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LC000597/SUB A/2
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO INSURANCE -- THE TELEMEDICINE COVERAGE ACT

Introduced By: Senators Miller, Goldin, Valverde, Goodwin, Felag, Coyne, Burke, Cano,
Seveney, Lawson, and Kallman

Date Introduced: January 11, 2021

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 27-81-3 and 27-81-4 of the General Laws in Chapter 27-81 entitled
2 "The Telemedicine Coverage Act" are hereby amended to read as follows:

3 **27-81-3. Definitions.**

4 As used in this chapter:

5 (1) "Distant site" means a site at which a healthcare provider is located while providing
6 healthcare services by means of telemedicine.

7 (2) "Healthcare facility" means an institution providing healthcare services or a healthcare
8 setting, including, but not limited to: hospitals and other licensed, inpatient centers; ambulatory
9 surgical or treatment centers; skilled nursing centers; residential treatment centers; diagnostic,
10 laboratory and imaging centers; and rehabilitation and other therapeutic-health settings.

11 (3) "Healthcare professional" means a physician or other healthcare practitioner licensed,
12 accredited, or certified to perform specified healthcare services consistent with state law.

13 (4) "Healthcare provider" means a healthcare professional or a healthcare facility.

14 (5) "Healthcare services" means any services included in the furnishing to any individual
15 of medical, podiatric, or dental care, or hospitalization, or incident to the furnishing of that care or
16 hospitalization, and the furnishing to any person of any and all other services for the purpose of
17 preventing, alleviating, curing, or healing human illness, injury, or physical disability.

18 (6) "Health insurer" means any person, firm, or corporation offering and/or insuring
19 healthcare services on a prepaid basis, including, but not limited to, a nonprofit service corporation,

1 a health maintenance organization, or an entity offering a policy of accident and sickness insurance.

2 (7) "Health maintenance organization" means a health maintenance organization as defined
3 in chapter 41 of this title.

4 (8) "Nonprofit service corporation" means a nonprofit hospital-service corporation as
5 defined in chapter 19 of this title, or a nonprofit medical-service corporation as defined in chapter
6 20 of this title.

7 (9) "Originating site" means a site at which a patient is located at the time healthcare
8 services are provided to them by means of telemedicine, which can ~~be~~ include a patient's home
9 where medically or clinically appropriate; ~~provided, however, notwithstanding any other provision~~
10 ~~of law, health insurers and healthcare providers may agree to alternative siting arrangements~~
11 ~~deemed appropriate by the parties.~~

12 (10) "Policy of accident and sickness insurance" means a policy of accident and sickness
13 insurance as defined in chapter 18 of this title.

14 (11) "Store-and-forward technology" means the technology used to enable the transmission
15 of a patient's medical information from an originating site to the healthcare provider at the distant
16 site without the patient being present.

17 (12) "Telemedicine" means the delivery of clinical healthcare services by means of real
18 time, two-way telephone-audio-only communications or electronic audiovisual communications,
19 including the application of secure video conferencing or store-and-forward technology to provide
20 or support healthcare delivery, which facilitate the assessment, diagnosis, treatment, and care
21 management of a patient's health care while such patient is at an originating site and the healthcare
22 provider is at a distant site, consistent with applicable federal laws regulations. "Telemedicine"
23 does not include an ~~audio-only telephone conversation,~~ email message, or facsimile transmission
24 between the provider and patient, or an automated computer program used to diagnose and/or treat
25 ocular or refractive conditions.

26 **27-81-4. Coverage of telemedicine services.**

27 (a) Each health insurer that issues individual or group accident and sickness insurance
28 policies for healthcare services and/or provides a healthcare plan for healthcare services shall
29 provide coverage for the cost of such covered healthcare services provided through telemedicine
30 services, as provided in this section.

31 (b)(1) A health insurer shall not exclude a healthcare service for coverage solely because
32 the healthcare service is provided through telemedicine and is not provided through in-person
33 consultation or contact, so long as such healthcare services are medically or clinically appropriate
34 to be provided through telemedicine services ~~and, as such, may be subject to the terms and~~

1 ~~conditions of a telemedicine agreement between the insurer and the participating healthcare~~
2 ~~provider or provider group.~~

3 (2) As is in effect on January 1, 2021, all such medically or clinically appropriate, medically
4 necessary telemedicine services delivered by in-network providers shall be reimbursed at rates not
5 lower than services delivered through in-person methods. This shall remain in effect as long as the
6 state of emergency that was in effect on January 1, 2021 is still active. Once the state of emergency
7 has been rescinded this provision will remain in effect unless or until the office of the health
8 insurance commissioner revises which service categories shall be reimbursed at rates not lower
9 than the reimbursement rates for the same service categories delivered through in-person methods
10 based on recommendations described under § 27-81-7.

