

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 739 Session of 2023

INTRODUCED BY VOGEL, HAYWOOD, SANTARSIERO, LANGERHOLC, KANE, STEFANO, BARTOLOTTA, SCHWANK, COSTA, PENNYCUICK, J. WARD, LAUGHLIN, MARTIN, ROTHMAN, BAKER, YAW, AUMENT, ROBINSON, COLLETT, STREET, ARGALL AND BROWN, JUNE 2, 2023

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 3, 2024

AN ACT

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

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

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

8 CHAPTER 47

9 TELEMEDICINE

10 Sec.

11 4701. Scope of chapter.

12 4702. Definitions.

13 4703. Insurance coverage and reimbursement of telemedicine.

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14 4704. Medical assistance and children's health insurance
15 program coverage.

16 4705. Standard of care.

1 § 4701. Scope of chapter.

2 This chapter relates to telemedicine.

3 § 4702. Definitions.

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

7 "Agreement with the Department of Human Services." As  
8 follows:

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

12 (2) The term includes a county or multicounty agreement  
13 with the Department of Human Services for behavioral health  
14 services.

15 "Asynchronous interaction." An exchange of information  
16 between a patient and a health care provider that does not occur  
17 in real time, including the secure collection and transmission  
18 of a patient's medical information, clinical data, clinical  
19 images, laboratory results and self-reported medical history.

20 "CHILDREN'S HEALTH INSURANCE PROGRAM" OR "CHIP." THE <--  
21 CHILDREN'S HEALTH INSURANCE PROGRAM UNDER ARTICLE XXIII-A OF THE  
22 ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE INSURANCE  
23 COMPANY LAW OF 1921.

24 "Enrollee." An individual who is entitled to receive health  
25 care services under an agreement with the Department of Human  
26 Services.

27 "Health care facility." As follows:

28 (1) An entity that is licensed to provide a health care  
29 service under Article X of the act of June 13, 1967 (P.L.31,  
30 No.21), known as the Human Services Code, or the act of July

1 19, 1979 (P.L.130, No.48), known as the Health Care  
2 Facilities Act.

3 ~~(2) The term includes a federally qualified health~~ <--  
4 ~~center and a rural health clinic as defined in 42 U.S.C. §~~  
5 ~~1395x(aa) (2) and (4) (relating to definitions).~~

6 (2) A FEDERALLY QUALIFIED HEALTH CENTER AS DEFINED IN 42 <--  
7 U.S.C. § 1395X(AA) (4) (RELATING TO DEFINITIONS).

8 (3) A RURAL HEALTH CLINIC AS DEFINED IN 42 U.S.C. §  
9 1395XX(AA) (2).

10 "Health care provider." A health care facility, medical  
11 equipment supplier or person that is licensed, certified or  
12 otherwise regulated to provide health care services under the  
13 laws of this Commonwealth or another state.

14 "Health care service." Any treatment, admission, procedure,  
15 medical supplies and equipment or other services, including  
16 behavioral health, prescribed or otherwise provided or proposed  
17 to be provided by a health care provider to a patient for the  
18 diagnosis, prevention, treatment, cure or relief of a health  
19 condition, illness, injury or disease.

20 "Health Information Technology for Economic and Clinical  
21 Health Act." The Health Information Technology for Economic and  
22 Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and  
23 467-496).

24 "Health insurance policy." As follows:

25 (1) A policy, subscriber contract, certificate or plan  
26 issued by an insurer that provides medical or health care  
27 coverage.

28 (2) The term includes a dental only and a vision only  
29 policy.

30 (3) The term does not include:

1           (i) An accident only policy.

2           (ii) A credit only policy.

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

4           (iv) A specified disease policy.

5           (v) A Medicare supplement policy.

6           (vi) A TRICARE policy, including a Civilian Health  
7 and Medical Program of the Uniformed Services (CHAMPUS)  
8 supplement policy.

9           (vii) A fixed indemnity policy.

10          (viii) A hospital indemnity policy.

11          (ix) A worker's compensation policy.

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

14          (xi) A homeowner's insurance policy.

15          (xii) Any other similar policies providing for  
16 limited benefits.

17          "Health Insurance Portability and Accountability Act of  
18 1996." The Health Insurance Portability and Accountability Act  
19 of 1996 (Public Law 104-191, 110 Stat. 1936).

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

23           (1) ~~The act of May 17, 1921 (P.L.682, No.284), known as~~ <--  
24 ~~The Insurance Company Law of 1921, including section 630 and~~  
25 ~~Article XXIV of that act.~~

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

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

29           (4) Chapter 63 (relating to professional health services  
30 plan corporations).

1 "MEDICAL ASSISTANCE" OR "MA." THE MEDICAL ASSISTANCE PROGRAM <--  
2 ESTABLISHED UNDER ARTICLE IV OF THE HUMAN SERVICES CODE.

3 "Medical Assistance or Children's Health Insurance Program  
4 managed care plan" or "MA or CHIP managed care plan." A health  
5 care plan that uses a gatekeeper to manage the utilization of  
6 health care services by medical assistance or children's health  
7 insurance program enrollees and integrates the financing and  
8 delivery of health care services.

9 "MEDICAL POLICY." AS DEFINED IN SECTION 2102 OF THE <--  
10 INSURANCE COMPANY LAW OF 1921.

11 "Participating network provider." A health care provider  
12 that has entered a contractual or operating relationship with an  
13 insurer or MA or CHIP managed care plan to participate in one or  
14 more networks of the insurer or MA or CHIP managed care plan to  
15 provide health care services under the terms of a health  
16 insurance policy or an agreement with the Department of Human  
17 Services.

