

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 4179 and 4200**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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ADOPTED JUNE 22, 2020

**Sponsored by:**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**Co-Sponsored by:**

**Assemblywoman Vainieri Huttie, Assemblymen Freiman, Giblin,  
Assemblywomen Reynolds-Jackson, Speight, Murphy, Assemblymen  
Spearman, Johnson, Assemblywoman Timberlake, Assemblyman DiMaio,  
Assemblywoman Stanfield, Assemblyman Zwicker, Assemblywoman Dunn  
and Assemblyman Verrelli**

**SYNOPSIS**

Revises requirements for health insurance providers and Medicaid to cover services provided using telemedicine and telehealth; appropriates \$5 million.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 21, 2021.

**(Sponsorship Updated As Of: 6/21/2021)**

1 AN ACT concerning telemedicine and telehealth <sup>1</sup>**[and]**, <sup>1</sup> amending  
2 P.L.2017, c.117 <sup>1</sup>, repealing P.L.2020, c.3 and P.L.2020, c.7, and  
3 making an appropriation<sup>1</sup> .  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 8 of P.L.2017, c.117 (C.26:2S-29) is amended to  
9 read as follows:

10 8. a. <sup>1</sup>(1)<sup>1</sup> A carrier that offers a health benefits plan in this  
11 State shall provide coverage and payment for <sup>1</sup>physical and  
12 behavioral<sup>1</sup> health care services delivered to a covered person  
13 through telemedicine or telehealth, on the same basis as, and at a  
14 provider reimbursement rate that **[does not exceed]** equals the  
15 provider reimbursement rate that is applicable, when the services  
16 are delivered through in-person contact and consultation in New  
17 Jersey <sup>1</sup>, provided the services are otherwise covered under the plan  
18 when delivered through in-person contact and consultation in New  
19 Jersey<sup>1</sup> . Reimbursement payments under this section may be  
20 provided either to the individual practitioner who delivered the  
21 reimbursable services, or to the agency, facility, or organization that  
22 employs the individual practitioner who delivered the reimbursable  
23 services, as appropriate.

24 <sup>1</sup>(2) The requirements of paragraph (1) of this subsection shall  
25 not apply to:

26 (a) a health care service provided by a telemedicine or telehealth  
27 organization that does not provide the health care service on an in-  
28 person basis in New Jersey; or

29 (b) a physical health care service <sup>2</sup>that was<sup>2</sup> provided <sup>2</sup>**[using**  
30 telemedicine or telehealth utilizing] through<sup>2</sup> real-time, two way  
31 audio without a video component, whether or not utilized in  
32 combination with asynchronous store-and-forward technology,  
33 <sup>2</sup>**[the]** including through audio-only telephone conversation. The<sup>2</sup>  
34 reimbursement rate for <sup>2</sup>**[which]** a<sup>2</sup> physical health care service  
35 <sup>2</sup>that is subject to this subparagraph<sup>2</sup> shall be determined under the  
36 <sup>2</sup>**[plan when delivered through in-person contact and consultation in**  
37 **New Jersey]** contract between the carrier and the provider;  
38 provided that the reimbursement rate for a physical health care  
39 service when provided through audio-only telephone conversation  
40 shall be at least 50 percent of the reimbursement rate for the service  
41 when provided in person<sup>2</sup> .

42 (3) The provisions of subparagraph (b) of paragraph (2) of this  
43 subsection shall not apply to <sup>2</sup>a<sup>2</sup> behavioral health <sup>2</sup>**[services]**

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted June 16, 2021.

<sup>2</sup>Assembly floor amendments adopted June 21, 2021.

1 service that was<sup>2</sup> provided <sup>2</sup>using telemedicine or telehealth  
2 utilizing through<sup>2</sup> real-time, two way audio without a video  
3 component, whether or not utilized in combination with  
4 asynchronous store-and-forward technology, <sup>2</sup>which including  
5 audio-only telephone conversation. A<sup>2</sup> behavioral health care  
6 service <sup>2</sup>described in this paragraph<sup>2</sup> shall be reimbursed at a rate  
7 that equals the provider reimbursement rate for the service when  
8 provided in person.<sup>1</sup>

9 b. A carrier may limit coverage to services that are delivered  
10 by health care providers in the health benefits plan's network, but  
11 may not charge any deductible, copayment, or coinsurance for a  
12 health care service, delivered through telemedicine or telehealth, in  
13 an amount that exceeds the deductible, copayment, or coinsurance  
14 amount that is applicable to an in-person consultation. In no case  
15 shall a carrier:

16 (1) impose any restrictions on the location or setting of the  
17 distant site used by a health care provider to provide services using  
18 telemedicine and telehealth <sup>1</sup>or on the location or setting of the  
19 originating site where the patient is located when receiving services  
20 using telemedicine and telehealth<sup>1</sup> ; <sup>1</sup>or<sup>1</sup>

21 (2) restrict the ability of a provider to use any electronic or  
22 technological platform <sup>1</sup>to provide services using telemedicine or  
23 telehealth<sup>1</sup> , including <sup>1</sup>, but not limited to,<sup>1</sup> interactive, real-time,  
24 two-way audio <sup>1</sup>, which may be used<sup>1</sup> in combination with  
25 asynchronous store-and-forward technology without video  
26 capabilities, <sup>2</sup>including audio-only telephone conversations,<sup>2</sup> to  
27 provide services using telemedicine or telehealth <sup>1</sup>, provided<sup>1</sup> that  
28 <sup>1</sup>the platform used<sup>1</sup> :

29 (a) allows the provider to meet the same standard of care as  
30 would be provided if the services were provided in person; and

31 (b) is compliant with the requirements of the federal health  
32 privacy rule set forth at 45 CFR Parts 160 and 164 <sup>1</sup>;

33 (3) deny coverage for or refuse to provide reimbursement for  
34 routine patient monitoring performed using telemedicine and  
35 telehealth, including remote monitoring of a patient's vital signs  
36 and routine check-ins with the patient to monitor the patient's status  
37 and condition, if coverage and reimbursement would be provided if  
38 those services are provided in person;

39 (4) use telemedicine or telehealth to satisfy network adequacy  
40 requirements with regard to a health care service; or

41 (5) limit coverage only to services delivered by select third  
42 party telemedicine or telehealth organizations<sup>1</sup> .

