SENATE BILL 354

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Gerald Ortiz y Pino

AN ACT

RELATING TO HEALTH CARE COVERAGE; AMENDING 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 PROHIBIT CERTAIN RESTRICTIONS ON AND ESTABLISH
NEW REQUIREMENTS FOR COVERAGE OF SERVICES PROVIDED VIA
TELEMEDICINE.

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

SECTION 1. Section 13-7-14 NMSA 1978 (being Laws 2013,
Chapter 105, Section 1) is amended to read:

"13-7-14. 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. Coverage for health

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care services provided through telemedicine shall be determined in a manner consistent with coverage for health care services provided through in-person consultation. A group health plan covers the same services when those services are provided via in-person consultation or contact. A group health plan shall not impose any unique condition for coverage of services provided via telemedicine.

B. [The] A group health plan shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by a group health plan that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

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

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

F. A group health plan shall not limit coverage of
services delivered via telemedicine only to those health care
providers who are members of the group health plan provider
network.

G. A group health plan may charge a deductible,
copayment or coinsurance for a health care service delivered
via telemedicine if it does not exceed the deductible,
copayment or coinsurance applicable to a service delivered via
in-person consultation or contact.

H. A group health plan shall not impose any annual
or lifetime dollar maximum on coverage for services delivered
via telemedicine, other than an annual or lifetime dollar
maximum that applies in the aggregate to all items and services
covered under the group health plan, or impose upon any person
receiving benefits pursuant to this section any copayment,
coinsurance or deductible amounts, or any plan year, calendar
year, lifetime or other durational benefit limitation or
maximum for benefits or services, that is not equally imposed
upon all terms and services covered under the group health
plan.

I. A group health plan shall reimburse for health
care services delivered via telemedicine on the same basis and
at least the same rate that the group health plan reimburses
for comparable services delivered via in-person consultation or contact.

[F.] J. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

[G.] K. The provisions of this section shall not apply to group health coverage intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

[H.] L. As used in this section:

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

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

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

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

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

(6) "telemedicine" means the use of [interactive simultaneous audio and video or store-and-forward technology using information and telecommunications technologies by a health care provider to deliver health care services at a site other than the site where the patient is located, including the use of electronic media for consultation relating to the health care diagnosis or treatment of the patient in real time or through the use of store-and-forward technology] telecommunications and information technology to provide clinical health care at a site distinct from the patient. "Telemedicine" allows health care professionals to evaluate, diagnose and treat patients in remote locations using telecommunications and information technology in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or remote patient monitoring and telecommunications in order to deliver health care services to a site where the patient is located, along with the use of electronic media and health information. "Telemedicine" allows patients in remote locations to access
SECTION 2.  Section 59A-22-49.3 NMSA 1978 (being Laws 2013, Chapter 105, Section 2) is amended to read:

"59A-22-49.3.  COVERAGE FOR TELEMEDICINE SERVICES.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall allow covered benefits to be provided through telemedicine services. Coverage for health care services provided through telemedicine shall be determined in a manner consistent with coverage for health care services provided through in-person consultation to the same extent that the health insurance plan, policy or contract covers the same services when those services are provided via in-person consultation. An insurer shall not impose any unique condition for coverage of services provided via telemedicine.

B. [The] An insurer shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by an insurer that health care
services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

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

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

F. An insurer shall not limit coverage of services delivered via telemedicine only to those health care providers who are members of the health insurance plan, policy or contract provider network.

G. An insurer may charge a deductible, copayment, or coinsurance for a health care service delivered via telemedicine if it does not exceed the deductible, copayment or coinsurance applicable to a service delivered via in-person consultation or contact.

H. An insurer shall not impose any annual or lifetime dollar maximum on coverage for services delivered via telemedicine, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the health insurance plan, policy or contract, or impose
upon any person receiving benefits pursuant to this section any
copayment, coinsurance or deductible amounts, or any plan,
policy or contract year, calendar year, lifetime or other
durational benefit limitation or maximum for benefits or
services, that is not equally imposed upon all terms and
services covered under the health insurance plan, policy or
contract.

I. An insurer shall reimburse for health care
services delivered via telemedicine on the same basis and at
least the same rate that the insurer reimburses for comparable
services delivered via in-person consultation or contact.

[J.] Telemedicine used to provide clinical
services shall be encrypted and shall conform to state and
federal privacy laws.

