
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 739 Session of
2023

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COLLETT AND STREET, JUNE 2, 2023

REFERRED TO BANKING AND INSURANCE, JUNE 2, 2023

AN ACT

1 Relating to telemedicine; authorizing the regulation of
2 telemedicine by professional licensing boards; and providing
3 for insurance coverage of telemedicine.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Telemedicine
8 Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Agreement with the Department of Human Services." An
14 agreement between an MA or CHIP managed care plan and the
15 Department of Human Services to manage the purchase and
16 provision of services. The term includes a county or multicounty
17 agreement with the Department of Human Services for behavioral

1 health services.

2 "Asynchronous interaction." An exchange of information
3 between a patient and a health care provider that does not occur
4 in real time, including the secure collection and transmission
5 of a patient's medical information, clinical data, clinical
6 images, laboratory results and self-reported medical history.

7 "Emergency medical services." As defined in 35 Pa.C.S. §
8 8103 (relating to definitions).

9 "Emergency service." As follows:

10 (1) A health care service, including behavioral health
11 services, provided to a patient after the sudden onset of a
12 medical condition that manifests itself by acute symptoms of
13 sufficient severity or severe pain such that a prudent
14 layperson who possesses an average knowledge of health and
15 medicine could reasonably expect the absence of immediate
16 medical attention to result in:

17 (i) placing the health of the patient in serious
18 jeopardy or, with respect to a pregnant woman, the health
19 of the woman or the unborn child in serious jeopardy;

20 (ii) serious impairment to bodily functions; or

21 (iii) serious dysfunction of any bodily organ or
22 part.

23 (2) The term includes emergency transportation, related
24 emergency service or emergency medical services provided by
25 an emergency medical services agency as defined in 35 Pa.C.S.
26 § 8103.

27 "Enrollee." An individual who is entitled to receive health
28 care services under an agreement with the Department of Human
29 Services.

30 "Health care facility." An entity that is licensed to

1 provide a health care service under Article X of the act of June
2 13, 1967 (P.L.31, No.21), known as the Human Services Code, or
3 the act of July 19, 1979 (P.L.130, No.48), known as the Health
4 Care Facilities Act. The term includes a federally qualified
5 health center and a rural health clinic as defined in 42 U.S.C.
6 § 1395x(aa)(2) and (4) (relating to definitions).

7 "Health care provider." A health care facility, medical
8 equipment supplier or person that is licensed, certified or
9 otherwise regulated to provide health care services under the
10 laws of this Commonwealth or another state.

11 "Health care service." Any treatment, admission, procedure,
12 medical supplies and equipment or other services, including
13 behavioral health, prescribed or otherwise provided or proposed
14 to be provided by a health care provider to a patient for the
15 diagnosis, prevention, treatment, cure or relief of a health
16 condition, illness, injury or disease.

17 "Health Information Technology for Economic and Clinical
18 Health Act." The Health Information Technology for Economic and
19 Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and
20 467-496).

21 "Health insurance policy." A policy, subscriber contract,
22 certificate or plan issued by an insurer that provides medical
23 or health care coverage. The term includes a dental only and a
24 vision only policy. The term does not include:

- 25 (1) An accident only policy.
- 26 (2) A credit only policy.
- 27 (3) A long-term care or disability income policy.
- 28 (4) A specified disease policy.
- 29 (5) A Medicare supplement policy.
- 30 (6) A TRICARE policy, including a Civilian Health and

1 Medical Program of the Uniformed Services (CHAMPUS)
2 supplement policy.

3 (7) A fixed indemnity policy.

4 (8) A hospital indemnity policy.

5 (9) A worker's compensation policy.

6 (10) An automobile medical payment policy under 75
7 Pa.C.S. (relating to vehicles).

8 (11) A homeowner's insurance policy.

9 (12) Any other similar policies providing for limited
10 benefits.

11 "Health Insurance Portability and Accountability Act of
12 1996." The Health Insurance Portability and Accountability Act
13 of 1996 (Public Law 104-191, 110 Stat. 1936).

14 "Insurer." An entity licensed by the Insurance Department
15 that offers, issues or renews a health insurance policy and
16 governed under any of the following:

17 (1) The act of December 29, 1972 (P.L.1701, No.364),
18 known as the Health Maintenance Organization Act.

19 (2) 40 Pa.C.S. Ch. 61 (relating to hospital plan
20 corporations).

21 (3) 40 Pa.C.S. Ch. 63 (relating to professional health
22 services plan corporations).

23 "Licensure board." Each licensing board within the Bureau of
24 Professional and Occupational Affairs of the Department of State
25 with jurisdiction over a health care provider.

26 "Medical Assistance or Children's Health Insurance Program
27 managed care plan" or "MA or CHIP managed care plan." A health
28 care plan that uses a gatekeeper to manage the utilization of
29 health care services by medical assistance or children's health
30 insurance program enrollees and integrates the financing and

1 delivery of health care services.