11 (c) Notwithstanding subsection (b) of this section, medically or clinically appropriate
12 telemedicine services delivered by in-network primary care and behavioral healthcare providers
13 shall be reimbursed at rates not lower than the reimbursement rates for the same services delivered
14 in-person.

15 ~~(e)(d)~~ Benefit plans offered by a health insurer ~~may impose a deductible, copayment, or~~
16 ~~coinsurance requirement for a healthcare service provided through telemedicine~~ shall not impose a
17 deductible, copayment, or coinsurance requirement for a healthcare service delivered through
18 telemedicine in excess of what would normally be charged for the same healthcare service when
19 performed in-person.

20 (e) Prior authorization requirements for medically or clinically appropriate telemedicine
21 services shall not be more stringent than prior authorization requirements for in-person care. No
22 more stringent medical or benefit determination and utilization review requirements shall be
23 imposed on any telemedicine service than is imposed upon the same service when performed in-
24 person.

25 (f) Except for requiring compliance with applicable state and federal laws, regulations
26 and/or guidance, no health insurer shall impose any specific requirements as to the technologies
27 used to deliver medically or clinically appropriate telemedicine services.

28 ~~(d)(g)~~ The requirements of this section shall apply to all policies and health plans issued,
29 reissued, or delivered in the state of Rhode Island on and after January 1, 2018.

30 ~~(e)(h)~~ This chapter shall not apply to: short-term travel, accident-only, limited or specified
31 disease; or individual conversion policies or health plans; nor to policies or health plans designed
32 for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known
33 as Medicare; or any other similar coverage under state or federal governmental plans.

34 SECTION 2. Chapter 27-81 of the General Laws entitled "The Telemedicine Coverage

1 Act" is hereby amended by adding thereto the following sections:

2 **27-81-6. Rules and regulations.**

3 The health insurance commissioner may promulgate such rules and regulations as are
4 necessary and proper to effectuate the purpose and for the efficient administration and enforcement
5 of this chapter.

6 **27-81-7. Telemedicine data reporting and telemedicine advisory committee.**

7 (a) Each health insurer shall collect and provide to the office of the health insurance
8 commissioner (OHIC), in a form and frequency acceptable to OHIC, information and data
9 reflecting its telemedicine policies, practices, and experience. OHIC shall provide this information
10 and data to the general assembly on or before January 1, 2022, and on or before each January 1
11 thereafter.

12 (b)(1) Upon the expiration of the state of emergency that was in effect on January 1, 2021,
13 OHIC will use data reporting required under subsection (a) of this section to help determine, with
14 the advice and participation of the executive office of health and human services, the department
15 of health, the health insurance advisory council, and the Rhode Island office of the attorney
16 general's office of the health care advocate, a list of in-network telemedicine service categories that
17 shall be reimbursed at rates not lower than the reimbursement rates for the same service categories
18 delivered through in-person methods. This list of service categories may be revised annually should
19 OHIC deem necessary.

20 (2) Notwithstanding subsection (b)(1) of this section, medically or clinically appropriate
21 telemedicine services delivered by in-network primary care and behavioral healthcare providers
22 shall be reimbursed at rates not lower than the reimbursement rates for the same services delivered
23 in-person.

24 SECTION 3. Chapter 42-7.2 of the General Laws entitled "Office of Health and Human
25 Services" is hereby amended by adding thereto the following section:

26 **42-7.2-21. Telemedicine.**

27 (a) Statement of intent. Rhode Island Medicaid shall cover medically necessary, medically
28 or clinically appropriate, non-experimental, and cost-effective telemedicine services provided by
29 Medicaid providers. There are no geographic restrictions for telemedicine; services delivered via
30 telemedicine are covered statewide. Rhode Island Medicaid and its contracted managed care
31 entities shall promote the use of telemedicine to support an adequate provider network.

32 (b) Definition: "Telemedicine" means the delivery of clinical healthcare services by means
33 of real time, two-way telephone-audio-only communications or electronic audiovisual
34 communications, including the application of secure video conferencing or store-and-forward

1 technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis,
2 treatment, and care management of a patient's health care while such patient is at an originating site
3 and the healthcare provider is at a distant site, consistent with applicable federal laws and
4 regulations. "Telemedicine" does not include an email message, or facsimile transmission between
5 the provider and patient, or an automated computer program used to diagnose and/or treat ocular
6 or refractive conditions.

