

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 534

(Senator Gile, *et al.*)

Finance

Health and Government Operations

Preserve Telehealth Access Act of 2023

This bill extends, through June 30, 2025, provisions of law that specify that (1) “telehealth” includes specified audio-only telephone conversations between a health care provider and a patient and (2) reimbursement for a telehealth service must be made on the same basis and at the same rate as if the service were delivered in person. These provisions apply to both Medicaid and commercial health insurance. The Maryland Health Care Commission (MHCC) must study and make recommendations regarding the delivery of health care services through telehealth, as specified, and report to the General Assembly by December 1, 2024. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: Medicaid expenditures (and federal fund revenues) for specified telehealth services continue through FY 2025. Any impact on overall Medicaid expenditures from continuing coverage as specified under the bill is indeterminate. Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) in FY 2024 only from the \$125 rate and form filing fee; any additional workload for MIA can be absorbed with existing budgeted resources. No impact on the State Employee and Retiree Health and Welfare Benefits Program. MHCC can complete the study and submit the report using existing budgeted resources.

Local Effect: Potential increase in expenditures for some local governments to continue to reimburse for certain telehealth services. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary/Current Law:

Medicaid

Under current law, the definition of “telehealth” includes (1) synchronous and asynchronous interactions; (2) from July 1, 2021, through June 30, 2023, an audio-only telephone conversation between a health care provider and a patient that results in the delivery of a billable, covered health care service; and (3) remote patient monitoring services. “Telehealth” does not include the provision of health care services solely through an audio-only telephone conversation (with the exception of the temporary provision for fiscal 2022 and 2023), an email message, or a facsimile transmission.

From July 1, 2021, through June 30, 2023, Medicaid must provide reimbursement for services appropriately provided through telehealth on the same basis and at the same rate as if the health care service were delivered in person. Reimbursement does not include (1) clinic facility fees, except as specified or (2) any room and board fees.

The bill specifies that telehealth includes an audio-only telephone conversation between a health care provider and a patient that results in the delivery of a billable, covered health care service for two additional years (through June 30, 2025) and requires Medicaid to continue to reimburse for services appropriately provided through telehealth, as specified, for two additional years (through June 30, 2025).

Health Insurance

The definition of “telehealth” includes, from July 1, 2021, through June 30, 2023, an audio-only telephone conversation between a health care provider and a patient that results in the delivery of a billable, covered health care service.

From July 1, 2021, through June 30, 2023, a carrier must provide reimbursement for a health care service appropriately provided through telehealth on the same basis and at the same rate as if the health care service were delivered in person. Reimbursement does not include (1) clinic facility fees, except as specified or (2) any room and board fees.

The bill specifies that telehealth includes an audio-only telephone conversation between a health care provider and a patient that results in the delivery of a billable, covered health care service for two additional years (through June 30, 2025) and requires a carrier to continue to reimburse for a health care service appropriately provided through telehealth, as specified, for two additional years (through June 30, 2025).

Mandated Reports

Chapters 70 and 71 of 2021 (the Preserve Telehealth Access Act of 2021) required MHCC to submit a report on the impact of providing telehealth services by December 1, 2022. MHCC contracted with the National Opinion Research Center at the University of Chicago to develop a [technical report](#) issued in October 2022. The report's findings were used by MHCC to develop telehealth coverage recommendations presented in a [final report](#) issued in December 2022.

MHCC recommended maintaining provisions in the Acts to ensure coverage flexibilities for somatic and behavioral health, noting that audio-only care should continue for behavioral health treatment, but some use guidelines in coverage of telehealth for somatic care are warranted. Specifically, the State should allow:

- a health care provider capable of providing telehealth services using audio-visual technology to deliver services using audio-only technology;
- use of audio-only for somatic care in the event of an audio-visual technology failure, a request by the patient, or at the clinical discretion of a treating health care provider without requiring documentation in the clinical record; and
- unrestricted use of audio-only for behavioral health based on patient consent to receive care via audio-only technology.

Regarding payment parity (reimbursing for a telehealth service on the same basis and at the same rate as if the service were delivered in person), MHCC proposed continuing payment levels for telehealth services relative to in-person care for 24 months. MHCC recommended studying payment parity for audio-visual and audio-only technologies and proposed that it submit a report to the General Assembly by December 1, 2024, that addresses:

- whether it costs more or less for providers to deliver telehealth;
- whether telehealth requires more or less clinical effort for a provider;
- whether there are aspects of telehealth that yield lower value, overuse, or conversely greater value that inform the debate on payment parity; and
- the adequacy of reimbursement for behavioral health services delivered in person and by telehealth.

The bill requires that MHCC submit the report proposed above by December 1, 2024.

Small Business Effect: Health care providers can continue to receive reimbursement for telehealth services provided through audio-only conversations through fiscal 2025.

Medicaid and carriers must reimburse health care providers for telehealth services on the same basis and at the same rate as if the service were delivered in person.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Department of Budget and Management; Maryland Department of Health; Maryland Insurance Administration; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2023
rh/ljm Third Reader - March 17, 2023
Revised - Amendment(s) - March 17, 2023

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