

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5385**

Chapter 92, Laws of 2020

66th Legislature  
2020 Regular Session

TELEMEDICINE REIMBURSEMENT RATES

EFFECTIVE DATE: March 19, 2020

Passed by the Senate March 9, 2020  
Yeas 47 Nays 1

CYRUS HABIB

**President of the Senate**

Passed by the House March 5, 2020  
Yeas 94 Nays 3

LURIE JINKINS

**Speaker of the House of  
Representatives**

Approved March 19, 2020 2:46 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5385** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

**Secretary**

FILED

March 19, 2020

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 5385**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2020 Regular Session

**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Becker, Cleveland, Braun, O'Ban, Wilson, L., Brown, Warnick, Zeiger, Bailey, and Van De Wege)

READ FIRST TIME 02/22/19.

1           AN ACT Relating to reimbursing for telemedicine services at the  
2 same rate as in person; amending RCW 48.43.735, 41.05.700, 74.09.325,  
3 and 28B.20.830; and declaring an emergency.

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

5           **Sec. 1.** RCW 48.43.735 and 2017 c 219 s 1 are each amended to  
6 read as follows:

7           (1) (a) For health plans issued or renewed on or after January 1,  
8 2017, a health carrier shall reimburse a provider for a health care  
9 service provided to a covered person through telemedicine or store  
10 and forward technology if:

11           ~~((a))~~ (i) The plan provides coverage of the health care service  
12 when provided in person by the provider;

13           ~~((b))~~ (ii) The health care service is medically necessary;

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

18           ~~((d))~~ (iv) The health care service is determined to be safely  
19 and effectively provided through telemedicine or store and forward  
20 technology according to generally accepted health care practices and  
21 standards, and the technology used to provide the health care service

1 meets the standards required by state and federal laws governing the  
2 privacy and security of protected health information.

3 (b) (i) Except as provided in (b) (ii) of this subsection, for  
4 health plans issued or renewed on or after January 1, 2021, a health  
5 carrier shall reimburse a provider for a health care service provided  
6 to a covered person through telemedicine at the same rate as if the  
7 health care service was provided in person by the provider.

8 (ii) Hospitals, hospital systems, telemedicine companies, and  
9 provider groups consisting of eleven or more providers may elect to  
10 negotiate a reimbursement rate for telemedicine services that differs  
11 from the reimbursement rate for in-person services.

12 (iii) For purposes of this subsection (1) (b), the number of  
13 providers in a provider group refers to all providers within the  
14 group, regardless of a provider's location.

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

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

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

26 (a) Hospital;

27 (b) Rural health clinic;

28 (c) Federally qualified health center;

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

30 (e) Community mental health center;

31 (f) Skilled nursing facility;

32 (g) Home or any location determined by the individual receiving  
33 the service; or

34 (h) Renal dialysis center, except an independent renal dialysis  
35 center.

36 (4) Except for subsection (3) (g) of this section, any originating  
37 site under subsection (3) of this section may charge a facility fee  
38 for infrastructure and preparation of the patient. Reimbursement for  
39 a facility fee must be subject to a negotiated agreement between the  
40 originating site and the health carrier. A distant site or any other

1 site not identified in subsection (3) of this section may not charge  
2 a facility fee.

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

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

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

14 (a) An originating site for professional fees;

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

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

19 (8) For purposes of this section:

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

23 (b) "Health care service" has the same meaning as in RCW  
24 48.43.005;

25 (c) "Hospital" means a facility licensed under chapter 70.41,  
26 71.12, or 72.23 RCW;

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

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

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

36 (g) "Telemedicine" means the delivery of health care services  
37 through the use of interactive audio and video technology, permitting  
38 real-time communication between the patient at the originating site  
39 and the provider, for the purpose of diagnosis, consultation, or

1 treatment. For purposes of this section only, "telemedicine" does not  
2 include the use of audio-only telephone, facsimile, or email.

