

HOUSE BILL 1149

C3

2lr2351
CF SB 781

By: Delegates Lee, Smigiel, Afzali, Beitzel, Clagett, Conaway, Cullison, DeBoy, Hammen, Healey, Howard, Jameson, Kach, A. Kelly, McComas, Nathan-Pulliam, Pendergrass, B. Robinson, Stocksdale, Tarrant, and V. Turner V. Turner, Bromwell, Costa, Donoghue, Elliott, Frank, Hubbard, Kipke, Krebs, McDonough, Morhaim, Murphy, Oaks, Pena-Melnyk, Ready, and Reznik

Introduced and read first time: February 10, 2012
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 20, 2012

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance – Coverage for Services Delivered Through Telemedicine**
3 **Services**

4 FOR the purpose of requiring certain insurers, nonprofit health service plans, and
5 health maintenance organizations to provide ~~the same~~ coverage for health care
6 services delivered ~~in person or~~ through ~~a~~ telemedicine service in a certain
7 manner; prohibiting certain insurers, nonprofit health service plans, and health
8 maintenance organizations from excluding a health care service from coverage
9 solely because it is delivered by ~~a~~ telemedicine service and not in another
10 manner; requiring certain insurers, nonprofit health service plans, and health
11 maintenance organizations to reimburse health care providers for certain
12 services ~~on a certain basis~~ under certain circumstances; authorizing the
13 imposition of a deductible, copayment, coinsurance amount, or annual dollar
14 maximum, ~~or lifetime dollar maximum under certain circumstances~~ for certain
15 services; prohibiting the imposition of a lifetime dollar maximum for certain
16 services; authorizing certain insurers, nonprofit health service plans, and health
17 maintenance organizations to undertake certain utilization review under
18 certain circumstances; prohibiting a health insurance policy or contract from
19 distinguishing between patients in rural or urban locations in providing certain
20 coverage; providing that a certain decision constitutes a certain adverse decision

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 under certain circumstances; ~~requiring the Maryland Medical Assistance~~
 2 ~~Program to provide certain reimbursement under certain circumstances;~~
 3 making certain provisions of this Act applicable to health maintenance
 4 organizations; ~~providing that the health benefit options that the Secretary of~~
 5 ~~Budget and Management includes in the State Employee and Retiree Health~~
 6 ~~and Welfare Benefits Program may not discriminate in a certain manner and~~
 7 ~~shall provide certain coverage;~~ requiring the Department of Public Safety and
 8 Correctional Services to make a certain study and report to the General
 9 Assembly on or before a certain date; requiring the Department of Health and
 10 Mental Hygiene to conduct a certain review, make a certain determination,
 11 conduct a certain analysis, and report to certain committees of the General
 12 Assembly on or before a certain date concerning telemedicine and the Maryland
 13 Medical Assistance population; defining a certain term; providing for the
 14 application of this Act; and generally relating to coverage for telemedicine
 15 ~~services~~ under health insurance.

16 BY adding to
 17 Article – Insurance
 18 Section 15–139
 19 Annotated Code of Maryland
 20 (2011 Replacement Volume)

21 ~~BY repealing and reenacting, with amendments,~~
 22 ~~Article – Health – General~~
 23 ~~Section 15–105.2~~
 24 ~~Annotated Code of Maryland~~
 25 ~~(2009 Replacement Volume and 2011 Supplement)~~

26 BY adding to
 27 Article – Health – General
 28 Section 19–706(lIII)
 29 Annotated Code of Maryland
 30 (2009 Replacement Volume and 2011 Supplement)

31 ~~BY adding to~~
 32 ~~Article – State Personnel and Pensions~~
 33 ~~Section 2–518~~
 34 ~~Annotated Code of Maryland~~
 35 ~~(2009 Replacement Volume and 2011 Supplement)~~

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

38 **Article – Insurance**

39 **15–139.**

1 (A) (1) IN THIS SECTION, “TELEMEDICINE ~~SERVICE~~” MEANS, AS IT
2 RELATES TO THE DELIVERY OF HEALTH CARE SERVICES, THE USE OF
3 INTERACTIVE AUDIO, VIDEO, OR OTHER TELECOMMUNICATIONS OR
4 ELECTRONIC TECHNOLOGY BY A LICENSED HEALTH CARE PROVIDER TO
5 DELIVER A HEALTH CARE SERVICE WITHIN THE SCOPE OF PRACTICE OF THE
6 HEALTH CARE PROVIDER AT A SITE OTHER THAN THE SITE AT WHICH THE
7 PATIENT IS LOCATED.

