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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) "Medically necessary" shall mean medical, surgical, or other services required for the
5 prevention, diagnosis, cure, or treatment of a health related condition, including such services
6 necessary to prevent a decremental change in either medical or mental health status. Medically
7 necessary services must be provided in the most cost effective and appropriate setting and shall not
8 be provided solely for the convenience of the beneficiary, caretaker or service provider. Providing
9 a service through telemedicine, shall in no circumstance be considered "solely for the convenience
10 of the beneficiary, caretaker or service provider" for purposes of determining health insurance
11 coverage.

12 ~~(8)~~ (9) "Nonprofit service corporation" means a nonprofit hospital-service corporation as
13 defined in chapter 19 of this title, or a nonprofit medical-service corporation as defined in chapter
14 20 of this title.

15 ~~(9)~~ (10) "Originating site" means a site at which a patient is located at the time healthcare
16 services are provided to them by means of telemedicine, which can ~~be~~ include a patient's home
17 where medically ~~appropriate necessary; provided, however, notwithstanding any other provision of~~
18 ~~law, health insurers and healthcare providers may agree to alternative siting arrangements deemed~~
19 ~~appropriate by the parties.~~

20 ~~(10)~~ (11) "Policy of accident and sickness insurance" means a policy of accident and
21 sickness insurance as defined in chapter 18 of this title.

22 ~~(11)~~ (12) "Store-and-forward technology" means the technology used to enable the
23 transmission of a patient's medical information from an originating site to the healthcare provider
24 at the distant site without the patient being present.

25 ~~(12)~~ (13) "Telemedicine" means the delivery of clinical healthcare services by means of
26 real time, two-way telephone-audio-only communications or electronic audiovisual
27 communications, including the application of secure video conferencing or store-and-forward
28 technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis,
29 treatment, and care management of a patient's health care while such patient is at an originating site
30 and the healthcare provider is at a distant site, consistent with applicable federal laws regulations.
31 "Telemedicine" does not include an ~~audio-only telephone conversation,~~ email message, or facsimile
32 transmission between the provider and patient, or an automated computer program used to diagnose
33 and/or treat ocular or refractive conditions.

34 **27-81-4. Coverage of telemedicine services.**

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

5 (b)(1) A health insurer shall not exclude a healthcare service for coverage solely because
6 the healthcare service is provided through telemedicine and is not provided through in-person
7 consultation or contact, so long as such healthcare services are medically ~~appropriate~~ necessary to
8 be provided through telemedicine services ~~and, as such, may be subject to the terms and conditions~~
9 ~~of a telemedicine agreement between the insurer and the participating healthcare provider or~~
10 ~~provider group.~~

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

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

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

28 (e) Prior authorization requirements for medically necessary telemedicine services shall
29 not be more stringent than prior authorization requirements for in-person care. No more stringent
30 medical or benefit determination and utilization review requirements shall be imposed on any
31 telemedicine service than is imposed upon the same service when performed in-person.

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

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

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

7 SECTION 2. Chapter 27-81 of the General Laws entitled "The Telemedicine Coverage
8 Act" is hereby amended by adding thereto the following sections:

9 **27-81-6. Rules and regulations.**

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

13 **27-81-7. Telemedicine data reporting and telemedicine advisory committee.**

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

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

27 (2) Notwithstanding subsection (b)(1) of this section, medically necessary telemedicine
28 services delivered by in-network primary care and behavioral healthcare providers shall be
29 reimbursed at rates not lower than the reimbursement rates for the same services delivered in-
30 person.

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

33 **42-7.2-21. Telemedicine.**

34 (a) Statement of intent. Rhode Island Medicaid shall cover medically necessary, non-

1 experimental, and cost-effective telemedicine services provided by Medicaid providers. There are
2 no geographic restrictions for telemedicine; services delivered via telemedicine are covered
3 statewide. Rhode Island Medicaid and its contracted managed care entities shall promote the use
4 of telemedicine to support an adequate provider network.

5 (b) Definition: "Telemedicine" means the delivery of clinical healthcare services by means
6 of real time, two-way telephone-audio-only communications or electronic audiovisual
7 communications, including the application of secure video conferencing or store-and-forward
8 technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis,
9 treatment, and care management of a patient's health care while such patient is at an originating site
10 and the healthcare provider is at a distant site, consistent with applicable federal laws and
11 regulations. "Telemedicine" does not include an email message, or facsimile transmission between
12 the provider and patient, or an automated computer program used to diagnose and/or treat ocular
13 or refractive conditions.

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

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

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

24 (3) Prior authorization requirements for medically necessary telemedicine services shall
25 not be more stringent than prior authorization requirements for in-person care. No more stringent
26 medical or benefit determination and utilization review requirements shall be imposed on any
27 telemedicine service than is imposed upon the same service when performed in person.

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

1 subsection (e) of this section.

2 (5) Notwithstanding subsection (c)(4) of this section medically necessary telemedicine
3 services delivered by in-network primary care and behavioral healthcare providers, for both fee-
4 for-service and managed care delivery systems, shall be reimbursed at rates not lower than the
5 reimbursement rates for the same services delivered through in-person methods.

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

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

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

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

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

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

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

1 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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