

NYLPI

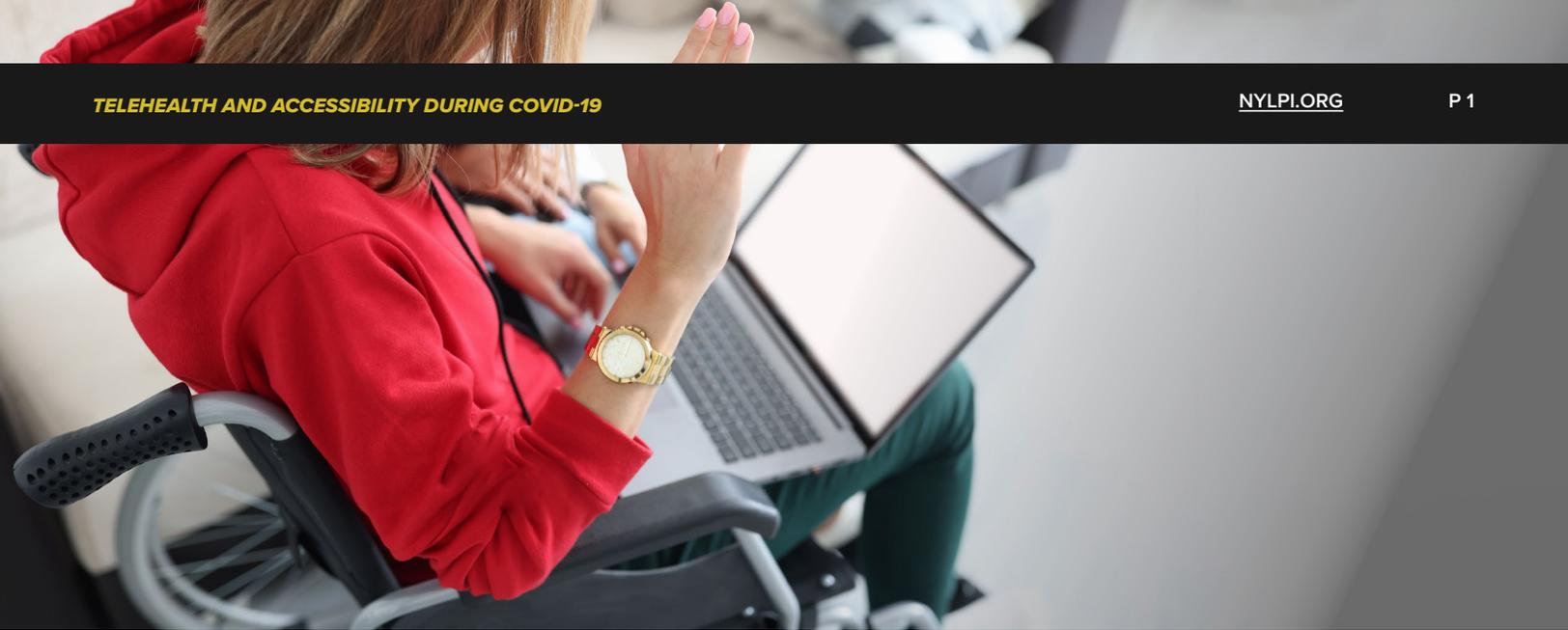
**JUSTICE THROUGH
COMMUNITY POWER**



DOCTORS ON CALL

**TELEHEALTH AND ACCESSIBILITY
DURING COVID-19**

MARCH 2022



SUMMARY

“I think telehealth is great as I am a wheelchair user and traveling is hard for me,” said one New Yorker describing experience with telehealth during the coronavirus pandemic.

New York State — through [emergency rulemaking](#), [proposed legislation](#) and Governor Kathy Hochul’s [recent statements](#) — has recognized the need for telehealth during the COVID-19 pandemic and supported its continued insurance coverage.¹ As policy makers work to expand telehealth, they should address significant problems with its accessibility — as identified by people with disabilities — making changes to overcome these barriers and to ensure that telehealth is accessible for all patients.

New York Lawyers for the Public Interest (NYLPI) conducted our 2021 [Telehealth Accessibility Survey](#) to learn about how people with disabilities are experiencing telehealth during COVID-19, and the survey’s responses demonstrate that telehealth appointments allowed people to access care safely — cutting potential exposure to COVID-19 and avoiding other obstacles connected to in-person care. However, as another New Yorker noted in our survey, to advance access to telehealth we must *“bridge the digital divide”* as many *“individuals with disabilities live below the poverty line and on fixed incomes. In order to access telehealth, you need a device capable*

¹ See N.Y. Comp. Codes R. & Regs. tit. 11, § 52.17; New York S.B. 5505, 2021-2022 Leg. Sess. (NY 2021); New York State Department of Health, Medicaid Telehealth Services During the Coronavirus Emergency (May, 2020), https://www.health.ny.gov/health_care/medicaid/covid19/factsheets/docs/eng_med_telehealth_svs.pdf. See also Governor Hochul, A New Era for New York, 2022 State of the State (Jan. 2022), <https://www.governor.ny.gov/sites/default/files/2022-01/2022StateoftheStateBook.pdf>; The NY State Governor’s Press Office, Governor Hochul Announces \$3 Million in New Grants to Expand Access to Telehealth Across All New York Regions (Nov. 23, 2021), <https://www.governor.ny.gov/news/governor-hochul-announces-3-million-new-grants-expand-access-telehealth-across-all-new-york>.

of accessing the Internet and the Internet itself.” Notably, **respondents pressed to improve telehealth to ensure it is accessible for people with disabilities, and just as importantly, most respondents stated that they would have avoided or delayed medical care if telehealth were not available.** NYLPI has long been committed to ensuring medical access for all New Yorkers (see more information about NYLPI’s Medical Access Campaign, below); from the onset of the coronavirus pandemic, NYLPI has taken measures to identify and address emergent barriers to medical access that disproportionately affect people with disabilities.

NYLPI’S KEY RECOMMENDATIONS:

- New York should ensure coverage and reimbursement for telehealth appointments equal to in-person appointments.²
- Telehealth services should be enhanced to include accessible platforms and services, to reduce the barriers to accessing medical care for people with disabilities.^{3,4}
- There must be increased patient access to WiFi and telehealth-compatible devices.
- Audio-only telehealth services should be utilized (with patient consent) where clinically appropriate and reimbursed across all payers.⁵
- There should be additional training for healthcare providers to improve care for patients with disabilities.⁶

2 See New York S.B. 5505, 2021-2022 Leg. Sess. (NY 2021).

3 National Council on Disability, *The Impact of COVID-19 on People with Disabilities* (Oct. 29, 2021), https://ncd.gov/sites/default/files/NCD_COVID-19_Progress_Report_508.pdf.

