

SENATE BILL 3

J1, C3

(11r0944)

ENROLLED BILL

— Finance/Health and Government Operations —

Introduced by **Senators Griffith, Augustine, Beidle, Eckardt, Elfreth, Ellis, Ferguson, Guzzone, Hershey, Kagan, Kelley, Ready, Washington, and West**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Preserve Telehealth Access Act of 2021**

3 FOR the purpose of altering the health care services the Maryland Medical Assistance
4 Program, subject to a certain limitation, is required to provide through telehealth;
5 altering the circumstances under which the Program is required to provide health
6 care services through telehealth; requiring that certain services provided under the
7 Program include counseling and treatment for certain disorders and conditions;
8 ~~requiring the Program, when providing certain services, to allow a Program recipient~~
9 ~~to select the manner in which a certain service is delivered; prohibiting the Program~~
10 ~~from requiring a Program recipient to use telehealth under certain circumstances;~~
11 *prohibiting the Program from excluding from coverage a certain health care service*
12 *provided to a Program recipient in person for a certain reason; requiring, for a certain*
13 *time period, the Program to provide certain reimbursement for certain health care*
14 *services provided through telehealth on a certain basis and at a certain rate;*

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 authorizing the Maryland Department of Health to adopt certain regulations
2 relating to telehealth services provided to Program recipients; requiring the
3 Department to include certain health care providers when specifying by regulation
4 the types of health care providers eligible to receive certain reimbursement;
5 repealing certain authorization of the Department relating to the coverage of and
6 reimbursement for health care services that are delivered through store and forward
7 technology or remote patient monitoring; establishing, for a certain purpose and
8 certain standards, that a health care service provided through telehealth is
9 equivalent to the same health care service when provided through an in-person
10 consultation; prohibiting the Program or a certain organization from imposing as a
11 condition of reimbursement of a health care service delivered through telehealth that
12 the health care service be provided by a certain vendor; ~~authorizing~~ requiring the
13 Maryland Department of Health to apply to the Centers for Medicare and Medicaid
14 Services for a certain amendment to certain waivers obtain certain federal authority
15 necessary to implement certain requirements of this Act; ~~repealing~~ certain
16 authorization provided to the Department to require submission of a certain form to
17 the Department; repealing a certain requirement that the Department apply for a
18 certain amendment to certain waivers to implement a certain pilot program relating
19 to the provision of certain telehealth services; repealing a requirement that the
20 Department administer the pilot program, collect certain data, and submit certain
21 reports to the General Assembly; ~~requiring~~ certain insurers, nonprofit health service
22 plans, and health maintenance organizations to provide certain coverage for certain
23 services delivered through telehealth regardless of the location of the patient at the
24 time the services are provided; establishing that a certain requirement relating to
25 coverage of certain health care services delivered through telehealth include
26 coverage for the treatment for substance use disorders and mental health conditions;
27 altering a provision of law requiring certain insurers, nonprofit health service plans,
28 and health maintenance organizations to reimburse certain health care services
29 provided through telehealth to require certain reimbursement to be provided, for a
30 certain time period, in a certain manner and at a certain rate; ~~requiring~~ certain
31 insurers, nonprofit health service plans, and health maintenance organizations to
32 allow an insured patient to select the manner in which a health care service is
33 delivered, as clinically appropriate under certain provisions of law; prohibiting
34 certain insurers, nonprofit health service plans, and health maintenance
35 organizations from ~~requiring an insured patient to use telehealth in lieu of in-person~~
36 ~~service delivery~~ *excluding from coverage or denying coverage for certain services*
37 *provided in a certain manner for a certain reason*; repealing the requirement that
38 the Department study and submit a certain report to the General Assembly;
39 requiring the Department to revise certain regulations for a certain purpose on or
40 before a certain date; *requiring the Maryland Insurance Administration to study a*
41 *certain matter and provide certain findings and recommendations from the study to*
42 *the Maryland Health Care Commission for inclusion in a certain report; requiring*
43 *the Maryland Insurance Administration to consider the requirements of this Act when*
44 *proposing certain revisions to certain regulations*; prohibiting certain insurers,
45 nonprofit health service plans, and health maintenance organizations from
46 imposing, as a condition of reimbursement of a health care service delivered through
47 telehealth, that the health care service be provided by a certain ~~health care provider~~

1 vendor; revising, restating, and recodifying certain provisions of law relating to the
2 Program and coverage and reimbursement of services provided through telemedicine
3 and telehealth; repealing the termination date of certain provisions of law relating
4 to the Maryland Medical Assistance Program and coverage for telehealth; requiring
5 the Maryland Health Care Commission, in consultation with certain State agencies,
6 to submit a certain report to certain committees of the General Assembly on or before
7 a certain date; establishing certain requirements for the report; establishing certain
8 requirements on the Commission when completing the report; declaring the intent
9 of the General Assembly; defining certain terms; altering certain definitions;
10 providing for the application of this Act; providing for the construction of certain
11 provisions of this Act; and generally relating to the coverage and reimbursement of
12 health care services delivered through telehealth.

