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FISCAL IMPACT REPORT

ORIGINAL DATE 1/27/18

SPONSOR Gentry LAST UPDATED 2/2/18 HB 162

SHORT TITLE Establish Site of Teledentistry SB _____

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Senate Bill 131

SOURCES OF INFORMATION

LFC Files

Responses Received From

University of New Mexico Health Sciences Center (UNM HSC; to identical HB 162)
 Regulation and Licensing Department (RLD)
 Human Services Department (HSD)

SUMMARY

Synopsis of Bill

House Bill 162 alters the Dental Health Care Act (Section 61-5A NMSA 1978) in its definition of “teledentistry,” part of Section 61-5A-3, subsection T. The change eliminates the list of possible dental care providers who might access telemedicine help. It establishes the site of the dental procedure as being the location of the dentist supervising the dental procedure using teledentistry. The definition of teledentistry is used just once subsequently in the Dental Health Care Act, establishing teledentistry as part of the scope of practice of dentists (Section 61-5A-4 NMSA 1978).

The current statute (in Section 61-5A-3-T) states that teledentistry means “a dentist’s use of health information technology in real time to provide limited diagnostic and treatment planning services in cooperation with another dentist, a dental hygienist, a community dental health coordinator, or a student...”, while the new definition would define teledentistry as “the practice of dentistry where the patient and the dentist are not in the same physical location and that utilizes the exchange of clinical information and images over remote distance.”

FISCAL IMPLICATIONS

There should be no fiscal impact of this change in definition, although it is not clear what the effects of eliminating references to the dental hygienists, community dental health coordinators, or dental or dental hygiene students from the definition would be. Neither RLD, UNM HSC nor the New Mexico Dental Association were able to shed light on the effects that specifying the site of the dental encounter as being that of the remote dentist would have.

SIGNIFICANT ISSUES

The wider use of teledentistry would be similar to the use of telemedicine, as exemplified by the University of New Mexico's ECHO Project. ECHO allows medical providers and their patients in rural areas of New Mexico to access specialty services not readily available outside Albuquerque's metropolitan area.

UNM HSC comments that "Providing health care does require developing a relationship with patients. These services would not be a duplication of services but would provide substantial access to anywhere where people are already gathered such as schools and nursing homes. While there are some areas with access to professional oral exams, there continue to be many areas where a telehealth visit could either be a first encounter or a continued follow-up for patients of record for a dental provider. Dentists and Dental Hygienists professionals can work together to provide this service."

Further, UNM HSC states that "it would be important for patients and their general dentists to have access to the specialty advice in the rural areas of New Mexico. Telehealth in dentistry if funded by insurance companies with reasonable reimbursement to providers, would be a [benefit of] significance provided by telehealth.

"An alternative for many patients is to have the New Mexico's Medical Assistance Division (MAD) classify telemedicine in dentistry as an allowable medical code using a patient's medical insurance."

In its analysis, the Human Services Department sheds light on the underlying reasons for this legislation's being introduced:

One purpose of the bill is to require the Medical Assistance Programs to make payment for teledentistry to what is typically called the "distant site" – that is, where the specialist consultant receives information and provides diagnosis and treatment information. Currently, for teledentistry, as well as all other providers, the telemedicine transmission fee is paid to the originating site which is where the recipient is, typically with a dentist or dental extender.

The new definition of teledentistry changes the service.

1. The wording stating that teledentistry was the "use of health information technology in real time" no longer appears in the definition.

Since the new definition is not in "real time" the service no longer meets the federal definition of "telemedicine." This becomes what the Centers for Medicare and Medicaid Services (CMS) and HSD refer to as "store and forward" technology.

The Medicaid program does pay for “store and forward” technology under some circumstances. Those circumstances would be when information from the distant site consultant includes images such that a diagnosis can be rendered by the distant consultant. Phone calls, images transmitted by fax machines, text messages, and chart notes do not qualify as “store and forward” technology without visual information such as a photo or image specific to the recipient’s condition.

For “store and forward” technology to be reimbursed at the same rate as telehealth, the distant site provider must essentially be a “co-treating” provider. For example, if a general practice dentist took a radiological image (x-ray) of a tooth, and sent that image to a specialist such as an endodontist to diagnosis the condition and describe the treatment that needs to be done, the conditions for payable “store and forward” would have been met. An example of non-payable “store and forward” would be when a physician sends a radiology image to a radiologist to read. The radiologist interprets the radiology image, but does not have a shared responsibility for treating the patient.

Even under the provisions of this bill, it would still be possible to pay for either telemedicine for dentistry or for “store and forward” technology for dentistry, but the payment would be made to the “distant” or consultant site.

2. The new wording for the definition does not require a dentist or dental extender, such as a dental hygienist, to be at the original site.

ADMINISTRATIVE IMPLICATIONS

UNM HSC comments that “Dentistry has seen in the past abuse of providers charging out oral exams, taking x-rays, and then essentially disappearing from that patient’s line of care, which is typical cherry picking. The concern then arises that the next provider will not be able to provide comprehensive care without the patient paying for a repeat oral exam and x-rays. Safeguards need to be in place for protecting patients from this practice model.

“Another administrative implication would be for out-of-state operations to offer the services without having some direct and reasonable connection with a brick-and-mortar dental office for routine dental care. There should also be some offer of attestation that once providing telemedicine dental services, a reasonable expectation the patient knows prior to the telehealth appointment where that follow up service could be obtained in a seamless fashion.”

DUPLICATION of Senate Bill 131.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The definition of teledentistry would still include dental hygienists, community dental health coordinators, and dental and dental hygiene students, and the site of the dental encounter would not be specified.