43 c. Nothing in this section shall be construed to:

44 (1) prohibit a carrier from providing coverage for only those  
45 services that are medically necessary, subject to the terms and  
46 conditions of the covered person's health benefits plan; or

(2) allow a carrier to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider <sup>1</sup>;

(3) allow a carrier to impose more stringent utilization management requirements on the provision of services using telemedicine and telehealth than apply when those services are provided in person; or

(4) allow a carrier to impose any other requirements for the use of telemedicine or telehealth to provide a health care service that are more restrictive than the requirements that apply when the service is provided in person <sup>1</sup>.

d. The Commissioner of Banking and Insurance shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Asynchronous store-and-forward" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Carrier" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Covered person" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Distant site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Health benefits plan" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

<sup>1</sup>"Originating site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61). <sup>1</sup>

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

<sup>1</sup>"Telemedicine or telehealth organization" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61). <sup>1</sup>

(cf: P.L.2017, c.117, s.8)

2. Section 7 of P.L.2017, c.117 (C.30:4D-6k) is amended to read as follows:

7. a. <sup>1</sup>(1) <sup>1</sup>The State Medicaid and NJ FamilyCare programs shall provide coverage and payment for <sup>1</sup>physical and behavioral <sup>1</sup>health care services delivered to a benefits recipient through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that **【does not exceed】** equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey <sup>1</sup>, provided the services are otherwise covered when delivered through in-person contact and consultation in New

1 Jersey<sup>1</sup>. Reimbursement payments under this section may be  
2 provided either to the individual practitioner who delivered the  
3 reimbursable services, or to the agency, facility, or organization that  
4 employs the individual practitioner who delivered the reimbursable  
5 services, as appropriate.

6 <sup>1</sup>(2) The requirements of paragraph (1) of this subsection shall  
7 not apply to:

8 (a) a health care service provided by a telemedicine or telehealth  
9 organization that does not provide the health care service on an in-  
10 person basis in New Jersey; or

11 (b) a physical health care service <sup>2</sup>that was<sup>2</sup> provided <sup>2</sup>[using  
12 telemedicine or telehealth utilizing] through<sup>2</sup> real-time, two way  
13 audio without a video component, whether or not utilized in  
14 combination with asynchronous store-and-forward technology,  
15 <sup>2</sup>[the] including through audio-only telephone conversation. The<sup>2</sup>  
16 reimbursement rate for <sup>2</sup>[which] a<sup>2</sup> physical health care service  
17 <sup>2</sup>that is subject to this subparagraph<sup>2</sup> shall be determined under the  
18 <sup>2</sup>[plan when delivered through in-person contact and consultation in  
19 New Jersey] contract between the State Medicaid or NJ FamilyCare  
20 program and the provider; provided that the reimbursement rate for  
21 a physical health care service when provided through audio-only  
22 telephone conversation shall be at least 50 percent of the  
23 reimbursement rate for the service when provided in person<sup>2</sup>.

24 (3) The provisions of subparagraph (b) of paragraph (2) of this  
25 subsection shall not apply to <sup>2</sup>a<sup>2</sup> behavioral health <sup>2</sup>[services]  
26 service that was<sup>2</sup> provided <sup>2</sup>[using telemedicine or telehealth  
27 utilizing] through<sup>2</sup> real-time, two way audio without a video  
28 component, whether or not utilized in combination with  
29 asynchronous store-and-forward technology, <sup>2</sup>[which] including  
30 audio-only telephone conversation. A<sup>2</sup> behavioral health care  
31 service <sup>2</sup>described in this paragraph<sup>2</sup> shall be reimbursed at a rate  
32 that equals the provider reimbursement rate for the service when  
33 provided in person.<sup>1</sup>

34 b. The State Medicaid and NJ FamilyCare programs may limit  
35 coverage to services that are delivered by participating health care  
36 providers, but may not charge any deductible, copayment, or  
37 coinsurance for a health care service, delivered through  
38 telemedicine or telehealth, in an amount that exceeds the deductible,  
39 copayment, or coinsurance amount that is applicable to an in-person  
40 consultation. In no case shall the State Medicaid and NJ  
41 FamilyCare programs:

42 (1) impose any restrictions on the location or setting of the  
43 distant site used by a health care provider to provide services using  
44 telemedicine and telehealth <sup>1</sup>or on the location or setting of the  
45 originating site where the patient is located when receiving services  
46 using telemedicine and telehealth<sup>1</sup> ; <sup>1</sup>[or]<sup>1</sup>

1     (2) restrict the ability of a provider to use any electronic or  
2     technological platform <sup>1</sup>to provide services using telemedicine or  
3     telehealth<sup>1</sup> , including <sup>1</sup>, but not limited to,<sup>1</sup> interactive, real-time,  
4     two-way audio <sup>1</sup>, which may be used<sup>1</sup> in combination with  
5     asynchronous store-and-forward technology without video  
6     capabilities, <sup>2</sup>including audio-only telephone conversations,<sup>2</sup> to  
7     provide services using telemedicine or telehealth <sup>1</sup>, provided<sup>1</sup> that  
8     <sup>1</sup>the platform used<sup>1</sup> :

9     (a) allows the provider to meet the same standard of care as  
10    would be provided if the services were provided in person; and

11    (b) is compliant with the requirements of the federal health  
12    privacy rule set forth at 45 CFR Parts 160 and 164 <sup>1</sup>;

13    (3) deny coverage for or refuse to provide reimbursement for  
14    routine patient monitoring performed using telemedicine and  
15    telehealth, including remote monitoring of a patient's vital signs  
16    and routine check-ins with the patient to monitor the patient's status  
17    and condition, if coverage and reimbursement would be provided if  
18    those services are provided in person; or

19    (4) limit coverage only to services delivered by select third  
20    party telemedicine or telehealth organizations<sup>1</sup> .

