GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 721
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10407-MRa-21

Short Title:	Increase Access to Telehealth Services.	(Public)
Sponsors:	Representatives Saine, Lambeth, Dobson, and Jones (Primary Sponsors).	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO MAKE CERTAIN CHANGES TO THE MEDICAID AND NC HEALTH CHOICE POLICIES RELATING TO TELEHEALTH AND TO REQUIRE HEALTH BENEFIT PLAN TELEHEALTH COVERAGE.

The General Assembly of North Carolina enacts:

PART I. MEDICAID AND NC HEALTH CHOICE TELEHEALTH POLICIES

SECTION 1.(a) The Department of Health and Human Services shall ensure that Medicaid and NC Health Choice coverage of telemedicine and telepsychiatry services are consistent with this act and shall amend Clinical Coverage Policy No: 1H as necessary. The term "telehealth" shall replace the term "telemedicine" for all clinical coverage policies.

SECTION 1.(b) For the purposes of Medicaid and NC Health Choice coverage, "telehealth" shall be defined as the delivery of health care–related services by a Medicaid or NC Health Choice provider licensed in North Carolina to a Medicaid or NC Health Choice recipient through (i) an encounter conducted through real-time interactive audio and video technology, (ii) store and forward services that are provided by asynchronous technologies as the standard practice of care where medical information is sent to a provider for evaluation, or (iii) an asynchronous communication in which the provider has access to the recipient's medical history prior to the telehealth encounter. The requirement for a face-to-face encounter shall be satisfied with the use of asynchronous telecommunications technologies in which the health care provider has access to the recipient's medical history prior to the telehealth encounter. Telehealth shall not include the delivery of services solely through electronic mail, text chat, or audio-communication unless either (i) additional medical history and clinical information is communicated electronically between the provider and patient or (ii) the services delivered are behavioral health services.

SECTION 1.(c) With regard to Medicaid and NC Health Choice coverage of telehealth services, the Department of Health and Human Services shall do all of the following:

(1) Promote access to health care for Medicaid and NC Health Choice recipients through telehealth services.

(2) Require that any prior authorization requests for a referral or consultation for specialty care be processed by the patient's primary care provider, and require that the specialist coordinate care with the primary care provider.

(3) Require all Medicaid providers providing telehealth services be licensed in this State to provide the service rendered through telehealth.

(4) Require health care facilities that receive reimbursement for telehealth consultations and have a Medicaid provider who practices in that facility establish quality-of-care protocols and patient confidentiality guidelines to ensure all requirements and patient care standards are met as required by law.

SECTION 1.(d) The Department of Health and Human Services shall not require, as a condition of Medicaid or NC Health Choice coverage of telehealth services, any of the following:

(1) A provider be physically present with a patient or client, unless the provider determines it is medically necessary to perform the health care services in person.

(2) A provider to conduct a telehealth consultation if an in-person consultation with a Medicaid provider is reasonably available where the patient resides, works, or attends school, or if the patient prefers an in-person consultation.

(3) A prior authorization, medical review, or administrative clearance for telehealth that would not be required if the health care service were provided in person.

(4) A provider be employed by another provider or agency in order to provide telehealth services if it would not be required of the provider if the same service were provided in person.

(5) A provider be part of a telehealth network in order to bill for Medicaid or NC Health Choice services.

(6) A provider to demonstrate it is necessary to provide services to a Medicaid or NC Health Choice recipient through telehealth.

(7) A restriction or denial of coverage based solely on the technology used to deliver telehealth services.

SECTION 1.(e) The Department of Health and Human Services shall ensure (i) Medicaid and NC Health Choice coverage and reimbursement for telehealth services are equivalent to the reimbursement and coverage for the same services if provided in person and (ii) that any deductible, copayment, or coinsurance requirement is equivalent to the same service if it was provided to the patient in person.

SECTION 1.(f) Nothing in this section shall be construed to require coverage of telehealth services that are not medically necessary or to require reimbursement of fees charged by a telehealth facility for the transmission of a telehealth encounter.

SECTION 1.(g) In implementing the requirements of this section, the Department of Health and Human Services shall engage in activities designed to prevent fraud, waste, and abuse of the Medicaid and NC Health Choice programs.

