

## Chapter 382

**(Senate Bill 534)**

AN ACT concerning

**Preserve Telehealth Access Act of 2023**

FOR the purpose of extending to a certain date the inclusion of certain audio-only telephone conversations under the definition of “telehealth” for the purpose of certain provisions of law relating to reimbursement and coverage of telehealth by the Maryland Medical Assistance Program and certain insurers, nonprofit health service plans, and health maintenance organizations; extending to a certain date a requirement on the Program and certain insurers, nonprofit health service plans, and health maintenance organizations to provide reimbursement for certain health care services provided through telehealth on a certain basis and at a certain rate; requiring the Maryland Health Care Commission to study and make recommendations regarding the delivery of health care services through telehealth, including payment parity for the delivery of health care services through audiovisual and audio-only telehealth technologies; and generally relating to the coverage and reimbursement of health care services delivered through telehealth.

BY repealing and reenacting, with amendments,  
 Article – Health – General  
 Section 15–141.2(a)(7) and (g)  
 Annotated Code of Maryland  
 (2019 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Insurance  
 Section 15–139(a) and (d)  
 Annotated Code of Maryland  
 (2017 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,  
 Article – Insurance  
 Section 15–139(b) and (c)  
 Annotated Code of Maryland  
 (2017 Replacement Volume and 2022 Supplement)

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

**Article – Health – General**

15–141.2.

(a) (7) (i) “Telehealth” means the delivery of medically necessary somatic, dental, or behavioral health services to a patient at an originating site by a distant site provider through the use of technology–assisted communication.

(ii) “Telehealth” includes:

1. Synchronous and asynchronous interactions;
2. From July 1, 2021, to June 30, **[2023] 2025**, both inclusive, an audio–only telephone conversation between a health care provider and a patient that results in the delivery of a billable, covered health care service; and
3. Remote patient monitoring services.

(iii) “Telehealth” does not include the provision of health care services solely through:

1. Except as provided in subparagraph (ii)2 of this paragraph, an audio–only telephone conversation;
2. An e–mail message; or
3. A facsimile transmission.

(g) (1) Subject to paragraph (3) of this subsection, the Program shall reimburse a health care provider for the diagnosis, consultation, and treatment of a Program recipient for a health care service covered by the Program that can be appropriately provided through telehealth.

(2) This subsection does not require the Program to reimburse a health care provider for a health care service delivered in person or through telehealth that is:

(i) Not a covered health care service under the Program; or

(ii) Delivered by an out–of–network provider unless the health care service is a self–referred service authorized under the Program.

(3) (i) From July 1, 2021, to June 30, **[2023] 2025**, both inclusive, when appropriately provided through telehealth, the Program shall provide reimbursement in accordance with paragraph (1) of this subsection on the same basis and the same rate as if the health care service were delivered by the health care provider in person.

(ii) The reimbursement required under subparagraph (i) of this paragraph does not include:

1. Clinic facility fees unless the health care service is provided by a health care provider not authorized to bill a professional fee separately for the health care service; or
2. Any room and board fees.

### Article – Insurance

15–139.

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

(2) “Telehealth” includes from July 1, 2021, to June 30, [2023] **2025**, both inclusive, an audio–only telephone conversation between a health care provider and a patient that results in the delivery of a billable, covered health care service.

(3) “Telehealth” does not include:

(i) except as provided in paragraph (2) of this subsection, an audio–only telephone conversation between a health care provider and a patient;

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

(iii) a facsimile transmission between a health care provider and a patient.

(b) This section applies to:

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

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

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

(i) shall provide coverage under a health insurance policy or contract for health care services appropriately delivered through telehealth regardless of the location of the patient at the time the telehealth services are provided;

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

(iii) may not exclude from coverage or deny coverage for a behavioral health care service that is a covered benefit under a health insurance policy or contract when provided in person solely because the behavioral health care service may also be provided through a covered telehealth benefit.

(2) The health care services appropriately delivered through telehealth shall include counseling and treatment for substance use disorders and mental health conditions.

(d) (1) Subject to paragraph (2) of this subsection, an entity subject to this section:

(i) shall reimburse a health care provider for the diagnosis, consultation, and treatment of an insured patient for a health care service covered under a health insurance policy or contract that can be appropriately provided through telehealth;

(ii) is not required to:

1. reimburse a health care provider for a health care service delivered in person or through telehealth that is not a covered benefit under the health insurance policy or contract; or

2. reimburse a health care provider who is not a covered provider under the health insurance policy or contract; and

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

2. may impose an annual dollar maximum as permitted by federal law; and

3. may not impose a lifetime dollar maximum.

(2) (i) From July 1, 2021, to June 30, [2023] **2025**, both inclusive, when a health care service is appropriately provided through telehealth, an entity subject to this section shall provide reimbursement in accordance with paragraph (1)(i) of this subsection on the same basis and at the same rate as if the health care service were delivered by the health care provider in person.

(ii) The reimbursement required under subparagraph (i) of this paragraph does not include:

1. clinic facility fees unless the health care service is provided by a health care provider not authorized to bill a professional fee separately for the health care service; or
2. any room and board fees.

(iii) This paragraph may not be construed to supersede the authority of the Health Services Cost Review Commission to set the appropriate rates for hospitals, including setting the hospital facility fee for hospital–provided telehealth.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Health Care Commission shall study and make recommendations regarding the delivery of health care services through telehealth, including payment parity for the delivery of health care services through audiovisual and audio–only telehealth technologies.

(b) In conducting the study required under subsection (a) of this section, the Maryland Health Care Commission shall:

(1) determine whether it is more or less costly for health care providers to deliver health care services through telehealth;

(2) determine whether the delivery of health care services through telehealth requires more or less clinical effort on the part of the health care provider;

(3) to help inform the debate on payment parity, identify the aspects of telehealth that are subject to overuse or underuse or yield greater or lower value;

(4) assess the adequacy of reimbursement for behavioral health services delivered in–person and by telehealth; and

(5) address any other issues related to telehealth as determined necessary by the Commission.

(c) On or before December 1, 2024, the Maryland Health Care Commission shall submit a report on its findings and recommendations to the General Assembly, in accordance with § 2–1257 of the State Government Article.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2023.

**Approved by the Governor, May 3, 2023.**