21    c. Nothing in this section shall be construed to:

22    (1) prohibit the State Medicaid or NJ FamilyCare programs  
23    from providing coverage for only those services that are medically  
24    necessary, subject to the terms and conditions of the recipient's  
25    benefits plan; or

26    (2) allow the State Medicaid or NJ FamilyCare programs to  
27    require a benefits recipient to use telemedicine or telehealth in lieu  
28    of obtaining an in-person service from a participating health care  
29    provider <sup>1</sup>;

30    (3) allow the State Medicaid or NJ FamilyCare programs to  
31    impose more stringent utilization management requirements on the  
32    provision of services using telemedicine and telehealth than apply  
33    when those services are provided in person; or

34    (4) allow the State Medicaid or NJ FamilyCare programs to  
35    impose any other requirements for the use of telemedicine or  
36    telehealth to provide a health care service that are more restrictive  
37    than the requirements that apply when the service is provided in  
38    person<sup>1</sup> .

39    d. The Commissioner of Human Services, in consultation with  
40    the Commissioner of Children and Families, shall apply for such  
41    State plan amendments or waivers as may be necessary to  
42    implement the provisions of this section and to secure federal  
43    financial participation for State expenditures under the federal  
44    Medicaid program and Children's Health Insurance Program.

45    e. As used in this section:

46    "Asynchronous store-and-forward" means the same as that term  
47    is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

1 "Benefits recipient" or "recipient" means a person who is eligible  
2 for, and who is receiving, hospital or medical benefits under the  
3 State Medicaid program established pursuant to P.L.1968, c.413  
4 (C.30:4D-1 et seq.), or under the NJ FamilyCare program  
5 established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), as  
6 appropriate.

7 "Distant site" means the same as that term is defined by section 1  
8 of P.L.2017, c.117 (C.45:1-61).

9 <sup>1</sup>"Originating site" means the same as that term is defined by  
10 section 1 of P.L.2017, c.117 (C.45:1-61).<sup>1</sup>

11 "Participating health care provider" means a licensed or certified  
12 health care provider who is registered to provide health care  
13 services to benefits recipients under the State Medicaid or NJ  
14 FamilyCare programs, as appropriate.

15 "Telehealth" means the same as that term is defined by section 1  
16 of P.L.2017, c.117 (C.45:1-61).

17 "Telemedicine" means the same as that term is defined by  
18 section 1 of P.L.2017, c.117 (C.45:1-61).

19 <sup>1</sup>"Telemedicine or telehealth organization" means the same as  
20 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).<sup>1</sup>

21 (cf: P.L.2017, c.117, s.7)

22  
23 <sup>2</sup>3. Section 1 of P.L.2017, c.117 (C. 45:1-61) is amended to read  
24 as follows:

25 1. As used in P.L.2017, c.117 (C.45:1-61 et al.):

26 "Asynchronous store-and-forward" means the acquisition and  
27 transmission of images, diagnostics, data, and medical information  
28 either to, or from, an originating site or to, or from, the health care  
29 provider at a distant site, which allows for the patient to be  
30 evaluated without being physically present.

31 "Cross-coverage service provider" means a health care provider,  
32 acting within the scope of a valid license or certification issued  
33 pursuant to Title 45 of the Revised Statutes, who engages in a  
34 remote medical evaluation of a patient, without in-person contact, at  
35 the request of another health care provider who has established a  
36 proper provider-patient relationship with the patient.

37 "Distant site" means a site at which a health care provider, acting  
38 within the scope of a valid license or certification issued pursuant to  
39 Title 45 of the Revised Statutes, is located while providing health  
40 care services by means of telemedicine or telehealth.

41 "Health care provider" means an individual who provides a  
42 health care service to a patient, and includes, but is not limited to, a  
43 licensed physician, nurse, nurse practitioner, psychologist,  
44 psychiatrist, psychoanalyst, clinical social worker, physician  
45 assistant, professional counselor, respiratory therapist, speech  
46 pathologist, audiologist, optometrist, or any other health care

1 professional acting within the scope of a valid license or  
2 certification issued pursuant to Title 45 of the Revised Statutes.

3 "On-call provider" means a licensed or certified health care  
4 provider who is available, where necessary, to physically attend to  
5 the urgent and follow-up needs of a patient for whom the provider  
6 has temporarily assumed responsibility, as designated by the  
7 patient's primary care provider or other health care provider of  
8 record.

9 "Originating site" means a site at which a patient is located at the  
10 time that health care services are provided to the patient by means  
11 of telemedicine or telehealth.

12 "Telehealth" means the use of information and communications  
13 technologies, including telephones, remote patient monitoring  
14 devices, or other electronic means, to support clinical health care,  
15 provider consultation, patient and professional health-related  
16 education, public health, health administration, and other services in  
17 accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et  
18 al.).

