

**Department of Legislative Services**  
Maryland General Assembly  
2020 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 502

(Senators Hershey and Ferguson)

Finance

Health and Government Operations

**Telehealth – Mental Health and Chronic Condition Management Services –  
Coverage and Pilot Program**

This emergency bill requires Medicaid, subject to the limitations of the State budget, to provide mental health services appropriately delivered through telehealth to a patient *in the patient's home setting*. The bill also expands the definition of “telehealth” for purposes of private insurance coverage to include the delivery of mental health care services to a patient in the patient’s home. By December 1, 2020, the Maryland Department of Health (MDH) must apply for a § 1115 waiver to implement a specified telehealth pilot program and, if approved, administer the pilot program. MDH must also study and report on whether substance use disorder (SUD) services may be appropriately provided through telehealth to a patient in the patient’s home setting. **The pilot program and study provisions of the bill terminate June 30, 2025.**

**Fiscal Summary**

**State Effect:** Minimal increase in revenues for the Maryland Insurance Administration as early as FY 2020 from the \$125 rate and form filing fee. Review of filings can likely be handled with existing resources. Medicaid expenditures (61% federal funds, 39% general funds) increase by a potentially significant amount beginning in FY 2020 to the extent utilization of mental health services increases, as discussed below. Federal fund matching revenues increase accordingly. Medicaid expenditures increase further if the pilot program is approved. Any impact on the State Employee and Retiree Health and Welfare Benefits Program is anticipated to be minimal. **This bill increases the cost of an entitlement program beginning in FY 2020.**

**Local Effect:** Potential increase in health care expenditures for local jurisdictions that purchase fully insured plans to the extent coverage is not already provided. Revenues are not anticipated to be materially affected.

**Small Business Effect:** Potential meaningful.

## Analysis

### **Bill Summary:**

#### *Telehealth Pilot Program*

MDH must apply to the federal Centers for Medicare and Medicaid Services for an amendment to any of the State's § 1115 waivers necessary to implement the pilot. Telehealth services under the pilot must be limited to chronic condition management services and include synchronous and asynchronous interactions. MDH must collect outcomes data on recipients of telehealth services under the pilot program to evaluate the program's effectiveness.

By December 1, 2020, and every six months thereafter until the waiver amendment application is approved, MDH must submit a report to the General Assembly on the status of the application. If the amendment is approved, by December 1 annually each year following approval, MDH must submit a report to the General Assembly on the status of the pilot program. The pilot program terminates June 30, 2025.

#### *Study of Medicaid Substance Use Disorder Services by Telehealth*

By December 1, 2021, MDH must submit a report to the General Assembly that includes any findings and recommendations from the study, including the types of SUD services, if any, that may be appropriately provided through telehealth to a patient in the patient's home setting and any technological or other standards needed for the provision of appropriate and quality SUD services to a patient in the patient's home setting.

### **Current Law/Background:**

#### *Private Insurance Coverage of Telehealth*

"Telehealth" means the use of interactive audio, video, or other telecommunications or electronic technology by a licensed health care provider to deliver a health care service at a location other than the location of the patient. "Telehealth" does not include an audio-only telephone conversation, electronic mail message, or facsimile transmission between a health care provider and a patient.

Insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers) must provide coverage under a health insurance policy or contract for health care services appropriately delivered through telehealth (including counseling for substance use disorders). Carriers may not exclude from coverage a health care service solely because it is provided through telehealth and is not provided through an in-person

consultation or contact between a health care provider and a patient. A carrier must reimburse a health care provider for a covered service provided through telehealth. A carrier may impose a deductible, copayment, or coinsurance amount on benefits for health care services delivered either through an in-person consultation or through telehealth. A decision by a carrier not to provide coverage for telehealth constitutes an adverse decision.

### *Medicaid Telehealth*

To the extent authorized by federal law or regulation, coverage of and reimbursement for health care services delivered through telemedicine must apply to Medicaid and managed care organizations (MCOs) in the same manner they apply to carriers. Subject to the limitations of the State budget and to the extent authorized by federal law, MDH may authorize coverage of and reimbursement for health care services that are delivered through store-and-forward technology or remote patient monitoring.

