
SENATE BILL 5325

State of Washington

67th Legislature

2021 Regular Session

By Senators Muzzall, Cleveland, Dozier, Frockt, Keiser, Randall, Rivers, and Robinson

Read first time 01/21/21. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to audio-only telemedicine; adding a new section
2 to chapter 41.05 RCW; adding a new section to chapter 48.43 RCW;
3 adding a new section to chapter 71.24 RCW; and adding new sections to
4 chapter 74.09 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.05
7 RCW to read as follows:

8 (1)(a) A health plan offered to employees, school employees, and
9 their covered dependents under this chapter issued or renewed on or
10 after January 1, 2022, shall reimburse a provider for a health care
11 service provided to a covered person through audio-only telemedicine
12 if:

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

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

16 (iii) 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;

19 (iv) The health care service is determined to be safely and
20 effectively provided through audio-only telemedicine according to
21 generally accepted health care practices and standards, and the

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

4 (v) The covered person has an established relationship with the
5 provider.

6 (b) (i) Except as provided in (b) (ii) of this subsection, a health
7 plan offered to employees, school employees, and their covered
8 dependents under this chapter shall reimburse a provider for a health
9 care service provided to a covered person through audio-only
10 telemedicine at the same rate as if the health care service was
11 provided in person by the provider.

12 (ii) Hospitals, hospital systems, telemedicine companies, and
13 provider groups consisting of 11 or more providers may elect to
14 negotiate a reimbursement rate for audio-only telemedicine services
15 that differs from the reimbursement rate for in-person services.

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

19 (2) An originating site for an audio-only telemedicine health
20 care service subject to subsection (1) of this section includes a:

21 (a) Hospital;

22 (b) Rural health clinic;

23 (c) Federally qualified health center;

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

25 (e) Licensed or certified behavioral health agency;

26 (f) Skilled nursing facility;

27 (g) Home or any location determined by the individual receiving
28 the service; or

29 (h) Renal dialysis center, except an independent renal dialysis
30 center.

31 (3) Except for subsection (2) (g) of this section, any originating
32 site under subsection (2) of this section may charge a facility fee
33 for infrastructure and preparation of the patient. Reimbursement for
34 a facility fee must be subject to a negotiated agreement between the
35 originating site and the health plan. A distant site or any other
36 site not identified in subsection (2) of this section may not charge
37 a facility fee.

38 (4) A plan may not distinguish between originating sites that are
39 rural and urban in providing the coverage required in subsection (1)
40 of this section.

1 (5) A plan may subject coverage of an audio-only telemedicine
2 health service under subsection (1) of this section to all terms and
3 conditions of the plan in which the covered person is enrolled
4 including, but not limited to, utilization review, prior
5 authorization, deductible, copayment, or coinsurance requirements
6 that are applicable to coverage of a comparable health care service
7 provided in person.

8 (6) This section does not require a plan to reimburse:

9 (a) An originating site for professional fees;

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

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

14 (7) For purposes of this section:

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

22 (b) "Distant site" means the site at which a physician or other
23 licensed provider, delivering a professional service, is physically
24 located at the time the service is provided through audio-only
25 telemedicine.

26 (c) "Established relationship" means the covered person has had
27 at least one in-person appointment within the past year with the
28 provider providing audio-only telemedicine or the covered person was
29 referred to the provider providing audio-only telemedicine by another
30 provider who has had at least one in-person appointment with the
31 covered person within the past year and has provided relevant medical
32 information to the provider providing audio-only telemedicine.

33 (d) "Health care service" has the same meaning as in RCW
34 48.43.005.

35 (e) "Hospital" means a facility licensed under chapter 70.41,
36 71.12, or 72.23 RCW.

37 (f) "Originating site" means the physical location of a patient
38 receiving health care services through audio-only telemedicine.