8 (2) “TELEMEDICINE ~~SERVICE~~” DOES NOT INCLUDE:

9 (I) AN AUDIO-ONLY TELEPHONE CONVERSATION BETWEEN
10 A HEALTH CARE PROVIDER AND A PATIENT;

11 (II) AN ELECTRONIC MAIL MESSAGE BETWEEN A HEALTH
12 CARE PROVIDER AND A PATIENT; OR

13 (III) A FACSIMILE TRANSMISSION BETWEEN A HEALTH CARE
14 PROVIDER AND A PATIENT.

15 (B) THIS SECTION APPLIES TO:

16 (1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT
17 PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR
18 GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE
19 POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

20 (2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE
21 HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS
22 UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

23 (C) AN ENTITY SUBJECT TO THIS SECTION:

24 (1) SHALL PROVIDE ~~THE SAME~~ COVERAGE UNDER A HEALTH
25 INSURANCE POLICY OR CONTRACT FOR HEALTH CARE SERVICES
26 APPROPRIATELY DELIVERED ~~IN PERSON OR~~ THROUGH A TELEMEDICINE
27 ~~SERVICE~~; AND

28 (2) MAY NOT EXCLUDE FROM COVERAGE A HEALTH CARE
29 SERVICE SOLELY BECAUSE IT IS PROVIDED THROUGH A TELEMEDICINE ~~SERVICE~~
30 AND IS NOT PROVIDED THROUGH AN IN-PERSON CONSULTATION OR CONTACT
31 BETWEEN A HEALTH CARE PROVIDER AND A PATIENT.

32 (D) AN ENTITY SUBJECT TO THIS SECTION:

1 (1) SHALL REIMBURSE A HEALTH CARE PROVIDER FOR THE
2 DIAGNOSIS, CONSULTATION, AND TREATMENT OF AN INSURED PATIENT FOR A
3 HEALTH CARE SERVICE COVERED UNDER A HEALTH INSURANCE POLICY OR
4 CONTRACT ~~ON THE SAME BASIS REGARDLESS OF WHETHER THE HEALTH CARE~~
5 ~~SERVICE IS DELIVERED THROUGH AN IN-PERSON CONSULTATION OR THROUGH~~
6 ~~A TELEMEDICINE SERVICE~~ THAT CAN BE APPROPRIATELY PROVIDED THROUGH
7 TELEMEDICINE;

8 (2) IS NOT REQUIRED TO:

9 (I) REIMBURSE A HEALTH CARE PROVIDER FOR A HEALTH
10 CARE SERVICE DELIVERED IN PERSON OR THROUGH ~~A TELEMEDICINE SERVICE~~
11 THAT IS NOT A COVERED BENEFIT UNDER THE HEALTH INSURANCE POLICY OR
12 CONTRACT; OR

13 (II) REIMBURSE A HEALTH CARE PROVIDER WHO IS NOT A
14 COVERED PROVIDER UNDER THE HEALTH INSURANCE POLICY OR CONTRACT;
15 AND

16 (3) (I) MAY IMPOSE A DEDUCTIBLE, COPAYMENT, OR
17 COINSURANCE AMOUNT, ~~ANNUAL DOLLAR MAXIMUM, OR LIFETIME DOLLAR~~
18 ~~MAXIMUM~~ ON BENEFITS FOR HEALTH CARE SERVICES THAT ARE DELIVERED
19 EITHER THROUGH AN IN-PERSON CONSULTATION OR ~~A~~ THROUGH
20 ~~TELEMEDICINE SERVICE IF THE LIMITATIONS ARE APPLIED EQUALLY AND IN~~
21 ~~THE AGGREGATE TO THE DELIVERY OF ALL COVERED HEALTH CARE SERVICES;~~

22 (II) MAY IMPOSE AN ANNUAL DOLLAR MAXIMUM AS
23 PERMITTED BY FEDERAL LAW; AND

24 (III) MAY NOT IMPOSE A LIFETIME DOLLAR MAXIMUM.

25 (E) (1) ~~SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN~~ AN
26 ENTITY SUBJECT TO THIS SECTION MAY UNDERTAKE UTILIZATION REVIEW,
27 INCLUDING PREAUTHORIZATION, TO DETERMINE THE APPROPRIATENESS OF
28 ANY HEALTH CARE SERVICE WHETHER THE SERVICE IS DELIVERED THROUGH
29 AN IN-PERSON CONSULTATION OR ~~A~~ THROUGH ~~TELEMEDICINE SERVICE~~ IF THE
30 APPROPRIATENESS OF THE HEALTH CARE SERVICE IS DETERMINED IN THE
31 SAME MANNER.

