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SENATE BILL 5457

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State of Washington                      65th Legislature                      2017 Regular Session

By Senators Becker, Cleveland, Keiser, and Frockt

Read first time 01/25/17. Referred to Committee on Health Care.

1            AN ACT Relating to expanding patient access to health services  
2 through telemedicine and store and forward technology by requiring  
3 parity in payment for services; amending RCW 48.43.735, 41.05.700,  
4 and 74.09.325; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            **Sec. 1.** RCW 48.43.735 and 2016 c 68 s 3 are each amended to read  
7 as follows:

8            (1) For health plans issued or renewed on or after January 1,  
9 ((2017)) 2018, a health carrier shall reimburse a provider for a  
10 health care service provided to a covered person through telemedicine  
11 or store and forward technology at the same rate as if the health  
12 care service was provided in person by the provider if:

13            (a) The plan provides coverage of the health care service when  
14 provided in person by the provider;

15            (b) The health care service is medically necessary;

16            (c) The health care service is a service recognized as an  
17 essential health benefit under section 1302(b) of the federal patient  
18 protection and affordable care act in effect on January 1, 2015; and

19            (d) The health care service is determined to be safely and  
20 effectively provided through telemedicine or store and forward  
21 technology according to generally accepted health care practices and

1 standards, and the technology used to provide the health care service  
2 meets the standards required by state and federal laws governing the  
3 privacy and security of protected health information.

4 (2)(a) If the service is provided through store and forward  
5 technology there must be an associated office visit between the  
6 covered person and the referring health care provider. Nothing in  
7 this section prohibits the use of telemedicine for the associated  
8 office visit.

9 (b) For purposes of this section, reimbursement of store and  
10 forward technology is available only for those covered services  
11 specified in the negotiated agreement between the health carrier and  
12 the health care provider.

13 (3) An originating site for a telemedicine health care service  
14 subject to subsection (1) of this section includes a:

15 (a) Hospital;

16 (b) Rural health clinic;

17 (c) Federally qualified health center;

18 (d) Physician's or other health care provider's office;

19 (e) Community mental health center;

20 (f) Skilled nursing facility;

21 (g) Home; or

22 (h) Renal dialysis center, except an independent renal dialysis  
23 center.

24 (4) Except for subsection (3)(g) of this section, any originating  
25 site under subsection (3) of this section may charge a facility fee  
26 for infrastructure and preparation of the patient. Reimbursement for  
27 a facility fee must be subject to a negotiated agreement between the  
28 originating site and the health carrier and is not subject to  
29 subsection (1) of this section. A distant site or any other site not  
30 identified in subsection (3) of this section may not charge a  
31 facility fee.

32 (5) A health carrier may not distinguish between originating  
33 sites that are rural and urban in providing the coverage required in  
34 subsection (1) of this section.

35 (6) A health carrier may subject coverage of a telemedicine or  
36 store and forward technology health service under subsection (1) of  
37 this section to all terms and conditions of the plan in which the  
38 covered person is enrolled(( $\tau$ )) including, but not limited to,  
39 utilization review, prior authorization, deductible, copayment, or

1 coinsurance requirements that are applicable to coverage of a  
2 comparable health care service provided in person.

3 (7) This section does not require a health carrier to reimburse:

4 (a) An originating site for professional fees;

5 (b) A provider for a health care service that is not a covered  
6 benefit under the plan; or

7 (c) An originating site or health care provider when the site or  
8 provider is not a contracted provider under the plan.

9 (8) For purposes of this section:

10 (a) "Distant site" means the site at which a physician or other  
11 licensed provider, delivering a professional service, is physically  
12 located at the time the service is provided through telemedicine;

13 (b) "Health care service" has the same meaning as in RCW  
14 48.43.005;

15 (c) "Hospital" means a facility licensed under chapter 70.41,  
16 71.12, or 72.23 RCW;

17 (d) "Originating site" means the physical location of a patient  
18 receiving health care services through telemedicine;

19 (e) "Provider" has the same meaning as in RCW 48.43.005;

20 (f) "Store and forward technology" means use of an asynchronous  
21 transmission of a covered person's medical information from an  
22 originating site to the health care provider at a distant site which  
23 results in medical diagnosis and management of the covered person,  
24 and does not include the use of audio-only telephone, facsimile, or  
25 email; and

26 (g) "Telemedicine" means the delivery of health care services  
27 through the use of interactive audio and video technology, permitting  
28 real-time communication between the patient at the originating site  
29 and the provider, for the purpose of diagnosis, consultation, or  
30 treatment. For purposes of this section only, "telemedicine" does not  
31 include the use of audio-only telephone, facsimile, or email.

