
SUBSTITUTE SENATE BILL 5385

State of Washington

66th Legislature

2019 Regular Session

By Senate Health & Long Term Care (originally sponsored by Senators Becker, Cleveland, Braun, O'Ban, Wilson, L., Brown, Warnick, Zeiger, Bailey, and Van De Wege)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to telemedicine payment parity; amending RCW
2 48.43.735, 41.05.700, 74.09.325, and 28B.20.830; and providing an
3 effective date.

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

5 **Sec. 1.** RCW 48.43.735 and 2017 c 219 s 1 are each amended to
6 read as follows:

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

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

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

14 ~~((c))~~ (iii) The health care service is a service recognized as
15 an essential health benefit under section 1302(b) of the federal
16 patient protection and affordable care act in effect on January 1,
17 2015; and

18 ~~((d))~~ (iv) The health care service is determined to be safely
19 and effectively provided through telemedicine or store and forward
20 technology according to generally accepted health care practices and
21 standards, and the technology used to provide the health care service

1 meets the standards required by state and federal laws governing the
2 privacy and security of protected health information.

3 (b) (i) Except as provided in (b) (ii) of this subsection, for
4 health plans issued or renewed on or after January 1, 2020, a health
5 carrier shall reimburse a provider for a health care service provided
6 to a covered person through telemedicine at the same rate as if the
7 health care service was provided in person by the provider.

8 (ii) Hospitals, hospital systems, telemedicine companies, and
9 provider groups consisting of eleven or more providers may negotiate
10 and agree to a reimbursement rate for telemedicine services that
11 differs from the reimbursement rate for in-person services.

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

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

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

23 (a) Hospital;

24 (b) Rural health clinic;

25 (c) Federally qualified health center;

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

27 (e) Community mental health center;

28 (f) Skilled nursing facility;

29 (g) Home or any location determined by the individual receiving
30 the service; or

31 (h) Renal dialysis center, except an independent renal dialysis
32 center.

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

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

4 (6) A health carrier may subject coverage of a telemedicine or
5 store and forward technology health service under subsection (1) of
6 this section to all terms and conditions of the plan in which the
7 covered person is enrolled including, but not limited to, utilization
8 review, prior authorization, deductible, copayment, or coinsurance
9 requirements that are applicable to coverage of a comparable health
10 care service provided in person.

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

12 (a) An originating site for professional fees;

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

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

17 (8) For purposes of this section:

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

21 (b) "Health care service" has the same meaning as in RCW
22 48.43.005;

23 (c) "Hospital" means a facility licensed under chapter 70.41,
24 71.12, or 72.23 RCW;

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

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

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

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

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

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

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

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

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

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

21 (b) (i) Except as provided in (b) (ii) of this subsection, a health
22 plan offered to employees, school employees, and their covered
23 dependents under this chapter issued or renewed on or after January
24 1, 2020, shall reimburse a provider for a health care service
25 provided to a covered person through telemedicine at the same rate as
26 if the 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 negotiate
29 and agree to a reimbursement rate for telemedicine services that
30 differs from the reimbursement rate for in-person services.

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

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

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

3 (a) Hospital;

4 (b) Rural health clinic;

5 (c) Federally qualified health center;

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

7 (e) Community mental health center;

8 (f) Skilled nursing facility;

9 (g) Home or any location determined by the individual receiving
10 the service; or

11 (h) Renal dialysis center, except an independent renal dialysis
12 center.

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

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

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

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

30 (a) An originating site for professional fees;

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

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

35 (8) For purposes of this section:

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

39 (b) "Health care service" has the same meaning as in RCW
40 48.43.005;

1 (c) "Hospital" means a facility licensed under chapter 70.41,
2 71.12, or 72.23 RCW;

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

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

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

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

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

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

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

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

29 ~~((c))~~ (iii) The health care service is a service recognized as
30 an essential health benefit under section 1302(b) of the federal
31 patient protection and affordable care act in effect on January 1,
32 2015; and

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

1 (b)(i) Except as provided in (b)(ii) of this subsection, upon
2 initiation or renewal of a contract with the Washington state health
3 care authority to administer a medicaid managed care plan, a managed
4 health care system shall reimburse a provider for a health care
5 service provided to a covered person through telemedicine at the same
6 rate as if the health care service was provided in person by the
7 provider.

8 (ii) Hospitals, hospital systems, telemedicine companies, and
9 provider groups consisting of eleven or more providers may negotiate
10 and agree to a reimbursement rate for telemedicine services that
11 differs from the reimbursement rate for in-person services.

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

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

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

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

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

1 (5) A managed health care system may not distinguish between
2 originating sites that are rural and urban in providing the coverage
3 required in subsection (1) of this section.

4 (6) A managed health care system may subject coverage of a
5 telemedicine or store and forward technology health service under
6 subsection (1) of this section to all terms and conditions of the
7 plan in which the covered person is enrolled including, but not
8 limited to, utilization review, prior authorization, deductible,
9 copayment, or coinsurance requirements that are applicable to
10 coverage of a comparable health care service provided in person.

11 (7) This section does not require a managed health care system to
12 reimburse:

13 (a) An originating site for professional fees;

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

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

18 (8) For purposes of this section:

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

22 (b) "Health care service" has the same meaning as in RCW
23 48.43.005;

24 (c) "Hospital" means a facility licensed under chapter 70.41,
25 71.12, or 72.23 RCW;

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

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

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

39 (g) "Store and forward technology" means use of an asynchronous
40 transmission of a covered person's medical information from an

1 originating site to the health care provider at a distant site which
2 results in medical diagnosis and management of the covered person,
3 and does not include the use of audio-only telephone, facsimile, or
4 email; and

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

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

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

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

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

1 providers in implementing or expanding services delivered through
2 telemedicine technologies.

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

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

11 (a) Utilization;

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

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

16 (d) Ocular services.

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

19 ((+5)) (6) The future of the collaborative shall be reviewed by
20 the legislature with consideration of ongoing technical assistance
21 needs and opportunities. The collaborative terminates December 31,
22 2021.

23 NEW SECTION. Sec. 5. This act takes effect January 1, 2020.

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