

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-1260.01 Shelby Ross x4510

SENATE BILL 20-212

SENATE SPONSORSHIP

Winter and Tate, Crowder

HOUSE SPONSORSHIP

Lontine and Soper, Landgraf, Will

Senate Committees

State, Veterans, & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING REIMBURSEMENT FOR HEALTH CARE SERVICES**
102 **PROVIDED THROUGH TELEHEALTH.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits a health insurance carrier from:

- ! Imposing specific requirements or limitations on the technologies used to deliver telehealth services;
- ! Requiring a covered person to have a previously established patient-provider relationship with a specific provider in order to receive medically necessary telehealth

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- services from the provider; or
- ! Imposing additional certification, location, or training requirements as a condition of reimbursement for telehealth services.

The bill specifies that, to the extent the state board of health adopts rules addressing supervision requirements for home care agencies, the rules must allow for supervision in person or by telemedicine or telehealth.

For purposes of the medicaid program, the bill:

- ! Clarifies the methods of communication that may be used for telemedicine;
- ! Requires the department of health care policy and financing to reimburse rural health clinics, the federal Indian health service, and federally qualified health centers for telemedicine services provided to medicaid recipients and to do so at the same rate as the department reimburses those services when provided in person; and
- ! Specifies that health care and mental health care services include physical therapy, occupational therapy, hospice care, home health care, and pediatric behavioral health care.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-123, **amend**
 3 (2)(e) and (4)(e); **repeal** (4)(c) and (4)(d); and **add** (4)(b.5) as follows:

4 **10-16-123. Telehealth - definitions.** (2) (e) A carrier shall not:

5 (I) Impose an annual dollar maximum on coverage for health care
 6 services covered under the health benefit plan that are delivered through
 7 telehealth, other than an annual dollar maximum that applies to the same
 8 services when performed by the same provider through in-person care;

9 (II) IMPOSE SPECIFIC REQUIREMENTS OR LIMITATIONS ON THE
 10 TECHNOLOGIES THAT A PROVIDER USES TO DELIVER TELEHEALTH
 11 SERVICES, INCLUDING LIMITATIONS ON AUDIO OR LIVE VIDEO
 12 TECHNOLOGIES;

13 (III) REQUIRE A COVERED PERSON TO HAVE A PREVIOUSLY

1 ESTABLISHED PATIENT-PROVIDER RELATIONSHIP WITH A SPECIFIC
2 PROVIDER IN ORDER FOR THE COVERED PERSON TO RECEIVE MEDICALLY
3 NECESSARY TELEHEALTH SERVICES FROM THE PROVIDER; OR

4 (IV) IMPOSE ADDITIONAL CERTIFICATION, LOCATION, OR TRAINING
5 REQUIREMENTS ON A PROVIDER AS A CONDITION OF REIMBURSING THE
6 PROVIDER FOR PROVIDING HEALTH CARE SERVICES THROUGH TELEHEALTH.

7 (4) As used in this section:

8 (b.5) "REMOTE MONITORING" MEANS THE USE OF SYNCHRONOUS
9 OR ASYNCHRONOUS TECHNOLOGIES TO COLLECT OR MONITOR MEDICAL
10 AND OTHER FORMS OF HEALTH DATA FOR INDIVIDUALS AT AN ORIGINATING
11 SITE AND ELECTRONICALLY TRANSMIT THAT INFORMATION TO PROVIDERS
12 AT A DISTANT SITE SO PROVIDERS CAN ASSESS, DIAGNOSE, CONSULT,
13 TREAT, EDUCATE, PROVIDE CARE MANAGEMENT, SUGGEST
14 SELF-MANAGEMENT, OR MAKE RECOMMENDATIONS REGARDING A
15 COVERED PERSON'S HEALTH CARE.

16 (c) ~~"Store-and-forward transfer" means the electronic transfer of~~
17 ~~a patient's medical information or an interaction between providers that~~
18 ~~occurs between an originating site and distant sites when the patient is not~~
19 ~~present.~~

20 (d) ~~"Synchronous interaction" means a real-time interaction~~
21 ~~between a patient located at the originating site and a provider located at~~
22 ~~a distant site.~~

23 (e) (f) "Telehealth" means a mode of delivery of health care
24 services through HIPAA-COMPLIANT telecommunications systems,
25 including information, electronic, and communication technologies AND
26 REMOTE MONITORING TECHNOLOGIES, to facilitate the assessment,
27 diagnosis, consultation, treatment, education, care management, or

1 self-management of a covered person's health care while the covered
2 person is located at an originating site and the provider is located at a
3 distant site. ~~The term includes:~~

4 ~~(A) Synchronous interactions;~~

5 ~~(B) Store-and-forward transfers; and~~

6 ~~(C) Services provided through HIPAA-compliant interactive~~
7 ~~audio-visual communication or the use of a HIPAA-compliant application~~
8 ~~via a cellular telephone.~~

9 ~~(H) "Telehealth" does not include the delivery of health care~~
10 ~~services via:~~

11 ~~(A) Voice-only telephone communication or text messaging;~~

12 ~~(B) Facsimile machine; or~~

13 ~~(C) Electronic mail systems.~~

14 **SECTION 2.** In Colorado Revised Statutes, 25-27.5-104, **add**
15 (1.5) as follows:

16 **25-27.5-104. Minimum standards for home care agencies and**
17 **home care placement agencies - rules - advisory committee.** (1.5) TO
18 THE EXTENT THE STATE BOARD RULES ADOPTED PURSUANT TO
19 SUBSECTION (1) OF THIS SECTION ADDRESS SUPERVISION REQUIREMENTS
20 FOR HOME CARE AGENCIES, THE RULES MUST ALLOW FOR SUPERVISION IN
21 PERSON OR BY TELEMEDICINE OR TELEHEALTH.

