

HOUSE BILL 123

J1, C3

(11r0946)

ENROLLED BILL

— Health and Government Operations/Finance —

Introduced by **Delegates Pena–Melnyk, R. Lewis, Stein, and Wilson**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

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;~~ *prohibiting the Program from excluding from coverage a*
10 *certain health care service provided to a Program recipient in person for a certain*
11 *reason;* requiring, for a certain time period, the Program to provide certain
12 reimbursement for certain health care services provided through telehealth on a
13 certain basis and at a certain rate; authorizing the Maryland Department of Health
14 to adopt certain regulations relating to telehealth services provided to Program
15 recipients; requiring the Department to include certain health care providers when

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.

Italics indicate opposite chamber/conference committee amendments.



1 specifying by regulation the types of health care providers eligible to receive certain
2 reimbursement; repealing certain authorization of the Department relating to the
3 coverage of and reimbursement for health care services that are delivered through
4 store and forward technology or remote patient monitoring; establishing, for a
5 certain purpose and certain standards, that a health care service provided through
6 telehealth is equivalent to the same health care service when provided through an
7 in-person consultation; prohibiting the Program or a certain organization from
8 imposing as a condition of reimbursement of a health care service delivered through
9 telehealth that the health care service be provided by a certain vendor; ~~authorizing~~
10 requiring the Maryland Department of Health to apply to the Centers for Medicare
11 and Medicaid Services for a certain amendment to certain waivers obtain certain
12 federal authority necessary to implement certain requirements of this Act; repealing
13 certain authorization provided to the Department to require submission of a certain
14 form to the Department; repealing a certain requirement that the Department apply
15 for a certain amendment to certain waivers to implement a certain pilot program
16 relating to the provision of certain telehealth services; repealing a requirement that
17 the Department administer the pilot program, collect certain data, and submit
18 certain reports to the General Assembly; *requiring certain insurers, nonprofit health*
19 *service plans, and health maintenance organizations to provide certain coverage for*
20 *certain services delivered through telehealth regardless of the location of the patient*
21 *at the time the services are provided; establishing that a certain requirement relating*
22 *to coverage of certain health care services delivered through telehealth include*
23 *coverage for the treatment for substance use disorders and mental health conditions;*
24 *altering a provision of law requiring certain insurers, nonprofit health service plans,*
25 *and health maintenance organizations to reimburse certain health care services*
26 *provided through telehealth to require certain reimbursement to be provided, for a*
27 *certain time period, in a certain manner and at a certain rate; prohibiting certain*
28 *insurers, nonprofit health service plans, and health maintenance organizations from*
29 *requiring an insured patient to use telehealth in lieu of in-person service delivery*
30 *for certain services excluding from coverage or denying coverage for certain services*
31 *provided in a certain manner for a certain reason; repealing the requirement that*
32 *the Department study and submit a certain report to the General Assembly;*
33 *requiring the Department to revise certain regulations for a certain purpose on or*
34 *before a certain date; requiring the Maryland Insurance Administration to study a*
35 *certain matter and provide certain findings and recommendations from the study to*
36 *the Maryland Health Care Commission for inclusion in a certain report; requiring*
37 *the Maryland Insurance Administration to consider the requirements of this Act when*
38 *proposing certain revisions to certain regulations; prohibiting certain insurers,*
39 *nonprofit health service plans, and health maintenance organizations from*
40 *imposing, as a condition of reimbursement of a health care service delivered through*
41 *telehealth, that the health care service be provided by a certain ~~health care provider~~*
42 *vendor; revising, restating, and recodifying certain provisions of law relating to the*
43 *Program and coverage and reimbursement of services provided through telemedicine*
44 *and telehealth; repealing the termination date of certain provisions of law relating*
45 *to the Maryland Medical Assistance Program and coverage for telehealth; requiring*
46 *the Maryland Health Care Commission, in consultation with certain State agencies,*
47 *to submit a certain report to certain committees of the General Assembly on or before*

1 a certain date; establishing certain requirements for the report; establishing certain
2 requirements on the Commission when completing the report; declaring the intent
3 of the General Assembly; defining certain terms; altering certain definitions;
4 providing for the application of this Act; providing for the construction of certain
5 provisions of this Act; and generally relating to the coverage and reimbursement of
6 health care services delivered through telehealth.

7 BY repealing and reenacting, without amendments,
8 Article – Health – General
9 Section 15–103(a)(1)
10 Annotated Code of Maryland
11 (2019 Replacement Volume and 2020 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Health – General
14 Section 15–103(a)(2)(xv), 15–105.2, and 15–141.2
15 Annotated Code of Maryland
16 (2019 Replacement Volume and 2020 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Insurance
19 Section 15–139
20 Annotated Code of Maryland
21 (2017 Replacement Volume and 2020 Supplement)

22 BY repealing
23 Chapter 17 of the Acts of the General Assembly of 2020
24 Section 3

25 BY repealing and reenacting, with amendments,
26 Chapter 17 of the Acts of the General Assembly of 2020
27 Section 4

28 BY repealing
29 Chapter 18 of the Acts of the General Assembly of 2020
30 Section 3

31 BY repealing and reenacting, with amendments,
32 Chapter 18 of the Acts of the General Assembly of 2020
33 Section 4

34 Preamble

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

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

4 WHEREAS, The expansion of telehealth capabilities, including audio-only services,
5 was instrumental in maintaining patient care without the risk of infection and provided
6 ways for patients to receive care who were experiencing general difficulty in accessing
7 in-person care; and

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

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

16 WHEREAS, It is critical that health care practitioners licensed, certified, or
17 otherwise authorized by law to provide health care services be allowed in Maryland to
18 provide those services through telehealth, including audio-only calls, provided that they
19 are held to the same standards of practice that are applicable to in-person health care
20 settings; and

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

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

26 **Article – Health – General**

27 15–103.

28 (a) (1) The Secretary shall administer the Maryland Medical Assistance
29 Program.

30 (2) The Program:

31 (xv) Shall provide, ***SUBJECT TO THE LIMITATIONS OF THE STATE***
32 ***BUDGET***, ~~subject to the limitations of the State budget,~~ [mental] health CARE services
33 appropriately delivered through telehealth to a patient in [the patient's home setting]
34 **ACCORDANCE WITH § 15–141.2 OF THIS SUBTITLE**; and

1 15-105.2.

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

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

6 (ii) "Health care provider" means a person who is licensed, certified,
7 or otherwise authorized under the Health Occupations Article to provide health care in the
8 ordinary course of business or practice of a profession or in an approved education or
9 training program.

10 (iii) 1. "Telemedicine" means, as it relates to the delivery of
11 health care services, the use of interactive audio, video, or other telecommunications or
12 electronic technology:

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

16 B. That enables the patient to see and interact with the
17 health care provider at the time the health care service is provided to the patient.

18 2. "Telemedicine" does not include:

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

21 B. An electronic mail message between a health care provider
22 and a patient; or

23 C. A facsimile transmission between a health care provider
24 and a patient.

25 (2) To the extent authorized by federal law or regulation, the provisions of
26 § 15-139(c) through (f) of the Insurance Article relating to coverage of and reimbursement
27 for health care services delivered through telemedicine shall apply to the Program and
28 managed care organizations in the same manner they apply to carriers.

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

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

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

7 1. Primary care providers; and

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

12 (iii) For the purpose of reimbursement and any fidelity standards
 13 established by the Department, a health care service provided through telemedicine by a
 14 psychiatrist or a psychiatric nurse practitioner described under subparagraph (ii)2 of this
 15 paragraph is equivalent to the same health care service when provided through an
 16 in–person consultation.

17 (5) The Department may require a health care provider to submit a
 18 registration form to the Department that includes information required for the processing
 19 of claims for reimbursement for health care services provided to Program recipients under
 20 this subsection.

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

22 15–141.2.

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

26 (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
 27 **INDICATED.**

28 (2) **“DISTANT SITE” MEANS A SITE AT WHICH THE DISTANT SITE**
 29 **HEALTH CARE ~~PRACTITIONER~~ PROVIDER IS LOCATED AT THE TIME THE HEALTH**
 30 **CARE SERVICE IS PROVIDED THROUGH TELEHEALTH.**

31 (3) **“DISTANT SITE PROVIDER” MEANS THE HEALTH CARE**
 32 **~~PRACTITIONER~~ PROVIDER WHO PROVIDES MEDICALLY NECESSARY SERVICES TO A**
 33 **PATIENT AT AN ORIGINATING SITE FROM A DIFFERENT PHYSICAL LOCATION THAN**
 34 **THE LOCATION OF THE PATIENT.**

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

4 (4) “HEALTH CARE PROVIDER” MEANS:

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

9 (II) A MENTAL HEALTH AND SUBSTANCE USE DISORDER
10 PROGRAM LICENSED IN ACCORDANCE WITH § 7.5-401 OF THIS ARTICLE;

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

14 (IV) A PROVIDER AS DEFINED UNDER § 16-201.4 OF THIS
15 ARTICLE TO PROVIDE SERVICES TO AN INDIVIDUAL RECEIVING LONG-TERM CARE
16 SERVICES.

17 (5) “ORIGINATING SITE” MEANS THE LOCATION OF THE PROGRAM
18 RECIPIENT AT THE TIME THE HEALTH CARE SERVICE IS PROVIDED THROUGH
19 TELEHEALTH.

20 (6) “REMOTE PATIENT MONITORING SERVICES” MEANS THE USE OF
21 SYNCHRONOUS OR ASYNCHRONOUS DIGITAL TECHNOLOGIES THAT COLLECT OR
22 MONITOR MEDICAL, PATIENT-REPORTED, AND OTHER FORMS OF HEALTH CARE
23 DATA FOR PROGRAM RECIPIENTS AT AN ORIGINATING SITE AND ELECTRONICALLY
24 TRANSMIT THAT DATA TO A DISTANT SITE PROVIDER TO ENABLE THE DISTANT SITE
25 PROVIDER TO ASSESS, DIAGNOSE, CONSULT, TREAT, EDUCATE, PROVIDE CARE
26 MANAGEMENT, SUGGEST SELF-MANAGEMENT, OR MAKE RECOMMENDATIONS
27 REGARDING THE PROGRAM RECIPIENT’S HEALTH CARE.

28 (2) (7) (I) “TELEHEALTH” MEANS THE DELIVERY OF
29 MEDICALLY NECESSARY SOMATIC, DENTAL, OR BEHAVIORAL HEALTH SERVICES TO
30 A PATIENT AT AN ORIGINATING SITE BY A DISTANT SITE PROVIDER THROUGH THE
31 USE OF TECHNOLOGY-ASSISTED COMMUNICATION.

32 (II) “Telehealth” includes [synchronous]:

33 1. SYNCHRONOUS and asynchronous interactions;

1 (1) PROVIDE HEALTH CARE SERVICES APPROPRIATELY DELIVERED
2 THROUGH TELEHEALTH TO PROGRAM RECIPIENTS REGARDLESS OF THE LOCATION
3 OF THE PROGRAM RECIPIENT AT THE TIME TELEHEALTH SERVICES ARE PROVIDED;
4 AND

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

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

11 (D) THE PROGRAM MAY NOT:

12 (1) EXCLUDE FROM COVERAGE A HEALTH CARE SERVICE SOLELY
13 BECAUSE IT IS PROVIDED THROUGH TELEHEALTH AND IS NOT PROVIDED THROUGH
14 AN IN-PERSON CONSULTATION OR CONTACT BETWEEN A HEALTH CARE PROVIDER
15 AND A PATIENT; OR

16 (2) ~~REQUIRE A PROGRAM RECIPIENT TO USE TELEHEALTH IN LIEU~~
17 ~~OF IN-PERSON SERVICE DELIVERY FOR BEHAVIORAL HEALTH SERVICES~~ EXCLUDE
18 FROM COVERAGE A BEHAVIORAL HEALTH CARE SERVICE PROVIDED TO A PROGRAM
19 RECIPIENT IN PERSON SOLELY BECAUSE THE SERVICE MAY ALSO BE PROVIDED
20 THROUGH TELEHEALTH.

21 (E) THE PROGRAM MAY UNDERTAKE UTILIZATION REVIEW, INCLUDING
22 PREAUTHORIZATION, TO DETERMINE THE APPROPRIATENESS OF ANY HEALTH CARE
23 SERVICE WHETHER THE SERVICE IS DELIVERED THROUGH AN IN-PERSON
24 CONSULTATION OR THROUGH TELEHEALTH IF THE APPROPRIATENESS OF THE
25 HEALTH CARE SERVICE IS DETERMINED IN THE SAME MANNER.

26 (F) THE PROGRAM MAY NOT DISTINGUISH BETWEEN PROGRAM
27 RECIPIENTS IN RURAL OR URBAN LOCATIONS IN PROVIDING COVERAGE UNDER THE
28 PROGRAM FOR HEALTH CARE SERVICES DELIVERED THROUGH TELEHEALTH.

29 (G) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE
30 PROGRAM SHALL REIMBURSE A HEALTH CARE PROVIDER FOR THE DIAGNOSIS,
31 CONSULTATION, AND TREATMENT OF A PROGRAM RECIPIENT FOR A HEALTH CARE
32 SERVICE COVERED BY THE PROGRAM THAT CAN BE APPROPRIATELY PROVIDED
33 THROUGH TELEHEALTH.

1 **(2) THIS SUBSECTION DOES NOT REQUIRE THE PROGRAM TO**
2 **REIMBURSE A HEALTH CARE PROVIDER FOR A HEALTH CARE SERVICE DELIVERED**
3 **IN PERSON OR THROUGH TELEHEALTH THAT IS:**

4 **(I) NOT A COVERED HEALTH CARE SERVICE UNDER THE**
5 **PROGRAM; OR**

6 **(II) DELIVERED BY AN OUT-OF-NETWORK PROVIDER UNLESS**
7 **THE HEALTH CARE SERVICE IS A SELF-REFERRED SERVICE AUTHORIZED UNDER**
8 **THE PROGRAM.**

9 **(3) (I) FROM JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE,**
10 **WHEN A HEALTH CARE SERVICE IS APPROPRIATELY PROVIDED THROUGH**
11 **TELEHEALTH, THE PROGRAM SHALL PROVIDE REIMBURSEMENT IN ACCORDANCE**
12 **WITH PARAGRAPH (1) OF THIS SUBSECTION ON THE SAME BASIS AND AT THE SAME**
13 **RATE AS IF THE HEALTH CARE SERVICE WERE DELIVERED BY THE HEALTH CARE**
14 **PROVIDER IN PERSON.**

15 **(II) THE REIMBURSEMENT REQUIRED UNDER SUBPARAGRAPH**
16 **(I) OF THIS PARAGRAPH DOES NOT INCLUDE:**

17 **1. CLINIC FACILITY FEES UNLESS THE HEALTH CARE**
18 **SERVICE IS PROVIDED BY A HEALTH CARE PROVIDER NOT AUTHORIZED TO BILL A**
19 **PROFESSIONAL FEE SEPARATELY FOR THE HEALTH CARE SERVICE; OR**

20 **2. ANY ROOM AND BOARD FEES.**

21 **(H) (1) THE DEPARTMENT MAY SPECIFY IN REGULATION THE TYPES OF**
22 **HEALTH CARE PROVIDERS ELIGIBLE TO RECEIVE REIMBURSEMENT FOR HEALTH**
23 **CARE SERVICES PROVIDED TO PROGRAM RECIPIENTS UNDER THIS SECTION.**

24 **(2) IF THE DEPARTMENT SPECIFIES BY REGULATION THE TYPES OF**
25 **HEALTH CARE PROVIDERS ELIGIBLE TO RECEIVE REIMBURSEMENT FOR HEALTH**
26 **CARE SERVICES PROVIDED TO PROGRAM RECIPIENTS UNDER THIS SUBSECTION,**
27 **THE REGULATIONS SHALL INCLUDE ALL TYPES OF HEALTH CARE PROVIDERS THAT**
28 **APPROPRIATELY PROVIDE TELEHEALTH SERVICES.**

29 **(3) FOR THE PURPOSE OF REIMBURSEMENT AND ANY FIDELITY**
30 **STANDARDS ESTABLISHED BY THE DEPARTMENT, A HEALTH CARE SERVICE**
31 **PROVIDED THROUGH TELEHEALTH IS EQUIVALENT TO THE SAME HEALTH CARE**
32 **SERVICE WHEN PROVIDED THROUGH AN IN-PERSON CONSULTATION.**

33 **(I) SUBJECT TO SUBSECTION (G)(2) OF THIS SECTION, THE PROGRAM OR A**
34 **MANAGED CARE ORGANIZATION THAT PARTICIPATES IN THE PROGRAM MAY NOT**

1 IMPOSE AS A CONDITION OF REIMBURSEMENT OF A COVERED HEALTH CARE
 2 SERVICE DELIVERED THROUGH TELEHEALTH THAT THE HEALTH CARE SERVICE BE
 3 PROVIDED BY A THIRD-PARTY VENDOR DESIGNATED BY THE PROGRAM.

4 (J) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS
 5 SECTION.

6 ~~(K)~~ (K) THE DEPARTMENT SHALL ~~APPLY~~ OBTAIN ANY FEDERAL
 7 AUTHORITY NECESSARY TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION,
 8 INCLUDING APPLYING TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES
 9 FOR AN AMENDMENT TO ANY OF THE STATE'S § 1115 WAIVERS ~~NECESSARY TO~~
 10 IMPLEMENT THE REQUIREMENTS OF THIS SECTION OR THE STATE PLAN.

11 (L) THIS SECTION MAY NOT BE CONSTRUED TO SUPERSEDE THE AUTHORITY
 12 OF THE HEALTH SERVICES COST REVIEW COMMISSION TO SET THE APPROPRIATE
 13 RATES FOR HOSPITALS, INCLUDING SETTING THE HOSPITAL FACILITY FEE FOR
 14 HOSPITAL-PROVIDED TELEHEALTH.

15 Article – Insurance

16 15–139.

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

22 (2) “Telehealth” includes:

23 ~~(H) the delivery of mental health care services to a patient in the~~
 24 ~~patient's home setting; AND~~

25 ~~(H) AN AUDIO-ONLY CONVERSATION BETWEEN A HEALTH CARE~~
 26 ~~PROVIDER AND A PATIENT USING TELECOMMUNICATIONS TECHNOLOGY, FROM~~
 27 JULY 1, 2021, TO JUNE 30, 2023, BOTH INCLUSIVE, AN AUDIO-ONLY TELEPHONE
 28 CONVERSATION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT THAT
 29 RESULTS IN THE DELIVERY OF A BILLABLE, COVERED HEALTH CARE SERVICE.

30 (3) “Telehealth” does not include:

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

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

3 ~~{(iii)}~~ ~~(H)~~ a facsimile transmission between a health care provider
4 and a patient.

5 (b) This section applies to:

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

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

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

13 (i) shall provide coverage under a health insurance policy or
14 contract for health care services appropriately delivered through telehealth **REGARDLESS**
15 **OF THE LOCATION OF THE PATIENT AT THE TIME THE TELEHEALTH SERVICES ARE**
16 **PROVIDED; and**

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

20 **(III) WHEN PROVIDING THE COVERAGE REQUIRED UNDER THIS**
21 **SUBSECTION, MAY NOT REQUIRE AN INSURED PATIENT TO USE TELEHEALTH IN LIEU**
22 **OF IN-PERSON SERVICE DELIVERY FOR BEHAVIORAL HEALTH SERVICES MAY NOT**
23 **EXCLUDE FROM COVERAGE OR DENY COVERAGE FOR A BEHAVIORAL HEALTH CARE**
24 **SERVICE THAT IS A COVERED BENEFIT UNDER A HEALTH INSURANCE POLICY OR**
25 **CONTRACT WHEN PROVIDED IN PERSON SOLELY BECAUSE THE BEHAVIORAL HEALTH**
26 **CARE SERVICE MAY ALSO BE PROVIDED THROUGH A COVERED TELEHEALTH**
27 **BENEFIT.**

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

31 (d) **(1) ~~As~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN** entity
32 subject to this section:

33 ~~(I)~~ **(I)** shall reimburse a health care provider for the diagnosis,
34 consultation, and treatment of an insured patient for a health care service;

1 ~~(H)~~ covered under a health insurance policy or contract that can be
2 appropriately provided through telehealth; ~~AND~~

3 ~~(H) WHEN APPROPRIATELY PROVIDED THROUGH TELEHEALTH,~~
4 ~~ON THE SAME BASIS AND AT THE SAME RATE AS IF THE HEALTH CARE SERVICE WERE~~
5 ~~DELIVERED BY THE HEALTH CARE PROVIDER IN PERSON;~~

6 ~~(2)~~ **(II)** is not required to:

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

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

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

15 ~~(ii)~~ **2.** may impose an annual dollar maximum as permitted by
16 federal law; and

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

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

24 **(II) THE REIMBURSEMENT REQUIRED UNDER SUBPARAGRAPH**
25 **(I) OF THIS PARAGRAPH DOES NOT INCLUDE:**

26 **1. CLINIC FACILITY FEES UNLESS THE HEALTH CARE**
27 **SERVICE IS PROVIDED BY A HEALTH CARE PROVIDER NOT AUTHORIZED TO BILL A**
28 **PROFESSIONAL FEE SEPARATELY FOR THE HEALTH CARE SERVICE; OR**

29 **2. ANY ROOM AND BOARD FEES.**

30 **(III) THIS PARAGRAPH MAY NOT BE CONSTRUED TO SUPERSEDE**
31 **THE AUTHORITY OF THE HEALTH SERVICES COST REVIEW COMMISSION TO SET THE**

1 APPROPRIATE RATES FOR HOSPITALS, INCLUDING SETTING THE HOSPITAL
 2 FACILITY FEE FOR HOSPITAL-PROVIDED TELEHEALTH.

3 (E) SUBJECT TO SUBSECTION ~~(D)(2)~~ (D)(1)(II) OF THIS SECTION, AN ENTITY
 4 SUBJECT TO THIS SECTION MAY NOT IMPOSE AS A CONDITION OF REIMBURSEMENT
 5 OF A COVERED HEALTH CARE SERVICE DELIVERED THROUGH TELEHEALTH THAT
 6 THE HEALTH CARE SERVICE BE PROVIDED BY A ~~HEALTH CARE PROVIDER THIRD~~
 7 ~~PARTY~~ THIRD-PARTY VENDOR DESIGNATED BY THE ENTITY.

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

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

15 [(g)] (H) A decision by an entity subject to this section not to provide coverage
 16 for telehealth in accordance with this section constitutes an adverse decision, as defined in
 17 § 15-10A-01 of this title, if the decision is based on a finding that telehealth is not medically
 18 necessary, appropriate, or efficient.

19 **Chapter 17 of the Acts of 2020**

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

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

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

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

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

33 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
 34 measure, is necessary for the immediate preservation of the public health or safety, has
 35 been passed by a ye and nay vote supported by three-fifths of all the members elected to

1 each of the two Houses of the General Assembly. ~~[Sections 2 and 3] SECTION 3 shall remain~~
 2 ~~effective through June 30, 2025, and, at the end of June 30, 2025, [Sections 2 and 3]~~
 3 ~~SECTION 3, with no further action required by the General Assembly, shall be abrogated~~
 4 ~~and of no further force and effect.~~

5 Chapter 18 of the Acts of 2020

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

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

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

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

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

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

26 *SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2021,*
 27 *the Maryland Department of Health shall revise its regulations regarding telehealth*
 28 *reimbursed by the Maryland Medical Assistance Program to ensure that requirements for*
 29 *reimbursement of mental health and substance use disorder services delivered through*
 30 *telehealth comply with the federal Mental Health Parity and Addiction Equity Act.*

31 *SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Insurance*
 32 *Administration shall:*

33 (1) (i) *study how telehealth can support efforts to ensure health care*
 34 *provider network sufficiency;*

1 (ii) study the impact of changes in access to and coverage of telehealth
2 services under health benefit plans offered by health insurance carriers on the ability of
3 consumers to choose in-person care versus telehealth care as the modality of receiving a
4 covered service; and

5 (iii) provide any findings and recommendations from its study to the
6 Maryland Health Care Commission for inclusion in the report required under Section 4 of
7 this Act; and

8 (2) consider the requirements of this Act when proposing any revisions to
9 regulations relating to network adequacy.

10 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That:

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

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

20 (c) The report shall include:

21 (1) an analysis of:

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

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

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

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

30 (i) opportunities for using telehealth to improve patient-centered
31 care;

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

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

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

5 (i) a review of peer-reviewed research on the impact of different
6 communication technologies on patient health, including patient retention rates and
7 reduced barriers to care;

8 (ii) a survey of health care providers, as defined under § 15-141.2 of
9 the Health – General Article, as enacted by Section 1 of this Act; and

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

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

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

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

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

20 (5) a review of the appropriateness of:

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

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

27 (iii) the use of telehealth to satisfy network access standards required
28 under § 15-112(b) of the Insurance Article, as specified in Section 3 of this Act; and

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

30 (d) The report shall include recommendations on:

1 (1) coverage of telehealth services; and

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

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

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

10 (i) renewal notices;

11 (ii) newsletters;

12 (iii) e-mail blasts;

13 (iv) website postings; or

14 (v) any combination thereof.

15 SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That it is the intent of the
16 General Assembly that:

17 (1) until and no later than June 30, 2023, while the Maryland Health Care
18 Commission completes the study and submits the report required under Section ~~2~~ 4 of this
19 Act for consideration by the General Assembly for the adoption of comprehensive telehealth
20 policies by the State:

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

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

1 (2) the Maryland Health Care Commission use the data collected from
2 utilization and coverage of telehealth as provided for in item (1) of this section to complete
3 the report required under Section ~~2~~ 4 of this Act; and

4 (3) the State to use the report required under Section ~~2~~ 4 of this Act to
5 establish comprehensive telehealth policies for implementation after the Declaration of
6 State of Emergency and Existence of Catastrophic Health Emergency – COVID–19 issued
7 on March 5, 2020, and its renewals expire.

8 SECTION ~~2~~ ~~4~~ 6. AND BE IT FURTHER ENACTED, That this Act shall apply to
9 all policies, contracts, and health benefit plans issued, delivered, or renewed in the State
10 on or after ~~January 1, 2022~~ July 1, 2021.

11 SECTION ~~2~~ ~~5~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 ~~October 1, 2021~~ July 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.