32 **Sec. 2.** RCW 41.05.700 and 2016 c 68 s 4 are each amended to read  
33 as follows:

34 (1) A health plan offered to employees and their covered  
35 dependents under this chapter issued or renewed on or after January  
36 1, (~~2017~~) 2018, shall reimburse a provider for a health care  
37 service provided to a covered person through telemedicine or store  
38 and forward technology at the same rate as if the health care service  
39 was provided in person by the provider if:

1 (a) The plan provides coverage of the health care service when  
2 provided in person by the provider;

3 (b) The health care service is medically necessary;

4 (c) The health care service is a service recognized as an  
5 essential health benefit under section 1302(b) of the federal patient  
6 protection and affordable care act in effect on January 1, 2015; and

7 (d) The health care service is determined to be safely and  
8 effectively provided through telemedicine or store and forward  
9 technology according to generally accepted health care practices and  
10 standards, and the technology used to provide the health care service  
11 meets the standards required by state and federal laws governing the  
12 privacy and security of protected health information.

13 (2)(a) If the service is provided through store and forward  
14 technology there must be an associated office visit between the  
15 covered person and the referring health care provider. Nothing in  
16 this section prohibits the use of telemedicine for the associated  
17 office visit.

18 (b) For purposes of this section, reimbursement of store and  
19 forward technology is available only for those covered services  
20 specified in the negotiated agreement between the health plan and  
21 health care provider.

22 (3) An originating site for a telemedicine health care service  
23 subject to subsection (1) of this section includes a:

24 (a) Hospital;

25 (b) Rural health clinic;

26 (c) Federally qualified health center;

27 (d) Physician's or other health care provider's office;

28 (e) Community mental health center;

29 (f) Skilled nursing facility;

30 (g) Home; or

31 (h) Renal dialysis center, except an independent renal dialysis  
32 center.

33 (4) Except for subsection (3)(g) of this section, any originating  
34 site under subsection (3) of this section may charge a facility fee  
35 for infrastructure and preparation of the patient. Reimbursement for  
36 a facility fee must be subject to a negotiated agreement between the  
37 originating site and the health plan and is not subject to subsection  
38 (1) of this section. A distant site or any other site not identified  
39 in subsection (3) of this section may not charge a facility fee.

1 (5) The plan may not distinguish between originating sites that  
2 are rural and urban in providing the coverage required in subsection  
3 (1) of this section.

4 (6) The plan may subject coverage of a telemedicine or store and  
5 forward technology health service under subsection (1) of this  
6 section to all terms and conditions of the plan((7)) including, but  
7 not limited to, utilization review, prior authorization, deductible,  
8 copayment, or coinsurance requirements that are applicable to  
9 coverage of a comparable health care service provided in person.

10 (7) This section does not require the plan to reimburse:

11 (a) An originating site for professional fees;

12 (b) A provider for a health care service that is not a covered  
13 benefit under the plan; or

14 (c) An originating site or health care provider when the site or  
15 provider is not a contracted provider under the plan.

16 (8) For purposes of this section:

17 (a) "Distant site" means the site at which a physician or other  
18 licensed provider, delivering a professional service, is physically  
19 located at the time the service is provided through telemedicine;

20 (b) "Health care service" has the same meaning as in RCW  
21 48.43.005;

22 (c) "Hospital" means a facility licensed under chapter 70.41,  
23 71.12, or 72.23 RCW;

24 (d) "Originating site" means the physical location of a patient  
25 receiving health care services through telemedicine;

26 (e) "Provider" has the same meaning as in RCW 48.43.005;

27 (f) "Store and forward technology" means use of an asynchronous  
28 transmission of a covered person's medical information from an  
29 originating site to the health care provider at a distant site which  
30 results in medical diagnosis and management of the covered person,  
31 and does not include the use of audio-only telephone, facsimile, or  
32 email; and

33 (g) "Telemedicine" means the delivery of health care services  
34 through the use of interactive audio and video technology, permitting  
35 real-time communication between the patient at the originating site  
36 and the provider, for the purpose of diagnosis, consultation, or  
37 treatment. For purposes of this section only, "telemedicine" does not  
38 include the use of audio-only telephone, facsimile, or email.

1       **Sec. 3.** RCW 74.09.325 and 2016 c 68 s 5 are each amended to read  
2 as follows:

3       (1) Upon initiation or renewal of a contract with the Washington  
4 state health care authority to administer a medicaid managed care  
5 plan, a managed health care system shall reimburse a provider for a  
6 health care service provided to a covered person through telemedicine  
7 or store and forward technology at the same rate as if the health  
8 care service was provided in person by the provider if:

9       (a) The medicaid managed care plan in which the covered person is  
10 enrolled provides coverage of the health care service when provided  
11 in person by the provider;

12       (b) The health care service is medically necessary;

13       (c) The health care service is a service recognized as an  
14 essential health benefit under section 1302(b) of the federal patient  
15 protection and affordable care act in effect on January 1, 2015; and

16       (d) The health care service is determined to be safely and  
17 effectively provided through telemedicine or store and forward  
18 technology according to generally accepted health care practices and  
19 standards, and the technology used to provide the health care service  
20 meets the standards required by state and federal laws governing the  
21 privacy and security of protected health information.

