



General Assembly

February Session, 2024

Raised Bill No. 401

LCO No. 2716



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT CONCERNING THE AVAILABILITY OF TELEHEALTH PROVIDERS IN DETERMINING NETWORK ADEQUACY AND EXTENDING THE TELEHEALTH PROVISIONS ADOPTED DURING THE COVID-19 PANDEMIC.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 38a-472f of the 2024 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective July 1, 2024*):

4 (c) (1) (A) Each health carrier shall establish and maintain a network
5 that includes a sufficient number and appropriate types of participating
6 providers, including those that serve predominantly low-income,
7 medically underserved individuals, to assure that all covered benefits
8 will be accessible to all such health carrier's covered persons without
9 unreasonable travel or delay.

10 (B) Covered persons shall have access to emergency services and, to
11 the extent urgent crisis center services are available, urgent crisis center
12 services, twenty-four hours a day, seven days a week. For the purposes
13 of this subparagraph, "emergency services" and "urgent crisis center

14 services" have the same meanings as provided in section 38a-477aa.

15 (2) The Insurance Commissioner shall determine the sufficiency of a
16 health carrier's network in accordance with the provisions of this
17 subsection and may establish sufficiency by reference to any reasonable
18 criteria, including, but not limited to, (A) the ratio of participating
19 providers to covered persons by specialty, (B) the ratio of primary care
20 providers to covered persons, (C) the geographic accessibility of
21 participating providers, (D) the geographic variation and dispersion of
22 the state's population, (E) the wait times for appointments with
23 participating providers, (F) the hours of operation of participating
24 providers, (G) the ability of the network to meet the needs of covered
25 persons that may include low-income individuals, children and adults
26 with serious, chronic or complex conditions or physical or mental
27 disabilities or individuals with limited English proficiency, (H) the
28 availability of other health care delivery system options, such as centers
29 of excellence and mobile clinics, (I) the volume of technological and
30 specialty care services available to serve the needs of covered persons
31 who require technologically advanced or specialty care services, (J) the
32 extent to which participating health care providers are accepting new
33 patients, (K) the degree to which (i) participating health care providers
34 are authorized to admit patients to hospitals participating in the
35 network, and (ii) hospital-based health care providers are participating
36 providers, [and] (L) the regionalization of specialty care, and (M) the
37 availability of participating providers to provide health care services or
38 treatment through telehealth, as defined in section 19a-906.

39 Sec. 2. Subsections (b) to (l), inclusive, of section 1 of public act 21-9,
40 as amended by section 3 of public act 21-133 and section 32 of public act
41 22-81, are repealed and the following is substituted in lieu thereof
42 (*Effective from passage*):

43 (b) (1) Notwithstanding the provisions of section 19a-906 of the
44 general statutes, as amended by [this act] public act 22-81, during the
45 period beginning on May 10, 2021, and ending on June 30, [2024] 2029,
46 a telehealth provider may only provide a telehealth service to a patient

47 when the telehealth provider:

48 (A) Is communicating through real-time, interactive, two-way
49 communication technology or store and forward transfer technology;

50 (B) Has determined whether the patient has health coverage that is
51 fully insured, not fully insured or provided through the Connecticut
52 medical assistance program, and whether the patient's health coverage,
53 if any, provides coverage for the telehealth service;

54 (C) Has access to, or knowledge of, the patient's medical history, as
55 provided by the patient, and the patient's health record, including the
56 name and address of the patient's primary care provider, if any;

57 (D) Conforms to the standard of care applicable to the telehealth
58 provider's profession and expected for in-person care as appropriate to
59 the patient's age and presenting condition, except when the standard of
60 care requires the use of diagnostic testing and performance of a physical
61 examination, such testing or examination may be carried out through
62 the use of peripheral devices appropriate to the patient's condition; and

63 (E) Provides the patient with the telehealth provider's license
64 number, if any, and contact information.

65 (2) Notwithstanding the provisions of section 19a-906 of the general
66 statutes, as amended by [this act] public act 22-81, if a telehealth
67 provider provides a telehealth service to a patient during the period
68 beginning on May 10, 2021, and ending on June 30, [2024] 2029, the
69 telehealth provider shall, at the time of the telehealth provider's first
70 telehealth interaction with a patient, inform the patient concerning the
71 treatment methods and limitations of treatment using a telehealth
72 platform, including, but not limited to, the limited duration of the
73 relevant provisions of this section and sections 3 to 7, inclusive, of public
74 act 21-9, as amended by public act 22-81 and this act, and, after
75 providing the patient with such information, obtain the patient's
76 consent to provide telehealth services. The telehealth provider shall
77 document such notice and consent in the patient's health record. If a

78 patient later revokes such consent, the telehealth provider shall
79 document the revocation in the patient's health record.

