

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)**

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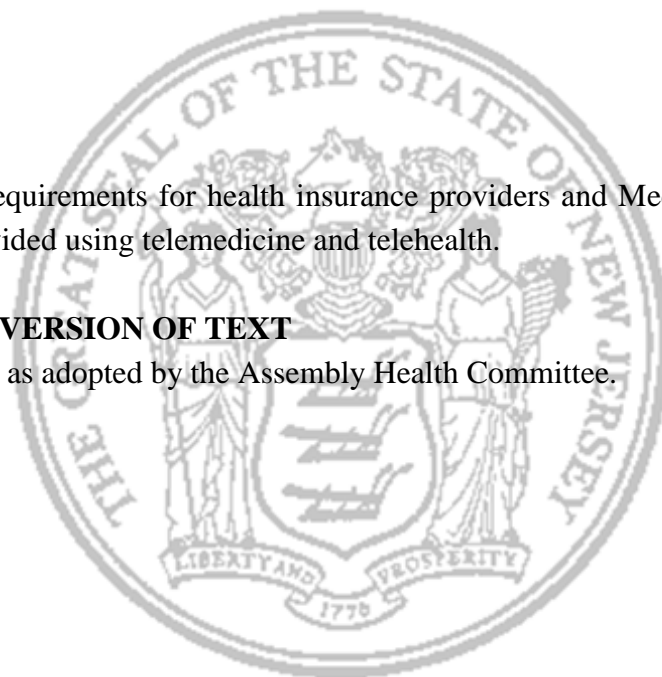
**Assemblywoman Vainieri Huttle, Assemblymen Freiman, Giblin,  
Assemblywomen Reynolds-Jackson, Speight, Murphy and Assemblyman  
Spearman**

**SYNOPSIS**

Revises requirements for health insurance providers and Medicaid to cover services provided using telemedicine and telehealth.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Health Committee.



**(Sponsorship Updated As Of: 9/14/2020)**

1 AN ACT concerning telemedicine and telehealth and amending  
2 P.L.2017, c.117.

3

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

6

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

9 8. a. A carrier that offers a health benefits plan in this State  
10 shall provide coverage and payment for 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. Reimbursement payments  
16 under this section may be provided either to the individual  
17 practitioner who delivered the reimbursable services, or to the  
18 agency, facility, or organization that employs the individual  
19 practitioner who delivered the reimbursable services, as appropriate.

20 b. A carrier may limit coverage to services that are delivered  
21 by health care providers in the health benefits plan's network, but  
22 may not charge any deductible, copayment, or coinsurance for a  
23 health care service, delivered through telemedicine or telehealth, in  
24 an amount that exceeds the deductible, copayment, or coinsurance  
25 amount that is applicable to an in-person consultation. In no case  
26 shall a carrier:

27 (1) impose any restrictions on the location or setting of the  
28 distant site used by a health care provider to provide services using  
29 telemedicine and telehealth; or

30 (2) restrict the ability of a provider to use any electronic or  
31 technological platform, including interactive, real-time, two-way  
32 audio in combination with asynchronous store-and-forward  
33 technology without video capabilities, to provide services using  
34 telemedicine or telehealth that:

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

37 (b) is compliant with the requirements of the federal health  
38 privacy rule set forth at 45 CFR Parts 160 and 164.

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

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

43 (2) allow a carrier to require a covered person to use  
44 telemedicine or telehealth in lieu of receiving an in-person service  
45 from an in-network provider.

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.

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

5 e. As used in this section:

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

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

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

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

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

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

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

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

21

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

24 7. a. The State Medicaid and NJ FamilyCare programs shall  
25 provide coverage and payment for health care services delivered to  
26 a benefits recipient through telemedicine or telehealth, on the same  
27 basis as, and at a provider reimbursement rate that **【does not**  
28 **exceed】** equals the provider reimbursement rate that is applicable,  
29 when the services are delivered through in-person contact and  
30 consultation in New Jersey. Reimbursement payments under this  
31 section may be provided either to the individual practitioner who  
32 delivered the reimbursable services, or to the agency, facility, or  
33 organization that employs the individual practitioner who delivered  
34 the reimbursable services, as appropriate.

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

43 (1) impose any restrictions on the location or setting of the  
44 distant site used by a health care provider to provide services using  
45 telemedicine and telehealth; or

46 (2) restrict the ability of a provider to use any electronic or  
47 technological platform, including interactive, real-time, two-way  
48 audio in combination with asynchronous store-and-forward

1 technology without video capabilities, to provide services using  
2 telemedicine or telehealth that:

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

5 (b) is compliant with the requirements of the federal health  
6 privacy rule set forth at 45 CFR Parts 160 and 164.

