H.B. No. 2727

AN ACT

relating to the provision of home telemonitoring services under Medicaid.

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

SECTION 1.  Section 531.001(4-a), Government Code, is amended to read as follows:

(4-a)  "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health and transmission of the data to a licensed home and community support services agency, a federally qualified health center, a rural health clinic, or a hospital, as those terms are defined by Section 531.02164(a). The term is synonymous with "remote patient monitoring."

SECTION 2.  Section 531.02164, Government Code, is amended by amending Subsections (a), (b), (c), (c-1), (d), and (f) and adding Subsections (c-2) and (c-3) to read as follows:

(a)  In this section:

(1)  "Federally qualified health center" has the meaning assigned by 42 U.S.C. Section 1396d(l)(2)(B).

(1-a)  "Home and community support services agency" means a person licensed under Chapter 142, Health and Safety Code, to provide home health, hospice, or personal assistance services as defined by Section 142.001, Health and Safety Code.

(2)  "Hospital" means a hospital licensed under Chapter 241, Health and Safety Code.

(3)  "Rural health clinic" has the meaning assigned by 42 U.S.C. Section 1396d(l)(1).

(b)  The [~~If the commission determines that establishing a statewide program that permits reimbursement under Medicaid for home telemonitoring services would be cost-effective and feasible, the~~] executive commissioner [~~by rule~~] shall adopt rules for the provision and reimbursement of home telemonitoring services under Medicaid [~~establish the program~~] as provided under this section.

(c)  For purposes of adopting rules [~~The program required~~] under this section, the commission shall [~~must~~]:

(1)  identify and provide home telemonitoring services to persons diagnosed with conditions for which the commission determines the provision of home telemonitoring services would be cost-effective and clinically effective;

(2)  consider providing home telemonitoring services under Subdivision (1) [~~provide that home telemonitoring services are available only~~] to Medicaid recipients [~~persons~~] who:

(A)  are diagnosed with one or more of the following conditions:

(i)  pregnancy;

(ii)  diabetes;

(iii)  heart disease;

(iv)  cancer;

(v)  chronic obstructive pulmonary disease;

(vi)  hypertension;

(vii)  congestive heart failure;

(viii)  mental illness or serious emotional disturbance;

(ix)  asthma;

(x)  myocardial infarction; [~~or~~]

(xi)  stroke;

(xii)  end stage renal disease; or

(xiii)  a condition that requires renal dialysis treatment; and

(B)  exhibit at least one [~~two or more~~] of the following risk factors:

(i)  two or more hospitalizations in the prior 12-month period;

(ii)  frequent or recurrent emergency room admissions;

(iii)  a documented history of poor adherence to ordered medication regimens;

(iv)  a documented risk [~~history~~] of falls [~~in the prior six-month period~~]; and

(v)  [~~limited or absent informal support systems;~~

[~~(vi)  living alone or being home alone for extended periods of time; and~~

[~~(vii)~~]  a documented history of care access challenges;

(3) [~~(2)~~]  ensure that clinical information gathered by the following providers while providing home telemonitoring services is shared with the recipient's physician:

(A)  a home and community support services agency;

(B)  a federally qualified health center;

(C)  a rural health clinic; or

(D)  a hospital [~~while providing home telemonitoring services is shared with the patient's physician~~]; [~~and~~]

(4) [~~(3)~~]  ensure that the home telemonitoring services provided under this section do [~~program does~~] not duplicate disease management program services provided under Section 32.057, Human Resources Code; and

(5)  require a provider to:

(A)  establish a plan of care that includes outcome measures for each recipient who receives home telemonitoring services under this section; and

(B)  share the plan and outcome measures with the recipient's physician.

(c-1)  Notwithstanding any other provision of this section [~~Subsection (c)(1)~~], the commission shall ensure [~~the program required under this section must also provide~~] that home telemonitoring services are available to pediatric persons who:

(1)  are diagnosed with end-stage solid organ disease;

(2)  have received an organ transplant; or

(3)  require mechanical ventilation.

(c-2)  In addition to determining whether to provide home telemonitoring services to Medicaid recipients with the conditions described under Subsection (c)(2), the commission shall determine whether high-risk pregnancy is a condition for which the provision of home telemonitoring services is cost-effective and clinically effective. If the commission determines that high-risk pregnancy is a condition for which the provision of home telemonitoring services is cost-effective and clinically effective:

(1)  the commission shall, to the extent permitted by state and federal law, provide recipients experiencing a high-risk pregnancy with clinically appropriate home telemonitoring services equipment for temporary use in the recipient's home; and

(2)  the executive commissioner by rule shall:

(A)  establish criteria to identify recipients experiencing a high-risk pregnancy who would benefit from access to home telemonitoring services equipment;

(B)  ensure that, if cost-effective, feasible, and clinically appropriate, the home telemonitoring services equipment provided includes uterine remote monitoring services equipment and pregnancy-induced hypertension remote monitoring services equipment;

(C)  subject to Subsection (c-3), require that a provider obtain:

(i)  prior authorization from the commission before providing home telemonitoring services equipment to a recipient during the first month the equipment is provided to the recipient; and

(ii)  an extension of the authorization under Subparagraph (i) from the commission before providing the equipment in a subsequent month based on the ongoing medical need of the recipient; and

(D)  prohibit payment or reimbursement for home telemonitoring services equipment during any period that the equipment was not in use because the recipient was hospitalized or away from the recipient's home regardless of whether the equipment remained in the recipient's home while the recipient was hospitalized or away.

(c-3)  For purposes of Subsection (c-2), the commission shall require that:

(1)  a request for prior authorization under Subsection (c-2)(2)(C)(i) be based on an in-person assessment of the recipient; and

(2)  documentation of the recipient's ongoing medical need for the equipment is provided to the commission before the commission grants an extension under Subsection (c-2)(2)(C)(ii).

(d)  If, after implementation, the commission determines that a condition for which the commission has authorized the provision and reimbursement of home telemonitoring services under Medicaid [~~the program established~~] under this section is not cost-effective and clinically effective, the commission may discontinue the availability of home telemonitoring services for that condition [~~program~~] and stop providing reimbursement under Medicaid for home telemonitoring services for that condition, notwithstanding Section 531.0216 or any other law.

(f)  To comply with state and federal requirements to provide access to medically necessary services under Medicaid, including the Medicaid managed care program, and if the commission determines it is cost-effective and clinically effective, the commission or a Medicaid managed care organization, as applicable, may reimburse providers for home telemonitoring services provided to persons who have conditions and exhibit risk factors 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 3.  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 4.  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, 2023.

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    President of the Senate Speaker of the House

I certify that H.B. No. 2727 was passed by the House on April 27, 2023, by the following vote:  Yeas 138, Nays 11, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2727 on May 26, 2023, by the following vote:  Yeas 120, Nays 21, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2727 was passed by the Senate, with amendments, on May 24, 2023, by the following vote:  Yeas 29, Nays 2.

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Secretary of the Senate

APPROVED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                 Date

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               Governor