7 (c) Coverage of telemedicine services. Rhode Island Medicaid and its contracted managed
8 care entities shall provide coverage for the cost of such covered healthcare services provided
9 through telemedicine services, as provided in this section.

10 (1) Rhode Island Medicaid and its contracted managed care entities shall not exclude a
11 healthcare service for coverage solely because the healthcare service is provided through
12 telemedicine and is not provided through in-person consultation or contact, as long as such health
13 care services are medically necessary, and medically or clinically appropriate to be provided
14 through telemedicine services.

15 (2) Benefit plans offered by a Medicaid managed care entity shall not impose a copayment,
16 or coinsurance requirement for a healthcare service delivered through telemedicine in excess of
17 what would normally be charged for the same healthcare service when performed in-person.

18 (3) Prior authorization requirements for medically necessary and medically or clinically
19 appropriate telemedicine services shall not be more stringent than prior authorization requirements
20 for in-person care. No more stringent medical or benefit determination and utilization review
21 requirements shall be imposed on any telemedicine service than is imposed upon the same service
22 when performed in person.

23 (4) As is in effect on January 1, 2021, all such medically or clinically appropriate, medically
24 necessary telemedicine services delivered by in-network providers shall be reimbursed at rates not
25 lower than services delivered through in-person methods. This shall remain in effect as long as the
26 state of emergency that was in effect on January 1, 2021 is still active. Once the state of emergency
27 has been rescinded this provision will remain in effect unless or until Rhode Island Medicaid revises
28 which service categories shall be reimbursed at rates not lower than the reimbursement rates for
29 the same service categories delivered through in-person methods based on recommendations
30 described under subsection (e) of this section.

31 (5) Notwithstanding subsection (c)(4) of this section medically necessary and medically or
32 clinically appropriate telemedicine services delivered by in-network primary care and behavioral
33 healthcare providers, for both fee-for-service and managed care delivery systems, shall be
34 reimbursed at rates not lower than the reimbursement rates for the same services delivered through

1 in-person methods.

2 (6) Except for requiring compliance with applicable state and federal laws, regulations
3 and/or guidance, Rhode Island Medicaid and its contracted managed care entities shall not impose
4 any specific requirements as to the technologies used to deliver medically necessary and medically
5 or clinically appropriate telemedicine services.

6 (d) Telemedicine data reporting. Each of Rhode Island Medicaid's contracted managed care
7 entities shall collect and provide to the executive office of health and human services (EOHHS), in
8 a form and frequency acceptable to the executive office, information and data reflecting its
9 telemedicine policies, practices, and experience. This information and data shall be provided to the
10 general assembly on or before January 1, 2022, and on or before each January 1 thereafter. When
11 available, the information and data EOHHS provides shall include, but not be limited to:

12 (1) Any savings experienced in Medicaid covered services and/or any savings experienced
13 in government funded programs, such as potential changes in expenditures for non-emergency
14 medical transportation services or child care, due to expanded access and increased use of
15 telemedicine;

16 (2) Any correlations in non-Medicaid benefit use and costs for individuals who have
17 received telemedicine services; and

18 (3) Any additional expenditure changes experienced by patients or state agencies that
19 correlate with, or occur due to, expanded access and increased use of telemedicine.

20 (e) Upon the expiration of the state of emergency that was in effect on January 1, 2021,
21 EOHHS will use data reporting required under subsection(d) of this section to help determine, with
22 the advice and participation of the office of the health insurance commissioner, the department of
23 health, the health insurance advisory council, and the Rhode Island office of the attorney general's
24 office of the health care advocate, a list of in-network telemedicine service categories that shall be
25 reimbursed at rates not lower than the reimbursement rates for the same service categories delivered
26 through in-person methods. This list of service categories may be revised annually should EOHHS
27 deem necessary.

28 (f) Rules and regulations. The secretary of EOHHS may promulgate such rules and
29 regulations as are necessary and proper to effectuate the purpose and for the efficient administration
30 and enforcement of this chapter.

31 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO INSURANCE -- THE TELEMEDICINE COVERAGE ACT

- 1 This act would amend the provisions of the telemedicine coverage act and provide coverage
- 2 for telemedicine under Rhode Island Medicaid.
- 3 This act would take effect upon passage.

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