SECTION 1.(h) The Department of Health and Human Services shall submit to the Centers for Medicare and Medicaid Services any waivers or amendments to the NC Medicaid State Plan necessary to implement Section 1 of this act.

SECTION 1.(i) By September 1, 2020, the Department of Health and Human Services shall submit a report on changes, expected costs, savings, and outcomes of telehealth services required by Section 1 of this act to the Joint Legislative Medicaid and NC Health Choice Oversight Committee and the Fiscal Research Division.

PART II. TELEHEALTH INSURANCE REQUIREMENTS

SECTION 2. Part 7 of Article 50 of Chapter 58 of the General Statutes is amended by adding a new section to read as follows:

"**§ 58-50-305. Coverage for telehealth services.**

(a) For the purposes of this section, the term "telehealth" means the delivery of health care–related services by a health care provider who is licensed in this State to a patient or client through (i) an encounter conducted through real time interactive audio and video technology, (ii)

store and forward services that are provided by asynchronous technologies as the standard practice of care where medical information is sent to a provider for evaluation, or (iii) an asynchronous communication in which the provider has access to the recipient's medical history prior to the telehealth encounter. The requirement for a face-to-face encounter shall be satisfied with the use of asynchronous telecommunications technologies in which the health care provider has access to the recipient's medical history prior to the telehealth encounter. Telehealth shall not include the delivery of services solely through electronic mail, text chat, or audio-communication unless either (i) additional medical history and clinical information is communicated electronically between the provider and patient or (ii) the services delivered are behavioral health services.

(b) Every health benefit plan offered by an insurer in this State shall reimburse for covered services provided to an insured through telehealth.

(c) Telehealth coverage and reimbursement shall be equivalent to the coverage and reimbursement for the same service provided in person.

(d) An insurer may not require a provider to be physically present with a patient or a client, unless the health care provider determines that it is necessary to perform the health care services in person.

(e) An insurer may not require prior authorization, medical review, or administrative clearance for telehealth that would not be required if the health care service were provided in person. An insurer may not require that a health care provider demonstrate that it is necessary to provide health care services to an insured through telehealth.

(f) An insurer may not require a health care provider to be employed by another provider or agency in order to provide telehealth services that would not be required if the service being provided was provided in person.

(g) A health benefit plan may not exclude from coverage under the plan services provided via telehealth solely because the service is not provided via an in-person consultation or in-person delivery of services. Any services provided through telehealth must be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996 and an insurer may require a provider to demonstrate compliance with this subsection.

(h) No insurer may require a provider to be part of a telehealth network in order to participate in any health benefit plan.

(i) Nothing in this section shall be construed to require coverage of telehealth services that are not medically necessary."

SECTION 3. G.S. 135-48.51 reads as rewritten:

"**§ 135-48.51. Coverage and operational mandates related to Chapter 58 of the General Statutes.**

The following provisions of Chapter 58 of the General Statutes apply to the State Health Plan:

…

(13) G.S. 58-50-305, Coverage for telehealth services.

~~(13)~~(14) G.S. 58-67-88, Continuity of care."

PART III. TELEHEALTH GRANT PILOT PROGRAM

SECTION 4.(a) There is appropriated from the General Fund to the Department of Health and Human Services (DHHS) the sum of one million dollars ($1,000,000) in nonrecurring funds for the 2019-2021 fiscal biennium to be used to fund a telehealth infrastructure and equipment grants pilot program in the two counties in the State with the poorest health outcomes, as determined by the "2018 North Carolina Summary Report from the County Health Rankings and Roadmap," published by the Robert Wood Johnson Foundation. In distributing the funds appropriated under this subsection, DHHS shall develop a process to receive and evaluate applications for the telehealth infrastructure and equipment grants submitted by health care

providers and health care facilities located in these two counties. DHHS shall distribute all funds by October 1, 2020.

SECTION 4.(b) No later than November 1, 2020, DHHS shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services outlining the expenditure of the funds appropriated in subsection (a) of this section that includes the projects funded, the health care provider or health care facilities to which the funds were awarded, and the amount of each grant award.

PART IV. EFFECTIVE DATE

SECTION 5. Sections 1, 2, and 3 of this act become effective October 1, 2019. Sections 2 and 3 apply to health benefit plan contracts issued, renewed, or amended on or after that date. The remainder of this act is effective when it becomes law.