

FINAL BILL REPORT

ESHB 1821

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Synopsis as Enacted

Brief Description: Concerning the definition of established relationship for purposes of audio-only telemedicine.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Schmick, Riccelli, Cody and Graham).

House Committee on Health Care & Wellness
Senate Committee on Health & Long Term Care

Background:

Health coverage offered by a health carrier, the Public Employees Benefits Board, the School Employees Benefits Board, a Medicaid managed care plan, or a behavioral health administrative services organization must reimburse providers for health care services provided through telemedicine or store-and-forward technology if:

- the services are covered services;
- the services are medically necessary;
- the services are essential health benefits under the federal Patient Protection and Affordable Care Act;
- the services are determined to be safely and effectively provided through telemedicine or store-and-forward technology according to generally accepted health care practices and standards; and
- the technology meets state and federal standards governing the privacy and security of protected health information.

Additional requirements apply for audio-only telemedicine, including that the provider have an established relationship with the patient. An established relationship exists if the person has had at least one in-person appointment within the past year with the audio-only telemedicine provider or a provider in the same clinic or the covered person was referred by another provider who has had at least one in-person appointment with the person within the past year and has given relevant medical information to the audio-only telemedicine

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provider. The established relationship requirement takes effect January 1, 2023.

In 2021 the Collaborative for the Advancement of Telemedicine (Collaborative) was directed to study the need for an established relationship for audio-only telemedicine. The Collaborative's recommendations included:

- changing the time period within which the previous appointment took place from one year to three years;
- allowing the previous appointment to take place via audio-video technology;
- allowing the appointment to be with a provider in the same medical group, in addition to the same clinic; and
- adding a requirement that the audio-only telemedicine provider have access to the patient's real-time or electronic medical record.

Summary:

The definition of "established relationship" for purposes of audio-only telemedicine is changed by:

- expanding the period within which a previous appointment took place from one year to three years for behavioral health services and two years for all other health care services;
- allowing the previous appointment to take place via audio-video technology—beginning January 1, 2024, the appointment must be in person for non-behavioral health care services;
- allowing the previous appointment to be with a provider in the same medical group or integrated delivery system, in addition to the same clinic; and
- requiring, in all circumstances where an established relationship is required, that the audio-only telemedicine provider have access to sufficient health records to ensure safe, effective, and appropriate care services.

For purposes of the provisions in the definition relating to behavioral health, behavioral health services are services included in the essential health benefits category of "Mental Health and Substance Use Disorder Services, Including Behavioral Health Treatment."

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
			(House refused to concur /asked Senate to recede)
Senate	49	0	(Senate receded/amended)
House	96	0	(House concurred)

Effective: June 9, 2022