

# SENATE BILL REPORT

## ESHB 1821

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As of February 21, 2022

**Title:** An act relating to the definition of established relationship for purposes of audio-only telemedicine.

**Brief Description:** Concerning the definition of established relationship for purposes of audio-only telemedicine.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Schmick, Riccelli, Cody and Graham).

**Brief History:** Passed House: 2/8/22, 95-0.

**Committee Activity:** Health & Long Term Care: 2/21/22.

### Brief Summary of Bill

- Changes the definition of established relationship for purposes of reimbursement for audio-only telemedicine.

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## SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Staff:** Greg Attanasio (786-7410)

**Background:** Health coverage offered by a health carrier, the Public Employees Benefits Board, the School Employees Benefits Board, a Medicaid managed care plan, or a behavioral health administrative services organization must reimburse providers for health care services provided through telemedicine or store-and-forward technology if:

- the services are covered services;
- the services are medically necessary;
- the services are essential health benefits under the federal Patient Protection and Affordable Care Act;
- the services are determined to be safely and effectively provided through telemedicine or store-and-forward technology according to generally accepted health

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- care practices and standards; and
- the technology meets state and federal standards governing the privacy and security of protected health information.

Additional requirements apply for audio-only telemedicine, including, beginning January 1, 2023, that the provider have an established relationship with the patient. An established relationship exists if the person has had at least one in-person appointment within the past year with the audio-only telemedicine provider or a provider in the same clinic, or the covered person was referred by another provider who has had at least one in-person appointment with the person within the past year and has given relevant medical information to the audio-only telemedicine provider.

In 2021, the Collaborative for the Advancement of Telemedicine (Collaborative) was directed to study the need for an established relationship for audio-only telemedicine. The Collaborative's recommendations included:

- changing the time period within which the previous appointment took place from one year to three years;
- allowing the previous appointment to take place via audio-video technology;
- allowing the appointment to be with a provider in the same medical group, in addition to the same clinic; and
- adding a requirement that the audio-only telemedicine provider have access to the patient's real-time or electronic medical record.

**Summary of Bill:** The definition of established relationship for purposes of audio-only telemedicine is changed by:

- expanding the period within which a previous appointment took place from one year to three years for behavioral health services and two years for all other health care services;
- allowing the previous appointment to take place via audio-video technology for behavioral health services;
- allowing the previous appointment to be with a provider in the same medical group or integrated delivery system, in addition to the same clinic;
- and requiring, in all circumstances where an established relationship is required, that the audio-only telemedicine provider have access to sufficient health records to ensure safe, effective, and appropriate care services.

For purposes of the provisions in the definition relating to behavioral health, behavioral health services are services included in the essential health benefits category of Mental Health and Substance Use Disorder Services, Including Behavioral Health Treatment.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Many do not have a provider they see every year, and three years is more reasonable time frame for the definition of established relationship.

OTHER: This will limit telemedicine because it requires in person visits within the past two years. A relationship can be established via telemedicine and can be maintained when the provider has access to medical records.

**Persons Testifying:** PRO: Tom Holt, Zoom Care; Lisa Thatcher, Washington State Hospital Association; Sean Graham, WA State Medical Association (WSMA).

OTHER: Claudia Tucker, Teladoc Health; Kyle Zebley, American Telemedicine Association; Mel Sorensen, AHIP; Chris Bandoli, Association of WA Healthcare Plans.

**Persons Signed In To Testify But Not Testifying:** No one.