

ESSB 5385 - H COMM AMD
By Committee on Appropriations

ADOPTED 03/05/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 48.43.735 and 2017 c 219 s 1 are each amended to
4 read as follows:

5 (1) (a) For health plans issued or renewed on or after January 1,
6 2017, a health carrier shall reimburse a provider for a health care
7 service provided to a covered person through telemedicine or store
8 and forward technology if:

9 ~~((a))~~ (i) The plan provides coverage of the health care service
10 when provided in person by the provider;

11 ~~((b))~~ (ii) The health care service is medically necessary;

12 ~~((c))~~ (iii) The health care service is a service recognized as
13 an essential health benefit under section 1302(b) of the federal
14 patient protection and affordable care act in effect on January 1,
15 2015; and

16 ~~((d))~~ (iv) The health care service is determined to be safely
17 and effectively provided through telemedicine or store and forward
18 technology according to generally accepted health care practices and
19 standards, and the technology used to provide the health care service
20 meets the standards required by state and federal laws governing the
21 privacy and security of protected health information.

22 (b) (i) Except as provided in (b) (ii) of this subsection, for
23 health plans issued or renewed on or after January 1, 2021, a health
24 carrier shall reimburse a provider for a health care service provided
25 to a covered person through telemedicine at the same rate as if the
26 health care service was provided in person by the provider.

27 (ii) Hospitals, hospital systems, telemedicine companies, and
28 provider groups consisting of eleven or more providers may elect to
29 negotiate a reimbursement rate for telemedicine services that differs
30 from the reimbursement rate for in-person services.

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

4 ~~(2) ((a) If the service is provided through store and forward~~
5 ~~technology there must be an associated office visit between the~~
6 ~~covered person and the referring health care provider. Nothing in~~
7 ~~this section prohibits the use of telemedicine for the associated~~
8 ~~office visit.~~

9 ~~(b))~~ For purposes of this section, reimbursement of store and
10 forward technology is available only for those covered services
11 specified in the negotiated agreement between the health carrier and
12 the health care provider.

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

15 (a) Hospital;

16 (b) Rural health clinic;

17 (c) Federally qualified health center;

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

19 (e) Community mental health center;

20 (f) Skilled nursing facility;

21 (g) Home or any location determined by the individual receiving
22 the service; or

23 (h) Renal dialysis center, except an independent renal dialysis
24 center.

25 (4) Except for subsection (3)(g) of this section, any originating
26 site under subsection (3) of this section may charge a facility fee
27 for infrastructure and preparation of the patient. Reimbursement for
28 a facility fee must be subject to a negotiated agreement between the
29 originating site and the health carrier. A distant site or any other
30 site not identified in subsection (3) of this section may not charge
31 a facility fee.

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

35 (6) A health carrier may subject coverage of a telemedicine or
36 store and forward technology health service under subsection (1) of
37 this section to all terms and conditions of the plan in which the
38 covered person is enrolled including, but not limited to, utilization
39 review, prior authorization, deductible, copayment, or coinsurance

1 requirements that are applicable to coverage of a comparable health
2 care service provided in person.

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

4 (a) An originating site for professional fees;

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

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

9 (8) For purposes of this section:

10 (a) "Distant site" means the site at which a physician or other
11 licensed provider, delivering a professional service, is physically
12 located at the time the service is provided through telemedicine;

13 (b) "Health care service" has the same meaning as in RCW
14 48.43.005;

15 (c) "Hospital" means a facility licensed under chapter 70.41,
16 71.12, or 72.23 RCW;

17 (d) "Originating site" means the physical location of a patient
18 receiving health care services through telemedicine;

19 (e) "Provider" has the same meaning as in RCW 48.43.005;

20 (f) "Store and forward technology" means use of an asynchronous
21 transmission of a covered person's medical information from an
22 originating site to the health care provider at a distant site which
23 results in medical diagnosis and management of the covered person,
24 and does not include the use of audio-only telephone, facsimile, or
25 email; and

26 (g) "Telemedicine" means the delivery of health care services
27 through the use of interactive audio and video technology, permitting
28 real-time communication between the patient at the originating site
29 and the provider, for the purpose of diagnosis, consultation, or
30 treatment. For purposes of this section only, "telemedicine" does not
31 include the use of audio-only telephone, facsimile, or email.

32 **Sec. 2.** RCW 41.05.700 and 2018 c 260 s 30 are each amended to
33 read as follows:

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

1 ~~((a))~~ (i) The plan provides coverage of the health care service
2 when provided in person by the provider;

3 ~~((b))~~ (ii) The health care service is medically necessary;

4 ~~((c))~~ (iii) The health care service is a service recognized as
5 an essential health benefit under section 1302(b) of the federal
6 patient protection and affordable care act in effect on January 1,
7 2015; and

8 ~~((d))~~ (iv) The health care service is determined to be safely
9 and effectively provided through telemedicine or store and forward
10 technology according to generally accepted health care practices and
11 standards, and the technology used to provide the health care service
12 meets the standards required by state and federal laws governing the
13 privacy and security of protected health information.

14 (b)(i) Except as provided in (b)(ii) of this subsection, a health
15 plan offered to employees, school employees, and their covered
16 dependents under this chapter issued or renewed on or after January
17 1, 2021, shall reimburse a provider for a health care service
18 provided to a covered person through telemedicine at the same rate as
19 if the health care service was provided in person by the provider.

20 (ii) Hospitals, hospital systems, telemedicine companies, and
21 provider groups consisting of eleven or more providers may elect to
22 negotiate a reimbursement rate for telemedicine services that differs
23 from the reimbursement rate for in-person services.

