

AMENDED IN SENATE APRIL 26, 2016

SENATE BILL

No. 960

**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 amended, 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 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~~ 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. *The bill would require Medi-Cal managed care plans that contract with the department to cover reproductive health care provided by store and forward.*

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, and
7 reproductive health care provided by store and forward. Services
8 appropriately provided through the store and forward process are
9 subject to billing and reimbursement policies developed by the
10 department. A Medi-Cal managed care plan that contracts with
11 the department pursuant to this chapter and Chapter 8 (commencing
12 with Section 14200) shall be required to cover ~~the services~~
13 ~~described in this section.~~ *reproductive health care provided by*
14 *store and forward.*
15 (b) For purposes of this section, “teleophthalmology,
16 teledermatology, and teledentistry, and reproductive health care
17 provided by store and forward” means an asynchronous
18 transmission of medical or dental information to be reviewed at a
19 later time by a physician at a distant site who is trained in

1 ophthalmology or dermatology or, for teleophthalmology, by an
2 optometrist who is licensed pursuant to Chapter 7 (commencing
3 with Section 3000) of Division 2 of the Business and Professions
4 Code, or a dentist, or, for reproductive health care, by a physician,
5 nurse practitioner, certified nurse midwife, licensed midwife,
6 physician assistant, or registered nurse operating within his or her
7 scope of practice, where the physician, optometrist, dentist, nurse
8 practitioner, certified nurse midwife, licensed midwife, physician
9 assistant, or registered nurse at the distant site reviews the medical
10 or dental information without the patient being present in real time.
11 A patient receiving teleophthalmology, teledermatology,
12 teledentistry, or reproductive health care by store and forward shall
13 be notified of the right to receive interactive communication with
14 the distant specialist physician, optometrist, dentist, nurse
15 practitioner, certified nurse midwife, licensed midwife, physician
16 assistant, or registered nurse and shall receive an interactive
17 communication with the distant specialist physician, optometrist,
18 dentist, nurse practitioner, certified nurse midwife, licensed
19 midwife, physician assistant, or registered nurse upon request. If
20 requested, communication with the distant specialist physician,
21 optometrist, dentist, nurse practitioner, certified nurse midwife,
22 licensed midwife, physician assistant, or registered nurse may
23 occur either at the time of the consultation, or within 30 days of
24 the patient's notification of the results of the consultation. If the
25 reviewing optometrist identifies a disease or condition requiring
26 consultation or referral pursuant to Section 3041 of the Business
27 and Professions Code, that consultation or referral shall be with
28 an ophthalmologist or other appropriate physician and surgeon, as
29 required.

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

1 (2) This subdivision shall not be construed to authorize a
2 Medi-Cal managed care plan to require the use of telephonic and
3 electronic patient management services when the physician or
4 nonphysician health care provider has determined that those
5 services are not medically necessary.

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

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

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

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

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

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

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

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

38 (e) Nothing in this section shall be construed to prohibit a
39 Medi-Cal managed care plan from requiring documentation
40 reasonably relevant to a telephonic or electronic visit, as recognized

1 by the Current Procedural Terminology codes published by the
2 American Medical Association.

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

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

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

13 (3) “Reproductive health care” means the general reproductive
14 health care services described in paragraph (8) of subdivision (aa)
15 of Section 14132.

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

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

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

29 (C) The service is recognized by the Current Procedural
30 Terminology codes published by the American Medical
31 Association.

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

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

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