By: Price, et al. (Senate Sponsor - Buckingham) H.B. No. 4

(In the Senate - Received from the House April 19, 2021; April 19, 2021, read first time and referred to Committee on Health & Human Services; May 20, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0; May 20, 2021, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	Absent	PNV
Kolkhorst	X			
Perry	X			
Blanco	X			
Buckingham			X	
Campbell	X			
Hall	X			
Miles	X			
Powell	X			
Seliger	X			

COMMITTEE SUBSTITUTE FOR H.B. No. 4 By: Miles

A BILL TO BE ENTITLED
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(l)(1) and a federally qualified health center as defined by 42 U.S.C. Section 1396d(l)(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 TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY UNDER MEDICAID AND OTHER PUBLIC BENEFITS PROGRAMS. (a) In this section:

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

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

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

(1) preventive health and wellness services;

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

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

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

(5) nutritional counseling services; and

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

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

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

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

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

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

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

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

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

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

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

(1) distinguish between access to providers in urban and rural settings; [~~and~~]

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

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

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

(c) The executive commissioner shall adopt and publish guidelines for Medicaid managed care organizations regarding how organizations may communicate by text message or e-mail with recipients enrolled in the organization's managed care plan using

the contact information provided in a recipient's application for Medicaid benefits under Section 32.025(g)(2), Human Resources Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 62.1571. TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES. (a) In providing covered benefits to a child, a health

plan provider must permit benefits to be provided through telemedicine medical services and telehealth services in accordance with policies developed by the commission.

(b) The policies must provide for:

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

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

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

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

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

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

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

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

SECTION 10. Section 32.025(g), Human Resources Code, is amended to read as follows:

(g) The application form adopted under this section must include:

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

(2) for all applicants, a question regarding the applicant's preferences for being contacted by a managed care organization or health care provider, as follows:

"If you are determined eligible for benefits, your managed care organization or health plan provider may contact you by telephone, text message, or e-mail about health care matters, including reminders for appointments and information about immunizations or well check visits. All preferred methods of contact listed on this application will be shared with your managed care organization or health plan provider. Please indicate below your preferred methods of contact in order of preference, with the number 1 being the most preferable method:

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

Telephone number: _____

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

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

Cellular telephone number: _____

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

(3) By e-mail? Yes No

E-mail address: _____

Order of preference: 1 2 3 (circle a number)".

SECTION 11. Not later than January 1, 2022, the Health and

Human Services Commission shall:

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

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

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

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

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