

AMENDMENTS TO SENATE BILL NO. 739

Sponsor: SENATOR VOGEL

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1 Amend Bill, page 1, lines 1 through 3, by striking out all of
2 said lines and inserting

3 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
4 Statutes, in regulation of insurers and related persons
5 generally, providing for telemedicine.

6 Amend Bill, page 1, lines 6 through 17; pages 2 through 11,
7 lines 1 through 30; page 12, lines 1 through 12; by striking out
8 all of said lines on said pages and inserting

9 Section 1. Title 40 of the Pennsylvania Consolidated
10 Statutes is amended by adding a chapter to read:

11 CHAPTER 47
12 TELEMEDICINE

13 Sec.

14 4701. Scope of chapter.

15 4702. Definitions.

16 4703. Insurance coverage and reimbursement of telemedicine.

17 4704. Medical assistance and children's health insurance
18 program coverage.

19 4705. Standard of care.

20 § 4701. Scope of chapter.

21 This chapter relates to telemedicine.

22 § 4702. Definitions.

23 The following words and phrases when used in this chapter
24 shall have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Agreement with the Department of Human Services." As
27 follows:

28 (1) An agreement between an MA or CHIP managed care plan
29 and the Department of Human Services to manage the purchase
30 and provision of services.

31 (2) The term includes a county or multicounty agreement
32 with the Department of Human Services for behavioral health
33 services.

34 "Asynchronous interaction." An exchange of information
35 between a patient and a health care provider that does not occur

1 in real time, including the secure collection and transmission
2 of a patient's medical information, clinical data, clinical
3 images, laboratory results and self-reported medical history.

4 "Enrollee." An individual who is entitled to receive health
5 care services under an agreement with the Department of Human
6 Services.

7 "Health care facility." As follows:

8 (1) An entity that is licensed to provide a health care
9 service under Article X of the act of June 13, 1967 (P.L.31,
10 No.21), known as the Human Services Code, or the act of July
11 19, 1979 (P.L.130, No.48), known as the Health Care
12 Facilities Act.

13 (2) The term includes a federally qualified health
14 center and a rural health clinic as defined in 42 U.S.C. §
15 1395x(aa)(2) and (4) (relating to definitions).

16 "Health care provider." A health care facility, medical
17 equipment supplier or person that is licensed, certified or
18 otherwise regulated to provide health care services under the
19 laws of this Commonwealth or another state.

20 "Health care service." Any treatment, admission, procedure,
21 medical supplies and equipment or other services, including
22 behavioral health, prescribed or otherwise provided or proposed
23 to be provided by a health care provider to a patient for the
24 diagnosis, prevention, treatment, cure or relief of a health
25 condition, illness, injury or disease.

26 "Health Information Technology for Economic and Clinical
27 Health Act." The Health Information Technology for Economic and
28 Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and
29 467-496).

30 "Health insurance policy." As follows:

31 (1) A policy, subscriber contract, certificate or plan
32 issued by an insurer that provides medical or health care
33 coverage.

34 (2) The term includes a dental only and a vision only
35 policy.

36 (3) The term does not include:

37 (i) An accident only policy.

38 (ii) A credit only policy.

39 (iii) A long-term care or disability income policy.

40 (iv) A specified disease policy.

41 (v) A Medicare supplement policy.

42 (vi) A TRICARE policy, including a Civilian Health
43 and Medical Program of the Uniformed Services (CHAMPUS)
44 supplement policy.

45 (vii) A fixed indemnity policy.

46 (viii) A hospital indemnity policy.

47 (ix) A worker's compensation policy.

48 (x) An automobile medical payment policy under 75
49 Pa.C.S. (relating to vehicles).

50 (xi) A homeowner's insurance policy.

51 (xii) Any other similar policies providing for

1 limited benefits.

2 "Health Insurance Portability and Accountability Act of
3 1996." The Health Insurance Portability and Accountability Act
4 of 1996 (Public Law 104-191, 110 Stat. 1936).

5 "Insurer." An entity licensed by the department that offers,
6 issues or renews a health insurance policy and governed under
7 any of the following:

8 (1) The act of May 17, 1921 (P.L.682, No.284), known as
9 The Insurance Company Law of 1921, including section 630 and
10 Article XXIV of that act.

11 (2) The act of December 29, 1972 (P.L.1701, No.364),
12 known as the Health Maintenance Organization Act.

13 (3) Chapter 61 (relating to hospital plan corporations).

14 (4) Chapter 63 (relating to professional health services
15 plan corporations).

16 "Medical Assistance or Children's Health Insurance Program
17 managed care plan" or "MA or CHIP managed care plan." A health
18 care plan that uses a gatekeeper to manage the utilization of
19 health care services by medical assistance or children's health
20 insurance program enrollees and integrates the financing and
21 delivery of health care services.

22 "Participating network provider." A health care provider
23 that has entered a contractual or operating relationship with an
24 insurer or MA or CHIP managed care plan to participate in one or
25 more networks of the insurer or MA or CHIP managed care plan to
26 provide health care services under the terms of a health
27 insurance policy or an agreement with the Department of Human
28 Services.

