

By: Watson

S.B. No. 1769

A BILL TO BE ENTITLED

AN ACT

relating to telehealth services and home telemonitoring services provided to certain Medicaid recipients.

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

SECTION 1. Section 531.001, Government Code, is amended by adding Subdivisions (4-a), (7), and (8) to read as follows:

(4-a) "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health and transmission of the data to a licensed home health agency as defined by Section 531.02164(a).

(7) "Telehealth service" means a health service, other than a telemedicine medical service, delivered by a licensed or certified health professional acting within the scope of the health professional's license or certification who does not perform a telemedicine medical service, that requires the use of advanced telecommunications technology, other than by telephone or facsimile, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

(8) "Telemedicine medical service" means a health care

1 service, initiated by a physician or provided by a health
2 professional acting under physician delegation and supervision,
3 for purposes of patient assessment by a health professional,
4 diagnosis or consultation by a physician, treatment, or the
5 transfer of medical data, that requires the use of advanced
6 telecommunications technology, other than by telephone or
7 facsimile, including:

8 (A) compressed digital interactive video, audio,
9 or data transmission;

10 (B) clinical data transmission using computer
11 imaging by way of still-image capture and store and forward; and

12 (C) other technology that facilitates access to
13 health care services or medical specialty expertise.

14 SECTION 2. The heading to Section 531.0216, Government
15 Code, is amended to read as follows:

16 Sec. 531.0216. PARTICIPATION AND REIMBURSEMENT OF
17 TELEMEDICINE MEDICAL SERVICE PROVIDERS AND TELEHEALTH SERVICE
18 PROVIDERS UNDER MEDICAID.

19 SECTION 3. Subsections (a), (b), (c), and (f), Section
20 531.0216, Government Code, are amended to read as follows:

21 (a) The commission by rule shall develop and implement a
22 system to reimburse providers of services under the state Medicaid
23 program for services performed using telemedicine medical services
24 or telehealth services.

25 (b) In developing the system, the executive commissioner by
26 rule shall:

27 (1) review programs and pilot projects in other states

1 to determine the most effective method for reimbursement;

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

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

6 (4) consult with the Department of State Health
7 Services and the telemedicine advisory committee to establish
8 procedures to:

9 (A) identify clinical evidence supporting
10 delivery of health care services using a telecommunications system;

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

13 (C) annually review health care services,
14 considering new clinical findings, to determine whether
15 reimbursement for particular services should be denied or
16 authorized;

17 (5) establish pilot programs in designated areas of
18 this state under which the commission, in administering
19 government-funded health programs, may reimburse a health
20 professional participating in the pilot program for telehealth
21 services authorized under the licensing law applicable to the
22 health professional;

23 (6) establish a separate provider identifier for
24 telemedicine medical services providers, telehealth services
25 providers, and home telemonitoring services providers; and

26 (7) establish a separate modifier for telemedicine
27 medical services, telehealth services, and home telemonitoring

1 services eligible for reimbursement.

2 (c) The commission shall encourage health care providers
3 and health care facilities to participate as telemedicine medical
4 service providers or telehealth service providers in the health
5 care delivery system. The commission may not require that a service
6 be provided to a patient through telemedicine medical services or
7 telehealth services when the service can reasonably be provided by
8 a physician through a face-to-face consultation with the patient in
9 the community in which the patient resides or works. This
10 subsection does not prohibit the authorization of the provision of
11 any service to a patient through telemedicine medical services or
12 telehealth services at the patient's request.

13 (f) Not later than December 1 of each even-numbered year,
14 the commission shall report to the speaker of the house of
15 representatives and the lieutenant governor on the effects of
16 telemedicine medical services, telehealth services, and home
17 telemonitorng services on the Medicaid program in the state,
18 including the number of physicians, ~~and~~ health professionals, and
19 licensed health care facilities using telemedicine medical
20 services, telehealth services, or home telemonitoring services,
21 the geographic and demographic disposition of the physicians and
22 health professionals, the number of patients receiving
23 telemedicine medical services, telehealth services, or home
24 telemonitoring services, the types of services being provided, and
25 the cost of utilization of telemedicine medical services,
26 telehealth services, and home telemonitoring services to the
27 program.