80 (c) Notwithstanding the provisions of this section or title 20 of the
81 general statutes, no telehealth provider shall, during the period
82 beginning on May 10, 2021, and ending on June 30, [2024] 2029, prescribe
83 any schedule I, II or III controlled substance through the use of
84 telehealth, except a schedule II or III controlled substance other than an
85 opioid drug, as defined in section 20-14o of the general statutes, in a
86 manner fully consistent with the Ryan Haight Online Pharmacy
87 Consumer Protection Act, 21 USC 829(e), as amended from time to time,
88 for the treatment of a person with a psychiatric disability or a person
89 with a substance use disorder, as defined in section 17a-458 of the
90 general statutes, including, but not limited to, medication-assisted
91 treatment. A telehealth provider using telehealth to prescribe a schedule
92 II or III controlled substance pursuant to this subsection shall
93 electronically transmit the prescription pursuant to section 21a-249 of
94 the general statutes, as amended by public act 21-9, as amended by this
95 act.

96 (d) During the period beginning on May 10, 2021, and ending on June
97 30, [2024] 2029, each telehealth provider shall, at the time of the initial
98 telehealth interaction, ask the patient whether the patient consents to the
99 telehealth provider's disclosure of records concerning the telehealth
100 interaction to the patient's primary care provider. If the patient consents
101 to such disclosure, the telehealth provider shall provide records of all
102 telehealth interactions during such period to the patient's primary care
103 provider, in a timely manner, in accordance with the provisions of
104 sections 20-7b to 20-7e, inclusive, of the general statutes.

105 (e) During the period beginning on May 10, 2021, and ending on June
106 30, [2024] 2029, any consent or revocation of consent under this section
107 shall be obtained from or communicated by the patient, or the patient's
108 legal guardian, conservator or other authorized representative, as
109 applicable.

110 (f) (1) The provision of telehealth services and health records
111 maintained and disclosed as part of a telehealth interaction shall comply
112 with all provisions of the Health Insurance Portability and
113 Accountability Act of 1996, P.L. 104-191, as amended from time to time,
114 and the rules and regulations adopted thereunder, that are applicable to
115 such provision, maintenance or disclosure.

116 (2) Notwithstanding the provisions of section 19a-906 of the general
117 statutes, as amended by [this act] public act 22-81, and subdivision (1)
118 of this subsection, a telehealth provider that is an in-network provider
119 or a provider enrolled in the Connecticut medical assistance program
120 that provides telehealth services to a Connecticut medical assistance
121 program recipient, may, during the period beginning on May 10, 2021,
122 and ending on June 30, [2024] 2029, use any information or
123 communication technology in accordance with the directions,
124 modifications or revisions, if any, made by the Office for Civil Rights of
125 the United States Department of Health and Human Services to the
126 provisions of the Health Insurance Portability and Accountability Act of
127 1996, P.L. 104-191, as amended from time to time, or the rules and
128 regulations adopted thereunder.

129 (g) Notwithstanding any provision of the general statutes, nothing in
130 this section shall, during the period beginning on May 10, 2021, and
131 ending on June 30, [2024] 2029, prohibit a health care provider from: (1)
132 Providing on-call coverage pursuant to an agreement with another
133 health care provider or such health care provider's professional entity
134 or employer; (2) consulting with another health care provider
135 concerning a patient's care; (3) ordering care for hospital outpatients or
136 inpatients; or (4) using telehealth for a hospital inpatient, including for
137 the purpose of ordering medication or treatment for such patient in
138 accordance with the Ryan Haight Online Pharmacy Consumer
139 Protection Act, 21 USC 829(e), as amended from time to time. As used
140 in this subsection, "health care provider" means a person or entity
141 licensed or certified pursuant to chapter 370, 372, 373, 375, 376 to 376b,
142 inclusive, 378, 379, 380, 381a, 383 to 383c, inclusive, 384b, 397a, 399 or
143 400j of the general statutes or licensed or certified pursuant to chapter

144 368d or 384d of the general statutes.