18 "Remote patient monitoring." The collection AND MONITORING <--  
19 of physiological data from a patient in one location, which is  
20 transmitted via an electronic communication technology to a  
21 health care provider in a different location for use in care and  
22 related support of the patient.

23 "State." A state of the United States, the District of  
24 Columbia, the Commonwealth of Puerto Rico and any territory or  
25 possession of the United States.

26 "Synchronous interaction." A two-way or multiple-way  
27 exchange of information between a patient and a health care  
28 provider that occurs in real time via audio or video  
29 conferencing.

30 "Telemedicine." The delivery of health care services to a

1 patient by a health care provider who is at a different  
2 location, through synchronous interactions, asynchronous  
3 interactions or remote patient monitoring that meets the  
4 requirements of the Health Insurance Portability and  
5 Accountability Act of 1996, the Health Information Technology  
6 for Economic and Clinical Health Act or other applicable Federal  
7 law or law of this Commonwealth regarding the privacy and  
8 security of electronic transmission of health information.

9 § 4703. Insurance coverage ~~and reimbursement~~ of telemedicine. <--

10 (a) General rule.--

11 (1) A health insurance policy ~~issued, delivered,~~ <--

12 ~~executed~~ OFFERED, ISSUED or renewed in this Commonwealth <--

13 shall provide coverage for medically necessary health care  
14 services provided through telemedicine and delivered by a  
15 participating network provider who provides a covered health  
16 care service through telemedicine consistent with the  
17 insurer's medical policies. A health insurance policy may not  
18 exclude a health care service from coverage solely because  
19 the health care service is provided through telemedicine.

20 (2) Subject to paragraph (1), an insurer shall PAY OR <--

21 reimburse a participating network provider for covered health  
22 care services delivered through telemedicine and pursuant to  
23 a health insurance policy in accordance with the terms and  
24 conditions of the contract as negotiated between the insurer  
25 and the participating network provider. A contract that  
26 includes PAYMENT OR reimbursement for covered health care <--

27 services delivered through telemedicine may not prohibit  
28 PAYMENT OR reimbursement solely because a health care service <--

29 is provided by telemedicine. ~~Reimbursement~~ PAYMENT OR <--  
30 REIMBURSEMENT may not be conditioned upon the use of an

1 exclusive OR proprietary telemedicine technology or vendor. <--

2 (b) Applicability.--

3 (1) Subsection (a) does not apply if the telemedicine-  
4 enabling device, technology or service fails to comply with  
5 applicable law and regulatory guidance. THE HEALTH INSURANCE <--  
6 PORTABILITY AND ACCOUNTABILITY ACT OF 1996, THE HEALTH  
7 INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT  
8 OR OTHER APPLICABLE STATUTE, REGULATION OR GUIDANCE.

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

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

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

20 (1) Prohibit an insurer from PAYING OR reimbursing other <--  
21 health care providers for covered health care services  
22 provided through telemedicine.

23 (2) Require an insurer to PAY OR reimburse an out-of- <--  
24 network health care provider for health care services  
25 provided through telemedicine.

26 (3) Require an insurer to PAY OR reimburse a <--  
27 participating network provider if the provision of the health  
28 care service through telemedicine would be inconsistent with  
29 the standard of care.

30 § 4704. Medical assistance and children's health insurance

1 program coverage.

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

3 (1) MA or CHIP managed care plan payments shall be made  
4 on behalf of enrollees for medically necessary health care  
5 services provided through telemedicine, if all of the  
6 following apply:

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

9 (ii) The provision of the health care service  
10 through telemedicine is consistent with Federal law and  
11 REGULATIONS, the laws of this Commonwealth, applicable <--  
12 regulations and ~~clinical~~ guidance. <--

13 (iii) Federal approval, if necessary for the  
14 provision of the health care service through  
15 telemedicine, has been received by the Department of  
16 Human Services.

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

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

27 (2) THE MA OR CHIP MANAGED CARE PLAN SHALL PAY A <--  
28 PARTICIPATING NETWORK PROVIDER FOR COVERED HEALTH CARE  
29 SERVICES DELIVERED THROUGH TELEMEDICINE IN ACCORDANCE WITH  
30 THE TERMS AND CONDITIONS OF BOTH:



1           (I) THE CONTRACT NEGOTIATED BETWEEN THE MA OR CHIP  
2           MANAGED CARE PLAN AND THE PARTICIPATING NETWORK PROVIDER;  
3           AND

4           (II) THE AGREEMENT WITH THE DEPARTMENT OF HUMAN  
5           SERVICES.

6           (B) APPLICABILITY.--

7           (1) SUBSECTION (A) DOES NOT APPLY IF THE TELEMEDICINE-  
8           ENABLING DEVICE, TECHNOLOGY OR SERVICE FAILS TO COMPLY WITH  
9           THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF  
10           1996, THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND  
11           CLINICAL HEALTH ACT OR OTHER APPLICABLE STATUTE, REGULATION  
12           OR GUIDANCE FROM THE FEDERAL GOVERNMENT OR THE DEPARTMENT OF  
13           HUMAN SERVICES.

14           (2) THIS SECTION SHALL APPLY TO MA AND CHIP MANAGED CARE  
15           PLANS BEGINNING ON OR AFTER JANUARY 1, 2026.

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

17           (1) Prohibit a MA or CHIP managed care plan from making  
18           payments on behalf of enrollees to other health care  
19           providers for covered health care services provided through  
20           telemedicine.

21           (2) Require a MA or CHIP managed care plan to reimburse <--  
22           a participating network provider if the provision PAY FOR A <--  
23           HEALTH CARE SERVICE IF THE DELIVERY of the health care  
24           service through telemedicine would be inconsistent with the  
25           standard of care.

26           § 4705. Standard of care.

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

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