2 "Participating network provider." A health care provider
3 that has entered a contractual or operating relationship with an
4 insurer or MA or CHIP managed care plan to participate in one or
5 more designated networks of the insurer or MA or CHIP managed
6 care plan to provide health care services under the terms of a
7 health insurance policy, or an agreement with the Department of
8 Human Services.

9 "Provider-to-provider consultation." An act of seeking
10 advice and recommendations concerning diagnostic studies,
11 therapeutic interventions or other health care services that may
12 benefit the patient of the health care provider from another
13 health care provider.

14 "Remote patient monitoring." The collection of physiological
15 data from a patient in one location, which is transmitted via an
16 electronic communication technology to a health care provider in
17 a different location for use in care and related support of the
18 patient.

19 "State." A state of the United States, the District of
20 Columbia, the Commonwealth of Puerto Rico and any territory or
21 possession of the United States.

22 "Synchronous interaction." A two-way or multiple-way
23 exchange of information between a patient and a health care
24 provider that occurs in real time via audio or video
25 conferencing.

26 "Telemedicine." The delivery of health care services to a
27 patient by a health care provider who is at a different
28 location, through synchronous interactions, asynchronous
29 interactions or remote patient monitoring that meets the
30 requirements of the Health Insurance Portability and

1 Accountability Act of 1996, the Health Information Technology
2 for Economic and Clinical Health Act or other applicable Federal
3 law or law of this Commonwealth regarding the privacy and
4 security of electronic transmission of health information. The
5 term does not include a provider-to-provider consultation.

6 Section 3. Oversight of telemedicine by professional licensure
7 boards.

8 Each licensure board shall regulate health care providers
9 under the licensure's board jurisdiction to ensure that the use
10 of telemedicine is consistent with the health care provider's
11 scope of practice and that health care services provided by
12 telemedicine meet the same standard of care applicable to the
13 same health care service provided in an in-person setting. A
14 licensure board may not establish a separate standard of care
15 for telemedicine.

16 Section 4. Compliance.

17 A health care provider providing health care services through
18 telemedicine to a patient shall comply with Federal law, the
19 laws of this Commonwealth and applicable regulations. Failure to
20 comply with applicable laws and regulations shall subject the
21 health care provider to discipline by the applicable
22 Commonwealth authority.

23 Section 5. Evaluation and treatment.

24 (a) Requirements.--A health care provider who provides
25 health care services through telemedicine to a patient shall
26 comply with the following:

27 (1) For a telemedicine encounter in which the health
28 care provider does not have an established provider-patient
29 relationship, disclose the health care provider's identity
30 and applicable state and type of license, certificate or

1 state-regulated credentials.

2 (2) Verify the state location and identity of the
3 patient receiving care by requesting that the patient provide
4 at least two patient identifiers, such as name and date of
5 birth.

6 (3) Obtain and document consent in accordance with the
7 act of December 16, 1999 (P.L.971, No.69), known as the
8 Electronic Transactions Act, from the patient or other person
9 acting in a health care decision-making capacity for the
10 patient after disclosure regarding the delivery models and
11 treatment methods or limitations of telemedicine, including
12 when it is advisable to seek in-person care. The patient or
13 other person acting in a health care decision-making
14 capacity, including the parent or legal guardian of a child
15 in accordance with the act of February 13, 1970 (P.L.19,
16 No.10), entitled "An act enabling certain minors to consent
17 to medical, dental and health services, declaring consent
18 unnecessary under certain circumstances," has the right to
19 choose the form of health care service delivery, which
20 includes the right to refuse telemedicine without
21 jeopardizing the patient's access to in-person health care
22 services.

23 (4) Perform a clinical evaluation that is appropriate
24 for the patient and the condition with which the patient
25 presents before providing treatment or issuing a prescription
26 using telemedicine.

27 (5) Establish a diagnosis and treatment plan consistent
28 with the health care provider's scope of practice.

29 (6) Document in the patient's medical record the health
30 care services rendered using telemedicine according to the

1 same standard as required for in-person services.

2 (7) Create a visit summary and offer to the patient.

3 (8) Have an emergency action plan in place for medical
4 and behavioral health emergencies and referrals.

5 (b) Applicability.--

6 (1) Subsection (a)(1) and (2) do not apply to emergency
7 services.

8 (2) A health care provider licensed, certified or
9 otherwise regulated under the laws of this Commonwealth may
10 provide telemedicine to patients physically located in this
11 Commonwealth at the time of the health care service.

12 Telemedicine may be provided to patients physically located
13 outside this Commonwealth to the extent permissible by the
14 laws of the state where the patient is located.

