

By: Representative Chism

To: Insurance

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1192

1 AN ACT TO PROHIBIT HEALTH INSURERS, HEALTH CARE SUBSCRIPTION
2 PLANS AND HEALTH MAINTENANCE ORGANIZATIONS FROM DENYING PAYMENT
3 FOR DIAGNOSIS, TREATMENT, OR CONSULTATION PROVIDED BY TELEMEDICINE
4 IF THAT SERVICE WOULD BE COVERED IF IT HAD BEEN PROVIDED IN
5 PERSON; TO PROVIDE THAT ANY SUCH ENTITY THAT DENIES PAYMENT FOR
6 SERVICES REQUIRED UNDER THIS ACT SHALL BE SUBJECT TO PENALTY BY
7 THE COMMISSIONER OF INSURANCE FOR THE COST OF THE DENIED SERVICE
8 AND A PUNITIVE FINE FOR EACH VIOLATION OCCURRENCE; TO PROVIDE THAT
9 ALL FINES COLLECTED UNDER THIS ACT SHALL BE PAID TO THE
10 MISSISSIPPI TRAUMA CARE SYSTEMS FUND; TO BRING FORWARD SECTION
11 83-9-351, MISSISSIPPI CODE OF 1972, WHICH REQUIRES HEALTH
12 INSURANCE PLANS TO PROVIDE COVERAGE FOR TELEMEDICINE SERVICES, FOR
13 THE PURPOSES OF AMENDMENT; TO AMEND SECTION 83-9-353, MISSISSIPPI
14 CODE OF 1972, WHICH PROVIDES FOR HEALTH INSURANCE COVERAGE FOR
15 STORE-AND-FORWARD TELEMEDICINE SERVICES, TO BRING FORWARD FOR THE
16 PURPOSES OF AMENDMENT AND TO MAKE SOME MINOR NONSUBSTANTIVE
17 CHANGES; AND FOR RELATED PURPOSES.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

19 **SECTION 1.** No health insurer, health care subscription plan,
20 or health maintenance organizations shall deny payment for
21 diagnosis, treatment or consultation provided by telemedicine if
22 that service would be covered if it had been provided in person.
23 Any health insurer, health care subscription plan or health
24 maintenance organization that denies payment for services required
25 under this section shall be subject to penalty by the Commissioner



26 of Insurance for the cost of the denied service and a punitive
27 fine of not less than Ten Thousand Dollars (\$10,000.00) nor more
28 than One Hundred Thousand Dollars (\$100,000.00) for each violation
29 occurrence. All fines collected under this section shall be paid
30 to the Mississippi Trauma Care Systems Fund established in Section
31 41-59-75.

32 **SECTION 2.** Section 83-9-351, Mississippi Code of 1972, is
33 brought forward as follows:

34 83-9-351. (1) As used in this section:

35 (a) "Employee benefit plan" means any plan, fund or
36 program established or maintained by an employer or by an employee
37 organization, or both, to the extent that such plan, fund or
38 program was established or is maintained for the purpose of
39 providing for its participants or their beneficiaries, through the
40 purchase of insurance or otherwise, medical, surgical, hospital
41 care or other benefits.

42 (b) "Health insurance plan" means any health insurance
43 policy or health benefit plan offered by a health insurer, and
44 includes the State and School Employees Health Insurance Plan and
45 any other public health care assistance program offered or
46 administered by the state or any political subdivision or
47 instrumentality of the state. The term does not include policies
48 or plans providing coverage for specified disease or other limited
49 benefit coverage.



50 (c) "Health insurer" means any health insurance
51 company, nonprofit hospital and medical service corporation,
52 health maintenance organization, preferred provider organization,
53 managed care organization, pharmacy benefit manager, and, to the
54 extent permitted under federal law, any administrator of an
55 insured, self-insured or publicly funded health care benefit plan
56 offered by public and private entities, and other parties that are
57 by statute, contract, or agreement, legally responsible for
58 payment of a claim for a health care item or service.