4 Consortium for Citizens with Disabilities, *Health Task Force Telehealth Principles* (July 2020), <https://www.ndrn.org/wp-content/uploads/2020/08/CCD-Health-Task-Force-Telehealth-Principles-July-2020.pdf>

5 *Providers* have reported that during the pandemic, audio-only services were the only option available to some patients. Where a patient’s only alternative in such an instance is to forego care altogether, it is critical that audio-only services remain available.

6 Nicole Agaronnik et al., *US Physicians’ Knowledge About The Americans With Disabilities Act And Accommodation Of Patients With Disability*, 41 *Health Affairs* 96 (Jan. 2022), <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2021.01136>. See also National Council on Disability, *The Impact of COVID-19 on People with Disabilities* (Oct. 29, 2021), https://ncd.gov/sites/default/files/NCD_COVID-19_Progress_Report_508.pdf.



THE TELEHEALTH ACCESSIBILITY SURVEY PROJECT

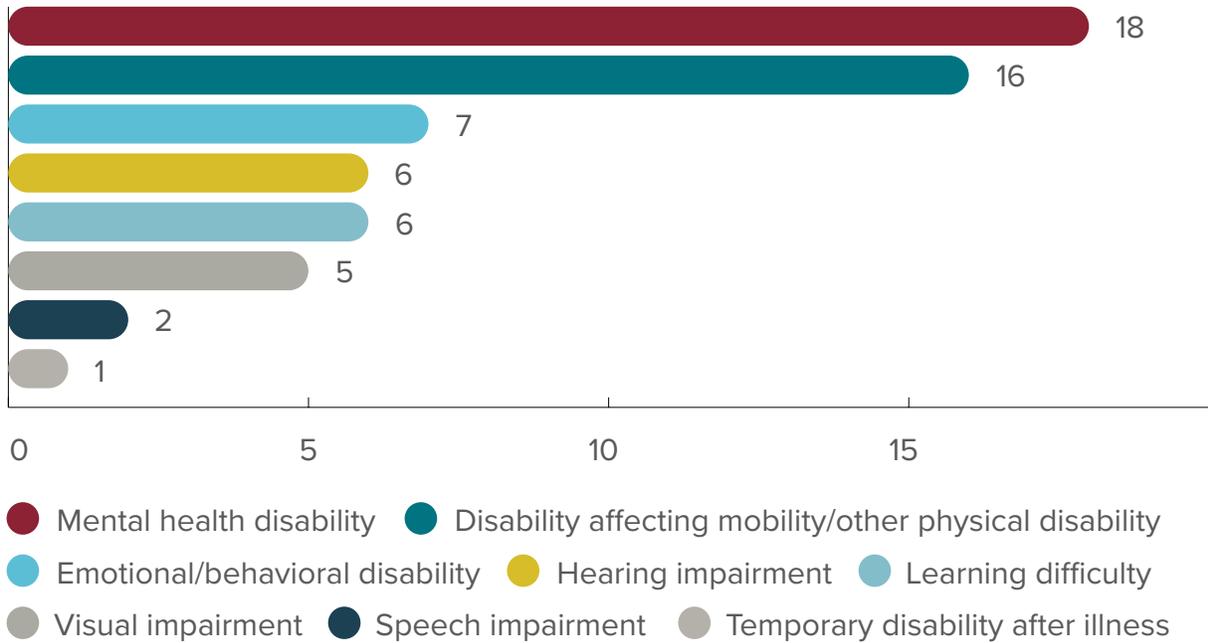
New Yorkers with disabilities, a group already particularly vulnerable to the risks of contracting COVID-19 due to high incidences of comorbidities, have faced increased barriers to adequate healthcare, including the lack of available American Sign Language (ASL) interpreters or other communication services, as well as restrictive visitor policies which have prevented caregivers from entering healthcare facilities.⁷ In February of 2021, NYLPI, in consultation with disability rights groups and other allies,⁸ launched the [Telehealth Accessibility Survey](#) to learn how people with disabilities were experiencing telehealth (video, phone, and other electronic information technologies to provide remote health care when an individual and health care provider are not in the same place at the same time) during the COVID-19 pandemic.⁹ The survey seeks to identify any barriers to access and to inform future advocacy efforts for a more accessible, equitable, and inclusive telehealth care system. The survey was conducted via Survey Monkey between February 2021 through January 2022.

⁷ Christopher Schuyler, *People with disabilities need equal access to medical care now more than ever*, The Hill, July 24, 2020, <https://thehill.com/blogs/congress-blog/healthcare/508933-people-with-disabilities-need-equal-access-to-medical-care-now>.

⁸ See Acknowledgements and information about the Medical Access Roundtable below.

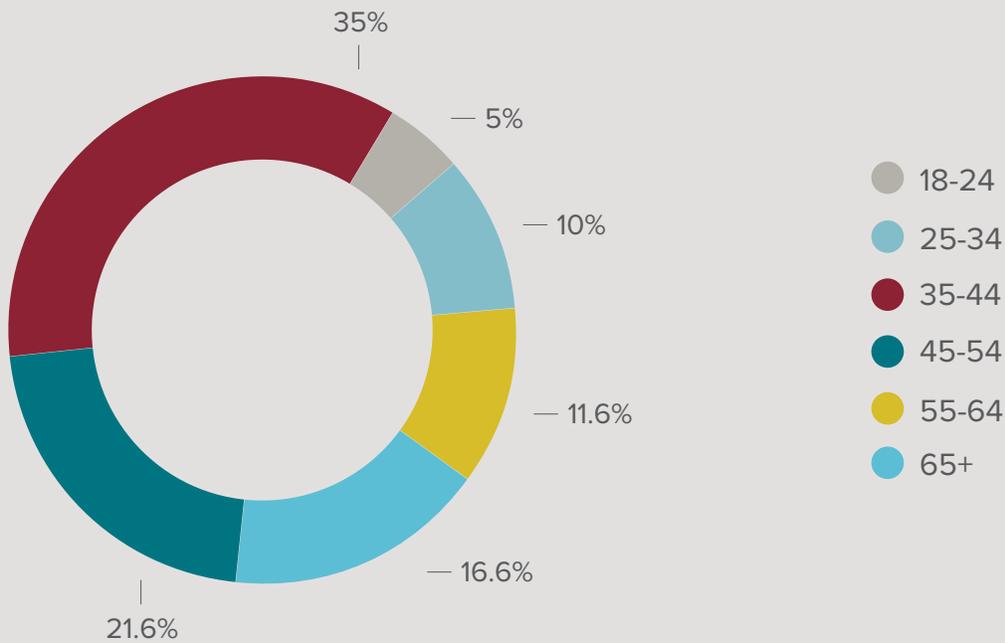
⁹ Health Resources and Services Administration, U.S. Department of Health and Human Services, *What is telehealth?* (last updated Feb. 24, 2022), <https://telehealth.hhs.gov/patients/understanding-telehealth/>.