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

27 ~~(2) ((a) If the service is provided through store and forward~~
28 ~~technology there must be an associated office visit between the~~
29 ~~covered person and the referring health care provider. Nothing in~~
30 ~~this section prohibits the use of telemedicine for the associated~~
31 ~~office visit.~~

32 ~~(b))~~ For purposes of this section, reimbursement of store and
33 forward technology is available only for those covered services
34 specified in the negotiated agreement between the health plan and
35 health care provider.

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

38 (a) Hospital;

39 (b) Rural health clinic;

40 (c) Federally qualified health center;

- 1 (d) Physician's or other health care provider's office;
- 2 (e) Community mental health center;
- 3 (f) Skilled nursing facility;
- 4 (g) Home or any location determined by the individual receiving
- 5 the service; or
- 6 (h) Renal dialysis center, except an independent renal dialysis
- 7 center.

8 (4) Except for subsection (3)(g) of this section, any originating
9 site under subsection (3) of this section may charge a facility fee
10 for infrastructure and preparation of the patient. Reimbursement for
11 a facility fee must be subject to a negotiated agreement between the
12 originating site and the health plan. A distant site or any other
13 site not identified in subsection (3) of this section may not charge
14 a facility fee.

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

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

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

- 25 (a) An originating site for professional fees;
- 26 (b) A provider for a health care service that is not a covered
- 27 benefit under the plan; or
- 28 (c) An originating site or health care provider when the site or
- 29 provider is not a contracted provider under the plan.

30 (8) For purposes of this section:

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

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

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

38 (d) "Originating site" means the physical location of a patient
39 receiving health care services through telemedicine;

40 (e) "Provider" has the same meaning as in RCW 48.43.005;

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

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

13 **Sec. 3.** RCW 74.09.325 and 2017 c 219 s 3 are each amended to
14 read as follows:

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

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

23 ~~((b))~~ (ii) The health care service is medically necessary;

24 ~~((c))~~ (iii) The health care service is a service recognized as
25 an essential health benefit under section 1302(b) of the federal
26 patient protection and affordable care act in effect on January 1,
27 2015; and

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

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 same

1 rate as if the health care service was provided in person by the
2 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 for telemedicine services that differs
6 from the reimbursement rate for in-person services.

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

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

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

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

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

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

38 (5) A managed health care system may not distinguish between
39 originating sites that are rural and urban in providing the coverage
40 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) "Distant site" means the site at which a physician or other
17 licensed provider, delivering a professional service, is physically
18 located at the time the service is provided through telemedicine;

19 (b) "Health care service" has the same meaning as in RCW
20 48.43.005;

21 (c) "Hospital" means a facility licensed under chapter 70.41,
22 71.12, or 72.23 RCW;

23 (d) "Managed health care system" means any health care
24 organization, including health care providers, insurers, health care
25 service contractors, health maintenance organizations, health
26 insuring organizations, or any combination thereof, that provides
27 directly or by contract health care services covered under this
28 chapter and rendered by licensed providers, on a prepaid capitated
29 basis and that meets the requirements of section 1903(m)(1)(A) of
30 Title XIX of the federal social security act or federal demonstration
31 waivers granted under section 1115(a) of Title XI of the federal
32 social security act;

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

35 (f) "Provider" has the same meaning as in RCW 48.43.005;

36 (g) "Store and forward technology" means use of an asynchronous
37 transmission of a covered person's medical information from an
38 originating site to the health care provider at a distant site which
39 results in medical diagnosis and management of the covered person,

1 and does not include the use of audio-only telephone, facsimile, or
2 email; and

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

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

15 **Sec. 4.** RCW 28B.20.830 and 2018 c 256 s 1 are each amended to
16 read as follows:

17 (1) The collaborative for the advancement of telemedicine is
18 created to enhance the understanding and use of health services
19 provided through telemedicine and other similar models in Washington
20 state. The collaborative shall be hosted by the University of
21 Washington telehealth services and shall be comprised of one member
22 from each of the two largest caucuses of the senate and the house of
23 representatives, and representatives from the academic community,
24 hospitals, clinics, and health care providers in primary care and
25 specialty practices, carriers, and other interested parties.

26 (2) By July 1, 2016, the collaborative shall be convened. The
27 collaborative shall develop recommendations on improving
28 reimbursement and access to services, including originating site
29 restrictions, provider to provider consultative models, and
30 technologies and models of care not currently reimbursed; identify
31 the existence of telemedicine best practices, guidelines, billing
32 requirements, and fraud prevention developed by recognized medical
33 and telemedicine organizations; and explore other priorities
34 identified by members of the collaborative. After review of existing
35 resources, the collaborative shall explore and make recommendations
36 on whether to create a technical assistance center to support
37 providers in implementing or expanding services delivered through
38 telemedicine technologies.

1 (3) The collaborative must submit an initial progress report by
2 December 1, 2016, with follow-up policy reports including
3 recommendations by December 1, 2017, December 1, 2018, and December
4 1, 2021. The reports shall be shared with the relevant professional
5 associations, governing boards or commissions, and the health care
6 committees of the legislature.

7 (4) The collaborative shall study store and forward technology,
8 with a focus on:

9 (a) Utilization;

10 (b) Whether store and forward technology should be paid for at
11 parity with in-person services;

12 (c) The potential for store and forward technology to improve
13 rural health outcomes in Washington state; and

14 (d) Ocular services.

15 (5) The meetings of the board shall be open public meetings, with
16 meeting summaries available on a web page.

17 ((+5)) (6) The future of the collaborative shall be reviewed by
18 the legislature with consideration of ongoing technical assistance
19 needs and opportunities. The collaborative terminates December 31,
20 2021.

21 NEW SECTION. Sec. 5. This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of
23 the state government and its existing public institutions, and takes
24 effect immediately."

25 Correct the title.

EFFECT: Adds an emergency clause.

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