

AN ACT

relating to the regulation and reimbursement of health care services provided through telehealth or telemedicine under the state Medicaid program.

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

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

(b) In developing the system, the executive commissioner [~~commission~~] by rule shall:

(1) review programs and pilot projects in other states to determine the most effective method for reimbursement;

(2) establish billing codes and a fee schedule for services;

(3) provide for an approval process before a provider can receive reimbursement for services;

(4) consult with the [~~Texas~~] Department of State Health Services and the telemedicine advisory committee to establish procedures to:

(A) identify clinical evidence supporting delivery of health care services using a telecommunications system [~~by January 1, 2001~~];

(B) establish pilot studies for telemedicine medical service delivery; and

(C) annually review health care services,

1 considering new clinical findings, to determine whether
2 reimbursement for particular services should be denied or
3 authorized;

4 (5) establish pilot programs in designated areas of
5 this state under which the commission, in administering
6 government-funded health programs, may reimburse a health
7 professional participating in the pilot program for telehealth
8 services authorized under the licensing law applicable to the
9 health professional; ~~and~~

10 (6) establish a separate provider identifier for
11 telemedicine medical services providers; and

12 (7) establish a separate modifier for telemedicine
13 medical services eligible for reimbursement.

14 SECTION 2. Subchapter B, Chapter 531, Government Code, is
15 amended by adding Section 531.02163 to read as follows:

16 Sec. 531.02163. TELEPRESENTERS. (a) In this section,
17 "health professional" means an individual who:

18 (1) is licensed or certified in this state to perform
19 health care services; and

20 (2) is not a physician, registered nurse, advanced
21 practice nurse, or physician assistant.

22 (b) The executive commissioner by rule shall establish and
23 adopt minimum standards to permit the use of trained health
24 professionals in presenting patients who are Medicaid recipients
25 for telemedicine medical services consultations to be conducted by
26 physicians at distant sites.

27 (c) Notwithstanding Section 531.0217, the commission may

1 provide reimbursement under the state Medicaid program for a
2 telemedicine medical service initiated by a trained health
3 professional who complies with the minimum standards adopted under
4 this section.

5 (d) The commission shall provide reimbursement under the
6 state Medicaid program to a physician for overseeing a telemedicine
7 consultation at a telemedicine hub site if the telepresenter at the
8 remote site is another physician or is an advanced practice nurse,
9 registered nurse, or physician assistant acting under physician
10 delegation and supervision throughout the consultation.

11 SECTION 3. Section 531.0217, Government Code, is amended by
12 amending Subsection (i) and adding Subsection (i-1) to read as
13 follows:

14 (i) The Texas State Board of Medical Examiners, in
15 consultation with the commission, as appropriate, may adopt rules
16 as necessary to:

17 (1) ensure that appropriate care, including quality of
18 care, is provided to patients who receive telemedicine medical
19 services;

20 (2) prevent abuse and fraud through the use of
21 telemedicine medical services, including rules relating to filing
22 of claims and records required to be maintained in connection with
23 telemedicine; and

24 (3) ~~establish supervisory requirements for a service~~
25 ~~delegated to and performed by an individual who is not a physician,~~
26 ~~and~~

27 [~~4~~] define those situations when a face-to-face

1 consultation with a physician is required after a telemedicine
2 medical service.

3 (i-1) The Texas State Board of Medical Examiners, in
4 consultation with the commission and the Department of State Health
5 Services, as appropriate, shall adopt rules to establish
6 supervisory requirements for a physician delegating a service to be
7 performed by an individual who is not a physician, registered
8 nurse, advanced practice nurse, or physician assistant, including a
9 health professional who is authorized to be a telepresenter under
10 Section 531.02163. This section may not be construed as
11 authorizing the Texas State Board of Medical Examiners to regulate
12 another licensed or certified health care provider.

13 SECTION 4. Subsection (a), Section 531.02172, Government
14 Code, is amended to read as follows:

15 (a) The commissioner shall establish an advisory committee
16 to assist the commission in:

17 (1) evaluating policies for telemedical consultations
18 under Sections 531.02163 and [Section] 531.0217;

19 (2) evaluating policies for telemedicine medical
20 services or telehealth services pilot programs established under
21 Section 531.02171;

22 (3) ensuring the efficient and consistent development
23 and use of telecommunication technology for telemedical
24 consultations and telemedicine medical services or telehealth
25 services reimbursed under government-funded health programs;

26 (4) monitoring the type of programs receiving
27 reimbursement under Sections 531.0217 and 531.02171; and

1 (5) coordinating the activities of state agencies
2 concerned with the use of telemedical consultations and
3 telemedicine medical services or telehealth services.

4 SECTION 5. Subchapter B, Chapter 531, Government Code, is
5 amended by adding Section 531.02175 to read as follows:

6 Sec. 531.02175. PILOT PROGRAM FOR TELEHEALTH OR
7 TELEMEDICINE CONSULTATIONS FOR CERTAIN MEDICAID RECIPIENTS.

8 (a) In this section, "qualified mental health professional" means
9 an individual who:

10 (1) is credentialed to provide qualified mental health
11 professional community services; and

12 (2) holds a bachelor's or more advanced degree from an
13 accredited college or university with a minimum number of hours
14 that is equivalent to a major in psychology, social work, medicine,
15 nursing, rehabilitation, counseling, sociology, human growth and
16 development, physician assistant, gerontology, special education,
17 educational psychology, early childhood education, or early
18 childhood intervention.

