

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 171

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

AN ACT

RELATING TO HEALTH CARE COVERAGE; ENACTING SECTIONS OF THE  
HEALTH CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE  
HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH  
CARE PLAN LAW TO REQUIRE THAT PROVISION OF COVERED BENEFITS BE  
ALLOWED THROUGH TELEMEDICINE SERVICES; PROVIDING FOR REVIEW AND  
APPEAL RIGHTS FOR DENIALS OF TELEMEDICINE COVERAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** A new section of the Health Care Purchasing  
Act is enacted to read:

"[NEW MATERIAL] COVERAGE FOR TELEMEDICINE SERVICES.--

A. Group health coverage, including any form of  
self-insurance, offered, issued or renewed under the Health  
Care Purchasing Act shall allow covered benefits to be provided  
through telemedicine services.

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underscored material = new  
[bracketed material] = delete

1           B. The provisions of this section shall not be  
2 construed to require coverage of an otherwise noncovered  
3 benefit.

4           C. A determination by a group health plan that  
5 health care services delivered through the use of telemedicine  
6 are not covered under the plan shall be subject to review and  
7 appeal pursuant to the Patient Protection Act.

8           D. The provisions of this section shall not apply  
9 in the event that federal law requires the state to make  
10 payments on behalf of enrollees to cover the costs of  
11 implementing this section.

12           E. Nothing in this section shall require a health  
13 care provider to be physically present with a patient at the  
14 originating site unless the consulting telemedicine provider  
15 deems it necessary.

16           F. Telemedicine used to provide clinical services  
17 shall be encrypted and shall conform to state and federal  
18 privacy laws.

19           G. The provisions of this section shall not apply  
20 to group health coverage intended to supplement major medical  
21 group-type coverage, such as medicare supplement, long-term  
22 care, disability income, specified disease, accident-only,  
23 hospital indemnity or any other limited-benefit health  
24 insurance policy.

25           H. As used in this section:

.193834.6

1 (1) "consulting telemedicine provider" means a  
2 health care provider that delivers telemedicine services from a  
3 location remote from an originating site;

4 (2) "health care provider" means a duly  
5 licensed hospital or other licensed facility, physician or  
6 other health care professional authorized to furnish health  
7 care services within the scope of the professional's license;

8 (3) "in real time" means occurring  
9 simultaneously, instantaneously or within seconds of an event  
10 so that there is little or no noticeable delay between two or  
11 more events;

12 (4) "originating site" means a place at which  
13 a patient is physically located and receiving health care  
14 services via telemedicine;

15 (5) "store-and-forward technology" means  
16 electronic information, imaging and communication, including  
17 interactive audio, video and data communications, that is  
18 transferred or recorded or otherwise stored for asynchronous  
19 use; and

20 (6) "telemedicine" means the use of  
21 interactive simultaneous audio and video or store-and-forward  
22 technology using information and telecommunications  
23 technologies by a health care provider to deliver health care  
24 services at a site other than the site where the patient is  
25 located, including the use of electronic media for consultation

.193834.6

1 relating to the health care diagnosis or treatment of the  
2 patient in real time or through the use of store-and-forward  
3 technology."

4 SECTION 2. A new section of Chapter 59A, Article 22 NMSA  
5 1978 is enacted to read:

6 "[NEW MATERIAL] COVERAGE FOR TELEMEDICINE SERVICES.--

7 A. An individual or group health insurance policy,  
8 health care plan or certificate of health insurance that is  
9 delivered, issued for delivery or renewed in this state shall  
10 allow covered benefits to be provided through telemedicine  
11 services.

12 B. The provisions of this section shall not be  
13 construed to require coverage of an otherwise noncovered  
14 benefit.

15 C. A determination by an insurer that health care  
16 services delivered through the use of telemedicine are not  
17 covered under the plan shall be subject to review and appeal  
18 pursuant to the Patient Protection Act.

19 D. The provisions of this section shall not apply  
20 in the event that federal law requires the state to make  
21 payments on behalf of enrollees to cover the costs of  
22 implementing this section.

23 E. Nothing in this section shall require a health  
24 care provider to be physically present with a patient at the  
25 originating site unless the consulting telemedicine provider

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1 deems it necessary.

2 F. Telemedicine used to provide clinical services  
3 shall be encrypted and shall conform to state and federal  
4 privacy laws.

5 G. The provisions of this section shall not apply  
6 to an individual policy, plan or contract intended to  
7 supplement major medical group-type coverage, such as medicare  
8 supplement, long-term care, disability income, specified  
9 disease, accident-only, hospital indemnity or any other  
10 limited-benefit health insurance policy.