[K.] The provisions of this section shall not
apply to an individual policy, plan or contract intended to
supplement major medical group-type coverage, such as medicare
supplement, long-term care, disability income, specified
disease, accident-only, hospital indemnity or any other
limited-benefit health insurance policy.

[L.] As used in this section:

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

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

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

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

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

(6) "telemedicine" means the use of
[interactive simultaneous audio and video or store-and-forward
technology using information and telecommunications
technologies by a health care provider to deliver health care
services at a site other than the site where the patient is
located, including the use of electronic media for consultation
relating to the health care diagnosis or treatment of the
patient in real time or through the use of store-and-forward
technology] telecommunications and information technology to
provide clinical health care from a distance. "Telemedicine"
allows health care professionals to evaluate, diagnose and

treat patients in remote locations using telecommunications and

information technology in real time or asynchronously,

including the use of interactive simultaneous audio and video

or store-and-forward technology, or remote patient monitoring

and telecommunications in order to deliver health care services

to a site where the patient is located, along with the use of

electronic media and health information. "Telemedicine" allows

patients in remote locations to access medical expertise

without travel."

SECTION 3. Section 59A-23-7.12 NMSA 1978 (being Laws

2013, Chapter 105, Section 3) is amended to read:

"59A-23-7.12. COVERAGE FOR TELEMEDICINE SERVICES.--

A. A blanket or group health insurance policy or

contract that is delivered, issued for delivery or renewed in

this state shall [allow covered benefits to be provided through

telemedicine services. Coverage for health care services

provided through telemedicine shall be determined in a manner

consistent with coverage for health care services provided

through in-person consultation] provide coverage for services

provided via telemedicine to the same extent that the health

insurance plan, policy or contract covers the same services

when those services are provided via in-person consultation or

contact. An insurer shall not impose any unique condition for

coverage of services provided via telemedicine.
B. [The] An insurer shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by an insurer that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

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

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

F. An insurer shall not limit coverage of services delivered via telemedicine only to those health care providers who are members of the health insurance plan, policy or contract provider network.

G. An insurer may charge a deductible, copayment or coinsurance for a health care service delivered via
telemedicine if it does not exceed the deductible, copayment or
coinsurance applicable to a service delivered via in-person
consultation or contact.

H. An insurer shall not impose any annual or
lifetime dollar maximum on coverage for services delivered via
telemedicine, other than an annual or lifetime dollar maximum
that applies in the aggregate to all items and services covered
under the health insurance plan, policy or contract, or impose
upon any person receiving benefits pursuant to this section any
copayment, coinsurance or deductible amounts, or any plan,
policy or contract year, calendar year, lifetime or other
durational benefit limitation or maximum for benefits or
services, that is not equally imposed upon all terms and
services covered under the health insurance plan, policy or
contract.

I. An insurer shall reimburse for health care
services delivered via telemedicine on the same basis and at
least the same rate that the insurer reimburses for comparable
services delivered via in-person consultation or contact.

[J.] Telemedicine used to provide clinical
services shall be encrypted and shall conform to state and
federal privacy laws.

[K.] The provisions of this section shall not
apply to a group or blanket policy, plan or contract intended
to supplement major medical group-type coverage, such as
medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

As used in this section:

1. "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

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

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

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

5. "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communication, that is transferred or recorded or otherwise stored for asynchronous use; and

6. "telemedicine" means the use of interactive simultaneous audio and video or store-and-forward.
technology using information and telecommunications
technologies by a health care provider to deliver health care
services at a site other than the site where the patient is
located, including the use of electronic media for consultation
relating to the health care diagnosis or treatment of the
patient in real time or through the use of store-and-forward
technology] telecommunications and information technology to
provide clinical health care from a distance. "Telemedicine"
allows health care professionals to evaluate, diagnose and
treat patients in remote locations using telecommunications and
information technology in real time or asynchronously,
including the use of interactive simultaneous audio and video
or store-and-forward technology, or remote patient monitoring
and telecommunications in order to deliver health care services
to a site where the patient is located, along with the use of
electronic media and health information. "Telemedicine" allows
patients in remote locations to access medical expertise
without travel."

SECTION 4. Section 59A-46-50.3 NMSA 1978 (being Laws
2013, Chapter 105, Section 4) is amended to read:

"59A-46-50.3. COVERAGE FOR TELEMEDICINE SERVICES.--

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

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care services provided through telemedicine shall be determined in a manner consistent with coverage for health care services provided through in-person consultation] provide coverage for services provided via telemedicine to the same extent that the contract covers the same services when those services are provided via in-person consultation or contact. A carrier shall not impose any unique condition for coverage of services provided via telemedicine.