19 "Telemedicine" means the delivery of a health care service using  
20 electronic communications, information technology, or other  
21 electronic or technological means to bridge the gap between a  
22 health care provider who is located at a distant site and a patient  
23 who is located at an originating site, either with or without the  
24 assistance of an intervening health care provider, and in accordance  
25 with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).  
26 **["Telemedicine" does not include the use, in isolation, of audio-  
27 only telephone conversation, electronic mail, instant messaging,  
28 phone text, or facsimile transmission.]**

29 "Telemedicine or telehealth organization" means a corporation,  
30 sole proprietorship, partnership, or limited liability company that is  
31 organized for the primary purpose of administering services in the  
32 furtherance of telemedicine or telehealth.<sup>2</sup>  
33 (cf: P.L.2017, c.117, s.1)  
34

35 <sup>2</sup>**[13.] 4.**<sup>2</sup> Section 2 of P.L.2017, c.117 (C.45:1-62) is amended  
36 to read as follows:

37 2. a. Unless specifically prohibited or limited by federal or  
38 State law, a health care provider who establishes a proper provider-  
39 patient relationship with a patient may remotely provide health care  
40 services to a patient through the use of telemedicine. A health care  
41 provider may also engage in telehealth as may be necessary to  
42 support and facilitate the provision of health care services to  
43 patients. Nothing in P.L.2017, c.117 (C.45:1-61 et al.) shall be  
44 construed to <sup>2</sup>**[restrict the right of a patient to receive health care**  
45 **services on an in-person basis upon request, and no patient shall be**  
46 **required to engage in a telemedicine or telehealth encounter to**  
47 **receive health care services if those same services are available, in**



1 person, from a provider that is reasonably accessible to the patient]  
2 allow a provider to require a patient to use telemedicine or  
3 telehealth in lieu of receiving services from an in-network  
4 provider<sup>2</sup>.

5 b. Any health care provider who uses telemedicine or engages  
6 in telehealth while providing health care services to a patient, shall:  
7 (1) be validly licensed, certified, or registered, pursuant to Title 45  
8 of the Revised Statutes, to provide such services in the State of New  
9 Jersey; (2) remain subject to regulation by the appropriate New  
10 Jersey State licensing board or other New Jersey State professional  
11 regulatory entity; (3) act in compliance with existing requirements  
12 regarding the maintenance of liability insurance; and (4) remain  
13 subject to New Jersey jurisdiction if either the patient or the  
14 provider is located in New Jersey at the time services are provided.

15 c. (1) Telemedicine services **[shall]** may be provided using  
16 interactive, real-time, two-way communication technologies or,  
17 subject to the requirements of paragraph (2) of this paragraph,  
18 asynchronous store-and-forward technology.

19 (2) A health care provider engaging in telemedicine or  
20 telehealth may use asynchronous store-and-forward technology **[to**  
21 allow for the electronic transmission of images, diagnostics, data,  
22 and medical information; except that the health care provider may  
23 use interactive, real-time, two-way audio in combination with  
24 asynchronous store-and-forward technology, without video  
25 capabilities,] to provide services with or without the use of  
26 interactive, real-time, two-way audio if, after accessing and  
27 reviewing the patient's medical records, the provider determines  
28 that the provider is able to meet the same standard of care as if the  
29 health care services were being provided in person and informs the  
30 patient of this determination at the outset of the telemedicine or  
31 telehealth encounter.

32 (3) (a) At the time the patient requests health care services to be  
33 provided using telemedicine or telehealth, the patient shall be  
34 clearly advised that the telemedicine or telehealth encounter may be  
35 with a health care provider who is not a physician, and that the  
36 patient may specifically request that the telemedicine or telehealth  
37 encounter be scheduled with a physician. If the patient requests that  
38 the telemedicine or telehealth encounter be with a physician, the  
39 encounter shall be scheduled with a physician.

40 (b) The identity, professional credentials, and contact  
41 information of a health care provider providing telemedicine or  
42 telehealth services shall be made available to the patient at the time  
43 the patient schedules services to be provided using telemedicine or  
44 telehealth if available, or upon confirmation of the scheduled  
45 telemedicine or telehealth encounter, and shall be made available to  
46 the patient during and after the provision of services. The contact  
47 information shall enable the patient to contact the health care

1 provider, or a substitute health care provider authorized to act on  
2 behalf of the provider who provided services, for at least 72 hours  
3 following the provision of services. If the health care provider is  
4 not a physician, and the patient requests that the services be  
5 provided by a physician, the health care provider shall assist the  
6 patient with scheduling a telemedicine or telehealth encounter with  
7 a physician.

8 (4) A health care provider engaging in telemedicine or  
9 telehealth shall review the medical history and any medical records  
10 provided by the patient. For an initial encounter with the patient,  
11 the provider shall review the patient's medical history and medical  
12 records prior to initiating contact with the patient, as required  
13 pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017,  
14 c.117 (C.45:1-63). In the case of a subsequent telemedicine or  
15 telehealth encounter conducted pursuant to an ongoing provider-  
16 patient relationship, the provider may review the information prior  
17 to initiating contact with the patient or contemporaneously with the  
18 telemedicine or telehealth encounter.

19 (5) Following the provision of services using telemedicine or  
20 telehealth, the patient's medical information shall be **made**  
21 available to the patient upon the patient's request, and, with the  
22 patient's affirmative consent, entered into the patient's medical  
23 record, whether the medical record is a physical record, an  
24 electronic health record, or both, and, if so requested to by the  
25 patient, forwarded directly to the patient's primary care provider  
26 **[or]** , health care provider of record **],** or, upon request by the  
27 patient, to **] or any** other health care providers as may be specified  
28 by the patient. For patients without a primary care provider or other  
29 health care provider of record, the health care provider engaging in  
30 telemedicine or telehealth may advise the patient to contact a  
31 primary care provider, and, upon request by the patient, shall assist  
32 the patient with locating a primary care provider or other in-person  
33 medical assistance that, to the extent possible, is located within  
34 reasonable proximity to the patient. The health care provider  
35 engaging in telemedicine or telehealth shall also refer the patient to  
36 appropriate follow up care where necessary, including making  
37 appropriate referrals for in-person care or emergency or  
38 **[complimentary]** complementary care, if needed. Consent may be  
39 oral, written, or digital in nature, provided that the chosen method  
40 of consent is deemed appropriate under the standard of care.

41 d. (1) Any health care provider providing health care services  
42 using telemedicine or telehealth shall be subject to the same  
43 standard of care or practice standards as are applicable to in-person  
44 settings. If telemedicine or telehealth services would not be  
45 consistent with this standard of care, the health care provider shall  
46 direct the patient to seek in-person care.