22       (2)(a) If the service is provided through store and forward  
23 technology there must be an associated visit between the covered  
24 person and the referring health care provider. Nothing in this  
25 section prohibits the use of telemedicine for the associated office  
26 visit.

27       (b) For purposes of this section, reimbursement of store and  
28 forward technology is available only for those services specified in  
29 the negotiated agreement between the managed health care system and  
30 health care provider.

31       (3) An originating site for a telemedicine health care service  
32 subject to subsection (1) of this section includes a:

33       (a) Hospital;

34       (b) Rural health clinic;

35       (c) Federally qualified health center;

36       (d) Physician's or other health care provider's office;

37       (e) Community mental health center;

38       (f) Skilled nursing facility;

39       (g) Home; or

1 (h) Renal dialysis center, except an independent renal dialysis  
2 center.

3 (4) Except for subsection (3)(g) of this section, any originating  
4 site under subsection (3) of this section may charge a facility fee  
5 for infrastructure and preparation of the patient. Reimbursement for  
6 a facility fee must be subject to a negotiated agreement between the  
7 originating site and the managed health care system and is not  
8 subject to subsection (1) of this section. A distant site or any  
9 other site not identified in subsection (3) of this section may not  
10 charge a facility fee.

11 (5) A managed health care system may not distinguish between  
12 originating sites that are rural and urban in providing the coverage  
13 required in subsection (1) of this section.

14 (6) A managed health care system may subject coverage of a  
15 telemedicine or store and forward technology health service under  
16 subsection (1) of this section to all terms and conditions of the  
17 plan in which the covered person is enrolled((~~r~~)) including, but not  
18 limited to, utilization review, prior authorization, deductible,  
19 copayment, or coinsurance requirements that are applicable to  
20 coverage of a comparable health care service provided in person.

21 (7) This section does not require a managed health care system to  
22 reimburse:

23 (a) An originating site for professional fees;

24 (b) A provider for a health care service that is not a covered  
25 benefit under the plan; or

26 (c) An originating site or health care provider when the site or  
27 provider is not a contracted provider under the plan.

28 (8) For purposes of this section:

29 (a) "Distant site" means the site at which a physician or other  
30 licensed provider, delivering a professional service, is physically  
31 located at the time the service is provided through telemedicine;

32 (b) "Health care service" has the same meaning as in RCW  
33 48.43.005;

34 (c) "Hospital" means a facility licensed under chapter 70.41,  
35 71.12, or 72.23 RCW;

36 (d) "Managed health care system" means any health care  
37 organization, including health care providers, insurers, health care  
38 service contractors, health maintenance organizations, health  
39 insuring organizations, or any combination thereof, that provides  
40 directly or by contract health care services covered under this

1 chapter and rendered by licensed providers, on a prepaid capitated  
2 basis and that meets the requirements of section 1903(m)(1)(A) of  
3 Title XIX of the federal social security act or federal demonstration  
4 waivers granted under section 1115(a) of Title XI of the federal  
5 social security act;

6 (e) "Originating site" means the physical location of a patient  
7 receiving health care services through telemedicine;

8 (f) "Provider" has the same meaning as in RCW 48.43.005;

9 (g) "Store and forward technology" means use of an asynchronous  
10 transmission of a covered person's medical information from an  
11 originating site to the health care provider at a distant site which  
12 results in medical diagnosis and management of the covered person,  
13 and does not include the use of audio-only telephone, facsimile, or  
14 email; and

15 (h) "Telemedicine" means the delivery of health care services  
16 through the use of interactive audio and video technology, permitting  
17 real-time communication between the patient at the originating site  
18 and the provider, for the purpose of diagnosis, consultation, or  
19 treatment. For purposes of this section only, "telemedicine" does not  
20 include the use of audio-only telephone, facsimile, or email.

21 (9) To measure the impact on access to care for underserved  
22 communities and costs to the state and the medicaid managed health  
23 care system for reimbursement of telemedicine services, the  
24 Washington state health care authority, using existing data and  
25 resources, shall provide a report to the appropriate policy and  
26 fiscal committees of the legislature no later than December 31, 2018.

27 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act take  
28 effect January 1, 2018.

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