
SUBSTITUTE HOUSE BILL 1196

State of Washington

67th Legislature

2021 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Riccelli, Callan, Bateman, Ramos, Cody, Ortiz-Self, Duerr, Harris, Leavitt, Bergquist, Shewmake, Fitzgibbon, Macri, Tharinger, Slatter, Davis, Berg, Pollet, Orwall, Harris-Talley, and Frame)

1 AN ACT Relating to audio-only telemedicine; amending RCW
2 41.05.700, 48.43.735, 70.41.020, 71.24.335, and 74.09.325; adding a
3 new section to chapter 74.09 RCW; creating new sections; and
4 providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 41.05.700 and 2020 c 92 s 2 are each amended to read
7 as follows:

8 (1)(a) A health plan offered to employees, school employees, and
9 their covered dependents under this chapter issued or renewed on or
10 after January 1, 2017, shall reimburse a provider for a health care
11 service provided to a covered person through telemedicine or store
12 and forward technology if:

13 (i) The plan provides coverage of the health care service when
14 provided in person by the provider;

15 (ii) The health care service is medically necessary;

16 (iii) The health care service is a service recognized as an
17 essential health benefit under section 1302(b) of the federal patient
18 protection and affordable care act in effect on January 1, 2015;
19 ((and))

20 (iv) The health care service is determined to be safely and
21 effectively provided through telemedicine or store and forward

1 technology according to generally accepted health care practices and
2 standards, and the technology used to provide the health care service
3 meets the standards required by state and federal laws governing the
4 privacy and security of protected health information; and

5 (v) Beginning January 1, 2023, for audio-only telemedicine, the
6 covered person has an established relationship with the provider.

7 (b) (i) Except as provided in (b) (ii) of this subsection, a health
8 plan offered to employees, school employees, and their covered
9 dependents under this chapter issued or renewed on or after January
10 1, 2021, shall reimburse a provider for a health care service
11 provided to a covered person through telemedicine ~~((at))~~ the same
12 ~~((rate as))~~ amount of compensation the carrier would pay the provider
13 if the health care service was provided in person by the provider.

14 (ii) Hospitals, hospital systems, telemedicine companies, and
15 provider groups consisting of eleven or more providers may elect to
16 negotiate ~~((a reimbursement rate))~~ an amount of compensation for
17 telemedicine services that differs from the ~~((reimbursement rate))~~
18 amount of compensation for in-person services.

19 (iii) For purposes of this subsection (1)(b), the number of
20 providers in a provider group refers to all providers within the
21 group, regardless of a provider's location.

22 (2) For purposes of this section, reimbursement of store and
23 forward technology is available only for those covered services
24 specified in the negotiated agreement between the health plan and
25 health care provider.

26 (3) An originating site for a telemedicine health care service
27 subject to subsection (1) of this section includes a:

28 (a) Hospital;

29 (b) Rural health clinic;

30 (c) Federally qualified health center;

31 (d) Physician's or other health care provider's office;

32 (e) ~~((Community mental health center))~~ Licensed or certified
33 behavioral health agency;

34 (f) Skilled nursing facility;

35 (g) Home or any location determined by the individual receiving
36 the service; or

37 (h) Renal dialysis center, except an independent renal dialysis
38 center.

39 (4) Except for subsection (3)(g) of this section, any originating
40 site under subsection (3) of this section may charge a facility fee

1 for infrastructure and preparation of the patient. Reimbursement for
2 a facility fee must be subject to a negotiated agreement between the
3 originating site and the health plan. A distant site or any other
4 site not identified in subsection (3) of this section may not charge
5 a facility fee.

6 (5) The plan may not distinguish between originating sites that
7 are rural and urban in providing the coverage required in subsection
8 (1) of this section.

9 (6) The plan may subject coverage of a telemedicine or store and
10 forward technology health service under subsection (1) of this
11 section to all terms and conditions of the plan including, but not
12 limited to, utilization review, prior authorization, deductible,
13 copayment, or coinsurance requirements that are applicable to
14 coverage of a comparable health care service provided in person.

