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**SENATE BILL 5385**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Becker, Cleveland, Braun, O'Ban, Wilson, L., Brown, Warnick, Zeiger, Bailey, and Van De Wege

Read first time 01/18/19. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to telemedicine payment parity; amending RCW  
2 48.43.735, 41.05.700, and 74.09.325; and providing an effective date.

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

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

6 (1) For health plans issued or renewed on or after January 1,  
7 ((2017)) 2020, a health carrier shall reimburse a provider for a  
8 health care service provided to a covered person through telemedicine  
9 or store and forward technology at the same rate as if the health  
10 care service was provided in person by the provider if:

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

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

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

17 (d) The health care service is determined to be safely and  
18 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

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

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

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

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

14 (a) Hospital;

15 (b) Rural health clinic;

16 (c) Federally qualified health center;

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

18 (e) Community mental health center;

19 (f) Skilled nursing facility;

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

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

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

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

2 (a) An originating site for professional fees;

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

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

7 (8) For purposes of this section:

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

11 (b) "Health care service" has the same meaning as in RCW  
12 48.43.005;

13 (c) "Hospital" means a facility licensed under chapter 70.41,  
14 71.12, or 72.23 RCW;

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

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

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

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

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

32 (1) A health plan offered to employees, school employees, and  
33 their covered dependents under this chapter issued or renewed on or  
34 after January 1, (~~2017~~) 2020, shall reimburse a provider for a  
35 health care service provided to a covered person through telemedicine  
36 or store and forward technology at the same rate as if the health  
37 care service was provided in person by the provider if:

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

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

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

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

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

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

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

22 (a) Hospital;

23 (b) Rural health clinic;

24 (c) Federally qualified health center;

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

26 (e) Community mental health center;

27 (f) Skilled nursing facility;

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

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

32 (4) Except for subsection (3)(g) of this section, any originating  
33 site under subsection (3) of this section may charge a facility fee  
34 for infrastructure and preparation of the patient. Reimbursement for  
35 a facility fee must be subject to a negotiated agreement between the  
36 originating site and the health plan. A distant site or any other  
37 site not identified in subsection (3) of this section may not charge  
38 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 including, but not  
7 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 2017 c 219 s 3 are each amended to  
2 read 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 any location determined by the individual receiving  
40 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 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2020.

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