

# HOUSE BILL No. 1337

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-15; IC 25-1-9.5.

**Synopsis:** Telemedicine matters. Requires the office of Medicaid policy and planning (office) to reimburse any Medicaid provider (not only specified providers) for Medicaid covered services provided through the use of telemedicine services if certain requirements are met. Prohibits the office from setting any distance restrictions under Medicaid on telehealth services and telemedicine services. Requires reimbursement for telemedicine services under the healthy Indiana plan. Adds podiatrists to the definition of "provider" for purposes of telemedicine services. Gives a telemedicine services provider discretion in contacting the patient's primary care provider if the telemedicine services provider has provided care to the patient at least two consecutive times through the use of telemedicine services. Removes a limitation on prescribing controlled substances through the use of telemedicine except for the prescribing of opioids. Allows for an exception for prescribing opioids through telemedicine if the prescription is for an overdose intervention drug that is being prescribed for overdose prevention.

**Effective:** July 1, 2017.

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## Kirchhofer

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January 12, 2017, read first time and referred to Committee on Public Health.

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First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

## HOUSE BILL No. 1337

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 12-15-5-11, AS ADDED BY P.L.204-2013,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 11. (a) As used in this section, "telehealth  
4 services" means the use of telecommunications and information  
5 technology to provide access to health assessment, diagnosis,  
6 intervention, consultation, supervision, and information across a  
7 distance.

8 (b) As used in this section, "telemedicine services" ~~means a specific~~  
9 ~~method of delivery of services; including medical exams and~~  
10 ~~consultations and behavioral health evaluations and treatment;~~  
11 ~~including those for substance abuse; using videoconferencing~~  
12 ~~equipment to allow a provider to render an examination or other service~~  
13 ~~to a patient at a distant location. The term does not include the use of~~  
14 ~~the following:~~ **has the meaning set forth for "telemedicine" in**  
15 **IC 25-1-9.5-6.**

- 16 (1) ~~A telephone transmitter for transtelephonic monitoring.~~
- 17 (2) ~~A telephone or any other means of communication for the~~



- 1           consultation from one (1) provider to another provider.
- 2           (c) The office shall reimburse a Medicaid provider who is licensed
- 3 as a home health agency under IC 16-27-1 for telehealth services.
- 4           (d) The office shall reimburse ~~the following a~~ Medicaid ~~providers~~
- 5 **provider** for telemedicine services
- 6           (1) ~~A~~ federally qualified health center (as defined in 42 U.S.C.
- 7 1396d(1)(2)(B)).
- 8           (2) ~~A~~ rural health clinic (as defined in 42 U.S.C. 1396d(1)(1)).
- 9           (e) The office shall reimburse the following Medicaid providers for
- 10 telemedicine services regardless of the distance between the provider
- 11 and the patient:
- 12           (1) ~~A~~ federally qualified health center (as defined in 42 U.S.C.
- 13 1396d(1)(2)(B)).
- 14           (2) ~~A~~ rural health clinic (as defined in 42 U.S.C. 1396d(1)(1)).
- 15           (3) ~~A~~ community mental health center certified under
- 16 ~~IC 12-21-2-3(5)(C).~~
- 17           (4) ~~A~~ critical access hospital that meets the criteria under 42 CFR
- 18 485.601 et seq.
- 19 **if the provider is providing Medicaid covered services to a**
- 20 **Medicaid recipient and meets the requirements set forth in**
- 21 **IC 25-1-9.5.**
- 22           (e) The office may not impose any distance restrictions on
- 23 providers of telehealth services or telemedicine services. Before
- 24 December 31, 2017, the office shall do the following:
- 25           (1) **Submit a Medicaid state plan amendment with the United**
- 26 **States Department of Health and Human Services that**
- 27 **eliminates distance restrictions for telehealth services or**
- 28 **telemedicine services in the state Medicaid plan.**
- 29           (2) **Amend any administrative rules that include distance**
- 30 **restrictions for the provision of telehealth services or**
- 31 **telemedicine services.**
- 32           (3) **Amend any publications or policies that include a distance**
- 33 **restriction for the provision of telehealth services or**
- 34 **telemedicine services.**
- 35           (f) The office shall, not later than December 1, 2013, file any
- 36 Medicaid state plan amendment with the United States Department of
- 37 Health and Human Services necessary to implement and administer
- 38 this section. ~~including an amendment to eliminate the current twenty~~
- 39 ~~(20) mile distance restriction.~~
- 40           (g) The office shall implement any part of this section that is
- 41 approved by the United States Department of Health and Human
- 42 Services.



