An Act

ENROLLED SENATE
BILL NO. 674

By: McCortney and Kirt of the Senate

and

McEntire, Mize and Pittman of the House

An Act relating to telemedicine; amending 36 O.S. 2011, Section 6802, which relates to definitions; modifying and adding definitions; amending 36 O.S. 2011, Section 6803, which relates to coverage of telemedicine services; modifying term; requiring certain coverage of health care services provided through telemedicine; prohibiting certain exclusion of service for coverage; requiring certain reimbursement; prohibiting application of certain deductible; requiring certain copayment or coinsurance not exceed certain amount; prohibiting imposition of certain limits or maximums; prohibiting imposition of certain utilization review; prohibiting certain restriction of coverage; prohibiting certain restrictions on prescribing; requiring the State Department of Health to request a certain report by a certain date; providing for contents of report; and providing an effective date.

SUBJECT: Telemedicine

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2011, Section 6802, is amended to read as follows:

Section 6802. ~~As used in this act, "telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, including but not limited to, the treatment and prevention of strokes, transfer of medical data, or exchange of medical education information by means of audio, video, or data communications. Telemedicine is not a consultation provided by telephone or facsimile machine~~

As used in the Oklahoma Telemedicine Act:

1. "Distant site" means a site at which a health care professional licensed to practice in this state is located while providing health care services by means of telemedicine;

2. a. "Health benefit plan" means any plan or arrangement that:

(1) provides benefits for medical or surgical expenses incurred as a result of a health condition, accident or illness, and

(2) is offered by any insurance company, group hospital service corporation or health maintenance organization that delivers or issues for delivery an individual, group, blanket or franchise insurance policy or insurance agreement, a group hospital service contract or an evidence of coverage, or, to the extent permitted by the Employee Retirement Income Security Act of 1974, 29 U.S.C., Section 1001 et seq., by a multiple employer welfare arrangement as defined in Section 3 of the Employee Retirement Income Security Act of 1974, or any other analogous benefit arrangement, whether the payment is fixed or by indemnity,

b. Health benefit plan shall not include:

(1) a plan that provides coverage:

(a) only for a specified disease or diseases or under an individual limited benefit policy,

(b) only for accidental death or dismemberment,

(c) only for dental or vision care,

(d) for a hospital confinement indemnity policy,

(e) for disability income insurance or a combination of accident-only and disability income insurance, or

(f) as a supplement to liability insurance,

(2) a Medicare supplemental policy as defined by Section 1882(g)(1) of the Social Security Act (42 U.S.C., Section 1395ss),

(3) workers' compensation insurance coverage,

(4) medical payment insurance issued as part of a motor vehicle insurance policy,

(5) a long-term care policy including a nursing home fixed indemnity policy, unless a determination is made that the policy provides benefit coverage so comprehensive that the policy meets the definition of a health benefit plan,

(6) short-term health insurance issued on a nonrenewable basis with a duration of six (6) months or less, or

(7) a plan offered by the Employees Group Insurance Division of the Office of Management and Enterprise Services;

3. "Health care professional" means a physician or other health care practitioner licensed, accredited or certified to perform specified health care services consistent with state law;

4. "Insurer" means any entity providing an accident and health insurance policy in this state including, but not limited to, a licensed insurance company, a not-for-profit hospital service and medical indemnity corporation, a fraternal benefit society, a multiple employer welfare arrangement or any other entity subject to regulation by the Insurance Commissioner;

5. "mHealth", also referred to as "mobile health", means patient medical and health information and includes the use of the Internet and wireless devices by patients to obtain or create specialized health information and online discussion groups to provide peer-to-peer support;

6. "Originating site" means a site at which a patient is located at the time health care services are provided to him or her by means of telemedicine, which may include, but shall not be restricted to, a patient's home, workplace or school;

7. "Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose and other condition-specific data, medication adherence monitoring and interactive video conferencing with or without digital image upload;

8. "Store and forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the health care professional at the distant site, but does not require the patient being present nor must it be in real time;

9. "Telemedicine" or "telehealth" means technology-enabled health and care management and delivery systems that extend capacity and access, which includes:

a. synchronous mechanisms, which may include live audiovisual interaction between a patient and a health care professional or real-time provider-to-provider consultation through live interactive audiovisual means,

b. asynchronous mechanisms, which include store and forward transfers, online exchange of health information between a patient and a health care professional and online exchange of health information between health care professionals, but shall not include the use of automated text messages or automated mobile applications that serve as the sole interaction between a patient and a health care professional,

c. remote patient monitoring,

d. mHealth, and

e. other electronic means that support clinical health care, professional consultation, patient and professional health-related education, public health and health administration.

