

HOUSE BILL 1208

J1

EMERGENCY BILL

0lr2641

By: **Delegates Shetty, Acevero, Atterbeary, Bartlett, Carr, D.M. Davis, Hill, Johnson, Kelly, Korman, Ruth, Saab, Solomon, Wilkins, and P. Young**

Introduced and read first time: February 7, 2020

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2020

CHAPTER _____

1 AN ACT concerning

2 ~~Maryland Medical Assistance Program~~ **Telehealth – Pilot Mental Health and**
3 **Chronic Condition Management Services – Coverage and Pilot Program**

4 FOR the purpose of requiring the Maryland Medical Assistance Program, subject to a
5 certain limitation, to provide mental health services appropriately delivered through
6 telehealth to a patient in a certain setting; altering the definition of telehealth as it
7 applies to certain provisions of law governing coverage of telehealth by certain
8 insurers, nonprofit health service plans, and health maintenance organizations to
9 include the delivery of mental health care services to a patient in a certain setting;
10 requiring the Maryland Department of Health to apply to the Centers for Medicare
11 and Medicaid Services for an amendment to certain waivers to implement a pilot
12 program to provide certain telehealth services to recipients under the Maryland
13 Medical Assistance Program; limiting the telehealth services available under the
14 pilot program; requiring the Department to administer the pilot program under
15 certain circumstances; requiring the Department to report to the General Assembly
16 on the status of a certain application on or before a certain date and with certain
17 frequency thereafter; requiring the Department to report to the General Assembly
18 on the status of the pilot program on or before a certain date each year under certain
19 circumstances; requiring the Department to conduct a certain study and submit a
20 certain report, on or before a certain date, to the General Assembly; providing for the
21 termination of certain provisions of this Act; making this Act an emergency measure;
22 defining a certain term; and generally relating to ~~the coverage for telehealth pilot~~
23 ~~program.~~

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 BY repealing and reenacting, without amendments,

2 Article – Health – General

3 Section 15–103(a)(1)

4 Annotated Code of Maryland

5 (2019 Replacement Volume)

6 BY repealing and reenacting, with amendments,

7 Article – Health – General

8 Section 15–103(a)(2)(xiii) and (xiv)

9 Annotated Code of Maryland

10 (2019 Replacement Volume)

11 BY adding to

12 Article – Health – General

13 Section 15–103(a)(2)(xv) and 15–141.2

14 Annotated Code of Maryland

15 (2019 Replacement Volume)

16 BY repealing and reenacting, with amendments,

17 Article – Insurance

18 Section 15–139

19 Annotated Code of Maryland

20 (2017 Replacement Volume and 2019 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

22 That the Laws of Maryland read as follows:

23 **Article – Health – General**

24 15–103.

25 (a) (1) The Secretary shall administer the Maryland Medical Assistance
26 Program.

27 (2) The Program:

28 (xiii) Beginning on January 1, 2019, may provide, subject to the
29 limitations of the State budget, and as permitted by federal law, dental services for adults
30 whose annual household income is at or below 133 percent of the poverty level; [and]

31 (xiv) Shall provide, subject to the limitations of the State budget,
32 medically appropriate drugs that are approved by the United States Food and Drug
33 Administration for the treatment of hepatitis C, regardless of the fibrosis score, and that
34 are determined to be medically necessary; AND

(XV) SHALL PROVIDE, SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, MENTAL HEALTH SERVICES APPROPRIATELY DELIVERED THROUGH TELEHEALTH TO A PATIENT IN THE PATIENT'S HOME SETTING.

Article – Insurance

15–139.

(a) (1) In this section, “telehealth” means, as it relates to the delivery of health care services, the use of interactive audio, video, or other telecommunications or electronic technology by a licensed health care provider to deliver a health care service within the scope of practice of the health care provider at a location other than the location of the patient.

(2) “TELEHEALTH” INCLUDES THE DELIVERY OF MENTAL HEALTH CARE SERVICES TO A PATIENT IN THE PATIENT'S HOME SETTING.

~~[(2)]~~ (3) “Telehealth” does not include:

(i) an audio-only telephone conversation between a health care provider and a patient;

(ii) an electronic mail message between a health care provider and a patient; or

(iii) a facsimile transmission between a health care provider and a patient.

(b) This section applies to:

(1) insurers and nonprofit health service plans that provide hospital, medical, or surgical benefits to individuals or groups on an expense-incurred basis under health insurance policies or contracts that are issued or delivered in the State; and

(2) health maintenance organizations that provide hospital, medical, or surgical benefits to individuals or groups under contracts that are issued or delivered in the State.

(c) (1) An entity subject to this section:

(i) shall provide coverage under a health insurance policy or contract for health care services appropriately delivered through telehealth; and

(ii) may not exclude from coverage a health care service solely because it is provided through telehealth and is not provided through an in-person consultation or contact between a health care provider and a patient.

(2) The health care services appropriately delivered through telehealth shall include counseling for substance use disorders.

