

# SENATE BILL REPORT

## SB 5036

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As Passed Senate, February 1, 2023

**Title:** An act relating to extending the time frame in which real-time telemedicine using both audio and video technology may be used to establish a relationship for the purpose of providing audio-only telemedicine for certain health care services.

**Brief Description:** Concerning telemedicine.

**Sponsors:** Senators Muzzall, Holy, Van De Wege and Warnick.

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/12/23, 1/13/23 [DP].

**Floor Activity:** Passed Senate: 2/1/23, 48-0.

**Brief Summary of Bill**

- Extends the time frame in which real-time telemedicine using both audio and video technology may be used to establish a relationship for the purpose of providing audio-only telemedicine for certain health care services.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** Do pass.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Conway, Dhingra, Holy, Padden, Randall and Van De Wege.

**Staff:** Greg Attanasio (786-7410)

**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

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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 provider providing audio-only telemedicine has access to sufficient health records to ensure safe, effective, and appropriate care services and:

- for behavioral health services included as an essential health benefit, the covered person has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology with the provider or a provider within the same medical group, clinic, or integrated delivery system, or the the covered person was referred to the provider by another provider who had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology; and
- for all other health care services, the covered person has had, within the past two years, at least one in-person appointment, or, until January 1, 2024, at least one real-time interactive appointment using both audio and video technology with the provider or a provider within the same medical group, clinic, or integrated delivery system, or the the covered person was referred to the provider by another provider who has had, within the past two years, at least one in-person appointment, or, until January 1, 2024, at least one real-time interactive appointment using both audio and video technology.

**Summary of Bill:** The definition of "established relationship" for purposes of providing audio-only telemedicine for health care services other than behavioral health essential health benefits, is changed by allowing the previous appointment with the provider, or a provider within the same medical group, clinic, or integrated delivery system, to take place via audio-video technology until July 1, 2024, after which the appointment must take place in person.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**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:** PRO: The date extension will allow OIC, HCA, and the Telemedicine Collaborative more time to complete their study regarding the use of audio-only telemedicine. The underlying policy is complex and needs more consideration. This extension will allow more time for stakeholder engagement.

**Persons Testifying:** PRO: Senator Ron Muzzall, Prime Sponsor; Carrie Tellefson, Teladoc Health; Marissa Ingalls, Coordinated Care; Sean Graham, WA State Medical Assn; Lucy Laube, National Psoriasis Foundation.

**Persons Signed In To Testify But Not Testifying:** No one.