15 (7) This section does not require the plan to reimburse:

16 (a) An originating site for professional fees;

17 (b) A provider for a health care service that is not a covered
18 benefit under the plan; or

19 (c) An originating site or health care provider when the site or
20 provider is not a contracted provider under the plan.

21 (8) For purposes of this section:

22 (a) "Audio-only telemedicine" means the delivery of health care
23 services through the use of audio-only telephone technology,
24 permitting real-time communication between the patient at the
25 originating site and the provider, for the purpose of diagnosis,
26 consultation, or treatment. For purposes of this section only,
27 "audio-only telemedicine" does not include the use of facsimile or
28 email.

29 (b) "Distant site" means the site at which a physician or other
30 licensed provider, delivering a professional service, is physically
31 located at the time the service is provided through telemedicine;

32 ((b)) (c) "Established relationship" means the covered person
33 has had at least one in-person appointment within the past year with
34 the provider providing audio-only telemedicine or the covered person
35 was referred to the provider providing audio-only telemedicine by
36 another provider who has had at least one in-person appointment with
37 the covered person within the past year and has provided relevant
38 medical information to the provider providing audio-only
39 telemedicine.

1 (d) "Health care service" has the same meaning as in RCW
2 48.43.005;

3 ~~((e))~~ (e) "Hospital" means a facility licensed under chapter
4 70.41, 71.12, or 72.23 RCW;

5 ~~((d))~~ (f) "Originating site" means the physical location of a
6 patient receiving health care services through telemedicine;

7 ~~((e))~~ (g) "Provider" has the same meaning as in RCW 48.43.005;

8 ~~((f))~~ (h) "Store and forward technology" means use of an
9 asynchronous transmission of a covered person's medical information
10 from an originating site to the health care provider at a distant
11 site which results in medical diagnosis and management of the covered
12 person, and does not include the use of audio-only telephone,
13 facsimile, or email; and

14 ~~((g))~~ (i) "Telemedicine" means the delivery of health care
15 services through the use of interactive audio and video technology,
16 permitting real-time communication between the patient at the
17 originating site and the provider, for the purpose of diagnosis,
18 consultation, or treatment. For purposes of this section only,
19 "telemedicine" ~~((does not include the use of))~~ includes audio-only
20 ~~((telephone))~~ telemedicine, but does not include facsimile~~((r))~~ or
21 email.

22 **Sec. 2.** RCW 48.43.735 and 2020 c 92 s 1 are each amended to read
23 as follows:

24 (1)(a) For health plans issued or renewed on or after January 1,
25 2017, a health carrier shall reimburse a provider for a health care
26 service provided to a covered person through telemedicine or store
27 and forward technology if:

28 (i) The plan provides coverage of the health care service when
29 provided in person by the provider;

30 (ii) The health care service is medically necessary;

31 (iii) The health care service is a service recognized as an
32 essential health benefit under section 1302(b) of the federal patient
33 protection and affordable care act in effect on January 1, 2015;
34 ~~((and))~~

35 (iv) The health care service is determined to be safely and
36 effectively provided through telemedicine or store and forward
37 technology according to generally accepted health care practices and
38 standards, and the technology used to provide the health care service

1 meets the standards required by state and federal laws governing the
2 privacy and security of protected health information; and

3 (v) Beginning January 1, 2023, for audio-only telemedicine, the
4 covered person has an established relationship with the provider.

5 (b) (i) Except as provided in (b) (ii) of this subsection, for
6 health plans issued or renewed on or after January 1, 2021, a health
7 carrier shall reimburse a provider for a health care service provided
8 to a covered person through telemedicine (~~(at)~~) the same (~~(rate as)~~)
9 amount of compensation the carrier would pay the provider if the
10 health care service was provided in person by the provider.