145 (h) Notwithstanding any provision of the general statutes, no
146 telehealth provider shall charge a facility fee for a telehealth service
147 provided during the period beginning on May 10, 2021, and ending on
148 June 30, [2024] 2029.

149 (i) (1) Notwithstanding any provision of the general statutes, no
150 telehealth provider shall provide health care or health services to a
151 patient through telehealth during the period beginning on May 10, 2021,
152 and ending on June 30, [2024] 2029, unless the telehealth provider has
153 determined whether or not the patient has health coverage for such
154 health care or health services.

155 (2) Notwithstanding any provision of the general statutes, a
156 telehealth provider who provides health care or health services to a
157 patient through telehealth during the period beginning on May 10, 2021,
158 and ending on June 30, [2024] 2029, shall [:

159 (A) Accept] accept as full payment for such health care or health
160 services:

161 [(i)] (A) An amount that is equal to the amount that Medicare
162 reimburses for such health care or health services if the telehealth
163 provider determines that the patient does not have health coverage for
164 such health care or health services; or

165 [(ii)] (B) The amount that the patient's health coverage reimburses,
166 and any coinsurance, copayment, deductible or other out-of-pocket
167 expense imposed by the patient's health coverage, for such health care
168 or health services if the telehealth provider determines that the patient
169 has health coverage for such health care or health services. If the
170 patient's health coverage uses a provider network, the amount of such
171 reimbursement, and such coinsurance, copayment, deductible or other
172 out-of-pocket expense, shall not exceed the in-network amount
173 regardless of the network status of such telehealth provider.

174 (3) If a telehealth provider determines that a patient is unable to pay
175 for any health care or health services described in subdivisions (1) and
176 (2) of this subsection, the provider shall offer to the patient financial
177 assistance, if such provider is otherwise required to offer to the patient
178 such financial assistance, under any applicable state or federal law.

179 (j) Subject to compliance with all applicable federal requirements,
180 notwithstanding any provision of the general statutes, state licensing
181 standards or any regulation adopted thereunder, a telehealth provider
182 may provide telehealth services pursuant to the provisions of this
183 section from any location.

184 (k) Notwithstanding the provisions of section 19a-906 of the general
185 statutes, as amended by [this act] public act 22-81, during the period
186 beginning on May 10, 2021, and ending on June 30, [2024] 2029, any
187 Connecticut entity, institution or health care provider that engages or
188 contracts with a telehealth provider that is licensed, certified or
189 registered in another state or territory of the United States or the District
190 of Columbia to provide health care or other health services shall verify
191 the credentials of such provider in the state in which he or she is
192 licensed, certified or registered, ensure that such provider is in good
193 standing in such state, and confirm that such provider maintains
194 professional liability insurance or other indemnity against liability for
195 professional malpractice in an amount that is equal to or greater than
196 that required for similarly licensed, certified or registered Connecticut
197 health care providers.

198 (l) Notwithstanding sections 4-168 to 4-174, inclusive, of the general
199 statutes, from the period beginning on May 10, 2021, and ending on June
200 30, [2024] 2029, the Commissioner of Public Health may temporarily
201 waive, modify or suspend any regulatory requirements adopted by the
202 Commissioner of Public Health or any boards or commissions under
203 chapters 368a, 368d, 368v, 369 to 381a, inclusive, 382a, 383 to 388,
204 inclusive, 397a, 398, 399, 400a, 400c, 400j and 474 of the general statutes
205 as the Commissioner of Public Health deems necessary to reduce the
206 spread of COVID-19 and to protect the public health for the purpose of

207 providing residents of this state with telehealth services from out-of-
208 state practitioners.

209 Sec. 3. Subsection (b) of section 3 of public act 21-9, as amended by
210 section 35 of public act 22-81, is repealed and the following is substituted
211 in lieu thereof (*Effective from passage*):

212 (b) Notwithstanding any provision of the general statutes, each
213 individual health insurance policy that provides coverage of the type
214 specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of
215 the general statutes that is effective at any time during the period
216 beginning on May 10, 2021, and ending on June 30, [2024] 2029, shall, at
217 all times that the policy remains in effect during such period, provide
218 coverage for medical advice, diagnosis, care or treatment provided
219 through telehealth, to the same extent coverage is provided for such
220 advice, diagnosis, care or treatment when provided to the insured in
221 person. The policy shall not, at any time during such period, exclude
222 coverage for a service that is appropriately provided through telehealth
223 because such service is provided through telehealth or a telehealth
224 platform selected by an in-network telehealth provider.

