

CHAPTER 38

HEALTH AND ENVIRONMENT

HOUSE BILL 15-1029

BY REPRESENTATIVE(S) Buck and Ginal, Arndt, Becker K., Court, Duran, Esgar, Fields, Hamner, Kraft-Tharp, Lee, McCann, Melton, Mitsch Bush, Pabon, Pettersen, Primavera, Rankin, Rosenthal, Salazar, Singer, Tyler, Vigil, Williams, Young, Hullinghorst, Brown, DelGrosso, Moreno, Roupe, Saine, Tate;
 also SENATOR(S) Kefalas and Martinez Humenik, Aguilar, Crowder, Garcia, Grantham, Hodge, Jahn, Jones, Merrifield, Newell, Roberts, Sonnenberg, Todd.

AN ACT
CONCERNING COVERAGE UNDER A HEALTH BENEFIT PLAN FOR HEALTH CARE SERVICES DELIVERED THROUGH TELEHEALTH IN ANY AREA OF THE STATE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 10-16-123, **amend** (1) and (2); and **add** (4) as follows:

10-16-123. Telehealth - definitions. (1) It is the intent of the general assembly to recognize the practice of ~~telemedicine~~ TELEHEALTH as a legitimate means by which an individual ~~in a rural area~~ may receive ~~medical~~ HEALTH CARE services from a provider without ~~person-to-person~~ IN-PERSON contact with the provider.

(2) (a) On or after January 1, ~~2002, no~~ 2017, A health benefit plan that is issued, amended, or renewed ~~for a person residing in a county with one hundred fifty thousand or fewer residents may~~ IN THIS STATE SHALL NOT require ~~face-to-face~~ IN-PERSON contact between a provider and a covered person for services appropriately provided through telemedicine, pursuant to section ~~12-36-106(1)(g),~~ C.R.S., TELEHEALTH, subject to all terms and conditions of the health benefit plan. ~~if such county has the technology necessary for the provisions of telemedicine. Any health benefits provided through telemedicine shall meet the same standard of care as for in-person care.~~ Nothing in this section ~~shall require~~ REQUIRES the use of ~~telemedicine~~ TELEHEALTH when ~~in-person care by a participating provider is available to a covered person within the carrier's network and within the member's geographic area~~ A PROVIDER DETERMINES THAT DELIVERY OF CARE THROUGH TELEHEALTH IS NOT APPROPRIATE OR WHEN A COVERED PERSON CHOOSES NOT TO

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

RECEIVE CARE THROUGH TELEHEALTH. A PROVIDER IS NOT OBLIGATED TO DOCUMENT OR DEMONSTRATE THAT A BARRIER TO IN-PERSON CARE EXISTS TO TRIGGER COVERAGE UNDER A HEALTH BENEFIT PLAN FOR SERVICES PROVIDED THROUGH TELEHEALTH.

(b) SUBJECT TO ALL TERMS AND CONDITIONS OF THE HEALTH BENEFIT PLAN, A CARRIER SHALL REIMBURSE THE TREATING PARTICIPATING PROVIDER OR THE CONSULTING PARTICIPATING PROVIDER FOR THE DIAGNOSIS, CONSULTATION, OR TREATMENT OF THE COVERED PERSON DELIVERED THROUGH TELEHEALTH ON THE SAME BASIS THAT THE CARRIER IS RESPONSIBLE FOR REIMBURSING THAT PROVIDER FOR THE PROVISION OF THE SAME SERVICE THROUGH IN-PERSON CONSULTATION OR CONTACT BY THAT PROVIDER. A CARRIER SHALL NOT DENY COVERAGE OF A HEALTH CARE SERVICE THAT IS A COVERED BENEFIT BECAUSE THE SERVICE IS PROVIDED THROUGH TELEHEALTH RATHER THAN IN-PERSON CONSULTATION OR CONTACT BETWEEN THE PARTICIPATING PROVIDER OR, SUBJECT TO SECTION 10-16-704, THE NONPARTICIPATING PROVIDER AND THE COVERED PERSON WHERE THE HEALTH CARE SERVICE IS APPROPRIATELY PROVIDED THROUGH TELEHEALTH. SECTION 10-16-704 APPLIES TO THIS PARAGRAPH (b).