11 (ii) Hospitals, hospital systems, telemedicine companies, and
12 provider groups consisting of eleven or more providers may elect to
13 negotiate (~~(a reimbursement rate)~~) an amount of compensation for
14 telemedicine services that differs from the (~~(reimbursement rate)~~)
15 amount of compensation for in-person services.

16 (iii) For purposes of this subsection (1) (b), the number of
17 providers in a provider group refers to all providers within the
18 group, regardless of a provider's location.

19 (2) For purposes of this section, reimbursement of store and
20 forward technology is available only for those covered services
21 specified in the negotiated agreement between the health carrier and
22 the health care provider.

23 (3) An originating site for a telemedicine health care service
24 subject to subsection (1) of this section includes a:

25 (a) Hospital;

26 (b) Rural health clinic;

27 (c) Federally qualified health center;

28 (d) Physician's or other health care provider's office;

29 (~~(Community mental health center)~~) Licensed or certified
30 behavioral health agency;

31 (f) Skilled nursing facility;

32 (g) Home or any location determined by the individual receiving
33 the service; or

34 (h) Renal dialysis center, except an independent renal dialysis
35 center.

36 (4) Except for subsection (3) (g) of this section, any originating
37 site under subsection (3) of this section may charge a facility fee
38 for infrastructure and preparation of the patient. Reimbursement for
39 a facility fee must be subject to a negotiated agreement between the
40 originating site and the health carrier. A distant site or any other

1 site not identified in subsection (3) of this section may not charge
2 a facility fee.

3 (5) A health carrier may not distinguish between originating
4 sites that are rural and urban in providing the coverage required in
5 subsection (1) of this section.

6 (6) A health carrier may subject coverage of a telemedicine or
7 store and forward technology health service under subsection (1) of
8 this section to all terms and conditions of the plan in which the
9 covered person is enrolled including, but not limited to, utilization
10 review, prior authorization, deductible, copayment, or coinsurance
11 requirements that are applicable to coverage of a comparable health
12 care service provided in person.

13 (7) This section does not require a health carrier to reimburse:

14 (a) An originating site for professional fees;

15 (b) A provider for a health care service that is not a covered
16 benefit under the plan; or

17 (c) An originating site or health care provider when the site or
18 provider is not a contracted provider under the plan.

19 (8) For purposes of this section:

20 (a) "Audio-only telemedicine" means the delivery of health care
21 services through the use of audio-only telephone technology,
22 permitting real-time communication between the patient at the
23 originating site and the provider, for the purpose of diagnosis,
24 consultation, or treatment. For purposes of this section only,
25 "audio-only telemedicine" does not include the use of facsimile or
26 email.

27 (b) "Distant site" means the site at which a physician or other
28 licensed provider, delivering a professional service, is physically
29 located at the time the service is provided through telemedicine;

30 ~~((b))~~ (c) "Established relationship" means the covered person
31 has had at least one in-person appointment within the past year with
32 the provider providing audio-only telemedicine or the covered person
33 was referred to the provider providing audio-only telemedicine by
34 another provider who has had at least one in-person appointment with
35 the covered person within the past year and has provided relevant
36 medical information to the provider providing audio-only
37 telemedicine.

38 (d) "Health care service" has the same meaning as in RCW
39 48.43.005;

1 ~~((e))~~ (e) "Hospital" means a facility licensed under chapter
2 70.41, 71.12, or 72.23 RCW;

3 ~~((d))~~ (f) "Originating site" means the physical location of a
4 patient receiving health care services through telemedicine;

5 ~~((e))~~ (g) "Provider" has the same meaning as in RCW 48.43.005;

6 ~~((f))~~ (h) "Store and forward technology" means use of an
7 asynchronous transmission of a covered person's medical information
8 from an originating site to the health care provider at a distant
9 site which results in medical diagnosis and management of the covered
10 person, and does not include the use of audio-only telephone,
11 facsimile, or email; and

12 ~~((g))~~ (i) "Telemedicine" means the delivery of health care
13 services through the use of interactive audio and video technology,
14 permitting real-time communication between the patient at the
15 originating site and the provider, for the purpose of diagnosis,
16 consultation, or treatment. For purposes of this section only,
17 "telemedicine" ~~((does not include the use of))~~ includes audio-only
18 ~~((telephone))~~ telemedicine, but does not include facsimile~~((r))~~ or
19 email.

