

**Introduced by Senators Hernandez and Leno
(Coauthor: Senator McGuire)**

February 8, 2016

An act to amend Section 14132.725 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 960, as introduced, Hernandez. Medi-Cal: telehealth: reproductive health care.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, as specified. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides that, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for “teleophthalmology, teledermatology and teledentistry by store and forward,” as defined to mean the asynchronous transmission of medical information to be reviewed at a later time by a licensed physician or optometrist, as specified, at a distant site.

This bill would enact similar provisions relating to the use of reproductive health care under the Medi-Cal program. The bill would provide that, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for “reproductive health care provided by store and forward.” The bill would define that term to mean an asynchronous transmission of medical information to be reviewed at a later time by a physician, nurse practitioner, certified

nurse midwife, licensed midwife, physician assistant, or registered nurse at a distant site, where the provider at the distant site reviews the dental information without the patient being present in real time, as defined and as specified.

This bill would also provide that, to the extent federal financial participation is available and any necessary federal approvals are obtained, telephonic and electronic patient management services, as defined, provided by a physician or nonphysician health care provider acting within his or her scope of licensure shall be a benefit under the Medi-Cal program in fee-for-service and managed care delivery systems, as specified. The bill would authorize the department to seek approval of any state plan amendments necessary to implement these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14132.725 of the Welfare and Institutions
2 Code is amended to read:

3 14132.725. (a) To the extent that federal financial participation
4 is available, face-to-face contact between a health care provider
5 and a patient is not required under the Medi-Cal program for
6 teleophthalmology, teledermatology, and ~~teledentistry~~ *teledentistry*,
7 *and reproductive health care provided by store and forward*.
8 Services appropriately provided through the store and forward
9 process are subject to billing and reimbursement policies developed
10 by the department. *A Medi-Cal managed care plan that contracts*
11 *with the department pursuant to this chapter and Chapter 8*
12 *(commencing with Section 14200) shall be required to cover the*
13 *services described in this section.*

14 (b) For purposes of this section, “teleophthalmology,
15 teledermatology, and ~~teledentistry~~ *teledentistry*, *and reproductive*
16 *health care provided by store and forward*” means an
17 asynchronous transmission of medical or dental information to be
18 reviewed at a later time by a physician at a distant site who is
19 trained in ophthalmology or dermatology or, for teleophthalmology,
20 by an optometrist who is licensed pursuant to Chapter 7
21 (commencing with Section 3000) of Division 2 of the Business
22 and Professions Code, or a dentist, *or, for reproductive health*
23 *care, by a physician, nurse practitioner, certified nurse midwife,*

1 *licensed midwife, physician assistant, or registered nurse operating*
2 *within his or her scope of practice, where the physician,*
3 *optometrist, ~~or dentist~~ dentist, nurse practitioner, certified nurse*
4 *midwife, licensed midwife, physician assistant, or registered nurse*
5 *at the distant site reviews the medical or dental information without*
6 *the patient being present in real time. A patient receiving*
7 *teleophthalmology, teledermatology, ~~or teledentistry~~ teledentistry,*
8 *or reproductive health care by store and forward shall be notified*
9 *of the right to receive interactive communication with the distant*
10 *specialist physician, optometrist, ~~or dentist~~ dentist, nurse*
11 *practitioner, certified nurse midwife, licensed midwife, physician*
12 *assistant, or registered nurse and shall receive an interactive*
13 *communication with the distant specialist physician, optometrist,*
14 *~~or~~ dentist, nurse practitioner, certified nurse midwife, licensed*
15 *midwife, physician assistant, or registered nurse upon request. If*
16 *requested, communication with the distant specialist physician,*
17 *optometrist, ~~or dentist~~ dentist, nurse practitioner, certified nurse*
18 *midwife, licensed midwife, physician assistant, or registered nurse*
19 *may occur either at the time of the consultation, or within 30 days*
20 *of the patient's notification of the results of the consultation. If the*
21 *reviewing optometrist identifies a disease or condition requiring*
22 *consultation or referral pursuant to Section 3041 of the Business*
23 *and Professions Code, that consultation or referral shall be with*
24 *an ophthalmologist or other appropriate physician and surgeon, as*
25 *required.*