59 (d) "Telemedicine" means the delivery of health care
60 services such as diagnosis, consultation, or treatment through the
61 use of interactive audio, video, or other electronic media.
62 Telemedicine must be "real-time" consultation, and it does not
63 include the use of audio-only telephone, e-mail, or facsimile.

64 (2) All health insurance and employee benefit plans in this
65 state must provide coverage for telemedicine services to the same
66 extent that the services would be covered if they were provided
67 through in-person consultation.

68 (3) A health insurance or employee benefit plan may charge a
69 deductible, co-payment, or coinsurance for a health care service
70 provided through telemedicine so long as it does not exceed the
71 deductible, co-payment, or coinsurance applicable to an in-person
72 consultation.



73 (4) A health insurance or employee benefit plan may limit
74 coverage to health care providers in a telemedicine network
75 approved by the plan.

76 (5) Nothing in this section shall be construed to prohibit a
77 health insurance or employee benefit plan from providing coverage
78 for only those services that are medically necessary, subject to
79 the terms and conditions of the covered person's policy.

80 (6) In a claim for the services provided, the appropriate
81 procedure code for the covered services shall be included with the
82 appropriate modifier indicating interactive communication was
83 used.

84 (7) The originating site is eligible to receive a facility
85 fee, but facility fees are not payable to the distant site.

86 **SECTION 3.** Section 83-9-353, Mississippi Code of 1972, is
87 amended as follows:

88 83-9-353. (1) As used in this section:

89 (a) "Employee benefit plan" means any plan, fund or
90 program established or maintained by an employer or by an employee
91 organization, or both, to the extent that such plan, fund or
92 program was established or is maintained for the purpose of
93 providing for its participants or their beneficiaries, through the
94 purchase of insurance or otherwise, medical, surgical, hospital
95 care or other benefits.

96 (b) "Health insurance plan" means any health insurance
97 policy or health benefit plan offered by a health insurer, and



98 includes the State and School Employees Health Insurance Plan and
99 any other public health care assistance program offered or
100 administered by the state or any political subdivision or
101 instrumentality of the state. The term does not include policies
102 or plans providing coverage for specified disease or other limited
103 benefit coverage.

104 (c) "Health insurer" means any health insurance
105 company, nonprofit hospital and medical service corporation,
106 health maintenance organization, preferred provider organization,
107 managed care organization, pharmacy benefit manager, and, to the
108 extent permitted under federal law, any administrator of an
109 insured, self-insured or publicly funded health care benefit plan
110 offered by public and private entities, and other parties that are
111 by statute, contract, or agreement, legally responsible for
112 payment of a claim for a health care item or service.

113 (d) "Store-and-forward telemedicine services" means the
114 use of asynchronous computer-based communication between a patient
115 and a consulting provider or a referring health care provider and
116 a medical specialist at a distant site for the purpose of
117 diagnostic and therapeutic assistance in the care of
118 patients * * *. Store-and-forward telemedicine services involve
119 the transferring of medical data from one (1) site to another
120 through the use of a camera or similar device that records
121 (stores) an image that is sent (forwarded) via telecommunication
122 to another site for consultation.



123 (e) "Remote patient monitoring services" means the
124 delivery of home health services using telecommunications
125 technology to enhance the delivery of home health care, including:

126 (i) Monitoring of clinical patient data such as
127 weight, blood pressure, pulse, pulse oximetry and other
128 condition-specific data, such as blood glucose;

129 (ii) Medication adherence monitoring; and

130 (iii) Interactive video conferencing with or
131 without digital image upload as needed.

132 (f) "Medication adherence management services" means the
133 monitoring of a patient's conformance with the clinician's
134 medication plan with respect to timing, dosing and frequency of
135 medication-taking through electronic transmission of data in a
136 home telemonitoring program.

137 (2) Store-and-forward telemedicine services allow a health
138 care provider trained and licensed in his or her given specialty
139 to review forwarded images and patient history in order to provide
140 diagnostic and therapeutic assistance in the care of the patient
141 without the patient being present in real time. Treatment
142 recommendations made via electronic means shall be held to the
143 same standards of appropriate practice as those in traditional
144 provider-patient setting.

