
SUBSTITUTE HOUSE BILL 1448

State of Washington 63rd Legislature 2013 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Bergquist, Ross, Cody, Harris, Green, Rodne, Tharinger, Johnson, Manweller, Magendanz, and Morrell)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to telemedicine; amending RCW 70.41.020 and
2 70.41.230; adding a new section to chapter 41.05 RCW; adding a new
3 section to chapter 48.43 RCW; creating a new section; and providing an
4 effective date.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 recognize the application of telemedicine as a reimbursable service by
8 which an individual receives medical services from a health care
9 provider without face-to-face contact with the provider. It is also
10 the intent of the legislature to reduce the compliance requirements on
11 hospitals when granting privileges or associations to telemedicine
12 physicians.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW
14 to read as follows:

15 (1) A health plan offered to employees and their covered dependents
16 under this chapter issued or renewed on or after the effective date of
17 this section must reimburse a provider for a health care service

1 provided to a covered person through telemedicine on the same basis and
2 at the same rate that the plan would reimburse the provider for the
3 same service provided through in-person contact if:

4 (a) The plan provides coverage of the health care service when
5 provided in-person by the provider;

6 (b) The health care service is medically necessary; and

7 (c) The health care service does not duplicate or supplant a health
8 care service that is available to the person in-person.

9 (2) An originating site for a telemedicine health care service
10 subject to subsection (1) of this section includes, but is not limited
11 to a:

12 (a) Hospital;

13 (b) Rural health clinic;

14 (c) Federally qualified health center;

15 (d) Physician's office;

16 (e) Community mental health center;

17 (f) Skilled nursing facility;

18 (g) Renal dialysis center; or

19 (h) Site where public health services are provided.

20 (3) The plan may not distinguish between originating sites that are
21 rural and urban in providing the coverage required in subsection (1) of
22 this section.

23 (4) The plan may subject coverage of a telemedicine health service
24 under subsection (1) of this section to all terms and conditions of the
25 plan, including, but not limited to, deductible, copayment, or
26 coinsurance requirements that are applicable to coverage of a
27 comparable health care service provided in-person.

28 (5) This section does not require the plan to reimburse a provider
29 for a health care service that is not a covered benefit under the plan
30 or to reimburse a health professional who is not a covered provider
31 under the plan.

32 (6) For purposes of this section:

33 (a) "Health care service" has the same meaning as in RCW 48.43.005;

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

36 (c) "Provider" has the same meaning as in RCW 48.43.005; and

37 (d) "Telemedicine" pertains to the delivery of health care services
38 and means the use of interactive audio, video, or electronic media for

1 the purpose of diagnosis, consultation, or treatment. "Telemedicine"
2 does not include the use of audio-only telephone, facsimile, or
3 electronic mail.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43 RCW
5 to read as follows:

6 (1) For health plans issued or renewed on or after the effective
7 date of this section, a health carrier shall reimburse a provider for
8 a health care service provided to a covered person through telemedicine
9 on the same basis and at the same rate that the health carrier would
10 reimburse the provider for the same service provided through in-person
11 contact if:

12 (a) The plan in which the covered person is enrolled provides
13 coverage of the health care service when provided in-person by the
14 provider;

15 (b) The health care service is medically necessary; and

16 (c) The health care service does not duplicate or supplant a health
17 care service that is available to the person in-person.

18 (2) An originating site for a telemedicine health care service
19 subject to subsection (1) of this section includes, but is not limited
20 to a:

21 (a) Hospital;

22 (b) Rural health clinic;

23 (c) Federally qualified health center;

24 (d) Physician's office;

25 (e) Community mental health center;

26 (f) Skilled nursing facility;

27 (g) Renal dialysis center; or

28 (h) Site where public health services are provided.

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

32 (4) A health carrier may subject coverage of a telemedicine health
33 service under subsection (1) of this section to all terms and
34 conditions of the plan in which the covered person is enrolled,
35 including, but not limited to, deductible, copayment, or coinsurance
36 requirements that are applicable to coverage of a comparable health
37 care service provided in-person.

1 (5) This section does not require a health carrier to reimburse a
2 provider for a health care service that is not a covered benefit under
3 the plan or to reimburse a health professional who is not a covered
4 provider under the plan.

