

AN ACT

relating to the provision and delivery of certain health care services in this state, including services under Medicaid and other public benefits programs, using telecommunications or information technology and to reimbursement for some of those services.

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

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

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

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

Sec. 531.02161. PROVISION OF SERVICES THROUGH

1 TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY UNDER MEDICAID AND
2 OTHER PUBLIC BENEFITS PROGRAMS. (a) In this section:

3 (1) "Behavioral health services" has the meaning
4 assigned by Section 533.00255.

5 (2) "Case management services" includes service
6 coordination, service management, and care coordination.

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

18 (1) preventive health and wellness services;

19 (2) case management services, including targeted case
20 management services;

21 (3) subject to Subsection (c), behavioral health
22 services;

23 (4) occupational, physical, and speech therapy
24 services;

25 (5) nutritional counseling services; and

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

1 (A) the community living assistance and support
2 services (CLASS) waiver program;

3 (B) the deaf-blind with multiple disabilities
4 (DBMD) waiver program;

5 (C) the home and community-based services (HCS)
6 waiver program; and

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

8 (c) To the extent permitted by state and federal law and to
9 the extent it is cost-effective and clinically effective, as
10 determined by the commission, the executive commissioner by rule
11 shall develop and implement a system that ensures behavioral health
12 services may be provided using an audio-only platform consistent
13 with Section 111.008, Occupations Code, to a Medicaid recipient, a
14 child health plan program enrollee, or another individual receiving
15 those services under another public benefits program administered
16 by the commission or a health and human services agency.

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

1 SECTION 3. Section 531.02164, Government Code, is amended
2 by adding Subsection (f) to read as follows:

3 (f) To comply with state and federal requirements to provide
4 access to medically necessary services under the Medicaid managed
5 care program, a Medicaid managed care organization may reimburse
6 providers for home telemonitoring services provided to persons who
7 have conditions and exhibit risk factors other than those expressly
8 authorized by this section. In determining whether the managed
9 care organization should provide reimbursement for services under
10 this subsection, the organization shall consider whether
11 reimbursement for the service is cost-effective and providing the
12 service is clinically effective.

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

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

17 (1) distinguish between access to providers in urban
18 and rural settings; ~~and~~

19 (2) consider the number and geographic distribution of
20 Medicaid-enrolled providers in a particular service delivery area;
21 and

22 (3) subject to Section 531.0216(c) and consistent with
23 Section 111.007, Occupations Code, consider and include the
24 availability of telehealth services and telemedicine medical
25 services within the provider network of a Medicaid managed care
26 organization.

27 SECTION 5. Section 533.008, Government Code, is amended by

1 adding Subsection (c) to read as follows:

2 (c) The executive commissioner shall adopt and publish
3 guidelines for Medicaid managed care organizations regarding how
4 organizations may communicate by text message or e-mail with
5 recipients enrolled in the organization's managed care plan using
6 the contact information provided in a recipient's application for
7 Medicaid benefits under Section 32.025(g)(2), Human Resources
8 Code, including updated information provided to the organization in
9 accordance with Section 32.025(h), Human Resources Code.

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

12 Sec. 533.039. DELIVERY OF BENEFITS USING
13 TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY. (a) The commission
14 shall establish policies and procedures to improve access to care
15 under the Medicaid managed care program by encouraging the use of
16 telehealth services, telemedicine medical services, home
17 telemonitoring services, and other telecommunications or
18 information technology under the program.

19 (b) To the extent permitted by federal law, the executive
20 commissioner by rule shall establish policies and procedures that
21 allow a Medicaid managed care organization to conduct assessments
22 and provide care coordination services using telecommunications or
23 information technology. In establishing the policies and
24 procedures, the executive commissioner shall consider:

25 (1) the extent to which a managed care organization
26 determines using the telecommunications or information technology
27 is appropriate;

1 (2) whether the recipient requests that the assessment
2 or service be provided using telecommunications or information
3 technology;

4 (3) whether the recipient consents to receiving the
5 assessment or service using telecommunications or information
6 technology;

7 (4) whether conducting the assessment, including an
8 assessment for an initial waiver eligibility determination, or
9 providing the service in person is not feasible because of the
10 existence of an emergency or state of disaster, including a public
11 health emergency or natural disaster; and

12 (5) whether the commission determines using the
13 telecommunications or information technology is appropriate under
14 the circumstances.

15 (c) If a Medicaid managed care organization conducts an
16 assessment of or provides care coordination services to a recipient
17 using telecommunications or information technology, the managed
18 care organization shall:

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

21 (2) determine whether additional social services or
22 supports are needed.

23 (d) To the extent permitted by federal law, the commission
24 shall allow a recipient who is assessed or provided with care
25 coordination services by a Medicaid managed care organization using
26 telecommunications or information technology to provide consent or
27 other authorizations to receive services verbally instead of in

1 writing.

2 (e) The commission shall determine categories of recipients
3 of home and community-based services who must receive in-person
4 visits. Except during circumstances described by Subsection
5 (b)(4), a Medicaid managed care organization shall, for a recipient
6 of home and community-based services for which the commission
7 requires in-person visits, conduct:

8 (1) at least one in-person visit with the recipient to
9 make an initial waiver eligibility determination; and

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

12 (f) Notwithstanding the provisions of this section, the
13 commission may, on a case-by-case basis, require a Medicaid managed
14 care organization to discontinue the use of telecommunications or
15 information technology for assessment or service coordination
16 services if the commission determines that the discontinuation is
17 in the best interest of the recipient.