225 Sec. 4. Subsection (b) of section 4 of public act 21-9, as amended by
226 section 36 of public act 22-81, is repealed and the following is substituted
227 in lieu thereof (*Effective from passage*):

228 (b) Notwithstanding any provision of the general statutes, each
229 group health insurance policy that provides coverage of the type
230 specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of
231 the general statutes that is effective at any time during the period
232 beginning on May 10, 2021, and ending on June 30, [2024] 2029, shall, at
233 all times that the policy remains in effect during such period, provide
234 coverage for medical advice, diagnosis, care or treatment provided
235 through telehealth, to the same extent coverage is provided for such
236 advice, diagnosis, care or treatment when provided to the insured in
237 person. The policy shall not, at any time during such period, exclude
238 coverage for a service that is appropriately provided through telehealth

239 because such service is provided through telehealth or a telehealth
240 platform selected by an in-network telehealth provider.

241 Sec. 5. Subsection (b) of section 5 of public act 21-9, as amended by
242 section 37 of public act 22-81, is repealed the following is substituted in
243 lieu thereof (*Effective from passage*):

244 (b) Notwithstanding any provision of the general statutes, no health
245 carrier shall reduce the amount of a reimbursement paid to a telehealth
246 provider for covered health care or health services that the telehealth
247 provider appropriately provided to an insured through telehealth
248 during the period beginning on May 10, 2021, and ending on June 30,
249 [2024] 2029, because the telehealth provider provided such health care
250 or health services to the patient through telehealth and not in person.

251 Sec. 6. Subsection (b) of section 7 of public act 21-9, as amended by
252 section 38 of public act 22-81, is repealed and the following is substituted
253 in lieu thereof (*Effective from passage*):

254 (b) Notwithstanding the provisions of sections 21a-408 to 21a-408n,
255 inclusive, of the general statutes, or any other section, regulation, rule,
256 policy or procedure concerning the certification of medical marijuana
257 patients, a physician or advanced practice registered nurse may issue a
258 written certification to a qualifying patient and provide any follow-up
259 care using telehealth services during the period beginning on May 10,
260 2021, and ending on June 30, [2024] 2029, provided all other
261 requirements for issuing the written certification to the qualifying
262 patient and all recordkeeping requirements are satisfied.

263 Sec. 7. Subdivision (5) of subsection (c) of section 21a-249 of the 2024
264 supplement to the general statutes is repealed and the following is
265 substituted in lieu thereof (*Effective from passage*):

266 (5) The practitioner demonstrates, in a form and manner prescribed
267 by the commissioner, that such practitioner does not have the
268 technological capacity to issue an electronically transmitted
269 prescription. For the purposes of this subsection, "technological

270 capacity" means possession of a computer system, hardware or device
 271 that can be used to electronically transmit controlled substance
 272 prescriptions consistent with the requirements of the federal Controlled
 273 Substances Act, 21 USC 801, as amended from time to time. The
 274 provisions of this subdivision shall not apply to a practitioner when
 275 such practitioner is prescribing as a telehealth provider, as defined in
 276 section 19a-906, section 1 of public act 20-2 of the July special session or
 277 section 1 of public act 21-9, as amended by section 32 of public act 22-81
 278 and this act, as applicable, pursuant to subsection (c) of section 19a-906,
 279 subsection (c) of section 1 of public act 20-2 of the July special session or
 280 subsection (c) of section 1 of public act 21-9, as amended by section 32
 281 of public act 22-81, as applicable.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2024</i>	38a-472f(c)
Sec. 2	<i>from passage</i>	PA 21-9, Sec. 1(b) to (l)
Sec. 3	<i>from passage</i>	PA 21-9, Sec. 3(b)
Sec. 4	<i>from passage</i>	PA 21-9, Sec. 4(b)
Sec. 5	<i>from passage</i>	PA 21-9, Sec. 5(b)
Sec. 6	<i>from passage</i>	PA 21-9, Sec. 7(b)
Sec. 7	<i>from passage</i>	21a-249(c)(5)

Statement of Purpose:

To (1) allow the Insurance Commissioner to consider the availability of telehealth providers in determining the sufficiency of a health carrier's network, and (2) extend the telehealth provisions adopted during the COVID-19 pandemic.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]