

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 293  
By: Watson  
Health & Human Services  
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### **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.

As proposed, 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 1 (Section 531.0216, Government Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of HHSC is modified in SECTION 1 (Section 531.0216, Government Code) of this bill.

Rulemaking authority previously granted to HHSC and 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 in developing the system by rule to take certain actions as set forth in this subsection. Makes conforming 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 section does not prohibit the authorization of the provision of any service to a patient through TMS or TS at the patient's request.

(d) Requires HHSC, in the rules adopted under this section, in addition to a certain provision, to 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 "home health agency" in this section.

(b) Requires the executive commissioner of HHSC by rule to establish a statewide program that permits reimbursement under the state Medicaid program for HTS as provided under this section.

(c) Requires that the program required under this section meet certain criteria as set forth in this subsection.

SECTION 6. Amends the heading to Section 531.02171, Government Code, as added by Chapter 661 (H.B. 2700), Acts of the 77th Legislature, Regular Session, 2001, to read as follows:

Sec. 531.02171. **TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES PILOT PROGRAMS.**

SECTION 7. Amends Section 531.02171(c), Government Code, as added by Chapter 661 (H.B. 2700), Acts of the 77th Legislature, Regular Session, 2001, as follows:

(c) Requires HHSC, in developing and operating a pilot program under this section to take certain actions, including focus on enhancing health outcomes in the area served by the pilot program through increased access to medical or health care services, including health screenings, prenatal care, medical or surgical follow-up visits, periodic consultation with specialists regarding chronic disorders, triage and pretransfer arrangements, transmission of diagnostic images or data, and monitoring of chronic conditions; consider condition-specific applications of TMS or TS, including applications for, among other conditions, chronic obstructive pulmonary disease, hypertension, and congestive heart failure; and demonstrate that the provision of services authorized as TMS or TS will not adversely affect the provision of traditional medical services or other health care services within the area served by the pilot program.

SECTION 8. Amends the heading to Section 531.02172, Government Code, to read as follows:

Sec. 531.02172. **TELEMEDICINE AND TELEHEALTH ADVISORY COMMITTEE.**

SECTION 9. Amends Section 531.02172(b), Government Code, to require the advisory committee to include 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 the representatives of certain entities, including representatives of providers of TMS, TS, and HTS.

SECTION 10. Amends Section 531.02173(c), Government Code, to require HHSC to perform its duties under this section without assistance from the telemedicine and telehealth advisory committee established under Section 531.02172.

SECTION 11. 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: Sections 531.02171(a)(3) (defining "telehealth service") and (4) (defining "telemedicine medical service"), 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 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.