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.

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

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

8. a. \[1\] A carrier that offers a health benefits plan in this State shall provide coverage and payment for \[all forms of\] physical and behavioral health services delivered to a covered person 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, provided the services are otherwise covered under the plan when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate; provided that, if a telemedicine or telehealth organization does not provide a given service on an in-person basis in New Jersey, the telemedicine or telehealth organization shall not be subject to this requirement.

(2) The requirements of paragraph (1) of this subsection shall not apply to:

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

(b) a physical health care service that was provided using telemedicine or telehealth utilizing \[real-time, two way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology,\] including through audio-only telephone conversation. The reimbursement rate for \[which\] a physical health care service that is subject to this subparagraph shall be determined under the \[plan when delivered through in-person contact and consultation in New Jersey\] contract between the carrier and the provider; provided that the reimbursement rate for a physical health care service when provided through audio-only telephone conversation shall be at least 50 percent of the reimbursement rate for the service when provided in person.

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:

1Senate SHH committee amendments adopted January 14, 2021.
2Senate SBA committee amendments adopted March 22, 2021.
3Assembly AAP committee amendments adopted June 16, 2021.
4Assembly floor amendments adopted June 21, 2021.
(3) The provisions of subparagraph (b) of paragraph (2) of this subsection shall not apply to a behavioral health service that was provided using telemedicine or telehealth utilizing through real-time, two-way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology, which including audio-only telephone conversation. A behavioral health care service described in this paragraph shall be reimbursed at a rate that equals the provider reimbursement rate for the service when provided in person.

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

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth; or

(2) restrict the ability of a provider to use any electronic or technological platform, including interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology without video capabilities, that the federal Centers for Medicare and Medicaid Services has authorized for use in connection with the federal Medicare program to provide services using telemedicine or telehealth, including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video capabilities, including audio-only telephone conversations, to provide services using telemedicine or telehealth.

provided that the platform used:

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

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

(3) deny coverage for or refuse to provide reimbursement for routine patient monitoring performed using telemedicine and telehealth, including remote monitoring of a patient’s vital signs and routine check-ins with the patient to monitor the patient’s status and condition, if coverage and reimbursement would be provided if those services are provided in person.
(4) use telemedicine or telehealth to satisfy network adequacy requirements with regard to a health care service; or
(5) limit coverage only to services delivered by select third party telemedicine or telehealth organizations.

c. Nothing in this section shall be construed to:
(1) prohibit a carrier from providing coverage for only those services that are medically necessary, subject to the terms and 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; or
(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.

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).
"Originating site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).
"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).
"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).
(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. The State Medicaid and NJ FamilyCare programs shall provide coverage and payment for all forms of physical...
and behavioral health care services delivered to a benefits recipient through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Provided the services are otherwise covered when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate, provided that, if a telemedicine or telehealth organization does not provide a given service on an in-person basis in New Jersey, the telemedicine or telehealth organization shall not be subject to this requirement.

(2) The requirements of paragraph (1) of this subsection shall not apply to:

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

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

(3) The provisions of subparagraph (b) of paragraph (2) of this subsection shall not apply to behavioral health services that was provided using telemedicine or telehealth utilizing real-time, two-way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology, including audio-only telephone conversation. A behavioral health care service described in this paragraph shall be reimbursed at a rate that equals the provider reimbursement rate for the service when provided in person.

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

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth; or

(2) restrict the ability of a provider to use any electronic or technological platform, including interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology without video capabilities, that the federal Centers for Medicare and Medicaid Services has authorized for use in connection with the federal Medicare program to provide services using telemedicine or telehealth, including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video capabilities, including audio-only telephone conversations, to provide services using telemedicine or telehealth, provided that:

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

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

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

(4) limit coverage only to services delivered by select third party telemedicine or telehealth organizations.

c. Nothing in this section shall be construed to:

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

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

(3) allow the State Medicaid or NJ FamilyCare programs 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\(^1\); or

(4) allow the State Medicaid or NJ FamilyCare programs 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\(^1\).

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

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).