13 BY repealing and reenacting, without amendments,
14 Article – Health – General
15 Section 15–103(a)(1)
16 Annotated Code of Maryland
17 (2019 Replacement Volume and 2020 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Health – General
20 Section 15–103(a)(2)(xv), 15–105.2, and 15–141.2
21 Annotated Code of Maryland
22 (2019 Replacement Volume and 2020 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Insurance
25 Section 15–139
26 Annotated Code of Maryland
27 (2017 Replacement Volume and 2020 Supplement)

28 BY repealing
29 Chapter 17 of the Acts of the General Assembly of 2020
30 Section 3

31 BY repealing and reenacting, with amendments,
32 Chapter 17 of the Acts of the General Assembly of 2020
33 Section 4

34 BY repealing
35 Chapter 18 of the Acts of the General Assembly of 2020
36 Section 3

37 BY repealing and reenacting, with amendments,
38 Chapter 18 of the Acts of the General Assembly of 2020
39 Section 4

Preamble

WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020 to control and prevent the spread of COVID-19 within the State, and the state of emergency and catastrophic health emergency continue to exist; and

WHEREAS, To respond to the state of emergency and to continue to deliver care to patients with ongoing conditions, health care practitioners were authorized to deliver telehealth care services at sites at which patients are located; and

WHEREAS, The expansion of telehealth capabilities, including audio-only services, was instrumental in maintaining patient care without the risk of infection and provided ways for patients to receive care who were experiencing general difficulty in accessing in-person care; and

WHEREAS, Telehealth was shown to be effective in reducing disparities in access to those in underserved urban and rural areas by bridging communication gaps, allowing for the continuation of care, and reducing patient and clinician exposure to the coronavirus; and

WHEREAS, To enable the use of interactive audio telecommunications or electronic technology to deliver health care services and protect the public health, welfare, and safety, it is necessary to continue to preserve accommodations granted during the coronavirus pandemic; and

WHEREAS, It is critical that health care practitioners licensed, certified, or otherwise authorized by law to provide health care services be allowed in Maryland to provide those services through telehealth, including audio-only calls, provided that they are held to the same standards of practice that are applicable to in-person health care settings; and

WHEREAS, To effectively advance health equity in Maryland, it is necessary to ensure that individuals with limited access to health care services can benefit from the expansion of telehealth; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

15–103.

(a) (1) The Secretary shall administer the Maryland Medical Assistance Program.

(2) The Program:

1 (xv) Shall provide, subject to the limitations of the State budget,
2 [mental] health CARE services appropriately delivered through telehealth to a patient in
3 [the patient's home setting] ACCORDANCE WITH § 15-141.2 OF THIS SUBTITLE; and
4 15-105.2.

5 [(a)] The Program shall reimburse health care providers in accordance with the
6 requirements of Title 19, Subtitle 1, Part IV of this article.

7 [(b) (1) (i) In this subsection the following words have the meanings
8 indicated.

9 (ii) "Health care provider" means a person who is licensed, certified,
10 or otherwise authorized under the Health Occupations Article to provide health care in the
11 ordinary course of business or practice of a profession or in an approved education or
12 training program.

13 (iii) 1. "Telemedicine" means, as it relates to the delivery of
14 health care services, the use of interactive audio, video, or other telecommunications or
15 electronic technology:

16 A. By a health care provider to deliver a health care service
17 that is within the scope of practice of the health care provider at a site other than the site
18 at which the patient is located; and

19 B. That enables the patient to see and interact with the
20 health care provider at the time the health care service is provided to the patient.

21 2. "Telemedicine" does not include:

22 A. An audio-only telephone conversation between a health
23 care provider and a patient;

24 B. An electronic mail message between a health care provider
25 and a patient; or

26 C. A facsimile transmission between a health care provider
27 and a patient.

28 (2) To the extent authorized by federal law or regulation, the provisions of
29 § 15-139(c) through (f) of the Insurance Article relating to coverage of and reimbursement
30 for health care services delivered through telemedicine shall apply to the Program and
31 managed care organizations in the same manner they apply to carriers.

32 (3) Subject to the limitations of the State budget and to the extent
33 authorized by federal law or regulation, the Department may authorize coverage of and

1 reimbursement for health care services that are delivered through store and forward
 2 technology or remote patient monitoring.

3 (4) (i) The Department may specify by regulation the types of health
 4 care providers eligible to receive reimbursement for health care services provided to
 5 Program recipients under this subsection.

6 (ii) If the Department specifies by regulation the types of health care
 7 providers eligible to receive reimbursement for health care services provided to Program
 8 recipients under this subsection, the types of health care providers specified shall include:

9 1. Primary care providers; and

10 2. Psychiatrists and psychiatric nurse practitioners, as
 11 defined in § 10–601 of this article, who are providing Assertive Community Treatment or
 12 mobile treatment services to Program recipients located in a home or community–based
 13 setting.

14 (iii) For the purpose of reimbursement and any fidelity standards
 15 established by the Department, a health care service provided through telemedicine by a
 16 psychiatrist or a psychiatric nurse practitioner described under subparagraph (ii)2 of this
 17 paragraph is equivalent to the same health care service when provided through an
 18 in–person consultation.

19 (5) The Department may require a health care provider to submit a
 20 registration form to the Department that includes information required for the processing
 21 of claims for reimbursement for health care services provided to Program recipients under
 22 this subsection.

23 (6) The Department shall adopt regulations to carry out this subsection.]

