

House Bill 2508

Sponsored by Representative PRUSAK, Senator BEYER; Representatives CLEM, SCHOUTEN, WILDE, Senator GORSEK (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Oregon Health Authority to ensure reimbursement of health services delivered using telemedicine.

Modifies requirements for health benefit plan coverage of telemedicine.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to telemedicine; creating new provisions; amending ORS 743A.058; and declaring an emer-
3 gency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) As used in this section:**

6 (a) **“Coordinated care organization” has the meaning given that term in ORS 414.025.**

7 (b) **“Health services” has the meaning given that term in ORS 414.025.**

8 (c) **“Telemedicine” means health services for physical, behavioral or oral health condi-**
9 **tions delivered by way of electronic information and telecommunications technologies.**

10 (2) **To encourage the efficient use of resources and to promote cost-effective procedures**
11 **in accordance with ORS 413.011 (1)(L), the Oregon Health Authority shall reimburse the cost**
12 **of health services delivered using telemedicine, including but not limited to:**

13 (a) **Health services transmitted via landlines, wireless communications, the Internet and**
14 **telephone networks;**

15 (b) **Synchronous or asynchronous transmissions using audio only, video only, audio and**
16 **video or text-based media and transmission of data from remote monitoring devices; and**

17 (c) **Communications between providers or between one or more providers and one or**
18 **more patients, family members, caregivers or guardians.**

19 (3) **The authority shall include the costs of telemedicine services in wraparound payment**
20 **rates made to clinics or other providers.**

21 (4) **The authority shall adopt rules to ensure that coordinated care organizations reim-**
22 **burse the cost of health services delivered using telemedicine, consistent with subsection (2)**
23 **of this section.**

24 **SECTION 2. The Oregon Health Authority shall take all steps necessary to carry out the**
25 **provisions of section 1 of this 2021 Act no later than January 1, 2022.**

26 **SECTION 3. ORS 743A.058 is amended to read:**

27 743A.058. (1) As used in this section:

28 (a) **“Health benefit plan” has the meaning given that term in ORS 743B.005.**

29 (b) **“Health professional” means a person licensed, certified or registered in this state to provide**
30 **health care services or supplies.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) **“Health service” means physical, oral and behavioral health treatment or service**
 2 **provided by a health professional.**

3 [(c)] (d) **“Originating site” means the physical location of the patient.**

4 (2) A health benefit plan must [*provide coverage of a health service that is provided using syn-*
 5 *chronous two-way interactive video conferencing*] **reimburse the cost of any health service deliv-**
 6 **ered via telemedicine if:**

7 (a) The plan [*provides coverage*] **reimburses the cost** of the health service when provided in
 8 person by a health professional;

9 (b) The health service is medically necessary;

10 (c) The health service is determined to be safely and effectively provided [*using synchronous*
 11 *two-way interactive video conferencing*] **via telemedicine** according to generally accepted health care
 12 practices and standards; and

13 (d) The application and technology used to provide the health service meet all standards re-
 14 quired by state and federal laws governing the privacy and security of protected health information.

15 (3)(a) **Except as provided in paragraph (b) of this subsection, permissible telemedicine**
 16 **applications and technologies include:**

17 (A) **Landlines, wireless communications, the Internet and telephone networks; and**

18 (B) **Synchronous or asynchronous transmissions using audio only, video only, audio and**
 19 **video or text-based media and transmission of data from remote monitoring devices.**

20 (b) **During a state of emergency declared by the Governor under ORS 401.165 or a public**
 21 **health emergency proclaimed by the Governor under ORS 433.441, an insurer shall reimburse**
 22 **a provider for the cost of a telemedicine service delivered using any commonly available**
 23 **technology regardless of whether the technology meets all standards required by state and**
 24 **federal laws governing the privacy and security of protected health information.**

25 [(3)] (4) A health benefit plan may not:

26 (a) **Distinguish between rural and urban originating sites in [*providing coverage*] the re-**
 27 **imbursement paid under subsection (2) of this section or restrict originating sites that qualify**
 28 **for reimbursement.**

29 (b) **Restrict a health care provider to delivering services only in-person or only via tele-**
 30 **medicine.**

31 (c) **Use telemedicine health care providers to meet network adequacy standards under**
 32 **ORS 743B.505.**

33 (d) **Require an enrollee to have an established patient-provider relationship with a pro-**
 34 **vider to receive telemedicine health services from the provider or require an enrollee to**
 35 **consent to telemedicine services in person.**

36 (e) **Impose additional certification, location or training requirements for telemedicine**
 37 **providers or restrict the scope of services that may be provided using telemedicine to less**
 38 **than a provider’s permissible scope of practice.**

39 (f) **Impose more restrictive requirements for telemedicine applications and technologies**
 40 **than those specified in subsection (3) of this section.**

41 (g) **Impose on telemedicine health services different annual dollar maximums or prior**
 42 **authorization requirements than the annual dollar maximums and prior authorization re-**
 43 **quirements imposed on the services if provided in person.**

44 (h) **Require a medical assistant or other health professional to be present with an**
 45 **enrollee at the originating site.**

1 (i) Deny an enrollee the choice to receive a health service in person or via telemedicine.

2 (j) Reimburse an out-of-network provider at a rate for telemedicine health services that
3 is different than the reimbursement paid to the out-of-network provider for health services
4 delivered in person.

5 (k) Restrict a provider from providing telemedicine services across state lines if:

6 (i) The services are within the provider's scope of practice; and

7 (ii) The provider has an established practice within this state.

8 (L) Prevent a provider from prescribing, dispensing or administering drugs or medical
9 supplies or otherwise providing treatment recommendations to an enrollee after having per-
10 formed an appropriate examination of the enrollee in person, through telemedicine or by the
11 use of instrumentation and diagnostic equipment through which images and medical records
12 may be transmitted electronically.

13 (m) Establish standards for treatment recommendations made using telemedicine that
14 are higher than standards for treatment recommendations made in person.

15 (5) A health benefit plan shall:

16 (a) Work with contracted providers to ensure meaningful access to telemedicine services
17 by assessing an enrollee's capacity to use telemedicine technologies that comply with acces-
18 sibility standards, including alternate formats, and providing the optimal quality of care for
19 the enrollee given the enrollee's capacity;

20 (b) Ensure access to auxiliary aids and services to ensure that telemedicine services ac-
21 commodate the needs of enrollees who have difficulty communicating due to a medical con-
22 dition, who need an accommodation due to disability or advanced age or who have limited
23 English proficiency;

24 (c) Ensure access to telemedicine services for enrollees who have limited English profi-
25 ciency or who are deaf or hard-of-hearing by providing interpreter services reimbursed at the
26 same rate as interpreter services provided in person; and

27 (d) Ensure that telemedicine services are culturally and linguistically appropriate and
28 trauma-informed.

29 [(4)] (6) The coverage under subsection (2) of this section is subject to:

30 (a) The terms and conditions of the health benefit plan; and

31 (b) **Subject to subsection (7) of this section**, the reimbursement specified in the contract be-
32 tween the plan and the health professional.

33 (7) **A health benefit plan must pay the same reimbursement for a health service regard-**
34 **less of whether the service is provided in person or using any permissible telemedicine ap-**
35 **plication or technology or whether the health benefit plan reimburses a provider on a**
36 **fee-for-service basis or using an alternative payment methodology.**

37 [(5)] (8) This section does not require a health benefit plan to reimburse a health professional:

38 (a) For a health service that is not a covered benefit under the plan; or

39 (b) Who has not contracted with the plan.

40 (9) **This section is exempt from ORS 743A.001.**

41 **SECTION 4. This 2021 Act being necessary for the immediate preservation of the public**
42 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
43 **on its passage.**