Forty-six out of the NYLPI survey's 60 respondents identified as having one or multiple disabilities that are listed below.

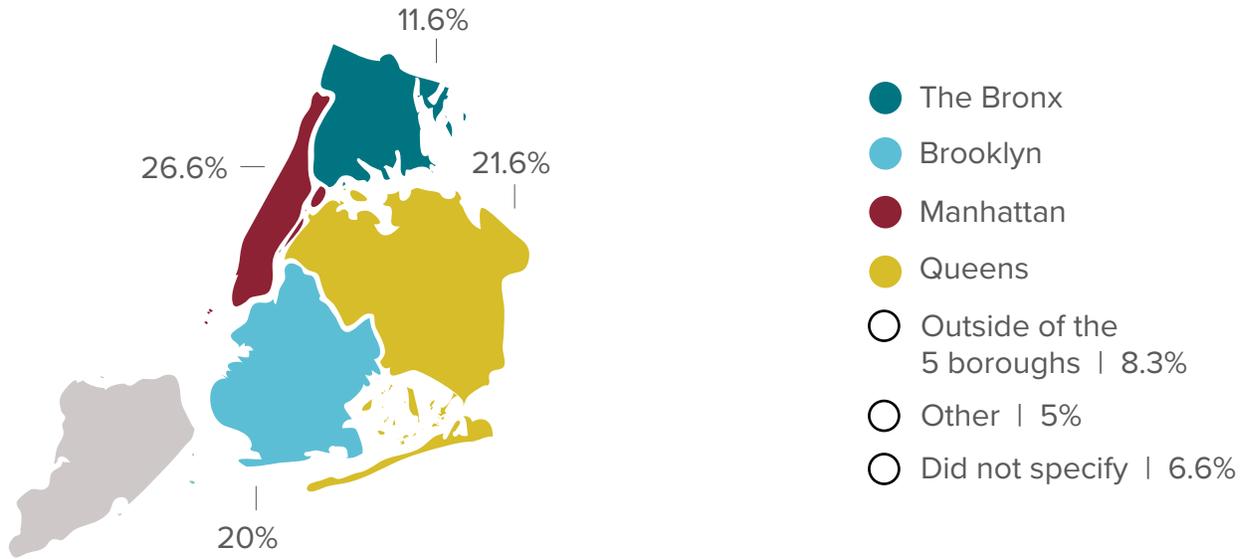


RESPONDENTS' DEMOGRAPHIC INFORMATION

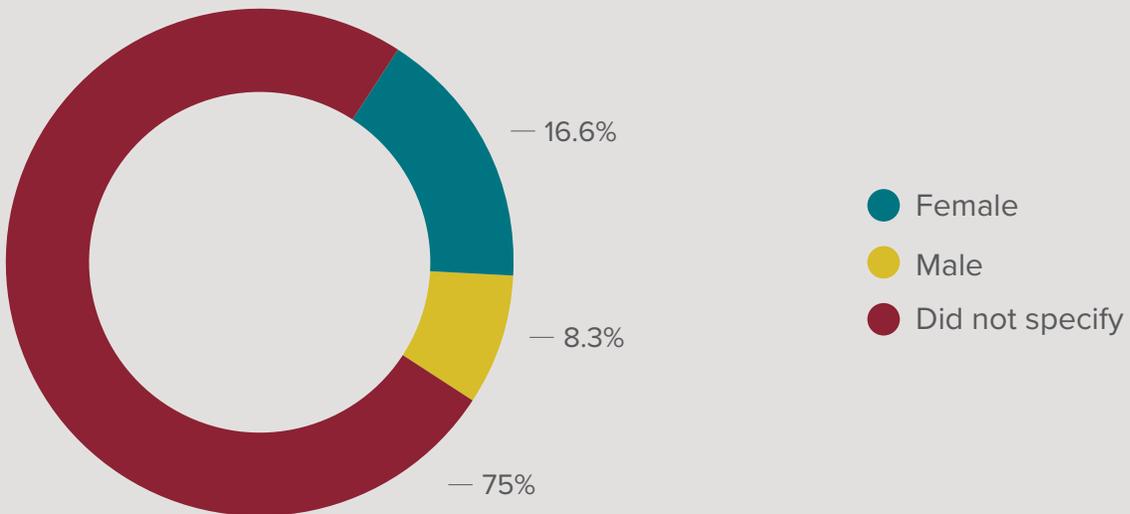
Age



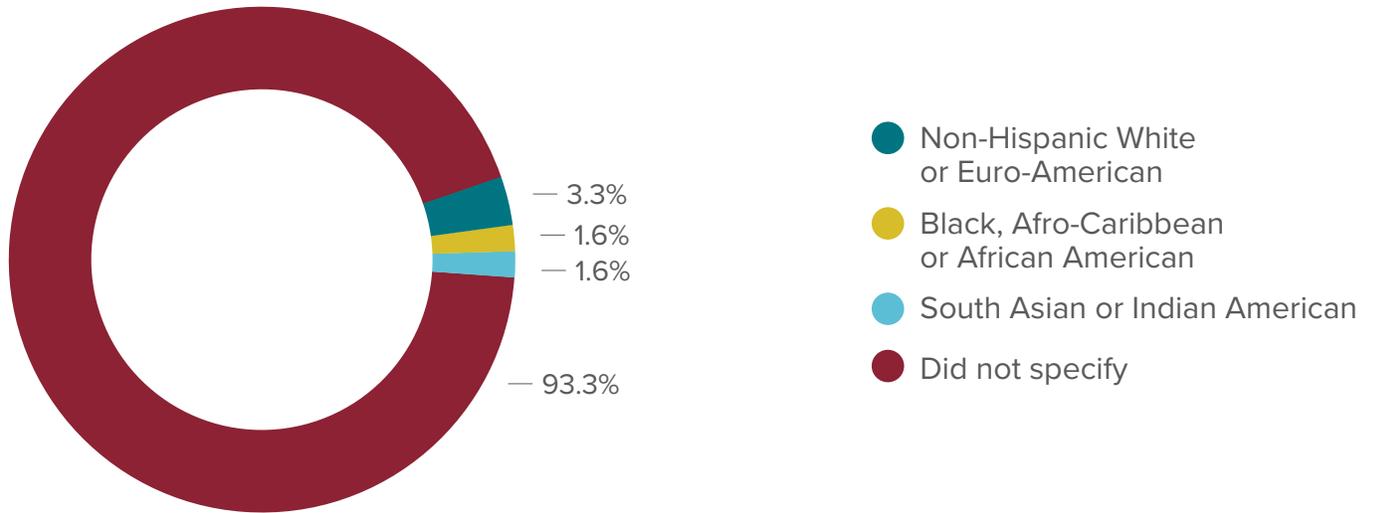
Residence



Gender

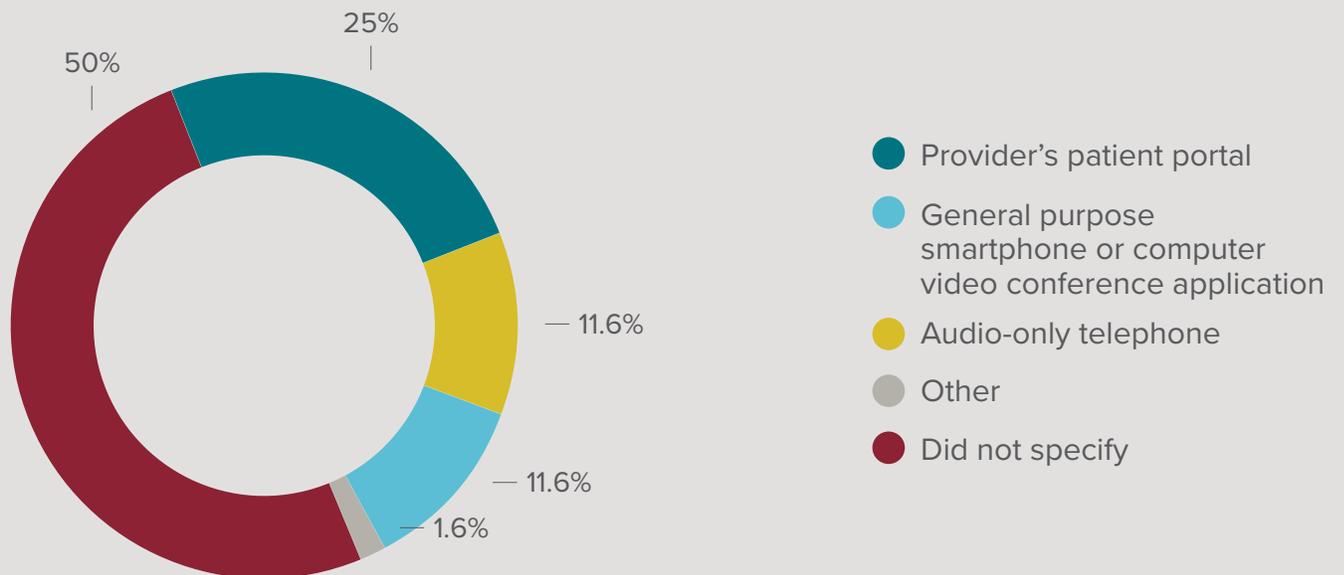


Race

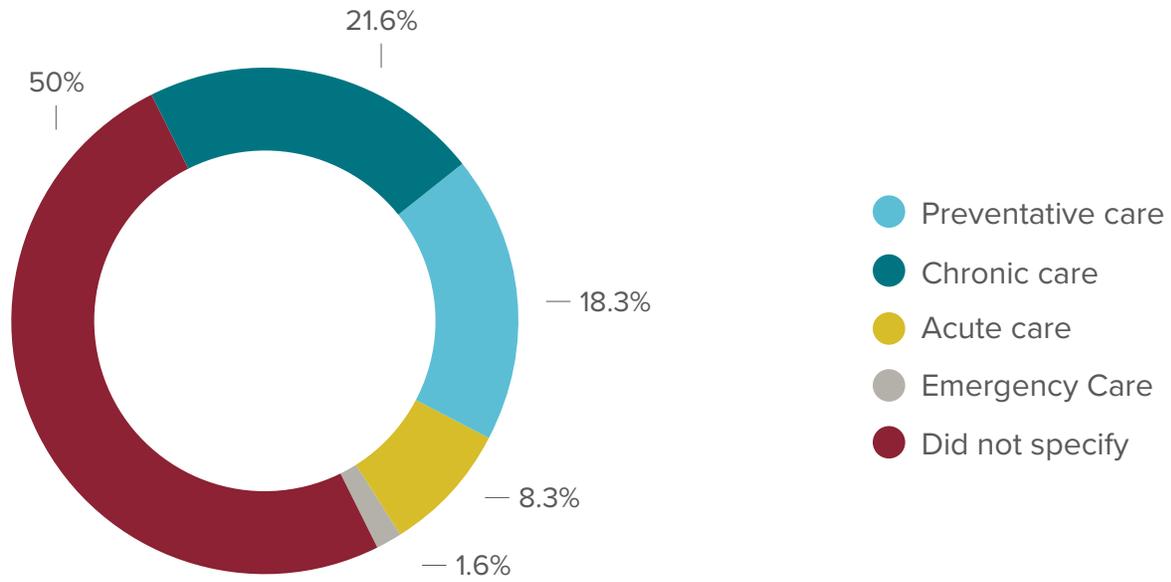


RESPONDENTS' EXPERIENCES WITH TELEHEALTH

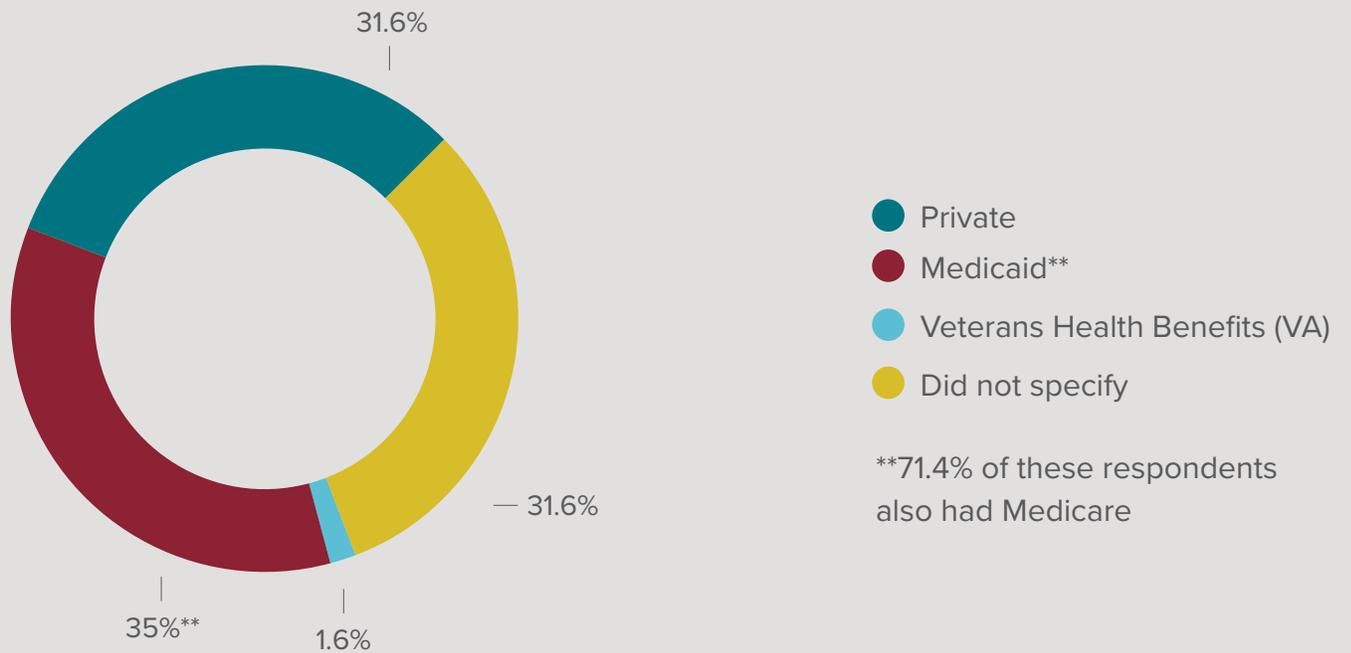
Technology used during telehealth visits



Type of care received during telehealth visit



Insurance



**71.4% of these respondents also had Medicare

SURVEY FINDINGS

Telehealth proved beneficial for many survey-respondents

During the COVID-19 pandemic, many services quickly transitioned from in-person to being provided remotely. **The majority of the survey’s respondents reported that if it was not for telehealth, they would have avoided medical care.¹⁰ Notably, only 5 respondents reported that they would have chosen an in-person visit over a telehealth appointment,** if both were available and at the same cost to them. Almost two years into the pandemic, in-person services have resumed; however New Yorkers have also experienced the benefits of telehealth and “studies indicate that for people with disabilities — particularly those in rural areas — telehealth provides many benefits.”¹¹ The survey’s responses also provide strong support for continued access to telehealth. By in large, respondents found that telehealth appointments were easy to arrange with their own providers¹² and effective in providing treatment, prescribing medications,¹³ and ensuring privacy for patients to share information.¹⁴ **Notably, respondents shared that telehealth helped them avoid exposure to COVID-19 and can reduce other barriers to receiving medical care, including challenges with transportation and childcare.¹⁵**

