

By: Madla

S.B. No. 1340

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation and reimbursement of health care
3 services provided through telemedicine or telepsychiatry under the
4 state Medicaid program.

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

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

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

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

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

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

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

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

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

24 (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 identifier 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 is licensed or
18 certified in this state to perform health care services.

19 (b) The executive commissioner by rule shall establish and
20 adopt minimum standards to permit the use of trained health
21 professionals other than physicians, including professionals who
22 are not registered nurses, advanced practice nurses, or physician
23 assistants, in presenting patients who are Medicaid recipients for
24 telemedicine medical services consultations to be conducted by
25 physicians at distant sites. The health professionals may initiate
26 the consultation but must act under physician delegation and
27 supervision throughout the consultation.

1 (c) Notwithstanding Section 531.0217, the commission may
2 provide reimbursement under the state Medicaid program for a
3 telemedicine medical service initiated by a trained health
4 professional who complies with the minimum standards adopted under
5 this section.

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

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

12 (1) ensure that appropriate care, including quality of
13 care, is provided to patients who receive telemedicine medical
14 services;

15 (2) prevent abuse and fraud through the use of
16 telemedicine medical services, including rules relating to filing
17 of claims and records required to be maintained in connection with
18 telemedicine; and

19 (3) ~~establish supervisory requirements for a service~~
20 ~~delegated to and performed by an individual who is not a physician,~~
21 ~~and~~

22 ~~[(4)]~~ define those situations when a face-to-face
23 consultation with a physician is required after a telemedicine
24 medical service.

25 (i-1) The Texas State Board of Medical Examiners, in
26 consultation with the commission, as appropriate, shall adopt rules
27 to establish supervisory requirements for a service delegated to

1 and performed by an individual who is not a physician, including a
2 health professional who is authorized to be a telepresenter under
3 Section 531.02163.

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

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

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

10 (2) evaluating policies for telemedicine medical
11 services or telehealth services pilot programs established under
12 Section 531.02171;

13 (3) ensuring the efficient and consistent development
14 and use of telecommunication technology for telemedical
15 consultations and telemedicine medical services or telehealth
16 services reimbursed under government-funded health programs;

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

19 (5) coordinating the activities of state agencies
20 concerned with the use of telemedical consultations and
21 telemedicine medical services or telehealth services.

22 SECTION 5. (a) In this section, "telepsychiatry" means the
23 use of live interactive two-way audio-video communication in the
24 field of psychiatry.

25 (b) The executive commissioner of the Health and Human
26 Services Commission by rule shall develop and the Department of
27 State Health Services shall implement a pilot program under which

1 Medicaid recipients in need of mental health services are provided
2 those services through telepsychiatry.

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

5 (1) enhances the delivery of mental health services to
6 recipients;

7 (2) ensures adequate supervision of social workers,
8 psychologists, and other professionals who are not psychiatrists
9 and who provide telepsychiatry; and

10 (3) enables the state to determine whether extension
11 of the use of telepsychiatry would improve the delivery of mental
12 health services.

13 (d) The executive commissioner may not require mental
14 health services to be provided through telepsychiatry under the
15 pilot program if an in-person consultation with a psychiatrist is
16 reasonably available where the recipient resides or works.

17 (e) The commission may reimburse a provider participating
18 in the pilot program for services provided through telepsychiatry.

19 (f) The commission may apply for and receive a grant to fund
20 the pilot program under the federal New Freedom Initiative on
21 Mental Health plan or from the Office of the National Coordinator
22 for Health Information Technology. The commission shall seek the
23 assistance of the Office of State-Federal Relations in identifying
24 and applying for federal grants for the pilot program.

25 (g) Not later than December 1, 2006, the commission shall
26 submit a report to the legislature regarding the results of the
27 pilot program. The report must include:

1 (1) the number of Medicaid recipients receiving
2 services through telepsychiatry;

3 (2) an analysis of:

4 (A) the pilot program's cost-effectiveness;

5 (B) the pilot program's effect on the quality of
6 care received by program participants; and

7 (C) the satisfaction of pilot program
8 participants with mental health services provided through
9 telepsychiatry; and

10 (3) recommendations regarding elimination,
11 continuation, or expansion of the pilot program.

12 (h) This section expires September 1, 2007.

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

15 (1) identify any program or policy changes necessary
16 to facilitate the development of a network of providers of
17 telemedicine medical services under the state Medicaid program,
18 including:

19 (A) the establishment of new billing codes;

20 (B) the establishment of new provider
21 identifiers; and

22 (C) a description of telemedicine medical
23 services eligible for reimbursement;

24 (2) investigate the current use of digital medical
25 imaging in the provision of telemedicine medical services to
26 Medicaid recipients;

27 (3) investigate the feasibility, including the fiscal

1 impact, of expanding the use of digital medical imaging in the
2 provision of telemedicine medical services to Medicaid recipients;

3 (4) investigate the feasibility of reimbursing health
4 care providers under the state Medicaid program for telemedicine
5 medical services appropriately performed using digital medical
6 imaging; and

7 (5) investigate the feasibility of developing a system
8 to reimburse physicians for services performed through
9 telemedicine by health care providers acting under physician
10 delegation and supervision, regardless of whether the health care
11 service was initiated by the physician.

12 (b) Not later than January 1, 2006, the commission shall
13 submit a report regarding the results of the study to the presiding
14 officers of each house and senate standing committee having
15 jurisdiction over the state Medicaid program. The report must:

16 (1) identify any significant barriers, in addition to
17 cost, to expanding the use of digital medical imaging in the
18 provision of telemedicine medical services to Medicaid recipients;
19 and

20 (2) include the fiscal impact to this state of each of
21 the proposed initiatives.

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

23 SECTION 7. As soon as practicable after the effective date
24 of this Act:

25 (1) the Texas State Board of Medical Examiners shall
26 adopt rules as required by Section 531.0217(i-1), Government Code,
27 as added by this Act; and

1 (2) the executive commissioner of the Health and Human
2 Services Commission shall adopt rules as required by Section
3 531.02163, Government Code, as added by this Act.

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

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