

# SENATE BILL 3

J1, C3

(PRE-FILED)

11r0944  
CF HB 123

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By: **Senators Griffith, Augustine, Beidle, Eckardt, Elfreth, Ellis, Ferguson, Guzzone, Hershey, Kagan, Kelley, Ready, Washington, and West**

Requested: October 13, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 20, 2021

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Preserve Telehealth Access Act of 2021**

3 FOR the purpose of altering the health care services the Maryland Medical Assistance  
4 Program, subject to a certain limitation, is required to provide through telehealth;  
5 altering the circumstances under which the Program is required to provide health  
6 care services through telehealth; requiring that certain services provided under the  
7 Program include counseling and treatment for certain disorders and conditions;  
8 requiring the Program, when providing certain services, to allow a Program recipient  
9 to select the manner in which a certain service is delivered; prohibiting the Program  
10 from requiring a Program recipient to use telehealth under certain circumstances;  
11 requiring, for a certain time period, the Program to provide certain reimbursement  
12 for certain health care services provided through telehealth on a certain basis and at  
13 a certain rate; authorizing the Maryland Department of Health to adopt certain  
14 regulations relating to telehealth services provided to Program recipients; requiring  
15 the Department to include certain health care providers when specifying by  
16 regulation the types of health care providers eligible to receive certain  
17 reimbursement; repealing certain authorization of the Department relating to the  
18 coverage of and reimbursement for health care services that are delivered through  
19 store and forward technology or remote patient monitoring; establishing, for a  
20 certain purpose and certain standards, that a health care service provided through  
21 telehealth is equivalent to the same health care service when provided through an  
22 in-person consultation; prohibiting the Program or a certain organization from  
23 imposing as a condition of reimbursement of a health care service delivered through

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~telehealth that the health care service be provided by a certain vendor authorizing~~  
2 ~~requiring the Maryland Department of Health to apply to the Centers for Medicare~~  
3 ~~and Medicaid Services for a certain amendment to certain waivers obtain certain~~  
4 ~~federal authority necessary to implement certain requirements of this Act; repealing~~  
5 ~~certain authorization provided to the Department to require submission of a certain~~  
6 ~~form to the Department; repealing a certain requirement that the Department apply~~  
7 ~~for a certain amendment to certain waivers to implement a certain pilot program~~  
8 ~~relating to the provision of certain telehealth services; repealing a requirement that~~  
9 ~~the Department administer the pilot program, collect certain data, and submit~~  
10 ~~certain reports to the General Assembly; requiring certain insurers, nonprofit health~~  
11 ~~service plans, and health maintenance organizations to provide certain coverage for~~  
12 ~~certain services delivered through telehealth regardless of the location of the patient~~  
13 ~~at the time the services are provided; establishing that a certain requirement~~  
14 ~~relating to coverage of certain health care services delivered through telehealth~~  
15 ~~include coverage for the treatment for substance use disorders and mental health~~  
16 ~~conditions; altering a provision of law requiring certain insurers, nonprofit health~~  
17 ~~service plans, and health maintenance organizations to reimburse certain health~~  
18 ~~care services provided through telehealth to require certain reimbursement to be~~  
19 ~~provided, for a certain time period, in a certain manner and at a certain rate;~~  
20 ~~requiring certain insurers, nonprofit health service plans, and health maintenance~~  
21 ~~organizations to allow an insured patient to select the manner in which a health care~~  
22 ~~service is delivered, as clinically appropriate under certain provisions of law;~~  
23 ~~prohibiting certain insurers, nonprofit health service plans, and health maintenance~~  
24 ~~organizations from requiring an insured patient to use telehealth in lieu of in-person~~  
25 ~~service delivery; repealing the requirement that the Department study and submit~~  
26 ~~a certain report to the General Assembly; requiring the Department to revise certain~~  
27 ~~regulations for a certain purpose on or before a certain date; prohibiting certain~~  
28 ~~insurers, nonprofit health service plans, and health maintenance organizations from~~  
29 ~~imposing, as a condition of reimbursement of a health care service delivered through~~  
30 ~~telehealth, that the health care service be provided by a certain health care provider~~  
31 ~~vendor; revising, restating, and recodifying certain provisions of law relating to the~~  
32 ~~Program and coverage and reimbursement of services provided through telemedicine~~  
33 ~~and telehealth; repealing the termination date of certain provisions of law relating~~  
34 ~~to the Maryland Medical Assistance Program and coverage for telehealth; requiring~~  
35 ~~the Maryland Health Care Commission, in consultation with certain State agencies,~~  
36 ~~to submit a certain report to certain committees of the General Assembly on or before~~  
37 ~~a certain date; establishing certain requirements for the report; establishing certain~~  
38 ~~requirements on the Commission when completing the report; declaring the intent~~  
39 ~~of the General Assembly; defining certain terms; altering certain definitions;~~  
40 ~~providing for the application of this Act; providing for the construction of certain~~  
41 ~~provisions of this Act; and generally relating to the coverage and reimbursement of~~  
42 ~~health care services delivered through telehealth.~~

43 BY repealing and reenacting, without amendments,

44 Article – Health – General

45 Section 15–103(a)(1)

46 Annotated Code of Maryland

1 (2019 Replacement Volume and 2020 Supplement)