5 (6) For purposes of this section:

6 (a) "Originating site" means the physical location of a patient
7 receiving health care services through telemedicine; and

8 (b) "Telemedicine" pertains to the delivery of health care services
9 and means the use of interactive audio, video, or electronic media for
10 the purpose of diagnosis, consultation, or treatment. "Telemedicine"
11 does not include the use of audio-only telephone, facsimile, or
12 electronic mail.

13 **Sec. 4.** RCW 70.41.020 and 2010 c 94 s 17 are each amended to read
14 as follows:

15 Unless the context clearly indicates otherwise, the following
16 terms, whenever used in this chapter, shall be deemed to have the
17 following meanings:

18 (1) "Department" means the Washington state department of health.

19 (2) "Emergency care to victims of sexual assault" means medical
20 examinations, procedures, and services provided by a hospital emergency
21 room to a victim of sexual assault following an alleged sexual assault.

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

27 (4) "Hospital" means any institution, place, building, or agency
28 which provides accommodations, facilities and services over a
29 continuous period of twenty-four hours or more, for observation,
30 diagnosis, or care, of two or more individuals not related to the
31 operator who are suffering from illness, injury, deformity, or
32 abnormality, or from any other condition for which obstetrical,
33 medical, or surgical services would be appropriate for care or
34 diagnosis. "Hospital" as used in this chapter does not include hotels,
35 or similar places furnishing only food and lodging, or simply
36 domiciliary care; nor does it include clinics, or physician's offices
37 where patients are not regularly kept as bed patients for twenty-four

1 hours or more; nor does it include nursing homes, as defined and which
2 come within the scope of chapter 18.51 RCW; nor does it include
3 birthing centers, which come within the scope of chapter 18.46 RCW; nor
4 does it include psychiatric hospitals, which come within the scope of
5 chapter 71.12 RCW; nor any other hospital, or institution specifically
6 intended for use in the diagnosis and care of those suffering from
7 mental illness, intellectual disability, convulsive disorders, or other
8 abnormal mental condition. Furthermore, nothing in this chapter or the
9 rules adopted pursuant thereto shall be construed as authorizing the
10 supervision, regulation, or control of the remedial care or treatment
11 of residents or patients in any hospital conducted for those who rely
12 primarily upon treatment by prayer or spiritual means in accordance
13 with the creed or tenets of any well recognized church or religious
14 denominations.

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

18 (6) "Secretary" means the secretary of health.

19 (7) "Sexual assault" has the same meaning as in RCW 70.125.030.

20 (8) "Victim of sexual assault" means a person who alleges or is
21 alleged to have been sexually assaulted and who presents as a patient.

22 (9) "Distant site" means the site at which a physician or other
23 licensed provider delivering a professional service is physically
24 located at the time the service is provided via telemedicine.

25 (10) "Originating site" means the physical location of the patient
26 at the time a professional service is being furnished via telemedicine.

27 (11) "Telemedicine" pertains to the delivery of health care
28 services and means the use of interactive audio, video, or electronic
29 media for the purpose of diagnosis, consultation, or treatment.
30 "Telemedicine" does not include the use of audio-only telephone,
31 facsimile, or electronic mail.

32 **Sec. 5.** RCW 70.41.230 and 1994 sp.s. c 9 s 744 are each amended to
33 read as follows:

34 (1) Except as provided in subsection (3) of this section, prior to
35 granting or renewing clinical privileges or association of any
36 physician or hiring a physician, a hospital or facility approved

1 pursuant to this chapter shall request from the physician and the
2 physician shall provide the following information:

3 (a) The name of any hospital or facility with or at which the
4 physician had or has any association, employment, privileges, or
5 practice;

6 (b) If such association, employment, privilege, or practice was
7 discontinued, the reasons for its discontinuation;

8 (c) Any pending professional medical misconduct proceedings or any
9 pending medical malpractice actions in this state or another state, the
10 substance of the allegations in the proceedings or actions, and any
11 additional information concerning the proceedings or actions as the
12 physician deems appropriate;

13 (d) The substance of the findings in the actions or proceedings and
14 any additional information concerning the actions or proceedings as the
15 physician deems appropriate;

16 (e) A waiver by the physician of any confidentiality provisions
17 concerning the information required to be provided to hospitals
18 pursuant to this subsection; and

19 (f) A verification by the physician that the information provided
20 by the physician is accurate and complete.