20 (9) The commissioner may adopt any rules necessary to implement
21 this section.

22 **Sec. 3.** RCW 70.41.020 and 2016 c 226 s 1 are each amended to
23 read as follows:

24 Unless the context clearly indicates otherwise, the following
25 terms, whenever used in this chapter, shall be deemed to have the
26 following meanings:

27 (1) "Aftercare" means the assistance provided by a lay caregiver
28 to a patient under this chapter after the patient's discharge from a
29 hospital. The assistance may include, but is not limited to,
30 assistance with activities of daily living, wound care, medication
31 assistance, and the operation of medical equipment. "Aftercare"
32 includes assistance only for conditions that were present at the time
33 of the patient's discharge from the hospital. "Aftercare" does not
34 include:

35 (a) Assistance related to conditions for which the patient did
36 not receive medical care, treatment, or observation in the hospital;
37 or

38 (b) Tasks the performance of which requires licensure as a health
39 care provider.

1 (2) "Audio-only telemedicine" means the delivery of health care
2 services through the use of audio-only telephone technology,
3 permitting real-time communication between the patient at the
4 originating site and the provider, for the purpose of diagnosis,
5 consultation, or treatment. For purposes of this section only,
6 "audio-only telemedicine" does not include the use of facsimile or
7 email.

8 (3) "Department" means the Washington state department of health.

9 ~~((3))~~ (4) "Discharge" means a patient's release from a hospital
10 following the patient's admission to the hospital.

11 ~~((4))~~ (5) "Distant site" means the site at which a physician or
12 other licensed provider, delivering a professional service, is
13 physically located at the time the service is provided through
14 telemedicine.

15 ~~((5))~~ (6) "Emergency care to victims of sexual assault" means
16 medical examinations, procedures, and services provided by a hospital
17 emergency room to a victim of sexual assault following an alleged
18 sexual assault.

19 ~~((6))~~ (7) "Emergency contraception" means any health care
20 treatment approved by the food and drug administration that prevents
21 pregnancy, including but not limited to administering two increased
22 doses of certain oral contraceptive pills within seventy-two hours of
23 sexual contact.

24 ~~((7))~~ (8) "Hospital" means any institution, place, building, or
25 agency which provides accommodations, facilities and services over a
26 continuous period of twenty-four hours or more, for observation,
27 diagnosis, or care, of two or more individuals not related to the
28 operator who are suffering from illness, injury, deformity, or
29 abnormality, or from any other condition for which obstetrical,
30 medical, or surgical services would be appropriate for care or
31 diagnosis. "Hospital" as used in this chapter does not include
32 hotels, or similar places furnishing only food and lodging, or simply
33 domiciliary care; nor does it include clinics, or physician's offices
34 where patients are not regularly kept as bed patients for twenty-four
35 hours or more; nor does it include nursing homes, as defined and
36 which come within the scope of chapter 18.51 RCW; nor does it include
37 birthing centers, which come within the scope of chapter 18.46 RCW;
38 nor does it include psychiatric hospitals, which come within the
39 scope of chapter 71.12 RCW; nor any other hospital, or institution
40 specifically intended for use in the diagnosis and care of those

1 suffering from mental illness, intellectual disability, convulsive
2 disorders, or other abnormal mental condition. Furthermore, nothing
3 in this chapter or the rules adopted pursuant thereto shall be
4 construed as authorizing the supervision, regulation, or control of
5 the remedial care or treatment of residents or patients in any
6 hospital conducted for those who rely primarily upon treatment by
7 prayer or spiritual means in accordance with the creed or tenets of
8 any well recognized church or religious denominations.

