

BILL ANALYSIS

Senate Research Center

S.B. 412
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2019, the Texas Legislature passed S.B. 670, which made several needed changes to the regulation and payment of telemedicine and telehealth services provided through the Texas Medicaid program. As a result, the opportunity to use telemedicine and telehealth in the Medicaid program was expanded significantly prior to the onset of COVID-19.

Since March of 2020, the Health and Human Services Commission has allowed additional flexibilities in the use of telemedicine and telehealth to provide services to Medicaid and CHIP recipients. These flexibilities, in addition to the framework put in place by S.B. 670, have been remarkably successful in supporting social distancing and allowing patients to continue to receive services via telemedicine and telehealth during the pandemic.

S.B. 412 proposes to make permanent most of the Medicaid/CHIP waivers that were put in place as part of the state's COVID-19 response while still upholding the standard of care. It also addresses gaps related to the use of technology in delivering services and information to clients that were identified by stakeholders during the COVID-19 pandemic.

As proposed, S.B. 412 amends current law relating to telemedicine, telehealth, and technology-related health care services.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 531.0216, Government Code, by amending Subsection (i) and adding Subsections (k) and (l), as follows:

(i) Includes a rural health clinic as defined by 42 U.S.C. Section 1396d(l)(1) among the health centers for which the executive commissioner of the Health and Human Services Commission (executive commissioner) is required by rule to ensure that such health centers may be reimbursed for certain fees in certain circumstances.

(k) Requires the Health and Human Services Commission (HHSC), no later than January 1, 2022, to implement reimbursement for telemedicine medical services and telehealth services in certain programs, services, and benefits eligible for reimbursements.

(l) Requires HHSC to implement audio-only benefits for behavioral health services, and authorizes HHSC to implement audio-only benefits in any program under HHSC's jurisdiction, in accordance with federal and state law, and to consider other factors, including whether reimbursement is cost-effective and whether the provision of the service is clinically effective, in making the determination.

SECTION 2. Amends Section 531.02164, Government Code, by adding Subsection (f), to authorize a Medicaid managed care organization, in complying with state and federal

requirements to provide access to medically necessary services under the Medicaid managed care program, to reimburse providers for home telemonitoring services not specifically defined in this section and requires a Medicaid managed care organization to consider other factors, including whether reimbursement is cost-effective and whether the provision of the service is clinically effective, in making the determination.

SECTION 3. Amends Section 533, Government Code, by adding Section 533.00252, as follows:

Sec. 533.00252. DELIVERY OF TELECOMMUNICATION SERVICES. (a) Requires HHSC to implement policies and procedures to improve access to care through telemedicine, telehealth, tele-monitoring, and other telecommunication or information technology solutions.

(b) Requires HHSC, to the extent authorized by federal law, to establish policies and procedures that allow managed care organizations to conduct assessment and service coordination activities for members receiving home and community-based services through telecommunication or information technology in the following circumstances:

- (1) when the managed care organization determines it appropriate;
- (2) the member requests activities occur through telecommunication or information technology;
- (3) when in-person activities are not feasible due to a natural disaster, pandemic, public health emergency; or
- (4) in other circumstances identified by HHSC.

(c) Requires the managed care organization, if assessment or service coordination activities are conducted through telecommunication or information technology, to monitor health care services provided to the member for fraud, waste, and abuse and determine the need for additional social services and supports.

(d) Requires a managed care organization, except as provided by Subsection (b)(3), for members receiving home and community-based services, to conduct at least one in-person visit for the population that requires face to face visits as determined by HHSC, or additional in-person visits as determined necessary by the managed care organization.

(e) Requires HHSC, to the extent authorized by federal law, to allow managed care members receiving assessments or service coordination through telecommunication or information technology to provide verbal authorizations in lieu of written signatures on all required forms.

SECTION 4. Amends Section 533.0061 (b), Government Code, by adding Subsection (b)(3), to require that the provider access standards established under Section 533.0061 (Provider Access Standards; Report), to the extent it is feasible, perform certain functions, including to consider and include the availability of telemedicine and telehealth services within the provider network of a managed care organization. Makes a nonsubstantive change.

SECTION 5. Amends Chapter 533, Government Code, by adding Subsection 533.088(c), to require the executive commissioner to adopt and publish guidance that allows managed care plans that contract with HHSC to communicate with their enrolled recipients via text message in accordance with Section 533.008 (Marketing Guidelines). Requires that such guidance include the development and implementation of standardized consent language to be used by managed care plans in obtaining patient consent to receive text messages and be published no later than January 1, 2022.

SECTION 6. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 7. Effective date: September 1, 2021.