32 (2) ~~A UTILIZATION REVIEW UNDER PARAGRAPH (1) OF THIS~~
33 ~~SUBSECTION MAY NOT REQUIRE PREAUTHORIZATION OF A TELEMEDICINE~~
34 ~~SERVICE.~~

1 (F) A HEALTH INSURANCE POLICY OR CONTRACT MAY NOT
 2 DISTINGUISH BETWEEN PATIENTS IN RURAL OR URBAN LOCATIONS IN
 3 PROVIDING COVERAGE UNDER THE POLICY OR CONTRACT FOR HEALTH CARE
 4 SERVICES DELIVERED ~~BY A~~ THROUGH ~~TELEMEDICINE SERVICE~~.

5 (G) A DECISION BY AN ENTITY SUBJECT TO THIS SECTION NOT TO
 6 PROVIDE COVERAGE FOR ~~A~~ ~~TELEMEDICINE SERVICE~~ IN ACCORDANCE WITH THIS
 7 SECTION CONSTITUTES AN ADVERSE DECISION, AS DEFINED IN §
 8 15-10A-01 OF THIS TITLE, IF THE DECISION IS BASED ON A FINDING THAT ~~THE~~
 9 ~~TELEMEDICINE SERVICE~~ IS NOT MEDICALLY NECESSARY, APPROPRIATE, OR
 10 EFFICIENT.

11 Article - Health - General

12 ~~15-105.2.~~

13 ~~(A) The Program shall reimburse health care providers in accordance with~~
 14 ~~the requirements of Title 19, Subtitle 1, Part IV of this article.~~

15 ~~(B) UNLESS OTHERWISE SPECIFICALLY PROHIBITED OR LIMITED BY~~
 16 ~~FEDERAL OR STATE LAW, THE PROGRAM SHALL REIMBURSE A HEALTH CARE~~
 17 ~~PROVIDER FOR A HEALTH CARE SERVICE DELIVERED BY A TELEMEDICINE~~
 18 ~~SERVICE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE, IN THE SAME~~
 19 ~~MANNER AS THE SAME HEALTH CARE SERVICE IS REIMBURSED WHEN~~
 20 ~~DELIVERED IN PERSON.~~

21 ~~19-706.~~

22 (LLLL) THE PROVISIONS OF § 15-139 OF THE INSURANCE ARTICLE
 23 APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

24 ~~Article - State Personnel and Pensions~~

25 ~~2-518.~~

26 ~~THE HEALTH INSURANCE BENEFIT OPTIONS THAT THE SECRETARY~~
 27 ~~INCLUDES IN THE PROGRAM:~~

28 ~~(1) MAY NOT DISCRIMINATE AGAINST THE DELIVERY OF HEALTH~~
 29 ~~CARE SERVICES BY A TELEMEDICINE SERVICE, AS DEFINED IN § 15-139 OF THE~~
 30 ~~INSURANCE ARTICLE; AND~~

31 ~~(2) SHALL PROVIDE THE SAME COVERAGE FOR HEALTH CARE~~
 32 ~~SERVICES DELIVERED EITHER IN PERSON OR THROUGH A TELEMEDICINE~~
 33 ~~SERVICE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE.~~

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Public
2 Safety and Correctional Services shall study the use of telemedicine to identify
3 opportunities to reduce the costs of delivering health care services to inmates
4 incarcerated in a State or local correctional facility, such as reducing the cost of secure
5 transportation. On or before December 1, 2012, the Department shall report to the
6 General Assembly, in accordance with § 2-1246 of the State Government Article, on
7 its study and include a plan for implementing the use of telemedicine to deliver health
8 care services to inmates.

9 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of
10 Health and Mental Hygiene shall:

11 (1) conduct a review of the current literature and evidence regarding
12 the different types of telemedicine, and conduct a review of other payers' and other
13 State Medicaid agencies' telemedicine policies and procedures;

14 (2) include in its review the evidence regarding the appropriate use of
15 telemedicine in delivering mental health services;

16 (3) based on its review, determine which types of patients would be
17 suitable for which types of telemedicine and conduct a fiscal impact analysis that
18 estimates the potential effect of Medicaid coverage of telemedicine on utilization, price,
19 substitution, and effects on other services; and

20 (4) on or before December 1, 2012, report to the Senate Finance
21 Committee and the House Health and Government Operations Committee, in
22 accordance with § 2-1246 of the State Government Article, on the findings of its
23 review and any recommendations on the provision of telemedicine for the Maryland
24 Medical Assistance Program population, including:

25 (i) any cost-neutral coverage of telemedicine that can be
26 implemented in fiscal year 2013; and

27 (ii) any recommended coverage of telemedicine that would
28 require additional funding to implement in fiscal year 2014.

29 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall apply to
30 all policies, contracts, and health benefit plans issued, delivered, or renewed in the
31 State on or after October 1, 2012.

32 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect October 1, 2012.