(c) A CARRIER SHALL INCLUDE IN THE PAYMENT FOR TELEHEALTH INTERACTIONS REASONABLE COMPENSATION TO THE ORIGINATING SITE FOR THE TRANSMISSION COST INCURRED DURING THE DELIVERY OF HEALTH CARE SERVICES THROUGH TELEHEALTH; EXCEPT THAT, FOR PURPOSES OF THIS PARAGRAPH (c), THE ORIGINATING SITE DOES NOT INCLUDE A PRIVATE RESIDENCE AT WHICH THE COVERED PERSON IS LOCATED WHEN HE OR SHE RECEIVES HEALTH CARE SERVICES THROUGH TELEHEALTH.

(d) A CARRIER MAY OFFER A HEALTH COVERAGE PLAN CONTAINING A DEDUCTIBLE, COPAYMENT, OR COINSURANCE REQUIREMENT FOR A HEALTH CARE SERVICE PROVIDED THROUGH TELEHEALTH, BUT THE DEDUCTIBLE, COPAYMENT, OR COINSURANCE AMOUNT MUST NOT EXCEED THE DEDUCTIBLE, COPAYMENT, OR COINSURANCE APPLICABLE IF THE SAME HEALTH CARE SERVICES ARE PROVIDED THROUGH IN-PERSON DIAGNOSIS, CONSULTATION, OR TREATMENT.

(e) A CARRIER SHALL NOT IMPOSE AN ANNUAL DOLLAR MAXIMUM ON COVERAGE FOR HEALTH CARE SERVICES COVERED UNDER THE HEALTH BENEFIT PLAN THAT ARE DELIVERED THROUGH TELEHEALTH, OTHER THAN AN ANNUAL DOLLAR MAXIMUM THAT APPLIES TO THE SAME SERVICES WHEN PERFORMED BY THE SAME PROVIDER THROUGH IN-PERSON CARE.

(f) IF A COVERED PERSON RECEIVES HEALTH CARE SERVICES THROUGH TELEHEALTH, A CARRIER SHALL APPLY THE SAME COPAYMENT, COINSURANCE, OR DEDUCTIBLE AMOUNT AND POLICY-YEAR, CALENDAR-YEAR, LIFETIME, OR OTHER DURATIONAL BENEFIT LIMITATION OR MAXIMUM BENEFITS OR SERVICES UNDER THE HEALTH BENEFIT PLAN TO THE HEALTH CARE SERVICES DELIVERED VIA TELEHEALTH THAT THE CARRIER APPLIES UNDER THE HEALTH BENEFIT PLAN TO THOSE HEALTH CARE SERVICES WHEN PERFORMED BY THE SAME PROVIDER THROUGH IN-PERSON CARE.

(g) (I) THE REQUIREMENTS OF THIS SECTION APPLY TO ALL HEALTH BENEFIT PLANS DELIVERED, ISSUED FOR DELIVERY, AMENDED, OR RENEWED IN THIS STATE ON

OR AFTER JANUARY 1, 2017, OR AT ANY TIME AFTER THAT DATE WHEN A TERM OF THE PLAN IS CHANGED OR A PREMIUM ADJUSTMENT IS MADE.

(II) THIS SECTION DOES NOT APPLY TO:

(A) SHORT-TERM TRAVEL, ACCIDENT-ONLY, LIMITED OR SPECIFIED DISEASE, OR INDIVIDUAL CONVERSION POLICIES OR CONTRACTS; OR

(B) POLICIES OR CONTRACTS DESIGNED FOR ISSUANCE TO PERSONS ELIGIBLE FOR COVERAGE UNDER TITLE XVIII OF THE "SOCIAL SECURITY ACT", AS AMENDED, OR ANY OTHER SIMILAR COVERAGE UNDER STATE OR FEDERAL GOVERNMENTAL PLANS.

(h) NOTHING IN THIS SECTION PROHIBITS A CARRIER FROM PROVIDING COVERAGE OR REIMBURSEMENT FOR HEALTH CARE SERVICES APPROPRIATELY PROVIDED THROUGH TELEHEALTH TO A COVERED PERSON WHO IS NOT LOCATED AT AN ORIGINATING SITE.

(4) AS USED IN THIS SECTION:

(a) "DISTANT SITE" MEANS A SITE AT WHICH A PROVIDER IS LOCATED WHILE PROVIDING HEALTH CARE SERVICES BY MEANS OF TELEHEALTH.

(b) "ORIGINATING SITE" MEANS A SITE AT WHICH A PATIENT IS LOCATED AT THE TIME HEALTH CARE SERVICES ARE PROVIDED TO HIM OR HER BY MEANS OF TELEHEALTH.

(c) "STORE-AND-FORWARD TRANSFER" MEANS THE ELECTRONIC TRANSFER OF A PATIENT'S MEDICAL INFORMATION OR AN INTERACTION BETWEEN PROVIDERS THAT OCCURS BETWEEN AN ORIGINATING SITE AND DISTANT SITES WHEN THE PATIENT IS NOT PRESENT.