24 15–141.2.

25 (a) [(1) In this section, “telehealth” means a mode of delivering health care
 26 services through the use of telecommunications technologies by a health care practitioner
 27 to a patient at a different physical location than the health care practitioner.]

28 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 29 INDICATED.

30 (2) “DISTANT SITE” MEANS A SITE AT WHICH THE ~~LICENSED~~ DISTANT
 31 SITE HEALTH CARE ~~PRACTITIONER~~ PROVIDER IS LOCATED AT THE TIME THE
 32 HEALTH CARE SERVICE IS PROVIDED THROUGH TELEHEALTH.

33 (3) “DISTANT SITE PROVIDER” MEANS THE ~~LICENSED~~ HEALTH CARE
 34 ~~PRACTITIONER~~ PROVIDER WHO PROVIDES MEDICALLY NECESSARY SERVICES TO A

1 PATIENT AT AN ORIGINATING SITE FROM A DIFFERENT PHYSICAL LOCATION THAN
2 THE LOCATION OF THE PATIENT.

3 ~~(4) "HEALTH CARE PRACTITIONER" MEANS AN INDIVIDUAL WHO IS~~
4 ~~LICENSED OR CERTIFIED TO PROVIDE HEALTH CARE SERVICES UNDER THE HEALTH~~
5 ~~OCCUPATIONS ARTICLE.~~

6 (4) "HEALTH CARE PROVIDER" MEANS:

7 (I) A PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE
8 AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH
9 CARE IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION OR
10 IN AN APPROVED EDUCATION OR TRAINING PROGRAM;

11 (II) A MENTAL HEALTH AND SUBSTANCE USE DISORDER
12 PROGRAM LICENSED IN ACCORDANCE WITH § 7.5-401 OF THIS ARTICLE;

13 (III) A PERSON LICENSED UNDER TITLE 7, SUBTITLE 9 OF THIS
14 ARTICLE TO PROVIDE SERVICES TO AN INDIVIDUAL WITH DEVELOPMENTAL
15 DISABILITY OR A RECIPIENT OF INDIVIDUAL SUPPORT SERVICES; OR

16 (IV) A PROVIDER AS DEFINED UNDER § 16-201.4 OF THIS
17 ARTICLE TO PROVIDE SERVICES TO AN INDIVIDUAL RECEIVING LONG-TERM CARE
18 SERVICES.

19 (5) "ORIGINATING SITE" MEANS THE LOCATION OF THE PROGRAM
20 RECIPIENT AT THE TIME THE HEALTH CARE SERVICE IS PROVIDED THROUGH
21 TELEHEALTH.

22 (6) "REMOTE PATIENT MONITORING SERVICES" MEANS THE USE OF
23 SYNCHRONOUS OR ASYNCHRONOUS DIGITAL TECHNOLOGIES THAT COLLECT OR
24 MONITOR MEDICAL, PATIENT-REPORTED, AND OTHER FORMS OF HEALTH CARE
25 DATA FOR PROGRAM RECIPIENTS AT AN ORIGINATING SITE AND ELECTRONICALLY
26 TRANSMIT THAT DATA TO A DISTANT SITE PROVIDER TO ENABLE THE DISTANT SITE
27 PROVIDER TO ASSESS, DIAGNOSE, CONSULT, TREAT, EDUCATE, PROVIDE CARE
28 MANAGEMENT, SUGGEST SELF-MANAGEMENT, OR MAKE RECOMMENDATIONS
29 REGARDING THE PROGRAM RECIPIENT'S HEALTH CARE.

30 [(2)] (7) (I) "TELEHEALTH" MEANS THE DELIVERY OF
31 MEDICALLY NECESSARY SOMATIC, DENTAL, OR BEHAVIORAL HEALTH SERVICES TO
32 A PATIENT AT AN ORIGINATING SITE BY A DISTANT SITE PROVIDER THROUGH THE
33 USE OF TECHNOLOGY-ASSISTED COMMUNICATION.

34 (II) "Telehealth" includes [synchronous]:

1 1. **SYNCHRONOUS** and asynchronous interactions;

2 2. ~~**AUDIO ONLY CONVERSATIONS BETWEEN A HEALTH**~~
 3 ~~**CARE PRACTITIONER AND PATIENT USING TELECOMMUNICATIONS TECHNOLOGY**~~
 4 **FROM JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE, AN AUDIO-ONLY**
 5 **TELEPHONE CONVERSATION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT**
 6 **THAT RESULTS IN THE DELIVERY OF A BILLABLE, COVERED HEALTH CARE SERVICE;**
 7 **AND**

8 3. **REMOTE PATIENT MONITORING SERVICES.**

9 [(3)] (III) “Telehealth” does not include the provision of health care
 10 services solely through ~~audio only calls, e-mail messages[,] or facsimile transmissions:~~

11 1. **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II)2 OF**
 12 **THIS PARAGRAPH, AN AUDIO-ONLY TELEPHONE CONVERSATION;**

13 2. **AN E-MAIL MESSAGE; OR**

14 3. **A FACSIMILE TRANSMISSION.**

15 [(b) (1)] On or before December 1, 2020, the Department shall apply to the
 16 Centers for Medicare and Medicaid Services for an amendment to any of the State’s § 1115
 17 waivers necessary to implement a pilot program to provide telehealth services to Program
 18 recipients regardless of the Program recipient’s location at the time telehealth services are
 19 provided.

