

## **BILL ANALYSIS**

Senate Research Center  
86R20078 MM-F

C.S.S.B. 670  
By: Buckingham  
Health & Human Services  
3/20/2019  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2017, the Texas Legislature passed S.B. 1107, which created a streamlined regulatory system for the provision of telemedicine and telehealth services at the Texas Medical Board. Since the passage of that bill, stakeholders have become aware that additional concurring changes need to be made at the Health and Human Services Commission (HHSC) in order to remove unnecessary and burdensome regulatory provisions from the program. As such, S.B. 670 seeks to make necessary changes to the regulation and payment of telemedicine and telehealth services provided through the Texas Medicaid program. These changes will ensure that patients and providers have access to a full array of choices when participating in virtual health care.

Under S.B. 670, the following regulatory requirements will be repealed:

- requirements for patient site presenters for school-based clinics;
- consulting with the Department of State Health Services on telemedicine services;
- annual reviews of what services are and are not appropriate for telemedicine/telehealth reimbursement at Medicaid;
- HHSC setting and enforcing minimum technology standards for telemedicine and telehealth;
- mandatory requirements for facility fees/fee splitting and consulting with CMS about those fees; and
- aligning Texas Medicaid telemedicine policy with Medicare.

S.B. 670 also directs Medicaid health plans to not deny payment of services solely because the service was provided via telemedicine/telehealth rather than in person. The goal of this language is to avoid having to go service by service through all the Medicaid services that are possible and add them to telemedicine/telehealth reimbursement one at a time. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 670 amends current law relating to Medicaid telemedicine and telehealth services.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) is modified in SECTION 1 (Section 531.0216, Government Code) of this bill.

Rulemaking authority previously granted to HHSC is rescinded in SECTION 3 (Section 531.0217, Government Code) of this bill.

Rulemaking authority previously granted to the executive commissioner is rescinded in SECTION 3 (Sections 531.02161 and 531.02173, Government Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 531.0216, Government Code, by amending Subsection (b) and adding Subsection (g), as follows:

(b) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC), in developing a system to reimburse providers of services under Medicaid for services performed using telemedicine medical services or telehealth services, by rule to:

(1)–(2) makes no changes to these subdivisions;

(3) deletes existing Subdivision (3) (relating to the requirement that the executive commissioner consult with the Department of State Health Services (DSHS) to establish certain procedures) and redesignates existing Subdivision (4) as Subdivision (3); and

(4) redesignates existing Subdivision (5) as Subdivision (4).

(g) Requires HHSC to ensure a managed care organization that contracts with HHSC under Chapter 533 (Medicaid Managed Care Program) to provide health care services to Medicaid recipients does not deny reimbursement for a covered health care service or procedure delivered by a health care provider with whom the managed care organization contracts to a recipient as a telemedicine medical service or a telehealth service solely because the covered service or procedure is not provided through an in-person consultation. Requires a managed care organization determining whether reimbursement for a telemedicine or telehealth medical service or telehealth service is appropriate, in complying with state and federal requirements to provide access to medically necessary services under the Medicaid managed care program, to continue to consider other factors, including whether reimbursement is cost-effective and whether the provision of the service is clinically effective.

SECTION 2. Amends Section 531.0217(c-4), Government Code, as follows:

(c-4) Deletes existing text requiring HHSC to ensure that Medicaid reimbursement is provided to a physician for a telemedicine medical service provided by the physician, even if the physician is not the patient's primary care physician or provider, if a health professional is present with the patient during the treatment. Makes nonsubstantive changes.

SECTION 3. Repealer: Section 531.0216(e) (relating to prohibiting HHSC from reimbursing a health care facility for telemedicine medical services or telehealth services provided to a Medicaid recipient unless certain conditions are met), Government Code.

Repealer: Section 531.02161 (Telemedicine, Telehealth, and Home Telemonitoring Technology Standards), Government Code.

Repealer: Sections 531.0217(c-2) (relating to the requirement that HHSC develop rules to allocate certain reimbursements or facility fees between a physician consulting from a distant site and a health professional present with the patient) and (c-3) (relating to the requirement that the rules adopted in Subsection (c-2) by HHSC adhere to certain conditions), Government Code.

Repealer: Section 531.02173 (Alignment of Medicaid Telemedicine Reimbursement Policies with Medicare Reimbursement Policies), Government Code.

SECTION 4. Requires a state agency affected by a provision of this Act to request a waiver or authorization from a federal agency if the state agency determines that such a waiver or

authorization is necessary for implementation of a provision of this Act, and authorizes the agency to delay implementation until such a waiver or authorization is granted.

SECTION 5. Effective date: September 1, 2019.