

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

A BILL ENTITLED

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 and generally relating to the coverage and reimbursement of health care services
12 delivered through telehealth.

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

18 BY repealing and reenacting, with amendments,
19 Article – Insurance
20 Section 15–139(a) and (d)
21 Annotated Code of Maryland
22 (2017 Replacement Volume and 2022 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article – Insurance
25 Section 15–139(b) and (c)
26 Annotated Code of Maryland
27 (2017 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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

3 **Article – Health – General**

4 15–141.2.

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

8 (ii) “Telehealth” includes:

9 1. Synchronous and asynchronous interactions;

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

13 3. Remote patient monitoring services.

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

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

18 2. An e–mail message; or

19 3. A facsimile transmission.

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

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

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

27 (ii) Delivered by an out–of–network provider unless the health care
28 service is a self–referred service authorized under the Program.

29 (3) (i) From July 1, 2021, to June 30, [2023] **2025**, both inclusive, when
30 appropriately provided through telehealth, the Program shall provide reimbursement in

1 accordance with paragraph (1) of this subsection on the same basis and the same rate as if
2 the health care service were delivered by the health care provider in person.

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

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

8 2. Any room and board fees.

9 Article – Insurance

10 15–139.

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

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

19 (3) “Telehealth” does not include:

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

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

24 (iii) a facsimile transmission between a health care provider and a
25 patient.

26 (b) This section applies to:

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

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

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

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

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

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

12 (2) The health care services appropriately delivered through telehealth
13 shall include counseling and treatment for substance use disorders and mental health
14 conditions.

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

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

20 (ii) is not required to:

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

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

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

29 2. may impose an annual dollar maximum as permitted by
30 federal law; and

31 3. may not impose a lifetime dollar maximum.

32 (2) (i) From July 1, 2021, to June 30, **[2023] 2025**, both inclusive, when
33 a health care service is appropriately provided through telehealth, an entity subject to this
34 section shall provide reimbursement in accordance with paragraph (1)(i) of this subsection

1 on the same basis and at the same rate as if the health care service were delivered by the
2 health care provider in person.

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

5 1. clinic facility fees unless the health care service is
6 provided by a health care provider not authorized to bill a professional fee separately for
7 the health care service; or

8 2. any room and board fees.

9 (iii) This paragraph may not be construed to supersede the authority
10 of the Health Services Cost Review Commission to set the appropriate rates for hospitals,
11 including setting the hospital facility fee for hospital–provided telehealth.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
13 1, 2023.