20 (2) Telehealth services available under the pilot program shall be limited
 21 to chronic condition management services.

22 (c) If the amendment applied for under subsection (b) of this section is approved,
 23 the Department shall administer the pilot program.

24 (d) The Department shall collect outcomes data on recipients of telehealth
 25 services under the pilot program to evaluate the effectiveness of the pilot program.

26 (e) On or before December 1, 2020, and every 6 months thereafter until the
 27 application described under subsection (b) of this section is approved, the Department shall
 28 submit a report to the General Assembly, in accordance with § 2-1257 of the State
 29 Government Article, on the status of the application.

30 (f) If the amendment applied for under subsection (b) of this section is approved,
 31 on or before December 1 each year following the approval, the Department shall submit a

1 report to the General Assembly, in accordance with § 2-1257 of the State Government
2 Article, on the status of the pilot program.]

3 (B) THE PROGRAM SHALL:

4 (1) PROVIDE HEALTH CARE SERVICES APPROPRIATELY DELIVERED
5 THROUGH TELEHEALTH TO PROGRAM RECIPIENTS REGARDLESS OF THE LOCATION
6 OF THE PROGRAM RECIPIENT AT THE TIME TELEHEALTH SERVICES ARE PROVIDED;
7 ~~AND AND~~

8 (2) ALLOW A DISTANT SITE PROVIDER TO PROVIDE HEALTH CARE
9 SERVICES TO A PROGRAM RECIPIENT FROM ANY LOCATION AT WHICH THE HEALTH
10 CARE SERVICES MAY BE APPROPRIATELY DELIVERED THROUGH TELEHEALTH; ~~AND~~

11 ~~(3) WHEN PROVIDING THE SERVICES REQUIRED UNDER THIS~~
12 ~~SUBSECTION, ALLOW A PROGRAM RECIPIENT TO SELECT THE MANNER IN WHICH A~~
13 ~~HEALTH CARE SERVICE IS DELIVERED, AS CLINICALLY APPROPRIATE UNDER THE~~
14 ~~HEALTH OCCUPATIONS ARTICLE.~~

15 (C) THE SERVICES REQUIRED TO BE PROVIDED UNDER SUBSECTION (B) OF
16 THIS SECTION SHALL INCLUDE COUNSELING AND TREATMENT FOR SUBSTANCE USE
17 DISORDERS AND MENTAL HEALTH CONDITIONS.

18 (D) THE PROGRAM MAY NOT:

19 (1) EXCLUDE FROM COVERAGE A HEALTH CARE SERVICE SOLELY
20 BECAUSE IT IS PROVIDED THROUGH TELEHEALTH AND IS NOT PROVIDED THROUGH
21 AN IN-PERSON CONSULTATION OR CONTACT BETWEEN A HEALTH CARE PROVIDER
22 AND A PATIENT; OR

23 (2) ~~REQUIRE A PROGRAM RECIPIENT TO USE TELEHEALTH IN LIEU~~
24 ~~OF IN-PERSON SERVICE DELIVERY~~ EXCLUDE FROM COVERAGE A BEHAVIORAL
25 HEALTH CARE SERVICE PROVIDED TO A PROGRAM RECIPIENT IN PERSON SOLELY
26 BECAUSE THE SERVICE MAY ALSO BE PROVIDED THROUGH TELEHEALTH.

27 (E) THE PROGRAM MAY UNDERTAKE UTILIZATION REVIEW, INCLUDING
28 PREAUTHORIZATION, TO DETERMINE THE APPROPRIATENESS OF ANY HEALTH CARE
29 SERVICE WHETHER THE SERVICE IS DELIVERED THROUGH AN IN-PERSON
30 CONSULTATION OR THROUGH TELEHEALTH IF THE APPROPRIATENESS OF THE
31 HEALTH CARE SERVICE IS DETERMINED IN THE SAME MANNER.

32 (F) THE PROGRAM MAY NOT DISTINGUISH BETWEEN PROGRAM
33 RECIPIENTS IN RURAL OR URBAN LOCATIONS IN PROVIDING COVERAGE UNDER THE
34 PROGRAM FOR HEALTH CARE SERVICES DELIVERED THROUGH TELEHEALTH.

1 **(G) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
2 **PROGRAM SHALL REIMBURSE A HEALTH CARE PROVIDER FOR THE DIAGNOSIS,**
3 **CONSULTATION, AND TREATMENT OF A PROGRAM RECIPIENT FOR A HEALTH CARE**
4 **SERVICE COVERED BY THE PROGRAM THAT CAN BE APPROPRIATELY PROVIDED**
5 **THROUGH TELEHEALTH.**

6 **(2) THIS SUBSECTION DOES NOT REQUIRE THE PROGRAM TO**
7 **REIMBURSE A HEALTH CARE PROVIDER FOR A HEALTH CARE SERVICE DELIVERED**
8 **IN PERSON OR THROUGH TELEHEALTH THAT IS:**

