
SENATE BILL 5385

State of Washington

66th Legislature

2019 Regular Session

By Senators Becker, Cleveland, Braun, O'Ban, Wilson, L., Brown, Warnick, Zeiger, and Bailey

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

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

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

6 (1) For health plans issued or renewed on or after January 1,
7 ((2017)) 2020, a health carrier shall reimburse a provider for a
8 health care service provided to a covered person through telemedicine
9 or store and forward technology at the same rate as if the health
10 care service was provided in person by the provider if:

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

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

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

17 (d) The health care service is determined to be safely and
18 effectively provided through telemedicine or store and forward
19 technology according to generally accepted health care practices and
20 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 ~~(2) ((a) If the service is provided through store and forward
4 technology there must be an associated office visit between the
5 covered person and the referring health care provider. Nothing in
6 this section prohibits the use of telemedicine for the associated
7 office visit.~~

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

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

14 (a) Hospital;

15 (b) Rural health clinic;

16 (c) Federally qualified health center;

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

18 (e) Community mental health center;

19 (f) Skilled nursing facility;

20 (g) Home or any location determined by the individual receiving
21 the service; or

22 (h) Renal dialysis center, except an independent renal dialysis
23 center.

24 (4) Except for subsection (3)(g) of this section, any originating
25 site under subsection (3) of this section may charge a facility fee
26 for infrastructure and preparation of the patient. Reimbursement for
27 a facility fee must be subject to a negotiated agreement between the
28 originating site and the health carrier. A distant site or any other
29 site not identified in subsection (3) of this section may not charge
30 a facility fee.

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

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

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

2 (a) An originating site for professional fees;

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

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

7 (8) For purposes of this section:

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

11 (b) "Health care service" has the same meaning as in RCW
12 48.43.005;

13 (c) "Hospital" means a facility licensed under chapter 70.41,
14 71.12, or 72.23 RCW;

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

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

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

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

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

32 (1) A health plan offered to employees, school employees, and
33 their covered dependents under this chapter issued or renewed on or
34 after January 1, (~~2017~~) 2020, shall reimburse a provider for a
35 health care service provided to a covered person through telemedicine
36 or store and forward technology at the same rate as if the health
37 care service was provided in person by the provider if:

38 (a) The plan provides coverage of the health care service when
39 provided in person by the provider;

1 (b) The health care service is medically necessary;

2 (c) The health care service is a service recognized as an
3 essential health benefit under section 1302(b) of the federal patient
4 protection and affordable care act in effect on January 1, 2015; and

5 (d) The health care service is determined to be safely and
6 effectively provided through telemedicine or store and forward
7 technology according to generally accepted health care practices and
8 standards, and the technology used to provide the health care service
9 meets the standards required by state and federal laws governing the
10 privacy and security of protected health information.

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

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

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

22 (a) Hospital;

23 (b) Rural health clinic;

24 (c) Federally qualified health center;

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

26 (e) Community mental health center;

27 (f) Skilled nursing facility;

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

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

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

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

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

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

11 (a) An originating site for professional fees;

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

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

16 (8) For purposes of this section:

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

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

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

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

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

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

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

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

3 (1) Upon initiation or renewal of a contract with the Washington
4 state health care authority to administer a medicaid managed care
5 plan, a managed health care system shall reimburse a provider for a
6 health care service provided to a covered person through telemedicine
7 or store and forward technology at the same rate as if the health
8 care service was provided in person by the provider if:

9 (a) The medicaid managed care plan in which the covered person is
10 enrolled provides coverage of the health care service when provided
11 in person by the provider;

12 (b) The health care service is medically necessary;

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

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

22 ~~(2) ((a) If the service is provided through store and forward~~
23 ~~technology there must be an associated visit between the covered~~
24 ~~person and the referring health care provider. Nothing in this~~
25 ~~section prohibits the use of telemedicine for the associated office~~
26 ~~visit.~~

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

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

33 (a) Hospital;

34 (b) Rural health clinic;

35 (c) Federally qualified health center;

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

37 (e) Community mental health center;

38 (f) Skilled nursing facility;

39 (g) Home or any location determined by the individual receiving
40 the service; or

1 (h) Renal dialysis center, except an independent renal dialysis
2 center.

3 (4) Except for subsection (3)(g) of this section, any originating
4 site under subsection (3) of this section may charge a facility fee
5 for infrastructure and preparation of the patient. Reimbursement for
6 a facility fee must be subject to a negotiated agreement between the
7 originating site and the managed health care system. A distant site
8 or any other site not identified in subsection (3) of this section
9 may not charge a facility fee.

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

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

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

22 (a) An originating site for professional fees;

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

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

27 (8) For purposes of this section:

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

31 (b) "Health care service" has the same meaning as in RCW
32 48.43.005;

33 (c) "Hospital" means a facility licensed under chapter 70.41,
34 71.12, or 72.23 RCW;

35 (d) "Managed health care system" means any health care
36 organization, including health care providers, insurers, health care
37 service contractors, health maintenance organizations, health
38 insuring organizations, or any combination thereof, that provides
39 directly or by contract health care services covered under this
40 chapter and rendered by licensed providers, on a prepaid capitated

1 basis and that meets the requirements of section 1903(m)(1)(A) of
2 Title XIX of the federal social security act or federal demonstration
3 waivers granted under section 1115(a) of Title XI of the federal
4 social security act;

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

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

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

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

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

26 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2020.

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