1 SECTION 4. Section 531.02161, Government Code, is amended
2 to read as follows:

3 Sec. 531.02161. TELEMEDICINE, TELEHEALTH, AND HOME
4 TELEMONITORING TECHNOLOGY STANDARDS. (a) [~~In this section,~~
5 ~~"telemedicine medical service" has the meaning assigned by Section~~
6 ~~57.042, Utilities Code.~~

7 [~~(b)~~] The commission and the Telecommunications
8 Infrastructure Fund Board by joint rule shall establish and adopt
9 minimum standards for an operating system used in the provision of
10 telemedicine medical services, telehealth services, or home
11 telemonitoring services by a health care facility participating in
12 the state Medicaid program, including standards for electronic
13 transmission, software, and hardware.

14 (b) [~~(c)~~] In developing standards under this section, the
15 commission and the Telecommunications Infrastructure Fund Board
16 shall address:

- 17 (1) authentication and authorization of users;
- 18 (2) authentication of the origin of information;
- 19 (3) the prevention of unauthorized access to the
20 system or information;
- 21 (4) system security, including the integrity of
22 information that is collected, program integrity, and system
23 integrity;
- 24 (5) maintenance of documentation about system and
25 information usage;
- 26 (6) information storage, maintenance, and
27 transmission; and

1 (7) synchronization and verification of patient
2 profile data.

3 SECTION 5. Subchapter B, Chapter 531, Government Code, is
4 amended by adding Section 531.02164 to read as follows:

5 Sec. 531.02164. MEDICAID SERVICES PROVIDED THROUGH HOME
6 TELEMONITORING SERVICES. (a) In this section, "home health
7 agency" means a facility licensed under Chapter 142, Health and
8 Safety Code, to provide home health services as defined by Section
9 142.001, Health and Safety Code.

10 (b) The executive commissioner by rule shall establish a
11 statewide program that permits reimbursement under the state
12 Medicaid program for home telemonitoring services as provided under
13 this section.

14 (c) The program required under this section must:

15 (1) provide that home telemonitoring services are
16 available only to persons diagnosed with one or more conditions
17 described by Section 531.02171(c)(4), as added by Chapter 959 (S.B.
18 1536), Acts of the 77th Legislature, Regular Session, 2001, and who
19 exhibit two or more of the following risk factors:

20 (A) two or more hospitalizations in the prior 12-
21 month period;

22 (B) frequent or recurrent emergency room
23 admissions;

24 (C) a documented history of poor adherence to
25 ordered medication regimens;

26 (D) a documented history of falls in the prior
27 six-month period;

1 (E) limited or absent informal support systems;

2 (F) living alone or being home alone for extended
3 periods of time; and

4 (G) a documented history of care access
5 challenges;

6 (2) ensure that clinical information gathered by a
7 home health agency while providing home telemonitoring services is
8 shared with the patient's physician; and

9 (3) ensure that the program does not duplicate disease
10 management program services provided under Section 32.057, Human
11 Resources Code.

12 SECTION 6. Subsection (c), Section 531.02171, Government
13 Code, as added by Chapter 959 (S.B. 1536), Acts of the 77th
14 Legislature, Regular Session, 2001, is amended to read as follows:

15 (c) In developing and operating a pilot program under this
16 section, the commission shall:

17 (1) solicit and obtain support for the program from
18 local officials and the medical community;

19 (2) focus on enhancing health outcomes in the area
20 served by the pilot program through increased access to medical or
21 health care services, including:

22 (A) health screenings;

23 (B) prenatal care;

24 (C) medical or surgical follow-up visits;

25 (D) periodic consultation with specialists
26 regarding chronic disorders;

27 (E) triage and pretransfer arrangements; ~~and~~

1 (F) transmission of diagnostic images or data;

2 and

3 (G) monitoring of chronic conditions;

