

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 69

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

AN ACT

RELATING TO HEALTH CARE COVERAGE; ENACTING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO REQUIRE THAT PROVISION OF COVERED BENEFITS BE ALLOWED THROUGH TELEMEDICINE SERVICES; PROVIDING FOR REVIEW AND APPEAL RIGHTS FOR DENIALS OF TELEMEDICINE COVERAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"[NEW MATERIAL] COVERAGE FOR TELEMEDICINE SERVICES.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall allow covered benefits to be provided through telemedicine services.

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underscored material = new  
[bracketed material] = delete

1           B. The provisions of this section shall not be  
2 construed to require coverage of an otherwise noncovered  
3 benefit.

4           C. A determination by a group health plan that  
5 health care services delivered through the use of interactive  
6 audio, video or other telecommunications technology are not  
7 covered under the plan shall be subject to review and appeal  
8 pursuant to the Patient Protection Act.

9           D. The provisions of this section shall not apply  
10 in the event that federal law requires the state to make  
11 payments on behalf of enrollees to cover the costs of  
12 implementing this section.

13           E. Nothing in this section shall require a health  
14 care provider to be physically present with a patient at the  
15 originating site unless the consulting telemedicine provider  
16 deems it necessary.

17           F. As used in this section:

18                   (1) "consulting telemedicine provider" means a  
19 health care provider that delivers telemedicine services from a  
20 location remote from an originating site;

21                   (2) "health care provider" means a duly  
22 licensed hospital or other licensed facility, physician or  
23 other health care professional authorized to furnish health  
24 care services within the scope of the professional's license;

25                   (3) "in real time" means occurring

1 simultaneously, instantaneously or within seconds of an event  
 2 so that there is little or no noticeable delay between two or  
 3 more events;

4 (4) "originating site" means a place at which  
 5 a patient is physically located and receiving health care  
 6 services via telemedicine;

7 (5) "store-and-forward technology" means  
 8 electronic information, imaging and communication, including  
 9 interactive audio, video and data communications, that is  
 10 transferred or recorded or otherwise stored for asynchronous  
 11 use; and

12 (6) "telemedicine" means the use of  
 13 interactive audio and video or store-and-forward technology  
 14 using information and telecommunications technologies by a  
 15 health care provider to deliver health care services at a site  
 16 other than the site where the patient is located, including the  
 17 use of electronic media for consultation relating to the health  
 18 care diagnosis or treatment of the patient in real time or  
 19 through the use of store-and-forward technology."

20 SECTION 2. A new section of Chapter 59A, Article 22 NMSA  
 21 1978 is enacted to read:

22 "[NEW MATERIAL] COVERAGE FOR TELEMEDICINE SERVICES.--

23 A. An individual or group health insurance policy,  
 24 health care plan or certificate of health insurance that is  
 25 delivered, issued for delivery or renewed in this state shall

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1 allow covered benefits to be provided through telemedicine  
2 services.

3 B. The provisions of this section shall not be  
4 construed to require coverage of an otherwise noncovered  
5 benefit.

6 C. A determination by an insurer that health care  
7 services delivered through the use of interactive audio, video  
8 or other telecommunications technology are not covered under  
9 the plan shall be subject to review and appeal pursuant to the  
10 Patient Protection Act.

11 D. The provisions of this section shall not apply  
12 in the event that federal law requires the state to make  
13 payments on behalf of enrollees to cover the costs of  
14 implementing this section.

15 E. Nothing in this section shall require a health  
16 care provider to be physically present with a patient at the  
17 originating site unless the consulting telemedicine provider  
18 deems it necessary.

19 F. As used in this section:

20 (1) "consulting telemedicine provider" means a  
21 health care provider that delivers telemedicine services from a  
22 location remote from an originating site;

23 (2) "health care provider" means a duly  
24 licensed hospital or other licensed facility, physician or  
25 other health care professional authorized to furnish health

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1 care services within the scope of the professional's license;

2 (3) "in real time" means occurring  
3 simultaneously, instantaneously or within seconds of an event  
4 so that there is little or no noticeable delay between two or  
5 more events;

6 (4) "originating site" means a place at which  
7 a patient is physically located and receiving health care  
8 services via telemedicine;

9 (5) "store-and-forward technology" means  
10 electronic information, imaging and communication, including  
11 interactive audio, video and data communication, that is  
12 transferred or recorded or otherwise stored for asynchronous  
13 use; and

14 (6) "telemedicine" means the use of  
15 interactive audio and video or store-and-forward technology  
16 using information and telecommunications technologies by a  
17 health care provider to deliver health care services at a site  
18 other than the site where the patient is located, including the  
19 use of electronic media for consultation relating to the health  
20 care diagnosis or treatment of the patient in real time or  
21 through the use of store-and-forward technology."

22 SECTION 3. A new section of Chapter 59A, Article 23 NMSA  
23 1978 is enacted to read:

24 "[NEW MATERIAL] COVERAGE FOR TELEMEDICINE SERVICES.--

25 A. A blanket or group health insurance policy or

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1 contract that is delivered, issued for delivery or renewed in  
2 this state shall allow covered benefits to be provided through  
3 telemedicine services.

4 B. The provisions of this section shall not be  
5 construed to require coverage of an otherwise noncovered  
6 benefit.

7 C. A determination by an insurer that health care  
8 services delivered through the use of interactive audio, video  
9 or other telecommunications technology are not covered under  
10 the plan shall be subject to review and appeal pursuant to the  
11 Patient Protection Act.

12 D. The provisions of this section shall not apply  
13 in the event that federal law requires the state to make  
14 payments on behalf of enrollees to cover the costs of  
15 implementing this section.