29 "Remote patient monitoring." The collection of physiological
30 data from a patient in one location, which is transmitted via an
31 electronic communication technology to a health care provider in
32 a different location for use in care and related support of the
33 patient.

34 "State." A state of the United States, the District of
35 Columbia, the Commonwealth of Puerto Rico and any territory or
36 possession of the United States.

37 "Synchronous interaction." A two-way or multiple-way
38 exchange of information between a patient and a health care
39 provider that occurs in real time via audio or video
40 conferencing.

41 "Telemedicine." The delivery of health care services to a
42 patient by a health care provider who is at a different
43 location, through synchronous interactions, asynchronous
44 interactions or remote patient monitoring that meets the
45 requirements of the Health Insurance Portability and
46 Accountability Act of 1996, the Health Information Technology
47 for Economic and Clinical Health Act or other applicable Federal
48 law or law of this Commonwealth regarding the privacy and
49 security of electronic transmission of health information.
50 § 4703. Insurance coverage and reimbursement of telemedicine.

51 (a) General rule.--

1 (1) A health insurance policy issued, delivered,
2 executed or renewed in this Commonwealth shall provide
3 coverage for medically necessary health care services
4 provided through telemedicine and delivered by a
5 participating network provider who provides a covered health
6 care service through telemedicine consistent with the
7 insurer's medical policies. A health insurance policy may not
8 exclude a health care service from coverage solely because
9 the health care service is provided through telemedicine.

10 (2) Subject to paragraph (1), an insurer shall reimburse
11 a participating network provider for covered health care
12 services delivered through telemedicine and pursuant to a
13 health insurance policy in accordance with the terms and
14 conditions of the contract as negotiated between the insurer
15 and the participating network provider. A contract that
16 includes reimbursement for covered health care services
17 delivered through telemedicine may not prohibit reimbursement
18 solely because a health care service is provided by
19 telemedicine. Reimbursement may not be conditioned upon the
20 use of an exclusive proprietary telemedicine technology or
21 vendor.

22 (b) Applicability.--

23 (1) Subsection (a) does not apply if the telemedicine-
24 enabling device, technology or service fails to comply with
25 applicable law and regulatory guidance.

26 (2) For a health insurance policy for which either rates
27 or forms are required to be filed with the Federal Government
28 or the department, this section shall apply to a policy for
29 which a form or rate is first filed on or after 180 days
30 after the effective date of this paragraph.

31 (3) For a health insurance policy for which neither
32 rates nor forms are required to be filed with the Federal
33 Government or the department, this section shall apply to a
34 policy issued or renewed on or after 180 days after the
35 effective date of this paragraph.

36 (c) Construction.--This section may not be construed to:

37 (1) Prohibit an insurer from reimbursing other health
38 care providers for covered health care services provided
39 through telemedicine.

40 (2) Require an insurer to reimburse an out-of-network
41 health care provider for health care services provided
42 through telemedicine.

43 (3) Require an insurer to reimburse a participating
44 network provider if the provision of the health care service
45 through telemedicine would be inconsistent with the standard
46 of care.

47 § 4704. Medical assistance and children's health insurance
48 program coverage.

49 (a) MA or CHIP managed care plan payment.--

50 (1) MA or CHIP managed care plan payments shall be made
51 on behalf of enrollees for medically necessary health care

1 services provided through telemedicine, if all of the
2 following apply:

3 (i) The health care service would be covered through
4 an in-person encounter.

5 (ii) The provision of the health care service
6 through telemedicine is consistent with Federal law and
7 the laws of this Commonwealth, applicable regulations and
8 clinical guidance.

9 (iii) Federal approval, if necessary for the
10 provision of the health care service through
11 telemedicine, has been received by the Department of
12 Human Services.

13 (2) The MA or CHIP managed care plan shall reimburse a
14 participating network provider for covered health care
15 services delivered through telemedicine in accordance with
16 the terms and conditions of the contract as negotiated
17 between the MA or CHIP managed care plan, the participating
18 network provider and the agreement with the Department of
19 Human Services.

20 (b) Applicability.--Subsection (a) does not apply if the
21 telemedicine-enabling device, technology or service fails to
22 comply with applicable law and regulatory guidance.

23 (c) Construction.--This section may not be construed to:

24 (1) Prohibit a MA or CHIP managed care plan from making
25 payments on behalf of enrollees to other health care
26 providers for covered health care services provided through
27 telemedicine.

28 (2) Require a MA or CHIP managed care plan to reimburse
29 a participating network provider if the provision of the
30 health care service through telemedicine would be
31 inconsistent with the standard of care.

32 § 4705. Standard of care.

33 A health care provider providing health care services through
34 telemedicine shall be subject to the same standard of care that
35 would apply to the health care services in an in-person setting.

36 Section 2. This act shall take effect in 90 days.