2 BY repealing and reenacting, with amendments,  
3 Article – Health – General  
4 Section 15–103(a)(2)(xv), 15–105.2, and 15–141.2  
5 Annotated Code of Maryland  
6 (2019 Replacement Volume and 2020 Supplement)

7 BY repealing and reenacting, with amendments,  
8 Article – Insurance  
9 Section 15–139  
10 Annotated Code of Maryland  
11 (2017 Replacement Volume and 2020 Supplement)

12 BY repealing  
13 Chapter 17 of the Acts of the General Assembly of 2020  
14 Section 3

15 BY repealing and reenacting, with amendments,  
16 Chapter 17 of the Acts of the General Assembly of 2020  
17 Section 4

18 BY repealing  
19 Chapter 18 of the Acts of the General Assembly of 2020  
20 Section 3

21 BY repealing and reenacting, with amendments,  
22 Chapter 18 of the Acts of the General Assembly of 2020  
23 Section 4

24 Preamble

25 WHEREAS, A state of emergency and catastrophic health emergency was  
26 proclaimed on March 5, 2020 to control and prevent the spread of COVID–19 within the  
27 State, and the state of emergency and catastrophic health emergency continue to exist; and

28 WHEREAS, To respond to the state of emergency and to continue to deliver care to  
29 patients with ongoing conditions, health care practitioners were authorized to deliver  
30 telehealth care services at sites at which patients are located; and

31 WHEREAS, The expansion of telehealth capabilities, including audio–only services,  
32 was instrumental in maintaining patient care without the risk of infection and provided  
33 ways for patients to receive care who were experiencing general difficulty in accessing  
34 in–person care; and

35 WHEREAS, Telehealth was shown to be effective in reducing disparities in access to  
36 those in underserved urban and rural areas by bridging communication gaps, allowing for

1 the continuation of care, and reducing patient and clinician exposure to the coronavirus;  
2 and

3 WHEREAS, To enable the use of interactive audio telecommunications or electronic  
4 technology to deliver health care services and protect the public health, welfare, and safety,  
5 it is necessary to continue to preserve accommodations granted during the coronavirus  
6 pandemic; and

7 WHEREAS, It is critical that health care practitioners licensed, certified, or  
8 otherwise authorized by law to provide health care services be allowed in Maryland to  
9 provide those services through telehealth, including audio-only calls, provided that they  
10 are held to the same standards of practice that are applicable to in-person health care  
11 settings; and

12 WHEREAS, To effectively advance health equity in Maryland, it is necessary to  
13 ensure that individuals with limited access to health care services can benefit from the  
14 expansion of telehealth; now, therefore,

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
16 That the Laws of Maryland read as follows:

17 **Article – Health – General**

18 15–103.

19 (a) (1) The Secretary shall administer the Maryland Medical Assistance  
20 Program.

21 (2) The Program:

22 (xv) Shall provide, subject to the limitations of the State budget,  
23 [mental] health CARE services appropriately delivered through telehealth to a patient in  
24 [the patient’s home setting] ACCORDANCE WITH § 15–141.2 OF THIS SUBTITLE; and

25 15–105.2.

26 [(a)] The Program shall reimburse health care providers in accordance with the  
27 requirements of Title 19, Subtitle 1, Part IV of this article.

28 [(b) (1) (i) In this subsection the following words have the meanings  
29 indicated.

30 (ii) “Health care provider” means a person who is licensed, certified,  
31 or otherwise authorized under the Health Occupations Article to provide health care in the  
32 ordinary course of business or practice of a profession or in an approved education or  
33 training program.

1                   (iii) 1. “Telemedicine” means, as it relates to the delivery of  
2 health care services, the use of interactive audio, video, or other telecommunications or  
3 electronic technology:

4                   A. By a health care provider to deliver a health care service  
5 that is within the scope of practice of the health care provider at a site other than the site  
6 at which the patient is located; and

7                   B. That enables the patient to see and interact with the  
8 health care provider at the time the health care service is provided to the patient.

9                   2. “Telemedicine” does not include:

10                  A. An audio-only telephone conversation between a health  
11 care provider and a patient;

12                  B. An electronic mail message between a health care provider  
13 and a patient; or

14                  C. A facsimile transmission between a health care provider  
15 and a patient.

16                  (2) To the extent authorized by federal law or regulation, the provisions of  
17 § 15–139(c) through (f) of the Insurance Article relating to coverage of and reimbursement  
18 for health care services delivered through telemedicine shall apply to the Program and  
19 managed care organizations in the same manner they apply to carriers.

20                  (3) Subject to the limitations of the State budget and to the extent  
21 authorized by federal law or regulation, the Department may authorize coverage of and  
22 reimbursement for health care services that are delivered through store and forward  
23 technology or remote patient monitoring.

24                  (4) (i) The Department may specify by regulation the types of health  
25 care providers eligible to receive reimbursement for health care services provided to  
26 Program recipients under this subsection.

27                  (ii) If the Department specifies by regulation the types of health care  
28 providers eligible to receive reimbursement for health care services provided to Program  
29 recipients under this subsection, the types of health care providers specified shall include:

30                   1. Primary care providers; and

31                   2. Psychiatrists and psychiatric nurse practitioners, as  
32 defined in § 10–601 of this article, who are providing Assertive Community Treatment or  
33 mobile treatment services to Program recipients located in a home or community-based  
34 setting.