Respondents described their positive experiences:

“I think telehealth is great as I am a wheelchair user and traveling is hard for me.”

“[the provider] [r]eally listen[ed] to my concerns/complaints and address[ed] them... Also, visit frequency increased with Telehealth.”

¹⁰ Only 18 respondents stated that without telehealth, they would have attended an appointment in their provider’s office or gone to an urgent care center or to an emergency room.

¹¹ Elizabeth Edwards, Daniel Young, *Telehealth and Disability: Challenges and Opportunities for Care*, National Health Law Program (May 2020), <https://healthlaw.org/telehealth-and-disability-challenges-and-opportunities-for-care/>; <https://www.jmir.org/2019/10/e12981/>.

¹² 7 respondents reported that telehealth visits were difficult or very difficult to arrange and 26 respondents out of the 31 that answered the specific survey question, reported that their telehealth appointment was with their own provider or another provider within the same practice.

¹³ 17 respondents reported that they were prescribed medication during a telehealth appointment and 4 respondents stated that it was difficult or very difficult to obtain the medication after a telehealth appointment.

¹⁴ 2 respondents reported that they were not comfortable sharing private information with their provider during the telehealth appointment.

¹⁵ The Coalition of Behavioral Health, Memorandum in Support of S5505/A6256, <https://static1.squarespace.com/static/5d2cdbcce5099e000151d3d5/t/609c0d6132d5fb1033ea7994/1620839777682/MOS+s5505+Rivera+Woerner+telehealth+parity.pdf>

