F I S C A L I M P A C T R E P O R T

SPONSOR Ortiz Y Pino **ORIGINAL DATE** 2/19/19 **LAST UPDATED** **HB**

SHORT TITLE Health Coverage Via Telemedicine **SB** 354/aSPAC

ANALYST Martinez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications	See Fiscal Implications			

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB241

SOURCES OF INFORMATION

LFC Files

Responses Received From
Office of the Superintendent of Insurance (OSI)
Human Services Department (HSD)
Department of Health (DOH)
Retiree Health Care Authority (RHCA)

Responses NOT Received From
General Services Department (GSD)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to SB354 amends all instances of the provision requiring coverage for out-of-network telemedicine services to say that the plan is required to cover out-of-network telemedicine services where no in-network provider is available and accessible, as defined under network adequacy standards issued by the superintendent. This amendment was recommended by the Office of the Superintendent of Insurance as seen below in the significant issues section, provided for the original bill.

Synopsis of Original Bill

SB354 amends sections of the Health Care Purchasing Act, the New Mexico Insurance Code, the Health Care Maintenance Organization Law and the Nonprofit Health Care Plan Law to prohibit

certain restrictions on, and establish new requirements for, coverage of services provided via telemedicine. Group health coverage, an individual, blanket or group health insurance policy or health care plan, as follows:

A. Plans shall provide coverage for services provided via telemedicine to the same extent that the health insurance plan, policy or contract covers the same services when those services are provided via in-person consultation or contact. An insurer shall not impose any unique condition for coverage of services provided via telemedicine.

B. An insurer shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

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

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

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

F. A group health plan shall not limit coverage of services delivered via telemedicine only to those health care providers who are members of the group health plan provider network.

G. A group health plan may charge a deductible, copayment or coinsurance for a health care service delivered via telemedicine if it does not exceed the deductible, copayment or coinsurance applicable to a service delivered via in-person consultation or contact.

H. A group health plan shall not impose any annual or lifetime dollar maximum on coverage for services delivered via telemedicine, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the group health plan, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance or deductible amounts, or any plan year, calendar year, lifetime or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the group health plan.

I. A group health plan shall reimburse for health care services delivered via telemedicine on the same basis and at least the same rate that the group health plan reimburses for comparable services delivered via in-person consultation or contact.

J. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

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

FISCAL IMPLICATIONS

The Office of the Superintendent of Insurance provided the following:

The requirement that health plans reimburse, generally, for out-of-network telemedicine services may result in increased health care costs. Typically, health plans control health care costs by referring covered persons to in-network providers.

The Human Services Department provided the following:

None for HSD. The Medicaid program is not categorized as a group health plan.
The Medicaid program currently covers the services proposed in SB354 without annual or lifetime dollar maximums.

The Retiree Health Care Authority (RHCA) provided the following:

The New Mexico Retiree Health Care Authority contracts with Presbyterian Health Plan, United Health Care and Humana — all of which offer video visits as part of its services to RHCA members. The parameters of the telemedicine rules with each of the carries already are in line with those outlined in Senate Bill 354's proposal. RHCA does not anticipate a financial impact as a result of the bill.

SIGNIFICANT ISSUES

The Office of the Superintendent of Insurance provided the following on the original bill:

OSI recommends amending the provision requiring coverage for out-of-network telemedicine services to say that the plan is required to cover out-of-network telemedicine services where no in-network provider is available and accessible, as defined under network adequacy standards issued by the superintendent.

The Human Services Department provided the following:

The Medicaid program is not categorized as a group health plan. Telemedicine is an effective way of providing access to care in rural and underserved areas.

The Department of Health submitted the following:

The use of telemedicine continues to increase because of several benefits: 1) it improves access for patients and also allows physicians to expand their reach, often to rural areas, 2) it has been shown to reduce the cost of healthcare and increase efficiency through better management of chronic diseases, shared health professional staffing, reduced travel times, and fewer or shorter hospital stays, and 3) for some specialties, particularly in mental health and intensive care, telemedicine delivers better patient outcomes and patient satisfaction (http://www.americantelemed.org/main/about/about-telemedicine/telemedicine-benefits).