39 (g) "Provider" has the same meaning as in RCW 48.43.005.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43

2 RCW to read as follows:

3 (1)(a) For health plans issued or renewed on or after January 1,
4 2022, a health carrier shall reimburse a provider for a health care
5 service provided to a covered person through audio-only telemedicine
6 if:

7 (i) The plan provides coverage of the health care service when
8 provided in person by the provider;

9 (ii) The health care service is medically necessary;

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

13 (iv) The health care service is determined to be safely and
14 effectively provided through audio-only telemedicine according to
15 generally accepted health care practices and standards, and the
16 technology used to provide the health care service meets the
17 standards required by state and federal laws governing the privacy
18 and security of protected health information; and

19 (v) The covered person has an established relationship with the
20 provider.

21 (b)(i) Except as provided in (b)(ii) of this subsection, the
22 health carrier shall reimburse a provider for a health care service
23 provided to a covered person through audio-only telemedicine at the
24 same rate as if the health care service was provided in person by the
25 provider.

26 (ii) Hospitals, hospital systems, telemedicine companies, and
27 provider groups consisting of 11 or more providers may elect to
28 negotiate a reimbursement rate for audio-only telemedicine services
29 that differs from the reimbursement rate for in-person services.

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

33 (2) An originating site for an audio-only telemedicine health
34 care service subject to subsection (1) of this section includes a:

35 (a) Hospital;

36 (b) Rural health clinic;

37 (c) Federally qualified health center;

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

39 (e) Licensed or certified behavioral health agency;

40 (f) Skilled nursing facility;

1 (g) Home or any location determined by the individual receiving
2 the service; or

3 (h) Renal dialysis center, except an independent renal dialysis
4 center.

5 (3) Except for subsection (2)(g) of this section, any originating
6 site under subsection (2) of this section may charge a facility fee
7 for infrastructure and preparation of the patient. Reimbursement for
8 a facility fee must be subject to a negotiated agreement between the
9 originating site and the health plan. A distant site or any other
10 site not identified in subsection (2) of this section may not charge
11 a facility fee.

12 (4) A plan may not distinguish between originating sites that are
13 rural and urban in providing the coverage required in subsection (1)
14 of this section.

15 (5) A plan may subject coverage of an audio-only telemedicine
16 health service under subsection (1) of this section to all terms and
17 conditions of the plan in which the covered person is enrolled
18 including, but not limited to, utilization review, prior
19 authorization, deductible, copayment, or coinsurance requirements
20 that are applicable to coverage of a comparable health care service
21 provided in person.

22 (6) This section does not require a plan to 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 (7) For purposes of this section:

29 (a) "Audio-only telemedicine" means the delivery of health care
30 services through the use of audio-only telephone technology,
31 permitting real-time communication between the patient at the
32 originating site and the provider, for the purpose of diagnosis,
33 consultation, or treatment. For purposes of this section only,
34 "audio-only telemedicine" does not include the use of facsimile or
35 email.

36 (b) "Distant site" means the site at which a physician or other
37 licensed provider, delivering a professional service, is physically
38 located at the time the service is provided through audio-only
39 telemedicine.

1 (c) "Established relationship" means the covered person has had
2 at least one in-person appointment within the past year with the
3 provider providing audio-only telemedicine or the covered person was
4 referred to the provider providing audio-only telemedicine by another
5 provider who has had at least one in-person appointment with the
6 covered person within the past year and has provided relevant medical
7 information to the provider providing audio-only telemedicine.

8 (d) "Health care service" has the same meaning as in RCW
9 48.43.005.

10 (e) "Hospital" means a facility licensed under chapter 70.41,
11 71.12, or 72.23 RCW.

12 (f) "Originating site" means the physical location of a patient
13 receiving health care services through audio-only telemedicine.

14 (g) "Provider" has the same meaning as in RCW 48.43.005.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.24
16 RCW to read as follows:

17 (1) Upon initiation or renewal of a contract with the authority,
18 behavioral health administrative services organizations and managed
19 care organizations shall reimburse a provider for a behavioral health
20 service provided to a covered person who is under 18 years old
21 through audio-only telemedicine if:

22 (a) The behavioral health administrative services organization or
23 managed care organization in which the covered person is enrolled
24 provides coverage of the behavioral health service when provided in
25 person by the provider;

26 (b) The behavioral health service is medically necessary; and

27 (c) The covered person has an established relationship with the
28 provider.

