
ENGROSSED 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 new sections; 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
18 provided to a covered person through telemedicine on the same basis and

1 at the same rate that the plan would reimburse the provider for the
2 same service provided through in-person contact, and must reimburse an
3 originating site for the infrastructure and preparation of the patient
4 for the telemedicine services, if:

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

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

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

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

13 (a) Hospital;

14 (b) Rural health clinic;

15 (c) Federally qualified health center;

16 (d) Physician's office;

17 (e) Community mental health center;

18 (f) Skilled nursing facility;

19 (g) Renal dialysis center; or

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

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

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

29 (5) This section does not require the plan: To reimburse an
30 originating site for professional fees, to reimburse a provider for a
31 health care service that is not a covered benefit under the plan, or to
32 reimburse a health professional who is not a covered provider under the
33 plan.

34 (6) For purposes of this section:

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

36 (b) "Originating site" means the physical location of a patient
37 receiving health care services through telemedicine, which prepares the

1 patient for the telemedicine services and provides the infrastructure
2 for the telemedicine services to occur;

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

4 (d) "Telemedicine" pertains to the delivery of health care services
5 and means the use of interactive audio, video, or electronic media for
6 the purpose of diagnosis, consultation, or treatment. For purposes of
7 this section only, "telemedicine" does not include the use of audio-
8 only telephone, facsimile, or electronic mail.

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

11 (1) For health plans issued or renewed on or after the effective
12 date of this section, a health carrier shall reimburse a provider for
13 a health care service provided to a covered person through telemedicine
14 on the same basis and at the same rate that the health carrier would
15 reimburse the provider for the same service provided through in-person
16 contact, and must reimburse an originating site for the infrastructure
17 and preparation of the patient for the telemedicine services, if:

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

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

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

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

27 (a) Hospital;

28 (b) Rural health clinic;

29 (c) Federally qualified health center;

30 (d) Physician's office;

31 (e) Community mental health center;

32 (f) Skilled nursing facility;

33 (g) Renal dialysis center; or

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

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

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

7 (5) This section does not require a health carrier: To reimburse
8 an originating site for professional fees, to reimburse a provider for
9 a health care service that is not a covered benefit under the plan, or
10 to reimburse a health professional who is not a covered provider under
11 the plan.

12 (6) For purposes of this section:

13 (a) "Originating site" means the physical location of a patient
14 receiving health care services through telemedicine, which prepares the
15 patient for the telemedicine services and provides the infrastructure
16 for the telemedicine services to occur; and

17 (b) "Telemedicine" pertains to the delivery of health care services
18 and means the use of interactive audio, video, or electronic media for
19 the purpose of diagnosis, consultation, or treatment. For purposes of
20 this section only, "telemedicine" does not include the use of audio-
21 only telephone, facsimile, or electronic mail.

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

24 Unless the context clearly indicates otherwise, the following
25 terms, whenever used in this chapter, shall be deemed to have the
26 following meanings:

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

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

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

36 (4) "Hospital" means any institution, place, building, or agency
37 which provides accommodations, facilities and services over a

1 continuous period of twenty-four hours or more, for observation,
2 diagnosis, or care, of two or more individuals not related to the
3 operator who are suffering from illness, injury, deformity, or
4 abnormality, or from any other condition for which obstetrical,
5 medical, or surgical services would be appropriate for care or
6 diagnosis. "Hospital" as used in this chapter does not include hotels,
7 or similar places furnishing only food and lodging, or simply
8 domiciliary care; nor does it include clinics, or physician's offices
9 where patients are not regularly kept as bed patients for twenty-four
10 hours or more; nor does it include nursing homes, as defined and which
11 come within the scope of chapter 18.51 RCW; nor does it include
12 birthing centers, which come within the scope of chapter 18.46 RCW; nor
13 does it include psychiatric hospitals, which come within the scope of
14 chapter 71.12 RCW; nor any other hospital, or institution specifically
15 intended for use in the diagnosis and care of those suffering from
16 mental illness, intellectual disability, convulsive disorders, or other
17 abnormal mental condition. Furthermore, nothing in this chapter or the
18 rules adopted pursuant thereto shall be construed as authorizing the
19 supervision, regulation, or control of the remedial care or treatment
20 of residents or patients in any hospital conducted for those who rely
21 primarily upon treatment by prayer or spiritual means in accordance
22 with the creed or tenets of any well recognized church or religious
23 denominations.

