

# HOUSE BILL 123

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(PRE-FILED)

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CF SB 3

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By: **Delegates Pena–Melnyk, R. Lewis, Stein, and Wilson**

Requested: October 13, 2020

Introduced and read first time: January 13, 2021

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2021

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Preserve Telehealth Access Act of 2021**

3 FOR the purpose of altering the health care services the Maryland Medical Assistance  
4 Program, subject to a certain limitation, is required to provide through telehealth;  
5 altering the circumstances under which the Program is required to provide health  
6 care services through telehealth; requiring that certain services provided under the  
7 Program include counseling and treatment for certain disorders and conditions;  
8 prohibiting the Program from requiring a Program recipient to use telehealth under  
9 certain circumstances; requiring, for a certain time period, the Program to provide  
10 certain reimbursement for certain health care services provided through telehealth  
11 on a certain basis and at a certain rate; authorizing the Maryland Department of  
12 Health to adopt certain regulations relating to telehealth services provided to  
13 Program recipients; requiring the Department to include certain health care  
14 providers when specifying by regulation the types of health care providers eligible to  
15 receive certain reimbursement; repealing certain authorization of the Department  
16 relating to the coverage of and reimbursement for health care services that are  
17 delivered through store and forward technology or remote patient monitoring;  
18 establishing, for a certain purpose and certain standards, that a health care service  
19 provided through telehealth is equivalent to the same health care service when  
20 provided through an in–person consultation; prohibiting the Program or a certain  
21 organization from imposing as a condition of reimbursement of a health care service  
22 delivered through telehealth that the health care service be provided by a certain  
23 vendor; ~~authorizing requiring the Maryland Department of Health to apply to the~~  
24 ~~Centers for Medicare and Medicaid Services for a certain amendment to certain~~

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~waivers~~ obtain certain federal authority necessary to implement certain requirements of this Act; ~~repealing certain authorization provided to the Department to require submission of a certain form to the Department;~~ repealing a certain requirement that the Department apply for a certain amendment to certain waivers to implement a certain pilot program relating to the provision of certain telehealth services; repealing a requirement that the Department administer the pilot program, collect certain data, and submit certain reports to the General Assembly; ~~establishing that a certain requirement relating to coverage of certain health care services delivered through telehealth include coverage for the treatment for substance use disorders and mental health conditions;~~ altering a provision of law requiring certain insurers, nonprofit health service plans, and health maintenance organizations to reimburse certain health care services provided through telehealth to require certain reimbursement to be provided, for a certain time period, in a certain manner and at a certain rate; ~~prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from requiring an insured patient to use telehealth in lieu of in-person service delivery for certain services;~~ ~~repealing the requirement that the Department study and submit a certain report to the General Assembly;~~ prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from imposing, as a condition of reimbursement of a health care service delivered through telehealth, that the health care service be provided by a certain ~~health care provider~~ vendor; ~~revising, restating, and recodifying certain provisions of law relating to the Program and coverage and reimbursement of services provided through telemedicine and telehealth;~~ repealing the termination date of certain provisions of law relating to the Maryland Medical Assistance Program and coverage for telehealth; requiring the Maryland Health Care Commission, in consultation with certain State agencies, to submit a certain report to certain committees of the General Assembly on or before a certain date; establishing certain requirements for the report; establishing certain requirements on the Commission when completing the report; declaring the intent of the General Assembly; defining certain terms; altering certain definitions; providing for the application of this Act; providing for the construction of certain provisions of this Act; and generally relating to the coverage and reimbursement of health care services delivered through telehealth.

34 BY repealing and reenacting, without amendments,  
 35 Article – Health – General  
 36 Section 15–103(a)(1)  
 37 Annotated Code of Maryland  
 38 (2019 Replacement Volume and 2020 Supplement)

39 BY repealing and reenacting, with amendments,  
 40 Article – Health – General  
 41 Section 15–103(a)(2)(xv), 15–105.2, and 15–141.2  
 42 Annotated Code of Maryland  
 43 (2019 Replacement Volume and 2020 Supplement)

44 BY repealing and reenacting, with amendments,

1 Article – Insurance  
2 Section 15–139  
3 Annotated Code of Maryland  
4 (2017 Replacement Volume and 2020 Supplement)

5 BY repealing  
6 Chapter 17 of the Acts of the General Assembly of 2020  
7 Section 3

8 BY repealing and reenacting, with amendments,  
9 Chapter 17 of the Acts of the General Assembly of 2020  
10 Section 4

11 BY repealing  
12 Chapter 18 of the Acts of the General Assembly of 2020  
13 Section 3

14 BY repealing and reenacting, with amendments,  
15 Chapter 18 of the Acts of the General Assembly of 2020  
16 Section 4

17 Preamble

18 WHEREAS, A state of emergency and catastrophic health emergency was  
19 proclaimed on March 5, 2020 to control and prevent the spread of COVID–19 within the  
20 State, and the state of emergency and catastrophic health emergency continue to exist; and

21 WHEREAS, To respond to the state of emergency and to continue to deliver care to  
22 patients with ongoing conditions, health care practitioners were authorized to deliver  
23 telehealth care services at sites at which patients are located; and

24 WHEREAS, The expansion of telehealth capabilities, including audio–only services,  
25 was instrumental in maintaining patient care without the risk of infection and provided  
26 ways for patients to receive care who were experiencing general difficulty in accessing  
27 in–person care; and

28 WHEREAS, Telehealth was shown to be effective in reducing disparities in access to  
29 those in underserved urban and rural areas by bridging communication gaps, allowing for  
30 the continuation of care, and reducing patient and clinician exposure to the coronavirus;  
31 and

32 WHEREAS, To enable the use of interactive audio telecommunications or electronic  
33 technology to deliver health care services and protect the public health, welfare, and safety,  
34 it is necessary to continue to preserve accommodations granted during the coronavirus  
35 pandemic; and

36 WHEREAS, It is critical that health care practitioners licensed, certified, or

1 otherwise authorized by law to provide health care services be allowed in Maryland to  
 2 provide those services through telehealth, including audio-only calls, provided that they  
 3 are held to the same standards of practice that are applicable to in-person health care  
 4 settings; and

5 WHEREAS, To effectively advance health equity in Maryland, it is necessary to  
 6 ensure that individuals with limited access to health care services can benefit from the  
 7 expansion of telehealth; now, therefore,

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

10 **Article – Health – General**

11 15–103.

12 (a) (1) The Secretary shall administer the Maryland Medical Assistance  
 13 Program.

14 (2) The Program:

15 (xv) Shall provide, ~~subject to the limitations of the State budget,~~  
 16 [mental] health CARE services appropriately delivered through telehealth to a patient in  
 17 [the patient’s home setting] ACCORDANCE WITH § 15–141.2 OF THIS SUBTITLE; and

18 15–105.2.

19 [(a)] The Program shall reimburse health care providers in accordance with the  
 20 requirements of Title 19, Subtitle 1, Part IV of this article.

21 [(b) (1) (i) In this subsection the following words have the meanings  
 22 indicated.

23 (ii) “Health care provider” means a person who is licensed, certified,  
 24 or otherwise authorized under the Health Occupations Article to provide health care in the  
 25 ordinary course of business or practice of a profession or in an approved education or  
 26 training program.

27 (iii) 1. “Telemedicine” means, as it relates to the delivery of  
 28 health care services, the use of interactive audio, video, or other telecommunications or  
 29 electronic technology:

30 A. By a health care provider to deliver a health care service  
 31 that is within the scope of practice of the health care provider at a site other than the site  
 32 at which the patient is located; and

33 B. That enables the patient to see and interact with the

1 health care provider at the time the health care service is provided to the patient.

2                   2. “Telemedicine” does not include:

3                   A. An audio-only telephone conversation between a health  
4 care provider and a patient;

5                   B. An electronic mail message between a health care provider  
6 and a patient; or

7                   C. A facsimile transmission between a health care provider  
8 and a patient.

9                   (2) To the extent authorized by federal law or regulation, the provisions of  
10 § 15-139(c) through (f) of the Insurance Article relating to coverage of and reimbursement  
11 for health care services delivered through telemedicine shall apply to the Program and  
12 managed care organizations in the same manner they apply to carriers.

13                   (3) Subject to the limitations of the State budget and to the extent  
14 authorized by federal law or regulation, the Department may authorize coverage of and  
15 reimbursement for health care services that are delivered through store and forward  
16 technology or remote patient monitoring.

17                   (4) (i) The Department may specify by regulation the types of health  
18 care providers eligible to receive reimbursement for health care services provided to  
19 Program recipients under this subsection.

20                   (ii) If the Department specifies by regulation the types of health care  
21 providers eligible to receive reimbursement for health care services provided to Program  
22 recipients under this subsection, the types of health care providers specified shall include:

23                   1. Primary care providers; and

24                   2. Psychiatrists and psychiatric nurse practitioners, as  
25 defined in § 10-601 of this article, who are providing Assertive Community Treatment or  
26 mobile treatment services to Program recipients located in a home or community-based  
27 setting.

28                   (iii) For the purpose of reimbursement and any fidelity standards  
29 established by the Department, a health care service provided through telemedicine by a  
30 psychiatrist or a psychiatric nurse practitioner described under subparagraph (ii)2 of this  
31 paragraph is equivalent to the same health care service when provided through an  
32 in-person consultation.

33                   (5) The Department may require a health care provider to submit a  
34 registration form to the Department that includes information required for the processing  
35 of claims for reimbursement for health care services provided to Program recipients under

1 this subsection.

2 (6) The Department shall adopt regulations to carry out this subsection.]

3 15–141.2.

4 (a) [(1) In this section, “telehealth” means a mode of delivering health care  
5 services through the use of telecommunications technologies by a health care practitioner  
6 to a patient at a different physical location than the health care practitioner.]

7 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
8 INDICATED.

9 (2) “DISTANT SITE” MEANS A SITE AT WHICH THE DISTANT SITE  
10 HEALTH CARE ~~PRACTITIONER~~ PROVIDER IS LOCATED AT THE TIME THE HEALTH  
11 CARE SERVICE IS PROVIDED THROUGH TELEHEALTH.

12 (3) “DISTANT SITE PROVIDER” MEANS THE HEALTH CARE  
13 ~~PRACTITIONER~~ PROVIDER WHO PROVIDES MEDICALLY NECESSARY SERVICES TO A  
14 PATIENT AT AN ORIGINATING SITE FROM A DIFFERENT PHYSICAL LOCATION THAN  
15 THE LOCATION OF THE PATIENT.

16 (4) ~~“HEALTH CARE PRACTITIONER” MEANS AN INDIVIDUAL WHO IS  
17 LICENSED OR CERTIFIED TO PROVIDE HEALTH CARE SERVICES UNDER THE HEALTH  
18 OCCUPATIONS ARTICLE.~~

19 (4) “HEALTH CARE PROVIDER” MEANS:

20 (I) A PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE  
21 AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH  
22 CARE IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION OR  
23 IN AN APPROVED EDUCATION OR TRAINING PROGRAM;

24 (II) A MENTAL HEALTH AND SUBSTANCE USE DISORDER  
25 PROGRAM LICENSED IN ACCORDANCE WITH § 7.5–401 OF THIS ARTICLE;

26 (III) A PERSON LICENSED UNDER TITLE 7, SUBTITLE 9 OF THIS  
27 ARTICLE TO PROVIDE SERVICES TO AN INDIVIDUAL WITH A DEVELOPMENTAL  
28 DISABILITY OR A RECIPIENT OF INDIVIDUAL SUPPORT SERVICES; OR

29 (IV) A PROVIDER AS DEFINED UNDER § 16–201.4 OF THIS  
30 ARTICLE TO PROVIDE SERVICES TO AN INDIVIDUAL RECEIVING LONG–TERM CARE  
31 SERVICES.