(d) "SYNCHRONOUS INTERACTION" MEANS A REAL-TIME INTERACTION BETWEEN A PATIENT LOCATED AT THE ORIGINATING SITE AND A PROVIDER LOCATED AT A DISTANT SITE.

(e) (I) "TELEHEALTH" MEANS A MODE OF DELIVERY OF HEALTH CARE SERVICES THROUGH TELECOMMUNICATIONS SYSTEMS, INCLUDING INFORMATION, ELECTRONIC, AND COMMUNICATION TECHNOLOGIES, TO FACILITATE THE ASSESSMENT, DIAGNOSIS, CONSULTATION, TREATMENT, EDUCATION, CARE MANAGEMENT, OR SELF-MANAGEMENT OF A COVERED PERSON'S HEALTH CARE WHILE THE COVERED PERSON IS LOCATED AT AN ORIGINATING SITE AND THE PROVIDER IS LOCATED AT A DISTANT SITE. THE TERM INCLUDES SYNCHRONOUS INTERACTIONS AND STORE-AND-FORWARD TRANSFERS.

(II) "TELEHEALTH" DOES NOT INCLUDE THE DELIVERY OF HEALTH CARE SERVICES VIA TELEPHONE, FACSIMILE MACHINE, OR ELECTRONIC MAIL SYSTEMS.

SECTION 2. In Colorado Revised Statutes, 10-16-102, **amend** (33) as follows:

10-16-102. Definitions - repeal. As used in this article, unless the context otherwise requires:

(33) "Health care services" means any services included in or incidental to the furnishing of medical, mental, dental, or optometric care; hospitalization; or nursing home care to an individual, as well as the furnishing to any person of any other services for the purpose of preventing, alleviating, curing, or healing human physical or mental illness or injury. "Health care services" includes the rendering of the services through the use of ~~telemedicine~~ TELEHEALTH, AS DEFINED IN SECTION 10-16-123 (4) (e).

SECTION 3. In Colorado Revised Statutes, 10-16-704, **amend** (1) (a), (9) (a.5), and (11) as follows:

10-16-704. Network adequacy - rules - legislative declaration. (1) A carrier providing a managed care plan shall maintain a network that is sufficient in numbers and types of providers to assure that all covered benefits to covered persons will be accessible without unreasonable delay. In the case of emergency services, covered persons shall have access to health care services twenty-four hours per day, seven days per week. Sufficiency shall be determined in accordance with the requirements of this section and may be established by reference to any reasonable criteria used by the carrier, including but not limited to:

(a) Provider-covered person ratios by specialty, which may include the use of providers through ~~telemedicine~~ TELEHEALTH for services that may appropriately be provided through ~~telemedicine~~ TELEHEALTH;

(9) Beginning January 1, 1998, a carrier shall maintain and make available upon request of the commissioner, the executive director of the department of public health and environment, or the executive director of the department of health care policy and financing, in a manner and form that reflects the requirements specified in paragraphs (a) to (k) of this subsection (9), an access plan for each managed care network that the carrier offers in this state. The carrier shall make the access plans, absent confidential information as specified in section 24-72-204 (3), C.R.S., available on its business premises and shall provide them to any interested party upon request. In addition, all health benefit plans and marketing materials shall clearly disclose the existence and availability of the access plan. All rights and responsibilities of the covered person under the health benefit plan, however, shall be included in the contract provisions, regardless of whether or not such provisions are also specified in the access plan. The carrier shall prepare an access plan prior to offering a new managed care network and shall update an existing access plan whenever the carrier makes any material change to an existing managed care network, but not less than annually. The access plan of a carrier offering a managed care plan shall demonstrate the following:

(a.5) An adequate number of accessible specialists and sub-specialists within a reasonable distance or travel time, or both, or who may be available through the use of ~~telemedicine~~ TELEHEALTH;

(11) The division of insurance, in cooperation with the chief medical officer for the state, shall evaluate a carrier's network adequacy plan concerning the use of ~~telemedicine~~ TELEHEALTH for providers who are specialists and sub-specialists for rural areas. ~~Such~~ THE DIVISION AND CHIEF MEDICAL OFFICER SHALL CONDUCT THE REVIEW ~~shall occur~~ in a timely fashion so as not to delay access to health care

services.

SECTION 4. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 2017; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to health benefit plans issued, amended, or renewed on or after the applicable effective date of this act.

Approved: March 20, 2015