15 (3) A health care provider licensed, certified or
16 otherwise regulated solely under the laws of another state
17 may provide telemedicine to patients located in this
18 Commonwealth only in the following circumstances:

19 (i) A patient for whom the health care provider has
20 an existing provider-patient relationship in the state in
21 which the provider is licensed, certified or otherwise
22 regulated, and the patient is temporarily located within
23 this Commonwealth. If the health care provider becomes
24 aware that the patient's location within this
25 Commonwealth is no longer temporary, the health care
26 provider shall transition care with the patient's consent
27 to a health care provider licensed, certified or
28 otherwise regulated within this Commonwealth.

29 (ii) A patient located within this Commonwealth
30 prospectively seeking care or receiving follow-up care

1 from a health care provider licensed, certified or
2 otherwise regulated in another state for a health care
3 service that would be or has been provided outside this
4 Commonwealth.

5 (c) Standard of care.--A health care provider providing
6 health care services through telemedicine shall be subject to
7 the same standard of care that would apply to the health care
8 services in an in-person setting.

9 Section 6. Insurance coverage and reimbursement of
10 telemedicine.

11 (a) General rule.--

12 (1) A health insurance policy issued, delivered,
13 executed or renewed in this Commonwealth shall provide
14 coverage for medically necessary health care services
15 provided through telemedicine and delivered by a
16 participating network provider who provides a covered health
17 care service through telemedicine consistent with the
18 insurer's medical policies. A health insurance policy may not
19 exclude a health care service for coverage solely because the
20 health care service is provided through telemedicine.

21 (2) Subject to paragraph (1), an insurer shall reimburse
22 a participating network provider for health care services
23 delivered through telemedicine and pursuant to a health
24 insurance policy in accordance with the terms and conditions
25 of the contract as negotiated between the insurer and the
26 participating network provider. The contract that includes
27 reimbursement for health care services delivered through
28 telemedicine may not prohibit reimbursement solely because a
29 health care service is provided by telemedicine.

30 Reimbursement shall not be conditioned upon the use of an

1 exclusive proprietary telemedicine technology or vendor.

2 (b) Applicability.--

3 (1) Subsection (a) does not apply if the telemedicine-
4 enabling device, technology or service fails to comply with
5 applicable law and regulatory guidance.

6 (2) For a health insurance policy for which either rates
7 or forms are required to be filed with the Federal Government
8 or the Insurance Department, this section shall apply to a
9 policy for which a form or rate is first filed on or after
10 180 days after the effective date of this paragraph.

11 (3) For a health insurance policy for which neither
12 rates nor forms are required to be filed with the Federal
13 Government or the Insurance Department, this section shall
14 apply to a policy issued or renewed on or after 180 days
15 after the effective date of this paragraph.

16 (c) Construction.--This section may not be construed to:

17 (1) Prohibit an insurer from reimbursing other health
18 care providers for covered health care services provided
19 through telemedicine.

20 (2) Require an insurer to reimburse an out-of-network
21 health care provider for health care services provided
22 through telemedicine.

23 (3) Require an insurer to reimburse a participating
24 network provider if the provision of the health care service
25 through telemedicine would be inconsistent with the standard
26 of care.

27 Section 7. Medical assistance and children's health insurance
28 program coverage.

29 (a) MA or CHIP managed care plan payment.--

30 (1) MA or CHIP managed care plan payments shall be made

1 on behalf of enrollees for medically necessary health care
2 services provided through telemedicine, as specified under
3 sections 2, 4 and 5, if all of the following apply:

4 (i) The health care service would be covered through
5 an in-person encounter.

6 (ii) The provision of the health care service
7 through telemedicine is consistent with Federal law and
8 the laws of this Commonwealth, applicable regulations and
9 clinical guidance.

10 (iii) Federal approval, if necessary for the
11 provision of the health care service through
12 telemedicine, has been received by the Department of
13 Human Services.

14 (2) The MA or CHIP managed care plan shall reimburse a
15 participating network provider for covered health care
16 services delivered through telemedicine in accordance with
17 the terms and conditions of the contract as negotiated
18 between the MA or CHIP managed care plan, the participating
19 network provider and the agreement with the Department of
20 Human Services.

21 (b) Applicability.--Subsection (a) does not apply if the
22 telemedicine-enabling device, technology or service fails to
23 comply with applicable law and regulatory guidance.

24 (c) Construction.--This section may not be construed to:

25 (1) Prohibit a MA or CHIP managed care plan from making
26 payments on behalf of enrollees to other health care
27 providers for covered health care services provided through
28 telemedicine.

29 (2) Require a MA or CHIP managed care plan to reimburse
30 a participating network provider if the provision of the

1 health care service through telemedicine would be
2 inconsistent with the standard of care.

3 Section 8. Effective date.

4 This act shall take effect as follows:

5 (1) Sections 6 and 7 shall take effect in 90 days.

6 (2) The remainder of this act shall take effect
7 immediately.