“This experience was great; the provider spent a long time with me and it seemed like the visit was much more leisurely than an in-office visit. I did not feel rushed and felt able to ask all the questions that I had.”

“It is a good service that I hope continues.”

“Continue to make them available, especially for ongoing care relating to chronic conditions that do not require in-person visits.”

SURVEY RESPONSES REVEAL CONCERNS ABOUT TELEHEALTH ACCESSIBILITY

For many people, the COVID-19 pandemic caused an abrupt change from in-person services to a virtual world. While telehealth services grew exponentially, the change also caused confusion, a disruption in care and posed specific barriers for people with disabilities. The National Council on Disability in its report, *The Impact of COVID-19 on People with Disabilities*, noted, “[p]roviders dramatically expanded their use of telehealth, but not everyone could access the technology needed for telehealth and not every service could be delivered remotely.”¹⁶ Survey respondents echoed these concerns; some did not utilize telehealth because they did not realize it was an option, nor were they offered that option by their providers. Other respondents faced technological barriers; they did not have internet connectivity, access to a device with which to conduct a telehealth visit or did not feel comfortable using technology in lieu of an in-person visit.¹⁷

¹⁶ National Council on Disability, *The Impact of COVID-19 on People with Disabilities* 198 (Oct. 29, 2021), https://ncd.gov/sites/default/files/NCD_COVID-19_Progress_Report_508.pdf.