9 **(I) NOT A COVERED HEALTH CARE SERVICE UNDER THE**
10 **PROGRAM; OR**

11 **(II) DELIVERED BY AN OUT-OF-NETWORK PROVIDER UNLESS**
12 **THE HEALTH CARE SERVICE IS A SELF-REFERRED SERVICE AUTHORIZED UNDER**
13 **THE PROGRAM.**

14 **(3) (I) FROM JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE,**
15 **WHEN APPROPRIATELY PROVIDED THROUGH TELEHEALTH, THE PROGRAM SHALL**
16 **PROVIDE REIMBURSEMENT IN ACCORDANCE WITH PARAGRAPH (1) OF THIS**
17 **SUBSECTION ON THE SAME BASIS AND THE SAME RATE AS IF THE HEALTH CARE**
18 **SERVICE WERE DELIVERED BY THE HEALTH CARE PROVIDER IN PERSON.**

19 **(II) THE REIMBURSEMENT REQUIRED UNDER SUBPARAGRAPH**
20 **(I) OF THIS PARAGRAPH DOES NOT INCLUDE:**

21 **1. CLINIC FACILITY FEES UNLESS THE HEALTH CARE**
22 **SERVICE IS PROVIDED BY A HEALTH CARE PROVIDER NOT AUTHORIZED TO BILL A**
23 **PROFESSIONAL FEE SEPARATELY FOR THE HEALTH CARE SERVICE; OR**

24 **2. ANY ROOM AND BOARD FEES.**

25 **(H) (1) THE DEPARTMENT MAY SPECIFY IN REGULATION THE TYPES OF**
26 **HEALTH CARE PROVIDERS ELIGIBLE TO RECEIVE REIMBURSEMENT FOR HEALTH**
27 **CARE SERVICES PROVIDED TO PROGRAM RECIPIENTS UNDER THIS SECTION.**

28 **(2) IF THE DEPARTMENT SPECIFIES BY REGULATION THE TYPES OF**
29 **HEALTH CARE PROVIDERS ELIGIBLE TO RECEIVE REIMBURSEMENT FOR HEALTH**
30 **CARE SERVICES PROVIDED TO PROGRAM RECIPIENTS UNDER THIS SUBSECTION,**
31 **THE REGULATIONS SHALL INCLUDE ALL TYPES OF HEALTH CARE PROVIDERS THAT**
32 **APPROPRIATELY PROVIDE TELEHEALTH SERVICES.**

1 (3) FOR THE PURPOSE OF REIMBURSEMENT AND ANY FIDELITY
2 STANDARDS ESTABLISHED BY THE DEPARTMENT, A HEALTH CARE SERVICE
3 PROVIDED THROUGH TELEHEALTH IS EQUIVALENT TO THE SAME HEALTH CARE
4 SERVICE WHEN PROVIDED THROUGH AN IN-PERSON CONSULTATION.

5 (I) SUBJECT TO SUBSECTION (G)(2) OF THIS SECTION, THE PROGRAM OR A
6 MANAGED CARE ORGANIZATION THAT PARTICIPATES IN THE PROGRAM MAY NOT
7 IMPOSE AS A CONDITION OF REIMBURSEMENT OF A COVERED HEALTH CARE
8 SERVICE DELIVERED THROUGH TELEHEALTH THAT THE HEALTH CARE SERVICE BE
9 PROVIDED BY A THIRD-PARTY VENDOR DESIGNATED BY THE PROGRAM.

10 (J) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS
11 SECTION.

12 ~~(K)~~ (K) THE DEPARTMENT SHALL APPLY OBTAIN ANY FEDERAL
13 AUTHORITY NECESSARY TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION,
14 INCLUDING APPLYING TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES
15 FOR AN AMENDMENT TO ANY OF THE STATE’S § 1115 WAIVERS NECESSARY TO
16 IMPLEMENT THE REQUIREMENTS OF THIS SECTION OR THE STATE PLAN.

17 (L) THIS SECTION MAY NOT BE CONSTRUED TO SUPERSEDE THE AUTHORITY
18 OF THE HEALTH SERVICES COST REVIEW COMMISSION TO SET THE APPROPRIATE
19 RATES FOR HOSPITALS, INCLUDING SETTING THE HOSPITAL FACILITY FEE FOR
20 HOSPITAL-PROVIDED TELEHEALTH.

21 Article – Insurance

22 15–139.

23 (a) (1) In this section, “telehealth” means, as it relates to the delivery of health
24 care services, the use of interactive audio, video, or other telecommunications or electronic
25 technology by a licensed health care provider to deliver a health care service within the
26 scope of practice of the health care provider at a location other than the location of the
27 patient.

28 (2) “Telehealth” includes:

29 ~~(I) the delivery of mental health care services to a patient in the~~
30 ~~patient’s home setting; AND~~

31 ~~(H) AN AUDIO-ONLY CONVERSATION BETWEEN A HEALTH CARE~~
32 ~~PROVIDER AND A PATIENT USING TELECOMMUNICATIONS TECHNOLOGY FROM JULY~~
33 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE, AN AUDIO-ONLY TELEPHONE

1 CONVERSATION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT THAT
 2 RESULTS IN THE DELIVERY OF A BILLABLE, COVERED HEALTH CARE SERVICE.

