

Introduced by

Senators Lee, Anderson, K. Roers

Representatives Dobervich, Westlind

1 A BILL for an Act to amend and reenact section 26.1-36-09.15 of the North Dakota Century
2 Code, relating to health insurance coverage of telehealth; and to declare an emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 26.1-36-09.15 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **26.1-36-09.15. Coverage of telehealth services.**

7 1. As used in this section:

8 a. "Distant site" means a site at which a health care provider or health care facility is
9 located while providing medical services by means of telehealth.

10 b. "Health care facility" means any office or institution at which health services are
11 provided. The term includes hospitals; clinics; ambulatory surgery centers;
12 outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted,
13 living, and residential facilities; group homes; laboratories; and offices of any
14 health care provider.

15 c. "Health care provider" includes an individual licensed under chapter 43-05,
16 43-06, 43-12.1 as a registered nurse or as an advanced practice registered
17 nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42,
18 43-44, 43-45, 43-47, 43-58, or 43-60.

19 d. "Originating site" means a site at which a patient is located at the time health
20 services are provided to the patient by means of telehealth.

21 e. "Policy" means an accident and health insurance policy, contract, or evidence of
22 coverage on a group, individual, blanket, franchise, or association basis.

23 f. "Store-and-forward technology" means electronic information, imaging, and
24 communication that is transferred, recorded, or otherwise stored in order to be

1 reviewed at a distant site at a later date by a health care provider or health care
2 facility without the patient present in real time. The term includes ~~telehome~~remote
3 patient monitoring and interactive audio, video, and data communication.

4 g. "Telehealth":

5 (1) Means the use of interactive audio, video, or other telecommunications
6 technology that is used by a health care provider or health care facility at a
7 distant site to deliver health services at an originating site and that is
8 delivered over a secure connection that complies with the requirements of
9 state and federal laws.

10 (2) Includes the use of electronic media for consultation relating to the health
11 care diagnosis or treatment of a patient in real time or through the use of
12 store-and-forward technology.

13 (3) Includes audio-only telephone if no other means of communications
14 technology are available to the patient, including lack of adequate
15 broadband access, or that other means of communications technology
16 being infeasible, impractical, or otherwise not medically advisable, as
17 determined by the health care provider or health care facility providing
18 telehealth services to the patient or as determined by another health care
19 provider or health care facility with an existing relationship with the patient.

20 (4) Does not include the use of ~~audio-only telephone~~, electronic mail, or
21 facsimile transmissions.

22 2. An insurer may not deliver, issue, execute, or renew a policy that provides health
23 benefits coverage unless that policy provides coverage for health services delivered
24 by means of telehealth which is the same as the coverage for health services
25 delivered by in-person means.

26 3. Payment or reimbursement of expenses for covered health services delivered by
27 means of telehealth under this section may not be established ~~through negotiations~~
28 ~~conducted by the insurer with the health services providers in the same manner as the~~
29 ~~insurer with the health services providers in the same manner as the insurer~~
30 ~~establishes payment or less than~~ reimbursement of expenses for covered health
31 services that are delivered by in-person means.

- 1 4. Coverage under this section may be subject to deductible, coinsurance, and
2 copayment provisions. However, any coinsurance or copayment applicable to covered
3 health services delivered by means of telehealth must be equivalent to the
4 coinsurance or copayment applicable to such covered health services if delivered by
5 in-person means and coverage may not provide for application of a deductible to
6 covered health services delivered by means of telehealth which accumulates
7 separately from the deductible that applies in the aggregate to all items and services
8 covered.
- 9 5. This section does not require:
- 10 a. A policy to provide coverage for health services that are not medically necessary,
11 subject to the terms and conditions of the policy;
- 12 b. A policy to provide coverage for health services delivered by means of telehealth
13 if the policy would not provide coverage for the health services if delivered by
14 in-person means;
- 15 c. A policy to reimburse a health care provider or health care facility for expenses
16 for health services delivered by means of telehealth if the policy would not
17 reimburse that health care provider or health care facility if the health services
18 had been delivered by in-person means; or
- 19 d. A health care provider to be physically present with a patient at the originating
20 site unless the health care provider who is delivering health services by means of
21 telehealth determines the presence of a health care provider is necessary.
- 22 6. An insurer may not impose any type of utilization management on health services
23 delivered by means of telehealth unless that type of utilization management is
24 imposed if the health services had been delivered by in-person means.
- 25 7. An insurer may not require an in-person consultation or contact with a health care
26 provider or a health care facility before a patient may receive health services delivered
27 by means of telehealth.

28 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.