29 (2) An originating site for an audio-only telemedicine behavioral
30 health service subject to subsection (1) of this section means an
31 originating site as defined in rule by the department or the
32 authority.

33 (3) Any originating site, other than a home, under subsection (2)
34 of this section may charge a facility fee for infrastructure and
35 preparation of the patient. Reimbursement must be subject to a
36 negotiated agreement between the originating site and the behavioral
37 health administrative services organization, or managed care
38 organization, as applicable. A distant site or any other site not

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

3 (4) Behavioral health administrative services organizations and
4 managed care organizations may not distinguish between originating
5 sites that are rural and urban in providing the coverage required in
6 subsection (1) of this section.

7 (5) Behavioral health administrative services organizations and
8 managed care organizations may subject coverage of an audio-only
9 telemedicine behavioral health service under subsection (1) of this
10 section to all terms and conditions of the behavioral health
11 administrative services organization or managed care organization in
12 which the covered person is enrolled including, but not limited to,
13 utilization review, prior authorization, deductible, copayment, or
14 coinsurance requirements that are applicable to coverage of a
15 comparable behavioral health care service provided in person.

16 (6) This section does not require a behavioral health
17 administrative services organization or a managed care organization
18 to reimburse:

19 (a) An originating site for professional fees;

20 (b) A provider for a behavioral health service that is not a
21 covered benefit; or

22 (c) An originating site or provider when the site or provider is
23 not a contracted provider.

24 (7) For purposes of this section:

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

32 (b) "Distant site" means the site at which a physician or other
33 licensed provider, delivering a professional service, is physically
34 located at the time the service is provided through audio-only
35 telemedicine.

36 (c) "Established relationship" means the covered person has had
37 at least one in-person appointment within the past year with the
38 provider providing audio-only telemedicine or the covered person was
39 referred to the provider providing audio-only telemedicine by another
40 provider who has had at least one in-person appointment with the

1 covered person within the past year and has provided relevant medical
2 information to the provider providing audio-only telemedicine.

3 (d) "Hospital" means a facility licensed under chapter 70.41,
4 71.12, or 72.23 RCW.

5 (e) "Originating site" means the physical location of a patient
6 receiving behavioral health services through audio-only telemedicine.

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

8 (8) The authority must adopt rules as necessary to implement the
9 provisions of this section.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.09
11 RCW to read as follows:

12 (1)(a) Upon initiation or renewal of a contract with the
13 authority to administer a medicaid managed care plan, a managed
14 health care system shall reimburse a provider for a health care
15 service provided to a covered person through audio-only telemedicine
16 if:

17 (i) The medicaid managed care plan provides coverage of the
18 health care service when provided in person by the provider;

19 (ii) The health care service is medically necessary;

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

23 (iv) The health care service is determined to be safely and
24 effectively provided through audio-only telemedicine according to
25 generally accepted health care practices and standards, and the
26 technology used to provide the health care service meets the
27 standards required by state and federal laws governing the privacy
28 and security of protected health information; and

29 (v) The covered person has an established relationship with the
30 provider.

31 (b)(i) Except as provided in (b)(ii) and (iv) of this subsection,
32 upon initiation or renewal of a contract with the authority to
33 administer a medicaid managed care plan, a managed health care system
34 shall reimburse a provider for a health care service provided to a
35 covered person through audio-only telemedicine at the same rate as if
36 the health care service was provided in person by the provider.

37 (ii) Hospitals, hospital systems, telemedicine companies, and
38 provider groups consisting of 11 or more providers may elect to

1 negotiate a reimbursement rate for audio-only telemedicine services
2 that differs from the reimbursement rate for in-person services.