3 (3) “Telehealth” does not include:

4 (i) ~~an~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
 5 SUBSECTION, AN audio-only telephone conversation between a health care provider and
 6 a patient;

7 (ii) ~~an~~ an electronic mail message between a health care provider and a
 8 patient; or

9 ~~{(iii)}~~ ~~(H)~~ a facsimile transmission between a health care provider
 10 and a patient.

11 (b) This section applies to:

12 (1) insurers and nonprofit health service plans that provide hospital,
 13 medical, or surgical benefits to individuals or groups on an expense-incurred basis under
 14 health insurance policies or contracts that are issued or delivered in the State; and

15 (2) health maintenance organizations that provide hospital, medical, or
 16 surgical benefits to individuals or groups under contracts that are issued or delivered in
 17 the State.

18 (c) (1) An entity subject to this section:

19 (i) shall provide coverage under a health insurance policy or
 20 contract for health care services appropriately delivered through telehealth REGARDLESS
 21 OF THE LOCATION OF THE PATIENT AT THE TIME THE TELEHEALTH SERVICES ARE
 22 PROVIDED; and

23 ~~(H) WHEN PROVIDING THE COVERAGE REQUIRED UNDER THIS~~
 24 ~~SUBSECTION, SHALL ALLOW AN INSURED PATIENT TO SELECT THE MANNER IN~~
 25 ~~WHICH A HEALTH CARE SERVICE IS DELIVERED, AS CLINICALLY APPROPRIATE~~
 26 ~~UNDER THE HEALTH OCCUPATIONS ARTICLE;~~

27 ~~(ii) (H) (II)~~ may not exclude from coverage a health care service solely
 28 because it is provided through telehealth and is not provided through an in-person
 29 consultation or contact between a health care provider and a patient; AND

30 ~~(IV) (III) WHEN PROVIDING THE COVERAGE REQUIRED UNDER~~
 31 ~~THIS SUBSECTION, MAY NOT REQUIRE AN INSURED PATIENT TO USE TELEHEALTH IN~~
 32 ~~LIEU OF IN PERSON SERVICE DELIVERY MAY NOT EXCLUDE FROM COVERAGE OR~~
 33 ~~DENY COVERAGE FOR A BEHAVIORAL HEALTH CARE SERVICE THAT IS A COVERED~~

1 **BENEFIT UNDER A HEALTH INSURANCE POLICY OR CONTRACT WHEN PROVIDED IN**
 2 **PERSON SOLELY BECAUSE THE BEHAVIORAL HEALTH CARE SERVICE MAY ALSO BE**
 3 **PROVIDED THROUGH A COVERED TELEHEALTH BENEFIT.**

4 (2) The health care services appropriately delivered through telehealth
 5 shall include counseling **AND TREATMENT** for substance use disorders **AND MENTAL**
 6 **HEALTH CONDITIONS.**

7 (d) **(1) ~~As~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN** entity
 8 subject to this section:

9 ~~(i)~~ **(I)** shall reimburse a health care provider for the diagnosis,
 10 consultation, and treatment of an insured patient for a health care service~~s~~

11 ~~(i)~~ covered under a health insurance policy or contract that can be
 12 appropriately provided through telehealth; ~~AND~~

13 ~~(ii) WHEN APPROPRIATELY PROVIDED THROUGH TELEHEALTH,~~
 14 ~~ON THE SAME BASIS AND AT THE SAME RATE AS IF THE HEALTH CARE SERVICE WERE~~
 15 ~~DELIVERED BY THE HEALTH CARE PROVIDER IN PERSON;~~

16 ~~(2)~~ **(II)** is not required to:

17 ~~(i)~~ **1.** reimburse a health care provider for a health care service
 18 delivered in person or through telehealth that is not a covered benefit under the health
 19 insurance policy or contract; or

20 ~~(ii)~~ **2.** reimburse a health care provider who is not a covered
 21 provider under the health insurance policy or contract; and

22 ~~(3)~~ ~~(i)~~ **(III) 1.** may impose a deductible, copayment, or
 23 coinsurance amount on benefits for health care services that are delivered either through
 24 an in-person consultation or through telehealth;

25 ~~(ii)~~ **2.** may impose an annual dollar maximum as permitted by
 26 federal law; and

27 ~~(iii)~~ **3.** may not impose a lifetime dollar maximum.

28 **(2) (I) FROM JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE,**
 29 **WHEN A HEALTH CARE SERVICE IS APPROPRIATELY PROVIDED THROUGH**
 30 **TELEHEALTH, AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE**
 31 **REIMBURSEMENT IN ACCORDANCE WITH PARAGRAPH (1)(I) OF THIS SUBSECTION**
 32 **ON THE SAME BASIS AND AT THE SAME RATE AS IF THE HEALTH CARE SERVICE WERE**
 33 **DELIVERED BY THE HEALTH CARE PROVIDER IN PERSON.**

1 (II) THE REIMBURSEMENT REQUIRED UNDER SUBPARAGRAPH
 2 (I) OF THIS PARAGRAPH DOES NOT INCLUDE:

3 1. CLINIC FACILITY FEES UNLESS THE HEALTH CARE
 4 SERVICE IS PROVIDED BY A HEALTH CARE PROVIDER NOT AUTHORIZED TO BILL A
 5 PROFESSIONAL FEE SEPARATELY FOR THE HEALTH CARE SERVICE; OR

6 2. ANY ROOM AND BOARD FEES.

