fees

Physician	Nurse midwife
Clinical psychologist	Clinical social worker
Registered dietitian or nutritional professional	Physician assistant
Clinical nurse specialist	Nurse practitioner

NAVIGANT

COZEN  
O'CONNOR

Gallagher

DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicare Coverage for Professional Fees

Only  
certain  
CPT  
codes  
are  
covered

- ESRD related services
- Individual and group kidney disease education
- Smoking cessation
- Individual psychotherapy
- Psychiatric diagnostic interview examination
- Depression screening
- High-intensity behavioral counseling to prevent sexually transmitted infection
- Intensive behavioral therapy for cardiovascular disease
- Annual wellness visit

NAVIGANT

COZEN  
O'CONNOR

Gallagher

DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicare Coverage for Facility Fees

Originating sites are paid an originating site facility fee for telehealth services

Separately billable Part B payment



NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Opportunities for Medicare Telehealth Expansion

## Bipartisan Budget Act

- Stroke
- Dialysis
- Medicare Advantage
- ACO
- RPM

## Innovative Payment Models

# CMMI

NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Issues Impacting Medicare Telehealth Expansion

HHS not  
persuaded by  
clinical  
efficacy of  
telehealth for  
many  
indications

Bias towards  
keeping  
telehealth  
benefit only  
available for  
rural  
beneficiaries

Fear of  
increased  
costs to  
Medicare  
program with  
expansion of  
telehealth  
benefit

Privacy and  
security  
concerns

NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL HEALTH  
LEGAL AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T KNOW  
YOU DON'T KNOW