1 (h) The office may adopt rules under IC 4-22-2 necessary to  
2 implement and administer this section.

3 SECTION 2. IC 12-15-44.5-3.5, AS ADDED BY P.L.30-2016,  
4 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2017]: Sec. 3.5. (a) The plan must include the following in a  
6 manner and to the extent determined by the office:

- 7 (1) Mental health care services.  
8 (2) Inpatient hospital services.  
9 (3) Prescription drug coverage, including coverage of a long  
10 acting, nonaddictive medication assistance treatment drug if the  
11 drug is being prescribed for the treatment of substance abuse.  
12 (4) Emergency room services.  
13 (5) Physician office services.  
14 (6) Diagnostic services.  
15 (7) Outpatient services, including therapy services.  
16 (8) Comprehensive disease management.  
17 (9) Home health services, including case management.  
18 (10) Urgent care center services.  
19 (11) Preventative care services.  
20 (12) Family planning services:  
21 (A) including contraceptives and sexually transmitted disease  
22 testing, as described in federal Medicaid law (42 U.S.C. 1396  
23 et seq.); and  
24 (B) not including abortion or abortifacients.  
25 (13) Hospice services.  
26 (14) Substance abuse services.  
27 (15) Pregnancy services.  
28 (16) A service determined by the secretary to be required by  
29 federal law as a benchmark service under the federal Patient  
30 Protection and Affordable Care Act.

31 (b) The plan may not permit treatment limitations or financial  
32 requirements on the coverage of mental health care services or  
33 substance abuse services if similar limitations or requirements are not  
34 imposed on the coverage of services for other medical or surgical  
35 conditions.

36 (c) The plan may provide vision services and dental services only  
37 to individuals who regularly make the required monthly contributions  
38 for the plan as set forth in section 4.7(c) of this chapter.

39 (d) The benefit package offered in the plan:

- 40 (1) must be benchmarked to a commercial health plan described  
41 in 45 CFR 155.100(a)(1) or 45 CFR 155.100(a)(4); and  
42 (2) may not include a benefit that is not present in at least one (1)



1 of these commercial benchmark options.

2 (e) The office shall provide to an individual who participates in the  
3 plan a list of health care services that qualify as preventative care  
4 services for the age, gender, and preexisting conditions of the  
5 individual. The office shall consult with the federal Centers for Disease  
6 Control and Prevention for a list of recommended preventative care  
7 services.

8 (f) The plan shall, at no cost to the individual, provide payment of  
9 preventative care services described in 42 U.S.C. 300gg-13 for an  
10 individual who participates in the plan.

11 (g) The plan shall, at no cost to the individual, provide payments of  
12 not more than five hundred dollars (\$500) per year for preventative  
13 care services not described in subsection (f). Any additional  
14 preventative care services covered under the plan and received by the  
15 individual during the year are subject to the deductible and payment  
16 requirements of the plan.

17 **(h) The plan shall reimburse a Medicaid provider for any**  
18 **services covered under the plan and provided to an individual**  
19 **participating in the plan, including the use of telemedicine (as**  
20 **defined in IC 25-1-9.5-6) services. The office shall take any actions**  
21 **necessary to provide reimbursement of covered services under the**  
22 **plan through the use of telemedicine services.**

23 SECTION 3. IC 25-1-9.5-4, AS ADDED BY P.L.78-2016,  
24 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25 JULY 1, 2017]: Sec. 4. As used in this chapter, "provider" means any  
26 of the following:

