



CAHP LEGISLATIVE INFORMATION

AB 744 (Aguilar-Curry) Chapter 867, Statutes of 2019

As a service to our members, the California Association of Health Plans produces guidelines designed to assist in the interpretation and implementation of new laws, and to promote full compliance with those laws. This document, however, is not intended to be authoritative. Any questions about official interpretations of the law should be directed to the appropriate state regulatory agency such as the Department of Managed Health Care or the Department of Health Care Services, as well as your legal counsel.

HEALTH CARE COVERAGE: TELEHEALTH

BACKGROUND

Assemblymember Aguilar Curry introduced AB 744 which was sponsored by the California Medical Association. The intent of this bill was to increase access to telehealth services in rural areas by requiring payment parity for in-person and telehealth visits.

This bill requires telehealth to be reimbursed on the same basis and to the same extent that the health plan is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment. Email or text messages are included in the definition of telehealth services, which was a significant change from current practices.

Under current law, health plans can incorporate the use of telehealth as necessary to build their networks and establish provider reimbursement rates during the contracting process. Telehealth is defined as “asynchronous store and forward” to mean the transmission of a patient’s medical information from an originating site to the health care provider at a distant site without the presence of the patient. It also defines “telehealth” to mean the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site.

The authors and sponsors rejected the bulk of the amendments submitted by the CalChamber, CAHP, and the Department of Managed Health Care. CAHP remained opposed to this bill due to the increased costs to health plans and consumers.

REQUIREMENTS

AB 744 adds Section 1374.14 to, the Health and Safety Code, relating to health care coverage.

Specifically, AB 744 does the following:

1374.14. (a) (1) A contract issued, amended, or renewed on or after January 1, 2021, between a health care service plan and a health care provider for the provision of health care services to an enrollee or subscriber shall specify that the health care service plan shall reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an enrollee or

subscriber appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment.

1374.14. (a) (2) This section does not limit the ability of a health care service plan and a health care provider to negotiate the rate of reimbursement for a health care service provided pursuant to a contract subject to this section. Services that are the same, as determined by the provider's description of the service on the claim, shall be reimbursed at the same rate whether provided in person or through telehealth. When negotiating a rate of reimbursement for telehealth services for which no in-person equivalent exists, a health care service plan and the provider shall ensure the rate is consistent with subdivision (h) of Section 1367.

1374.14. (a) (3) This section does not require telehealth reimbursement to be unbundled from other capitated or bundled, risk-based payments.

1374.14. (b) (1) A health care service plan contract issued, amended, or renewed on or after January 1, 2021, shall specify that the health care service plan shall provide coverage for health care services appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for coverage for the same service through in-person diagnosis, consultation, or treatment. Coverage shall not be limited only to services delivered by select third-party corporate telehealth providers.

1374.14. (b) (2) This section does not alter the obligation of a health care service plan to ensure that enrollees have access to all covered services through an adequate network of contracted providers, as required under Sections 1367, 1367.03, and 1367.035, and the regulations promulgated thereunder.

1374.14. (b) (3) This section does not require a health care service plan to cover telehealth services provided by an out-of-network provider, unless coverage is required under other provisions of law.

1374.14. (c) A health care service plan may offer a contract containing a copayment or coinsurance requirement for a health care service delivered through telehealth services, provided that the copayment or coinsurance does not exceed the copayment or coinsurance applicable if the same services were delivered through in-person diagnosis, consultation, or treatment. This subdivision does not require cost sharing for services provided through telehealth.

1374.14. (d) Services provided through telehealth and covered pursuant to this chapter shall be subject to the same deductible and annual or lifetime dollar maximum as equivalent services that are not provided through telehealth.

COMPLIANCE DATES

January 1, 2020 – “qualified autism services providers” will be considered eligible provider types to provide telehealth or telemedicine services under B.P.C. Section 2290.5 (a) (3) (C).

January 1, 2021 – all contracts that are amended or renewed between health plans and providers on or after this date must include provisions to specify that telehealth services will be reimbursed on the same basis and to the same extent as in-person services.

IMPLEMENTATION ISSUES

This bill adds qualified autism services providers to the list of health care provider types that are permitted to provide telehealth or telemedicine services. This law also allows any willing, licensed provider to administer telehealth services.

This law does not apply to Medi-Cal managed care.

Beginning on January 1, 2021, health plans must include a description of telehealth services in member handbooks (EOCs) to include information the enrollee may receive telehealth services through any in-network provider, and that coverage for telehealth services is not limited to third-party telehealth providers.

Health plans may impose member cost sharing for telehealth services, but the member cost sharing may not exceed the applicable cost-sharing for in-person visits. Plans are not required to cover telehealth services from out-of-network providers.

In addition, beginning on January 1, 2021, plans must also amend provider contracts to include provisions that plans will reimburse contracted providers for telehealth services rendered in the same manner as in-person services; telehealth services must be reimbursed at the same rate for an in-person visit for the same service.