

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 333

H.P. 237

House of Representatives, February 8, 2021

An Act Regarding Telehealth

Received by the Clerk of the House on February 4, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HYMANSON of York.

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

2 **Sec. 1. 24 MRSA §2904, sub-§1, ¶A**, as amended by PL 2019, c. 289, §1, is further
3 amended to read:

4 A. A licensed health care practitioner who voluntarily, without the expectation or
5 receipt of monetary or other compensation either directly or indirectly, provides
6 professional services, including services provided through telehealth as defined in Title
7 24-A, section 4316, subsection 1, paragraph E C, within the scope of that health care
8 practitioner's licensure:

- 9 (1) To a nonprofit organization;
- 10 (2) To an agency of the State or any political subdivision of the State;
- 11 (3) To members or recipients of services of a nonprofit organization or state or
12 local agency;
- 13 (4) To support the State's response to a public health threat as defined in Title 22,
14 section 801, subsection 10;
- 15 (5) To support the State's response to an extreme public health emergency as
16 defined in Title 22, section 801, subsection 4-A; or
- 17 (6) To support the State's response to a disaster as defined in Title 37-B, section
18 703, subsection 2;

19 **Sec. 2. 24-A MRSA §4316, sub-§1, ¶C**, as enacted by PL 2019, c. 289, §2, is
20 amended to read:

21 C. "Telehealth," as it pertains to the delivery of health care services, means the use of
22 interactive real-time visual and audio or other electronic media for the purpose of
23 consultation and education concerning and diagnosis, treatment, care management and
24 self-management of an enrollee's physical and mental health and includes real-time
25 interaction between the enrollee and the telehealth provider, synchronous encounters,
26 asynchronous encounters, store and forward transfers and telemonitoring. "Telehealth"
27 includes the use of audio-only telephone when no means of interactive real-time visual
28 and audio or other electronic media are available to the enrollee due to lack of such
29 electronic media or of adequate broadband access or when the use of other means of
30 interactive real-time visual and audio or other electronic media is infeasible,
31 impractical or otherwise not medically advisable, as determined by the provider
32 providing telehealth services to the enrollee or as determined by another provider with
33 an existing relationship with the enrollee. "Telehealth" does not include the use of
34 ~~audio-only telephone~~, facsimile machine, e-mail or texting.

35 **Sec. 3. 24-A MRSA §4316, sub-§1, ¶E**, as enacted by PL 2019, c. 289, §2, is
36 repealed.

37 **Sec. 4. 24-A MRSA §4316, sub-§2**, as corrected by RR 2019, c. 2, Pt. A, §28, is
38 amended to read:

39 **2. Parity for telehealth services.** A carrier offering a health plan in this State may
40 not deny coverage on the basis that the health care service is provided through telehealth if
41 the health care service would be covered if it were provided through in-person consultation
42 between an enrollee and a provider. Coverage for health care services provided through

1 telehealth must be determined in a manner consistent with coverage for health care services
2 provided through in-person consultation. A carrier shall reimburse a provider for the
3 diagnosis, consultation with or treatment of an enrollee delivered through telehealth
4 services on the same basis and at least at the rate of reimbursement at which the carrier
5 reimburses a provider for the provision of the same, or substantially similar, service through
6 in-person consultation. If an enrollee is eligible for coverage and the delivery of the health
7 care service through telehealth is medically appropriate, a carrier may not deny coverage
8 for telehealth services. A carrier may not offer a health plan under which any deductible
9 applied to health care services delivered through telehealth accumulates separately from
10 the deductible that applies in the aggregate to all services covered under the health plan. A
11 carrier may offer a health plan containing a provision for a deductible, copayment or
12 coinsurance requirement for a health care service provided through telehealth as long as
13 the deductible, copayment or coinsurance does not exceed the deductible, copayment or
14 coinsurance applicable to a comparable service provided through in-person consultation.
15 A carrier may not exclude a health care service from coverage solely because such health
16 care service is provided only through a telehealth encounter, as long as telehealth is
17 appropriate for the provision of such health care service.

18 **Sec. 5. 24-A MRSA §4316, sub-§3, ¶G** is enacted to read:

19 G. The carrier may not place any restriction on the prescribing of medication through
20 telehealth by a provider whose scope of practice includes prescribing medication that
21 is more restrictive than any requirement in state and federal law for prescribing
22 medication through in-person consultation.

23 **Sec. 6. 24-A MRSA §4316, sub-§5**, as enacted by PL 2019, c. 289, §2, is repealed.

24 **Sec. 7. 24-A MRSA §4316, sub-§6**, as enacted by PL 2019, c. 289, §2, is amended
25 to read:

26 **6. Utilization review.** This section does not prohibit or limit a carrier from conducting
27 a utilization review for telehealth services as long as the utilization review is conducted in
28 the same manner, is applied no more stringently and uses the same clinical review criteria
29 as a utilization review for an in-person consultation for the same service.

30 **Sec. 8. Application.** The requirements of this Act apply to health plans, as defined
31 in the Maine Revised Statutes, Title 24-A, section 4301-A, subsection 7, executed,
32 delivered, issued for delivery, continued or renewed in this State on or after January 1,
33 2022. For purposes of this Act, all health plan contracts are deemed to be renewed no later
34 than the next yearly anniversary of the contract date.

35 SUMMARY

36 This bill makes changes to the provisions governing health insurance coverage of
37 telehealth services.

38 1. It authorizes the delivery of health care services through telehealth by audio-only
39 telephone.

40 2. It clarifies that reimbursement for telehealth services must be made on the same
41 basis and at the same rate as if the services were delivered in person.

1 3. It clarifies that a carrier may not establish separate deductible limits for telehealth
2 services that are not applied in the aggregate with other services covered under a health
3 plan.

4 4. It prohibits a carrier from placing restrictions on prescribing medication through
5 telehealth that are more restrictive than requirements of applicable state and federal law for
6 prescribing medication in person.

7 The bill applies to health plans issued or renewed on or after January 1, 2022.