1                   (iii) For the purpose of reimbursement and any fidelity standards  
 2 established by the Department, a health care service provided through telemedicine by a  
 3 psychiatrist or a psychiatric nurse practitioner described under subparagraph (ii)2 of this  
 4 paragraph is equivalent to the same health care service when provided through an  
 5 in-person consultation.

6                   (5) The Department may require a health care provider to submit a  
 7 registration form to the Department that includes information required for the processing  
 8 of claims for reimbursement for health care services provided to Program recipients under  
 9 this subsection.

10                  (6) The Department shall adopt regulations to carry out this subsection.]

11 15-141.2.

12                  (a) [(1) In this section, “telehealth” means a mode of delivering health care  
 13 services through the use of telecommunications technologies by a health care practitioner  
 14 to a patient at a different physical location than the health care practitioner.]

15                  (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
 16 **INDICATED.**

17                  (2) **“DISTANT SITE” MEANS A SITE AT WHICH THE ~~LICENSED~~ DISTANT**  
 18 **SITE HEALTH CARE ~~PRACTITIONER~~ PROVIDER IS LOCATED AT THE TIME THE**  
 19 **HEALTH CARE SERVICE IS PROVIDED THROUGH TELEHEALTH.**

20                  (3) **“DISTANT SITE PROVIDER” MEANS THE ~~LICENSED~~ HEALTH CARE**  
 21 **~~PRACTITIONER~~ PROVIDER WHO PROVIDES MEDICALLY NECESSARY SERVICES TO A**  
 22 **PATIENT AT AN ORIGINATING SITE FROM A DIFFERENT PHYSICAL LOCATION THAN**  
 23 **THE LOCATION OF THE PATIENT.**

24                  (4) ~~**“HEALTH CARE PRACTITIONER” MEANS AN INDIVIDUAL WHO IS**~~  
 25 ~~**LICENSED OR CERTIFIED TO PROVIDE HEALTH CARE SERVICES UNDER THE HEALTH**~~  
 26 ~~**OCCUPATIONS ARTICLE.**~~

27                  (4) **“HEALTH CARE PROVIDER” MEANS:**

28                    (I) **A PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE**  
 29 **AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH**  
 30 **CARE IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION OR**  
 31 **IN AN APPROVED EDUCATION OR TRAINING PROGRAM;**

32                    (II) **A MENTAL HEALTH AND SUBSTANCE USE DISORDER**  
 33 **PROGRAM LICENSED IN ACCORDANCE WITH § 7.5-401 OF THIS ARTICLE;**

1 (III) A PERSON LICENSED UNDER TITLE 7, SUBTITLE 9 OF THIS  
 2 ARTICLE TO PROVIDE SERVICES TO AN INDIVIDUAL WITH DEVELOPMENTAL  
 3 DISABILITY OR A RECIPIENT OF INDIVIDUAL SUPPORT SERVICES; OR

4 (IV) A PROVIDER AS DEFINED UNDER § 16-201.4 OF THIS  
 5 ARTICLE TO PROVIDE SERVICES TO AN INDIVIDUAL RECEIVING LONG-TERM CARE  
 6 SERVICES.

7 (5) "ORIGINATING SITE" MEANS THE LOCATION OF THE PROGRAM  
 8 RECIPIENT AT THE TIME THE HEALTH CARE SERVICE IS PROVIDED THROUGH  
 9 TELEHEALTH.

10 (6) "REMOTE PATIENT MONITORING SERVICES" MEANS THE USE OF  
 11 SYNCHRONOUS OR ASYNCHRONOUS DIGITAL TECHNOLOGIES THAT COLLECT OR  
 12 MONITOR MEDICAL, PATIENT-REPORTED, AND OTHER FORMS OF HEALTH CARE  
 13 DATA FOR PROGRAM RECIPIENTS AT AN ORIGINATING SITE AND ELECTRONICALLY  
 14 TRANSMIT THAT DATA TO A DISTANT SITE PROVIDER TO ENABLE THE DISTANT SITE  
 15 PROVIDER TO ASSESS, DIAGNOSE, CONSULT, TREAT, EDUCATE, PROVIDE CARE  
 16 MANAGEMENT, SUGGEST SELF-MANAGEMENT, OR MAKE RECOMMENDATIONS  
 17 REGARDING THE PROGRAM RECIPIENT'S HEALTH CARE.

18 [(2)] (7) (I) "TELEHEALTH" MEANS THE DELIVERY OF  
 19 MEDICALLY NECESSARY SOMATIC, DENTAL, OR BEHAVIORAL HEALTH SERVICES TO  
 20 A PATIENT AT AN ORIGINATING SITE BY A DISTANT SITE PROVIDER THROUGH THE  
 21 USE OF TECHNOLOGY-ASSISTED COMMUNICATION.

22 (II) "Telehealth" includes [synchronous]:

23 1. SYNCHRONOUS and asynchronous interactions;

24 2. ~~AUDIO ONLY CONVERSATIONS BETWEEN A HEALTH~~  
 25 ~~CARE PRACTITIONER AND PATIENT USING TELECOMMUNICATIONS TECHNOLOGY~~  
 26 FROM JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE, AN AUDIO-ONLY  
 27 TELEPHONE CONVERSATION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT  
 28 THAT RESULTS IN THE DELIVERY OF A BILLABLE, COVERED HEALTH CARE SERVICE;  
 29 AND

30 3. REMOTE PATIENT MONITORING SERVICES.