3 **Sec. 2.** RCW 41.05.700 and 2018 c 260 s 30 are each amended to  
4 read as follows:

5 (1)(a) A health plan offered to employees, school employees, and  
6 their covered dependents under this chapter issued or renewed on or  
7 after January 1, 2017, shall reimburse a provider for a health care  
8 service provided to a covered person through telemedicine or store  
9 and forward technology if:

10 ~~((a))~~ (i) The plan provides coverage of the health care service  
11 when provided in person by the provider;

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

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

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

23 (b) (i) Except as provided in (b) (ii) of this subsection, a health  
24 plan offered to employees, school employees, and their covered  
25 dependents under this chapter issued or renewed on or after January  
26 1, 2021, shall reimburse a provider for a health care service  
27 provided to a covered person through telemedicine at the same rate as  
28 if the health care service was provided in person by the provider.

29 (ii) Hospitals, hospital systems, telemedicine companies, and  
30 provider groups consisting of eleven or more providers may elect to  
31 negotiate a reimbursement rate for telemedicine services that differs  
32 from the reimbursement rate for in-person services.

33 (iii) For purposes of this subsection (1) (b), the number of  
34 providers in a provider group refers to all providers within the  
35 group, regardless of a provider's location.

36 ~~(2) ((a) If the service is provided through store and forward~~  
37 ~~technology there must be an associated office visit between the~~  
38 ~~covered person and the referring health care provider. Nothing in~~

1 ~~this section prohibits the use of telemedicine for the associated~~  
2 ~~office visit.~~

3 ~~(b))~~) For purposes of this section, reimbursement of store and  
4 forward technology is available only for those covered services  
5 specified in the negotiated agreement between the health plan and  
6 health care provider.

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

9 (a) Hospital;

10 (b) Rural health clinic;

11 (c) Federally qualified health center;

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

13 (e) Community mental health center;

14 (f) Skilled nursing facility;

15 (g) Home or any location determined by the individual receiving  
16 the service; or

17 (h) Renal dialysis center, except an independent renal dialysis  
18 center.

19 (4) Except for subsection (3)(g) of this section, any originating  
20 site under subsection (3) of this section may charge a facility fee  
21 for infrastructure and preparation of the patient. Reimbursement for  
22 a facility fee must be subject to a negotiated agreement between the  
23 originating site and the health plan. A distant site or any other  
24 site not identified in subsection (3) of this section may not charge  
25 a facility fee.

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

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

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

36 (a) An originating site for professional fees;

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

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

1 (8) For purposes of this section:

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

5 (b) "Health care service" has the same meaning as in RCW  
6 48.43.005;

7 (c) "Hospital" means a facility licensed under chapter 70.41,  
8 71.12, or 72.23 RCW;

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

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

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

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

24 **Sec. 3.** RCW 74.09.325 and 2017 c 219 s 3 are each amended to  
25 read as follows:

26 (1) (a) Upon initiation or renewal of a contract with the  
27 Washington state health care authority to administer a medicaid  
28 managed care plan, a managed health care system shall reimburse a  
29 provider for a health care service provided to a covered person  
30 through telemedicine or store and forward technology if:

31 ~~((a))~~ (i) The medicaid managed care plan in which the covered  
32 person is enrolled provides coverage of the health care service when  
33 provided in person by the provider;

34 ~~((b))~~ (ii) The health care service is medically necessary;

35 ~~((c))~~ (iii) The health care service is a service recognized as  
36 an essential health benefit under section 1302(b) of the federal  
37 patient protection and affordable care act in effect on January 1,  
38 2015; and

1       ~~((d))~~ (iv) The health care service is determined to be safely  
2 and effectively provided through telemedicine or store and forward  
3 technology according to generally accepted health care practices and  
4 standards, and the technology used to provide the health care service  
5 meets the standards required by state and federal laws governing the  
6 privacy and security of protected health information.