1 (2) Diagnosis, treatment, and consultation recommendations,  
2 including discussions regarding the risk and benefits of the patient's  
3 treatment options, which are made through the use of telemedicine  
4 or telehealth, including the issuance of a prescription based on a  
5 telemedicine or telehealth encounter, shall be held to the same  
6 standard of care or practice standards as are applicable to in-person  
7 settings. Unless the provider has established a proper provider-  
8 patient relationship with the patient, a provider shall not issue a  
9 prescription to a patient based solely on the responses provided in  
10 an online static questionnaire.

11 (3) In the event that a mental health screener, screening service,  
12 or screening psychiatrist subject to the provisions of P.L.1987,  
13 c.116 (C.30:4-27.1 et seq.) determines that an in-person psychiatric  
14 evaluation is necessary to meet standard of care requirements, or in  
15 the event that a patient requests an in-person psychiatric evaluation  
16 in lieu of a psychiatric evaluation performed using telemedicine or  
17 telehealth, the mental health screener, screening service, or  
18 screening psychiatrist may nevertheless perform a psychiatric  
19 evaluation using telemedicine and telehealth if it is determined that  
20 the patient cannot be scheduled for an in-person psychiatric  
21 evaluation within the next 24 hours. Nothing in this paragraph shall  
22 be construed to prevent a patient who receives a psychiatric  
23 evaluation using telemedicine and telehealth as provided in this  
24 paragraph from receiving a subsequent, in-person psychiatric  
25 evaluation in connection with the same treatment event, provided  
26 that the subsequent in-person psychiatric evaluation is necessary to  
27 meet standard of care requirements for that patient.

28 e. The prescription of Schedule II controlled dangerous  
29 substances through the use of telemedicine or telehealth shall be  
30 authorized only after an initial in-person examination of the patient,  
31 as provided by regulation, and a subsequent in-person visit with the  
32 patient shall be required every three months for the duration of time  
33 that the patient is being prescribed the Schedule II controlled  
34 dangerous substance. However, the provisions of this subsection  
35 shall not apply, and the in-person examination or review of a patient  
36 shall not be required, when a health care provider is prescribing a  
37 stimulant which is a Schedule II controlled dangerous substance for  
38 use by a minor patient under the age of 18, provided that the health  
39 care provider is using interactive, real-time, two-way audio and  
40 video technologies when treating the patient and the health care  
41 provider has first obtained written consent for the waiver of these  
42 in-person examination requirements from the minor patient's parent  
43 or guardian.

44 f. A mental health screener, screening service, or screening  
45 psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-  
46 27.1 et seq.):

1 (1) shall not be required to obtain a separate authorization in  
2 order to engage in telemedicine or telehealth for mental health  
3 screening purposes; and

4 (2) shall not be required to request and obtain a waiver from  
5 existing regulations, prior to engaging in telemedicine or telehealth.

6 g. A health care provider who engages in telemedicine or  
7 telehealth, as authorized by P.L.2017, c.117 (C.45:1-61 et al.), shall  
8 maintain a complete record of the patient's care, and shall comply  
9 with all applicable State and federal statutes and regulations for  
10 recordkeeping, confidentiality, and disclosure of the patient's  
11 medical record.

12 h. A health care provider shall not be subject to any  
13 professional disciplinary action under Title 45 of the Revised  
14 Statutes solely on the basis that the provider engaged in  
15 telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-  
16 61 et al.).

17 i. (1) In accordance with the "Administrative Procedure Act,"  
18 P.L.1968, c.410 (C.52:14B-1 et seq.), the State boards or other  
19 entities that, pursuant to Title 45 of the Revised Statutes, are  
20 responsible for the licensure, certification, or registration of health  
21 care providers in the State, shall each adopt rules and regulations  
22 that are applicable to the health care providers under their  
23 respective jurisdictions, as may be necessary to implement the  
24 provisions of this section and facilitate the provision of  
25 telemedicine and telehealth services. Such rules and regulations  
26 shall, at a minimum:

27 (a) include best practices for the professional engagement in  
28 telemedicine and telehealth;

29 (b) ensure that the services patients receive using telemedicine  
30 or telehealth are appropriate, medically necessary, and meet current  
31 quality of care standards;

32 (c) include measures to prevent fraud and abuse in connection  
33 with the use of telemedicine and telehealth, including requirements  
34 concerning the filing of claims and maintaining appropriate records  
35 of services provided; and

36 (d) provide substantially similar metrics for evaluating quality  
37 of care and patient outcomes in connection with services provided  
38 using telemedicine and telehealth as currently apply to services  
39 provided in person.

40 (2) In no case shall the rules and regulations adopted pursuant to  
41 paragraph (1) of this subsection require a provider to conduct an  
42 initial in-person visit with the patient as a condition of providing  
43 services using telemedicine or telehealth.

44 (3) The failure of any licensing board to adopt rules and  
45 regulations pursuant to this subsection shall not have the effect of  
46 delaying the implementation of this act, and shall not prevent health  
47 care providers from engaging in telemedicine or telehealth in  
48 accordance with the provisions of this act and the practice act

1 applicable to the provider's professional licensure, certification, or  
2 registration.<sup>1</sup>

3 (cf: P.L.2017, c.117, s.2)

4  
5 <sup>1</sup>[3.] <sup>2</sup>[4.<sup>1</sup>] 5.<sup>2</sup> Section 9 of P.L.2017, c.117 (C.52:14-17.29w)  
6 is amended to read as follows:

7 9. a. <sup>1</sup>(1)<sup>1</sup> The State Health Benefits Commission shall ensure  
8 that every contract purchased thereby, which provides hospital and  
9 medical expense benefits, additionally provides coverage and  
10 payment for <sup>1</sup>physical and behavioral<sup>1</sup> health care services  
11 delivered to a covered person through telemedicine or telehealth, on  
12 the same basis as, and at a provider reimbursement rate that **[does**  
13 **not exceed]** equals the provider reimbursement rate that is  
14 applicable, when the services are delivered through in-person  
15 contact and consultation in New Jersey <sup>1</sup>, provided the services are  
16 otherwise covered under the contract when delivered through in-  
17 person contact and consultation in New Jersey<sup>1</sup> . Reimbursement  
18 payments under this section may be provided either to the  
19 individual practitioner who delivered the reimbursable services, or  
20 to the agency, facility, or organization that employs the individual  
21 practitioner who delivered the reimbursable services, as appropriate.