31 [(3)] (III) "Telehealth" does not include the provision of health care  
 32 services solely through ~~[audio only calls,] e-mail messages[,] or facsimile transmissions;~~

33 1. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II)2 OF  
 34 THIS PARAGRAPH, AN AUDIO-ONLY TELEPHONE CONVERSATION;

1                                   **2. AN E-MAIL MESSAGE; OR**

2                                   **3. A FACSIMILE TRANSMISSION.**

3            (b) (1) On or before December 1, 2020, the Department shall apply to the  
4 Centers for Medicare and Medicaid Services for an amendment to any of the State's § 1115  
5 waivers necessary to implement a pilot program to provide telehealth services to Program  
6 recipients regardless of the Program recipient's location at the time telehealth services are  
7 provided.

8                   (2) Telehealth services available under the pilot program shall be limited  
9 to chronic condition management services.

10           (c) If the amendment applied for under subsection (b) of this section is approved,  
11 the Department shall administer the pilot program.

12           (d) The Department shall collect outcomes data on recipients of telehealth  
13 services under the pilot program to evaluate the effectiveness of the pilot program.

14           (e) On or before December 1, 2020, and every 6 months thereafter until the  
15 application described under subsection (b) of this section is approved, the Department shall  
16 submit a report to the General Assembly, in accordance with § 2-1257 of the State  
17 Government Article, on the status of the application.

18           (f) If the amendment applied for under subsection (b) of this section is approved,  
19 on or before December 1 each year following the approval, the Department shall submit a  
20 report to the General Assembly, in accordance with § 2-1257 of the State Government  
21 Article, on the status of the pilot program.]

22           **(B) THE PROGRAM SHALL:**

23                   **(1) PROVIDE HEALTH CARE SERVICES APPROPRIATELY DELIVERED**  
24 **THROUGH TELEHEALTH TO PROGRAM RECIPIENTS REGARDLESS OF THE LOCATION**  
25 **OF THE PROGRAM RECIPIENT AT THE TIME TELEHEALTH SERVICES ARE PROVIDED;**  
26 ~~**AND**~~

27                   **(2) ALLOW A DISTANT SITE PROVIDER TO PROVIDE HEALTH CARE**  
28 **SERVICES TO A PROGRAM RECIPIENT FROM ANY LOCATION AT WHICH THE HEALTH**  
29 **CARE SERVICES MAY BE APPROPRIATELY DELIVERED THROUGH TELEHEALTH; AND**

30                   **(3) WHEN PROVIDING THE SERVICES REQUIRED UNDER THIS**  
31 **SUBSECTION, ALLOW A PROGRAM RECIPIENT TO SELECT THE MANNER IN WHICH A**  
32 **HEALTH CARE SERVICE IS DELIVERED, AS CLINICALLY APPROPRIATE UNDER THE**  
33 **HEALTH OCCUPATIONS ARTICLE.**



1           **(C) THE SERVICES REQUIRED TO BE PROVIDED UNDER SUBSECTION (B) OF**  
2 **THIS SECTION SHALL INCLUDE COUNSELING AND TREATMENT FOR SUBSTANCE USE**  
3 **DISORDERS AND MENTAL HEALTH CONDITIONS.**

4           **(D) THE PROGRAM MAY NOT:**

5                   **(1) EXCLUDE FROM COVERAGE A HEALTH CARE SERVICE SOLELY**  
6 **BECAUSE IT IS PROVIDED THROUGH TELEHEALTH AND IS NOT PROVIDED THROUGH**  
7 **AN IN-PERSON CONSULTATION OR CONTACT BETWEEN A HEALTH CARE PROVIDER**  
8 **AND A PATIENT; OR**

9                   **(2) REQUIRE A PROGRAM RECIPIENT TO USE TELEHEALTH IN LIEU**  
10 **OF IN-PERSON SERVICE DELIVERY.**

11           **(E) THE PROGRAM MAY UNDERTAKE UTILIZATION REVIEW, INCLUDING**  
12 **PREAUTHORIZATION, TO DETERMINE THE APPROPRIATENESS OF ANY HEALTH CARE**  
13 **SERVICE WHETHER THE SERVICE IS DELIVERED THROUGH AN IN-PERSON**  
14 **CONSULTATION OR THROUGH TELEHEALTH IF THE APPROPRIATENESS OF THE**  
15 **HEALTH CARE SERVICE IS DETERMINED IN THE SAME MANNER.**

16           **(F) THE PROGRAM MAY NOT DISTINGUISH BETWEEN PROGRAM**  
17 **RECIPIENTS IN RURAL OR URBAN LOCATIONS IN PROVIDING COVERAGE UNDER THE**  
18 **PROGRAM FOR HEALTH CARE SERVICES DELIVERED THROUGH TELEHEALTH.**

19           **(G) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**  
20 **PROGRAM SHALL REIMBURSE A HEALTH CARE PROVIDER FOR THE DIAGNOSIS,**  
21 **CONSULTATION, AND TREATMENT OF A PROGRAM RECIPIENT FOR A HEALTH CARE**  
22 **SERVICE COVERED BY THE PROGRAM THAT CAN BE APPROPRIATELY PROVIDED**  
23 **THROUGH TELEHEALTH.**