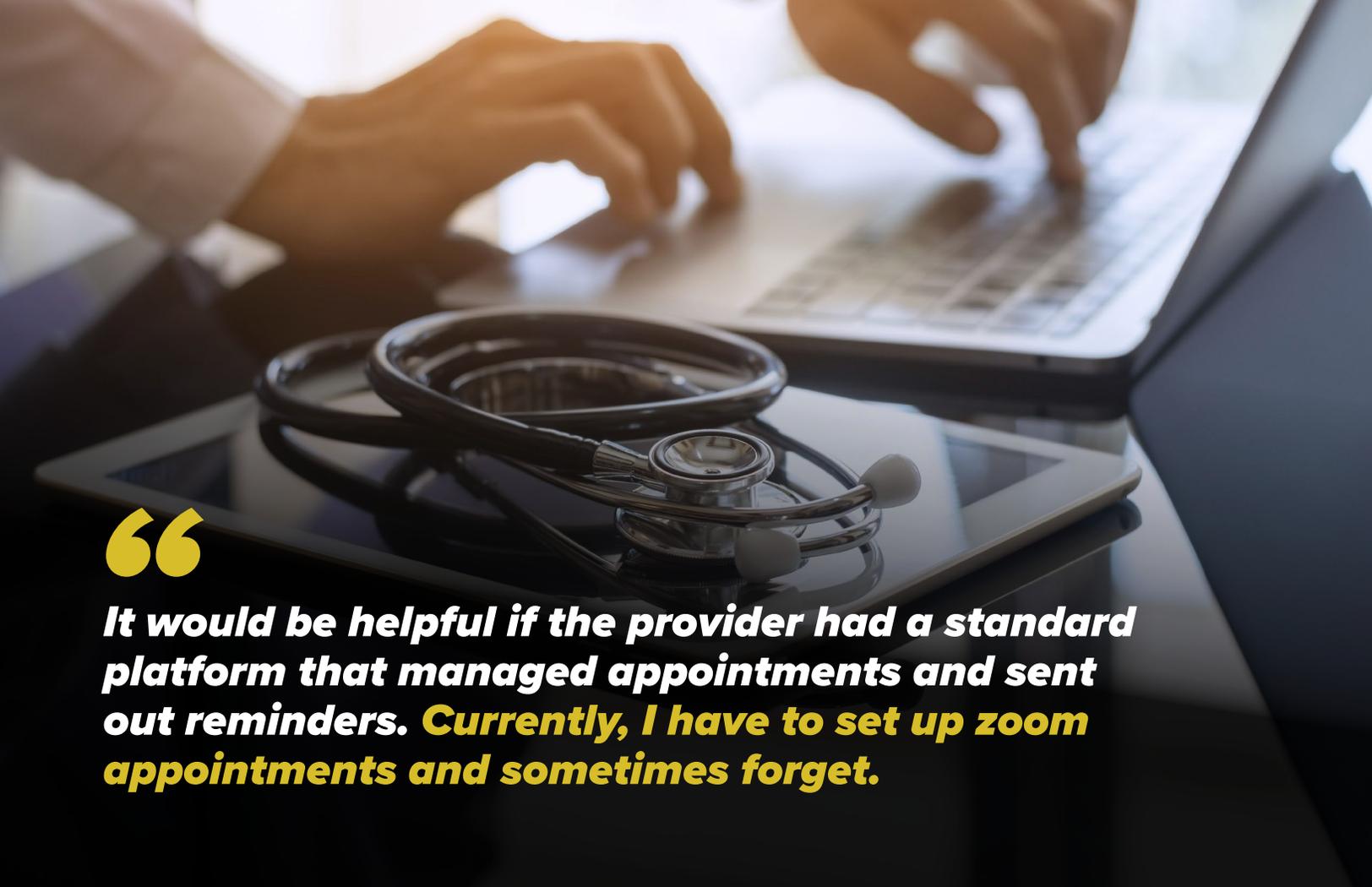
¹⁷ It should be noted that telehealth appointments are not available for all forms of medical care and must be provided when clinically appropriate and with the patient’s consent.

Respondents described their concerns with telehealth:

“First, we need to bridge the digital divide” as many “individuals with disabilities live below the poverty line and on fixed incomes. In order to access telehealth, you need a device capable of accessing the Internet and the Internet itself.”

“Hospitals need to make sure that their infrastructure or the device that is used to give the telehealth visit has a strong enough Internet connection so that the doctor giving the visit does not break up or the connection isn’t laggy.”

“The provider could improve their wifi capability on their end, we frequently disconnected in the middle of a session.”



“

It would be helpful if the provider had a standard platform that managed appointments and sent out reminders. Currently, I have to set up zoom appointments and sometimes forget.



“

For elderly patients such as myself, I do not have a smart phone and nor do I know how to use a smart device. I do not believe that a phone call is an effective means to understand my chronic medical needs. I do not feel comfortable telling the doctors about all my physical and mental health concerns.

“[T]he app they use is not very user friendly in terms of making their picture bigger or smaller, especially if more than one provider called in.”

“There are no alternatives to a private in-person appointment in protecting one’s rights to privacy. Nor are there any alternatives to actual treatments. Telehealth does not provide either.”

Some respondents who did utilize telehealth for their care reported a lack of necessary accommodation during their appointments, in line with recent research that more than one third of U.S. physicians surveyed reported a lack of knowledge about their responsibilities to patients under the American Disabilities Act, which mandates that patients with disabilities receive reasonable accommodations.¹⁸ The National Council on Disability also noted that telehealth

has created a host of new communication barriers for people with hearing loss, vision loss, and/or intellectual or developmental disabilities. Most HIPAA-compliant telemedicine platforms do not have built-in accessibility features to facilitate communications with patients with disabilities. Features such as live captioning and three-way video visits (which allow an interpreter to join the meeting and facilitate communication) are not yet commonplace.¹⁹

Additionally, patients with vision loss may not be able to utilize telehealth as many platforms used “are not designed and formatted to be accessible with a screen reader. Compliance with World Wide Web Consortium’s (W3C) Web Content Accessibility Guidelines (WCAG) is not widespread.”²⁰ WCAG is a recognized standard that explains how websites and other digital content can be made more accessible to people with disabilities.²¹

Notably, **only two respondents to NYLPI’s survey reported that they were presented with aids or services to make their telehealth visit more accessible (i.e., screen**

18 Nicole Agaronnik et al., *US Physicians’ Knowledge About The Americans With Disabilities Act And Accommodation Of Patients With Disability*, 41 Health Affairs 96 (Jan. 2022), <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2021.01136>.

19 National Council on Disability, *The Impact of COVID-19 on People with Disabilities 174* (Oct. 29, 2021), https://ncd.gov/sites/default/files/NCD_COVID-19_Progress_Report_508.pdf.

20 National Council on Disability, *The Impact of COVID-19 on People with Disabilities 174* (Oct. 29, 2021), https://ncd.gov/sites/default/files/NCD_COVID-19_Progress_Report_508.pdf.