22 **SECTION 3.** In Colorado Revised Statutes, 25-54-102, **amend**
23 (2)(a) as follows:

24 **25-54-102. Statewide system for advance directives created -**
25 **rules.** (2) (a) Upon the request of an individual, or authorized surrogate
26 decision-maker, a qualified provider that has an agreement with the health
27 information organization network as required under the federal "Health

1 Insurance Portability and Accountability Act of 1996", Pub.L. 104-191,
2 as amended, may upload the individual's advance health care directive to
3 the system. The advance health care directive shall only be uploaded to
4 the system by a qualified provider after the individual or authorized
5 surrogate decision-maker has consulted with the qualified provider in
6 person or through telehealth, as defined in ~~section 10-16-123 (4)(e)(f)~~
7 SECTION 10-16-123 (4)(e). A qualified provider ~~who~~ THAT uploads an
8 advance health care directive to the system is not subject to civil or
9 criminal liability or regulatory sanction for action taken in accordance
10 with this subsection (2).

11 **SECTION 4.** In Colorado Revised Statutes, 25.5-5-320, **amend**
12 (1) introductory portion; and **add** (2.1), (2.5), and (6) as follows:

13 **25.5-5-320. Telemedicine - reimbursement - disclosure**
14 **statement - definition.** (1) On or after July 1, 2006, in-person contact
15 between a health care or mental health care provider and a patient ~~shall~~
16 ~~IS not be~~ required under the state's medical assistance program for health
17 care or mental health care services delivered through telemedicine that are
18 otherwise eligible for reimbursement under the program. TELEMEDICINE
19 MAY BE PROVIDED THROUGH INTERACTIVE AUDIO, INTERACTIVE VIDEO, OR
20 INTERACTIVE DATA COMMUNICATION, INCLUDING BUT NOT LIMITED TO
21 TELEPHONE, RELAY CALLS, INTERACTIVE AUDIOVISUAL MODALITIES, AND
22 LIVE CHAT, AS LONG AS THE TECHNOLOGIES ARE COMPLIANT WITH THE
23 FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT
24 OF 1996" PUB.L. 104-191, AS AMENDED. The HEALTH CARE OR MENTAL
25 HEALTH CARE services ~~shall be~~ ARE subject to reimbursement policies
26 developed pursuant to the medical assistance program. This section also
27 applies to managed care organizations that contract with the state

1 department pursuant to the statewide managed care system only to the
2 extent that:

3 (2.1) FOR THE PURPOSES OF REIMBURSEMENT FOR SERVICES
4 PROVIDED BY HOME CARE AGENCIES, AS DEFINED IN SECTION 25-27.5-102
5 (3), THE SERVICES MAY BE SUPERVISED THROUGH TELEMEDICINE OR
6 TELEHEALTH.

7 (2.5) (a) A TELEMEDICINE SERVICE MEETS THE DEFINITION OF A
8 FACE-TO-FACE ENCOUNTER FOR A RURAL HEALTH CLINIC, AS DEFINED IN
9 THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1395x (aa)(2). THE
10 REIMBURSEMENT RATE FOR A TELEMEDICINE SERVICE PROVIDED BY A
11 RURAL HEALTH CLINIC MUST BE SET AT A RATE THAT IS NO LESS THAN THE
12 MEDICAL ASSISTANCE PROGRAM RATE FOR A COMPARABLE FACE-TO-FACE
13 ENCOUNTER OR VISIT.

14 (b) A TELEMEDICINE SERVICE MEETS THE DEFINITION OF A
15 FACE-TO-FACE ENCOUNTER FOR A MEDICAL CARE PROGRAM OF THE
16 FEDERAL INDIAN HEALTH SERVICE. THE REIMBURSEMENT RATE FOR A
17 TELEMEDICINE SERVICE PROVIDED BY A MEDICAL CARE PROGRAM OF THE
18 FEDERAL INDIAN HEALTH SERVICE MUST BE SET AT A RATE THAT IS NO
19 LESS THAN THE MEDICAL ASSISTANCE PROGRAM RATE FOR A COMPARABLE
20 FACE-TO-FACE ENCOUNTER OR VISIT.

21 (c) A TELEMEDICINE SERVICE MEETS THE DEFINITION OF A
22 FACE-TO-FACE ENCOUNTER FOR A FEDERALLY QUALIFIED HEALTH CENTER,
23 AS DEFINED IN THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC.
24 1395x (aa)(4). THE REIMBURSEMENT RATE FOR A TELEMEDICINE SERVICE
25 PROVIDED BY A FEDERALLY QUALIFIED HEALTH CENTER MUST BE SET AT
26 A RATE THAT IS NO LESS THAN THE MEDICAL ASSISTANCE PROGRAM RATE
27 FOR A COMPARABLE FACE-TO-FACE ENCOUNTER OR VISIT.

1 (6) AS USED IN THIS SECTION, "HEALTH CARE OR MENTAL HEALTH
2 CARE SERVICES" INCLUDES SPEECH THERAPY, PHYSICAL THERAPY,
3 OCCUPATIONAL THERAPY, HOSPICE CARE, HOME HEALTH CARE, AND
4 PEDIATRIC BEHAVIORAL HEALTH CARE.

5 **SECTION 5. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, or safety.