

BILL ANALYSIS

Senate Research Center

S.B. 293
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Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In home health care settings, it is not feasible under current Medicaid benefits to provide daily monitoring of key vital signs. The program does not pay for daily home health visits or physician visits for this purpose; however, this information is vital in the management of intractable chronic conditions to prevent acute exacerbations and expensive emergency room visits and/or hospitalizations. This bill would allow Medicaid to cover telehealth practices that use various telecommunication technologies to transmit medical information from the patient's home to health care providers.

According to the Centers for Medicare and Medicaid Services (CMS), the Medicaid program and Medicaid law do not recognize telemedicine as a distinct service. CMS does note, however, that "telemedicine is viewed as a cost-effective alternative to the more traditional face-to-face way of providing medical care" and that there is "flexibility inherent in federal law to create innovative payment methodologies for services that incorporate telemedicine technology."

This bill enables the Health and Human Services Commission to create a fee structure for reimbursement of telehealth services. The eligibility criteria are targeted at those who are most in need of the service, including frequent hospitalizations, poor adherence to medical regimens, and limited informal support structure, and who have care access challenges. Additionally, this bill ensures that clinical information gathered by a home health agency while providing home telemonitoring services is shared with the patient's physician and that the program does not duplicate existing disease management program services.

S.B. 293 amends current law relating to telemedicine medical services, telehealth services, and home telemonitoring services provided to certain Medicaid recipients.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Health and Human Services Commission (HHSC) is modified in SECTION 2 (Section 531.0216, Government Code) and SECTION 4 (Section 531.02161, Government Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of HHSC is modified in SECTION 2 (Section 531.0216, Government Code) of this bill.

Rulemaking authority previously granted to the Telecommunications Infrastructure Fund Board is modified in SECTION 4 (Section 531.02161, Government Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner of HHSC in SECTION 5 (Section 531.02164, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 531.001, Government Code, by adding Subdivisions (4-a), (7), and (8), to define "home telemonitoring service," "telehealth service," and "telemedicine medical service."

SECTION 2. Amends Section 531.0216, Government Code, as follows:

Sec. 531.0216. New heading: PARTICIPATION AND REIMBURSEMENT OF TELEMEDICINE MEDICAL SERVICE PROVIDERS AND TELEHEALTH SERVICE PROVIDERS UNDER MEDICAID. (a) Requires the Health and Human Services Commission (HHSC) by rule to develop and implement a system to reimburse providers of services under the state Medicaid program for services performed using telemedicine medical services or telehealth services.

(b) Requires the executive commissioner of HHSC (executive commissioner) in developing the system by rule to:

(1)-(3) Makes no changes to these subdivisions;

(4) consult with the Department of State Health Services and the telemedicine and telehealth advisory committee, rather than the telemedicine advisory committee, to establish procedures to:

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

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

(5) establish a separate provider identifier for telemedicine medical services providers, telehealth services providers, and home telemonitoring services providers; and

(6) establish a separate modifier for telemedicine medical services, telehealth services, and home telemonitoring services eligible for reimbursement.

Deletes existing text requiring the executive commissioner of HHSC by rule, in developing the system, to consult with the Department of State Health Services and telemedicine advisory committee to establish procedures to establish pilot studies for telemedicine medical service delivery, and to establish pilot programs in designated areas of this state under which HHSC, in administering government-funded health programs, may reimburse a health professional participating in the pilot program for telehealth services authorized under the licensing law applicable to the health professional. Makes nonsubstantive changes.

(c) Requires HHSC to encourage health care providers and health care facilities to participate as telemedicine medical service providers or telehealth service providers in the health care delivery system. Prohibits HHSC from requiring that a service be provided to a patient through telemedicine medical services (TMS) or telehealth services (TS) when the service can reasonably be provided by a physician through a face-to-face consultation with the patient in the community in which the patient resides or works. Provides that this subsection does not prohibit the authorization of the provision of any service to a patient through TMS or TS at the patient's request.

(d) Authorizes HHSC, in the rules adopted under this section, subject to Section 153.004 (Rules Regarding Telemedicine Medical Services), Occupations Code, to adopt rules as necessary to implement this section. Requires HHSC, in rules adopted under this section, to refer to the site where the patient is physically located as the patient site; and refer to the site where the physician or health professional providing the TMS or TS is physically located as the distant site.

(e) Prohibits HHSC from reimbursing a health care facility for TMS or TS provided to a Medicaid recipient unless the facility complies with the minimum standards adopted under Section 531.02161 (Telemedicine Technology Standards).

(f) Requires HHSC, not later than December 1 of each even-numbered year, to report to the speaker of the house of representatives and the lieutenant governor on the effects of TMS, TS, and home telemonitoring services (HTS) on the Medicaid program in the state, including the number of physicians, health professionals, and licensed health care facilities using TMS, TS, or HTS, the geographic and demographic disposition of physicians and health professionals, the number of patients receiving TMS, TS, and HTS, the types of services being provided, and the cost of utilization of TMS, TS, and HTS to the program.

Deletes existing Subsection (g) defining "telehealth service" and "telemedicine medical service" in this section.