9 ~~((8))~~ (9) "Lay caregiver" means any individual designated as
10 such by a patient under this chapter who provides aftercare
11 assistance to a patient in the patient's residence. "Lay caregiver"
12 does not include a long-term care worker as defined in RCW
13 74.39A.009.

14 ~~((9))~~ (10) "Originating site" means the physical location of a
15 patient receiving health care services through telemedicine.

16 ~~((10))~~ (11) "Person" means any individual, firm, partnership,
17 corporation, company, association, or joint stock association, and
18 the legal successor thereof.

19 ~~((11))~~ (12) "Secretary" means the secretary of health.

20 ~~((12))~~ (13) "Sexual assault" has the same meaning as in RCW
21 70.125.030.

22 ~~((13))~~ (14) "Telemedicine" means the delivery of health care
23 services through the use of interactive audio and video technology,
24 permitting real-time communication between the patient at the
25 originating site and the provider, for the purpose of diagnosis,
26 consultation, or treatment. "Telemedicine" ~~((does not include the use~~
27 ~~of))~~ includes audio-only ~~((telephone))~~ telemedicine, but does not
28 include facsimile~~((r))~~ or email.

29 ~~((14))~~ (15) "Victim of sexual assault" means a person who
30 alleges or is alleged to have been sexually assaulted and who
31 presents as a patient.

32 **Sec. 4.** RCW 71.24.335 and 2019 c 325 s 1019 are each amended to
33 read as follows:

34 (1) Upon initiation or renewal of a contract with the authority,
35 behavioral health administrative services organizations and managed
36 care organizations shall reimburse a provider for a behavioral health
37 service provided to a covered person who is under eighteen years old
38 through telemedicine or store and forward technology if:

1 (a) The behavioral health administrative services organization or
2 managed care organization in which the covered person is enrolled
3 provides coverage of the behavioral health service when provided in
4 person by the provider; (~~and~~)

5 (b) The behavioral health service is medically necessary; and

6 (c) Beginning January 1, 2023, for audio-only telemedicine, the
7 covered person has an established relationship with the provider.

8 (2)(a) If the service is provided through store and forward
9 technology there must be an associated visit between the covered
10 person and the referring provider. Nothing in this section prohibits
11 the use of telemedicine for the associated office visit.

12 (b) For purposes of this section, reimbursement of store and
13 forward technology is available only for those services specified in
14 the negotiated agreement between the behavioral health administrative
15 services organization, or managed care organization, and the
16 provider.

17 (3) An originating site for a telemedicine behavioral health
18 service subject to subsection (1) of this section means an
19 originating site as defined in rule by the department or the health
20 care authority.

21 (4) Any originating site, other than a home, under subsection (3)
22 of this section may charge a facility fee for infrastructure and
23 preparation of the patient. Reimbursement must be subject to a
24 negotiated agreement between the originating site and the behavioral
25 health administrative services organization, or managed care
26 organization, as applicable. A distant site or any other site not
27 identified in subsection (3) of this section may not charge a
28 facility fee.

29 (5) Behavioral health administrative services organizations and
30 managed care organizations may not distinguish between originating
31 sites that are rural and urban in providing the coverage required in
32 subsection (1) of this section.

33 (6) Behavioral health administrative services organizations and
34 managed care organizations may subject coverage of a telemedicine or
35 store and forward technology behavioral health service under
36 subsection (1) of this section to all terms and conditions of the
37 behavioral health administrative services organization or managed
38 care organization in which the covered person is enrolled, including,
39 but not limited to, utilization review, prior authorization,
40 deductible, copayment, or coinsurance requirements that are

1 applicable to coverage of a comparable behavioral health care service
2 provided in person.

3 (7) This section does not require a behavioral health
4 administrative services organization or a managed care organization
5 to reimburse:

6 (a) An originating site for professional fees;

7 (b) A provider for a behavioral health service that is not a
8 covered benefit; or

9 (c) An originating site or provider when the site or provider is
10 not a contracted provider.