26 *(c) (1) To the extent that federal financial participation is*
27 *available and any necessary federal approvals have been obtained,*
28 *telephonic and electronic patient management services provided*
29 *by a physician, or a nonphysician health care provider acting*
30 *within his or her scope of licensure is a benefit under the Medi-Cal*
31 *program, both in fee-for-service and managed care delivery*
32 *systems delivered by Medi-Cal managed care plans that contract*
33 *with the department pursuant to this chapter and Chapter 8*
34 *(commencing with Section 14200). Reimbursement for telephonic*
35 *and electronic patient management services shall be based on the*
36 *complexity of and time expended in rendering those services.*

37 *(2) This subdivision shall not be construed to authorize a*
38 *Medi-Cal managed care plan to require the use of telephonic and*
39 *electronic patient management services when the physician or*

1 nonphysician health care provider has determined that those
2 services are not medically necessary.

3 (3) This subdivision shall not be construed to alter the scope of
4 practice of a health care provider or authorize the delivery of
5 health care services in a setting or in a manner than is not
6 otherwise authorized by law.

7 (4) All laws regarding the confidentiality of health information
8 and a patient's right of access to his or her medical information
9 shall apply to telephonic and electronic patient management
10 services.

11 (5) This subdivision shall not apply to a patient in the custody
12 of the Department of Corrections and Rehabilitation or any other
13 correctional facility.

14 (d) Notwithstanding paragraph (1) of subdivision (b), separate
15 reimbursement of a physician or a nonphysician health care
16 provider shall not be required for any of the following:

17 (1) A telephonic or electronic visit that is related to a service
18 or procedure provided to an established patient within a
19 reasonable period of time prior to the telephonic or electronic
20 visit, as recognized by the Current Procedural Terminology codes
21 published by the American Medical Association.

22 (2) A telephonic or electronic visit that leads to a related service
23 or procedure provided to an established patient within a
24 reasonable period of time, or within an applicable postoperative
25 period, as recognized by the Current Procedural Terminology
26 codes published by the American Medical Association.

27 (3) A telephonic or electronic visit provided as part of a bundle
28 of services for which reimbursement is provided for on a prepaid
29 basis, including capitation, or which reimbursement is provided
30 for using an episode-based payment methodology.

31 (4) A telephonic or electronic visit that is not initiated by an
32 established patient, by the parents or guardians of a minor who
33 is an established patient, or by a person legally authorized to make
34 health care decisions on behalf of an established patient.

35 (e) Nothing in this section shall be construed to prohibit a
36 Medi-Cal managed care plan from requiring documentation
37 reasonably relevant to a telephonic or electronic visit, as
38 recognized by the Current Procedural Terminology codes
39 published by the American Medical Association.

40 (f) For purposes of this section, the following definitions apply:

1 (1) “Established patient” means a patient who, within three
2 years immediately preceding the telephonic or electronic visit, has
3 received professional services from the provider or another
4 provider of the same specialty or subspecialty who belongs to the
5 same group practice.

6 (2) “Nonphysician health care provider” means a provider,
7 other than a physician, who is licensed pursuant to Division 2
8 (commencing with Section 500) of the Business and Professions
9 Code.

10 (3) “Reproductive health care” means the general reproductive
11 health care services described in paragraph (8) of subdivision
12 (aa) of Section 14132.

13 (4) “Telephonic and electronic patient management service”
14 means the use of electronic communication tools to enable treating
15 physicians and nonphysician health care providers to evaluate
16 and manage established patients in a manner that meets all of the
17 following criteria:

18 (A) The service does not require an in-person visit with the
19 physician or nonphysician health care provider.

20 (B) The service is initiated by the established patient, the parents
21 or guardians of a minor who is an established patient, or a person
22 legally authorized to make health care decisions on behalf of an
23 established patient. “Initiated by an established patient” does not
24 include a visit for which a provider or a person employed by a
25 provider contacts a patient to initiate a service.

26 (C) The service is recognized by the Current Procedural
27 Terminology codes published by the American Medical Association.

28 (g) The department may seek approval of any state plan
29 amendments necessary to implement this section.

30 ~~(e)~~

31 (h) Notwithstanding Chapter 3.5 (commencing with Section
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
33 the department may implement, interpret, and make specific this
34 section by means of all-county letters, provider bulletins, and
35 similar instructions.