

By: J. Davis of Harris

H.B. No. 842

A BILL TO BE ENTITLED

1 AN ACT

2 relating to telemedicine medical services, telehealth services,
3 and home telemonitoring services provided to certain Medicaid
4 recipients.

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

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

8 (4-a) "Home telemonitoring service" means a health
9 service that requires scheduled remote monitoring of data related
10 to a patient's health and transmission of the data to a licensed
11 home health agency as defined by Section 531.02164(a).

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

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

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

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

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

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

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

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

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

17 Sec. 531.0216. PARTICIPATION AND REIMBURSEMENT OF
18 TELEMEDICINE MEDICAL SERVICE PROVIDERS AND TELEHEALTH SERVICE
19 PROVIDERS UNDER MEDICAID. (a) The commission by rule shall
20 develop and implement a system to reimburse providers of services
21 under the state Medicaid program for services performed using
22 telemedicine medical services or telehealth services.

23 (b) In developing the system, the executive commissioner by
24 rule shall:

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

27 (2) establish billing codes and a fee schedule for

1 services;

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

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

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

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

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

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

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

24 (7) establish a separate modifier for telemedicine
25 medical services, telehealth services, and home telemonitoring
26 services eligible for reimbursement.

27 (c) The commission shall encourage health care providers

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

11 (d) Subject to Section 153.004, Occupations Code, the
12 commission may adopt rules as necessary to implement this
13 section. In the rules adopted under this section, the commission
14 shall:

15 (1) refer to the site where the patient is physically
16 located as the patient site; and

17 (2) refer to the site where the physician or health
18 professional providing the telemedicine medical service or
19 telehealth service is physically located as the distant site.

20 (e) The commission may not reimburse a health care facility
21 for telemedicine medical services or telehealth services provided
22 to a Medicaid recipient unless the facility complies with the
23 minimum standards adopted under Section 531.02161.

24 (f) Not later than December 1 of each even-numbered year,
25 the commission shall report to the speaker of the house of
26 representatives and the lieutenant governor on the effects of
27 telemedicine medical services, telehealth services, and home

1 telemonitoring services on the Medicaid program in the state,
2 including the number of physicians, ~~[and]~~ health professionals, and
3 licensed health care facilities using telemedicine medical
4 services, telehealth services, or home telemonitoring services,
5 the geographic and demographic disposition of the physicians and
6 health professionals, the number of patients receiving
7 telemedicine medical services, telehealth services, and home
8 telemonitoring services, the types of services being provided, and
9 the cost of utilization of telemedicine medical services,
10 telehealth services, and home telemonitoring services to the
11 program.

12 ~~[(g) In this section:~~

13 ~~[(1) "Telehealth service" has the meaning assigned by~~
14 ~~Section 57.042, Utilities Code.~~

15 ~~[(2) "Telemedicine medical service" has the meaning~~
16 ~~assigned by Section 57.042, Utilities Code.]~~

17 SECTION 3. The heading to Section 531.02161, Government
18 Code, is amended to read as follows:

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

21 SECTION 4. Section 531.02161(b), Government Code, is
22 amended to read as follows:

23 (b) The commission and the Telecommunications
24 Infrastructure Fund Board by joint rule shall establish and adopt
25 minimum standards for an operating system used in the provision of
26 telemedicine medical services, telehealth services, or home
27 telemonitoring services by a health care facility participating in

1 the state Medicaid program, including standards for electronic
2 transmission, software, and hardware.

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 who are diagnosed with one or more
17 conditions described by Section 531.02171(c)(4) and who exhibit two
18 or more of the following risk factors:

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

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

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

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

27 (E) limited or absent informal support systems;

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

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

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

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

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

14 Sec. 531.02171. TELEMEDICINE MEDICAL SERVICES AND
15 TELEHEALTH SERVICES PILOT PROGRAMS.

16 SECTION 7. Section 531.02171(c), Government Code, as added
17 by Chapter 661 (H.B. 2700), Acts of the 77th Legislature, Regular
18 Session, 2001, is amended to read as follows:

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

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

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

26 (A) health screenings;

27 (B) prenatal care;

1 (C) medical or surgical follow-up visits;
2 (D) periodic consultation with specialists
3 regarding chronic disorders;

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

5 (F) transmission of diagnostic images or data;

6 and

7 (G) monitoring of chronic conditions;

8 (3) establish quantifiable measures and expected
9 health outcomes for each authorized telemedicine medical service or
10 telehealth service;

11 (4) consider condition-specific applications of
12 telemedicine medical services or telehealth services, including
13 applications for:

14 (A) pregnancy;

15 (B) diabetes;

16 (C) heart disease; ~~and~~

17 (D) cancer;

18 (E) chronic obstructive pulmonary disease;

19 (F) hypertension; and

20 (G) congestive heart failure; and

21 (5) demonstrate that the provision of services
22 authorized as telemedicine medical services or telehealth services
23 will not adversely affect the provision of traditional medical
24 services or other health care services within the area served by the
25 pilot program.

26 SECTION 8. The heading to Section 531.02172, Government
27 Code, is amended to read as follows:

1 Sec. 531.02172. TELEMEDICINE AND TELEHEALTH ADVISORY
2 COMMITTEE.

3 SECTION 9. Section 531.02172(b), Government Code, is
4 amended to read as follows:

5 (b) The advisory committee must include:

6 (1) representatives of health and human services
7 agencies and other state agencies concerned with the use of
8 telemedical and telehealth consultations and home telemonitoring
9 services in the Medicaid program and the state child health plan
10 program, including representatives of:

- 11 (A) the commission;
- 12 (B) the Department of State Health Services;
- 13 (C) the Texas Department of Rural Affairs;
- 14 (D) the Texas Department of Insurance;
- 15 (E) the Texas Medical Board;
- 16 (F) the Texas Board of Nursing; and
- 17 (G) the Texas State Board of Pharmacy;

18 (2) representatives of health science centers in this
19 state;

20 (3) experts on telemedicine, telemedical
21 consultation, and telemedicine medical services or telehealth
22 services; ~~and~~

23 (4) representatives of consumers of health services
24 provided through telemedical consultations and telemedicine
25 medical services or telehealth services; and

26 (5) representatives of providers of telemedicine
27 medical services, telehealth services, and home telemonitoring

1 services.

2 SECTION 10. Section 531.02173(c), Government Code, is
3 amended to read as follows:

4 (c) The commission shall perform its duties under this
5 section with assistance from the telemedicine and telehealth
6 advisory committee established under Section 531.02172.

7 SECTION 11. The following provisions of the Government Code
8 are repealed:

9 (1) Section 531.02161(a);

10 (2) Sections 531.0217(a)(3) and (4);

11 (3) Sections 531.02171(a)(3) and (4), as added by
12 Chapter 661 (H.B. 2700), Acts of the 77th Legislature, Regular
13 Session, 2001; and

14 (4) Section 531.02171, as added by Chapter 959 (S.B.
15 1536), Acts of the 77th Legislature, Regular Session, 2001.

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

22 SECTION 13. This Act takes effect September 1, 2011.