(d) An entity subject to this section:

(1) shall reimburse a health care provider for the diagnosis, consultation, and treatment of an insured patient for a health care service covered under a health insurance policy or contract that can be appropriately provided through telehealth;

(2) is not required to:

(i) reimburse a health care provider for a health care service delivered in person or through telehealth that is not a covered benefit under the health insurance policy or contract; or

(ii) reimburse a health care provider who is not a covered provider under the health insurance policy or contract; and

(3) (i) may impose a deductible, copayment, or coinsurance amount on benefits for health care services that are delivered either through an in-person consultation or through telehealth;

(ii) may impose an annual dollar maximum as permitted by federal law; and

(iii) may not impose a lifetime dollar maximum.

(e) An entity subject to this section may undertake utilization review, including preauthorization, to determine the appropriateness of any health care service whether the service is delivered through an in-person consultation or through telehealth if the appropriateness of the health care service is determined in the same manner.

(f) A health insurance policy or contract may not distinguish between patients in rural or urban locations in providing coverage under the policy or contract for health care services delivered through telehealth.

(g) A decision by an entity subject to this section not to provide coverage for telehealth in accordance with this section constitutes an adverse decision, as defined in § 15-10A-01 of this title, if the decision is based on a finding that telehealth is not medically necessary, appropriate, or efficient.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

1 15-141.2.

2 (A) (1) IN THIS SECTION, "TELEHEALTH" MEANS A MODE OF DELIVERING
3 HEALTH CARE SERVICES THROUGH THE USE OF TELECOMMUNICATIONS
4 TECHNOLOGIES BY A HEALTH CARE PRACTITIONER TO A PATIENT AT A DIFFERENT
5 PHYSICAL LOCATION THAN THE HEALTH CARE PRACTITIONER.

6 (2) "TELEHEALTH" INCLUDES SYNCHRONOUS AND ASYNCHRONOUS
7 INTERACTIONS.

8 (3) "TELEHEALTH" DOES NOT INCLUDE THE PROVISION OF HEALTH
9 CARE SERVICES SOLELY THROUGH AUDIO-ONLY CALLS, E-MAIL MESSAGES, OR
10 FACSIMILE TRANSMISSIONS.

11 (B) (1) ON OR BEFORE DECEMBER 1, 2020, THE DEPARTMENT SHALL
12 APPLY TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES FOR AN
13 AMENDMENT TO ANY OF THE STATE'S § 1115 WAIVERS NECESSARY TO IMPLEMENT
14 A PILOT PROGRAM TO PROVIDE TELEHEALTH SERVICES TO PROGRAM RECIPIENTS
15 REGARDLESS OF THE PROGRAM RECIPIENT'S LOCATION AT THE TIME TELEHEALTH
16 SERVICES ARE PROVIDED.

17 (2) TELEHEALTH SERVICES AVAILABLE UNDER THE PILOT PROGRAM
18 SHALL BE LIMITED TO:

19 ~~(I) CHRONIC~~ CHRONIC CONDITION CASE MANAGEMENT
20 SERVICES; ~~AND~~

21 ~~(II) BEHAVIORAL HEALTH SERVICES.~~

22 (C) IF THE AMENDMENT APPLIED FOR UNDER SUBSECTION (B) OF THIS
23 SECTION IS APPROVED, THE DEPARTMENT SHALL ADMINISTER THE PILOT
24 PROGRAM.

25 (D) THE DEPARTMENT SHALL COLLECT OUTCOMES DATA ON RECIPIENTS
26 OF TELEHEALTH SERVICES UNDER THE PILOT PROGRAM TO EVALUATE THE
27 EFFECTIVENESS OF THE PILOT PROGRAM.

28 (E) ON OR BEFORE DECEMBER 1, 2020, AND EVERY 6 MONTHS THEREAFTER
29 UNTIL THE APPLICATION DESCRIBED UNDER SUBSECTION (B) OF THIS SECTION IS
30 APPROVED, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GENERAL
31 ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE,
32 ON THE STATUS OF THE APPLICATION.

(F) IF THE AMENDMENT APPLIED FOR UNDER SUBSECTION (B) OF THIS SECTION IS APPROVED, ON OR BEFORE DECEMBER 1 EACH YEAR FOLLOWING THE APPROVAL, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE STATUS OF THE PILOT PROGRAM.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Department of Health shall study whether, under the Maryland Medical Assistance Program, substance use disorder services may be appropriately provided through telehealth to a patient in the patient's home setting.

(b) On or before December 1, 2021, the Maryland Department of Health shall submit a report to the General Assembly, in accordance with § 2-1257 of the State Government Article, that includes any findings and recommendations from the study required under subsection (a) of this section, including:

(1) the types of substance use disorder services, if any, that may be appropriately provided through telehealth to a patient in the patient's home setting; and

(2) any technological or other standards needed for the provision of appropriate and quality substance use disorder services to a patient in the patient's home setting.

~~SECTION 2. 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020. It shall remain effective for a period of 5 years and, at the end of June 30, 2025, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly. Sections 2 and 3 shall remain effective through June 30, 2025, and, at the end of June 30, 2025, Sections 2 and 3, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.