F I S C A L I M P A C T R E P O R T

SPONSOR HBIC **ORIGINAL DATE** 02/11/13 **LAST UPDATED** 03/09/13 **HB** CS/171/aSFl#1

SHORT TITLE Insurance Coverage for Telemedicine Services **SB**

ANALYST Trowbridge

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NA	Cannot be Estimated*	Cannot be Estimated*	Cannot be Estimated*	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

*See Fiscal Implications

Relates to SB 69

SOURCES OF INFORMATION
LFC Files

Responses On Original Bill Received From
Medical Board (MB)
Human Services Department (HSD)
New Mexico Telehealth Alliance (NMTA)
Public Regulation Commission (PRC)
General Services Department (GSD)

SUMMARY

Synopsis of SFl #1 Amendment

The Senate Floor #1 amendment to the House Business and Industry Committee substitute for House Bill 171 adds to 5 subsections of the bill "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."

Synopsis of Original Bill

The House Business and Industry Committee substitute for House Bill 171 (HB 171) seeks to amend 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 under all insurance coverage and group health plans while also providing for utilization review and appeal rights for

denials of telemedicine coverage.
"Telemedicine" means the use of interactive audio and video or other telecommunications technology by a health care provider to deliver health care services at a site other than 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." Telemedicine is not a medical specialty but rather provides the tools to deliver healthcare services over distance.

HB 171 complements the NM Telehealth Act of 2004 but adds the requirement for reimbursement for covered health services when telemedicine is used to provide those services. HB 171 requires commercial health insurance payers to reimburse for covered services when provided via telemedicine at the same rate they would for a physical encounter.

FISCAL IMPLICATIONS

The Public Schools Insurance Authority (PSIA) reports that it has not estimated the fiscal impact of implementing coverage for telemedicine. Based on available information, reducing or containing the cost of healthcare is one of the most important reasons for funding and adopting telemedicine technologies. The PSIA has stated that telemedicine has been shown to reduce the cost of healthcare and increase efficiency through better management of chronic diseases, shared health professional staffing, reduced travel times, and fewer or shorter hospital stays. Studies have consistently shown that the quality of healthcare services delivered via telemedicine is as good those given in traditional in-person consultations.

The General Services Department (GSD) stated in its original analysis of the bill that the fiscal implications of HB 171 are difficult to estimate since it is a new aspect in healthcare and it's pricing/rate structure is unknown.

The Human Services Department (HSD) stated in its original analysis that HB 171 apparently would eliminate the financial responsibility to the State by stating that the provisions "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." However, it is unlikely that the statement spares the State from incurring expenses. It is not federal law that generally specifies what Medicaid must pay to a Medicaid managed care organization, but rather the negotiations and contract between the HSD and the contractor that are relevant to this, as well as actuarial studies of contractor costs.

The same would be true for State employee health insurance coverage. It is not clear that federal law is what would exempt the State from having to pay more.

The HSD indicated that financial impact cannot be estimated because, as explained under Significant Issues, the bill would allow such a lack of control of the use of the service that all types of scenarios could develop unless the definitions in the bill are changed.

SIGNIFICANT ISSUES

The Medical Board (MB) indicated in its original analysis that delivery of health care requires significant overhead: office staff, medical record management and storage, technical communication equipment, and professional services. Like any office service, there is additional

expense to provide it.
The HSD noted in its original analysis that HB 171, in its definitions, defines telemedicine differently than Medicare or Medicaid currently defines telemedicine in ways that could create significant issues, specifically:

- Within its definition of telemedicine, the bill also includes "store-and-forward" technology which currently (as of December 2012) is only covered by Medicare and only under federal telemedicine demonstration projects in Hawaii and Alaska.

The HSD stated HB 171 also differs from Medicare and Medicaid in that the two programs specify the specific kinds of providers and services for which telemedicine is appropriate, while the bill does not allow any limit on the service as long as the service is rendered by a health care provider. The HSD maintained that the Medicaid program specifically requires a provider to be at the originating site, which the bill specifically does not require. While the Medicaid program is in the process of removing the requirement that a provider be present at the originating site, following Medicare as the model, Medicaid will still expect the telehealth service to be ordered by a practitioner, which is a restriction the bill would presumably not allow.

Additionally, the HSD observed that HB 171 also differs from Medicare and Medicaid in that with Medicaid/Medicare, telemedicine is used by a rural or frontier area provider and patient to communicate with specialists and other practitioners in an urban area so that needed expertise can be accessed. By having no restrictions on where the originating site is located, it appears that under HB 171, the following scenarios could develop and for which coverage would be presumably required:

- A psychologist in Albuquerque could hold therapy sessions with a recipient in Albuquerque using SKYPE or telephone rather than meeting with the recipient. Presumably, the payer would be required to pay the telehealth add-on fee in addition to the fee for the service. This type of service delivery may be significantly less effective than face-to-face in-person therapy.

- A physician based on the east coast could discuss symptoms and treatment with a patient who already has access to a similar provider in his or her own home town. Currently that cannot happen because of the involvement of the provider at the originating site or because the telehealth is requested by a local referral.

The HSD has reported that telemedicine is a very good tool and should be available to the extent that a patient benefits from the service. But it appears that under the definitions in HB 171, such as the lack of allowing for restrictions in the originating sites and the need for a local referral, unintended consequences in provider/patient relationships could develop.

By not seeming to allow the health care payer to be able to require a referral from an existing provider as part of the criteria for coverage, there could be an increase in recipient "doctor shopping", and an increase in unscrupulous providers not using the best provider-to-patient relationship possible for good health care.