19 (b) The executive commissioner by rule shall develop and the
20 Department of State Health Services shall implement a pilot program
21 under which Medicaid recipients in need of mental health services
22 are provided those services through telehealth or telemedicine.

23 (c) The executive commissioner shall design the pilot
24 program in a manner that:

25 (1) enhances the delivery of mental health services to
26 recipients;

27 (2) ensures adequate supervision of social workers,

1 psychologists, and other licensed professionals who are not
2 psychiatrists and who provide services through the use of
3 telehealth or telemedicine; and

4 (3) enables the state to determine whether extension
5 of the use of telehealth or telemedicine would improve the delivery
6 of mental health services.

7 (d) The executive commissioner may not require mental
8 health services to be provided through telehealth or telemedicine
9 under the pilot program if an in-person consultation with a
10 psychiatrist or other licensed mental health professional
11 qualified to provide those services is reasonably available where
12 the recipient resides or works.

13 (e) The executive commissioner by rule shall establish and
14 adopt minimum standards to permit the use of trained qualified
15 mental health professionals in presenting Medicaid recipients
16 participating in the pilot program for telehealth or telemedicine
17 consultations to be conducted by psychiatrists at distant sites.

18 (f) The commission may reimburse a provider participating
19 in the pilot program for services provided through telehealth or
20 telemedicine. Notwithstanding Section 531.0217, the commission
21 may provide reimbursement under the state Medicaid program for a
22 telehealth or telemedicine consultation initiated by a trained
23 qualified mental health professional who complies with the minimum
24 standards adopted under Subsection (e).

25 (g) The Texas State Board of Medical Examiners, in
26 consultation with the commission and the Department of State Health
27 Services, as appropriate, shall adopt rules to establish

1 supervisory requirements for a physician delegating a service to be
2 performed by a qualified mental health professional who is
3 authorized to be a telepresenter under this section. This section
4 may not be construed as authorizing the Texas State Board of Medical
5 Examiners to regulate another licensed or certified health care
6 provider.

7 (h) The commission may apply for and receive a grant to fund
8 the pilot program under the federal New Freedom Initiative on
9 Mental Health plan or from the Office of the National Coordinator
10 for Health Information Technology. The commission shall seek the
11 assistance of the Office of State-Federal Relations in identifying
12 and applying for federal grants for the pilot program.

13 (i) Not later than December 1, 2006, the commission shall
14 submit a report to the legislature regarding the results of the
15 pilot program. The report must include recommendations regarding
16 elimination, continuation, or expansion of the pilot program.

17 (j) This section expires September 1, 2007.

18 SECTION 6. (a) The Health and Human Services Commission
19 shall conduct a study to:

20 (1) identify any program or policy changes necessary
21 to facilitate the development of a network of providers of
22 telemedicine medical services under the state Medicaid program,
23 including:

24 (A) the establishment of new billing codes;

25 (B) the establishment of new provider
26 identifiers; and

27 (C) a description of telemedicine medical

1 services eligible for reimbursement;

2 (2) investigate the current use of digital medical
3 imaging in the provision of telemedicine medical services to
4 Medicaid recipients;

5 (3) investigate the feasibility, including the fiscal
6 impact, of expanding the use of digital medical imaging in the
7 provision of telemedicine medical services to Medicaid recipients;

8 (4) investigate the feasibility of reimbursing health
9 care providers under the state Medicaid program for telemedicine
10 medical services appropriately performed using digital medical
11 imaging; and

12 (5) investigate the feasibility of developing a system
13 to reimburse physicians for services performed through
14 telemedicine by health care providers acting under physician
15 delegation and supervision, regardless of whether the health care
16 service was initiated by the physician.

17 (b) Not later than January 1, 2006, the Health and Human
18 Services Commission shall submit a report regarding the results of
19 the study to the presiding officer of each house and senate standing
20 committee having jurisdiction over the state Medicaid program. The
21 report must:

22 (1) identify any significant barriers, in addition to
23 cost, to expanding the use of digital medical imaging in the
24 provision of telemedicine medical services to Medicaid recipients;
25 and

26 (2) include the fiscal impact to this state of each of
27 the proposed initiatives.

1 (c) This section expires September 1, 2007.

2 SECTION 7. As soon as practicable after the effective date
3 of this Act:

4 (1) the Texas State Board of Medical Examiners shall
5 adopt rules as required by Subsection (i-1), Section 531.0217, and
6 Subsection (g), Section 531.02175, Government Code, as added by
7 this Act; and

8 (2) the executive commissioner of the Health and Human
9 Services Commission shall adopt rules as required by Section
10 531.02163 and Subsection (e), Section 531.02175, Government Code,
11 as added by this Act.

12 SECTION 8. If before implementing any provision of this Act
13 a state agency determines that a waiver or other authorization from
14 a federal agency is necessary for implementation, the agency
15 affected by the provision shall request the waiver or authorization
16 and may delay implementing that provision until the waiver or
17 authorization is granted.

18 SECTION 9. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1340 passed the Senate on April 26, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2005, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1340 passed the House, with amendment, on May 25, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor