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H.B. No. 4

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the provision and delivery of health care services
3 under Medicaid and other public benefits programs using
4 telecommunications or information technology and to reimbursement
5 for some of those services.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 531.0216(i), Government Code, is amended
8 to read as follows:

9 (i) The executive commissioner by rule shall ensure that a
10 rural health clinic as defined by 42 U.S.C. Section 1396d(1)(1) and
11 a federally qualified health center as defined by 42 U.S.C. Section
12 1396d(1)(2)(B) may be reimbursed for the originating site facility
13 fee or the distant site practitioner fee or both, as appropriate,
14 for a covered telemedicine medical service or telehealth service
15 delivered by a health care provider to a Medicaid recipient. The
16 commission is required to implement this subsection only if the
17 legislature appropriates money specifically for that purpose. If
18 the legislature does not appropriate money specifically for that
19 purpose, the commission may, but is not required to, implement this
20 subsection using other money available to the commission for that
21 purpose.

22 SECTION 2. Subchapter B, Chapter 531, Government Code, is
23 amended by adding Section 531.02161 to read as follows:

24 Sec. 531.02161. PROVISION OF SERVICES THROUGH

1 TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY UNDER MEDICAID AND
2 OTHER PUBLIC BENEFITS PROGRAMS. (a) In this section, "case
3 management services" includes service coordination, service
4 management, and care coordination.

5 (b) To the extent permitted by federal law and to the extent
6 it is cost-effective and clinically effective, as determined by the
7 commission, the commission shall ensure that Medicaid recipients,
8 child health plan program enrollees, and other individuals
9 receiving benefits under a public benefits program administered by
10 the commission or a health and human services agency, regardless of
11 whether receiving benefits through a managed care delivery model or
12 another delivery model, have the option to receive services as
13 telemedicine medical services, telehealth services, or otherwise
14 using telecommunications or information technology, including the
15 following services:

16 (1) preventative health and wellness services;

17 (2) case management services, including targeted case
18 management services;

19 (3) subject to Subsection (c), behavioral health
20 services;

21 (4) occupational, physical, and speech therapy
22 services;

23 (5) nutritional counseling services; and

24 (6) assessment services, including nursing
25 assessments under the following Section 1915(c) waiver programs:

26 (A) the community living assistance and support
27 services (CLASS) waiver program;

1 (B) the deaf-blind with multiple disabilities
2 (DBMD) waiver program;

3 (C) the home and community-based services (HCS)
4 waiver program; and

5 (D) the Texas home living (TxHmL) waiver program.

6 (c) The commission by rule shall develop and implement a
7 system to ensure behavioral health services may be provided using
8 audio-only technology to a Medicaid recipient, a child health plan
9 program enrollee, or another individual receiving those services
10 under another public benefits program administered by the
11 commission or a health and human services agency.

12 (d) If the executive commissioner determines that providing
13 services other than behavioral health services is appropriate using
14 audio-only technology under a public benefits program administered
15 by the commission or a health and human services agency, in
16 accordance with applicable federal and state law, the executive
17 commissioner may by rule authorize the provision of those services
18 under the applicable program using that technology. In determining
19 whether the use of audio-only technology in a program is
20 appropriate under this subsection, the executive commissioner
21 shall consider whether using the technology would be cost-effective
22 and clinically effective.

23 SECTION 3. Section [531.02164](#), Government Code, is amended
24 by adding Subsection (f) to read as follows:

25 (f) To comply with state and federal requirements to provide
26 access to medically necessary services under the Medicaid managed
27 care program, a Medicaid managed care organization may reimburse

1 providers for home telemonitoring services provided to persons and
2 in circumstances other than those expressly authorized by this
3 section. In determining whether the managed care organization
4 should provide reimbursement for services under this subsection,
5 the organization shall consider whether reimbursement for the
6 service is cost-effective and providing the service is clinically
7 effective.

8 SECTION 4. Section 533.0061(b), Government Code, is amended
9 to read as follows:

10 (b) To the extent it is feasible, the provider access
11 standards established under this section must:

12 (1) distinguish between access to providers in urban
13 and rural settings; ~~and~~

14 (2) consider the number and geographic distribution of
15 Medicaid-enrolled providers in a particular service delivery area;
16 and

17 (3) consider and include the availability of
18 telehealth services and telemedicine medical services within the
19 provider network of a managed care organization.

