

By: Buckingham

S.B. No. 412

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to telemedicine, telehealth, and technology-related  
3 health care services.

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

5 SECTION 1. Section 531.0216, Government Code, is amended by  
6 amending Subsection (i) and adding Subsections (k) and (l) to read  
7 as follows:

8 (i) The executive commissioner by rule shall ensure that a  
9 federally qualified health center as defined by 42 U.S.C. Section  
10 1396d(1)(2)(B) or a rural health clinic as defined by 42 U.S.C.  
11 Section 1396d(1)(1) may be reimbursed for the originating site  
12 facility fee or the distant site practitioner fee or both, as  
13 appropriate, for a covered telemedicine medical service or  
14 telehealth service delivered by a health care provider to a  
15 Medicaid recipient. The commission is required to implement this  
16 subsection only if the legislature appropriates money specifically  
17 for that purpose. If the legislature does not appropriate money  
18 specifically for that purpose, the commission may, but is not  
19 required to, implement this subsection using other money available  
20 to the commission for that purpose.

21 (k) No later than January 1, 2022, the commission shall  
22 implement reimbursement for telemedicine medical services and  
23 telehealth services in the following programs, services and  
24 benefits:

- 1           (1) Children with Special Health Care Needs program,  
2           (2) Early Childhood Intervention,  
3           (3) School and Health Related Services,  
4           (4) physical therapy, occupational therapy and speech  
5 therapy,  
6           (5) targeted case management,  
7           (6) nutritional counseling services,  
8           (7) Texas Health Steps checkups,  
9           (8) Medicaid 1915(c)waiver programs, including the  
10 Community Living and Support Services waiver, and  
11           (9) any other program, benefit, or service under the  
12 commission's jurisdiction that the commissioner determines to be  
13 cost effective and clinically effective.

14           (1) The commission shall implement audio-only benefits for  
15 behavioral health services, and may implement audio-only benefits  
16 in any program under the commission's jurisdiction, in accordance  
17 with federal and state law and shall consider other factors,  
18 including whether reimbursement is cost-effective and whether the  
19 provision of the service is clinically effective, in making the  
20 determination.

21           SECTION 2. Section [531.02164](#), Government Code, is amended  
22 by adding Subsection (f) to read as follows:

23           (f) In complying with state and federal requirements to  
24 provide access to medically necessary services under the Medicaid  
25 managed care program, a Medicaid managed care organization may  
26 reimburse providers for home telemonitoring services not  
27 specifically defined in this section and shall consider other

1 factors, including whether reimbursement is cost-effective and  
2 whether the provision of the service is clinically effective, in  
3 making the determination.

4 SECTION 3. Section 533, Government Code, is amended by  
5 adding Section 533.00252 to read as follows:

6 533.00252 DELIVERY OF TELECOMMUNICATION SERVICES. (a) The  
7 commission shall implement policies and procedures to improve  
8 access to care through telemedicine, telehealth, tele-monitoring,  
9 and other telecommunication or information technology solutions.

10 (b) To the extent authorized by federal law, the commission  
11 shall establish policies and procedures that allow managed care  
12 organizations to conduct assessment and service coordination  
13 activities for members receiving home and community-based services  
14 through telecommunication or information technology in the  
15 following circumstances:

16 (1) when the managed care organization determines it  
17 appropriate;

18 (2) the member requests activities occur through  
19 telecommunication or information technology;

20 (3) when in-person activities are not feasible due to  
21 a natural disaster, pandemic, public health emergency; or

22 (4) in other circumstances identified by the  
23 commission.

24 (c) If assessment or service coordination activities are  
25 conducted through telecommunication or information technology, the  
26 managed care organization must:

27 (1) monitor health care services provided to the

1 member for fraud, waste, and abuse; and

2 (2) determine the need for additional social services  
3 and supports.

4 (d) Except as provided by Subsection (b)(3), a managed care  
5 organization must conduct the following activities for members  
6 receiving home and community-based services:

7 (1) at least one in-person visit for the population  
8 that requires face to face visits as determined by HHSC; or

9 (2) additional in-person visits as determined  
10 necessary by the managed care organization.

11 (e) To the extent authorized by federal law, the commission  
12 must allow managed care members receiving assessments or service  
13 coordination through telecommunication or information technology  
14 to provide verbal authorizations in lieu of written signatures on  
15 all required forms.

16 SECTION 4. Section 533.0061 (b), Government Code, is  
17 amended by adding Subsection (b)(3) to read as follows:

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

20 (1) distinguish between access to providers in urban  
21 and rural settings; ~~and~~

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

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

1 SECTION 5. Chapter 533, Government Code, is amended by  
2 adding Subsection 533.088(c) to read as follows:

3 Sec. 533.008. MARKETING GUIDELINES. (a) The commission  
4 shall establish marketing guidelines for managed care  
5 organizations that contract with the commission to provide health  
6 care services to recipients, including guidelines that prohibit:

7 (1) door-to-door marketing to recipients by managed  
8 care organizations or agents of those organizations;

9 (2) the use of marketing materials with inaccurate or  
10 misleading information;

11 (3) misrepresentations to recipients or providers;

12 (4) offering recipients material or financial  
13 incentives to choose a managed care plan other than nominal gifts or  
14 free health screenings approved by the commission that the managed  
15 care organization offers to all recipients regardless of whether  
16 the recipients enroll in the managed care plan;

17 (5) the use of marketing agents who are paid solely by  
18 commission; and

19 (6) face-to-face marketing at public assistance  
20 offices by managed care organizations or agents of those  
21 organizations.

22 (b) This section does not prohibit:

23 (1) the distribution of approved marketing materials  
24 at public assistance offices; or

25 (2) the provision of information directly to  
26 recipients under marketing guidelines established by the  
27 commission.

1       (c) The executive commissioner shall adopt and publish  
2 guidance that allows managed care plans that contract with the  
3 commission to communicate with their enrolled recipients via text  
4 message in accordance with this section. Such guidance shall  
5 include the development and implementation of standardized consent  
6 language to be used by managed care plans in obtaining patient  
7 consent to receive text messages. The guidance must be published no  
8 later than January 1, 2022.

9       SECTION 6. If before implementing any provision of this Act  
10 a state agency determines that a waiver or authorization from a  
11 federal agency is necessary for implementation of that provision,  
12 the agency affected by the provision shall request the waiver or  
13 authorization and may delay implementing that provision until the  
14 waiver or authorization is granted.

15       SECTION 7. This Act takes effect September 1, 2021.