

CERTIFICATION OF ENROLLMENT

SENATE BILL 5436

Chapter 219, Laws of 2017

65th Legislature
2017 Regular Session

TELEMEDICINE--ORIGINATING SITE--PATIENT DETERMINATION

EFFECTIVE DATE: 1/1/2018

Passed by the Senate February 23, 2017
Yeas 49 Nays 0

CYRUS HABIB

President of the Senate

Passed by the House April 18, 2017
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 5, 2017 10:49 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5436** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

May 5, 2017

**Secretary of State
State of Washington**

SENATE BILL 5436

Passed Legislature - 2017 Regular Session

State of Washington

65th Legislature

2017 Regular Session

By Senators Becker, Cleveland, Frockt, and Keiser

Read first time 01/24/17. Referred to Committee on Health Care.

1 AN ACT Relating to expanding patient access to health services
2 through telemedicine by further defining where a patient may receive
3 the service; amending RCW 48.43.735, 41.05.700, and 74.09.325; and
4 providing an effective date.

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

6 **Sec. 1.** RCW 48.43.735 and 2016 c 68 s 3 are each amended to read
7 as follows:

8 (1) For health plans issued or renewed on or after January 1,
9 2017, a health carrier shall reimburse a provider for a health care
10 service provided to a covered person through telemedicine or store
11 and forward technology if:

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

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

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

18 (d) The health care service is determined to be safely and
19 effectively provided through telemedicine or store and forward
20 technology according to generally accepted health care practices and
21 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 must
27 be subject to a negotiated agreement between the originating site and
28 the health carrier. A distant site or any other site not identified
29 in subsection (3) of this section may not charge a facility fee.

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

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

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

- 1 (a) An originating site for professional fees;
- 2 (b) A provider for a health care service that is not a covered
3 benefit under the plan; or
- 4 (c) An originating site or health care provider when the site or
5 provider is not a contracted provider under the plan.
- 6 (8) For purposes of this section:
- 7 (a) "Distant site" means the site at which a physician or other
8 licensed provider, delivering a professional service, is physically
9 located at the time the service is provided through telemedicine;
- 10 (b) "Health care service" has the same meaning as in RCW
11 48.43.005;
- 12 (c) "Hospital" means a facility licensed under chapter 70.41,
13 71.12, or 72.23 RCW;
- 14 (d) "Originating site" means the physical location of a patient
15 receiving health care services through telemedicine;
- 16 (e) "Provider" has the same meaning as in RCW 48.43.005;
- 17 (f) "Store and forward technology" means use of an asynchronous
18 transmission of a covered person's medical information from an
19 originating site to the health care provider at a distant site which
20 results in medical diagnosis and management of the covered person,
21 and does not include the use of audio-only telephone, facsimile, or
22 email; and
- 23 (g) "Telemedicine" means the delivery of health care services
24 through the use of interactive audio and video technology, permitting
25 real-time communication between the patient at the originating site
26 and the provider, for the purpose of diagnosis, consultation, or
27 treatment. For purposes of this section only, "telemedicine" does not
28 include the use of audio-only telephone, facsimile, or email.

29 **Sec. 2.** RCW 41.05.700 and 2016 c 68 s 4 are each amended to read
30 as follows:

31 (1) A health plan offered to employees and their covered
32 dependents under this chapter issued or renewed on or after January
33 1, 2017, shall reimburse a provider for a health care service
34 provided to a covered person through telemedicine or store and
35 forward technology if:

- 36 (a) The plan provides coverage of the health care service when
37 provided in person by the provider;
- 38 (b) The health care service is medically necessary;

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

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

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

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

19 (3) An originating site for a telemedicine health care service
20 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) Community mental health center;

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

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

1 (6) The plan may subject coverage of a telemedicine or store and
2 forward technology health service under subsection (1) of this
3 section to all terms and conditions of the plan((7)) including, but
4 not limited to, utilization review, prior authorization, deductible,
5 copayment, or coinsurance requirements that are applicable to
6 coverage of a comparable health care service provided in person.

