JAY INSLEE
Governor

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PROCLAMATION BY THE GOVERNOR
AMENDING PROCLAMATION 20-05

20-29
Telemedicine

WHEREAS, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout Washington State of as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State; and

WHEREAS, as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to our most vulnerable populations, I have subsequently issued amendatory Proclamations 20-06, 20-07, 20-08, 20-09, 20-10, 20-11, 20-12, 20-13, 20-14, 20-15, 20-16, 20-17, 20-18, 20-19, 20-20, 20-21, 20-22, 20-23, 20-24, 20-25, 20-26, 20-27, and 20-28, exercising my emergency powers under RCW 43.06.220 by waiving and suspending specified laws and regulations;

WHEREAS, the COVID-19 disease, caused by a virus that spreads easily from person-to-person which may result in serious illness or death and has been classified by the World Health Organization as a worldwide pandemic, has broadly spread throughout Washington State, significantly increasing the threat of serious associated health risks statewide; and

WHEREAS, the COVID-19 pandemic has resulted in unprecedented demands on our health care system, and the use of telemedicine is becoming an important and necessary means of relieving some of this demand by facilitating implementation of social distancing, reducing risk of infection to patients and health care providers, and increasing patient access to necessary treatment; and

WHEREAS, to encourage increased use of telemedicine by health care providers, the 2020 Legislature enacted ESSB 5385, requiring providers to be paid at the same rate when providing services via telemedicine as they are paid for providing the same services in-person (payment parity), but this requirement does not become effective until January 1, 2021; and

WHEREAS, the immediate implementation of payment parity in the use of telemedicine is expected to increase the likelihood of medical providers using telemedicine to relieve demand on our health care system, assist with medical social distancing, reduce risk of infection to patients and providers, and increase patient access to necessary treatment during the COVID-19 pandemic; and

WHEREAS, the worldwide COVID-19 pandemic and its progression in Washington State continue to threaten the life and health of our people as well as the economy of Washington State, and remain a public disaster affecting life, health, property or the public peace; and

WHEREAS, the Washington State Department of Health continues to maintain a Public Health Incident Management Team in coordination with the State Emergency Operations Center and other supporting state agencies to manage the public health aspects of the incident; and

WHEREAS, the Washington State Military Department Emergency Management Division, through the State Emergency Operations Center, continues coordinating resources across state government to support the Department of Health and local health officials in alleviating the impacts to people, property, and infrastructure, and continues coordinating with the Department of Health in assessing the impacts and long-term effects of the incident on Washington State and its people.

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, as a result of the above-noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim that a State of Emergency continues to exist in all counties of Washington State, that Proclamation 20-05 and all amendments thereto remain in effect, and that Proclamation 20-05 is amended to waive or suspend specified statutes that prevent, hinder or delay necessary action in coping with the unprecedented demands being placed on our health care system by the COVID-19 pandemic and to prohibit certain activities to assist in relieving these demands on our health care system, and to help preserve and maintain life, health, property or the public peace by prohibiting insurance carriers from certain activities related to the use of telemedicine services by medical providers.

I again direct that the plans and procedures of the Washington State Comprehensive Emergency Management Plan be implemented throughout state government. State agencies and departments are directed to continue utilizing state resources and doing everything reasonably possible to support implementation of the Washington State Comprehensive Emergency Management Plan and to assist affected political subdivisions in an effort to respond to and recover from the COVID-19 pandemic.

I continue to order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of The Adjutant General to address the circumstances described above, to perform such duties as directed by competent authority of the Washington State Military Department in addressing the outbreak. Additionally, I continue to direct the Department of Health, the Washington State Military Department Emergency Management Division, and other agencies to identify and provide appropriate personnel for conducting necessary and ongoing incident related assessments.

FURTHERMORE, based on the above situation and under the provisions of RCW 43.06.220(2)(g), I also find that strict compliance with the following statutory obligations or limitations will prevent, hinder or delay necessary action in addressing the unprecedented demands the COVID-19 pandemic is placing on our health care system by removing certain implementation date language in Engrossed Substitute Senate Bill (ESSB) 5385, Section 1 (Chapter 92, Laws of 2020), that will allow for immediate implementation of its provisions addressing health care provider payment parity in providing telemedicine services, and that the following specific language of ESSB 5385, Section 1 is hereby waived and suspended until midnight on April 24, 2020:

> ESSB 5385, Section 1 (Chapter 92, Laws of 2020), specifically amending RCW 48.43.735(1)(b)(i), the following language only: “for health plans issued or renewed on or after January 1, 2021,”.

FURTHERMORE, based on the above situation and under the provisions of RCW 43.06.220(1)(h), to help preserve and maintain life, health, property or the public peace in addressing the COVID-19 State of Emergency, and for services provided during the period for which the above statutory waiver is in effect, I also prohibit the following activities by health carriers to encourage health care providers to provide telemedicine services by providing for payment parity between telemedicine and in-person medical services:

1. Reimbursing in-network providers for telemedicine claims for medically necessary covered services at a rate lower than the contracted rate that would be paid if the services had been delivered through traditional (in-person) methods.
2. Denying a telemedicine claim from an in-network provider for a medically necessary covered service due to an existing provider contract term with that provider that denies reimbursement for services provided through telemedicine.
3. Establishing requirements for the payment of telemedicine services that are inconsistent with the emergency orders, rules or technical advisories to carriers issued by the Office of the Insurance Commissioner.

Violators of this of this order may be subject to criminal penalties pursuant to RCW 43.06.220(5).

Signed and sealed with the official seal of the state of Washington on this 25th day of March, A.D., Two Thousand and Twenty at Olympia, Washington.

By:

/s/
Jay Inslee, Governor

BY THE GOVERNOR:

/s/
Secretary of State