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FIRST REGULAR SESSION-2021

Legislative Document	**No. 849**
H.P. 617	House of Representatives, March 8, 2021

An Act To Make Permanent the Telehealth Reimbursement Options Passed by Emergency Measures

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative MATHIESON of Kittery.
Cosponsored by Representatives: BROOKS of Lewiston, GRAMLICH of Old Orchard Beach, SACHS of Freeport, Senator: BRENNER of Cumberland.

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Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §3173-H, sub-§1, ¶D, as amended by PL 2019, c. 649, §1, is further amended to read:

D. "Telehealth," as it pertains to the delivery of MaineCare services, means the use of interactive visual and audio or other electronic media for the purpose of consultation and education concerning and diagnosis, treatment, care management and self-management of a patient's physical and mental health and includes real-time interaction between the patient and the patient's provider, electronic consultation between health professionals regarding the patient, synchronous encounters, asynchronous encounters, store and forward transfers and remote patient monitoring. "Telehealth" includes telephonic services ~~when interactive telehealth services are unavailable or when a telephonic service is medically appropriate for the underlying covered service~~.

Sec. 2. 22 MRSA §3173-H, sub-§5, ¶D, as amended by PL 2019, c. 649, §1, is further amended to read:

D. Must include requirements for providers providing telehealth and telemonitoring services; ~~and~~

Sec. 3. 22 MRSA §3173-H, sub-§5, ¶E, as enacted by PL 2019, c. 649, §1, is amended to read:

E. Must allow at least some portion of case management services covered by the MaineCare program to be delivered through telehealth, without requiring qualifying criteria regarding a patient's risk of hospitalization or admission to an emergency room~~.~~; and

Sec. 4. 22 MRSA §3173-H, sub-§5, ¶F is enacted to read:

F. Must provide for reimbursement to providers providing telehealth and telemonitoring services at the same reimbursement rate as comparable services provided through in-person consultation.

Sec. 5. 24 MRSA §2904, sub-§1, ¶A, as amended by PL 2019, c. 289, §1, is further amended to read:

A. A licensed health care practitioner who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services, including services provided through telehealth as defined in Title 24-A, section 4316, subsection 1, paragraph ~~E~~ C, within the scope of that health care practitioner's licensure:

(1) To a nonprofit organization;

(2) To an agency of the State or any political subdivision of the State;

(3) To members or recipients of services of a nonprofit organization or state or local agency;

(4) To support the State's response to a public health threat as defined in Title 22, section 801, subsection 10;

(5) To support the State's response to an extreme public health emergency as defined in Title 22, section 801, subsection 4-A; or

(6) To support the State's response to a disaster as defined in Title 37-B, section 703, subsection 2;

Sec. 6. 24-A MRSA §4316, sub-§1, ¶C, as enacted by PL 2019, c. 289, §2, is amended to read:

C. "Telehealth," as it pertains to the delivery of health care services, means the use of interactive real-time visual and audio or other electronic media for the purpose of consultation and education concerning and diagnosis, treatment, care management and self-management of an enrollee's physical and mental health and includes real-time interaction between the enrollee and the telehealth provider, synchronous encounters, asynchronous encounters, store and forward transfers, the use of audio-only telephone and telemonitoring. "Telehealth" does not include the use of ~~audio-only telephone,~~ facsimile machine, e-mail or texting.

Sec. 7. 24-A MRSA §4316, sub-§1, ¶E, as enacted by PL 2019, c. 289, §2, is repealed.

Sec. 8. 24-A MRSA §4316, sub-§2, as corrected by RR 2019, c. 2, Pt. A, §28, is amended to read:

2. Parity for telehealth services. A carrier offering a health plan in this State may not deny coverage on the basis that the health care service is provided through telehealth if the health care service would be covered if it were provided through in-person consultation between an enrollee and a provider. Coverage for health care services provided through telehealth must be determined in a manner consistent with coverage for health care services provided through in-person consultation. A carrier shall reimburse a provider for the diagnosis, consultation with or treatment of an enrollee delivered through telehealth services on the same basis and at least at the rate of reimbursement at which the carrier reimburses a provider for the provision of the same, or substantially similar, service through in-person consultation. If an enrollee is eligible for coverage and the delivery of the health care service through telehealth is medically appropriate, a carrier may not deny coverage for telehealth services. A carrier may not offer a health plan under which any deductible applied to health care services delivered through telehealth accumulates separately from the deductible that applies in the aggregate to all services covered under the health plan. A carrier may offer a health plan containing a provision for a ~~deductible,~~ copayment or coinsurance requirement for a health care service provided through telehealth as long as the ~~deductible,~~ copayment or coinsurance does not exceed the ~~deductible,~~ copayment or coinsurance applicable to a comparable service provided through in-person consultation. A carrier may not exclude a health care service from coverage solely because such health care service is provided only through a telehealth encounter, as long as telehealth is appropriate for the provision of such health care service.

Sec. 9. 24-A MRSA §4316, sub-§5, as enacted by PL 2019, c. 289, §2, is repealed.

Sec. 10. Application. The requirements of this Act apply to health plans, as defined in the Maine Revised Statutes, Title 24-A, section 4301-A, subsection 7, executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2022. For the purposes of this Act, all health plan contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

SUMMARY

This bill makes permanent the authorization for the delivery of health care services through telehealth by telephone that was provided through executive order during the declared public health emergency related to COVID-19.

Under current law, health insurance carriers are required to reimburse for services delivered through telehealth at parity with the reimbursement that would be provided if the services were delivered through an in-person consultation, but the use of audio-only telephone to deliver those services is not permitted. This bill removes that prohibition. The bill also clarifies that reimbursement for telehealth services must be made on the same basis and at the same rate as if the services were delivered in person and that a carrier may not establish separate deductible limits for telehealth services that are not applied in the aggregate with other services covered under a health plan.

Under current law, telehealth services reimbursed under the MaineCare program for the delivery of service using the telephone are limited to when interactive telehealth services are unavailable or when a telephonic service is medically appropriate for the underlying covered service. This bill removes that limitation and also clarifies that services provided through telehealth must be reimbursed at the same rate as comparable services provided through an in-person consultation.

The requirements in the bill apply to health plans issued or renewed on or after January 1, 2022.