B. [The] A carrier shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by a health maintenance organization that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

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

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

F. A carrier shall not limit coverage of services
delivered via telemedicine only to those health care providers
who are members of the health maintenance organization contract
provider network.

G. A carrier may charge a deductible, copayment or
coinsurance for a health care service delivered via
telemedicine if it does not exceed the deductible, copayment or
coinsurance applicable to a service delivered via in-person
consultation or contact.

H. A carrier shall not impose any annual or
lifetime dollar maximum on coverage for services delivered via
telemedicine, other than an annual or lifetime dollar maximum
that applies in the aggregate to all items and services covered
under the contract, or impose upon any person receiving
benefits pursuant to this section any copayment, coinsurance or
deductible amounts, or any contract year, calendar year,
lifetime or other durational benefit limitation or maximum for
benefits or services, that is not equally imposed upon all
terms and services covered under the contract.

I. A carrier shall reimburse for health care
services delivered via telemedicine on the same basis and at
least the same rate that the carrier reimburses for comparable
services delivered via in-person consultation or contact.

[F. J.]  Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

[G. K.]  The provisions of this section shall not apply to an individual or group health maintenance organization contract intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

[H. L.]  As used in this section:

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

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

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

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

(5) "telemedicine" means the use of interactive simultaneous audio and video or store-and-forward technology using information and telecommunications technologies by a health care provider to deliver health care services within that provider’s scope of practice at a site other than the site where the patient is located, including the use of electronic media for consultation relating to the health care diagnosis or treatment of the patient in real time or through the use of store-and-forward technology] telecommunications and information technology to provide clinical health care from a distance. "Telemedicine" allows health care professionals to evaluate, diagnose and treat patients in remote locations using telecommunications and information technology in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or remote patient monitoring and telecommunications in order to deliver health care services to a site where the patient is located, along with the use of electronic media and health information. "Telemedicine" allows patients in remote locations to access medical expertise without travel."

SECTION 5. Section 59A-47-45.3 NMSA 1978 (being Laws 2013, Chapter 105, Section 5) is amended to read:

"59A-47-45.3. COVERAGE FOR TELEMEDICINE SERVICES.--
A. An individual or group health insurance policy, health care plan or certificate of health insurance delivered or issued for delivery in this state shall allow covered benefits to be provided through telemedicine services. Coverage for health care services provided through telemedicine shall be determined in a manner consistent with coverage for health care services provided through in-person consultation. A health care plan shall not impose any unique condition for coverage of services provided via telemedicine to the same extent the health care plan covers the same services when those services are provided via in-person consultation or contact. A health care plan shall not impose any unique condition for coverage of services provided via telemedicine.

B. A health care plan shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by a nonprofit health plan that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

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

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

F. A health care plan shall not limit coverage of services delivered via telemedicine only to those health care providers who are members of the health care plan provider network.

G. A health care plan may charge a deductible, copayment or coinsurance for a health care service delivered via telemedicine if it does not exceed the deductible, copayment or coinsurance applicable to a service delivered via in-person consultation or contact.

H. A health care plan shall not impose any annual or lifetime dollar maximum on coverage for services delivered via telemedicine, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the health care plan, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance or deductible amounts, or any plan year, calendar year, lifetime or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the health care plan.
I. A health care plan shall reimburse for health care services delivered via telemedicine on the same basis and at least the same rate that the carrier reimburses for comparable services delivered via in-person consultation or contact.

[F.] J. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

[G.] K. The provisions of this section shall not apply to an individual or group health care plan intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

[H.] L. As used in this section:

1. "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

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

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

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

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

(6) "telemedicine" means the use of
[interactive simultaneous audio and video or store-and-forward
technology using information and telecommunications
technologies by a health care provider to deliver health care
services at a site other than the site where the patient is
located, including the use of electronic media for consultation
relating to the health care diagnosis or treatment of the
patient in real time or through the use of store-and-forward
technology] telecommunications and information technology to
provide clinical health care from a distance. "Telemedicine"
allows health care professionals to evaluate, diagnose and
treat patients in remote locations using telecommunications and
information technology in real time or asynchronously,
including the use of interactive simultaneous audio and video
or store-and-forward technology, or remote patient monitoring
and telecommunications in order to deliver health care services

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to a site where the patient is located, along with the use of
electronic media and health information. "Telemedicine" allows
patients in remote locations to access medical expertise
without travel."