

SENATE BILL 502

C3, J1

0lr1742

By: **Senators Hershey and Ferguson**

Introduced and read first time: January 29, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Telehealth – Delivery of Mental Health Services – Coverage**
3 **for Home Settings**

4 FOR the purpose of requiring the Maryland Medical Assistance Program, subject to a
5 certain limitation, to provide mental health services appropriately delivered through
6 telehealth to a patient in a certain setting; altering the definition of telehealth as it
7 applies to certain provisions of law governing coverage of telehealth by certain
8 insurers, nonprofit health service plans, and health maintenance organizations to
9 include the delivery of mental health care services to a patient in a certain setting;
10 providing for the application of this Act; providing for a delayed effective date; and
11 generally relating to coverage for telehealth and mental health care services.

12 BY repealing and reenacting, without amendments,
13 Article – Health – General
14 Section 15–103(a)(1)
15 Annotated Code of Maryland
16 (2019 Replacement Volume)

17 BY repealing and reenacting, with amendments,
18 Article – Health – General
19 Section 15–103(a)(2)(xiii) and (xiv)
20 Annotated Code of Maryland
21 (2019 Replacement Volume)

22 BY adding to
23 Article – Health – General
24 Section 15–103(a)(2)(xv)
25 Annotated Code of Maryland
26 (2019 Replacement Volume)

27 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Insurance
2 Section 15–139
3 Annotated Code of Maryland
4 (2017 Replacement Volume and 2019 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
6 That the Laws of Maryland read as follows:

7 **Article – Health – General**

8 15–103.

9 (a) (1) The Secretary shall administer the Maryland Medical Assistance
10 Program.

11 (2) The Program:

12 (xiii) Beginning on January 1, 2019, may provide, subject to the
13 limitations of the State budget, and as permitted by federal law, dental services for adults
14 whose annual household income is at or below 133 percent of the poverty level; [and]

15 (xiv) Shall provide, subject to the limitations of the State budget,
16 medically appropriate drugs that are approved by the United States Food and Drug
17 Administration for the treatment of hepatitis C, regardless of the fibrosis score, and that
18 are determined to be medically necessary; AND

19 (XV) SHALL PROVIDE, SUBJECT TO THE LIMITATIONS OF THE
20 STATE BUDGET, MENTAL HEALTH SERVICES APPROPRIATELY DELIVERED THROUGH
21 TELEHEALTH TO A PATIENT IN THE PATIENT’S HOME SETTING.

22 **Article – Insurance**

23 15–139.

24 (a) (1) In this section, “telehealth” means, as it relates to the delivery of health
25 care services, the use of interactive audio, video, or other telecommunications or electronic
26 technology by a licensed health care provider to deliver a health care service within the
27 scope of practice of the health care provider at a location other than the location of the
28 patient.

29 (2) “TELEHEALTH” INCLUDES THE DELIVERY OF MENTAL HEALTH
30 CARE SERVICES TO A PATIENT IN THE PATIENT’S HOME SETTING.

31 [(2)] (3) “Telehealth” does not include:

32 (i) an audio-only telephone conversation between a health care

1 provider and a patient;

2 (ii) an electronic mail message between a health care provider and a
3 patient; or

4 (iii) a facsimile transmission between a health care provider and a
5 patient.

6 (b) This section applies to:

7 (1) insurers and nonprofit health service plans that provide hospital,
8 medical, or surgical benefits to individuals or groups on an expense-incurred basis under
9 health insurance policies or contracts that are issued or delivered in the State; and

10 (2) health maintenance organizations that provide hospital, medical, or
11 surgical benefits to individuals or groups under contracts that are issued or delivered in
12 the State.

13 (c) (1) An entity subject to this section:

14 (i) shall provide coverage under a health insurance policy or
15 contract for health care services appropriately delivered through telehealth; and

16 (ii) may not exclude from coverage a health care service solely
17 because it is provided through telehealth and is not provided through an in-person
18 consultation or contact between a health care provider and a patient.

19 (2) The health care services appropriately delivered through telehealth
20 shall include counseling for substance use disorders.

21 (d) An entity subject to this section:

22 (1) shall reimburse a health care provider for the diagnosis, consultation,
23 and treatment of an insured patient for a health care service covered under a health
24 insurance policy or contract that can be appropriately provided through telehealth;

25 (2) is not required to:

26 (i) reimburse a health care provider for a health care service
27 delivered in person or through telehealth that is not a covered benefit under the health
28 insurance policy or contract; or

29 (ii) reimburse a health care provider who is not a covered provider
30 under the health insurance policy or contract; and

31 (3) (i) may impose a deductible, copayment, or coinsurance amount on
32 benefits for health care services that are delivered either through an in-person consultation

1 or through telehealth;

2 (ii) may impose an annual dollar maximum as permitted by federal
3 law; and

4 (iii) may not impose a lifetime dollar maximum.

5 (e) An entity subject to this section may undertake utilization review, including
6 preauthorization, to determine the appropriateness of any health care service whether the
7 service is delivered through an in-person consultation or through telehealth if the
8 appropriateness of the health care service is determined in the same manner.

9 (f) A health insurance policy or contract may not distinguish between patients in
10 rural or urban locations in providing coverage under the policy or contract for health care
11 services delivered through telehealth.

12 (g) A decision by an entity subject to this section not to provide coverage for
13 telehealth in accordance with this section constitutes an adverse decision, as defined in §
14 15–10A–01 of this title, if the decision is based on a finding that telehealth is not medically
15 necessary, appropriate, or efficient.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
17 policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or
18 after January 1, 2021.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 January 1, 2021.