SECTION 2. AMENDATORY 36 O.S. 2011, Section 6803, is amended to read as follows:

Section 6803. A. For services that a health care ~~practitioner~~ professional determines to be appropriately provided by means of telemedicine, health care service plans, disability insurer programs, workers' compensation programs, or state Medicaid managed care program contracts issued, amended, or renewed on or after January 1, 1998, shall not require person-to-person contact between a health care ~~practitioner~~ professional and a patient.

B. Subsection A of this section shall apply to health care service plan contracts with the state Medicaid managed care program only to the extent that both of the following apply:

1. Telemedicine services are covered by, and reimbursed under, the fee-for-service provisions of the state Medicaid managed care program; and

2. State Medicaid managed care program contracts with health care service plans are amended to add coverage of telemedicine services and make any appropriate capitation rate adjustments.

C. Any health benefit plan that is offered, issued or renewed in this state by an insurer on or after the effective date of this act shall provide coverage of health care services provided through telemedicine, as provided in this section.

D. An insurer shall not exclude a service for coverage solely because the service is provided through telemedicine and is not provided through in-person consultation or contact between a health care professional and a patient when such services are appropriately provided through telemedicine. An insurer may limit coverage of services provided by telehealth consistent with coding and clinical standards recognized by the American Medical Association or the Centers for Medicare and Medicaid Services as covered if delivered by telehealth or telemedicine, except as agreed to by the insurer and provider.

E. An insurer shall reimburse the treating health care professional or the consulting health care professional for the diagnosis, consultation or treatment of the patient delivered through telemedicine services on the same basis and at least at the rate of reimbursement that the insurer is responsible for coverage for the provision of the same, or substantially similar, services through in-person consultation or contact.

F. An insurer shall not apply any deductible to telemedicine services that accumulates separately from the deductible that applies in the aggregate to all items and services covered under the health benefit plan.

G. Any copayment or coinsurance applied to telemedicine benefits by an insurer shall not exceed the copayment or coinsurance applied to such benefits when provided through in-person consultation or contact.

H. An insurer shall not impose any annual or lifetime durational limits or annual or lifetime dollar maximums for benefits or services provided through telemedicine that are not equally imposed upon all terms and services covered under the health benefit plan.

I. An insurer shall not impose any type of utilization review on benefits provided through telemedicine unless such type of

utilization review is imposed when such benefits are provided through in-person consultation or contact. Any type of utilization review that is imposed on benefits provided through telemedicine shall not occur with greater frequency or more stringent application than such form of utilization review is imposed on such benefits provided through in-person consultation or contact.

J. An insurer shall not restrict coverage of telemedicine benefits or services to benefits or services provided by a particular vendor, or other third party, or benefits or services provided through a particular electronic communications technology platform; provided, that nothing shall require an insurer to cover any electronic communications technology platform that does not comply with applicable state and federal privacy laws.

K. An insurer shall not place any restrictions on prescribing medications through telemedicine that are more restrictive than what is required under applicable state and federal law.

L. No later than January 1, 2023, the State Department of Health shall request a report from the Statewide Health Information Exchange that will provide the following data:

1. The number of providers using telehealth, including the location, frequency and specific services for which telehealth is utilized; and

2. The overall cost and cost savings associated with the utilization of telehealth services.

SECTION 3. This act shall become effective January 1, 2022.

Passed the Senate the 29th day of April, 2021.

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Presiding Officer of the Senate

Passed the House of Representatives the 21st day of April, 2021.

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Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____