

LEGISLATIVE BILL 1076

Approved by the Governor April 16, 2014

Introduced by Campbell, 25.

FOR AN ACT relating to public health and welfare; to amend sections 71-8503 and 71-8508, Reissue Revised Statutes of Nebraska, and section 71-8506, Revised Statutes Supplement, 2013; to change provisions relating to the Nebraska Telehealth Act; to define and redefine terms; to change provisions relating to reimbursement rates and rules and regulations; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-8503, Reissue Revised Statutes of Nebraska, is amended to read:

71-8503 For purposes of the Nebraska Telehealth Act:

(1) Department means the Department of Health and Human Services;

(2) Health care practitioner means a Nebraska medicaid-enrolled provider who is licensed, registered, or certified to practice in this state by the department;

(3) Telehealth means the use of ~~telecommunications technology by a health care practitioner to deliver health care services within his or her scope of practice at a site other than the site where the patient is located,~~ and medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care practitioner in the diagnosis or treatment of a patient. Telehealth includes services originating from a patient's home or any other location where such patient is located, asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care practitioner at another site for medical evaluation, and telemonitoring;

(4) Telehealth consultation means any contact between a patient and a health care practitioner relating to the health care diagnosis or treatment of such patient through telehealth; ~~and but does not include a telephone conversation, electronic mail message, or facsimile transmission between a health care practitioner and a patient or a consultation between two health care practitioners.~~

(5) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care practitioner for analysis and storage.

Sec. 2. Section 71-8506, Revised Statutes Supplement, 2013, is amended to read:

71-8506 (1) In-person contact between a health care practitioner and a patient shall not be required under the medical assistance program established pursuant to the Medical Assistance Act and Title XXI of the federal Social Security Act, as amended, for health care services delivered through telehealth that are otherwise eligible for reimbursement under such program and federal act. Such services shall be subject to reimbursement policies developed pursuant to such program and federal act. This section also applies to managed care plans which contract with the department pursuant to the Medical Assistance Act only to the extent that:

(a) Health care services delivered through telehealth are covered by and reimbursed under the medicaid fee-for-service program; and

(b) Managed care contracts with managed care plans are amended to add coverage of health care services delivered through telehealth and any appropriate capitation rate adjustments are incorporated.

(2) The reimbursement rate for a telehealth consultation shall, as a minimum, be set at the same rate as the medical assistance program rate for a comparable in-person consultation, and the rate shall not depend on the distance between the health care practitioner and the patient.

(3) The department shall establish rates for transmission cost reimbursement for telehealth consultations, considering, to the extent applicable, reductions in travel costs by health care practitioners and patients to deliver or to access health care services and such other factors as the department deems relevant. Such rates shall include reimbursement for all two-way, real-time, interactive communications, unless provided by an Internet service provider, between the patient and the physician or health care practitioner at the distant site which comply with the federal Health Insurance Portability and Accountability Act of 1996 and rules and regulations adopted thereunder and with regulations relating to encryption adopted by the

federal Centers for Medicare and Medicaid Services and which satisfy federal requirements relating to efficiency, economy, and quality of care.

Sec. 3. Section 71-8508, Reissue Revised Statutes of Nebraska, is amended to read:

71-8508 ~~By July 1, 2000, the~~ The department shall adopt and promulgate rules and regulations to carry out the Nebraska Telehealth Act, including, but not limited to, rules and regulations to: (1) Ensure the provision of appropriate care to patients; (2) prevent fraud and abuse; and (3) establish necessary methods and procedures. ~~necessary to safeguard against unnecessary utilization of telehealth consultations.~~

Sec. 4. Original sections 71-8503 and 71-8508, Reissue Revised Statutes of Nebraska, and section 71-8506, Revised Statutes Supplement, 2013, are repealed.