7 (7) This section does not require the plan to reimburse:

8 (a) An originating site for professional fees;

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

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

13 (8) For purposes of this section:

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

17 (b) "Health care service" has the same meaning as in RCW
18 48.43.005;

19 (c) "Hospital" means a facility licensed under chapter 70.41,
20 71.12, or 72.23 RCW;

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

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

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

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

36 **Sec. 3.** RCW 74.09.325 and 2016 c 68 s 5 are each amended to read
37 as follows:

38 (1) Upon initiation or renewal of a contract with the Washington
39 state health care authority to administer a medicaid managed care

1 plan, a managed health care system shall reimburse a provider for a
2 health care service provided to a covered person through telemedicine
3 or store and forward technology if:

4 (a) The medicaid managed care plan in which the covered person is
5 enrolled provides coverage of the health care service when provided
6 in person by the provider;

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

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

11 (d) The health care service is determined to be safely and
12 effectively provided through telemedicine or store and forward
13 technology according to generally accepted health care practices and
14 standards, and the technology used to provide the health care service
15 meets the standards required by state and federal laws governing the
16 privacy and security of protected health information.

17 (2)(a) If the service is provided through store and forward
18 technology there must be an associated visit between the covered
19 person and the referring health care provider. Nothing in this
20 section prohibits the use of telemedicine for the associated office
21 visit.

22 (b) For purposes of this section, reimbursement of store and
23 forward technology is available only for those services specified in
24 the negotiated agreement between the managed health care system and
25 health care provider.

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

28 (a) Hospital;

29 (b) Rural health clinic;

30 (c) Federally qualified health center;

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

32 (e) Community mental health center;

33 (f) Skilled nursing facility;

34 (g) Home or any location determined by the individual receiving
35 the service; or

36 (h) Renal dialysis center, except an independent renal dialysis
37 center.

38 (4) Except for subsection (3)(g) of this section, any originating
39 site under subsection (3) of this section may charge a facility fee
40 for infrastructure and preparation of the patient. Reimbursement must

1 be subject to a negotiated agreement between the originating site and
2 the managed health care system. A distant site or any other site not
3 identified in subsection (3) of this section may not charge a
4 facility fee.

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

8 (6) A managed health care system may subject coverage of a
9 telemedicine or store and forward technology health service under
10 subsection (1) of this section to all terms and conditions of the
11 plan in which the covered person is enrolled((~~τ~~)) including, but not
12 limited to, utilization review, prior authorization, deductible,
13 copayment, or coinsurance requirements that are applicable to
14 coverage of a comparable health care service provided in person.

15 (7) This section does not require a managed health care system to
16 reimburse:

17 (a) An originating site for professional fees;

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

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

22 (8) For purposes of this section:

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

26 (b) "Health care service" has the same meaning as in RCW
27 48.43.005;

28 (c) "Hospital" means a facility licensed under chapter 70.41,
29 71.12, or 72.23 RCW;

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

1 (e) "Originating site" means the physical location of a patient
2 receiving health care services through telemedicine;

3 (f) "Provider" has the same meaning as in RCW 48.43.005;

4 (g) "Store and forward technology" means use of an asynchronous
5 transmission of a covered person's medical information from an
6 originating site to the health care provider at a distant site which
7 results in medical diagnosis and management of the covered person,
8 and does not include the use of audio-only telephone, facsimile, or
9 email; and

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

16 (9) To measure the impact on access to care for underserved
17 communities and costs to the state and the medicaid managed health
18 care system for reimbursement of telemedicine services, the
19 Washington state health care authority, using existing data and
20 resources, shall provide a report to the appropriate policy and
21 fiscal committees of the legislature no later than December 31, 2018.

22 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act take
23 effect January 1, 2018.

Passed by the Senate February 23, 2017.

Passed by the House April 18, 2017.

Approved by the Governor May 5, 2017.

Filed in Office of Secretary of State May 5, 2017.

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