Telemedicine is viewed as a cost-effective alternative to the more traditional face-to-face way of providing medical care (e.g., face-to-face consultations or examinations between provider and patient). As such, for the purposes of Medicaid as an example, states have the option/flexibility

to determine whether (or not) to cover telemedicine; what types of telemedicine to cover; where in the state it can be covered; how it is provided/covered; what types of telemedicine practitioners/providers may be covered/reimbursed, as long as such practitioners/providers are "recognized" and qualified according to Medicaid statute/regulation; and how much to reimburse for telemedicine services, as long as such payments do not exceed Federal Upper Limits (https://www.medicaid.gov/medicaid/benefits/telemed/index.html).

Telehealth coverage laws, such as proposed by SB354, require health plans to cover services provided via telecommunication to the same extent the plan already covers the services if provided through an in-person visit. Telehealth coverage laws also frequently include language to protect patients from cost-shifting. To this end, SB354 would disallow health plans from imposing different deductibles, co-payments or maximum benefit caps for services provided via telecommunication. Any deductibles, co-payments and benefit caps would apply equally and identically whether the patient receives the care in-person or via telecommunication. Such language prevents the patient from being saddled with higher co-payments to access care via telecommunication. SB354 would also require a group health plan to reimburse for health care services delivered via telemedicine on the same bases and at least the same rate that it reimburses for comparable services delivered in -person. This requirement for "telehealth payment parity" would avoid the problem of health plans paying for telehealth services at only a percentage of the in-person rate or imposing restrictive conditions on telehealth (https://www.healthcarelawtoday.com/2015/08/13/examining-payment-parity-in-telehealth-laws/).

New Mexico enacted a telemedicine parity law in 2013 that requires private payers to reimburse for telemedicine services in the same way they would cover comparable in-person medical services. Telemedicine is also covered by NM Managed Care; all services are covered via telemedicine, including school-based, dental, home health, hospice, and rehabilitation. (50 State Telemedicine Gaps Analysis, page 60, https://bit.ly/2TvbSdZ). New Mexico currently covers one of the widest ranges of telemedicine health services in the U.S., including behavior analysts and substance use or addiction specialists, due to how health care provider is defined. SB354 would improve upon the existing law in some additional ways: prohibiting originating site restrictions and limitations on network coverage, and providing a more comprehensive definition of "telemedicine." New Mexico currently receives a grade of "C" for eligible technologies, which should improve with an upgraded definition. (50 State Telemedicine Gaps Analysis, page 60, https://bit.ly/2TvbSdZ).

SB354 would not address issues of compliance (monitoring, penalties, complaints, etc.) and therefore might not provide sufficient enforcement if enacted.

For primary care providers, 32 of New Mexico's 33 counties are designated as geographic Healthcare Provider Shortage Areas (HPSAs) or contain smaller service areas and/or populations designated as HPSAs (https://www.nmnec.org/uploads/FileLinks/933875ef41ef4474b4e844f09423bbef/NM_Hlthcr_Workforce_Comm_2015_Report.pdf). In rural areas, where long distances and provider shortages are barriers to care, telemedicine services increase patient access to services such as emergency department care, home health, specialty care, medication adherence, and intensive care monitoring and improve patient outcomes.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB354 relates to SB241, which would establish a site for teledentistry.

OTHER SUBSTANTIVE ISSUES

Expanding SB69 (signed 2013). As multiple State Acts are amended in the statutes, language must be reconciled to avoid any apparent conflict.

Several statutes would be amended with the enactment of SB354 including, sections of the Health Care Purchasing Act, the New Mexico Insurance Code, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If SB354 is not enacted, sections of the Health Care Purchasing Act, the New Mexico Insurance Code, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law would not be updated to prohibit restrictions on telemedicine services, and requirements for coverage of telemedicine services would not be updated.

JM/gb/al