24                   **(2) THIS SUBSECTION DOES NOT REQUIRE THE PROGRAM TO**  
25 **REIMBURSE A HEALTH CARE PROVIDER FOR A HEALTH CARE SERVICE DELIVERED**  
26 **IN PERSON OR THROUGH TELEHEALTH THAT IS:**

27                           **(I) NOT A COVERED HEALTH CARE SERVICE UNDER THE**  
28 **PROGRAM; OR**

29                           **(II) DELIVERED BY AN OUT-OF-NETWORK PROVIDER UNLESS**  
30 **THE HEALTH CARE SERVICE IS A SELF-REFERRED SERVICE AUTHORIZED UNDER**  
31 **THE PROGRAM.**

32                   **(3) (I) FROM JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE,**  
33 **WHEN APPROPRIATELY PROVIDED THROUGH TELEHEALTH, THE PROGRAM SHALL**  
34 **PROVIDE REIMBURSEMENT IN ACCORDANCE WITH PARAGRAPH (1) OF THIS**

1 SUBSECTION ON THE SAME BASIS AND THE SAME RATE AS IF THE HEALTH CARE  
2 SERVICE WERE DELIVERED BY THE HEALTH CARE PROVIDER IN PERSON.

3 (II) THE REIMBURSEMENT REQUIRED UNDER SUBPARAGRAPH  
4 (I) OF THIS PARAGRAPH DOES NOT INCLUDE:

5 1. CLINIC FACILITY FEES UNLESS THE HEALTH CARE  
6 SERVICE IS PROVIDED BY A HEALTH CARE PROVIDER NOT AUTHORIZED TO BILL A  
7 PROFESSIONAL FEE SEPARATELY FOR THE HEALTH CARE SERVICE; OR

8 2. ANY ROOM AND BOARD FEES.

9 (H) (1) THE DEPARTMENT MAY SPECIFY IN REGULATION THE TYPES OF  
10 HEALTH CARE PROVIDERS ELIGIBLE TO RECEIVE REIMBURSEMENT FOR HEALTH  
11 CARE SERVICES PROVIDED TO PROGRAM RECIPIENTS UNDER THIS SECTION.

12 (2) IF THE DEPARTMENT SPECIFIES BY REGULATION THE TYPES OF  
13 HEALTH CARE PROVIDERS ELIGIBLE TO RECEIVE REIMBURSEMENT FOR HEALTH  
14 CARE SERVICES PROVIDED TO PROGRAM RECIPIENTS UNDER THIS SUBSECTION,  
15 THE REGULATIONS SHALL INCLUDE ALL TYPES OF HEALTH CARE PROVIDERS THAT  
16 APPROPRIATELY PROVIDE TELEHEALTH SERVICES.

17 (3) FOR THE PURPOSE OF REIMBURSEMENT AND ANY FIDELITY  
18 STANDARDS ESTABLISHED BY THE DEPARTMENT, A HEALTH CARE SERVICE  
19 PROVIDED THROUGH TELEHEALTH IS EQUIVALENT TO THE SAME HEALTH CARE  
20 SERVICE WHEN PROVIDED THROUGH AN IN-PERSON CONSULTATION.

21 (I) SUBJECT TO SUBSECTION (G)(2) OF THIS SECTION, THE PROGRAM OR A  
22 MANAGED CARE ORGANIZATION THAT PARTICIPATES IN THE PROGRAM MAY NOT  
23 IMPOSE AS A CONDITION OF REIMBURSEMENT OF A COVERED HEALTH CARE  
24 SERVICE DELIVERED THROUGH TELEHEALTH THAT THE HEALTH CARE SERVICE BE  
25 PROVIDED BY A THIRD-PARTY VENDOR DESIGNATED BY THE PROGRAM.

26 (J) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS  
27 SECTION.

28 ~~(K)~~ (K) THE DEPARTMENT SHALL ~~APPLY~~ OBTAIN ANY FEDERAL  
29 AUTHORITY NECESSARY TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION,  
30 INCLUDING APPLYING TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES  
31 FOR AN AMENDMENT TO ANY OF THE STATE'S § 1115 WAIVERS ~~NECESSARY TO~~  
32 ~~IMPLEMENT THE REQUIREMENTS OF THIS SECTION~~ OR THE STATE PLAN.

33 (L) THIS SECTION MAY NOT BE CONSTRUED TO SUPERSEDE THE AUTHORITY  
34 OF THE HEALTH SERVICES COST REVIEW COMMISSION TO SET THE APPROPRIATE

1 RATES FOR HOSPITALS, INCLUDING SETTING THE HOSPITAL FACILITY FEE FOR  
 2 HOSPITAL-PROVIDED TELEHEALTH.

3 **Article – Insurance**

4 15–139.

5 (a) (1) In this section, “telehealth” means, as it relates to the delivery of health  
 6 care services, the use of interactive audio, video, or other telecommunications or electronic  
 7 technology by a licensed health care provider to deliver a health care service within the  
 8 scope of practice of the health care provider at a location other than the location of the  
 9 patient.

