

SENATE BILL REPORT

SB 5325

As of February 5, 2021

Title: An act relating to audio-only telemedicine.

Brief Description: Concerning audio-only telemedicine.

Sponsors: Senators Muzzall, Cleveland, Dozier, Frockt, Keiser, Randall, Rivers and Robinson.

Brief History:

Committee Activity: Health & Long Term Care: 2/05/21.

Brief Summary of Bill

- Adds audio-only telemedicine to the definition of telemedicine and requires provider reimbursement for the service.
- Requires an established patient-provider relationship for audio-only telemedicine reimbursement beginning January 1, 2023.
- Requires the Insurance Commissioner to complete a study of audio-only telemedicine.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: Greg Attanasio (786-7410)

Background: A health plan offered by a health carrier, a health plan offered to school or state employees and their dependents, a Medicaid managed care plan, and a behavioral health administrative services organization—for covered persons under 18 years of age—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

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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.

An originating site for telemedicine includes a hospital, rural health clinic, federally qualified health center, health care provider's office, community mental health center, skilled nursing center, renal dialysis center, or a home.

A health plan offered by a health carrier, a health plan offered to school or state employees, and a Medicaid managed care plan must reimburse a provider for a health care service provided through telemedicine at the same rate as if it was provided in person. Hospitals, hospital systems, telemedicine companies, and provider groups of 11 or more providers may negotiate a different reimbursement rate.

For purposes of these requirements, telemedicine does not include the use of audio-only telephone, facsimile, or e-mail.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): A health plan offered by a health carrier, a health plan offered to school or state employees and their dependents, a Medicaid managed care plan, and a behavioral health administrative services organization must reimburse providers for health care services provided through audio-only telemedicine. The requirements relating to audio-only telemedicine reimbursement are the same as for telemedicine, except, beginning January 1, 2023, for audio-only telemedicine the covered person must have an established relationship with the provider. 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 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 provider.

"Audio-only telemedicine" means the delivery of health care services through the use of audio-only telephone technology, permitting real-time communication between the patient at the originating site and the provider for purposes of diagnosis, consultation, or treatment.

Health plans offered by a health carrier, health plans offered to school or state employees and their dependents, and Medicaid managed care plans must reimburse a provider for a health care service provided to a covered person through telemedicine the same amount of compensation the carrier would pay the provider if the health care service was provided in person by the provider, except hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate an amount of

compensation for telemedicine services that differs from the amount of compensation for in-person services.

The Insurance Commissioner may adopt any rules necessary to implement telemedicine requirements relating to health carriers.

The Insurance Commissioner, in collaboration with the Washington State Telehealth Collaborative and the Health Care Authority must complete a study by November 15, 2023 on:

- utilization trends of audio-only telemedicine;
- compliance and enforcement burdens related to audio-only telemedicine;
- the incidence of fraud related to audio-only telemedicine;
- methods to measure impacts of audio-only telemedicine on underserved communities and areas;
- the extent to which telemedicine requirements should be extended to programs administered by the Department of Labor and Industries;
- the relative costs of providing audio-only telemedicine services; and
- any other issues deemed appropriate by the Insurance Commissioner.

Appropriation: None.

Fiscal Note: Requested on February 3, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony On Proposed Substitute: PRO: This bill recognizes that the phone can be a viable modality of telemedicine. Audio only is very important for chronic disease care and behavioral health. Audio-only telemedicine increases access in rural areas where other forms of telemedicine are a barrier to care. The bill addresses inequities in access to care.

OTHER: A prior in person meeting requirement for audio-only telemedicine is a barrier to care. Audio is equal to other modalities and the only lifeline for many people. The bill should take an equity approach to reimbursement instead of parity.

Persons Testifying: PRO: Senator Ron Muzzall, Prime Sponsor; Jane Beyer, Office of the Insurance Commissioner; Bob Cooper, National Association of Social Workers Washington Chapter & Washington Association of Drug Courts; Alan Fisher, Mid Valley Hospital; Stephanie Simpson, Bleeding Disorder Foundation of Washington; Jeb Shepard, Washington State Medical Association.

OTHER: Claudia Tucker, Teladoc Health, Inc.; Tom Holt, Zoom+ Care; Chris Bandoli,

Association of Washington Healthcare Plans; Marissa Ingalls, Coordinated Care; Courtney Smith, Kaiser Permanente; Dr. Judy Zerzan-Thul, Washington Health Care Authority.

Persons Signed In To Testify But Not Testifying: PRO: Stephanie Simpson, Bleeding Disorder Foundation of Washington; Lisa Thatcher, Washington State Hospital Association; Angela Ross, ND, Washington Association of Naturopathic Physicians.