7 (III) THIS PARAGRAPH MAY NOT BE CONSTRUED TO SUPERSEDE
 8 THE AUTHORITY OF THE HEALTH SERVICES COST REVIEW COMMISSION TO SET THE
 9 APPROPRIATE RATES FOR HOSPITALS, INCLUDING SETTING THE HOSPITAL
 10 FACILITY FEE FOR HOSPITAL-PROVIDED TELEHEALTH.

11 (E) SUBJECT TO SUBSECTION ~~(D)(2)~~ (D)(1)(II) OF THIS SECTION, AN ENTITY
 12 SUBJECT TO THIS SECTION MAY NOT IMPOSE AS A CONDITION OF REIMBURSEMENT
 13 OF A COVERED HEALTH CARE SERVICE DELIVERED THROUGH TELEHEALTH THAT
 14 THE HEALTH CARE SERVICE BE PROVIDED BY A ~~HEALTH CARE PROVIDER~~
 15 THIRD-PARTY VENDOR DESIGNATED BY THE ENTITY.

16 [(e)] (F) An entity subject to this section may undertake utilization review,
 17 including preauthorization, to determine the appropriateness of any health care service
 18 whether the service is delivered through an in-person consultation or through telehealth
 19 if the appropriateness of the health care service is determined in the same manner.

20 [(f)] (G) A health insurance policy or contract may not distinguish between
 21 patients in rural or urban locations in providing coverage under the policy or contract for
 22 health care services delivered through telehealth.

23 [(g)] (H) A decision by an entity subject to this section not to provide coverage
 24 for telehealth in accordance with this section constitutes an adverse decision, as defined in
 25 § 15-10A-01 of this title, if the decision is based on a finding that telehealth is not medically
 26 necessary, appropriate, or efficient.

27 **Chapter 17 of the Acts of 2020**

28 [SECTION 3. AND BE IT FURTHER ENACTED, That:

29 (a) The Maryland Department of Health shall study whether, under the
 30 Maryland Medical Assistance Program, substance use disorder services may be
 31 appropriately provided through telehealth to a patient in the patient's home setting.

32 (b) On or before December 1, 2021, the Maryland Department of Health shall
 33 submit a report to the General Assembly, in accordance with § 2-1257 of the State

1 Government Article, that includes any findings and recommendations from the study
 2 required under subsection (a) of this section, including:

3 (1) the types of substance use disorder services, if any, that may be
 4 appropriately provided through telehealth to a patient in the patient's home setting; and

5 (2) any technological or other standards needed for the provision of
 6 appropriate and quality substance use disorder services to a patient in the patient's home
 7 setting.]

8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
 9 measure, is necessary for the immediate preservation of the public health or safety, has
 10 been passed by a ye and nay vote supported by three-fifths of all the members elected to
 11 each of the two Houses of the General Assembly. ~~[Sections 2 and 3] SECTION 3 shall~~
 12 ~~remain effective through June 30, 2025, and, at the end of June 30, 2025, [Sections 2 and~~
 13 ~~3] SECTION 3, with no further action required by the General Assembly, shall be abrogated~~
 14 ~~and of no further force and effect.~~

15 Chapter 18 of the Acts of 2020

16 [SECTION 3. AND BE IT FURTHER ENACTED, That:

17 (a) The Maryland Department of Health shall study whether, under the
 18 Maryland Medical Assistance Program, substance use disorder services may be
 19 appropriately provided through telehealth to a patient in the patient's home setting.

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 21 submit a report to the General Assembly, in accordance with § 2-1257 of the State
 22 Government Article, that includes any findings and recommendations from the study
 23 required under subsection (a) of this section, including:

24 (1) the types of substance use disorder services, if any, that may be
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 35 ~~and of no further force and effect.~~

1 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2021,
2 the Maryland Department of Health shall revise its regulations regarding telehealth
3 reimbursed by the Maryland Medical Assistance Program to ensure that requirements for
4 reimbursement of mental health and substance use disorder services delivered through
5 telehealth comply with the federal Mental Health Parity and Addiction Equity Act.

6 SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Insurance
7 Administration shall:

8 (1) (i) study how telehealth can support efforts to ensure health care
9 provider network sufficiency;

10 (ii) study the impact of changes in access to and coverage of telehealth
11 services under health benefit plans offered by health insurance carriers on the ability of
12 consumers to choose in-person care versus telehealth care as the modality of receiving a
13 covered service; and

14 (iii) provide any findings and recommendations from its study to the
15 Maryland Health Care Commission for inclusion in the report required under Section 4 of
16 this Act; and

17 (2) consider the requirements of this Act when proposing any revisions to
18 regulations relating to network adequacy.

19 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That:

20 (a) On or before December 1, 2022, the Maryland Health Care Commission, in
21 consultation with, as appropriate, the Maryland Health Services Cost Review Commission,
22 the Maryland Department of Health, and the Maryland Insurance Administration, shall
23 submit a report to the Senate Finance Committee and the House Health and Government
24 Operations Committee, in accordance with § 2-1257 of the State Government Article, on
25 the impact of providing telehealth services in accordance with the provisions of this Act.