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

6 (iv) A rural health clinic shall be reimbursed for audio-only
7 telemedicine at the managed care encounter rate.

8 (2) An originating site for an audio-only telemedicine health
9 care service subject to subsection (1) of this section includes a:

10 (a) Hospital;

11 (b) Rural health clinic;

12 (c) Federally qualified health center;

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

14 (e) Licensed or certified behavioral health agency;

15 (f) Skilled nursing facility;

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

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

20 (3) Except for subsection (2)(g) of this section, any originating
21 site under subsection (2) of this section may charge a facility fee
22 for infrastructure and preparation of the patient. Reimbursement for
23 a facility fee must be subject to a negotiated agreement between the
24 originating site and the managed health care system. A distant site
25 or any other site not identified in subsection (2) of this section
26 may not charge a facility fee.

27 (4) A managed health care system may not distinguish between
28 originating sites that are rural and urban in providing the coverage
29 required in subsection (1) of this section.

30 (5) A managed health care system may subject coverage of an
31 audio-only telemedicine health service under subsection (1) of this
32 section to all terms and conditions of the plan in which the covered
33 person is enrolled including, but not limited to, utilization review,
34 prior authorization, deductible, copayment, or coinsurance
35 requirements that are applicable to coverage of a comparable health
36 care service provided in person.

37 (6) This section does not require a managed health care system to
38 reimburse:

39 (a) An originating site for professional fees;

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

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

5 (7) For purposes of this section:

6 (a) "Audio-only telemedicine" means the delivery of health care
7 services through the use of audio-only telephone technology,
8 permitting real-time communication between the patient at the
9 originating site and the provider, for the purpose of diagnosis,
10 consultation, or treatment. For purposes of this section only,
11 "audio-only telemedicine" does not include the use of facsimile or
12 email.

13 (b) "Distant site" means the site at which a physician or other
14 licensed provider, delivering a professional service, is physically
15 located at the time the service is provided through audio-only
16 telemedicine.

17 (c) "Established relationship" means the covered person has had
18 at least one in-person appointment within the past year with the
19 provider providing audio-only telemedicine or the covered person was
20 referred to the provider providing audio-only telemedicine by another
21 provider who has had at least one in-person appointment with the
22 covered person within the past year and has provided relevant medical
23 information to the provider providing audio-only telemedicine.

24 (d) "Health care service" has the same meaning as in RCW
25 48.43.005.

26 (e) "Hospital" means a facility licensed under chapter 70.41,
27 71.12, or 72.23 RCW.

28 (f) "Managed health care system" means any health care
29 organization, including health care providers, insurers, health care
30 service contractors, health maintenance organizations, health
31 insuring organizations, or any combination thereof, that provides
32 directly or by contract health care services covered under this
33 chapter and rendered by licensed providers, on a prepaid capitated
34 basis and that meets the requirements of section 1903(m)(1)(A) of
35 Title XIX of the federal social security act or federal demonstration
36 waivers granted under section 1115(a) of Title XI of the federal
37 social security act.

38 (g) "Originating site" means the physical location of a patient
39 receiving health care services through audio-only telemedicine.

40 (h) "Provider" has the same meaning as in RCW 48.43.005.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.09
2 RCW to read as follows:

3 (1) The authority shall adopt rules regarding medicaid fee-for-
4 service reimbursement for services delivered through audio-only
5 telemedicine. Except as provided in subsection (2) of this section,
6 the rules must establish a manner of reimbursement for audio-only
7 telemedicine that is consistent with section 4 of this act.

8 (2) The rules shall require rural health clinics to be reimbursed
9 for audio-only telemedicine at the encounter rate.

10 (3) For purposes of this section, "audio-only telemedicine" means
11 the delivery of health care services through the use of audio-only
12 telephone technology, permitting real-time communication between a
13 patient at the originating site and the provider, for the purpose of
14 diagnosis, consultation, or treatment. For purposes of this section
15 only, "audio-only telemedicine" does not include the use of facsimile
16 or email.

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