32 (5) “ORIGINATING SITE” MEANS THE LOCATION OF THE PROGRAM

1 RECIPIENT AT THE TIME THE HEALTH CARE SERVICE IS PROVIDED THROUGH  
2 TELEHEALTH.

3 (6) "REMOTE PATIENT MONITORING SERVICES" MEANS THE USE OF  
4 SYNCHRONOUS OR ASYNCHRONOUS DIGITAL TECHNOLOGIES THAT COLLECT OR  
5 MONITOR MEDICAL, PATIENT-REPORTED, AND OTHER FORMS OF HEALTH CARE  
6 DATA FOR PROGRAM RECIPIENTS AT AN ORIGINATING SITE AND ELECTRONICALLY  
7 TRANSMIT THAT DATA TO A DISTANT SITE PROVIDER TO ENABLE THE DISTANT SITE  
8 PROVIDER TO ASSESS, DIAGNOSE, CONSULT, TREAT, EDUCATE, PROVIDE CARE  
9 MANAGEMENT, SUGGEST SELF-MANAGEMENT, OR MAKE RECOMMENDATIONS  
10 REGARDING THE PROGRAM RECIPIENT'S HEALTH CARE.

11 [(2)] (7) (I) "TELEHEALTH" MEANS THE DELIVERY OF  
12 MEDICALLY NECESSARY SOMATIC, DENTAL, OR BEHAVIORAL HEALTH SERVICES TO  
13 A PATIENT AT AN ORIGINATING SITE BY A DISTANT SITE PROVIDER THROUGH THE  
14 USE OF TECHNOLOGY-ASSISTED COMMUNICATION.

15 (II) "Telehealth" includes [synchronous]:

16 1. SYNCHRONOUS and asynchronous interactions;

17 2. ~~AUDIO-ONLY CONVERSATIONS BETWEEN A HEALTH~~  
18 ~~CARE PRACTITIONER AND PATIENT USING TELECOMMUNICATIONS TECHNOLOGY~~  
19 FROM JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE, AN AUDIO-ONLY  
20 TELEPHONE CONVERSATION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT  
21 THAT RESULTS IN THE DELIVERY OF A BILLABLE, COVERED HEALTH CARE SERVICE;  
22 AND

23 3. REMOTE PATIENT MONITORING SERVICES.

24 [(3)] (III) "Telehealth" does not include the provision of health care  
25 services solely through ~~[audio-only calls,] e-mail messages[,] or facsimile transmissions;~~

26 1. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II)2 OF  
27 THIS PARAGRAPH, AN AUDIO-ONLY TELEPHONE CONVERSATION;

28 2. AN E-MAIL MESSAGE; OR

29 3. A FACSIMILE TRANSMISSION.

30 [(b) (1) On or before December 1, 2020, the Department shall apply to the  
31 Centers for Medicare and Medicaid Services for an amendment to any of the State's § 1115  
32 waivers necessary to implement a pilot program to provide telehealth services to Program  
33 recipients regardless of the Program recipient's location at the time telehealth services are

1 provided.

2 (2) Telehealth services available under the pilot program shall be limited  
3 to chronic condition management services.

4 (c) If the amendment applied for under subsection (b) of this section is approved,  
5 the Department shall administer the pilot program.

6 (d) The Department shall collect outcomes data on recipients of telehealth  
7 services under the pilot program to evaluate the effectiveness of the pilot program.

8 (e) On or before December 1, 2020, and every 6 months thereafter until the  
9 application described under subsection (b) of this section is approved, the Department shall  
10 submit a report to the General Assembly, in accordance with § 2–1257 of the State  
11 Government Article, on the status of the application.

12 (f) If the amendment applied for under subsection (b) of this section is approved,  
13 on or before December 1 each year following the approval, the Department shall submit a  
14 report to the General Assembly, in accordance with § 2–1257 of the State Government  
15 Article, on the status of the pilot program.]

16 **(B) THE PROGRAM SHALL:**

17 **(1) PROVIDE HEALTH CARE SERVICES APPROPRIATELY DELIVERED**  
18 **THROUGH TELEHEALTH TO PROGRAM RECIPIENTS REGARDLESS OF THE LOCATION**  
19 **OF THE PROGRAM RECIPIENT AT THE TIME TELEHEALTH SERVICES ARE PROVIDED;**  
20 **AND**

21 **(2) ALLOW A DISTANT SITE PROVIDER TO PROVIDE HEALTH CARE**  
22 **SERVICES TO A PROGRAM RECIPIENT FROM ANY LOCATION AT WHICH THE HEALTH**  
23 **CARE SERVICES MAY BE APPROPRIATELY DELIVERED THROUGH TELEHEALTH.**

24 **(C) THE SERVICES REQUIRED TO BE PROVIDED UNDER SUBSECTION (B) OF**  
25 **THIS SECTION SHALL INCLUDE COUNSELING AND TREATMENT FOR SUBSTANCE USE**  
26 **DISORDERS AND MENTAL HEALTH CONDITIONS.**

27 **(D) THE PROGRAM MAY NOT:**

28 **(1) EXCLUDE FROM COVERAGE A HEALTH CARE SERVICE SOLELY**  
29 **BECAUSE IT IS PROVIDED THROUGH TELEHEALTH AND IS NOT PROVIDED THROUGH**  
30 **AN IN-PERSON CONSULTATION OR CONTACT BETWEEN A HEALTH CARE PROVIDER**  
31 **AND A PATIENT; OR**

32 **(2) REQUIRE A PROGRAM RECIPIENT TO USE TELEHEALTH IN LIEU**  
33 **OF IN-PERSON SERVICE DELIVERY FOR BEHAVIORAL HEALTH SERVICES.**







1 (2) “Telehealth” includes:

2 ~~(I) the delivery of mental health care services to a patient in the~~  
 3 ~~patient’s home setting; AND~~

4 ~~(II) AN AUDIO ONLY CONVERSATION BETWEEN A HEALTH CARE~~  
 5 ~~PROVIDER AND A PATIENT USING TELECOMMUNICATIONS TECHNOLOGY, FROM~~  
 6 ~~JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE, AN AUDIO-ONLY TELEPHONE~~  
 7 ~~CONVERSATION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT THAT~~  
 8 ~~RESULTS IN THE DELIVERY OF A BILLABLE, COVERED HEALTH CARE SERVICE.~~

9 (3) “Telehealth” does not include:

10 (i) ~~an~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
 11 SUBSECTION, AN audio-only telephone conversation between a health care provider and  
 12 a patient;

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

15 ~~{(iii)}~~ ~~(II)~~ a facsimile transmission between a health care provider  
 16 and a patient.

17 (b) This section applies to:

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

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

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

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

27 (ii) may not exclude from coverage a health care service solely  
 28 because it is provided through telehealth and is not provided through an in-person  
 29 consultation or contact between a health care provider and a patient; AND

30 (III) WHEN PROVIDING THE COVERAGE REQUIRED UNDER THIS  
 31 SUBSECTION, MAY NOT REQUIRE AN INSURED PATIENT TO USE TELEHEALTH IN LIEU

1 OF IN-PERSON SERVICE DELIVERY FOR BEHAVIORAL HEALTH SERVICES.

2 (2) The health care services appropriately delivered through telehealth  
3 shall include counseling AND TREATMENT for substance use disorders AND MENTAL  
4 HEALTH CONDITIONS.

5 (d) (1) ~~Am~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN entity  
6 subject to this section:

7 (1) shall reimburse a health care provider for the diagnosis, consultation,  
8 and treatment of an insured patient for a health care service:

9 ~~(i)~~ covered under a health insurance policy or contract that can be  
10 appropriately provided through telehealth; ~~AND~~

11 ~~(ii) WHEN APPROPRIATELY PROVIDED THROUGH TELEHEALTH,~~  
12 ~~ON THE SAME BASIS AND AT THE SAME RATE AS IF THE HEALTH CARE SERVICE WERE~~  
13 ~~DELIVERED BY THE HEALTH CARE PROVIDER IN PERSON;~~

14 ~~(2)~~ (II) is not required to:

15 ~~(i)~~ 1. reimburse a health care provider for a health care service  
16 delivered in person or through telehealth that is not a covered benefit under the health  
17 insurance policy or contract; or

18 ~~(ii)~~ 2. reimburse a health care provider who is not a covered  
19 provider under the health insurance policy or contract; and

20 ~~(3)~~ (III) ~~(i)~~ 1. may impose a deductible, copayment, or coinsurance  
21 amount on benefits for health care services that are delivered either through an in-person  
22 consultation or through telehealth;

23 ~~(ii)~~ 2. may impose an annual dollar maximum as permitted by  
24 federal law; and

25 ~~(iii)~~ 3. may not impose a lifetime dollar maximum.

26 (2) (I) FROM JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE,  
27 WHEN A HEALTH CARE SERVICE IS APPROPRIATELY PROVIDED THROUGH  
28 TELEHEALTH, AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE  
29 REIMBURSEMENT IN ACCORDANCE WITH PARAGRAPH (1)(I) OF THIS SUBSECTION  
30 ON THE SAME BASIS AND AT THE SAME RATE AS IF THE HEALTH CARE SERVICE WERE  
31 DELIVERED BY THE HEALTH CARE PROVIDER IN PERSON.

1 (II) THE REIMBURSEMENT REQUIRED UNDER SUBPARAGRAPH  
 2 (I) OF THIS PARAGRAPH DOES NOT INCLUDE:

3 1. CLINIC FACILITY FEES UNLESS THE HEALTH CARE  
 4 SERVICE IS PROVIDED BY A HEALTH CARE PROVIDER NOT AUTHORIZED TO BILL A  
 5 PROFESSIONAL FEE SEPARATELY FOR THE HEALTH CARE SERVICE; OR

6 2. ANY ROOM AND BOARD FEES.

7 (III) THIS PARAGRAPH MAY NOT BE CONSTRUED TO SUPERSEDE  
 8 THE AUTHORITY OF THE HEALTH SERVICES COST REVIEW COMMISSION TO SET THE  
 9 APPROPRIATE RATES FOR HOSPITALS, INCLUDING SETTING THE HOSPITAL  
 10 FACILITY FEE FOR HOSPITAL-PROVIDED TELEHEALTH.

11 (E) SUBJECT TO SUBSECTION ~~(D)(2)~~ (D)(1)(II) OF THIS SECTION, AN ENTITY  
 12 SUBJECT TO THIS SECTION MAY NOT IMPOSE AS A CONDITION OF REIMBURSEMENT  
 13 OF A COVERED HEALTH CARE SERVICE DELIVERED THROUGH TELEHEALTH THAT  
 14 THE HEALTH CARE SERVICE BE PROVIDED BY A ~~HEALTH CARE PROVIDER~~ THIRD  
 15 PARTY VENDOR DESIGNATED BY THE ENTITY.

16 [(e)] (F) An entity subject to this section may undertake utilization review,  
 17 including preauthorization, to determine the appropriateness of any health care service  
 18 whether the service is delivered through an in-person consultation or through telehealth  
 19 if the appropriateness of the health care service is determined in the same manner.

20 [(f)] (G) A health insurance policy or contract may not distinguish between  
 21 patients in rural or urban locations in providing coverage under the policy or contract for  
 22 health care services delivered through telehealth.

23 [(g)] (H) A decision by an entity subject to this section not to provide coverage  
 24 for telehealth in accordance with this section constitutes an adverse decision, as defined in  
 25 § 15-10A-01 of this title, if the decision is based on a finding that telehealth is not medically  
 26 necessary, appropriate, or efficient.

27 **Chapter 17 of the Acts of 2020**

28 [SECTION 3. AND BE IT FURTHER ENACTED, That:

29 (a) The Maryland Department of Health shall study whether, under the  
 30 Maryland Medical Assistance Program, substance use disorder services may be  
 31 appropriately provided through telehealth to a patient in the patient's home setting.

32 (b) On or before December 1, 2021, the Maryland Department of Health shall  
 33 submit a report to the General Assembly, in accordance with § 2-1257 of the State

1 Government Article, that includes any findings and recommendations from the study  
 2 required under subsection (a) of this section, including:

3 (1) the types of substance use disorder services, if any, that may be  
 4 appropriately provided through telehealth to a patient in the patient's home setting; and

5 (2) any technological or other standards needed for the provision of  
 6 appropriate and quality substance use disorder services to a patient in the patient's home  
 7 setting.]

8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
 9 measure, is necessary for the immediate preservation of the public health or safety, has  
 10 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
 11 each of the two Houses of the General Assembly. ~~[Sections 2 and 3] SECTION 3 shall remain~~  
 12 ~~effective through June 30, 2025, and, at the end of June 30, 2025, [Sections 2 and 3]~~  
 13 ~~SECTION 3, with no further action required by the General Assembly, shall be abrogated~~  
 14 ~~and of no further force and effect.~~

#### 15 Chapter 18 of the Acts of 2020

16 [SECTION 3. AND BE IT FURTHER ENACTED, That:

17 (a) The Maryland Department of Health shall study whether, under the  
 18 Maryland Medical Assistance Program, substance use disorder services may be  
 19 appropriately provided through telehealth to a patient in the patient's home setting.

20 (b) On or before December 1, 2021, the Maryland Department of Health shall  
 21 submit a report to the General Assembly, in accordance with § 2-1257 of the State  
 22 Government Article, that includes any findings and recommendations from the study  
 23 required under subsection (a) of this section, including:

24 (1) the types of substance use disorder services, if any, that may be  
 25 appropriately provided through telehealth to a patient in the patient's home setting; and

26 (2) any technological or other standards needed for the provision of  
 27 appropriate and quality substance use disorder services to a patient in the patient's home  
 28 setting.]

29 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
 30 measure, is necessary for the immediate preservation of the public health or safety, has  
 31 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
 32 each of the two Houses of the General Assembly. ~~[Sections 2 and 3] SECTION 3 shall remain~~  
 33 ~~effective through June 30, 2025, and, at the end of June 30, 2025, [Sections 2 and 3]~~  
 34 ~~SECTION 3, with no further action required by the General Assembly, shall be abrogated~~  
 35 ~~and of no further force and effect.~~

1        SECTION 2. AND BE IT FURTHER ENACTED, That:

2        (a)    On or before December 1, 2022, the Maryland Health Care Commission, in  
3 consultation with, as appropriate, the Maryland Health Services Cost Review Commission,  
4 the Maryland Department of Health, and the Maryland Insurance Administration, shall  
5 submit a report to the Senate Finance Committee and the House Health and Government  
6 Operations Committee, in accordance with § 2-1257 of the State Government Article, on  
7 the impact of providing telehealth services in accordance with the provisions of this Act.

8        (b)    Unless otherwise indicated in this section, the Maryland Health Care  
9 Commission shall consider both audio-only and audio-visual technologies for purposes of  
10 reporting on the impact of providing telehealth services as required by this section.

11        (c)    The report shall include:

12            (1)    an analysis of:

13                    (i)    the impact of the use of telehealth on disparities in access to  
14 health care services including primary care and behavioral health services;

15                    (ii)   whether different communities and patient populations have  
16 differences in take-up rates of telehealth services; and

17                    (iii)   the comparative effectiveness of telehealth and in-person visits  
18 on the total costs of care and patient outcomes of care;

19            (2)    a study on the alignment of telehealth with new models of care that  
20 addresses:

21                    (i)    opportunities for using telehealth to improve patient-centered  
22 care;

23                    (ii)   health care services for which telehealth can substitute for  
24 in-person care while maintaining the standard of care, including the use of remote patient  
25 monitoring for somatic and behavioral health care services; and

26                    (iii)   the impact of alternative care delivery models on telehealth  
27 coverage and reimbursement;

28            (3)    an assessment on the efficiency and effectiveness of telehealth and  
29 in-person visits that includes:

30                    (i)    a review of peer-reviewed research on the impact of different  
31 communication technologies on patient health including patient retention rates and  
32 reduced barriers to care;

33                    (ii)   a survey of health care providers as defined under § 15-141.2 of

1 the Health – General Article as enacted by this Act;

2 (iii) a review of the resources required to sustainably provide  
3 telehealth services for the continuum of health care providers, including private and small  
4 practices;

5 (4) an assessment of patient awareness of and satisfaction with telehealth  
6 coverage and care that includes:

7 (i) the availability and appropriate uses of telehealth services;

8 (ii) the privacy risks and benefits of telehealth services and the  
9 strategies needed to navigate privacy issues; and

10 (iii) barriers to care and levels of patient engagement that have been  
11 addressed by audio-only and audio-visual telehealth;

12 (5) a review of the appropriateness of:

13 (i) telehealth across the continuum of care ranging from virtual  
14 telecommunications services used for patient check-ins to in-person evaluation and  
15 management services as defined in the Berenson-Eggers type of service typology for  
16 somatic and behavioral health services;

17 (ii) inclusion of clinic hospital facility fees in reimbursement for  
18 hospital-provided telehealth; and

19 (iii) the use of telehealth to satisfy network access standards required  
20 under § 15-112(b) of the Insurance Article; and

21 (6) the study or analysis of any other issues identified by the Commission.

22 (d) The report shall include recommendations on:

23 (1) coverage of telehealth services; and

24 (2) payment levels for telehealth services relative to in-person care.

25 (e) (1) The Maryland Health Care Commission shall complete the report using  
26 research methods appropriate for the issues identified in this section and available funding.

27 (2) To carry out the health care provider survey required under subsection  
28 (c)(3)(ii) of this section, the Maryland Health Care Commission shall develop survey  
29 questions and work with the health occupations boards and other appropriate entities  
30 within the Maryland Department of Health to send out information regarding the survey  
31 by means of:



- 1           (i) renewal notices;  
2           (ii) newsletters;  
3           (iii) e-mail blasts;  
4           (iv) website postings; or  
5           (v) any combination thereof.

6           SECTION 3, AND BE IT FURTHER ENACTED, That it is the intent of the General  
7 Assembly that:

8           (1) until and no later than June 30, 2023, while the Maryland Health Care  
9 Commission completes the study and submits the report required under Section 2 of this  
10 Act for consideration by the General Assembly for the adoption of comprehensive telehealth  
11 policies by the State:

12           (i) the Maryland Medical Assistance Program continue to reimburse  
13 health care providers for covered health care services provided through audio-only and  
14 audio-visual technology in accordance with the requirements of Sections 1 and 2 of this  
15 Act, and all applicable executive orders and waivers issued in accordance with Chapters 13  
16 and 14 of the Acts of the General Assembly of 2020; and

17           (ii) insurers, nonprofit health service plans, and health maintenance  
18 organizations that are subject to § 15-139 of the Insurance Article, as enacted by Section 1  
19 of this Act, continue to reimburse health care providers for covered health care services  
20 provided through audio-only and audio-visual technology in accordance with the  
21 requirements of Section 1 of this Act and all applicable accommodations made by the  
22 insurers, nonprofit health service plans, and health maintenance organizations during the  
23 Declaration of State of Emergency and Existence of Catastrophic Health Emergency –  
24 COVID-19 issued on March 5, 2020, and its renewals;

25           (2) the Maryland Health Care Commission use the data collected from  
26 utilization and coverage of telehealth as provided for in item (1) of this section to complete  
27 the report required under Section 2 of this Act; and

28           (3) the State to use the report required under Section 2 of this Act to  
29 establish comprehensive telehealth policies for implementation after the Declaration of  
30 State of Emergency and Existence of Catastrophic Health Emergency – COVID-19 issued  
31 on March 5, 2020, and its renewals expire.

32           SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
33 policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or  
34 after ~~January 1, 2022~~ July 1, 2021.

35           SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect

1 ~~October 1, 2021~~ July 1, 2021.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.