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

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

12 (2) allow the State Medicaid or NJ FamilyCare programs to  
13 require a benefits recipient to use telemedicine or telehealth in lieu  
14 of obtaining an in-person service from a participating health care  
15 provider.

16 d. The Commissioner of Human Services, in consultation with  
17 the Commissioner of Children and Families, shall apply for such  
18 State plan amendments or waivers as may be necessary to  
19 implement the provisions of this section and to secure federal  
20 financial participation for State expenditures under the federal  
21 Medicaid program and Children's Health Insurance Program.

22 e. As used in this section:

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

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

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

33 "Participating health care provider" means a licensed or certified  
34 health care provider who is registered to provide health care  
35 services to benefits recipients under the State Medicaid or NJ  
36 FamilyCare programs, as appropriate.

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

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

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

42

43 3. Section 9 of P.L.2017, c.117 (C.52:14-17.29w) is amended  
44 to read as follows:

45 9. a. The State Health Benefits Commission shall ensure that  
46 every contract purchased thereby, which provides hospital and  
47 medical expense benefits, additionally provides coverage and  
48 payment for health care services delivered to a covered person

1 through telemedicine or telehealth, on the same basis as, and at a  
2 provider reimbursement rate that **【does not exceed】** equals the  
3 provider reimbursement rate that is applicable, when the services  
4 are delivered through in-person contact and consultation in New  
5 Jersey. Reimbursement payments under this section may be  
6 provided either to the individual practitioner who delivered the  
7 reimbursable services, or to the agency, facility, or organization that  
8 employs the individual practitioner who delivered the reimbursable  
9 services, as appropriate.

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

19 (1) impose any restrictions on the location or setting of the  
20 distant site used by a health care provider to provide services using  
21 telemedicine and telehealth; or

22 (2) restrict the ability of a provider to use any electronic or  
23 technological platform, including interactive, real-time, two-way  
24 audio in combination with asynchronous store-and-forward  
25 technology without video capabilities, to provide services using  
26 telemedicine or telehealth that:

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

29 (b) is compliant with the requirements of the federal health  
30 privacy rule set forth at 45 CFR Parts 160 and 164.

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

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

35 (2) allow the State Health Benefits Commission, or a contract  
36 purchased thereby, to require a covered person to use telemedicine  
37 or telehealth in lieu of receiving an in-person service from an in-  
38 network provider.

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

43 e. As used in this section:

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

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

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

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

5 (cf: P.L.2017, c.117, s.9)

6  
7 4. Section 10 of P.L.2017, c.117 (C.52:14-17.46.6h) is  
8 amended to read as follows:

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

22 b. A health benefits contract purchased by the School  
23 Employees' Health Benefits Commission may limit coverage to  
24 services that are delivered by health care providers in the health  
25 benefits plan's network, but may not charge any deductible,  
26 copayment, or coinsurance for a health care service, delivered  
27 through telemedicine or telehealth, in an amount that exceeds the  
28 deductible, copayment, or coinsurance amount that is applicable to  
29 an in-person consultation. In no case shall a health benefits  
30 contract purchased by the School Employees' Health Benefits  
31 Commission:

32 (1) impose any restrictions on the location or setting of the  
33 distant site used by a health care provider to provide services using  
34 telemedicine and telehealth; or

35 (2) restrict the ability of a provider to use any electronic or  
36 technological platform, including interactive, real-time, two-way  
37 audio in combination with asynchronous store-and-forward  
38 technology without video capabilities, to provide services using  
39 telemedicine or telehealth that:

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

42 (b) is compliant with the requirements of the federal health  
43 privacy rule set forth at 45 CFR Parts 160 and 164.

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

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

1       (2) allow the School Employees' Health Benefits Commission,  
2 or a contract purchased thereby, to require a covered person to use  
3 telemedicine or telehealth in lieu of receiving an in-person service  
4 from an in-network provider.

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

9       e. As used in this section:

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

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

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

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

18 (cf: P.L.2017, c.117, s.10)

19

20       5. The Commissioner of Human Services shall apply for such  
21 State plan amendments or waivers as may be necessary to  
22 implement the provisions of this act and to secure federal financial  
23 participation for State Medicaid expenditures under the federal  
24 Medicaid program.

25

26       6. This act shall take effect immediately.