11 H. As used in this section:

12 (1) "consulting telemedicine provider" means a  
13 health care provider that delivers telemedicine services from a  
14 location remote from an originating site;

15 (2) "health care provider" means a duly  
16 licensed hospital or other licensed facility, physician or  
17 other health care professional authorized to furnish health  
18 care services within the scope of the professional's license;

19 (3) "in real time" means occurring  
20 simultaneously, instantaneously or within seconds of an event  
21 so that there is little or no noticeable delay between two or  
22 more events;

23 (4) "originating site" means a place at which  
24 a patient is physically located and receiving health care  
25 services via telemedicine;

.193834.6

1 (5) "store-and-forward technology" means  
2 electronic information, imaging and communication, including  
3 interactive audio, video and data communication, that is  
4 transferred or recorded or otherwise stored for asynchronous  
5 use; and

6 (6) "telemedicine" means the use of  
7 interactive simultaneous audio and video or store-and-forward  
8 technology using information and telecommunications  
9 technologies by a health care provider to deliver health care  
10 services at a site other than the site where the patient is  
11 located, including the use of electronic media for consultation  
12 relating to the health care diagnosis or treatment of the  
13 patient in real time or through the use of store-and-forward  
14 technology."

15 SECTION 3. A new section of Chapter 59A, Article 23 NMSA  
16 1978 is enacted to read:

17 "[NEW MATERIAL] COVERAGE FOR TELEMEDICINE SERVICES.--

18 A. A blanket or group health insurance policy or  
19 contract that is delivered, issued for delivery or renewed in  
20 this state shall allow covered benefits to be provided through  
21 telemedicine services.

22 B. The provisions of this section shall not be  
23 construed to require coverage of an otherwise noncovered  
24 benefit.

25 C. A determination by an insurer that health care

1 services delivered through the use of telemedicine are not  
2 covered under the plan shall be subject to review and appeal  
3 pursuant to the Patient Protection Act.

4 D. The provisions of this section shall not apply  
5 in the event that federal law requires the state to make  
6 payments on behalf of enrollees to cover the costs of  
7 implementing this section.

8 E. Nothing in this section shall require a health  
9 care provider to be physically present with a patient at the  
10 originating site unless the consulting telemedicine provider  
11 deems it necessary.

12 F. Telemedicine used to provide clinical services  
13 shall be encrypted and shall conform to state and federal  
14 privacy laws.

15 G. The provisions of this section shall not apply  
16 to a group or blanket policy, plan or contract intended to  
17 supplement major medical group-type coverage, such as medicare  
18 supplement, long-term care, disability income, specified  
19 disease, accident-only, hospital indemnity or any other  
20 limited-benefit health insurance policy.

21 H. As used in this section:

22 (1) "consulting telemedicine provider" means a  
23 health care provider that delivers telemedicine services from a  
24 location remote from an originating site;

25 (2) "health care provider" means a duly

.193834.6

1 licensed hospital or other licensed facility, physician or  
2 other health care professional authorized to furnish health  
3 care services within the scope of the professional's license;

4 (3) "in real time" means occurring  
5 simultaneously, instantaneously or within seconds of an event  
6 so that there is little or no noticeable delay between two or  
7 more events;

8 (4) "originating site" means a place at which  
9 a patient is physically located and receiving health care  
10 services via telemedicine;

11 (5) "store-and-forward technology" means  
12 electronic information, imaging and communication, including  
13 interactive audio, video and data communication, that is  
14 transferred or recorded or otherwise stored for asynchronous  
15 use; and

16 (6) "telemedicine" means the use of  
17 interactive simultaneous audio and video or store-and-forward  
18 technology using information and telecommunications  
19 technologies by a health care provider to deliver health care  
20 services at a site other than the site where the patient is  
21 located, including the use of electronic media for consultation  
22 relating to the health care diagnosis or treatment of the  
23 patient in real time or through the use of store-and-forward  
24 technology."

25 SECTION 4. A new section of the Health Maintenance

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1 Organization Law is enacted to read:

2 "[~~NEW MATERIAL~~] COVERAGE FOR TELEMEDICINE SERVICES.--

3 A. An individual or group health maintenance  
4 organization contract that is delivered, issued for delivery or  
5 renewed in this state shall allow covered benefits to be  
6 provided through telemedicine services.

7 B. The provisions of this section shall not be  
8 construed to require coverage of an otherwise noncovered  
9 benefit.

10 C. A determination by a health maintenance  
11 organization that health care services delivered through the  
12 use of telemedicine are not covered under the plan shall be  
13 subject to review and appeal pursuant to the Patient Protection  
14 Act.