MDH may specify by regulation the types of health care providers eligible to receive reimbursement for telemedicine health care services provided to Medicaid recipients. If MDH does so, the types of providers must include primary care providers, and psychiatrists and psychiatric nurse practitioners who provide assertive community treatment or mobile treatment services to Medicaid recipients in a home or community-based setting.

All Medicaid participants are eligible to receive telehealth services. Telehealth services are subject to the same program restrictions, requirements, and other limitations as services provided in person. Telehealth providers must be enrolled as a Medicaid provider to be reimbursed; however, certain originating site providers may participate even though they are not eligible to enroll as a Medicaid provider.

Effective October 7, 2019, MDH expanded the Medicaid Telehealth Program. Any and all provider types are now permitted to receive reimbursement for services rendered under the department's telehealth regulations as long as the provider's licensing board allows telehealth in its scope of practice. Restrictions on the distant site (the rendering provider's location while delivering telehealth services) have been eliminated. Telehealth participants may be enrolled in fee-for-service Medicaid or a HealthChoice MCO. The following sites are allowed to serve as originating sites (where the patient is located):

- college or university student health or counseling offices;
- community-based SUD providers;
- elementary, middle, high, or technical schools with a supported nursing, counseling, or medical office;
- local health departments;
- federally qualified health centers;

- hospitals (including emergency departments);
- nursing facilities;
- opioid treatment programs;
- outpatient mental health centers;
- physician, psychiatric nurse practitioner, nurse practitioner, or nurse midwife offices;
- renal dialysis centers;
- residential crisis services sites; or
- a deaf or hard of hearing participant's home or any other secure location as approved by the participant and the provider.

#### *Medicare and Veterans Administration Coverage*

Effective July 1, 2019, under the federal Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, Medicare added an enrollee's home as an originating site provider when treating for a SUD or co-occurring mental health disorder through telehealth.

The U.S. Department of Veterans Affairs' (VA) Telehealth Program includes services provided in the patient's home. The goal of home telehealth for the VA is to improve clinical outcomes and access to care while reducing complications, hospitalizations, and clinic or emergency room visits for veterans in post-acute care settings, high-risk veterans with chronic disease, or veterans at risk for placement in long-term care.

#### **State Fiscal Effect:**

#### *Medicaid Coverage for Mental Health Services Provided Via Telehealth*

Medicaid currently provides coverage for mental health services provided via telehealth but not services provided to a patient in the patient's home (with the exception of a deaf or hard of hearing individual). To the extent the bill increases utilization of mental health services, Medicaid expenditures (61% federal funds, 39% general funds) increase beginning in fiscal 2021. The amount of such an increase cannot be reliably estimated at this time. However, the Department of Legislative Services (DLS) notes that some services received in the home under the bill may substitute for services that would otherwise be provided in another originating site. Further, any additional expenditures may be offset by a reduction in transportation costs.

### *Chronic Condition Management Services Pilot Program*

By December 1, 2020, MDH must apply for a waiver from CMS to implement a pilot program to provide chronic condition management services to Medicaid recipients regardless of their location at the time services are provided. MDH can submit the waiver application and report on its status using existing budgeted resources. If a waiver is approved, Medicaid expenditures increase through fiscal 2025.

Medicaid currently provides coverage for chronic condition management services provided via telehealth but only when a patient is served at specific originating sites. MDH advises that a § 1115 waiver amendment would permit the department to cap enrollment and participating sites in the pilot program, which would mitigate potential costs of the pilot program.

### *Study Regarding Substance Use Disorder Services Via Telehealth*

MDH must study whether SUD services may be appropriately provided to Medicaid recipients via telehealth in the recipient's home setting. MDH advises that the department can conduct this study and report to the General Assembly any findings and recommendations by December 1, 2021, using existing budgeted resources.

**Small Business Effect:** Health care practitioners and clinics that provide mental health services benefit from the ability to receive additional reimbursement for services provided to an individual in the individual's home. To the extent the pilot program is implemented, health care practitioners and clinics that provide chronic condition management services benefit from the ability to receive additional reimbursement for services provided via telehealth.

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## **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Maryland Department of Health; Maryland Insurance Administration; Department of Legislative Services

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