- 27 (1) A physician licensed under IC 25-22.5.  
28 (2) A physician assistant licensed under IC 25-27.5 and granted  
29 the authority to prescribe by the physician assistant's supervisory  
30 physician in accordance with IC 25-27.5-5-4.  
31 (3) An advanced practice nurse licensed and granted the authority  
32 to prescribe drugs under IC 25-23.  
33 (4) An optometrist licensed under IC 25-24.  
34 **(5) A podiatrist licensed under IC 25-29.**

35 SECTION 4. IC 25-1-9.5-7, AS ADDED BY P.L.78-2016,  
36 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2017]: Sec. 7. (a) A provider who provides health care  
38 services through telemedicine shall be held to the same standards of  
39 appropriate practice as those standards for health care services  
40 provided at an in-person setting.

41 (b) A provider may not use telemedicine, including issuing a  
42 prescription, for an individual who is located in Indiana unless a



1 provider-patient relationship between the provider and the individual  
2 has been established. A provider who uses telemedicine shall, if such  
3 action would otherwise be required in the provision of the same health  
4 care services in a manner other than telemedicine, ensure that a proper  
5 provider-patient relationship is established. The provider-patient  
6 relationship by a provider who uses telemedicine must at a minimum  
7 include the following:

- 8 (1) Obtain the patient's name and contact information and:  
9 (A) a verbal statement or other data from the patient  
10 identifying the patient's location; and  
11 (B) to the extent reasonably possible, the identity of the  
12 requesting patient.  
13 (2) Disclose the provider's name and disclose whether the  
14 provider is a physician, physician assistant, advanced practice  
15 nurse, or optometrist.  
16 (3) Obtain informed consent from the patient.  
17 (4) Obtain the patient's medical history and other information  
18 necessary to establish a diagnosis.  
19 (5) Discuss with the patient the:  
20 (A) diagnosis;  
21 (B) evidence for the diagnosis; and  
22 (C) risks and benefits of various treatment options, including  
23 when it is advisable to seek in-person care.  
24 (6) Create and maintain a medical record for the patient and,  
25 subject to the consent of the patient, notify the patient's primary  
26 care provider of any prescriptions the provider has ~~written~~ **issued**  
27 for the patient if the primary care provider's contact information  
28 is provided by the patient. The requirements in this subdivision do  
29 not apply when **any of the following are met:**  
30 (A) The provider is using an electronic health record system  
31 that the patient's primary care provider is authorized to access.  
32 (B) **The provider has established an ongoing**  
33 **provider-patient relationship with the patient by providing**  
34 **care to the patient at least two (2) consecutive times**  
35 **through the use of telemedicine services. If the conditions**  
36 **of this clause are met, the provider shall maintain a**  
37 **medical record for the patient and may notify the patient's**  
38 **primary care provider of any issued prescriptions.**  
39 (7) Issue proper instructions for appropriate follow-up care.  
40 (8) Provide a telemedicine visit summary to the patient, including  
41 information that indicates any prescription that is being  
42 prescribed.



1 SECTION 5. IC 25-1-9.5-8, AS ADDED BY P.L.78-2016,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 8. A provider may issue a prescription to a patient  
4 who is receiving services through the use of telemedicine ~~even~~ if the  
5 patient has not been ~~seen~~ **examined** previously by the provider in  
6 person if the following conditions are met:

7 (1) The provider has satisfied the applicable standard of care in  
8 the treatment of the patient.

9 (2) The issuance of the prescription by the provider is within the  
10 provider's scope of practice and certification.

11 (3) The prescription is not for a ~~controlled substance (as defined~~  
12 ~~in IC 35-48-1-9)~~; **an opioid. However, an opioid may be**  
13 **prescribed if the opioid is an overdose intervention drug (as**  
14 **defined in IC 16-18-2-263.9) and is being prescribed for**  
15 **overdose prevention.**

16 (4) The prescription is not for an abortion inducing drug (as  
17 defined in IC 16-18-2-1.6).

18 (5) The prescription is not for an ophthalmic device, including:

19 (A) glasses;

20 (B) contact lenses; or

21 (C) low vision devices.