The HSD also stated in its original analysis of HB 171 that the intent of the bill, versus the possible consequences of the bill, need to be considered such as adding definitions and requirements to avoid unintended consequences.

The New Mexico Telehealth Alliance (NMTA) stated it its original analysis of HB 171 that the return on investment in using telemedicine comes from improved access to healthcare services by remote providers and their patients that reflect best practices, improve health, improved continuity of care, earlier detection of a health problem, earlier intervention, prevention of more serious complications, better outcomes, and avoidance of more expensive healthcare services and decreased use of emergency services or hospitalization, thus reducing overall costs.

The NMTA added for New Mexico, as a large rural state, access to appropriate and needed healthcare is a challenge. Telemedicine systems improve access and provide increased support for local healthcare providers and their patients at their location, decreasing the need to travel, avoiding expensive transports, decreasing professional isolation, and improving healthcare provider retention and recruitment, as well as more effective and efficient distribution of our limited healthcare resources and expertise.

According to the NMTA, lack of reimbursement creates a significant barrier to the use and provision of healthcare services via telemedicine by both primary and specialty providers. Telemedicine can efficiently improve access and quality of care for underserved patients by providing remote consultations and specialty care especially in communities impacted by provider shortages or challenges related to geography. Almost every state can improve its telehealth coverage and policies to improve access and outcomes, leverage scarce health professionals, and constrain health costs.

The Public Regulation Commission (PRC) identified as a significant issue in its original analysis of HB 171 the fact that many or most health insurance policies and plans currently will not pay for services that are provided telemedically.

PERFORMANCE IMPLICATIONS

The NMTA stated that appropriate use and reimbursement for services provided via telemedicine should improve provision of evidence-based best practices regardless of the location of care and decrease unnecessary variations in care.

The PRC added that HB 171, in requiring new healthcare coverage and pricing, would require a change to the system configuration with medical carriers.

ADMINISTRATIVE IMPLICATIONS

The NMTA observed in its initial analysis of HB 171 that the same Current Procedural Terminology (CPT) codes and reimbursement rates can be used for services provided via telemedicine, often with a "GT" modifier (the code that indicates the medical procedure conducted by telemedicine) and not require any significant modification in administrative billing and reimbursement processes.

The GSD indicated that HB 171 would require a change to language in Summary Plan Description books and Summary of Benefits in time for Enrollment roll-out.

TECHNICAL ISSUES

The MB suggested in its original analysis that two new definitions be added to Section 1 of

HB 171, as follows:

1. “Coverage” means inclusion of telemedicine services within the scope of group health insurance or self-insurance plans, with the reimbursement for those services on the same basis and at the same rates as similar non-telemedicine services.
2. “Asynchronous use” means digital communication in which data are to be transmitted intermittently rather than in a steady, real-time stream.

OTHER SUBSTANTIVE ISSUES

The NMTA observed that HB 171 complements the New Mexico Telehealth Act passed in 2004 and may be applied to other reimbursement strategies used by Medicaid, a health Insurance Exchange, or any potential future payer. The NMTA also states that the Bill does not require a certified provider be with the patient at the originating site unless the telemedicine consultant deems it necessary. The measure also covers “Store and Forward” currently excluded by state Medicaid and Medicare (except in Alaska and Hawaii).

A similar bill (HB 591) was passed by the New Mexico House of Representatives in 2011 but there was insufficient time to be heard by the Senate. The NMTA adds that The National Organization of Black Elected Legislative Women (NOBEL) has strongly supported this type of telemedicine legislation that can reduce healthcare disparities, particularly for the underserved.

This type of bill requiring reimbursement for healthcare services provided via telemedicine has been passed in 15 other states: California, Colorado, Georgia, Hawaii, Kentucky, Louisiana, Maine, Maryland, Michigan, New Hampshire, Oklahoma, Oregon, Texas, Vermont, and Virginia.

The NMTA also noted that as telemedicine becomes a standard of care, failure to use telemedicine creates serious potential liability for hospitals, other health care provider organizations, clinics, and individual practitioners.

ALTERNATIVES

The NMTA reported that the state could subsidize the cost of providing healthcare services using telemedicine without payer reimbursement, which would add additional costs to the state.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

In its original analysis, the MB stated that increasingly necessary and useful telemedicine services will not be available to patients who cannot afford regular medical services: health care practitioners will not be able to afford to deliver such services due to their costs and time requirements. The NMTA indicated that a lack of reimbursement by payers has been a barrier to expanding services through telehealth and this bill would require commercial insurance companies to reimburse for covered services provide via telehealth. This would definitely be an important step forward to reimbursement for telemedicine services provided through various healthcare organizations, such as UNM HSC/UNMH, Project ECHO, other large health systems, public or private, such as Presbyterian Health Systems, Lovelace Health Systems, Presbyterian Medical Services, San Juan Regional Medical Center and others, as well as many rural hospitals and clinics using telemedicine and would include "store and forward" images interpretation,

important for dermatology, and ophthalmology/retinal scans in monitoring diabetic retinopathy, the leading cause of blindness in New Mexico. Lack of reimbursement would create significant barriers to the sustainability and expansion of provision of current and planned healthcare services provided via telemedicine, decrease prevention of more costly complications and increase the need for avoidable higher levels of care and higher expense.

The PRC indicated that many or most health policies and plans will continue to decline to pay for telemedicine services.

TT/svb:blm