



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1485

S.P. 515

In Senate, April 18, 2017

An Act Regarding MaineCare Coverage for Telehealth Services

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator GRATWICK of Penobscot.

Cosponsored by Representative MASTRACCIO of Sanford and

Senators: KATZ of Kennebec, LIBBY of Androscoggin, SAVIELLO of Franklin,

Representatives: PIERCE of Dresden, RYKERSON of Kittery.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §3173-H** is enacted to read:

3 **§3173-H. Services delivered through telehealth**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Patient originating site" means a site where a patient is physically located at the
7 time that health care services are provided through telehealth.

8 B. "Provider distant site" means a site where a provider is physically located while
9 providing health care services through telehealth.

10 C. "Store and forward transfers" means transmission of a patient's recorded health
11 history through a secure electronic system to a provider.

12 D. "Telehealth," as it pertains to the delivery of health care services, means the use
13 of interactive real-time visual and audio or other electronic media for the purpose of
14 consultation and education concerning and diagnosis, treatment, care management
15 and self-management of a patient's physical and mental health and includes real-time
16 interaction between the patient at a patient originating site and the telehealth provider
17 at a provider distant site, synchronous encounters, asynchronous encounters, store
18 and forward transfers and remote patient monitoring. "Telehealth" does not include
19 the use of audio-only telephone, facsimile machine, e-mail or texting.

20 E. "Telemonitoring," as it pertains to the delivery of health care services, means the
21 use of information technology to remotely monitor a patient's health status via
22 electronic means through the use of clinical data while the patient remains in a
23 residential setting, allowing the provider to track the patient's health data over time.
24 Telemonitoring may or may not take place in real time.

25 **2. Reimbursement.** Services under MaineCare that are delivered through telehealth
26 must be reimbursed at the same rates as those services that are not delivered through
27 telehealth.

28 **3. Standards.** The department shall develop standards to facilitate and integrate the
29 use of telehealth under MaineCare. In developing standards, the department must consult
30 with health care providers, health care policy analysts, persons with expertise in health
31 care finance and the Legislature. The department may solicit, apply for and receive grants
32 that support the development of the technology infrastructure necessary to support the
33 delivery of health care services through telehealth and that support access to equipment,
34 technical support and education related to telehealth for health care providers.

35 **4. Annual report.** Beginning April 1, 2018 and annually thereafter, the department
36 shall report to the joint standing committee of the Legislature having jurisdiction over
37 health and human services matters on the use of telehealth in MaineCare, including its
38 effect on health care costs, quality and access.

5. Rules. The department shall adopt rules as necessary to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. At a minimum, any rules adopted by the department must:

A. Define health care provider to include any licensed, registered or certified provider in this State;

B. Clarify that the practice of medicine occurs at a patient originating site:

C. Require that an originating facility fee may be billed for services provided through telehealth only if a patient originating site is a health care provider's facility, part of a hospital system, health care clinic or federally qualified health center;

D. Clarify that a health care provider at a patient originating site and a health care provider at a provider distant site may be part of the same organization and that the provider at the patient originating site may receive reimbursement for services delivered through telehealth if the services are provided by a qualified health care professional under contract with the provider at the patient originating site;

E. When establishing criteria for a patient's eligibility for telehealth services, provide that the patient is eligible for telehealth services if a health care provider has determined the delivery of health care services through telehealth is medically appropriate and if the services are covered services under MaineCare;

F. When establishing criteria for a patient's eligibility for telemonitoring services, eliminate any requirement that the patient have had at least 2 emergency room visits or hospitalizations related to the patient's diagnosis in the past calendar year;

G. Prohibit the use of geographic restrictions or requirements as a condition of coverage;

H. Prohibit restrictions on requirements for the patient originating site;

I. Require health care providers to use in good faith equipment and products that are compliant with standards required by the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191; and

J. Require the informed consent of a patient before the first telehealth encounter with a health care provider.

Sec. 2. Rulemaking. Before December 31, 2017, the Department of Health and Human Services shall amend its rule Chapter 101: MaineCare Benefits Manual, Chapter I, Section 4, Telehealth Services to make the changes necessary to be consistent with the provisions of this Act.

SUMMARY

This bill requires that services under MaineCare that are provided through telehealth be reimbursed at the same rates as those services that are not provided through telehealth. The bill also requires the Department of Health and Human Services to amend its rule relating to MaineCare coverage for services delivered through telehealth.