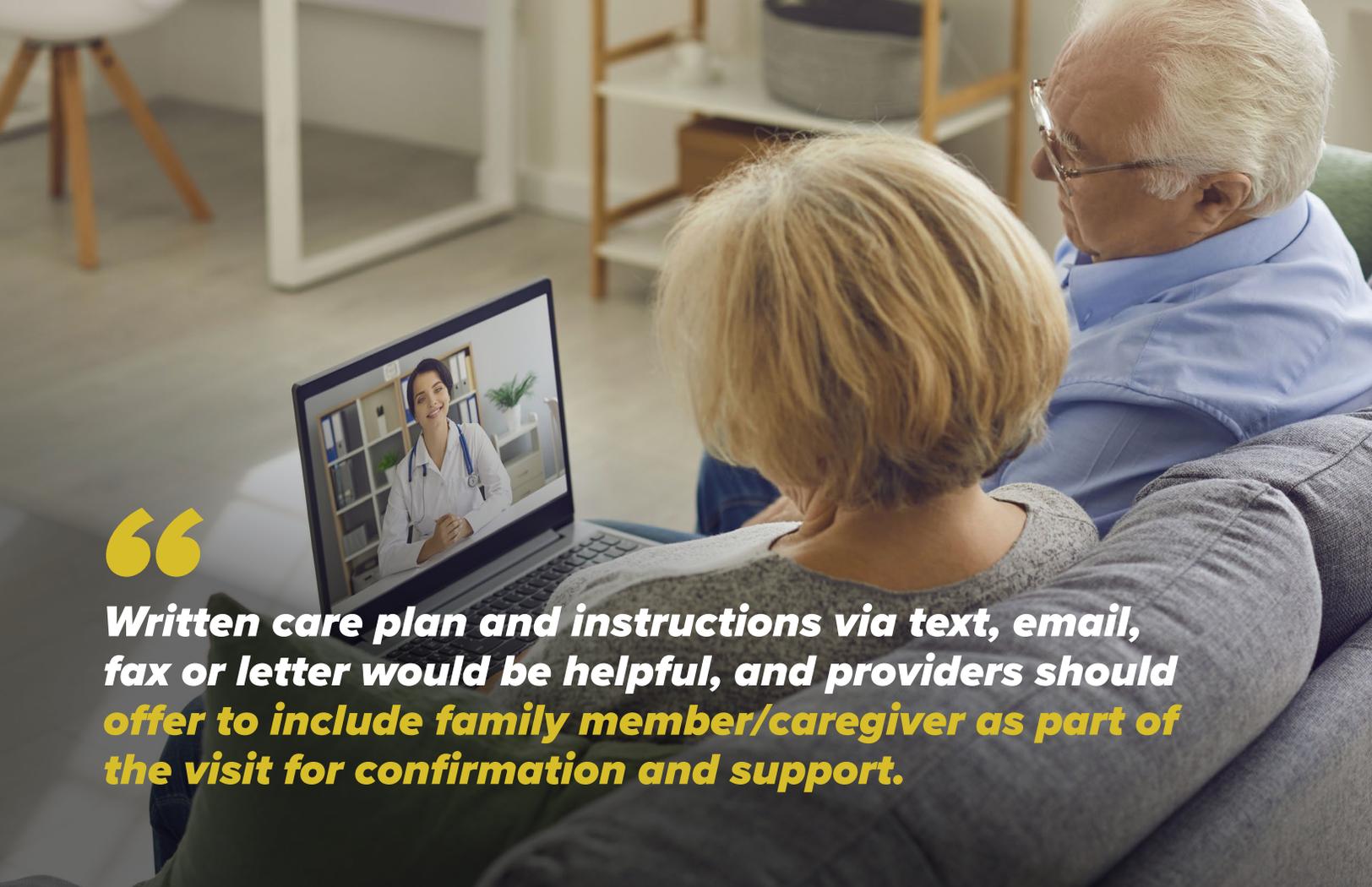
21 Web Accessibility Initiative (WAI), *About WCAG*, <https://www.w3.org/WAI/WCAG2AA-Conformance>. See also New York S.B. A8453, 2021-2022 Leg. Sess. (NY 2021), <https://www.nysenate.gov/legislation/bills/2021/A8453>.

readers, enlarged text, or an ASL interpreter). While Survey responses demonstrate the benefits of telehealth and need for continued coverage, they also highlight significant concerns that must be addressed to ensure telehealth is available to the people who need it and is in fact accessible for all patients.

Respondents shared their recommendations to improve telehealth services for people with disabilities:

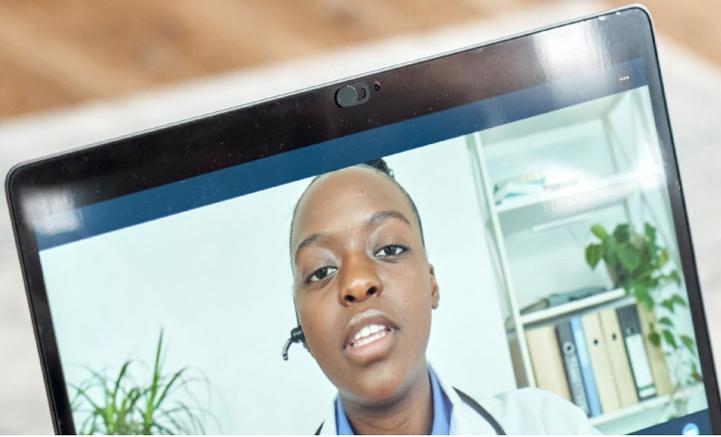
“For Telehealth services to be effective, doctors using Telehealth would need the accompanying medical devices/diagnostic tools in the patients’ homes (that patients (who are not technologically literate) can easily use to properly assess the progression of our chronic diseases).”

“I recommend “large font, language accessible user interfaces... [and] a hotline for help logging in/connecting.”



“

Written care plan and instructions via text, email, fax or letter would be helpful, and providers should offer to include family member/caregiver as part of the visit for confirmation and support.



RECOMMENDATIONS AND CONCLUSION

During the pandemic, New York State has supported telehealth coverage and usage to avoid disruption in medical care and to prevent the spread of COVID-19.²² Currently, there is pending [legislation](#) to ensure continuity of care through telehealth services by requiring coverage and setting reimbursement rates under certain health care plans, and the Governor has announced her support for telehealth services, including a [commitment](#) to overcome the barriers some face to access it and “to invest in new technologies that will improve access and adoption of telehealth in underserved communities.”²³ Telehealth expansion, through these proposals, must include improvements to its accessibility for people with disabilities. **NYLPI’s Telehealth Accessibility Survey’s responses revealed that people with disabilities benefited from access to telehealth as an alternative and adjunct to in-person care, and that telehealth, as it currently exists, is not adequately accessible.** As the use of telehealth grows, policy makers must “continue to work with people with disabilities and their advocates to identify potential accessibility problem areas when implementing telehealth.”²⁴

22 See New York State Department of Health, *Medicaid Telehealth Services During the Coronavirus Emergency* (May, 2020), https://www.health.ny.gov/health_care/medicaid/covid19/factsheets/docs/eng_med_telehealth_svs.pdf; New York State Department of Financial Services, 62nd Amm. 11 NYCRR 52 (Dec. 6, 2021), https://www.health.ny.gov/health_care/medicaid/covid19/factsheets/docs/eng_med_telehealth_svs.pdf.