145 (3) Any patient receiving medical care by store-and-forward
146 telemedicine services shall be notified of the right to receive
147 interactive communication with the distant specialist health care



148 provider and shall receive an interactive communication with the
149 distant specialist upon request. If requested, communication with
150 the distant specialist may occur at the time of the consultation
151 or within thirty (30) days of the patient's notification of the
152 request of the consultation. Telemedicine networks unable to
153 offer the interactive consultation shall not be reimbursed for
154 store-and-forward telemedicine services.

155 (4) Remote patient monitoring services aim to allow more
156 people to remain at home or in other residential settings and to
157 improve the quality and cost of their care, including prevention
158 of more costly care. Remote patient monitoring services via
159 telehealth aim to coordinate primary, acute, behavioral and
160 long-term social service needs for high-need, high-cost patients.
161 Specific patient criteria must be met in order for reimbursement
162 to occur.

163 (5) Qualifying patients for remote patient monitoring
164 services must meet all the following criteria:

165 (a) Be diagnosed, in the last eighteen (18) months,
166 with one or more chronic conditions, as defined by the Centers for
167 Medicare and Medicaid Services (CMS), which include, but are not
168 limited to, sickle cell, mental health, asthma, diabetes, and
169 heart disease;

170 (b) Have a recent history of costly service use due to
171 one or more chronic conditions as evidenced by two (2) or more



172 hospitalizations, including emergency room visits, in the last
173 twelve (12) months; and

174 (c) The patient's health care provider recommends
175 disease management services via remote patient monitoring.

176 (6) A remote patient monitoring prior authorization request
177 form must be submitted to request telemonitoring services. The
178 request must include the following:

179 (a) An order for home telemonitoring services, signed
180 and dated by the prescribing physician;

181 (b) A plan of care, signed and dated by the prescribing
182 physician, that includes telemonitoring transmission frequency and
183 duration of monitoring requested;

184 (c) The client's diagnosis and risk factors that
185 qualify the client for home telemonitoring services;

186 (d) Attestation that the client is sufficiently
187 cognitively intact and able to operate the equipment or has a
188 willing and able person to assist in completing electronic
189 transmission of data; and

190 (e) Attestation that the client is not receiving
191 duplicative services via disease management services.

192 (7) The entity that will provide the remote monitoring must
193 be a Mississippi-based entity and have protocols in place to
194 address all of the following:

195 (a) Authentication and authorization of users;



196 (b) A mechanism for monitoring, tracking and responding
197 to changes in a client's clinical condition;

198 (c) A standard of acceptable and unacceptable
199 parameters for client's clinical parameters, which can be adjusted
200 based on the client's condition;

201 (d) How monitoring staff will respond to abnormal
202 parameters for client's vital signs, symptoms and/or lab results;

203 (e) The monitoring, tracking and responding to changes
204 in client's clinical condition;

205 (f) The process for notifying the prescribing physician
206 for significant changes in the client's clinical signs and
207 symptoms;

208 (g) The prevention of unauthorized access to the system
209 or information;

210 (h) System security, including the integrity of
211 information that is collected, program integrity and system
212 integrity;

213 (i) Information storage, maintenance and transmission;

214 (j) Synchronization and verification of patient profile
215 data; and

216 (k) Notification of the client's discharge from remote
217 patient monitoring services or the de-installation of the remote
218 patient monitoring unit.

219 (8) The telemonitoring equipment must:



220 (a) Be capable of monitoring any data parameters in the
221 plan of care; and

222 (b) Be a FDA Class II hospital-grade medical device.

223 (9) Monitoring of the client's data shall not be duplicated
224 by another provider.

225 (10) To receive payment for the delivery of remote patient
226 monitoring services via telehealth, the service must involve:

227 (a) An assessment, problem identification, and
228 evaluation that includes:

229 (i) Assessment and monitoring of clinical data
230 including, but not limited to, appropriate vital signs, pain
231 levels and other biometric measures specified in the plan of care,
232 and also includes assessment of response to previous changes in
233 the plan of care; and

234 (ii) Detection of condition changes based on the
235 telemedicine encounter that may indicate the need for a change in
236 the plan of care.