11 (8) For purposes of this section:

12 (a) "Audio-only telemedicine" means the delivery of health care
13 services through the use of audio-only telephone technology,
14 permitting real-time communication between the patient at the
15 originating site and the provider, for the purpose of diagnosis,
16 consultation, or treatment. For purposes of this section only,
17 "audio-only telemedicine" does not include the use of facsimile or
18 email.

19 (b) "Distant site" means the site at which a physician or other
20 licensed provider, delivering a professional service, is physically
21 located at the time the service is provided through telemedicine;

22 ~~((b))~~ (c) "Established relationship" means the covered person
23 has had at least one in-person appointment within the past year with
24 the provider providing audio-only telemedicine or the covered person
25 was referred to the provider providing audio-only telemedicine by
26 another provider who has had at least one in-person appointment with
27 the covered person within the past year and has provided relevant
28 medical information to the provider providing audio-only
29 telemedicine.

30 (d) "Hospital" means a facility licensed under chapter 70.41,
31 71.12, or 72.23 RCW;

32 ~~((e))~~ (e) "Originating site" means the physical location of a
33 patient receiving behavioral health services through telemedicine;

34 ~~((d))~~ (f) "Provider" has the same meaning as in RCW 48.43.005;

35 ~~((e))~~ (g) "Store and forward technology" means use of an
36 asynchronous transmission of a covered person's medical or behavioral
37 health information from an originating site to the provider at a
38 distant site which results in medical or behavioral health diagnosis
39 and management of the covered person, and does not include the use of
40 audio-only telephone, facsimile, or email; and

1 (~~(f)~~) (h) "Telemedicine" means the delivery of health care or
2 behavioral health services through the use of interactive audio and
3 video technology, permitting real-time communication between the
4 patient at the originating site and the provider, for the purpose of
5 diagnosis, consultation, or treatment. For purposes of this section
6 only, "telemedicine" (~~(does not include the use of)~~) includes audio-
7 only (~~(telephone)~~) telemedicine, but does not include facsimile(~~(r)~~)
8 or email.

9 (9) The authority must adopt rules as necessary to implement the
10 provisions of this section.

11 **Sec. 5.** RCW 74.09.325 and 2020 c 92 s 3 are each amended to read
12 as follows:

13 (1)(a) Upon initiation or renewal of a contract with the
14 Washington state health care authority to administer a medicaid
15 managed care plan, a managed health care system shall reimburse a
16 provider for a health care service provided to a covered person
17 through telemedicine or store and forward technology if:

18 (i) The medicaid managed care plan in which the covered person is
19 enrolled provides coverage of the health care service when provided
20 in person by the provider;

21 (ii) The health care service is medically necessary;

22 (iii) The health care service is a service recognized as an
23 essential health benefit under section 1302(b) of the federal patient
24 protection and affordable care act in effect on January 1, 2015;
25 (~~and~~)

26 (iv) The health care service is determined to be safely and
27 effectively provided through telemedicine or store and forward
28 technology according to generally accepted health care practices and
29 standards, and the technology used to provide the health care service
30 meets the standards required by state and federal laws governing the
31 privacy and security of protected health information; and

32 (v) Beginning January 1, 2023, for audio-only telemedicine, the
33 covered person has an established relationship with the provider.

34 (b)(i) Except as provided in (b)(ii) of this subsection, upon
35 initiation or renewal of a contract with the Washington state health
36 care authority to administer a medicaid managed care plan, a managed
37 health care system shall reimburse a provider for a health care
38 service provided to a covered person through telemedicine (~~(at)~~) the
39 same (~~(rate as)~~) amount of compensation the managed health care

1 system would pay the provider if the health care service was provided
2 in person by the provider.

3 (ii) Hospitals, hospital systems, telemedicine companies, and
4 provider groups consisting of eleven or more providers may elect to
5 negotiate (~~(a reimbursement rate)~~) an amount of compensation for
6 telemedicine services that differs from the (~~(reimbursement rate)~~)
7 amount of compensation for in-person services.

