

HOUSE BILL REPORT

SB 5821

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to establishing a uniform standard for creating an established relationship for the purposes of coverage of audio-only telemedicine services by expanding the time in which a health care provider has seen the patient and removing the expiration of provisions allowing for the use of real-time interactive appointments using both audio and video technology.

Brief Description: Establishing a uniform standard for creating an established relationship for the purposes of coverage of audio-only telemedicine services.

Sponsors: Senators Muzzall, Randall, Kuderer and Rivers.

Brief History:

Committee Activity:

Health Care & Wellness: 2/16/24, 2/20/24 [DP].

Brief Summary of Bill

- Applies the definition of "established relationship" for behavioral health services delivered via audio-only telemedicine to all covered services delivered via audio-only telemedicine.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 11 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Hutchins, Assistant Ranking Minority Member; Bronoske, Davis, Harris, Macri, Orwall, Simmons, Stonier and Tharinger.

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

Minority Report: Without recommendation. Signed by 4 members: Representatives Schmick, Ranking Minority Member; Graham, Maycumber and Mosbrucker.

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

Staff: Jim Morishima (786-7191).

Background:

Health coverage offered by a health carrier, the Public Employees Benefits Board, the School Employees Benefits Board, or 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.

Additional requirements apply for audio-only telemedicine. For example, the provider must have an established relationship with the patient. There are separate definitions of "established relationship" for behavioral health services and other covered services.

For behavioral health services, the covered person must, within the past three years, have had either:

- at least one in-person appointment with the provider or with a provider at the same medical group, clinic, or integrated delivery system; or
- at least one in-person appointment with the provider who referred the covered person to the provider furnishing the audio-only telemedicine services. The referring provider must provide relevant medical information to the provider furnishing audio-only telemedicine.

For all other services, the covered person must, within the last two years, have had either:

- at least one in-person appointment with the provider or with a provider at the same medical group, clinic, or integrated delivery system; or
- at least one in-person appointment with the provider who referred the covered person to the provider furnishing the audio-only telemedicine services. The referring provider must provide relevant medical information to the provider furnishing audio-only telemedicine.

For nonbehavioral health services, the previous appointment may be through audio-video telemedicine until July 1, 2024.

Summary of Bill:

The definition of "established relationship" for behavioral health services provided via audio-only telemedicine is made applicable to all covered services. The alternate definition for other services is eliminated.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Audio-only telemedicine is an important treatment option for patients in Washington. Audio-only telemedicine is especially important for behavioral health services. A study by the Office of the Insurance Commissioner found a positive relationship between audio-only telemedicine and health outcomes, particularly in rural areas. The elements of this bill were all recommended by that study. Without it, patients will experience barriers to care. This is especially true in rural areas and for the unhoused, farmworkers, people who are traveling, the elderly, and people who face stigmas because of their conditions. The ability for a patient to evince an established relationship through telemedicine was extended last year but is about to expire, which will cause Washington to take a step back. If this happens, Washington will be the only state that requires an in-person visit. Many providers will see patients in person regardless of whether this change is made.

(Opposed) None.

(Other) Audio-only telemedicine should augment, not replace in-person treatment. This bill moves Washington away from that idea. This law was originally brought forward based on reimbursement. A provider's time is valuable regardless of whether it is in-person or via telemedicine. Payment parity was extended to audio-only telemedicine, but a patient relationship had to be established in person. Reimbursement drives market dynamics and differential payments might need to be made between brick-and-mortar providers and telemedicine-only providers. Reimbursement policies should not drive care delivery. Some carriers have replaced in-person providers with telemedicine providers, which limits options for patients. In-person care needs to be protected when needed.

Persons Testifying: (In support) Clark Hansen, Amyotrophic Lateral Sclerosis Association, Patient Coalition of Washington; Mercer May and Carrie Tellefson, Teladoc Health; Quinn Shean, American Telemedicine Association Action; and Marissa Ingalls, Coordinated Care.

(Other) Lisa Thatcher, Washington State Hospital Association; and Sean Graham, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: None.