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

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

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

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

"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).\(^2\)

"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).\(^2\)

(cf: P.L.2017, c.117, s.7)
pursuant to Title 45 of the Revised Statutes, who engages in a remote medical evaluation of a patient, without in-person contact, at the request of another health care provider who has established a proper provider-patient relationship with the patient.

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

"Health care provider" means an individual who provides a health care service to a patient, and includes, but is not limited to, a licensed physician, nurse, nurse practitioner, psychologist, psychiatrist, psychoanalyst, clinical social worker, physician assistant, professional counselor, respiratory therapist, speech pathologist, audiologist, optometrist, or any other health care professional acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes.

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

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

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

"Telemedicine" means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care provider who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening health care provider, and in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

"Telemedicine or telehealth organization" means a corporation, sole proprietorship, partnership, or limited liability company that is organized for the primary purpose of administering services in the furtherance of telemedicine or telehealth. (cf: P.L.2017, c.117, s.1)
Section 2 of P.L.2017, c.117 (C.45:1-62) is amended to read as follows:

2. a. Unless specifically prohibited or limited by federal or State law, a health care provider who establishes a proper provider-patient relationship with a patient may remotely provide health care services to a patient through the use of telemedicine regardless of whether the health care provider is located in New Jersey at the time the remote health care services are provided. A health care provider may also engage in telehealth as may be necessary to support and facilitate the provision of health care services to patients. Nothing in P.L.2017, c.117 (C.45:1-61 et al.) shall be construed to restrict the right of a patient to receive health care services on an in-person basis upon request, and no patient shall be required to engage in a telemedicine or telehealth encounter to receive health care services if those same services are available, in person, from a provider that is reasonably accessible to the patient. Allow a provider to require a patient to use telemedicine or telehealth in lieu of receiving services from an in-network provider.

b. Any health care provider who uses telemedicine or engages in telehealth while providing health care services to a patient, shall:

1. be validly licensed, certified, or registered, pursuant to Title 45 of the Revised Statutes, to provide such services in the State of New Jersey; (2) remain subject to regulation by the appropriate New Jersey State licensing board or other New Jersey State professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction if either the patient or the provider is located in New Jersey at the time services are provided.

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

(2) A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of images, diagnostics, data, and medical information; except that the health care provider may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without video capabilities, to provide services with or without the use of interactive, real-time, two-way audio if, after accessing and reviewing the patient's medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person and informs the patient concurs, in writing, in the provider’s assessment that the provider will be able to meet in-person standard of care requirements when using asynchronous store-and-forward
(3) (a) At the time the patient requests health care services to be provided using telemedicine or telehealth, the patient shall be clearly advised that the telemedicine or telehealth encounter may be with a health care provider who is not a physician, and that the patient may specifically request that the telemedicine or telehealth encounter be scheduled with a physician. If the patient requests that the telemedicine or telehealth encounter be with a physician, the encounter shall be scheduled with a physician.

(b) The identity, professional credentials, and contact information of a health care provider providing telemedicine or telehealth services shall be made available to the patient at the time the patient schedules services to be provided using telemedicine or telehealth, except that, if the identity of the provider is not known at the time the services are scheduled, this information if available, or upon confirmation of the scheduled telemedicine or telehealth encounter, and shall be made available to the patient during and after the provision of services, if provided, and, at the time the services are scheduled, the patient shall be advised that the health care provider who provides services may not be a physician. The contact information shall enable the patient to contact the health care provider, or a substitute health care provider authorized to act on behalf of the provider who provided services, for at least 72 hours following the provision of services. If the health care provider is not a physician, the health care provider shall request from the patient, prior to the start of the telemedicine or telehealth encounter, an affirmative written acknowledgement that the patient understands the provider is not a physician and would still like to proceed with the encounter and the patient requests that the services be provided by a physician, the health care provider shall assist the patient with scheduling a telemedicine or telehealth encounter with a physician.