24 (5) "Person" means any individual, firm, partnership, corporation,
25 company, association, or joint stock association, and the legal
26 successor thereof.

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

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

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

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

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

36 (11) "Telemedicine" pertains to the delivery of health care
37 services and means the use of interactive audio, video, or electronic

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

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

6 (1) Except as provided in subsection (3) of this section, prior to
7 granting or renewing clinical privileges or association of any
8 physician or hiring a physician, a hospital or facility approved
9 pursuant to this chapter shall request from the physician and the
10 physician shall provide the following information:

11 (a) The name of any hospital or facility with or at which the
12 physician had or has any association, employment, privileges, or
13 practice;

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

16 (c) Any pending professional medical misconduct proceedings or any
17 pending medical malpractice actions in this state or another state, the
18 substance of the allegations in the proceedings or actions, and any
19 additional information concerning the proceedings or actions as the
20 physician deems appropriate;

21 (d) The substance of the findings in the actions or proceedings and
22 any additional information concerning the actions or proceedings as the
23 physician deems appropriate;

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

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

29 (2) Except as provided in subsection (3) of this section, prior to
30 granting privileges or association to any physician or hiring a
31 physician, a hospital or facility approved pursuant to this chapter
32 shall request from any hospital with or at which the physician had or
33 has privileges, was associated, or was employed, the following
34 information concerning the physician:

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

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

4 (c) Any information required to be reported by hospitals pursuant
5 to RCW 18.71.0195.

6 (3) In lieu of the requirements of subsections (1) and (2) of this
7 section, an originating site hospital may rely on a distant site
8 hospital's decision to grant or renew clinical privileges or
9 association of any physician providing telemedicine services if the
10 originating site hospital obtains reasonable assurances, through a
11 written agreement with the distant site hospital, that all of the
12 following provisions are met:

13 (a) The distant site hospital providing the telemedicine services
14 is a medicare participating hospital;

15 (b) Any physician providing telemedicine services at the distant
16 site hospital will be fully privileged to provide such services by the
17 distant site hospital;

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

21 (d) With respect to any distant site physician who holds current
22 privileges at the originating site hospital whose patients are
23 receiving the telemedicine services, the originating site hospital has
24 evidence of an internal review of the distant site physician's
25 performance of these privileges and sends the distant site hospital
26 such performance information for use in the periodic appraisal of the
27 distant site physician. At a minimum, this information must include
28 all adverse events that result from the telemedicine services provided
29 by the distant site physician to the hospital's patients and all
30 complaints the originating site hospital has received about the distant
31 site physician.

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

36 ((+4)) (5) A hospital or facility that receives a request for
37 information from another hospital or facility pursuant to subsections
38 (1) ((and-(2))) through (3) of this section shall provide such

1 information concerning the physician in question to the extent such
2 information is known to the hospital or facility receiving such a
3 request, including the reasons for suspension, termination, or
4 curtailment of employment or privileges at the hospital or facility.
5 A hospital, facility, or other person providing such information in
6 good faith is not liable in any civil action for the release of such
7 information.

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

34 ~~((+6))~~ (7) Hospitals shall be granted access to information held
35 by the medical quality assurance commission and the board of
36 osteopathic medicine and surgery pertinent to decisions of the hospital
37 regarding credentialing and recredentialing of practitioners.

1 (~~(7)~~) (8) Violation of this section shall not be considered
2 negligence per se.

3 NEW SECTION. **Sec. 6.** The medical quality assurance commission,
4 the nursing care quality assurance commission, and the board of
5 osteopathic medicine and surgery shall develop policies to allow health
6 care providers from outside of Washington state to deliver telemedicine
7 services to Washington state residents that will ensure the quality of
8 services delivered and the safety of those patients receiving those
9 services. Throughout the year, the medical quality assurance
10 commission, the nursing care quality assurance commission, and the
11 board of osteopathic medicine and surgery shall meet to coordinate
12 their efforts in developing policies in this area. By December 1,
13 2013, the department of health shall provide an update to the
14 appropriate committees of the legislature on the progress of these
15 efforts.

16 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act take effect
17 January 1, 2014.

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