

BILL ANALYSIS

C.S.H.B. 870
By: Price
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that the law relating to Medicaid telemedicine and telehealth services is in need of further changes to remove certain unnecessary and burdensome provisions. C.S.H.B. 870 seeks to make those changes to ensure that patients and providers have access to a full array of choices when using telemedicine and telehealth services.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 870 amends the Government Code to revise provisions relating to Medicaid telemedicine and telehealth services. The bill removes the following:

- the limitation on the prohibition against the Health and Human Services Commission (HHSC) requiring that a service be provided to a patient through telemedicine medical services or telehealth services;
- a provision establishing that such a prohibition does not prohibit the authorization of the provision of any service to a patient through telemedicine medical services or telehealth services at the patient's request; and
- the requirement that HHSC encourage STAR Health program providers to use telemedicine medical services as appropriate.

C.S.H.B. 870 requires HHSC to ensure that a Medicaid managed care organization (MCO):

- does not deny reimbursement for a covered health care service or procedure delivered by a health care provider with whom the MCO contracts to a recipient as a telemedicine medical service or a telehealth service solely because the covered service or procedure is not provided through an in-person consultation;
- does not limit, deny, or reduce reimbursement for a covered health care service or procedure delivered by a health care provider with whom the MCO contracts to a Medicaid recipient as a telemedicine medical service or a telehealth service based on the health care provider's choice of platform for providing the health care service or procedure; and

- ensures that the use of telemedicine medical services or telehealth services promotes and supports patient-centered medical homes by allowing a Medicaid recipient to receive such a service from a provider other than the recipient's primary care physician or provider only under certain conditions as specified by the bill.

C.S.H.B. 870 requires HHSC to develop, document, and implement a monitoring process to ensure that a Medicaid MCO ensures that the use of telemedicine medical services or telehealth services promotes and supports patient-centered medical homes and care coordination in accordance with the bill's provisions and requires this process to include monitoring of the rate at which a telemedicine medical service or telehealth service provider gives the required notice to the appropriate party following the provision of services in accordance with the bill's specified conditions.

C.S.H.B. 870 requires the executive commissioner of HHSC by rule to ensure that a federally qualified health center may be reimbursed for the originating site facility fee or the distant site practitioner fee or both, as appropriate, for a covered telemedicine medical service or telehealth service delivered by a provider to a Medicaid recipient. HHSC is required to implement this bill provision only if the legislature appropriates money specifically for that purpose. The bill establishes that if the legislature does not appropriate money specifically for that purpose, HHSC may, but is not required to, implement this requirement using other money available to HHSC for that purpose.

C.S.H.B. 870 requires a Medicaid MCO determining whether reimbursement for a telemedicine medical service or telehealth service is appropriate, in complying with state and federal requirements to provide access to medically necessary services under the Medicaid managed care program, to continue to consider other factors, including whether reimbursement is cost-effective and whether the provision of the service is clinically effective.

C.S.H.B. 870 removes from the conditions under which HHSC is required to ensure that Medicaid reimbursement is provided to a physician for a telemedicine medical service provided by the physician, even if the physician is not the patient's primary care physician or provider, the specification that a health professional is present with the patient during the treatment. The bill revises the requirement that HHSC require reimbursement for a telemedicine medical service at the same rate as Medicaid reimburses for a comparable in-person medical service by specifying that the reimbursement instead be at the same rate for the same in-person medical service.

C.S.H.B. 870 prohibits HHSC from limiting a physician's choice of platform for providing a telemedicine medical service or telehealth service by requiring that the physician use a particular platform, as defined by the bill, to receive reimbursement for the service.

C.S.H.B. 870 repeals statutory provisions relating to the following:

- a prohibition on Medicaid reimbursement to a health care facility that does not comply with certain minimum standards for telemedicine, telehealth, and home telemonitoring technology;
- reimbursement under Medicaid for certain office visits with respect to a patient unlikely to undergo material deterioration within a certain period following the visit and certain limitations on reimbursement for such services;
- the alignment of Medicaid telemedicine reimbursement policies with Medicare reimbursement policies; and
- the expiration of Medicaid reimbursement for the provision of home telemonitoring services on or after September 1, 2019.

C.S.H.B. 870 repeals the following provisions of the Government Code:

- Sections 531.0216(b) and (e)
- Section 531.02161
- Sections 531.0217(c-1), (c-2), (c-3), and (f)
- Section 531.02173
- Section 531.02176

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 870 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a provision that removes a limitation on the prohibition against HHSC requiring that a service be provided to a patient through telemedicine medical services or telehealth services and that removes a requirement that HHSC encourage STAR Health program providers to use those services as appropriate.

The substitute includes provisions:

- requiring HHSC to ensure a Medicaid MCO takes certain actions regarding telemedicine medical services or telehealth services;
- requiring HHSC to develop, document, and implement a certain monitoring process regarding a Medicaid MCO;
- requiring the executive commissioner by rule to ensure that a federally qualified health center may be reimbursed for certain fees for a covered telemedicine medical service or telehealth service delivered by a health care provider to a Medicaid recipient, subject to legislative appropriation;
- requiring a Medicaid MCO, in complying with certain state and federal requirements, to continue considering certain other factors in determining whether reimbursement for applicable services is appropriate;
- prohibiting HHSC from limiting a physician's choice of platform by requiring use of a particular platform to receive reimbursement; and
- repealing provisions relating to:
 - reimbursement for certain office visits with respect to a patient unlikely to undergo material deterioration within a certain period following the visit; and
 - expiration of Medicaid reimbursement for provision of home telemonitoring services.