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

(5) Following the provision of services using telemedicine or telehealth, the patient's medical information shall be made available to the patient upon the patient's request, and, with the
patient’s affirmative consent, entered into the patient’s medical record, whether the medical record is a physical record, an electronic health record, or both, and, if so requested to by the patient, forwarded directly to the patient’s primary care provider or health care provider of record, or, upon request by the patient, forwarded directly to the patient’s primary care provider, and, upon request by the patient, shall assist the patient with locating a primary care provider or other in-person medical assistance that, to the extent possible, is located within reasonable proximity to the patient. The health care provider engaging in telemedicine or telehealth shall also refer the patient to appropriate follow up care where necessary, including making appropriate referrals for in-person care or emergency care, if needed. Consent may be oral, written, or digital in nature, provided that the chosen method of consent is deemed appropriate under the standard of care.

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

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

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

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

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

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

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

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

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

i. (1) In accordance with the "Administrative Procedure Act,"
P.L.1968, c.410 (C.52:14B-1 et seq.), the State boards or other
entities that, pursuant to Title 45 of the Revised Statutes, are
responsible for the licensure, certification, or registration of health
care providers in the State, shall each adopt rules and regulations
that are applicable to the health care providers under their
respective jurisdictions, as may be necessary to implement the
provisions of this section and facilitate the provision of
telemedicine and telehealth services. Such rules and regulations
shall, at a minimum:
(a) include best practices for the professional engagement in telemedicine and telehealth;
(b) ensure that the services patients receive using telemedicine or telehealth are appropriate, medically necessary, and meet current quality of care standards;
(c) include measures to prevent fraud and abuse in connection with the use of telemedicine and telehealth, including requirements concerning the filing of claims and maintaining appropriate records of services provided; and
(d) provide substantially similar metrics for evaluating quality of care and patient outcomes in connection with services provided using telemedicine and telehealth as currently apply to services provided in person.

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

(3) The failure of any licensing board to adopt rules and regulations pursuant to this subsection shall not have the effect of delaying the implementation of this act, and shall not prevent health care providers from engaging in telemedicine or telehealth in accordance with the provisions of this act and the practice act applicable to the provider's professional licensure, certification, or registration.

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

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

9. a. 3[1][1] The State Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for all forms of physical and behavioral health care services delivered to a covered person 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, provided the services are otherwise covered under the contract when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate provided that, if a telemedicine or telehealth organization does not provide a given service on an in-person basis in New Jersey, the telemedicine or telehealth organization shall not be subject to this requirement.


(2) The requirements of paragraph (1) of this subsection shall not apply to:

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

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

(3) The provisions of subparagraph (b) of paragraph (2) of this subsection shall not apply to a behavioral health service that was provided using telemedicine or telehealth utilizing through real-time, two-way audio component, whether or not utilized in combination with asynchronous store-and-forward technology, including audio-only telephone conversation. A behavioral health care service described in this paragraph shall be reimbursed at a rate that equals the provider reimbursement rate for the service when provided in person.

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

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth; or

(2) restrict the ability of a provider to use any electronic or technological platform including interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology without video capabilities that the federal Centers for Medicare and Medicaid Services has authorized for use in.
connection with the federal Medicare program\(^2\)\(^3\) to provide services using telemedicine or telehealth\(^3\), including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video capabilities, \(^4\) including audio-only telephone conversations; \(^4\) to provide services using telemedicine or telehealth\(^3\), provided that \(^2\)\(^3\):

(a) the platform\(^2\)\(^3\) used:

(b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164\(^2\)\(^3\)\(^4\)\(^2\)\(^3\); and

(b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164\(^2\)\(^3\);

(3) deny coverage for or refuse to provide reimbursement for routine patient monitoring performed using telemedicine and telehealth, including remote monitoring of a patient’s vital signs and routine check-ins with the patient to monitor the patient’s status and condition, if coverage and reimbursement would be provided if those services are provided in person\(^1\)\(^3\);

(4) use telemedicine or telehealth to satisfy network adequacy requirements with regard to a health care service \(^4\) for plans or contracts entered into on or after the effective date of P.L.\(^\text{pending before the Legislature as this bill}\)\(^4\)\(^2\)\(^3\); or

(5) limit coverage only to services delivered by select third party telemedicine or telehealth organizations\(^2\)\(^3\).

c. Nothing in this section shall be construed to:

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

(2) allow the State Health Benefits Commission, or a contract purchased thereby, to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider\(^2\)\(^3\)\(^4\)\(^2\)\(^3\); or

(3) allow the State Health Benefits Commission, or a contract purchased thereby, 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\(^2\)\(^3\)\(^4\)\(^2\)\(^3\); or

(4) allow State Health Benefits Commission, or a contract purchased thereby, 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\(^3\).

d. The State Health Benefits Commission 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).