22 <sup>1</sup>(2) The requirements of paragraph (1) of this subsection shall  
23 not apply to:

24 (a) a health care service provided by a telemedicine or telehealth  
25 organization that does not provide the health care service on an in-  
26 person basis in New Jersey; or

27 (b) a physical health care service <sup>2</sup>that was<sup>2</sup> provided <sup>2</sup>[using  
28 telemedicine or telehealth utilizing] through<sup>2</sup> real-time, two way  
29 audio without a video component, whether or not utilized in  
30 combination with asynchronous store-and-forward technology,  
31 <sup>2</sup>[the] including audio-only telephone conversation. The<sup>2</sup>  
32 reimbursement rate for <sup>2</sup>[which] a<sup>2</sup> physical health care service  
33 <sup>2</sup>that is subject to this subparagraph<sup>2</sup> shall be determined under the  
34 <sup>2</sup>[plan when delivered through in-person contact and consultation in  
35 New Jersey] contract purchased by the State Health Benefits  
36 Commission with the provider; provided that the reimbursement  
37 rate for a physical health care service when provided through audio-  
38 only telephone conversation shall be at least 50 percent of the  
39 reimbursement rate for the service when provided in person<sup>2</sup> .

40 (3) The provisions of subparagraph (b) of paragraph (2) of this  
41 subsection shall not apply to <sup>2</sup>a<sup>2</sup> behavioral health <sup>2</sup>[services]  
42 service that was<sup>2</sup> provided <sup>2</sup>[using telemedicine or telehealth  
43 utilizing] through<sup>2</sup> real-time, two way audio without a video  
44 component, whether or not utilized in combination with  
45 asynchronous store-and-forward technology, <sup>2</sup>[which] including  
46 audio-only telephone conversation. A<sup>2</sup> behavioral health care

1 service <sup>2</sup>described in this paragraph<sup>2</sup> shall be reimbursed at a rate  
2 that equals the provider reimbursement rate for the service when  
3 provided in person.<sup>1</sup>

4 b. A health benefits contract purchased by the State Health  
5 Benefits Commission may limit coverage to services that are  
6 delivered by health care providers in the health benefits plan's  
7 network, but may not charge any deductible, copayment, or  
8 coinsurance for a health care service, delivered through  
9 telemedicine or telehealth, in an amount that exceeds the deductible,  
10 copayment, or coinsurance amount that is applicable to an in-person  
11 consultation. In no case shall a health benefits contract purchased  
12 by the State Health Benefits Commission:

13 (1) impose any restrictions on the location or setting of the  
14 distant site used by a health care provider to provide services using  
15 telemedicine and telehealth<sup>1</sup> or on the location or setting of the  
16 originating site where the patient is located when receiving services  
17 using telemedicine and telehealth<sup>1</sup> ; <sup>1</sup>[or]<sup>1</sup>

18 (2) restrict the ability of a provider to use any electronic or  
19 technological platform<sup>1</sup> to provide services using telemedicine or  
20 telehealth<sup>1</sup> , including<sup>1</sup> , but not limited to,<sup>1</sup> interactive, real-time,  
21 two-way audio<sup>1</sup> , which may be used<sup>1</sup> in combination with  
22 asynchronous store-and-forward technology without video  
23 capabilities, <sup>2</sup>including audio-only telephone conversations,<sup>2</sup> to  
24 provide services using telemedicine or telehealth<sup>1</sup> , provided<sup>1</sup> that  
25 <sup>1</sup>the platform used<sup>1</sup> :

26 (a) allows the provider to meet the same standard of care as  
27 would be provided if the services were provided in person; and

28 (b) is compliant with the requirements of the federal health  
29 privacy rule set forth at 45 CFR Parts 160 and 164<sup>1</sup> ;

30 (3) deny coverage for or refuse to provide reimbursement for  
31 routine patient monitoring performed using telemedicine and  
32 telehealth, including remote monitoring of a patient's vital signs  
33 and routine check-ins with the patient to monitor the patient's status  
34 and condition, if coverage and reimbursement would be provided if  
35 those services are provided in person;

36 (4) use telemedicine or telehealth to satisfy network adequacy  
37 requirements with regard to a health care service <sup>2</sup>for plans or  
38 contracts entered into on or after the effective date of P.L. , c.  
39 (pending before the Legislature as this bill)<sup>2</sup> ; or

40 (5) limit coverage only to services delivered by select third  
41 party telemedicine or telehealth organizations<sup>1</sup> .

42 c. Nothing in this section shall be construed to:

43 (1) prohibit a health benefits contract from providing coverage  
44 for only those services that are medically necessary, subject to the  
45 terms and conditions of the covered person's health benefits plan; or

46 (2) allow the State Health Benefits Commission, or a contract  
47 purchased thereby, to require a covered person to use telemedicine

1 or telehealth in lieu of receiving an in-person service from an in-  
2 network provider <sup>1</sup>;

3 (3) allow the State Health Benefits Commission, or a contract  
4 purchased thereby, to impose more stringent utilization  
5 management requirements on the provision of services using  
6 telemedicine and telehealth than apply when those services are  
7 provided in person; or

8 (4) allow State Health Benefits Commission, or a contract  
9 purchased thereby, to impose any other requirements for the use of  
10 telemedicine or telehealth to provide a health care service that are  
11 more restrictive than the requirements that apply when the service is  
12 provided in person<sup>1</sup> .

13 d. The State Health Benefits Commission shall adopt rules and  
14 regulations, pursuant to the "Administrative Procedure Act,"  
15 P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions  
16 of this section.