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

20 Sec. 62.1571. TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH
21 SERVICES. (a) In providing covered benefits to a child, a health
22 plan provider must permit benefits to be provided through
23 telemedicine medical services and telehealth services in
24 accordance with policies developed by the commission.

25 (b) The policies must provide for:

26 (1) the availability of covered benefits
27 appropriately provided through telemedicine medical services or

1 telehealth services that are comparable to the same types of
2 covered benefits provided without the use of telemedicine medical
3 services or telehealth services; and

4 (2) the availability of covered benefits for different
5 services performed by multiple health care providers during a
6 single session of telemedicine medical services or telehealth
7 services, if the executive commissioner determines that delivery of
8 the covered benefits in that manner is cost-effective in comparison
9 to the costs that would be involved in obtaining the services from
10 providers without the use of telemedicine medical services or
11 telehealth services, including the costs of transportation and
12 lodging and other direct costs.

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

16 SECTION 8. Subchapter A, Chapter 462, Health and Safety
17 Code, is amended by adding Section 462.015 to read as follows:

18 Sec. 462.015. OUTPATIENT TREATMENT SERVICES PROVIDED USING
19 TELECOMMUNICATIONS OR INFORMATION TECHNOLOGY. (a) An outpatient
20 chemical dependency treatment program provided by a treatment
21 facility licensed under Chapter 464 may provide services under the
22 program to adult and adolescent clients, consistent with commission
23 rule, using telecommunications or information technology.

24 (b) The executive commissioner shall adopt rules to
25 implement this section.

26 SECTION 9. Section 462.025, Health and Safety Code, is
27 amended by adding Subsection (d-1) to read as follows:

1 (d-1) The rules governing the intake, screening, and
2 assessment procedures shall establish minimum standards for
3 providing intake, screening, and assessment using
4 telecommunications or information technology.

5 SECTION 10. Section 32.025, Human Resources Code, is
6 amended by amending Subsection (g) and adding Subsection (h) to
7 read as follows:

8 (g) The application form, including a renewal form, adopted
9 under this section must include:

10 (1) for an applicant who is pregnant, a question
11 regarding whether the pregnancy is the woman's first gestational
12 pregnancy; ~~and~~

13 (2) for all applicants, a question regarding the
14 applicant's preferences for being contacted by a managed care
15 organization or health plan provider that provides the applicant
16 with the option to be contacted~~[, as follows:~~

17 ~~["If you are determined eligible for benefits,~~
18 ~~your managed care organization or health plan provider may contact~~
19 ~~you]~~ by telephone, text message, or e-mail about health care
20 matters, including reminders for appointments and information
21 about immunizations or well check visits; and

22 (3) language that:

23 (A) notifies the applicant that, if determined
24 eligible for benefits, all preferred contact methods listed on the
25 application and renewal forms will be shared with the applicant's
26 managed care organization or health plan provider;

27 (B) allows the applicant to consent to being

1 contacted through the preferred contact methods by the applicant's
2 managed care organization or health plan provider; and

3 (C) explains the security risks of electronic
4 communication. [~~All preferred methods of contact listed on this~~
5 ~~application will be shared with your managed care organization or~~
6 ~~health plan provider. Please indicate below your preferred methods~~
7 ~~of contact in order of preference, with the number 1 being the most~~
8 ~~preferable method:~~

9 ~~[(1) By telephone (if contacted by cellular telephone,~~
10 ~~the call may be autodialed or prerecorded, and your carrier's usage~~
11 ~~rates may apply)? Yes No~~

12 ~~[Telephone number: _____~~

13 ~~[Order of preference: 1 2 3 (circle a number)~~

14 ~~[(2) By text message (a free autodialed service, but~~
15 ~~your carrier may charge message and data rates)? Yes No~~

16 ~~[Cellular telephone number: _____~~

17 ~~[Order of preference: 1 2 3 (circle a number)~~

18 ~~[(3) By e-mail? Yes No~~

19 ~~[E-mail address: _____~~

20 ~~[Order of preference: 1 2 3 (circle a number)].~~

21 (h) For purposes of Subsections (g)(2) and (3), the
22 commission shall implement a process to:

23 (1) transmit the applicant's preferred contact methods
24 and consent to the managed care organization or health plan
25 provider;

26 (2) allow an applicant to change the applicant's
27 preferences in the future, including providing for an option to opt

1 out of electronic communication; and

2 (3) communicate updated information to the managed
3 care organization or health plan provider.

4 SECTION 11. Not later than January 1, 2022, the Health and
5 Human Services Commission shall:

6 (1) adopt a revised application form for medical
7 assistance benefits that conforms to the requirements of Section
8 32.025(g), Human Resources Code, as amended by this Act;

9 (2) implement Section 531.02161, Government Code, as
10 added by this Act; and

11 (3) publish the guidelines required by Section
12 533.008(c), Government Code, as added by this Act.

13 SECTION 12. If before implementing any provision of this
14 Act a state agency determines that a waiver or authorization from a
15 federal agency is necessary for implementation of that provision,
16 the agency affected by the provision shall request the waiver or
17 authorization and may delay implementing that provision until the
18 waiver or authorization is granted.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 4 was passed by the House on April 15, 2021, by the following vote: Yeas 145, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4 on May 28, 2021, by the following vote: Yeas 147, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 4 was passed by the Senate, with amendments, on May 24, 2021, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor