

SENATE BILL 534

J1, J5

3lr2155

By: **Senators Gile, Beidle, Ellis, Griffith, Hershey, Klausmeier, and Mautz**

Introduced and read first time: February 3, 2023

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 26, 2023

CHAPTER _____

1 AN ACT concerning

2 **Preserve Telehealth Access Act of 2023**

3 FOR the purpose of extending to a certain date the inclusion of certain audio-only
4 telephone conversations under the definition of “telehealth” for the purpose of certain
5 provisions of law relating to reimbursement and coverage of telehealth by the
6 Maryland Medical Assistance Program and certain insurers, nonprofit health service
7 plans, and health maintenance organizations; extending to a certain date a
8 requirement on the Program and certain insurers, nonprofit health service plans,
9 and health maintenance organizations to provide reimbursement for certain health
10 care services provided through telehealth on a certain basis and at a certain rate;
11 requiring the Maryland Health Care Commission to study and make
12 recommendations regarding the delivery of health care services through telehealth,
13 including payment parity for the delivery of health care services through audiovisual
14 and audio-only telehealth technologies; and generally relating to the coverage and
15 reimbursement of health care services delivered through telehealth.

16 BY repealing and reenacting, with amendments,
17 Article – Health – General
18 Section 15–141.2(a)(7) and (g)
19 Annotated Code of Maryland
20 (2019 Replacement Volume and 2022 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Insurance
23 Section 15–139(a) and (d)

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.



1 Annotated Code of Maryland
2 (2017 Replacement Volume and 2022 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – Insurance
5 Section 15–139(b) and (c)
6 Annotated Code of Maryland
7 (2017 Replacement Volume and 2022 Supplement)

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 15–141.2.

12 (a) (7) (i) “Telehealth” means the delivery of medically necessary somatic,
13 dental, or behavioral health services to a patient at an originating site by a distant site
14 provider through the use of technology–assisted communication.

15 (ii) “Telehealth” includes:

16 1. Synchronous and asynchronous interactions;

17 2. From July 1, 2021, to June 30, [2023] **2025**, both
18 inclusive, an audio–only telephone conversation between a health care provider and a
19 patient that results in the delivery of a billable, covered health care service; and

20 3. Remote patient monitoring services.

21 (iii) “Telehealth” does not include the provision of health care
22 services solely through:

23 1. Except as provided in subparagraph (ii)2 of this
24 paragraph, an audio–only telephone conversation;

25 2. An e–mail message; or

26 3. A facsimile transmission.

27 (g) (1) Subject to paragraph (3) of this subsection, the Program shall
28 reimburse a health care provider for the diagnosis, consultation, and treatment of a
29 Program recipient for a health care service covered by the Program that can be
30 appropriately provided through telehealth.

31 (2) This subsection does not require the Program to reimburse a health
32 care provider for a health care service delivered in person or through telehealth that is:

1 (i) Not a covered health care service under the Program; or

2 (ii) Delivered by an out-of-network provider unless the health care
3 service is a self-referred service authorized under the Program.

4 (3) (i) From July 1, 2021, to June 30, [2023] **2025**, both inclusive, when
5 appropriately provided through telehealth, the Program shall provide reimbursement in
6 accordance with paragraph (1) of this subsection on the same basis and the same rate as if
7 the health care service were delivered by the health care provider in person.

8 (ii) The reimbursement required under subparagraph (i) of this
9 paragraph does not include:

10 1. Clinic facility fees unless the health care service is
11 provided by a health care provider not authorized to bill a professional fee separately for
12 the health care service; or

13 2. Any room and board fees.

14 **Article – Insurance**

15 15–139.

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

21 (2) “Telehealth” includes from July 1, 2021, to June 30, [2023] **2025**, both
22 inclusive, an audio-only telephone conversation between a health care provider and a
23 patient that results in the delivery of a billable, covered health care service.

24 (3) “Telehealth” does not include:

25 (i) except as provided in paragraph (2) of this subsection, an
26 audio-only telephone conversation between a health care provider and a patient;

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

29 (iii) a facsimile transmission between a health care provider and a
30 patient.

31 (b) This section applies to:

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

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

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

8 (i) shall provide coverage under a health insurance policy or
9 contract for health care services appropriately delivered through telehealth regardless of
10 the location of the patient at the time the telehealth services are provided;

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

14 (iii) may not exclude from coverage or deny coverage for a behavioral
15 health care service that is a covered benefit under a health insurance policy or contract
16 when provided in person solely because the behavioral health care service may also be
17 provided through a covered telehealth benefit.

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

21 (d) (1) Subject to paragraph (2) of this subsection, an entity subject to this
22 section:

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

26 (ii) is not required to:

27 1. reimburse a health care provider for a health care service
28 delivered in person or through telehealth that is not a covered benefit under the health
29 insurance policy or contract; or

30 2. reimburse a health care provider who is not a covered
31 provider under the health insurance policy or contract; and

32 (iii) 1. may impose a deductible, copayment, or coinsurance
33 amount on benefits for health care services that are delivered either through an in-person
34 consultation or through telehealth;

1 (5) address any other issues related to telehealth as determined necessary
2 by the Commission.

3 (c) On or before December 1, 2024, the Maryland Health Care Commission shall
4 submit a report on its findings and recommendations to the General Assembly, in
5 accordance with § 2–1257 of the State Government Article.

6 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 June 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.