8 (iii) For purposes of this subsection (1)(b), the number of
9 providers in a provider group refers to all providers within the
10 group, regardless of a provider's location.

11 (iv) A rural health clinic shall be reimbursed for audio-only
12 telemedicine at the managed care encounter rate.

13 (2) For purposes of this section, reimbursement of store and
14 forward technology is available only for those services specified in
15 the negotiated agreement between the managed health care system and
16 health care provider.

17 (3) An originating site for a telemedicine health care service
18 subject to subsection (1) of this section includes a:

- 19 (a) Hospital;
- 20 (b) Rural health clinic;
- 21 (c) Federally qualified health center;
- 22 (d) Physician's or other health care provider's office;
- 23 (e) (~~Community mental health center~~) Licensed or certified
24 behavioral health agency;
- 25 (f) Skilled nursing facility;
- 26 (g) Home or any location determined by the individual receiving
27 the service; or
- 28 (h) Renal dialysis center, except an independent renal dialysis
29 center.

30 (4) Except for subsection (3)(g) of this section, any originating
31 site under subsection (3) of this section may charge a facility fee
32 for infrastructure and preparation of the patient. Reimbursement for
33 a facility fee must be subject to a negotiated agreement between the
34 originating site and the managed health care system. A distant site
35 or any other site not identified in subsection (3) of this section
36 may not charge a facility fee.

37 (5) A managed health care system may not distinguish between
38 originating sites that are rural and urban in providing the coverage
39 required in subsection (1) of this section.

1 (6) A managed health care system may subject coverage of a
2 telemedicine or store and forward technology health service under
3 subsection (1) of this section to all terms and conditions of the
4 plan in which the covered person is enrolled including, but not
5 limited to, utilization review, prior authorization, deductible,
6 copayment, or coinsurance requirements that are applicable to
7 coverage of a comparable health care service provided in person.

8 (7) This section does not require a managed health care system to
9 reimburse:

10 (a) An originating site for professional fees;

11 (b) A provider for a health care service that is not a covered
12 benefit under the plan; or

13 (c) An originating site or health care provider when the site or
14 provider is not a contracted provider under the plan.

15 (8) For purposes of this section:

16 (a) "Audio-only telemedicine" means the delivery of health care
17 services through the use of audio-only telephone technology,
18 permitting real-time communication between the patient at the
19 originating site and the provider, for the purpose of diagnosis,
20 consultation, or treatment. For purposes of this section only,
21 "audio-only telemedicine" does not include the use of facsimile or
22 email.

23 (b) "Distant site" means the site at which a physician or other
24 licensed provider, delivering a professional service, is physically
25 located at the time the service is provided through telemedicine;

26 ~~((b))~~ (c) "Established relationship" means the covered person
27 has had at least one in-person appointment within the past year with
28 the provider providing audio-only telemedicine or the covered person
29 was referred to the provider providing audio-only telemedicine by
30 another provider who has had at least one in-person appointment with
31 the covered person within the past year and has provided relevant
32 medical information to the provider providing audio-only
33 telemedicine.

34 (d) "Health care service" has the same meaning as in RCW
35 48.43.005;

36 ~~((e))~~ (e) "Hospital" means a facility licensed under chapter
37 70.41, 71.12, or 72.23 RCW;

38 ~~((d))~~ (f) "Managed health care system" means any health care
39 organization, including health care providers, insurers, health care
40 service contractors, health maintenance organizations, health

1 insuring organizations, or any combination thereof, that provides
2 directly or by contract health care services covered under this
3 chapter and rendered by licensed providers, on a prepaid capitated
4 basis and that meets the requirements of section 1903(m)(1)(A) of
5 Title XIX of the federal social security act or federal demonstration
6 waivers granted under section 1115(a) of Title XI of the federal
7 social security act;