10 (2) “Telehealth” includes:

11 ~~(I) the delivery of mental health care services to a patient in the~~  
 12 ~~patient’s home setting; AND~~

13 ~~(II) AN AUDIO-ONLY CONVERSATION BETWEEN A HEALTH CARE~~  
 14 ~~PROVIDER AND A PATIENT USING TELECOMMUNICATIONS TECHNOLOGY FROM JULY~~  
 15 ~~1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE, AN AUDIO-ONLY TELEPHONE~~  
 16 ~~CONVERSATION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT THAT~~  
 17 ~~RESULTS IN THE DELIVERY OF A BILLABLE, COVERED HEALTH CARE SERVICE.~~

18 (3) “Telehealth” does not include:

19 (i) ~~an~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
 20 SUBSECTION, AN audio-only telephone conversation between a health care provider and  
 21 a patient;

22 (ii) an electronic mail message between a health care provider and a  
 23 patient; or

24 ~~(iii)~~ ~~(II)~~ a facsimile transmission between a health care provider  
 25 and a patient.

26 (b) This section applies to:

27 (1) insurers and nonprofit health service plans that provide hospital,  
 28 medical, or surgical benefits to individuals or groups on an expense-incurred basis under  
 29 health insurance policies or contracts that are issued or delivered in the State; and

30 (2) health maintenance organizations that provide hospital, medical, or  
 31 surgical benefits to individuals or groups under contracts that are issued or delivered in  
 32 the State.

1 (c) (1) An entity subject to this section:

2 (i) shall provide coverage under a health insurance policy or  
3 contract for health care services appropriately delivered through telehealth **REGARDLESS**  
4 **OF THE LOCATION OF THE PATIENT AT THE TIME THE TELEHEALTH SERVICES ARE**  
5 **PROVIDED; and**

6 **(II) WHEN PROVIDING THE COVERAGE REQUIRED UNDER THIS**  
7 **SUBSECTION, SHALL ALLOW AN INSURED PATIENT TO SELECT THE MANNER IN**  
8 **WHICH A HEALTH CARE SERVICE IS DELIVERED, AS CLINICALLY APPROPRIATE**  
9 **UNDER THE HEALTH OCCUPATIONS ARTICLE;**

10 ~~(ii)~~ **(III)** may not exclude from coverage a health care service solely  
11 because it is provided through telehealth and is not provided through an in-person  
12 consultation or contact between a health care provider and a patient; **AND**

13 **(IV) WHEN PROVIDING THE COVERAGE REQUIRED UNDER THIS**  
14 **SUBSECTION, MAY NOT REQUIRE AN INSURED PATIENT TO USE TELEHEALTH IN LIEU**  
15 **OF IN-PERSON SERVICE DELIVERY.**

16 (2) The health care services appropriately delivered through telehealth  
17 shall include counseling **AND TREATMENT** for substance use disorders **AND MENTAL**  
18 **HEALTH CONDITIONS.**

19 (d) **(1) ~~As~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN** entity  
20 subject to this section:

21 ~~(i)~~ **(I)** shall reimburse a health care provider for the diagnosis,  
22 consultation, and treatment of an insured patient for a health care service;

23 ~~(i)~~ covered under a health insurance policy or contract that can be  
24 appropriately provided through telehealth; **AND**

25 ~~(ii)~~ **WHEN APPROPRIATELY PROVIDED THROUGH TELEHEALTH,**  
26 **ON THE SAME BASIS AND AT THE SAME RATE AS IF THE HEALTH CARE SERVICE WERE**  
27 **DELIVERED BY THE HEALTH CARE PROVIDER IN PERSON;**

28 ~~(2)~~ **(II)** is not required to:

29 ~~(i)~~ **1.** reimburse a health care provider for a health care service  
30 delivered in person or through telehealth that is not a covered benefit under the health  
31 insurance policy or contract; or

32 ~~(ii)~~ **2.** reimburse a health care provider who is not a covered  
33 provider under the health insurance policy or contract; and

1           ~~(3)~~ ~~(ii)~~ **(III)**     **1.**     may impose a deductible, copayment, or  
2 coinsurance amount on benefits for health care services that are delivered either through  
3 an in-person consultation or through telehealth;

4                           ~~(ii)~~   **2.**     may impose an annual dollar maximum as permitted by  
5 federal law; and

6                           ~~(iii)~~   **3.**     may not impose a lifetime dollar maximum.

7                   **(2) (I) FROM JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE,**  
8 **WHEN APPROPRIATELY PROVIDED THROUGH TELEHEALTH, AN ENTITY SUBJECT TO**  
9 **THIS SECTION SHALL PROVIDE REIMBURSEMENT IN ACCORDANCE WITH**  
10 **PARAGRAPH (1)(I) OF THIS SUBSECTION ON THE SAME BASIS AND AT THE SAME RATE**  
11 **AS IF THE HEALTH CARE SERVICE WERE DELIVERED BY THE HEALTH CARE**  
12 **PROVIDER IN PERSON.**

13                           **(II) THE REIMBURSEMENT REQUIRED UNDER SUBPARAGRAPH**  
14 **(I) OF THIS PARAGRAPH DOES NOT INCLUDE CLINIC FACILITY FEES UNLESS THE**  
15 **HEALTH CARE SERVICE IS PROVIDED BY A HEALTH CARE PROVIDER NOT**  
16 **AUTHORIZED TO BILL A PROFESSIONAL FEE SEPARATELY FOR THE HEALTH CARE**  
17 **SERVICE.**