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

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

"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).

²-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). ²

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

§5.] ⁵ Section 10 of P.L.2017, c.117 (C.52:14-17.46.6h) is amended to read as follows:

10. a. ³(1)³ The School Employees’ Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for physical and behavioral ¹ health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered under the contract when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate. ³² provided that, if a telemedicine or telehealth organization does not provide a given service on an in-person basis in New Jersey, the telemedicine or telehealth organization shall not be subject to this requirement². ²

(2) The requirements of paragraph (1) of this subsection shall not apply to:

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

(b) a physical health care service that was provided using telemedicine or telehealth utilizing real-time, two way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology.
that is subject to this subparagraph shall be determined under the plan when delivered through in-person contact and consultation in New Jersey contract purchased by the School Employees’ Health Benefits Commission with the provider; provided that the reimbursement rate for a physical health care service when provided through audio-only telephone conversation shall be at least 50 percent of the reimbursement rate for the service when provided in person.

(3) The provisions of subparagraph (b) of paragraph (2) of this subsection shall not apply to a behavioral health service that was provided utilizing telemedicine or telehealth through real-time, two-way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology, including audio-only telephone conversation. A behavioral health care service described in this paragraph shall be reimbursed at a rate that equals the provider reimbursement rate for the service when provided in person.

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

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth,

(2) restrict the ability of a provider to use any electronic or technological platform, including interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology without video capabilities, that the federal Centers for Medicare and Medicaid Services has authorized for use in connection with the federal Medicare program to provide services using telemedicine or telehealth, including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video capabilities, including audio-only telephone conversations, to provide services using telemedicine or telehealth, provided that
(a) the platform allows the provider to meet the same standard of care as would be provided if the services were provided in person; and

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

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

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

(4) use telemedicine or telehealth to satisfy network adequacy requirements with regard to a health care service for plans or contracts entered into on or after the effective date of P.L. ; or

(4) use telemedicine or telehealth to satisfy network adequacy requirements with regard to a health care service for plans or contracts entered into on or after the effective date of P.L. ; or

(5) limit coverage only to services delivered by select third party telemedicine or telehealth organizations.

c. Nothing in this section shall be construed to:

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

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

(3) allow the School Employees’ Health Benefits Commission, or a contract purchased thereby, 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 the School Employees’ Health Benefits Commission, or a contract purchased thereby, 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.

d. The School Employees’ Health Benefits Commission 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).

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

"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).

"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).

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

6. (New section) The Commissioner of Banking and Insurance shall conduct a study to determine whether telemedicine and telehealth may be appropriately used to satisfy network adequacy requirements applicable to health benefits plans in New Jersey. The commissioner shall prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, no later than one year after the effective date of this act outlining the commissioner’s findings and any recommendations for legislation, administrative action, or other actions as the commissioner deems appropriate.

7. (New section) a. A carrier that offers a health benefits plan in this State shall provide coverage, without the imposition of any cost sharing requirements, including deductibles, copayments, or coinsurance, prior authorization requirements, or other medical management requirements, for the following items and services furnished during any portion of the federal state of emergency declared in response to the coronavirus disease 2019 (COVID-19) pandemic:

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

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

b. As used in this section, “carrier,” means an insurance company, health service corporation, hospital service corporation, medical service corporation, or health maintenance organization authorized to issue health benefits plans in this State, and shall include the State Health Benefits Program and the School Employees' Health Benefits Program.

The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.
There is appropriated from the General Fund to the Department of Human Services the sum of $5,000,000 to establish a program under which health care providers that provide telemedicine or telehealth services to patients who are enrolled in the State Medicaid program can be reimbursed for the costs of making telemedicine and telehealth technologies available to 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.

P.L.2020, c.3 and P.L.2020, c.7 are repealed.

This act shall take effect immediately, except that sections 1, 2, 4, and 5 of this act shall take effect January 1, 2022 and shall apply to all health benefits plans or contracts issued or renewed on or after that 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.