

Chapter 580

(House Bill 1149)

AN ACT concerning

Health Insurance – Coverage for Services Delivered Through Telemedicine Services

FOR the purpose of requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide ~~the same~~ coverage for health care services delivered ~~in person or~~ through a telemedicine ~~service~~ in a certain manner; prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from excluding a health care service from coverage solely because it is delivered by a telemedicine ~~service~~ and not in another manner; requiring certain insurers, nonprofit health service plans, and health maintenance organizations to reimburse health care providers for certain services ~~on a certain basis~~ under certain circumstances; authorizing the imposition of a deductible, copayment, coinsurance amount, or annual dollar maximum, ~~or lifetime dollar maximum under certain circumstances~~ for certain services; prohibiting the imposition of a lifetime dollar maximum for certain services; authorizing certain insurers, nonprofit health service plans, and health maintenance organizations to undertake certain utilization review under certain circumstances; prohibiting a health insurance policy or contract from distinguishing between patients in rural or urban locations in providing certain coverage; providing that a certain decision constitutes a certain adverse decision under certain circumstances; ~~requiring the Maryland Medical Assistance Program to provide certain reimbursement under certain circumstances~~; making certain provisions of this Act applicable to health maintenance organizations; ~~providing that the health benefit options that the Secretary of Budget and Management includes in the State Employee and Retiree Health and Welfare Benefits Program may not discriminate in a certain manner and shall provide certain coverage~~; requiring the Department of Public Safety and Correctional Services to make a certain study and report to the General Assembly on or before a certain date; requiring the Department of Health and Mental Hygiene to conduct a certain review, make a certain determination, conduct a certain analysis, and report to certain committees of the General Assembly on or before a certain date concerning telemedicine and the Maryland Medical Assistance population; defining a certain term; providing for the application of this Act; and generally relating to coverage for telemedicine ~~services~~ under health insurance.

BY adding to
 Article – Insurance
 Section 15–139

Annotated Code of Maryland
(2011 Replacement Volume)

~~BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–105.2
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

BY adding to
Article – Health – General
Section 19–706(III)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

~~BY adding to
Article – State Personnel and Pensions
Section 2–518
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

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

Article – Insurance

15–139.

(A) (1) IN THIS SECTION, “TELEMEDICINE ~~SERVICE~~” MEANS, AS IT RELATES TO THE DELIVERY OF HEALTH CARE SERVICES, THE USE OF INTERACTIVE AUDIO, VIDEO, OR OTHER TELECOMMUNICATIONS OR ELECTRONIC TECHNOLOGY BY A LICENSED HEALTH CARE PROVIDER TO DELIVER A HEALTH CARE SERVICE WITHIN THE SCOPE OF PRACTICE OF THE HEALTH CARE PROVIDER AT A SITE OTHER THAN THE SITE AT WHICH THE PATIENT IS LOCATED.

(2) “TELEMEDICINE ~~SERVICE~~” DOES NOT INCLUDE:

(I) AN AUDIO–ONLY TELEPHONE CONVERSATION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT;

(II) AN ELECTRONIC MAIL MESSAGE BETWEEN A HEALTH CARE PROVIDER AND A PATIENT; OR

(III) A FACSIMILE TRANSMISSION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT.

(B) THIS SECTION APPLIES TO:

(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(C) AN ENTITY SUBJECT TO THIS SECTION:

(1) SHALL PROVIDE ~~THE SAME~~ COVERAGE UNDER A HEALTH INSURANCE POLICY OR CONTRACT FOR HEALTH CARE SERVICES APPROPRIATELY DELIVERED IN PERSON OR THROUGH A TELEMEDICINE SERVICE; AND

(2) MAY NOT EXCLUDE FROM COVERAGE A HEALTH CARE SERVICE SOLELY BECAUSE IT IS PROVIDED THROUGH ~~A TELEMEDICINE SERVICE~~ AND IS NOT PROVIDED THROUGH AN IN-PERSON CONSULTATION OR CONTACT BETWEEN A HEALTH CARE PROVIDER AND A PATIENT.

(D) AN ENTITY SUBJECT TO THIS SECTION:

(1) SHALL REIMBURSE A HEALTH CARE PROVIDER FOR THE DIAGNOSIS, CONSULTATION, AND TREATMENT OF AN INSURED PATIENT FOR A HEALTH CARE SERVICE COVERED UNDER A HEALTH INSURANCE POLICY OR CONTRACT ~~ON THE SAME BASIS REGARDLESS OF WHETHER THE HEALTH CARE SERVICE IS DELIVERED THROUGH AN IN-PERSON CONSULTATION OR THROUGH A TELEMEDICINE SERVICE~~ THAT CAN BE APPROPRIATELY PROVIDED THROUGH TELEMEDICINE;

(2) IS NOT REQUIRED TO:

(I) REIMBURSE A HEALTH CARE PROVIDER FOR A HEALTH CARE SERVICE DELIVERED IN PERSON OR THROUGH ~~A TELEMEDICINE SERVICE~~ THAT IS NOT A COVERED BENEFIT UNDER THE HEALTH INSURANCE POLICY OR CONTRACT; OR

(II) REIMBURSE A HEALTH CARE PROVIDER WHO IS NOT A COVERED PROVIDER UNDER THE HEALTH INSURANCE POLICY OR CONTRACT; AND

(3) ~~(I) MAY IMPOSE A DEDUCTIBLE, COPAYMENT, OR COINSURANCE AMOUNT, ANNUAL DOLLAR MAXIMUM, OR LIFETIME DOLLAR MAXIMUM ON BENEFITS FOR HEALTH CARE SERVICES THAT ARE DELIVERED EITHER THROUGH AN IN-PERSON CONSULTATION OR A THROUGH TELEMEDICINE SERVICE IF THE LIMITATIONS ARE APPLIED EQUALLY AND IN THE AGGREGATE TO THE DELIVERY OF ALL COVERED HEALTH CARE SERVICES;~~

(II) MAY IMPOSE AN ANNUAL DOLLAR MAXIMUM AS PERMITTED BY FEDERAL LAW; AND

(III) MAY NOT IMPOSE A LIFETIME DOLLAR MAXIMUM.

(E) ~~(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN~~ AN ENTITY SUBJECT TO THIS SECTION MAY UNDERTAKE UTILIZATION REVIEW, INCLUDING PREAUTHORIZATION, TO DETERMINE THE APPROPRIATENESS OF ANY HEALTH CARE SERVICE WHETHER THE SERVICE IS DELIVERED THROUGH AN IN-PERSON CONSULTATION OR ~~A~~ THROUGH TELEMEDICINE SERVICE IF THE APPROPRIATENESS OF THE HEALTH CARE SERVICE IS DETERMINED IN THE SAME MANNER.

~~(2) A UTILIZATION REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT REQUIRE PREAUTHORIZATION OF A TELEMEDICINE SERVICE.~~

(F) A HEALTH INSURANCE POLICY OR CONTRACT MAY NOT DISTINGUISH BETWEEN PATIENTS IN RURAL OR URBAN LOCATIONS IN PROVIDING COVERAGE UNDER THE POLICY OR CONTRACT FOR HEALTH CARE SERVICES DELIVERED ~~BY A~~ THROUGH TELEMEDICINE SERVICE.

(G) A DECISION BY AN ENTITY SUBJECT TO THIS SECTION NOT TO PROVIDE COVERAGE FOR ~~A TELEMEDICINE SERVICE~~ IN ACCORDANCE WITH THIS SECTION CONSTITUTES AN ADVERSE DECISION, AS DEFINED IN § 15-10A-01 OF THIS TITLE, IF THE DECISION IS BASED ON A FINDING THAT ~~THE TELEMEDICINE SERVICE~~ IS NOT MEDICALLY NECESSARY, APPROPRIATE, OR EFFICIENT.

Article – Health – General

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

~~(B) UNLESS OTHERWISE SPECIFICALLY PROHIBITED OR LIMITED BY FEDERAL OR STATE LAW, THE PROGRAM SHALL REIMBURSE A HEALTH CARE PROVIDER FOR A HEALTH CARE SERVICE DELIVERED BY A TELEMEDICINE SERVICE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE, IN THE SAME MANNER AS THE SAME HEALTH CARE SERVICE IS REIMBURSED WHEN DELIVERED IN PERSON.~~

19-706.

(LLL) THE PROVISIONS OF § 15-139 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

~~Article State Personnel and Pensions~~

~~2-518.~~

~~THE HEALTH INSURANCE BENEFIT OPTIONS THAT THE SECRETARY INCLUDES IN THE PROGRAM:~~

~~(1) MAY NOT DISCRIMINATE AGAINST THE DELIVERY OF HEALTH CARE SERVICES BY A TELEMEDICINE SERVICE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE; AND~~

~~(2) SHALL PROVIDE THE SAME COVERAGE FOR HEALTH CARE SERVICES DELIVERED EITHER IN PERSON OR THROUGH A TELEMEDICINE SERVICE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Public Safety and Correctional Services shall study the use of telemedicine to identify opportunities to reduce the costs of delivering health care services to inmates incarcerated in a State or local correctional facility, such as reducing the cost of secure transportation. On or before December 1, 2012, the Department shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on its study and include a plan for implementing the use of telemedicine to deliver health care services to inmates.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene shall:

(1) conduct a review of the current literature and evidence regarding the different types of telemedicine, and conduct a review of other payers' and other State Medicaid agencies' telemedicine policies and procedures;

(2) include in its review the evidence regarding the appropriate use of telemedicine in delivering mental health services;

(3) based on its review, determine which types of patients would be suitable for which types of telemedicine and conduct a fiscal impact analysis that estimates the potential effect of Medicaid coverage of telemedicine on utilization, price, substitution, and effects on other services; and

(4) on or before December 1, 2012, report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article, on the findings of its review and any recommendations on the provision of telemedicine for the Maryland Medical Assistance Program population, including:

(i) any cost-neutral coverage of telemedicine that can be implemented in fiscal year 2013; and

(ii) any recommended coverage of telemedicine that would require additional funding to implement in fiscal year 2014.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2012.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.