

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2020

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Legislative Document

No. 1974

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S.P. 676

In Senate, January 8, 2020

### An Act To Promote Telehealth

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator GRATWICK of Penobscot.  
Cosponsored by Representative STOVER of Boothbay and  
Senators: BELLOWS of Kennebec, CHENETTE of York, CLAXTON of Androscoggin,  
SANBORN, H. of Cumberland, SANBORN, L. of Cumberland, VITELLI of Sagadahoc,  
Representatives: CRAVEN of Lewiston, GATTINE of Westbrook.

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

2 **Sec. 1. 22 MRSA §3173-H**, as enacted by PL 2017, c. 307, §2, is amended to  
3 read:

4 **§3173-H. Services delivered through telehealth**

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

7 A. "Asynchronous encounters" means the interaction or consultation between a  
8 patient and ~~a health professional~~ the patient's provider or between health  
9 professionals regarding the patient through a system with the ability to store digital  
10 information, including, but not limited to, still images, video, audio and text files, and  
11 other relevant data in one location and subsequently transmit such information for  
12 interpretation at a remote site by health professionals without requiring the  
13 simultaneous presence of the patient or the ~~patient's provider~~ health professionals.

14 A-1. "Health professional" means a provider or an individual, facility or organization  
15 with whom a provider consults in order to provide care to a patient.

16 A-2. "Patient" means a MaineCare member.

17 A-3. "Provider" means an individual, a facility or an organization that provides  
18 services under the MaineCare program.

19 B. "Store and forward transfers" means transmission of a patient's recorded health  
20 history through a secure electronic system to a ~~provider~~ health professional.

21 C. "Synchronous encounters" means a real-time interaction conducted with  
22 interactive audio or video connection between a patient and the patient's provider or  
23 between ~~providers~~ health professionals regarding the patient.

24 D. "Telehealth," as it pertains to the delivery of ~~health-care~~ MaineCare services,  
25 means the use of interactive ~~real-time~~ visual and audio or other electronic media for  
26 the purpose of consultation and education concerning and diagnosis, treatment, care  
27 management and self-management of a patient's physical and mental health and  
28 includes real-time interaction between the patient and the ~~telehealth~~ patient's  
29 provider, electronic consultation between health professionals regarding the patient,  
30 synchronous encounters, asynchronous encounters, store and forward transfers and  
31 remote patient monitoring. "Telehealth" includes telephonic services when  
32 interactive telehealth services are unavailable or when a telephonic service is  
33 medically appropriate for the underlying covered service.

34 E. "Telemonitoring," as it pertains to the delivery of ~~health-care~~ MaineCare services,  
35 means the use of information technology to remotely monitor a patient's health status  
36 via electronic means through the use of clinical data while the patient remains in a  
37 residential setting, allowing the provider to track the patient's health data over time.  
38 Telemonitoring may or may not take place in real time.

39 **2. Grants.** The department may solicit, apply for and receive grants that support the  
40 development of the technology infrastructure necessary to support the delivery of ~~health~~

1 eare MaineCare services through telehealth and that support access to equipment,  
2 technical support and education related to telehealth for ~~health care~~ providers.

3 **3. Annual report.** Beginning January 1, 2018 and annually thereafter, the  
4 department shall report to the joint standing committee of the Legislature having  
5 jurisdiction over health and human services matters on the use of telehealth in the  
6 MaineCare program, including the number of ~~telehealth and telemonitoring~~ providers  
7 providing telehealth and telemonitoring services, the number of patients served by  
8 telehealth and telemonitoring services and a summary of grants applied for and received  
9 related to telehealth and telemonitoring.

10 **4. Education.** The department shall conduct educational outreach to providers and  
11 MaineCare members on telehealth and telemonitoring services.

12 **5. Rules.** The department shall adopt routine technical rules as defined by Title 5,  
13 chapter 375, subchapter 2-A to carry out the provisions of this section. Rules adopted by  
14 the department:

15 A. May not include any requirement that a patient have a certain number of  
16 emergency room visits or hospitalizations related to the patient's diagnosis in the  
17 criteria for a patient's eligibility for telemonitoring services;

18 B. ~~Must~~ Except as provided in paragraph E, must include qualifying criteria for a  
19 patient's eligibility for telemonitoring services that include documentation in a  
20 patient's medical record that the patient is at risk of hospitalization or admission to an  
21 emergency room;

22 C. Must provide that group therapy for behavioral health or addiction services  
23 covered by the MaineCare program may be delivered through telehealth; ~~and~~

24 D. Must include requirements for ~~individual providers and the facility or~~  
25 ~~organization in which the provider works for~~ providing telehealth and telemonitoring  
26 services; and

27 E. Must allow at least some portion of case management services covered by the  
28 MaineCare program to be delivered through telehealth, without requiring qualifying  
29 criteria regarding a patient's risk of hospitalization or admission to an emergency  
30 room.

31 **Sec. 2. 24-A MRSA §4316, sub-§1, ¶A-1** is enacted to read:

32 A-1. "Asynchronous encounters" means the interaction or consultation between an  
33 enrollee and a telehealth provider or between health professionals regarding the  
34 enrollee through a system with the ability to store digital information, including, but  
35 not limited to, still images, video, audio and text files, and other relevant data in one  
36 location and subsequently transmit such information for interpretation at a remote site  
37 by health professionals without requiring the simultaneous presence of the enrollee or  
38 the health professionals.

39 **Sec. 3. 24-A MRSA §4316, sub-§1, ¶B-1** is enacted to read:

1 B-1. "Synchronous encounters" means a real-time interaction conducted with  
2 interactive audio or video connection between an enrollee and a telehealth provider or  
3 between health professionals regarding the enrollee.

4 **Sec. 4. Department of Health and Human Services to reimburse targeted**  
5 **case management services delivered through telehealth.** The Department of  
6 Health and Human Services shall, no later than September 30, 2020, amend its rule  
7 Chapter 101: MaineCare Benefits Manual, Chapter I, Section 4, Telehealth and Chapter  
8 101: MaineCare Benefits Manual, Chapter II, Section 13, Targeted Case Management  
9 Services to provide for reimbursement of case management services delivered through  
10 telehealth to targeted populations.

11 **SUMMARY**

12 This bill directs the Department of Health and Human Services to amend its rule  
13 Chapter 101: MaineCare Benefits Manual, Chapter I, Section 4, Telehealth and Chapter  
14 101: MaineCare Benefits Manual, Chapter II, Section 13, Targeted Case Management  
15 Services to provide for reimbursement of case management services delivered through  
16 telehealth to targeted populations. The bill makes other changes necessary for the  
17 delivery of telehealth services to be expanded to include case management services.

18 The bill clarifies that telehealth services reimbursable under a health plan or the  
19 MaineCare program include consultation between health professionals regarding a  
20 patient, whether the consultation occurs in real time or asynchronously.