7       (b)(i) Except as provided in (b)(ii) of this subsection, upon  
8 initiation or renewal of a contract with the Washington state health  
9 care authority to administer a medicaid managed care plan, a managed  
10 health care system shall reimburse a provider for a health care  
11 service provided to a covered person through telemedicine at the same  
12 rate as if the health care service was provided in person by the  
13 provider.

14       (ii) Hospitals, hospital systems, telemedicine companies, and  
15 provider groups consisting of eleven or more providers may elect to  
16 negotiate a reimbursement rate for telemedicine services that differs  
17 from the reimbursement rate for in-person services.

18       (iii) For purposes of this subsection (1)(b), the number of  
19 providers in a provider group refers to all providers within the  
20 group, regardless of a provider's location.

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

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

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

32       (a) Hospital;

33       (b) Rural health clinic;

34       (c) Federally qualified health center;

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

36       (e) Community mental health center;

37       (f) Skilled nursing facility;

38       (g) Home or any location determined by the individual receiving  
39 the service; 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. A distant site  
8 or any other site not identified in subsection (3) of this section  
9 may not charge a facility fee.

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

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

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

22 (a) An originating site for professional fees;

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

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

27 (8) For purposes of this section:

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

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

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

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

1 basis and that meets the requirements of section 1903(m)(1)(A) of  
2 Title XIX of the federal social security act or federal demonstration  
3 waivers granted under section 1115(a) of Title XI of the federal  
4 social security act;

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

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

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

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

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

26 **Sec. 4.** RCW 28B.20.830 and 2018 c 256 s 1 are each amended to  
27 read as follows:

28 (1) The collaborative for the advancement of telemedicine is  
29 created to enhance the understanding and use of health services  
30 provided through telemedicine and other similar models in Washington  
31 state. The collaborative shall be hosted by the University of  
32 Washington telehealth services and shall be comprised of one member  
33 from each of the two largest caucuses of the senate and the house of  
34 representatives, and representatives from the academic community,  
35 hospitals, clinics, and health care providers in primary care and  
36 specialty practices, carriers, and other interested parties.

37 (2) By July 1, 2016, the collaborative shall be convened. The  
38 collaborative shall develop recommendations on improving  
39 reimbursement and access to services, including originating site

1 restrictions, provider to provider consultative models, and  
2 technologies and models of care not currently reimbursed; identify  
3 the existence of telemedicine best practices, guidelines, billing  
4 requirements, and fraud prevention developed by recognized medical  
5 and telemedicine organizations; and explore other priorities  
6 identified by members of the collaborative. After review of existing  
7 resources, the collaborative shall explore and make recommendations  
8 on whether to create a technical assistance center to support  
9 providers in implementing or expanding services delivered through  
10 telemedicine technologies.

11 (3) The collaborative must submit an initial progress report by  
12 December 1, 2016, with follow-up policy reports including  
13 recommendations by December 1, 2017, December 1, 2018, and December  
14 1, 2021. The reports shall be shared with the relevant professional  
15 associations, governing boards or commissions, and the health care  
16 committees of the legislature.

17 (4) The collaborative shall study store and forward technology,  
18 with a focus on:

19 (a) Utilization;

20 (b) Whether store and forward technology should be paid for at  
21 parity with in-person services;

22 (c) The potential for store and forward technology to improve  
23 rural health outcomes in Washington state; and

24 (d) Ocular services.

25 (5) The meetings of the board shall be open public meetings, with  
26 meeting summaries available on a web page.

27 ~~((+5))~~ (6) The future of the collaborative shall be reviewed by  
28 the legislature with consideration of ongoing technical assistance  
29 needs and opportunities. The collaborative terminates December 31,  
30 2021.

31 NEW SECTION. Sec. 5. This act is necessary for the immediate  
32 preservation of the public peace, health, or safety, or support of  
33 the state government and its existing public institutions, and takes  
34 effect immediately.

Passed by the Senate March 9, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

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