4 (3) establish quantifiable measures and expected
5 health outcomes for each authorized telemedicine medical service or
6 telehealth service;

7 (4) consider condition-specific applications of
8 telemedicine medical services or telehealth services, including
9 applications for:

10 (A) pregnancy;

11 (B) diabetes;

12 (C) heart disease; [~~and~~]

13 (D) cancer; [~~and~~]

14 (E) chronic obstructive pulmonary disease;

15 (F) hypertension; and

16 (G) congestive heart failure; and

17 (5) demonstrate that the provision of services
18 authorized as telemedicine medical services or telehealth services
19 will not adversely affect the delivery of traditional medical
20 services or other health care services within the area served by the
21 pilot program.

22 SECTION 7. The heading to Section 531.02172, Government
23 Code, is amended to read as follows:

24 Sec. 531.02172. TELEMEDICINE AND TELEHEALTH ADVISORY
25 COMMITTEE.

26 SECTION 8. Subsection (b), Section 531.02172, Government
27 Code, is amended to read as follows:

1 (b) The advisory committee must include:

2 (1) representatives of health and human services
3 agencies and other state agencies concerned with the use of
4 telemedical and telehealth consultations and home telemonitoring
5 services in the Medicaid program and the state child health plan
6 program, including representatives of:

7 (A) the commission;

8 (B) the Department of State Health Services;

9 (C) the Office of Rural Community Affairs;

10 (D) the Texas Department of Insurance;

11 (E) the Texas Medical Board;

12 (F) the Texas Board of Nursing; and

13 (G) the Texas State Board of Pharmacy;

14 (2) representatives of health science centers in this
15 state;

16 (3) experts on telemedicine, telemedical
17 consultation, and telemedicine medical services or telehealth
18 services; ~~and~~

19 (4) representatives of consumers of health services
20 provided through telemedical consultations and telemedicine
21 medical services or telehealth services; and

22 (5) representatives of providers of telemedicine
23 medical services, telehealth services, and home telemonitoring
24 services.

25 SECTION 9. Subsection (c), Section 531.02173, Government
26 Code, is amended to read as follows:

27 (c) The commission shall perform its duties under this

1 section with assistance from the telemedicine and telehealth
2 advisory committee established under Section 531.02172.

3 SECTION 10. The heading to Section 531.02175, Government
4 Code, as added by Chapter 370 (S.B. 1340), Acts of the 79th
5 Legislature, Regular Session, 2005, is amended to read as follows:

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

8 SECTION 11. Subsections (i) and (j), Section 531.02175,
9 Government Code, as added by Chapter 370 (S.B. 1340), Acts of the
10 79th Legislature, Regular Session, 2005, are amended to read as
11 follows:

12 (i) Not later than September 1, 2010 [~~2008~~], the commission
13 shall submit a report to the legislature regarding the results of
14 the pilot program. The report must include recommendations
15 regarding elimination, continuation, or expansion of the pilot
16 program.

17 (j) This section expires September 1, 2011 [~~2009~~].

18 SECTION 12. The following provisions of the Government Code
19 are repealed:

20 (1) Subsection (g), Section 531.0216;

21 (2) Subdivisions (3) and (4), Subsection (a), Section
22 531.0217;

23 (3) Subdivisions (3) and (4), Subsection (a), Section
24 531.02171, as added by Chapter 661 (H.B. 2700), Acts of the 77th
25 Legislature, Regular Session, 2001; and

26 (4) Subdivisions (3) and (4), Subsection (a), Section
27 531.02171, as added by Chapter 959 (S.B. 1536), Acts of the 77th

1 Legislature, Regular Session, 2001.

2 SECTION 13. If before implementing any provision of this
3 Act a state agency determines that a waiver or authorization from a
4 federal agency is necessary for implementation of that provision,
5 the agency affected by the provision shall request the waiver or
6 authorization and may delay implementing that provision until the
7 waiver or authorization is granted.

8 SECTION 14. This Act takes effect September 1, 2009.