

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1512 Session of 2023

INTRODUCED BY SAPPEY, HILL-EVANS, HANBIDGE, D. WILLIAMS, ISAACSON, BURGOS, MADDEN, GUENST, SANCHEZ, CIRESI, KINSEY, SCHLOSSBERG, VENKAT, GALLOWAY, HOHENSTEIN, SAMUELSON, DEASY, FREEMAN, CERRATO, KHAN, HOWARD, WARREN, OTTEN, HARRIS, KINKEAD, STURLA, CONKLIN, FLEMING, TAKAC, PARKER AND GREEN, JUNE 26, 2023

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 25, 2024

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, in regulation of insurers and related persons
3 generally, providing for telemedicine.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 40 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 45

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9 TELEMEDICINE

10 Sec.

11 4501. Definitions.

12 4502. Health insurance coverage of telemedicine services.

13 4503. Legal standard of care.

14 4504. Regulations.

15 4505. Applicability.

16 § 4501. Definitions.

TELEMEDICINE

SEC.

4701. DEFINITIONS.

4702. HEALTH INSURANCE COVERAGE OF TELEMEDICINE SERVICES.

4703. STANDARD OF CARE.

4704. REGULATIONS.

§ 4701. DEFINITIONS.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Covered person." A policyholder, subscriber or other individual who is entitled to receive a covered health care service under a health insurance policy.

"Health care provider." Any of the following:

(1) A health care practitioner as defined in section 103 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

(2) A federally qualified health center as defined in 42 U.S.C. § 1395x(aa) (4) (relating to definitions).

(3) A rural health clinic as defined in 42 U.S.C. § 1395x(aa) (2).

(4) A general, mental, chronic disease or other type of hospital licensed in this Commonwealth.

"Health care service." A service for the diagnosis, prevention, treatment, habilitation, rehabilitation, cure or relief of a health condition, injury, disease or illness.

"Health insurance policy." As follows:

(1) A policy, subscriber contract, certificate or plan issued by a health insurer that provides medical or health

1 care coverage.

2 (2) The term does not include any of the following:

3 (i) An accident only policy.

4 (ii) A credit only policy.

5 (iii) A long-term care or disability income policy.

6 (iv) A specified disease policy.

7 (v) A Medicare supplement policy.

8 (vi) A fixed indemnity policy.

9 (vii) A dental only policy.

10 (viii) A vision only policy.

11 (ix) A workers' compensation policy.

12 (x) An automobile medical payment policy.

13 (xi) A policy under which benefits are provided by

14 the Federal Government to active or former military

15 personnel and their dependents.

16 (xii) A hospital indemnity policy.

17 (xiii) Any other similar policies providing for

18 limited benefits.

19 "Health insurer." An entity that holds a valid license <--

20 issued by the department with accident and health authority to

21 issue a health insurance policy and governed under any of the

22 following: AN ENTITY THAT OFFERS, ISSUES OR RENEWS AN INDIVIDUAL <--

23 OR GROUP HEALTH INSURANCE POLICY THAT IS OFFERED OR GOVERNED

24 UNDER ANY OF THE FOLLOWING:

25 (1) The act of May 17, 1921 (P.L.682, No.284), known as

26 The Insurance Company Law of 1921, including section 630 and

27 Article XXIV of that act.

28 (2) The act of December 29, 1972 (P.L.1701, No.364),

29 known as the Health Maintenance Organization Act.

30 (3) Chapter 61 (relating to hospital plan corporations).

1 (4) Chapter 63 (relating to professional health services
2 plan corporations).

3 "Participating health care provider." A health care provider
4 that has entered into a contractual or operating relationship
5 with a health insurer to participate in one or more designated
6 networks of the health insurer and to provide covered health
7 care services to covered persons under the terms of the
8 contractual or operating agreement between the health insurer
9 and the health care provider.

10 ~~"Provider to provider consultation." The act by a health~~ <--
11 ~~care provider of seeking advice and recommendations from another~~
12 ~~health care provider for diagnostic studies, therapeutic~~
13 ~~interventions or other services that may benefit a covered~~
14 ~~person who is the patient of the initiator of the consultation.~~

15 "Telemedicine." As follows:

16 (1) The delivery of health care services by a health
17 care provider who is at a different PHYSICAL location FROM <--
18 THE COVERED PERSON, through technology which satisfies the
19 requirements of the Health Insurance Portability and
20 Accountability Act of 1996 (Public Law 104-191, 110 Stat.
21 1936), the Health Information Technology for Economic and
22 Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and
23 467-496) or other applicable Federal or State law regarding
24 the privacy and security of electronic transmission of health
25 information.