26 (b) Unless otherwise indicated in this section, the Maryland Health Care
27 Commission shall consider both audio-only and audio-visual technologies for purposes of
28 reporting on the impact of providing telehealth services as required by this section.

29 (c) The report shall include:

30 (1) an analysis of:

31 (i) the impact of the use of telehealth on disparities in access to
32 health care services, including primary care and behavioral health services;

33 (ii) whether different communities and patient populations have
34 differences in take-up rates of telehealth services; and

1 (iii) the comparative effectiveness of telehealth services and
2 in-person visits on the total costs of care and patient outcomes of care;

3 (2) a study on the alignment of telehealth services with new models of care
4 that addresses:

5 (i) opportunities for using telehealth to improve patient-centered
6 care;

7 (ii) health care services for which telehealth can substitute for
8 in-person care while maintaining the standard of care, including the use of remote patient
9 monitoring for somatic and behavioral health care services; and

10 (iii) the impact of alternative care delivery models on telehealth
11 coverage and reimbursement;

12 (3) an assessment of the efficiency and effectiveness of telehealth services
13 and in-person visits that includes:

14 (i) a review of peer-reviewed research on the impact of different
15 communication technologies on patient health, including patient retention rates and
16 reduced barriers to care;

17 (ii) a survey of health care providers, as defined under § 15-141.2 of
18 the Health – General Article, as enacted by Section 1 of this Act; and

19 (iii) a review of the resources required to sustainably provide
20 telehealth services for the continuum of health care providers, including private and small
21 practices;

22 (4) an assessment of patient awareness of and satisfaction with telehealth
23 coverage and care that includes:

24 (i) the availability and appropriate uses of telehealth services;

25 (ii) the privacy risks and benefits of telehealth services and the
26 strategies needed to navigate privacy issues; and

27 (iii) barriers to care and levels of patient engagement that have been
28 addressed by audio-only and audio-visual telehealth;

29 (5) a review of the appropriateness of:

30 (i) telehealth across the continuum of care, ranging from virtual
31 telecommunications services used for patient check-ins to in-person evaluation and
32 management services as defined in the Berenson-Eggers type of service typology for
33 somatic and behavioral health services;

1 (ii) inclusion of clinic hospital facility fees in reimbursement for
2 hospital-provided telehealth; and

3 (iii) the use of telehealth to satisfy network access standards required
4 under § 15-112(b) of the Insurance Article, as specified in Section 3 of this Act; and

5 (6) the study or analysis of any other issues identified by the Commission.

6 (d) The report shall include recommendations on:

7 (1) coverage of telehealth services; and

8 (2) payment levels for telehealth services relative to in-person care.

9 (e) (1) The Maryland Health Care Commission shall complete the report using
10 research methods appropriate for the issues identified in this section and available funding.

11 (2) To carry out the health care provider survey required under subsection
12 (c)(3)(ii) of this section, the Maryland Health Care Commission shall develop survey
13 questions and work with the health occupations boards and other appropriate entities
14 within the Maryland Department of Health to send out information regarding the survey
15 by means of:

16 (i) renewal notices;

17 (ii) newsletters;

18 (iii) e-mail blasts;

19 (iv) website postings; or

20 (v) any combination thereof.

21 ~~SECTION 4.~~ SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the
22 General Assembly that:

23 (1) until and no later than June 30, 2023, while the Maryland Health Care
24 Commission completes the study and submits the report required under Section ~~3~~ 4 of this
25 Act for consideration by the General Assembly for the adoption of comprehensive telehealth
26 policies by the State:

27 (i) the Maryland Medical Assistance Program continue to reimburse
28 health care providers for covered health care services provided through audio-only and
29 audio-visual technology in accordance with the requirements of Section 1 of this Act, and
30 all applicable executive orders and waivers issued in accordance with Chapters 13 and 14
31 of the Acts of the General Assembly of 2020; and

1 (ii) insurers, nonprofit health service plans, and health maintenance
 2 organizations that are subject to § 15–139 of the Insurance Article as enacted by Section 1
 3 of this Act continue to reimburse health care providers for covered health care services
 4 provided through audio–only and audio–visual technology in accordance with the
 5 requirements of Section 1 of this Act and all applicable accommodations made by the
 6 insurers, nonprofit health service plans, and health maintenance organizations during the
 7 Declaration of State of Emergency and Existence of Catastrophic Health
 8 Emergency – COVID–19 issued on March 5, 2020, and its renewals;

9 (2) the Maryland Health Care Commission use the data collected from
 10 utilization and coverage of telehealth as provided for in item (1) of this section to complete
 11 the report required under Section ~~3~~ 4 of this Act; and

12 (3) the State use the report required under Section ~~3~~ 4 of this Act to
 13 establish comprehensive telehealth policies for implementation after the Declaration of
 14 State of Emergency and Existence of Catastrophic Health Emergency – COVID–19 issued
 15 on March 5, 2020, and its renewals expire.

16 SECTION ~~2~~ ~~5~~ 6. AND BE IT FURTHER ENACTED, That this Act shall apply to
 17 all policies, contracts, and health benefit plans issued, delivered, or renewed in the State
 18 on or after ~~January 1, 2022~~ July 1, 2021.

19 SECTION ~~3~~ ~~6~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect
 20 ~~October~~ July 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.