

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 849

H.P. 617

House of Representatives, March 8, 2021

**An Act To Make Permanent the Telehealth Reimbursement Options
Passed by Emergency Measures**

Reference to the Committee on Health Coverage, Insurance and Financial Services
suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative MATHIESON of Kittery.
Cosponsored by Representatives: BROOKS of Lewiston, GRAMLICH of Old Orchard Beach,
SACHS of Freeport, Senator: BRENNER of Cumberland.

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

2 **Sec. 1. 22 MRSA §3173-H, sub-§1, ¶D**, as amended by PL 2019, c. 649, §1, is
3 further amended to read:

4 D. "Telehealth," as it pertains to the delivery of MaineCare services, means the use of
5 interactive visual and audio or other electronic media for the purpose of consultation
6 and education concerning and diagnosis, treatment, care management and self-
7 management of a patient's physical and mental health and includes real-time interaction
8 between the patient and the patient's provider, electronic consultation between health
9 professionals regarding the patient, synchronous encounters, asynchronous encounters,
10 store and forward transfers and remote patient monitoring. "Telehealth" includes
11 telephonic services ~~when interactive telehealth services are unavailable or when a~~
12 ~~telephonic service is medically appropriate for the underlying covered service.~~

13 **Sec. 2. 22 MRSA §3173-H, sub-§5, ¶D**, as amended by PL 2019, c. 649, §1, is
14 further amended to read:

15 D. Must include requirements for providers providing telehealth and telemonitoring
16 services; ~~and~~

17 **Sec. 3. 22 MRSA §3173-H, sub-§5, ¶E**, as enacted by PL 2019, c. 649, §1, is
18 amended to read:

19 E. Must allow at least some portion of case management services covered by the
20 MaineCare program to be delivered through telehealth, without requiring qualifying
21 criteria regarding a patient's risk of hospitalization or admission to an emergency
22 room; and

23 **Sec. 4. 22 MRSA §3173-H, sub-§5, ¶F** is enacted to read:

24 F. Must provide for reimbursement to providers providing telehealth and
25 telemonitoring services at the same reimbursement rate as comparable services
26 provided through in-person consultation.

27 **Sec. 5. 24 MRSA §2904, sub-§1, ¶A**, as amended by PL 2019, c. 289, §1, is further
28 amended to read:

29 A. A licensed health care practitioner who voluntarily, without the expectation or
30 receipt of monetary or other compensation either directly or indirectly, provides
31 professional services, including services provided through telehealth as defined in Title
32 24-A, section 4316, subsection 1, paragraph ~~E~~ C, within the scope of that health care
33 practitioner's licensure:

- 34 (1) To a nonprofit organization;
- 35 (2) To an agency of the State or any political subdivision of the State;
- 36 (3) To members or recipients of services of a nonprofit organization or state or
37 local agency;
- 38 (4) To support the State's response to a public health threat as defined in Title 22,
39 section 801, subsection 10;
- 40 (5) To support the State's response to an extreme public health emergency as
41 defined in Title 22, section 801, subsection 4-A; or

1 (6) To support the State's response to a disaster as defined in Title 37-B, section
2 703, subsection 2;

3 **Sec. 6. 24-A MRSA §4316, sub-§1, ¶C**, as enacted by PL 2019, c. 289, §2, is
4 amended to read:

5 C. "Telehealth," as it pertains to the delivery of health care services, means the use of
6 interactive real-time visual and audio or other electronic media for the purpose of
7 consultation and education concerning and diagnosis, treatment, care management and
8 self-management of an enrollee's physical and mental health and includes real-time
9 interaction between the enrollee and the telehealth provider, synchronous encounters,
10 asynchronous encounters, store and forward transfers, the use of audio-only telephone
11 and telemonitoring. "Telehealth" does not include the use of ~~audio-only telephone~~,
12 facsimile machine, e-mail or texting.

13 **Sec. 7. 24-A MRSA §4316, sub-§1, ¶E**, as enacted by PL 2019, c. 289, §2, is
14 repealed.

15 **Sec. 8. 24-A MRSA §4316, sub-§2**, as corrected by RR 2019, c. 2, Pt. A, §28, is
16 amended to read:

17 **2. Parity for telehealth services.** A carrier offering a health plan in this State may
18 not deny coverage on the basis that the health care service is provided through telehealth if
19 the health care service would be covered if it were provided through in-person consultation
20 between an enrollee and a provider. Coverage for health care services provided through
21 telehealth must be determined in a manner consistent with coverage for health care services
22 provided through in-person consultation. A carrier shall reimburse a provider for the
23 diagnosis, consultation with or treatment of an enrollee delivered through telehealth
24 services on the same basis and at least at the rate of reimbursement at which the carrier
25 reimburses a provider for the provision of the same, or substantially similar, service through
26 in-person consultation. If an enrollee is eligible for coverage and the delivery of the health
27 care service through telehealth is medically appropriate, a carrier may not deny coverage
28 for telehealth services. A carrier may not offer a health plan under which any deductible
29 applied to health care services delivered through telehealth accumulates separately from
30 the deductible that applies in the aggregate to all services covered under the health plan. A
31 carrier may offer a health plan containing a provision for a ~~deductible~~, copayment or
32 coinsurance requirement for a health care service provided through telehealth as long as
33 the ~~deductible~~, copayment or coinsurance does not exceed the ~~deductible~~, copayment or
34 coinsurance applicable to a comparable service provided through in-person consultation.
35 A carrier may not exclude a health care service from coverage solely because such health
36 care service is provided only through a telehealth encounter, as long as telehealth is
37 appropriate for the provision of such health care service.

38 **Sec. 9. 24-A MRSA §4316, sub-§5**, as enacted by PL 2019, c. 289, §2, is repealed.

39 **Sec. 10. Application.** The requirements of this Act apply to health plans, as defined
40 in the Maine Revised Statutes, Title 24-A, section 4301-A, subsection 7, executed,
41 delivered, issued for delivery, continued or renewed in this State on or after January 1,
42 2022. For the purposes of this Act, all health plan contracts are deemed to be renewed no
43 later than the next yearly anniversary of the contract date.

1 **SUMMARY**

2 This bill makes permanent the authorization for the delivery of health care services
3 through telehealth by telephone that was provided through executive order during the
4 declared public health emergency related to COVID-19.

5 Under current law, health insurance carriers are required to reimburse for services
6 delivered through telehealth at parity with the reimbursement that would be provided if the
7 services were delivered through an in-person consultation, but the use of audio-only
8 telephone to deliver those services is not permitted. This bill removes that prohibition. The
9 bill also clarifies that reimbursement for telehealth services must be made on the same basis
10 and at the same rate as if the services were delivered in person and that a carrier may not
11 establish separate deductible limits for telehealth services that are not applied in the
12 aggregate with other services covered under a health plan.

13 Under current law, telehealth services reimbursed under the MaineCare program for
14 the delivery of service using the telephone are limited to when interactive telehealth
15 services are unavailable or when a telephonic service is medically appropriate for the
16 underlying covered service. This bill removes that limitation and also clarifies that services
17 provided through telehealth must be reimbursed at the same rate as comparable services
18 provided through an in-person consultation.

19 The requirements in the bill apply to health plans issued or renewed on or after January
20 1, 2022.