17 e. As used in this section:

18 "Asynchronous store-and-forward" means the same as that term  
19 is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

20 "Distant site" means the same as that term is defined by section 1  
21 of P.L.2017, c.117 (C.45:1-61).

22 <sup>1</sup>"Originating site" means the same as that term is defined by  
23 section 1 of P.L.2017, c.117 (C.45:1-61).<sup>1</sup>

24 "Telehealth" means the same as that term is defined by section 1  
25 of P.L.2017, c.117 (C.45:1-61).

26 "Telemedicine" means the same as that term is defined by  
27 section 1 of P.L.2017, c.117 (C.45:1-61).

28 <sup>1</sup>"Telemedicine or telehealth organization" means the same as  
29 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).<sup>1</sup>  
30 (cf: P.L.2017, c.117, s.9)

31  
32 <sup>1</sup>[4.] <sup>2</sup>[5. <sup>1</sup>] 6.<sup>2</sup> Section 10 of P.L.2017, c.117 (C.52:14-  
33 17.46.6h) is amended to read as follows:

34 10. a. <sup>1</sup>(1)<sup>1</sup> The School Employees' Health Benefits  
35 Commission shall ensure that every contract purchased thereby,  
36 which provides hospital and medical expense benefits, additionally  
37 provides coverage and payment for <sup>1</sup>physical and behavioral<sup>1</sup> health  
38 care services delivered to a covered person through telemedicine or  
39 telehealth, on the same basis as, and at a provider reimbursement  
40 rate that **[does not exceed]** equals the provider reimbursement rate  
41 that is applicable, when the services are delivered through in-person  
42 contact and consultation in New Jersey <sup>1</sup>, provided the services are  
43 otherwise covered under the contract when delivered through in-  
44 person contact and consultation in New Jersey<sup>1</sup> . Reimbursement  
45 payments under this section may be provided either to the  
46 individual practitioner who delivered the reimbursable services, or

1 to the agency, facility, or organization that employs the individual  
2 practitioner who delivered the reimbursable services, as appropriate

3 <sup>1</sup>(2) The requirements of paragraph (1) of this subsection shall  
4 not apply to:

5 (a) a health care service provided by a telemedicine or telehealth  
6 organization that does not provide the health care service on an in-  
7 person basis in New Jersey; or

8 (b) a physical health care service <sup>2</sup>that was<sup>2</sup> provided <sup>2</sup>[using  
9 telemedicine or telehealth utilizing] through<sup>2</sup> real-time, two way  
10 audio without a video component, whether or not utilized in  
11 combination with asynchronous store-and-forward technology,  
12 <sup>2</sup>[the] including audio-only telephone conversations. The<sup>2</sup>  
13 reimbursement rate for <sup>2</sup>[which] a<sup>2</sup> physical health care service  
14 <sup>2</sup>that is subject to this subparagraph<sup>2</sup> shall be determined under the  
15 <sup>2</sup>[plan when delivered through in-person contact and consultation in  
16 New Jersey] contract purchased by the School Employees' Health  
17 Benefits Commission with the provider; provided that the  
18 reimbursement rate for a physical health care service when provided  
19 through audio-only telephone conversation shall be at least 50  
20 percent of the reimbursement rate for the service when provided in  
21 person<sup>2</sup> .

22 (3) The provisions of subparagraph (b) of paragraph (2) of this  
23 subsection shall not apply to <sup>2</sup>a<sup>2</sup> behavioral health <sup>2</sup>[services]  
24 service that was<sup>2</sup> provided <sup>2</sup>[using telemedicine or telehealth  
25 utilizing] through<sup>2</sup> real-time, two way audio without a video  
26 component, whether or not utilized in combination with  
27 asynchronous store-and-forward technology, <sup>2</sup>[which] including  
28 audio-only telephone conversation. A<sup>2</sup> behavioral health care  
29 service <sup>2</sup>described in this paragraph<sup>2</sup> shall be reimbursed at a rate  
30 that equals the provider reimbursement rate for the service when  
31 provided in person.<sup>1</sup>

32 b. A health benefits contract purchased by the School  
33 Employees' Health Benefits Commission may limit coverage to  
34 services that are delivered by health care providers in the health  
35 benefits plan's network, but may not charge any deductible,  
36 copayment, or coinsurance for a health care service, delivered  
37 through telemedicine or telehealth, in an amount that exceeds the  
38 deductible, copayment, or coinsurance amount that is applicable to  
39 an in-person consultation. In no case shall a health benefits  
40 contract purchased by the School Employees' Health Benefits  
41 Commission:

42 (1) impose any restrictions on the location or setting of the  
43 distant site used by a health care provider to provide services using  
44 telemedicine and telehealth <sup>1</sup>or on the location or setting of the  
45 originating site where the patient is located when receiving services  
46 using telemedicine and telehealth<sup>1</sup> ; <sup>1</sup>[or]<sup>1</sup>



1     (2) restrict the ability of a provider to use any electronic or  
2     technological platform <sup>1</sup>to provide services using telemedicine or  
3     telehealth<sup>1</sup> , including <sup>1</sup>, but not limited to,<sup>1</sup> interactive, real-time,  
4     two-way audio <sup>1</sup>, which may be used<sup>1</sup> in combination with  
5     asynchronous store-and-forward technology without video  
6     capabilities, <sup>2</sup>including audio-only telephone conversations,<sup>2</sup> to  
7     provide services using telemedicine or telehealth <sup>1</sup>, provided<sup>1</sup> that  
8     <sup>1</sup>the platform used<sup>1</sup> :

9     (a) allows the provider to meet the same standard of care as  
10    would be provided if the services were provided in person; and

11    (b) is compliant with the requirements of the federal health  
12    privacy rule set forth at 45 CFR Parts 160 and 164 <sup>1</sup>;

13    (3) deny coverage for or refuse to provide reimbursement for  
14    routine patient monitoring performed using telemedicine and  
15    telehealth, including remote monitoring of a patient's vital signs  
16    and routine check-ins with the patient to monitor the patient's status  
17    and condition, if coverage and reimbursement would be provided if  
18    those services are provided in person;

19    (4) use telemedicine or telehealth to satisfy network adequacy  
20    requirements with regard to a health care service <sup>2</sup>for plans or  
21    contracts entered into on or after the effective date of P.L. \_\_, c.  
22    (pending before the Legislature as this bill)<sup>2</sup> ; or

23    (5) limit coverage only to services delivered by select third  
24    party telemedicine or telehealth organizations<sup>1</sup> .