21 (2) Except as provided in subsection (3) of this section, prior to
22 granting privileges or association to any physician or hiring a
23 physician, a hospital or facility approved pursuant to this chapter
24 shall request from any hospital with or at which the physician had or
25 has privileges, was associated, or was employed, the following
26 information concerning the physician:

27 (a) Any pending professional medical misconduct proceedings or any
28 pending medical malpractice actions, in this state or another state;

29 (b) Any judgment or settlement of a medical malpractice action and
30 any finding of professional misconduct in this state or another state
31 by a licensing or disciplinary board; and

32 (c) Any information required to be reported by hospitals pursuant
33 to RCW 18.71.0195.

34 (3) In lieu of the requirements of subsections (1) and (2) of this
35 section, an originating site hospital may rely on a distant site
36 hospital's decision to grant or renew clinical privileges or
37 association of any physician providing telemedicine services if the

1 originating site hospital obtains reasonable assurances, through a
2 written agreement with the distant site hospital, that all of the
3 following provisions are met:

4 (a) The distant site hospital providing the telemedicine services
5 is a medicare participating hospital;

6 (b) Any physician providing telemedicine services at the distant
7 site hospital will be fully privileged to provide such services by the
8 distant site hospital;

9 (c) Any physician providing telemedicine services will hold and
10 maintain a valid license to perform such services issued or recognized
11 by the state of Washington; and

12 (d) With respect to any distant site physician who holds current
13 privileges at the originating site hospital whose patients are
14 receiving the telemedicine services, the originating site hospital has
15 evidence of an internal review of the distant site physician's
16 performance of these privileges and sends the distant site hospital
17 such performance information for use in the periodic appraisal of the
18 distant site physician. At a minimum, this information must include
19 all adverse events that result from the telemedicine services provided
20 by the distant site physician to the hospital's patients and all
21 complaints the originating site hospital has received about the distant
22 site physician.

23 (4) The medical quality assurance commission shall be advised
24 within thirty days of the name of any physician denied staff
25 privileges, association, or employment on the basis of adverse findings
26 under subsection (1) of this section.

27 ~~((+4))~~ (5) A hospital or facility that receives a request for
28 information from another hospital or facility pursuant to subsections
29 (1) ~~((and—(2)))~~ through (3) of this section shall provide such
30 information concerning the physician in question to the extent such
31 information is known to the hospital or facility receiving such a
32 request, including the reasons for suspension, termination, or
33 curtailment of employment or privileges at the hospital or facility.
34 A hospital, facility, or other person providing such information in
35 good faith is not liable in any civil action for the release of such
36 information.

37 ~~((+5))~~ (6) Information and documents, including complaints and
38 incident reports, created specifically for, and collected, and

1 maintained by a quality improvement committee are not subject to
2 discovery or introduction into evidence in any civil action, and no
3 person who was in attendance at a meeting of such committee or who
4 participated in the creation, collection, or maintenance of information
5 or documents specifically for the committee shall be permitted or
6 required to testify in any civil action as to the content of such
7 proceedings or the documents and information prepared specifically for
8 the committee. This subsection does not preclude: (a) In any civil
9 action, the discovery of the identity of persons involved in the
10 medical care that is the basis of the civil action whose involvement
11 was independent of any quality improvement activity; (b) in any civil
12 action, the testimony of any person concerning the facts which form the
13 basis for the institution of such proceedings of which the person had
14 personal knowledge acquired independently of such proceedings; (c) in
15 any civil action by a health care provider regarding the restriction or
16 revocation of that individual's clinical or staff privileges,
17 introduction into evidence information collected and maintained by
18 quality improvement committees regarding such health care provider; (d)
19 in any civil action, disclosure of the fact that staff privileges were
20 terminated or restricted, including the specific restrictions imposed,
21 if any and the reasons for the restrictions; or (e) in any civil
22 action, discovery and introduction into evidence of the patient's
23 medical records required by regulation of the department of health to
24 be made regarding the care and treatment received.

25 ~~((+6))~~ (7) Hospitals shall be granted access to information held
26 by the medical quality assurance commission and the board of
27 osteopathic medicine and surgery pertinent to decisions of the hospital
28 regarding credentialing and recredentialing of practitioners.

29 ~~((+7))~~ (8) Violation of this section shall not be considered
30 negligence per se.

31 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2014.

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