A BILL TO BE ENTITLED

AN ACT

relating to the provision and delivery of health care services under Medicaid and other public benefits programs using telecommunications or information technology and to reimbursement for some of those services.

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

SECTION 1. Section 531.0216(i), Government Code, is amended to read as follows:

(i) The executive commissioner by rule shall ensure that a rural health clinic as defined by 42 U.S.C. Section 1396d(1)(1) and a federally qualified health center as defined by 42 U.S.C. Section 1396d(1)(2)(B) 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 health care provider to a Medicaid recipient. The commission is required to implement this subsection only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, implement this subsection using other money available to the commission for that purpose.

SECTION 2. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02161 to read as follows:

Sec. 531.02161. PROVISION OF SERVICES THROUGH...
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TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY UNDER MEDICAID AND
OTHER PUBLIC BENEFITS PROGRAMS. (a) In this section, "case
management services" includes service coordination, service
management, and care coordination.

(b) To the extent permitted by federal law and to the extent
it is cost-effective and clinically effective, as determined by the
commission, the commission shall ensure that Medicaid recipients,
child health plan program enrollees, and other individuals
receiving benefits under a public benefits program administered by
the commission or a health and human services agency, regardless of
whether receiving benefits through a managed care delivery model or
another delivery model, have the option to receive services as
telemedicine medical services, telehealth services, or otherwise
using telecommunications or information technology, including the
following services:

(1) preventative health and wellness services;

(2) case management services, including targeted case
management services;

(3) subject to Subsection (c), behavioral health
services;

(4) occupational, physical, and speech therapy
services;

(5) nutritional counseling services; and

(6) assessment services, including nursing
assessments under the following Section 1915(c) waiver programs:

(A) the community living assistance and support
services (CLASS) waiver program;
(B) the deaf-blind with multiple disabilities (DBMD) waiver program;
(C) the home and community-based services (HCS) waiver program; and
(D) the Texas home living (TxHmL) waiver program.

(c) The commission by rule shall develop and implement a system to ensure behavioral health services may be provided using audio-only technology to a Medicaid recipient, a child health plan program enrollee, or another individual receiving those services under another public benefits program administered by the commission or a health and human services agency.

(d) If the executive commissioner determines that providing services other than behavioral health services is appropriate using audio-only technology under a public benefits program administered by the commission or a health and human services agency, in accordance with applicable federal and state law, the executive commissioner may by rule authorize the provision of those services under the applicable program using that technology. In determining whether the use of audio-only technology in a program is appropriate under this subsection, the executive commissioner shall consider whether using the technology would be cost-effective and clinically effective.

SECTION 3. Section 531.02164, Government Code, is amended by adding Subsection (f) to read as follows:

(f) To comply with state and federal requirements to provide access to medically necessary services under the Medicaid managed care program, a Medicaid managed care organization may reimburse
providers for home telemonitoring services provided to persons and
in circumstances other than those expressly authorized by this
section. In determining whether the managed care organization
should provide reimbursement for services under this subsection,
the organization shall consider whether reimbursement for the
service is cost-effective and providing the service is clinically
effective.

SECTION 4. Section 533.0061(b), Government Code, is amended
to read as follows:

(b) To the extent it is feasible, the provider access
standards established under this section must:

(1) distinguish between access to providers in urban
and rural settings; [and]

(2) consider the number and geographic distribution of
Medicaid-enrolled providers in a particular service delivery area;

and

(3) consider and include the availability of
telehealth services and telemedicine medical services within the
provider network of a managed care organization.

SECTION 5. Section 533.008, Government Code, is amended by
adding Subsection (c) to read as follows:

(c) The executive commissioner shall adopt and publish
guidelines for Medicaid managed care organizations regarding how
organizations may communicate by text message with recipients
enrolled in the organization's managed care plan. The guidelines
must include standardized consent language to be used by
organizations in obtaining a recipient's consent to receive
communications by text message.

SECTION 6. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.039 to read as follows:

Sec. 533.039. DELIVERY OF BENEFITS USING TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY. (a) The commission shall establish policies and procedures to improve access to care under the Medicaid managed care program by encouraging the use of telehealth services, telemedicine medical services, home telemonitoring services, and other telecommunications or information technology under the program.

(b) To the extent permitted by federal law, the commission by rule shall establish policies and procedures that allow a Medicaid managed care organization to conduct assessments of and provide care coordination services to recipients receiving home and community-based services using another telecommunications or information technology if:

(1) the managed care organization determines using the telecommunications or information technology is appropriate;

(2) the recipient requests that the assessment or activity is provided using telecommunications or information technology;

(3) an in-person assessment or activity is not feasible because of the existence of an emergency or state of disaster, including a public health emergency or natural disaster; or

(4) the commission determines using the telecommunications or information technology is appropriate under
the circumstances.

(c) If a managed care organization conducts an assessment of or provides care coordination services to a recipient using telecommunications or information technology, the managed care organization shall:

(1) monitor the health care services provided to the recipient for evidence of fraud, waste, and abuse; and

(2) determine whether additional social services or supports are needed.

(d) To the extent permitted by federal law, the commission shall allow a recipient who is assessed or provided with care coordination services by a Medicaid managed care organization using telecommunications or information technology to provide consent or other authorizations to receive services verbally instead of in writing.

(e) The commission shall determine categories of recipients of home and community-based services who must receive in-person visits. Except during circumstances described by Subsection (b)(3), a Medicaid managed care organization shall, for a recipient of home and community-based services for which the commission requires in-person visits, conduct:

(1) at least one in-person visit with the recipient; and

(2) additional in-person visits with the recipient if necessary, as determined by the managed care organization.

SECTION 7. Section 62.1571, Health and Safety Code, is amended to read as follows:
Sec. 62.1571. TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES. (a) In providing covered benefits to a child, a health plan provider must permit benefits to be provided through telemedicine medical services and telehealth services in accordance with policies developed by the commission.

(b) The policies must provide for:

(1) the availability of covered benefits appropriately provided through telemedicine medical services or telehealth services that are comparable to the same types of covered benefits provided without the use of telemedicine medical services or telehealth services; and

(2) the availability of covered benefits for different services performed by multiple health care providers during a single session of telemedicine medical services or telehealth services, if the executive commissioner determines that delivery of the covered benefits in that manner is cost-effective in comparison to the costs that would be involved in obtaining the services from providers without the use of telemedicine medical services or telehealth services, including the costs of transportation and lodging and other direct costs.

(d) In this section, "telehealth service" and "telemedicine medical service" have [has] the meanings [meaning] assigned by Section 531.001, Government Code.

SECTION 8. Not later than January 1, 2022, the Health and Human Services Commission shall:

(1) implement Section 531.02161, Government Code, as added by this Act; and
(2) publish the guidelines required by Section 533.008(c), Government Code, as added by this Act.

SECTION 9. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 10. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.