8 ~~((e))~~ (g) "Originating site" means the physical location of a
9 patient receiving health care services through telemedicine;

10 ~~((f))~~ (h) "Provider" has the same meaning as in RCW 48.43.005;

11 ~~((g))~~ (i) "Store and forward technology" means use of an
12 asynchronous transmission of a covered person's medical information
13 from an originating site to the health care provider at a distant
14 site which results in medical diagnosis and management of the covered
15 person, and does not include the use of audio-only telephone,
16 facsimile, or email; and

17 ~~((h))~~ (j) "Telemedicine" means the delivery of health care
18 services through the use of interactive audio and video technology,
19 permitting real-time communication between the patient at the
20 originating site and the provider, for the purpose of diagnosis,
21 consultation, or treatment. For purposes of this section only,
22 "telemedicine" ~~((does not include the use of))~~ includes audio-only
23 ~~((telephone))~~ telemedicine, but does not include facsimile~~((r))~~ or
24 email.

25 ~~((9) To measure the impact on access to care for underserved
26 communities and costs to the state and the medicaid managed health
27 care system for reimbursement of telemedicine services, the
28 Washington state health care authority, using existing data and
29 resources, shall provide a report to the appropriate policy and
30 fiscal committees of the legislature no later than December 31,
31 2018.))~~

32 NEW SECTION. Sec. 6. A new section is added to chapter 74.09
33 RCW to read as follows:

34 (1) The authority shall adopt rules regarding medicaid fee-for-
35 service reimbursement for services delivered through audio-only
36 telemedicine. Except as provided in subsection (2) of this section,
37 the rules must establish a manner of reimbursement for audio-only
38 telemedicine that is consistent with RCW 74.09.325.

1 (2) The rules shall require rural health clinics to be reimbursed
2 for audio-only telemedicine at the encounter rate.

3 (3) For purposes of this section, "audio-only telemedicine" means
4 the delivery of health care services through the use of audio-only
5 telephone technology, permitting real-time communication between a
6 patient at the originating site and the provider, for the purpose of
7 diagnosis, consultation, or treatment. For purposes of this section
8 only, "audio-only telemedicine" does not include the use of facsimile
9 or email.

10 NEW SECTION. **Sec. 7.** (1) The insurance commissioner, in
11 collaboration with the Washington state telehealth collaborative and
12 the health care authority, shall study and make recommendations
13 regarding:

14 (a) Preliminary utilization trends for audio-only telemedicine;

15 (b) Qualitative data from health carriers, including medicaid
16 managed care organizations, on the burden of compliance and
17 enforcement requirements for audio-only telemedicine;

18 (c) Preliminary information regarding whether requiring
19 reimbursement for audio-only telemedicine has affected the incidence
20 of fraud;

21 (d) Proposed methods to measure the impact of audio-only
22 telemedicine on access to health care services for historically
23 underserved communities and geographic areas;

24 (e) In consultation with the department of labor and industries,
25 the extent to which telemedicine reimbursement requirements should be
26 extended to industrial insurance and other programs administered by
27 the department of labor and industries;

28 (f) An evaluation of the relative costs to providers and
29 facilities of providing audio-only telemedicine services as compared
30 to audio-video telemedicine services and in-person services; and

31 (g) Any other issues the insurance commissioner deems
32 appropriate.

33 (2) The insurance commissioner must report his or her findings
34 and recommendations to the appropriate committees of the legislature
35 by November 15, 2023.

36 (3) This section expires January 1, 2024.

37 NEW SECTION. **Sec. 8.** If any part of this act is found to be in
38 conflict with federal requirements that are a prescribed condition to

1 the allocation of federal funds to the state, the conflicting part of
2 this act is inoperative solely to the extent of the conflict and with
3 respect to the agencies directly affected, and this finding does not
4 affect the operation of the remainder of this act in its application
5 to the agencies concerned. Rules adopted under this act must meet
6 federal requirements that are a necessary condition to the receipt of
7 federal funds by the state.

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