18                           **(III) THIS PARAGRAPH MAY NOT BE CONSTRUED TO SUPERSEDE**  
19 **THE AUTHORITY OF THE HEALTH SERVICES COST REVIEW COMMISSION TO SET THE**  
20 **APPROPRIATE RATES FOR HOSPITALS, INCLUDING SETTING THE HOSPITAL**  
21 **FACILITY FEE FOR HOSPITAL-PROVIDED TELEHEALTH.**

22                   **(E) SUBJECT TO SUBSECTION ~~(D)(2)~~ **(D)(1)(II)** OF THIS SECTION, AN ENTITY**  
23 **SUBJECT TO THIS SECTION MAY NOT IMPOSE AS A CONDITION OF REIMBURSEMENT**  
24 **OF A COVERED HEALTH CARE SERVICE DELIVERED THROUGH TELEHEALTH THAT**  
25 **THE HEALTH CARE SERVICE BE PROVIDED BY A ~~HEALTH CARE PROVIDER~~**  
26 **THIRD-PARTY VENDOR DESIGNATED BY THE ENTITY.**

27           **[(e)] (F)**     An entity subject to this section may undertake utilization review,  
28 including preauthorization, to determine the appropriateness of any health care service  
29 whether the service is delivered through an in-person consultation or through telehealth  
30 if the appropriateness of the health care service is determined in the same manner.

31           **[(f)] (G)**     A health insurance policy or contract may not distinguish between  
32 patients in rural or urban locations in providing coverage under the policy or contract for  
33 health care services delivered through telehealth.

34           **[(g)] (H)**     A decision by an entity subject to this section not to provide coverage  
35 for telehealth in accordance with this section constitutes an adverse decision, as defined in

1 § 15–10A–01 of this title, if the decision is based on a finding that telehealth is not medically  
2 necessary, appropriate, or efficient.

### 3 Chapter 17 of the Acts of 2020

#### 4 [SECTION 3. AND BE IT FURTHER ENACTED, That:

5 (a) The Maryland Department of Health shall study whether, under the  
6 Maryland Medical Assistance Program, substance use disorder services may be  
7 appropriately provided through telehealth to a patient in the patient’s home setting.

8 (b) On or before December 1, 2021, the Maryland Department of Health shall  
9 submit a report to the General Assembly, in accordance with § 2–1257 of the State  
10 Government Article, that includes any findings and recommendations from the study  
11 required under subsection (a) of this section, including:

12 (1) the types of substance use disorder services, if any, that may be  
13 appropriately provided through telehealth to a patient in the patient’s home setting; and

14 (2) any technological or other standards needed for the provision of  
15 appropriate and quality substance use disorder services to a patient in the patient’s home  
16 setting.]

17 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
18 measure, is necessary for the immediate preservation of the public health or safety, has  
19 been passed by a ye and nay vote supported by three-fifths of all the members elected to  
20 each of the two Houses of the General Assembly. ~~[Sections 2 and 3] SECTION 3 shall~~  
21 ~~remain effective through June 30, 2025, and, at the end of June 30, 2025, [Sections 2 and~~  
22 ~~3] SECTION 3, with no further action required by the General Assembly, shall be abrogated~~  
23 ~~and of no further force and effect.~~

### 24 Chapter 18 of the Acts of 2020

#### 25 [SECTION 3. AND BE IT FURTHER ENACTED, That:

26 (a) The Maryland Department of Health shall study whether, under the  
27 Maryland Medical Assistance Program, substance use disorder services may be  
28 appropriately provided through telehealth to a patient in the patient’s home setting.

29 (b) On or before December 1, 2021, the Maryland Department of Health shall  
30 submit a report to the General Assembly, in accordance with § 2–1257 of the State  
31 Government Article, that includes any findings and recommendations from the study  
32 required under subsection (a) of this section, including:

33 (1) the types of substance use disorder services, if any, that may be  
34 appropriately provided through telehealth to a patient in the patient’s home setting; and

1           (2) any technological or other standards needed for the provision of  
2 appropriate and quality substance use disorder services to a patient in the patient's home  
3 setting.]

4           SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
5 measure, is necessary for the immediate preservation of the public health or safety, has  
6 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
7 each of the two Houses of the General Assembly. ~~[Sections 2 and 3] SECTION 3 shall~~  
8 ~~remain effective through June 30, 2025, and, at the end of June 30, 2025, [Sections 2 and~~  
9 ~~3] SECTION 3, with no further action required by the General Assembly, shall be abrogated~~  
10 ~~and of no further force and effect.~~

11           SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2021,  
12 the Maryland Department of Health shall revise its regulations regarding telehealth  
13 reimbursed by the Maryland Medical Assistance Program to ensure that requirements for  
14 reimbursement of mental health and substance use disorder services delivered through  
15 telehealth comply with the federal Mental Health Parity and Addiction Equity Act.

16           SECTION 3. AND BE IT FURTHER ENACTED, That:

17           (a) On or before December 1, 2022, the Maryland Health Care Commission, in  
18 consultation with, as appropriate, the Maryland Health Services Cost Review Commission,  
19 the Maryland Department of Health, and the Maryland Insurance Administration, shall  
20 submit a report to the Senate Finance Committee and the House Health and Government  
21 Operations Committee, in accordance with § 2-1257 of the State Government Article, on  
22 the impact of providing telehealth services in accordance with the provisions of this Act.