16 E. Nothing in this section shall require a health  
17 care provider to be physically present with a patient at the  
18 originating site unless the consulting telemedicine provider  
19 deems it necessary.

20 F. As used in this section:

21 (1) "consulting telemedicine provider" means a  
22 health care provider that delivers telemedicine services from a  
23 location remote from an originating site;

24 (2) "health care provider" means a duly  
25 licensed hospital or other licensed facility, physician or

1 other health care professional authorized to furnish health  
2 care services within the scope of the professional's license;

3 (3) "in real time" means occurring  
4 simultaneously, instantaneously or within seconds of an event  
5 so that there is little or no noticeable delay between two or  
6 more events;

7 (4) "originating site" means a place at which  
8 a patient is physically located and receiving health care  
9 services via telemedicine;

10 (5) "store-and-forward technology" means  
11 electronic information, imaging and communication, including  
12 interactive audio, video and data communication, that is  
13 transferred or recorded or otherwise stored for asynchronous  
14 use; and

15 (6) "telemedicine" means the use of  
16 interactive audio and video or store-and-forward technology  
17 using information and telecommunications technologies by a  
18 health care provider to deliver health care services at a site  
19 other than the site where the patient is located, including the  
20 use of electronic media for consultation relating to the health  
21 care diagnosis or treatment of the patient in real time or  
22 through the use of store-and-forward technology."

23 **SECTION 4.** A new section of the Health Maintenance  
24 Organization Law is enacted to read:

25 "[NEW MATERIAL] COVERAGE FOR TELEMEDICINE SERVICES.--

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1           A. An individual or group health maintenance  
2 organization contract that is delivered, issued for delivery or  
3 renewed in this state shall allow covered benefits to be  
4 provided through telemedicine services.

5           B. The provisions of this section shall not be  
6 construed to require coverage of an otherwise noncovered  
7 benefit.

8           C. A determination by a health maintenance  
9 organization that health care services delivered through the  
10 use of interactive audio, video or other telecommunications  
11 technology are not covered under the plan shall be subject to  
12 review and appeal pursuant to the Patient Protection Act.

13           D. The provisions of this section shall not apply  
14 in the event that federal law requires the state to make  
15 payments on behalf of enrollees to cover the costs of  
16 implementing this section.

17           E. Nothing in this section shall require a health  
18 care provider to be physically present with a patient at the  
19 originating site unless the consulting telemedicine provider  
20 deems it necessary.

21           F. As used in this section:

22                   (1) "consulting telemedicine provider" means a  
23 health care provider that delivers telemedicine services from a  
24 location remote from an originating site;

25                   (2) "in real time" means occurring

1 simultaneously, instantaneously or within seconds of an event  
2 so that there is little or no noticeable delay between two or  
3 more events;

4 (3) "originating site" means a place at which  
5 a patient is physically located and receiving health care  
6 services via telemedicine;

7 (4) "store-and-forward technology" means  
8 electronic information, imaging and communication, including  
9 interactive audio, video and data communication, that is  
10 transferred or recorded or otherwise stored for asynchronous  
11 use; and

12 (5) "telemedicine" means the use of  
13 interactive audio and video or store-and-forward technology  
14 using information and telecommunications technologies by a  
15 health care provider to deliver health care services within  
16 that provider's scope of practice at a site other than the site  
17 where the patient is located, including the use of electronic  
18 media for consultation relating to the health care diagnosis or  
19 treatment of the patient in real time or through the use of  
20 store-and-forward technology."

21 SECTION 5. A new section of Chapter 59A, Article 47 NMSA  
22 1978 is enacted to read:

23 "[NEW MATERIAL] COVERAGE FOR TELEMEDICINE SERVICES.--

24 A. An individual or group health insurance policy,  
25 health care plan or certificate of health insurance delivered

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1 or issued for delivery in this state shall allow covered  
2 benefits to be provided through of telemedicine services.

3 B. The provisions of this section shall not be  
4 construed to require coverage of an otherwise noncovered  
5 benefit.

6 C. A determination by a nonprofit health plan that  
7 health care services delivered through the use of interactive  
8 audio, video or other telecommunications technology are not  
9 covered under the plan shall be subject to review and appeal  
10 pursuant to the Patient Protection Act.

11 D. The provisions of this section shall not apply  
12 in the event that federal law requires the state to make  
13 payments on behalf of enrollees to cover the costs of  
14 implementing this section.

15 E. Nothing in this section shall require a health  
16 care provider to be physically present with a patient at the  
17 originating site unless the consulting telemedicine provider  
18 deems it necessary.

19 F. As used in this section:

20 (1) "consulting telemedicine provider" means a  
21 health care provider that delivers telemedicine services from a  
22 location remote from an originating site;

23 (2) "health care provider" means a duly  
24 licensed hospital or other licensed facility, physician or  
25 other health care professional authorized to furnish health

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1 care services within the scope of the professional's license;

2 (3) "in real time" means occurring  
3 simultaneously, instantaneously or within seconds of an event  
4 so that there is little or no noticeable delay between two or  
5 more events;

6 (4) "originating site" means a place at which  
7 a patient is physically located and receiving health care  
8 services via telemedicine;

9 (5) "store-and-forward technology" means  
10 electronic information, imaging and communication, including  
11 interactive audio, video and data communication, that is  
12 transferred or recorded or otherwise stored for asynchronous  
13 use; and

14 (6) "telemedicine" means the use of  
15 interactive audio and video or store-and-forward technology  
16 using information and telecommunications technologies by a  
17 health care provider to deliver health care services at a site  
18 other than the site where the patient is located, including the  
19 use of electronic media for consultation relating to the health  
20 care diagnosis or treatment of the patient in real time or  
21 through the use of store-and-forward technology."