15 D. The provisions of this section shall not apply  
16 in the event that federal law requires the state to make  
17 payments on behalf of enrollees to cover the costs of  
18 implementing this section.

19 E. Nothing in this section shall require a health  
20 care provider to be physically present with a patient at the  
21 originating site unless the consulting telemedicine provider  
22 deems it necessary.

23 F. Telemedicine used to provide clinical services  
24 shall be encrypted and shall conform to state and federal  
25 privacy laws.

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1           G. The provisions of this section shall not apply  
2 to an individual or group health maintenance organization  
3 contract intended to supplement major medical group-type  
4 coverage, such as medicare supplement, long-term care,  
5 disability income, specified disease, accident-only, hospital  
6 indemnity or any other limited-benefit health insurance policy.

7           H. As used in this section:

8                   (1) "consulting telemedicine provider" means a  
9 health care provider that delivers telemedicine services from a  
10 location remote from an originating site;

11                   (2) "in real time" means occurring  
12 simultaneously, instantaneously or within seconds of an event  
13 so that there is little or no noticeable delay between two or  
14 more events;

15                   (3) "originating site" means a place at which  
16 a patient is physically located and receiving health care  
17 services via telemedicine;

18                   (4) "store-and-forward technology" means  
19 electronic information, imaging and communication, including  
20 interactive audio, video and data communication, that is  
21 transferred or recorded or otherwise stored for asynchronous  
22 use; and

23                   (5) "telemedicine" means the use of  
24 interactive simultaneous audio and video or store-and-forward  
25 technology using information and telecommunications

1 technologies by a health care provider to deliver health care  
 2 services within that provider's scope of practice at a site  
 3 other than the site where the patient is located, including the  
 4 use of electronic media for consultation relating to the health  
 5 care diagnosis or treatment of the patient in real time or  
 6 through the use of store-and-forward technology."

7 SECTION 5. A new section of Chapter 59A, Article 47 NMSA  
 8 1978 is enacted to read:

9 "[NEW MATERIAL] COVERAGE FOR TELEMEDICINE SERVICES.--

10 A. An individual or group health insurance policy,  
 11 health care plan or certificate of health insurance delivered  
 12 or issued for delivery in this state shall allow covered  
 13 benefits to be provided through telemedicine services.

14 B. The provisions of this section shall not be  
 15 construed to require coverage of an otherwise noncovered  
 16 benefit.

17 C. A determination by a nonprofit health plan that  
 18 health care services delivered through the use of telemedicine  
 19 are not covered under the plan shall be subject to review and  
 20 appeal pursuant to the Patient Protection Act.

21 D. The provisions of this section shall not apply  
 22 in the event that federal law requires the state to make  
 23 payments on behalf of enrollees to cover the costs of  
 24 implementing this section.

25 E. Nothing in this section shall require a health

.193834.6

1 care provider to be physically present with a patient at the  
2 originating site unless the consulting telemedicine provider  
3 deems it necessary.

4 F. Telemedicine used to provide clinical services  
5 shall be encrypted and shall conform to state and federal  
6 privacy laws.

7 G. The provisions of this section shall not apply  
8 to an individual or group health care plan intended to  
9 supplement major medical group-type coverage, such as medicare  
10 supplement, long-term care, disability income, specified  
11 disease, accident-only, hospital indemnity or any other  
12 limited-benefit health insurance policy.

13 H. As used in this section:

14 (1) "consulting telemedicine provider" means a  
15 health care provider that delivers telemedicine services from a  
16 location remote from an originating site;

17 (2) "health care provider" means a duly  
18 licensed hospital or other licensed facility, physician or  
19 other health care professional authorized to furnish health  
20 care services within the scope of the professional's license;

21 (3) "in real time" means occurring  
22 simultaneously, instantaneously or within seconds of an event  
23 so that there is little or no noticeable delay between two or  
24 more events;

25 (4) "originating site" means a place at which

1 a patient is physically located and receiving health care  
2 services via telemedicine;

3 (5) "store-and-forward technology" means  
4 electronic information, imaging and communication, including  
5 interactive audio, video and data communication, that is  
6 transferred or recorded or otherwise stored for asynchronous  
7 use; and

8 (6) "telemedicine" means the use of  
9 interactive simultaneous audio and video or store-and-forward  
10 technology using information and telecommunications  
11 technologies by a health care provider to deliver health care  
12 services at a site other than the site where the patient is  
13 located, including the use of electronic media for consultation  
14 relating to the health care diagnosis or treatment of the  
15 patient in real time or through the use of store-and-forward  
16 technology."