

HOUSE BILL REPORT

ESSB 5385

As Passed House - Amended:

March 5, 2020

Title: An act relating to telemedicine payment parity.

Brief Description: Reimbursing for telemedicine services at the same rate as in person.

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

Brief History:

Committee Activity:

Health Care & Wellness: 3/26/19, 3/27/19 [DP], 2/21/20, 2/25/20 [DP];

Appropriations: 2/29/20, 3/2/20 [DPA].

Floor Activity:

Passed House - Amended: 3/5/20, 94-3.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Requires health plans to pay the same rate for a health care service provided through telemedicine as an in-person service.
- Permits hospitals, hospital systems, telemedicine companies, and provider groups of 11 or more to negotiate and agree to a telemedicine reimbursement rate that differs from in-person rates.
- Requires reimbursement for facility fees to be subject to a negotiated agreement.
- Removes the requirement that services provided through store and forward technology have an associated office visit.
- Directs the Collaborative for the Advancement of Telemedicine to study store and forward technology.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 14 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Chambers, Chopp, Davis, DeBolt, Harris, Maycumber, Riccelli, Robinson, Stonier, Thai and Tharinger.

Minority Report: Do not pass. Signed by 1 member: Representative Caldier, Assistant Ranking Minority Member.

Staff: Kim Weidenaar (786-7120).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended. Signed by 32 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Chandler, Chopp, Cody, Corry, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Minority Report: Do not pass. Signed by 1 member: Representative Caldier.

Staff: Meghan Morris (786-7119).

Background:

Telemedicine and Store and Forward Technology.

Telemedicine is the use of interactive audio, video, or electronic media for the purpose of diagnosis, consultation, or treatment of a patient at an originating site. Store and forward technology is the use of an asynchronous transmission of a patient's medical information from an originating site to a provider at a distant site.

A health plan offered by a health carrier, a health plan offered to state employees and their dependents, and a Medicaid managed care plan 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 care practices and standards; and
- the technology meets state and federal standards governing the privacy and security of protected health information.

If the service is provided through store and forward technology, there must be an associated office visit between the covered person and the referring health care provider, which may be accomplished via telemedicine. An originating site for telemedicine includes a hospital, rural health clinic, federally qualified health center, health care provider's office, community mental health center, skilled nursing center, renal dialysis center, a home, or any location

determined by the individual receiving the services. A facility fee may not be charged for telemedicine services offered to a patient in his or her home or other location of patient's choosing. For services provided from a distant site, Health Care Authority policy requires payment for services provided through telemedicine to be the same as services provided in person, but requires the Current Procedural Terminology code to indicate the service was provided remotely.

The Collaborative for the Advancement of Telemedicine.

The Collaborative for the Advancement of Telemedicine (Collaborative) was created in 2016 to enhance the understanding and use of health services through telemedicine. The Collaborative consists of representatives from the academic community, hospitals, clinics, health care providers, and carriers, as well as legislators. The University of Washington provides support to the Collaborative.

The Collaborative is required to develop recommendations on improving reimbursement and access to services; identify telemedicine best practices, guidelines, billing requirements, and fraud prevention, as developed by recognized medical and telemedicine organizations; and explore other priorities. In addition, the Collaborative must make recommendations on whether to create a technical assistance center to support providers implementing or expanding services through telehealth technologies.

In 2018 the Legislature tasked the Collaborative with reviewing the concept of telemedicine payment parity and developing recommendations on reimbursing for telemedicine at the same rate as if a provider provided services in person for treatment of diabetes mellitus, stroke, mental health conditions, opioid dependence, and chronic pain. The Collaborative must review methodologies, including whether and to what extent facility fees should be reimbursed, for reimbursement of telemedicine services.

The Collaborative's December 2018 report states that the idea of payment parity is that a clinician should be paid the same for a telemedicine visit and an in-person visit. The report discusses payment parity, however, the Collaborative was not able to agree on the conditions of a payment parity pilot and some health care systems expressed that they would not participate in a payment parity pilot.

Summary of Amended Bill:

Beginning January 1, 2021, health plans offered by regulated health insurance carriers and state employee health plans must reimburse a provider for health care service provided through telemedicine at the same rate as health care service provided in person. Upon initiation or renewal of a contract with the Health Care Authority to administer a Medicaid managed care plan, a managed health care system must reimburse a provider for health care service provided through telemedicine at the same rate as health care service provided in person. Hospitals, hospital systems, telemedicine companies, and provider groups of 11 or more providers may negotiate and agree to reimbursement rates that differ from in-person service rates. For purposes of the number of providers in a provider group, all providers within the group, regardless of a provider's location are included.

Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health carrier. The requirement that services provided through store and forward technology must have an associated office visit is removed.

The Collaborative for the Advancement of Telemedicine is directed to study store and forward technology with a focus on utilization, whether it should be paid at parity within in-person services, the potential for the technology to improve rural health outcomes, and ocular services.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony (Health Care & Wellness):

(In support) The Telehealth Collaborative (Collaborative) has done a lot of work and taken a long time to come to agreement on the policy of telemedicine payment parity. It is very important that there is no distinction between providers time between face-to-face visits and telemedicine. Often people assume that there are no costs associated with telemedicine services and that brick-and-mortar services are more expensive. However, the technology has costs and the provider is visiting with the patient from a brick-and-mortar facility.

This bill will help ensure that health care providers can provide crucial follow-up care to patients regardless of where they may live. For example, after surgery a surgeon could see a patient in the comfort of the patient's own home. This allows the patient to avoid taking time off work and driving long distances. It also allows patients to enjoy smoother transitions out of the hospitals. Medication management is one of the most common reasons for readmission to the hospital; pharmacists can use telemedicine to see the patient and their medications, which can save patients' time and possibly lives. Telemedicine allows for more efficient delivery of care, better health care outcomes, and lower hospital readmissions.

One of the biggest challenges for patients is timely access to care, which telemedicine can improve. A major barrier for the use of telemedicine has been payment. The provider's time is the same and so the payment should also be the same. This bill is modeled after other states and would remove this barrier, advancing the field of telemedicine. The majority of the Collaborative members are supportive of this bill. The idea that telemedicine services should be paid at the same rate as in-person services has been around for years. A provider is not using 75 percent of their brain while providing care via telemedicine, rather the provider is using 100 percent of their brain and so should be reimbursed accordingly.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) There is no State General Fund obligation for this bill as it affects only the Insurance Commissioner's Regulatory Account. The idea has been around for a long time. The bill ensures payment parity for providers to remove the distinction between services delivered face-to-face and the same treatment delivered through telemedicine. The hospitals strongly commend this bill to the Committee.

(Opposed) None.

Persons Testifying (Health Care & Wellness): Senator Becker, prime sponsor; Chad Gabelein, Virginia Mason Medical Center; Lisa Thatcher, Washington State Hospital Association; Nicole LaGrone, University of Washington Medicine; and Katie Kolan, Washington State Medical Association.

Persons Testifying (Appropriations): Lisa Thatcher, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying (Health Care & Wellness): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.