23 The NY State Governor’s Press Office, Governor Hochul Announces \$3 Million in New Grants to Expand Access to Telehealth Across All New York Regions (Nov. 23, 2021), <https://www.governor.ny.gov/news/governor-hochul-announces-3-million-new-grants-expand-access-telehealth-across-all-new-york>.

24 Elizabeth Edwards, Daniel Young, *Telehealth and Disability: Challenges and Opportunities for Care*, The National Health Law Program (May 2020), <https://healthlaw.org/telehealth-and-disability-challenges-and-opportunities-for-care/>; <https://www.jmir.org/2019/10/e12981/>.

NYLPI therefore recommends that New York's policies to expand telehealth must include the following:

- **Telehealth appointments be reimbursed at a rate equal to in-person appointments, proposed in New York State Assembly bill 6256 / Senate bill 5505.** According to leading medical associations, “[i]n order to more fully ensure that physicians and other healthcare providers can meet patient demand and institute operational requirements necessary to integrate telehealth into their practices, it is important that care delivered via telehealth is valued and reimbursed equal to in-person office visits.”²⁵
- **Telehealth platforms must be fully accessible to “ensure effective communication for people with communication disabilities,** including ensuring that their interface supports three-way video visits with interpreters and that the platform and its content are screen-reader accessible, consistent with” Web Content Accessibility Guidelines.²⁶
- **Telehealth related policies must address what one survey respondent referred to as the ‘digital divide’ that still exists in New York, and advance patient access to telehealth compatible devices and technology,** including through proposed expansions to broadband access and investments to “support community health providers to purchase audiovisual and remote monitoring devices and work with other community partners to establish physical telehealth spaces in places such as libraries, homeless shelters, pharmacies and other locations” that are accessible and ensure privacy for patients.²⁷
- **Telehealth should continue to utilize audio-only telehealth services, where clinically appropriate and with the patient’s consent, reimbursed across all payers.** For patients without access to the internet or computers, audio only services may be the only option to access medical care.²⁸
- **Health care providers should receive additional training** addressing the specific needs and legal responsibilities in caring for patients with disabilities.²⁹

25 Joint Telehealth Letter from the Medical Society of the State of New York et al. (Jan. 11, 2021), http://www.mssnyenews.org/wp-content/uploads/2021/01/Joint-Telehealth-Letter-FINAL-2021-01-07-18_47_15-1.pdf.

26 National Council on Disability, The Impact of COVID-19 on People with Disabilities 22 (Oct. 29, 2021), https://ncd.gov/sites/default/files/NCD_COVID-19_Progress_Report_508.pdf

27 The NY State Governor's Press Office, Governor Hochul Announces \$3 Million in New Grants to Expand Access to Telehealth Across All New York Regions (Nov. 23, 2021), <https://www.governor.ny.gov/news/governor-hochul-announces-3-million-new-grants-expand-access-telehealth-across-all-new-york>. See also The Reimagine New York Commission, Action Plan for a Reimagined New York (March 31, 2021), https://forward.ny.gov/system/files/documents/2021/03/rnyc_action_plan_for_a_reimagined_new_york_plain_text_0.pdf

28 Joint Telehealth Letter from the Medical Society of the State of New York et al. (Jan. 11, 2021), http://www.mssnyenews.org/wp-content/uploads/2021/01/Joint-Telehealth-Letter-FINAL-2021-01-07-18_47_15-1.pdf.

29 Nicole Agaronnik et al., *U.S. Physicians' Knowledge About The Americans with Disabilities Act And Accommodation Of Patients With Disabilities*, 41 Health Affairs 96 (Jan. 2022), <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2021.01136>

ACKNOWLEDGEMENTS

NYLPI thanks Christina Sparrock, Mental Health Advocate, Correct Crisis Intervention Today New York City (CCIT-NYC); Jose Hernandez, President, United Spinal Association's NYC chapter; and all community members and advocates who supported this effort.

NYLPI also thanks Tarik Fathallah, former NYLPI fellow and Caroline Tarantino, former NYLPI legal intern, for their time and dedication in the development of this report. NYLPI staff that contributed to this report: Suhali Méndez, Senior Advocate; Christopher Schuyler, Senior Staff Attorney; and Amber Khan, Health Justice Director.

Graphic Design, Sarah Sommers Design, sarahsommersdesign.com.

MORE ABOUT NYLPI

For 45 years, NYLPI has been a leading civil rights advocate for New Yorkers fighting marginalization based on race, poverty, disability, and immigration status. We file lawsuits, organize, seek policy reform, inform and educate the public, create pro bono partnerships, and build the capacity of local nonprofits to strengthen our communities. Our work activates the power of New York communities as they lead the fight to make equal justice a reality. Guided by their priorities, we use every tool available to achieve lived equality and create lasting change. Together, we fight systemic racism and strive to achieve equality of opportunity and self-determination for people with disabilities, create equal access to healthcare, ensure immigrant opportunity, strengthen local nonprofits, and secure environmental justice for low-income communities of color.

As part of our commitment to ensuring medical access for people with disabilities and all New Yorkers, NYLPI's Disability and Health Justice Programs launched the [Medical Access Campaign](#). NYLPI published [Breaking Down Barriers, Breaking the Silence: Making Health Care More Accessible for Women with Disabilities](#), outlining the barriers to care for women with disabilities and mobility impairments, and represent individuals facing barriers to accessible medical care. We pursue systemic improvements and work with a coalition of advocates and city and state civil rights enforcement agencies, connecting with community members to educate them about their rights to accessible medical equipment, accessible facilities, reasonable accommodations, and how to file complaints. NYLPI also holds regular meetings for the Medical Access Roundtable, a coalition of advocates and city and state agencies, that collectively work to address systemic issues with medical access. Now, during the COVID-19 pandemic, the work of the medical access campaign is increasingly relevant as people with disabilities are disproportionately at risk to negative health outcomes due to, among other things, new access barriers resulting from COVID-19 related protocols along with health care staffing and resource shortages.

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