237 (b) Implementation of a management plan through one or
238 more of the following:

239 (i) Teaching regarding medication management as
240 appropriate based on the telemedicine findings for that encounter;

241 (ii) Teaching regarding other interventions as
242 appropriate to both the patient and the caregiver;



243 (iii) Management and evaluation of the plan of
244 care including changes in visit frequency or addition of other
245 skilled services;

246 (iv) Coordination of care with the ordering health
247 care provider regarding telemedicine findings;

248 (v) Coordination and referral to other medical
249 providers as needed; and

250 (vi) Referral for an in-person visit or the
251 emergency room as needed.

252 (11) The telemedicine equipment and network used for remote
253 patient monitoring services should meet the following
254 requirements:

255 (a) Comply with applicable standards of the United
256 States Food and Drug Administration;

257 (b) Telehealth equipment be maintained in good repair
258 and free from safety hazards;

259 (c) Telehealth equipment be new or sanitized before
260 installation in the patient's home setting;

261 (d) Accommodate non-English language options; and

262 (e) Have 24/7 technical and clinical support services
263 available for the patient user.

264 (12) All health insurance and employee benefit plans in this
265 state must provide coverage and reimbursement for the asynchronous
266 telemedicine services of store-and-forward telemedicine services
267 and remote patient monitoring services based on the criteria set



268 out in this section. Store-and-forward telemedicine services
269 shall be reimbursed to the same extent that the services would be
270 covered if they were provided through in-person consultation.

271 (13) Remote patient monitoring services shall include
272 reimbursement for a daily monitoring rate at a minimum of Ten
273 Dollars (\$10.00) per day each month and Sixteen Dollars (\$16.00)
274 per day when medication adherence management services are
275 included, not to exceed thirty-one (31) days per month. These
276 reimbursement rates are only eligible to Mississippi-based
277 telehealth programs affiliated with a Mississippi health care
278 facility.

279 (14) A one-time telehealth installation/training fee for
280 remote patient monitoring services will also be reimbursed at a
281 minimum rate of Fifty Dollars (\$50.00) per patient, with a maximum
282 of two (2) installation/training fees/calendar year. These
283 reimbursement rates are only eligible to Mississippi-based
284 telehealth programs affiliated with a Mississippi health care
285 facility.

286 (15) No geographic restrictions shall be placed on the
287 delivery of telemedicine services in the home setting other than
288 requiring the patient reside within the State of Mississippi.

289 (16) Health care providers seeking reimbursement for
290 store-and-forward telemedicine services must be licensed
291 Mississippi providers that are affiliated with an established
292 Mississippi health care facility in order to qualify for



293 reimbursement of telemedicine services in the state. If a service
294 is not available in Mississippi, then a health insurance or
295 employee benefit plan may decide to allow a non-Mississippi-based
296 provider who is licensed to practice in Mississippi reimbursement
297 for those services.

298 (17) A health insurance or employee benefit plan may charge
299 a deductible, co-payment, or coinsurance for a health care service
300 provided through store-and-forward telemedicine services or remote
301 patient monitoring services so long as it does not exceed the
302 deductible, co-payment, or coinsurance applicable to an in-person
303 consultation.

304 (18) A health insurance or employee benefit plan may limit
305 coverage to health care providers in a telemedicine network
306 approved by the plan.

307 (19) Nothing in this section shall be construed to prohibit
308 a health insurance or employee benefit plan from providing
309 coverage for only those services that are medically necessary,
310 subject to the terms and conditions of the covered person's
311 policy.

312 (20) In a claim for the services provided, the appropriate
313 procedure code for the covered service shall be included with the
314 appropriate modifier indicating telemedicine services were used.
315 A "GQ" modifier is required for asynchronous telemedicine services
316 such as store-and-forward and remote patient monitoring.



317 (21) The originating site is eligible to receive a facility
318 fee, but facility fees are not payable to the distant site.

319 **SECTION 4.** This act shall take effect and be in force from
320 and after July 1, 2016.