23           (b) Unless otherwise indicated in this section, the Maryland Health Care  
24 Commission shall consider both audio-only and audio-visual technologies for purposes of  
25 reporting on the impact of providing telehealth services as required by this section.

26           (c) The report shall include:

27           (1) an analysis of:

28           (i) the impact of the use of telehealth on disparities in access to  
29 health care services, including primary care and behavioral health services;

30           (ii) whether different communities and patient populations have  
31 differences in take-up rates of telehealth services; and

32           (iii) the comparative effectiveness of telehealth services and  
33 in-person visits on the total costs of care and patient outcomes of care;

34           (2) a study on the alignment of telehealth services with new models of care  
35 that addresses:

1 (i) opportunities for using telehealth to improve patient-centered  
2 care;

3 (ii) health care services for which telehealth can substitute for  
4 in-person care while maintaining the standard of care, including the use of remote patient  
5 monitoring for somatic and behavioral health care services; and

6 (iii) the impact of alternative care delivery models on telehealth  
7 coverage and reimbursement;

8 (3) an assessment of the efficiency and effectiveness of telehealth services  
9 and in-person visits that includes:

10 (i) a review of peer-reviewed research on the impact of different  
11 communication technologies on patient health, including patient retention rates and  
12 reduced barriers to care;

13 (ii) a survey of health care providers, as defined under § 15-141.2 of  
14 the Health – General Article, as enacted by Section 1 of this Act; and

15 (iii) a review of the resources required to sustainably provide  
16 telehealth services for the continuum of health care providers, including private and small  
17 practices;

18 (4) an assessment of patient awareness of and satisfaction with telehealth  
19 coverage and care that includes:

20 (i) the availability and appropriate uses of telehealth services;

21 (ii) the privacy risks and benefits of telehealth services and the  
22 strategies needed to navigate privacy issues; and

23 (iii) barriers to care and levels of patient engagement that have been  
24 addressed by audio-only and audio-visual telehealth;

25 (5) a review of the appropriateness of:

26 (i) telehealth across the continuum of care, ranging from virtual  
27 telecommunications services used for patient check-ins to in-person evaluation and  
28 management services as defined in the Berenson-Eggers type of service typology for  
29 somatic and behavioral health services;

30 (ii) inclusion of clinic hospital facility fees in reimbursement for  
31 hospital-provided telehealth; and



1                    (iii) the use of telehealth to satisfy network access standards required  
2 under § 15–112(b) of the Insurance Article; and

3                    (6) the study or analysis of any other issues identified by the Commission.

4                    (d) The report shall include recommendations on:

5                    (1) coverage of telehealth services; and

6                    (2) payment levels for telehealth services relative to in–person care.

7                    (e) (1) The Maryland Health Care Commission shall complete the report using  
8 research methods appropriate for the issues identified in this section and available funding.

9                    (2) To carry out the health care provider survey required under subsection  
10 (c)(3)(ii) of this section, the Maryland Health Care Commission shall develop survey  
11 questions and work with the health occupations boards and other appropriate entities  
12 within the Maryland Department of Health to send out information regarding the survey  
13 by means of:

14                    (i) renewal notices;

15                    (ii) newsletters;

16                    (iii) e–mail blasts;

17                    (iv) website postings; or

18                    (v) any combination thereof.

19                    SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General  
20 Assembly that:

21                    (1) until and no later than June 30, 2023, while the Maryland Health Care  
22 Commission completes the study and submits the report required under Section 3 of this  
23 Act for consideration by the General Assembly for the adoption of comprehensive telehealth  
24 policies by the State:

25                    (i) the Maryland Medical Assistance Program continue to reimburse  
26 health care providers for covered health care services provided through audio–only and  
27 audio–visual technology in accordance with the requirements of Section 1 of this Act, and  
28 all applicable executive orders and waivers issued in accordance with Chapters 13 and 14  
29 of the Acts of the General Assembly of 2020; and

30                    (ii) insurers, nonprofit health service plans, and health maintenance  
31 organizations that are subject to § 15–139 of the Insurance Article as enacted by Section 1  
32 of this Act continue to reimburse health care providers for covered health care services

1 provided through audio-only and audio-visual technology in accordance with the  
 2 requirements of Section 1 of this Act and all applicable accommodations made by the  
 3 insurers, nonprofit health service plans, and health maintenance organizations during the  
 4 Declaration of State of Emergency and Existence of Catastrophic Health  
 5 Emergency – COVID-19 issued on March 5, 2020, and its renewals;

6 (2) the Maryland Health Care Commission use the data collected from  
 7 utilization and coverage of telehealth as provided for in item (1) of this section to complete  
 8 the report required under Section 3 of this Act; and

9 (3) the State use the report required under Section 3 of this Act to establish  
 10 comprehensive telehealth policies for implementation after the Declaration of State of  
 11 Emergency and Existence of Catastrophic Health Emergency – COVID-19 issued on March  
 12 5, 2020, and its renewals expire.

13 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
 14 policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or  
 15 after ~~January 1, 2022~~ July 1, 2021.

16 SECTION ~~3~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 17 ~~October~~ July 1, 2021.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.