SECTION 3. Amends the heading to Section 531.02161, Government Code, to read as follows:

Sec. 531.02161. TELEMEDICINE, TELEHEALTH, AND HOME TELEMONITORING TECHNOLOGY STANDARDS.

SECTION 4. Amends Section 531.02161(b), Government Code, to require HHSC and the Telecommunications Infrastructure Fund Board by joint rule to establish and adopt minimum standards for an operating system used in the provision of TMS, TS, or HTS by a health care facility participating in the state Medicaid program, including standards for electronic transmission, software, and hardware.

SECTION 5. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.02164, as follows:

Sec. 531.02164. MEDICAID SERVICES PROVIDED THROUGH HOME TELEMONITORING SERVICES. (a) Defines, in this section, "home health agency" and "hospital."

(b) Requires the executive commissioner, if HHSC determines that establishing a statewide program that permits reimbursement under the state Medicaid program for HTS would be cost-effective and feasible, by rule to establish the program as provided under this section.

(c) Requires that the program required under this section:

(1) provide that HTS is available only to certain persons;

(2) ensure that clinical information gathered by a home health agency or hospital while providing HTS is shared with the patient's physician; and

(3) ensure that the program does not duplicate disease management program services provided under Section 32.057 (Contracts for Disease Management Programs), Human Resources Code.

(d) Authorizes HHSC if, after implementation, HHSC determines that the program established under this section is not cost-effective, to discontinue the program and stop providing reimbursement under the state Medicaid program for HTS, notwithstanding Section 531.0216 or any other law.

(e) Requires HHSC to determine whether the provision of HTS to persons who are eligible to receive benefits under both the Medicaid and Medicare programs achieves cost savings for the Medicare program.

SECTION 6. Amends the heading to Section 531.02172, Government Code, to read as follows:

Sec. 531.02172. TELEMEDICINE AND TELEHEALTH ADVISORY COMMITTEE.

SECTION 7. Amends Sections 531.02172(a) and (b), Government Code, as follows:

(a) Requires the executive commissioner to establish an advisory committee to assist HHSC in:

(1) evaluating policies for telemedical consultations under Sections 531.02163 and 531.0217;

(2) ensuring the efficient and consistent development and use of telecommunication technology for telemedical consultations and TMS or TS reimbursed under government-funded health programs;

(3) monitoring the type of consultations and other services receiving reimbursement under Section 531.0217; and

(4) coordinating the activities of state agencies concerned with the use of telemedical consultations and TMS or TS.

Deletes existing text requiring the commissioner to establish an advisory committee to assist HHSC in evaluating policies for telemedical consultations under Sections 531.02163 and 531.0217, evaluating policies for telemedicine medical services or telehealth services pilot programs established under Section 531.02171, ensuring the efficient and consistent development and use of telecommunication technology for telemedical consultations and telemedicine medical services or telehealth services reimbursed under government-funded health programs, monitoring the type of programs receiving reimbursement under Sections 531.0217 and 531.02171, and coordinating the activities of state agencies concerned with the use of telemedical consultations and telemedicine medical services or telehealth services.

(b) Requires the advisory committee to include:

(1) representatives of health and human services agencies and other state agencies concerned with the use of telemedical and telehealth consultations and HTS in the Medicaid program and the state child health plan program, including representatives of certain agencies;

(2)-(4) Makes no changes to these subdivisions; and

(5) representatives of providers of TMS, TS, and HTS.

SECTION 8. Amends Section 531.02173(c), Government Code, to require HHSC to perform its duties under this section with assistance from the telemedicine and telehealth advisory committee established under Section 531.02172.

SECTION 9. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.02176, as follows:

Sec. 531.02176. EXPIRATION OF MEDICAID REIMBURSEMENT FOR PROVISION OF HOME TELEMONITORING SERVICES. Prohibits HHSC notwithstanding any other law, from reimbursing providers under the Medicaid program for the provision of HTS on or after September 1, 2015.

SECTION 10. Repealer: Section 531.02161(a) (defining "telemedicine medical service"), Government Code.

Repealers: Sections 531.0217(a)(3) (defining "telehealth service") and (4) (defining "telemedicine medical service"), Government Code.

Repealers: Section 531.02171 (Telemedicine Pilot Programs), Government Code, as added by Chapter 661 (H.B. 2700), Acts of the 77th Legislature, Regular Session, 2001.

Repealer: Section 531.02171 (Telemedicine Medical Services and Telehealth Service Pilot Programs), Government Code, as added by Chapter 959 (S.B. 1536), Acts of the 77th Legislature, Regular Session, 2001.

SECTION 11. Requires HHSC, not later than December 31, 2012, to submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the establishment and implementation of the program to permit reimbursement under the state Medicaid program for HTS under Section 531.02164, Government Code, as added by this Act. Requires that the report include:

(1) the methods used by HHSC to determine whether the program was cost-effective and feasible; and

(2) if the program has been established, information regarding the utilization of HTS by Medicaid recipients under the program, the health outcomes of Medicaid recipients who receive home telemonitoring services under the program, the hospital admission rate of Medicaid recipients who receive HTS under the program, the cost of the HTS provided under the program, and the estimated cost savings to the state as a result of the program.

SECTION 12. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 13. Effective date: September 1, 2011.