

# SENATE BILL REPORT

## SB 5821

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As of January 11, 2024

**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 & Long Term Care: 1/11/24.

**Brief Summary of Bill**

- Creates a uniform standard for creating an established relationship for the purposes of coverage for audio-only telemedicine services.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Staff:** Greg Attanasio (786-7410)

**Background:** Health plans, including plans offered to public employees, and the state Medicaid program, must cover telemedicine services if:

- the plan provides coverage for the service when provided in person;
- the service is medically necessary;
- the service is recognized as an essential health benefit;
- the service is determined to be safely and effectively provided through telemedicine;
- and
- for audio-only telemedicine services, the covered person has an established

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relationship with the provider.

Audio-only telemedicine means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

An established relationship means the provider has access to sufficient health records to ensure safe, effective, and appropriate care services and:

- for health care services included in the essential health benefits category of mental health and substance use disorder services, including behavioral health treatment:
  1. the covered person has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system as the provider providing audio-only telemedicine; or
  2. the covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine; and
- for any other health care service:
  1. the covered person has had, within the past two years, at least one in-person appointment, or, until July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system as the provider providing audio-only telemedicine; or
  2. the covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past two years, at least one in-person appointment, or, until July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine.

**Summary of Bill:** The definition of established relationship for the purposes of audio-only telemedicine coverage is changed to create a single definition for all services.

An established relationship means the provider has access to sufficient health records to ensure safe, effective, and appropriate care services and:

- the covered person has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a

- provider employed at the same medical group, at the same clinic, or by the same integrated delivery system as the provider providing audio-only telemedicine; or
- the covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine.

**Appropriation:** None.

**Fiscal Note:** Requested on January 3, 2024.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Establishing a relationship using audio/video telemedicine is currently allowed and should remain the law. The standard of care does not change from this bill. It is about insurance coverage but it is also an access issue because people use their insurance to access services. Currently policy is working well and this will just continue that policy. No other state requires an in person visit to establish a relationship before providing audio-only telemedicine.

CON: This is not an access issue and only related to what a carrier must cover. A carrier could choose to cover audio-only telemedicine based on different established relationship requirements. There are limitations and audio only telemedicine and it should be used appropriately in conjunction with an in person existing relationship. State should prioritized the use of in person relationships.

**Persons Testifying:** PRO: Senator Ron Muzzall, Prime Sponsor; Mercer May, Teladoc Health; Clark Hansen, ALS Association, Patient Coalition of Washington; Tom Mann, ATA Action; Carrie Tellefson, Teladoc Health.

CON: Lisa Thatcher, Washington State Hospital Association; Sean Graham, Washington State Medical Association (WSMA).

**Persons Signed In To Testify But Not Testifying:** No one.