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**HOUSE BILL 1462**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Representatives Rule, Lekanoff, Slatter, Shewmake, Bergquist, Pollet, and Riccelli

Read first time 02/02/21. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to the total compensation for telemedicine  
2 services; amending RCW 48.43.735; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that in 2020,  
5 the legislature enacted Engrossed Substitute Senate Bill No. 5385,  
6 which requires regulated health carriers, public employee and school  
7 employee health plans, and medicaid managed care plans to reimburse a  
8 provider for health care services provided through telemedicine at  
9 the same rate as health care services provided in person, unless an  
10 exception is met. However, the legislature finds that since its  
11 enactment there has been some controversy as to the meaning of the  
12 term rate.

13 (2) The legislature finds that the office of the insurance  
14 commissioner issued an interpretative statement on December 15, 2020,  
15 stating that beginning on January 1, 2021, the law requires health  
16 carriers to pay providers the same total compensation, also called  
17 "allowed amount", for telemedicine services as they would for in-  
18 person services, unless negotiation has been undertaken as allowed by  
19 the law.

20 (3) Therefore, the legislature intends to codify the office of  
21 the insurance commissioner's interpretive statement and confirm that

1 the intent of the law is to require health carriers to pay providers  
2 the same total compensation for telemedicine services as they would  
3 for in-person services unless negotiation has been undertaken as  
4 allowed by the law.

5 **Sec. 2.** RCW 48.43.735 and 2020 c 92 s 1 are each amended to read  
6 as follows:

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

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

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

14 (iii) 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 (iv) 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  
21 meets the standards required by state and federal laws governing the  
22 privacy and security of protected health information.

23 (b)(i) Except as provided in (b)(ii) of this subsection, for  
24 health plans issued or renewed on or after January 1, 2021, a health  
25 carrier shall reimburse a provider for a health care service provided  
26 to a covered person through telemedicine at the same ~~((rate as))~~  
27 amount of total compensation as the health carrier would pay if the  
28 health care service was provided in person by the provider.

29 (ii) Hospitals, hospital systems, telemedicine companies, and  
30 provider groups consisting of eleven or more providers may elect to  
31 negotiate a ~~((reimbursement rate))~~ total compensation amount for  
32 telemedicine services that differs from the ~~((reimbursement rate))~~  
33 total compensation amount for in-person services.

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

37 (2) For purposes of this section, reimbursement of store and  
38 forward technology is available only for those covered services

1 specified in the negotiated agreement between the health carrier and  
2 the health care provider.

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

5 (a) Hospital;

6 (b) Rural health clinic;

7 (c) Federally qualified health center;

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

9 (e) Community mental health center;

10 (f) Skilled nursing facility;

11 (g) Home or any location determined by the individual receiving  
12 the service; or

13 (h) Renal dialysis center, except an independent renal dialysis  
14 center.

15 (4) Except for subsection (3)(g) of this section, any originating  
16 site under subsection (3) of this section may charge a facility fee  
17 for infrastructure and preparation of the patient. Reimbursement for  
18 a facility fee must be subject to a negotiated agreement between the  
19 originating site and the health carrier. A distant site or any other  
20 site not identified in subsection (3) of this section may not charge  
21 a facility fee.

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

25 (6) A health carrier may subject coverage of a telemedicine or  
26 store and forward technology health service under subsection (1) of  
27 this section to all terms and conditions of the plan in which the  
28 covered person is enrolled including, but not limited to, utilization  
29 review, prior authorization, deductible, copayment, or coinsurance  
30 requirements that are applicable to coverage of a comparable health  
31 care service provided in person.

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

33 (a) An originating site for professional fees;

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

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

38 (8) For purposes of this section:

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

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