25    c. Nothing in this section shall be construed to:

26    (1) prohibit a health benefits contract from providing coverage  
27    for only those services that are medically necessary, subject to the  
28    terms and conditions of the covered person's health benefits plan; or

29    (2) allow the School Employees' Health Benefits Commission,  
30    or a contract purchased thereby, to require a covered person to use  
31    telemedicine or telehealth in lieu of receiving an in-person service  
32    from an in-network provider <sup>1</sup>;

33    (3) allow the School Employees' Health Benefits Commission,  
34    or a contract purchased thereby, to impose more stringent utilization  
35    management requirements on the provision of services using  
36    telemedicine and telehealth than apply when those services are  
37    provided in person; or

38    (4) allow the School Employees' Health Benefits Commission,  
39    or a contract purchased thereby, to impose any other requirements  
40    for the use of telemedicine or telehealth to provide a health care  
41    service that are more restrictive than the requirements that apply  
42    when the service is provided in person<sup>1</sup> .

43    d. The School Employees' Health Benefits Commission shall  
44    adopt rules and regulations, pursuant to the "Administrative  
45    Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement  
46    the provisions of this section.

47    e. As used in this section:

1 "Asynchronous store-and-forward" means the same as that term  
2 is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

3 "Distant site" means the same as that term is defined by section 1  
4 of P.L.2017, c.117 (C.45:1-61).

5 <sup>1</sup>"Originating site" means the same as that term is defined by  
6 section 1 of P.L.2017, c.117 (C.45:1-61).<sup>1</sup>

7 "Telehealth" means the same as that term is defined by section 1  
8 of P.L.2017, c.117 (C.45:1-61).

9 "Telemedicine" means the same as that term is defined by  
10 section 1 of P.L.2017, c.117 (C.45:1-61).

11 <sup>1</sup>"Telemedicine or telehealth organization" means the same as  
12 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).<sup>1</sup>  
13 (cf: P.L.2017, c.117, s.10)

14  
15 <sup>2</sup>[<sup>1</sup>6.] <sup>7.2</sup> (New section) a. A carrier that offers a health  
16 benefits plan in this State shall provide coverage, without the  
17 imposition of any cost sharing requirements, including deductibles,  
18 copayments, or coinsurance, prior authorization requirements, or  
19 other medical management requirements, for the following items  
20 and services furnished during any portion of the federal state of  
21 emergency declared in response to the coronavirus disease 2019  
22 (COVID-19) pandemic:

23 (1) testing for COVID-19, provided that a health care  
24 practitioner has issued a medical order for the testing; and

25 (2) items and services furnished or provided to an individual  
26 during health care provider office visits, including in-person visits  
27 and telemedicine and telehealth encounters, urgency care center  
28 visits, and emergency department visits, that result in an order for  
29 administration of a test for COVID-19.

30 b. As used in this section, "carrier," means an insurance  
31 company, health service corporation, hospital service corporation,  
32 medical service corporation, or health maintenance organization  
33 authorized to issue health benefits plans in this State, and shall  
34 include the State Health Benefits Program and the School  
35 Employees' Health Benefits Program.<sup>1</sup>

36  
37 <sup>1</sup>[5.] <sup>2</sup>[7.1] <sup>8.2</sup> The Commissioner of Human Services shall  
38 apply for such State plan amendments or waivers as may be  
39 necessary to implement the provisions of this act and to secure  
40 federal financial participation for State Medicaid expenditures  
41 under the federal Medicaid program.

42  
43 <sup>2</sup>[18.] <sup>9.2</sup> There is appropriated from the General Fund to the  
44 Department of Human Services the sum of \$5,000,000 to establish a  
45 program under which health care providers that provide  
46 telemedicine or telehealth services to patients who are enrolled in  
47 the State Medicaid program can be reimbursed for the costs of

providing those patients with access, on a temporary or permanent basis, to appropriate devices, programs, and technologies necessary to enable patients who do not ordinarily have access to those devices, programs, or technologies to engage in a telemedicine or telehealth encounter. The Commissioner of Human Services shall establish standards and protocols for health care providers to apply for reimbursement under the program established pursuant to this section. The funds appropriated pursuant to this section may only be expended on acquiring electronic communication and information devices, programs, and technologies for use by patients, and in no case shall the funds be used to provide any form of direct reimbursement to an individual provider for physical or behavioral health care services provided to a patient using telemedicine or telehealth, or to provide reimbursement for any electronic communication or information device, program, or technology for which payment may be made or covered or for which reimbursement is provided by a health benefits plan or any other State or federal program. Nothing in this section shall be construed to require a health benefits plan, Medicaid or NJ FamilyCare, the State Health Benefits Plan, or the School Employees' Health Benefits plan to provide reimbursement for acquiring or providing access to any electronic communication or information device, program, or technology for which coverage would not ordinarily be provided under the plan or contract.<sup>1</sup>

<sup>2</sup>['9.] 10.<sup>2</sup> P.L.2020, c.3 and P.L.2020, c.7 are repealed.<sup>1</sup>

<sup>1</sup>['6.] <sup>2</sup>['10.1] 11.<sup>2</sup> This act shall take effect immediately<sup>1</sup>and shall apply to all health benefits plans or contracts issued or renewed on or after that effective date. Section 6 of this act shall expire upon the end of the federal state of emergency declared in response to the coronavirus disease 2019 pandemic<sup>1</sup>.