26 ~~(2) The term does not include any of the following:~~ <--

27 ~~(i) The provision of health care services solely~~
28 ~~through the use of voicemail, facsimile, email or instant~~
29 ~~messaging or a combination thereof.~~

30 ~~(ii) A provider to provider consultation.~~

1 (2) THE TERM DOES NOT INCLUDE THE PROVISION OF HEALTH <--
2 CARE SERVICES SOLELY THROUGH THE USE OF VOICEMAIL, FACSIMILE,
3 EMAIL OR INSTANT MESSAGING OR A COMBINATION THEREOF.

4 ~~§ 4502~~ 4702. Health insurance coverage of telemedicine <--
5 services.

6 (a) Requirements.--

7 (1) The following apply to health insurers:

8 (i) A health insurer may not refuse to pay or to
9 reimburse a participating health care provider or a
10 covered person for a medically necessary AND APPROPRIATE <--
11 covered health care service provided through telemedicine
12 to a covered person solely because the health care <--
13 service was provided through telemedicine. PERSON. <--

14 (ii) The payment or reimbursement under this
15 paragraph shall be in accordance with the terms and
16 conditions of the health insurance policy and, if
17 applicable, the network participation agreement as
18 negotiated between the insurer and the participating
19 health care provider.

20 (2) A health insurance policy offered, issued,
21 delivered, executed or renewed in this Commonwealth may not
22 contain a provision that refuses to pay or to reimburse a
23 participating health care provider or a covered person for a
24 medically necessary AND APPROPRIATE covered health care <--
25 service provided through telemedicine to a covered person
26 solely because the health care service was provided through <--
27 telemedicine.

28 (3) The network participation agreement:

29 (i) May not prohibit payment or reimbursement solely <--
30 because a MEDICALLY NECESSARY AND APPROPRIATE COVERED <--

1 health care service is provided through telemedicine.

2 (ii) May NOT condition payment or reimbursement upon <--
3 the use of an exclusive or proprietary telemedicine
4 technology or vendor.

5 (b) Construction.--Nothing in this section shall be
6 construed to require parity between payments or reimbursements
7 for health care services provided through telemedicine and
8 payments or reimbursements for health care services provided
9 through an in-person encounter.

10 ~~§ 4503. Legal standard 4703. STANDARD of care.~~ <--

11 Health care services provided through telemedicine shall meet
12 the same ~~legal~~ standard of care that would apply if the health <--
13 care service were rendered in an in-person setting.

14 ~~§ 4504 4704. Regulations.~~ <--

15 (a) Promulgation.--The department may promulgate regulations
16 to implement this chapter.

17 (b) Construction.--Nothing in this chapter shall be
18 construed to diminish a Commonwealth entity's existing
19 regulatory authority regarding health insurance policies or the
20 practice of health care.

21 ~~§ 4505. Applicability.~~ <--

22 ~~(a) Rates or forms required. For a health insurance policy~~
23 ~~for which either rates or forms are required to be filed with~~
24 ~~the Federal Government or the department, this chapter shall~~
25 ~~apply to a policy for which a form or rate is first filed on or~~
26 ~~after 180 days after the effective date of this subsection.~~

27 ~~(b) Rates and forms not required. For a health insurance~~
28 ~~policy for which neither rates nor forms are required to be~~
29 ~~filed with the Federal Government or the department, this~~
30 ~~chapter shall apply to a policy issued or renewed on or after~~

1 ~~180 days after the effective date of this subsection.~~

2 ~~Section 2. This act shall take effect in 60 days.~~

3 SECTION 2. THE FOLLOWING SHALL APPLY:

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4 (1) FOR A HEALTH INSURANCE POLICY FOR WHICH EITHER RATES
5 OR FORMS ARE REQUIRED TO BE FILED WITH THE FEDERAL GOVERNMENT
6 OR THE DEPARTMENT, 40 PA.C.S. CH. 47 SHALL APPLY TO A POLICY
7 FOR WHICH A FORM OR RATE IS FIRST FILED ON OR AFTER 180 DAYS
8 AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH.

9 (2) FOR A HEALTH INSURANCE POLICY FOR WHICH NEITHER
10 RATES NOR FORMS ARE REQUIRED TO BE FILED WITH THE FEDERAL
11 GOVERNMENT OR THE DEPARTMENT, 40 PA.C.S. CH. 47 SHALL APPLY
12 TO A POLICY ISSUED OR RENEWED ON OR AFTER 180 DAYS AFTER THE
13 EFFECTIVE DATE OF THIS PARAGRAPH.

14 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.