# MEDICAID

NAVIGANT

COZEN  
O'CONNOR

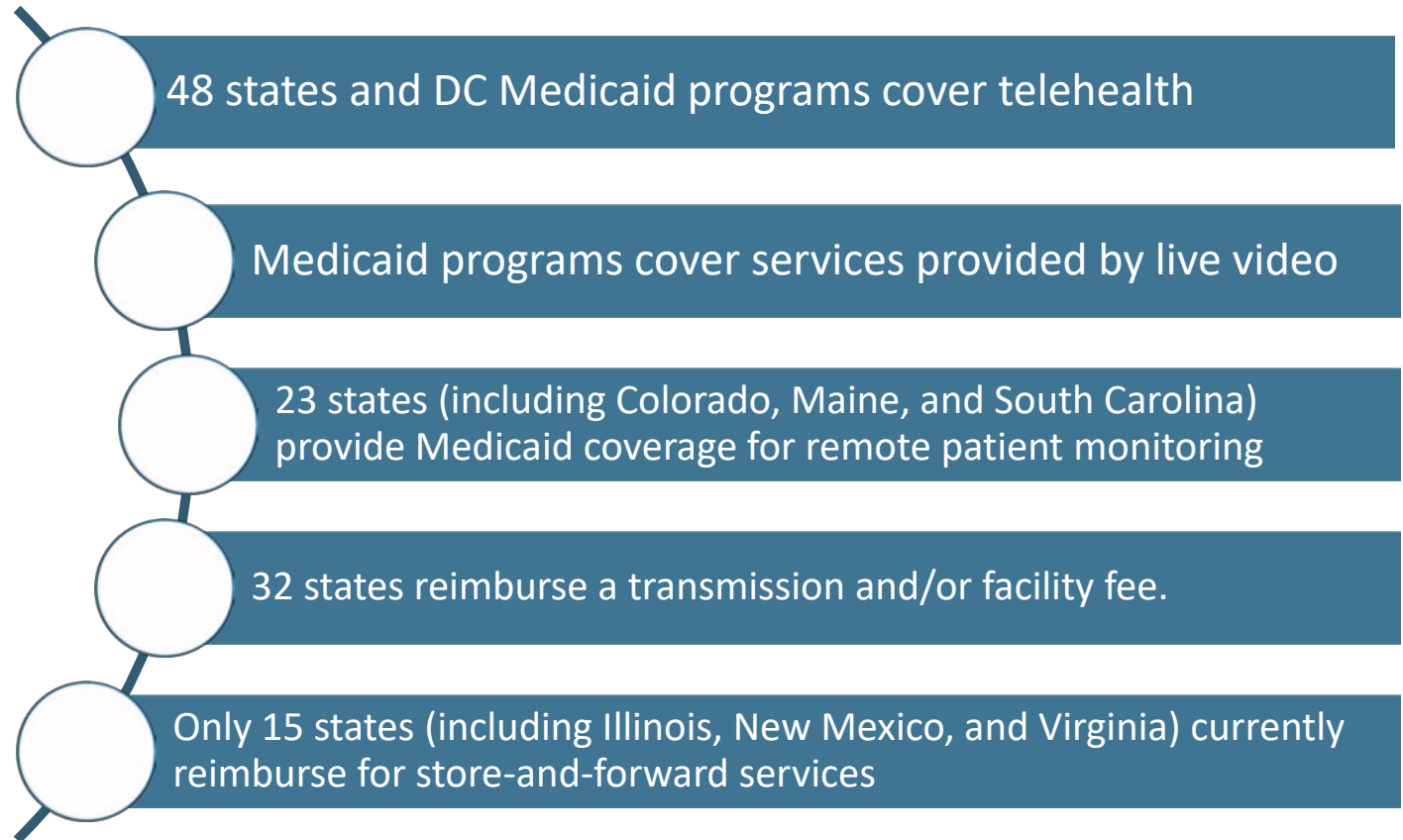
Gallagher

**DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicaid Overview

## Per Center for Connected Health Policy:



NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Coverage and Reimbursement – Medicaid

States have the option/flexibility to determine whether to cover telemedicine services and what types of services to cover



States not required to submit a separate SPA for coverage of or reimb. for telemedicine services



States are responsible for ensuring access and covering face-to-face visits/examinations by “recognized” practitioners/providers in those parts of the state where telemedicine services are not available

NAVIGANT

COZEN  
O'CONNOR

Gallagher

DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicaid Managed Care

In 2014, the OIG issued a report evaluating the adequacy of access to care for enrollees in managed care

## The Report found:

- 35% of providers were not located at the location listed on the plan
- 8% of providers were at the location but were not participating in the plan
- 8% of providers were not accepting new patients
- Primary care providers were less likely to offer appointments than specialists
- Specialists tend to have longer waits
- Median wait time, among providers who offered appointments: 2 weeks
  - Over ¼ of providers had wait times of more than 1 month
  - 10 % of providers had wait times of longer than 2 months

NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Medicaid Managed Care

Federal regulations (April 2016)  
overhauled Medicaid managed  
care requirements

States required to develop and  
make publicly available time and  
distance network adequacy  
standards for primary care and  
several specialties, behavioral,  
dental, hospital care

Factors states to consider: the  
use of telemedicine, e-visits,  
and/or other evolving and  
innovative technological  
solutions

NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL HEALTH  
LEGAL AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T KNOW  
YOU DON'T KNOW

# PRIVATE PAYERS



NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Coverage and Reimbursement – Private Payers

Many leading private insurers provide coverage and reimbursement for telemedicine services, although these policies vary

- Private pay “pioneers” include:
  - Blue Cross Blue Shield
  - CIGNA
  - United Healthcare

A growing number of states (about 35 states/DC) have enacted “parity” laws

- Generally require health insurers to cover and provide reimbursement for services provided via telemedicine “in a comparable manner” to how the payer would for the same services provided in-person

NAVIGANT

COZEN  
O'CONNOR

Gallagher

**DIGITAL  
HEALTH LEGAL  
AND  
REGULATORY  
BOOTCAMP**

WHAT YOU DON'T  
KNOW  
YOU DON'T KNOW

# Parity Law Report—CCHP

Inclusion/exclusion of certain language may create barriers to telehealth utilization by allowing payers to limit the types of services that may be reimbursed

Few states have laws that explicitly require payment parity

Live video is the modality most often referenced in the parity statutory definition of telehealth

Only 4 states and the District of Columbia include a site limitation in their parity laws

Parity laws usually do not include explicit exclusions regarding types of services, types of providers, and geographic locations