20 SECTION 5. Section 533.008, Government Code, is amended by
21 adding Subsection (c) to read as follows:

22 (c) The executive commissioner shall adopt and publish
23 guidelines for Medicaid managed care organizations regarding how
24 organizations may communicate by text message with recipients
25 enrolled in the organization's managed care plan. The guidelines
26 must include standardized consent language to be used by
27 organizations in obtaining a recipient's consent to receive

1 communications by text message.

2 SECTION 6. Subchapter A, Chapter 533, Government Code, is
3 amended by adding Section 533.039 to read as follows:

4 Sec. 533.039. DELIVERY OF BENEFITS USING
5 TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY. (a) The commission
6 shall establish policies and procedures to improve access to care
7 under the Medicaid managed care program by encouraging the use of
8 telehealth services, telemedicine medical services, home
9 telemonitoring services, and other telecommunications or
10 information technology under the program.

11 (b) To the extent permitted by federal law, the commission
12 by rule shall establish policies and procedures that allow a
13 Medicaid managed care organization to conduct assessments of and
14 provide care coordination services to recipients receiving home and
15 community-based services using another telecommunications or
16 information technology if:

17 (1) the managed care organization determines using the
18 telecommunications or information technology is appropriate;

19 (2) the recipient requests that the assessment or
20 activity is provided using telecommunications or information
21 technology;

22 (3) an in-person assessment or activity is not
23 feasible because of the existence of an emergency or state of
24 disaster, including a public health emergency or natural disaster;
25 or

26 (4) the commission determines using the
27 telecommunications or information technology is appropriate under

1 the circumstances.

2 (c) If a managed care organization conducts an assessment of
3 or provides care coordination services to a recipient using
4 telecommunications or information technology, the managed care
5 organization shall:

6 (1) monitor the health care services provided to the
7 recipient for evidence of fraud, waste, and abuse; and

8 (2) determine whether additional social services or
9 supports are needed.

10 (d) To the extent permitted by federal law, the commission
11 shall allow a recipient who is assessed or provided with care
12 coordination services by a Medicaid managed care organization using
13 telecommunications or information technology to provide consent or
14 other authorizations to receive services verbally instead of in
15 writing.

16 (e) The commission shall determine categories of recipients
17 of home and community-based services who must receive in-person
18 visits. Except during circumstances described by Subsection
19 (b)(3), a Medicaid managed care organization shall, for a recipient
20 of home and community-based services for which the commission
21 requires in-person visits, conduct:

22 (1) at least one in-person visit with the recipient;
23 and

24 (2) additional in-person visits with the recipient if
25 necessary, as determined by the managed care organization.

26 SECTION 7. Section 62.1571, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 62.1571. TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH
2 SERVICES. (a) In providing covered benefits to a child, a health
3 plan provider must permit benefits to be provided through
4 telemedicine medical services and telehealth services in
5 accordance with policies developed by the commission.

6 (b) The policies must provide for:

7 (1) the availability of covered benefits
8 appropriately provided through telemedicine medical services or
9 telehealth services that are comparable to the same types of
10 covered benefits provided without the use of telemedicine medical
11 services or telehealth services; and

12 (2) the availability of covered benefits for different
13 services performed by multiple health care providers during a
14 single session of telemedicine medical services or telehealth
15 services, if the executive commissioner determines that delivery of
16 the covered benefits in that manner is cost-effective in comparison
17 to the costs that would be involved in obtaining the services from
18 providers without the use of telemedicine medical services or
19 telehealth services, including the costs of transportation and
20 lodging and other direct costs.

21 (d) In this section, "telehealth service" and "telemedicine
22 medical service" have [~~has~~] the meanings [~~meaning~~] assigned by
23 Section [531.001](#), Government Code.

24 SECTION 8. Not later than January 1, 2022, the Health and
25 Human Services Commission shall:

26 (1) implement Section 531.02161, Government Code, as
27 added by this Act; and

1 (2) publish the guidelines required by Section
2 533.008(c), Government Code, as added by this Act.

3 SECTION 9. If before implementing any provision of this Act
4 a state agency determines that a waiver or authorization from a
5 federal agency is necessary for implementation of that provision,
6 the agency affected by the provision shall request the waiver or
7 authorization and may delay implementing that provision until the
8 waiver or authorization is granted.

9 SECTION 10. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2021.