MN HOUSE RESEARCH

Bill Summary

H.F. 1412

First engrossment

Subject	Telemedicine; telehealth
Authors	Morrison
Analyst	Randall Chun Sarah Sunderman
Date	March 5, 2021

Overview

This bill makes, expands, and clarifies coverage of telehealth services under private sector insurance, Medical Assistance (MA), and MinnesotaCare. A number of provisions in the bill make ongoing telehealth-related changes that would otherwise expire 60 days following the end of the peacetime emergency. The bill:

- adds mental health practitioners to the group of providers that can provide telehealth services;
- includes audio-only communications in the definition of telehealth and provides coverage for telemonitoring;
- expands the scope of provisions that seek to ensure parity in reimbursement and coverage between telehealth and in-person visits;
- modifies telehealth requirements for mental health and substance use disorder treatment and case management services;
- eliminates the three visit per week limit on MA and MinnesotaCare coverage of telehealth services; and
- makes additional providers eligible to provide telemedicine services, and makes other changes expanding the use of telehealth in MA and MinnesotaCare.

Summary

Section	Description
1	**Coverage of services provided through telehealth.** Adds § 62A.673. Establishes requirements for the coverage of telehealth by health carriers. This section incorporates language from telemedicine requirements in sections 62A.67 to 62A.672 (these sections are repealed in the bill) and provisions from Laws 2020, chapter 74, as well as new language.

Section	Description

Subd. 1. Citation. States that this section may be cited as the "Minnesota Telehealth Act."

Subd. 2. Definitions. Defines the following terms: distant site, health care provider, health carrier, health plan, originating site, store-and-forward transfer, and telehealth. These definitions are modifications of those in current law in § 62A.671. Major differences include:

- The definition of "health care provider" includes mental health practitioners (one of the groups added temporarily in chapter 74).
- The definition of "telehealth" is a revision of the definition of "telemedicine" in current law. The revised definition specifically includes "audio-only communication between a health care provider and a patient" if this is a scheduled appointment and the standard of care can be met; this is not explicit in current law.
- Provides a definition of "telemonitoring services;" this term is not defined in current law.

Subd. 3. Coverage of telehealth. (a) Requires health plans to cover benefits delivered through telehealth in the same manner as any other benefits, and to comply with this section. (Similar to language in § 62A.672.)

(b) Prohibits coverage of telehealth services from being limited on the basis of geography, location, or distance for travel. (New provision.)

(c) Prohibits a health carrier from creating a separate provider network or providing incentives for enrollees to use a separate provider network to deliver telehealth services, if this network does not include network providers who provide in-person care for the same service. (New provision.)

(d) Allows a health carrier to include cost-sharing for a service provided through telehealth, if this cost-sharing is not in addition to, and does not exceed, cost-sharing for the same service provided in-person. (Similar to language in § 62A.67.)

(e) States that nothing in this section shall be construed to: (1) require a health carrier to provide coverage for services that are not medically necessary or not covered under the enrollee's health plan; or (2) prohibit a health carrier from:

(i) establishing safety and efficacy criteria for a particular telehealth service for which other providers are not already reimbursed under telehealth;

(ii) establishing reasonable medical management techniques; or

Section	Description

(iii) requiring documentation or billing practices designed to prevent fraudulent claims.

(Item (ii) and the reference in clause (1) to services covered under a health plan are new; the other provisions in this paragraph are similar to language in § 62A.672.)

(f) States that nothing in this section shall be construed to require the use of telehealth when a provider determines this is not appropriate or the enrollee chooses not to receive a health care service through telehealth. (New provision.)

Subd. 4. Parity between telehealth and in-person services. (a) Prohibits a health carrier from restricting or denying coverage of a covered health care service solely: (1) because the service is not provided in-person; or (2) based on the communication technology or application used to deliver the service through telehealth, provided the technology or application complies with this section and is appropriate for the particular service. (Clause (1) is similar to language in § 62A.672; clause (2) is new.)

(b) Allows prior authorization to be used for a telehealth service only if it is required when the same service is delivered in-person. (New provision.)

(c) Allows a health carrier to require utilization review for a service delivered through telehealth so long as it is conducted in the same manner and uses the same clinical review criteria as utilization review for the same service delivered in-person. (New provision.)

Subd. 5. Reimbursement for services delivered through telehealth. (a) Requires health carriers to reimburse providers for telehealth services on the same basis and at the same rate as would apply had the service been delivered in-person. (Similar to language in § 62A.672.)

(b) Prohibits a health carrier from denying or limiting reimbursement solely because the service was delivered though telehealth rather than in-person. (Similar to temporary language in chapter 74.)

(c) Prohibits a health carrier from denying or limiting reimbursement based solely on the technology and equipment used by the health care provider to deliver the service through telehealth, as long as the technology and equipment meets the requirements of this section and is appropriate for the particular service. (Similar to temporary language in chapter 74.)

Subd. 6. Telehealth equipment. (a) Prohibits a health carrier from requiring a provider to use specific telecommunications technology and equipment as a condition of coverage, as long as this technology and equipment complies with

Section	Description

current industry interoperable standards and with federal Health Insurance Portability and Accountability Act (HIPAA) standards and regulations, unless authorized under this section.

(b) Requires a health carrier to cover services delivered through telehealth by audio-only telephone communication, if this communication is a result of a scheduled appointment and the standard of care for the particular service can be met through audio-only communication. (The provisions in this subdivision are new.)

Subd. 7. Telemonitoring services. Requires a health carrier to provide coverage for telemonitoring services if: (1) the services are medically appropriate for the enrollee; (2) the enrollee is capable of operating the monitoring device or equipment, or has a caregiver willing and able to assist; and (3) the enrollee resides in a setting suitable for telemonitoring and not in a setting with health care staff on site. (The provisions in this subdivision are new.)

2 **Practice of telehealth.**

Amends § 147.033. Modifies telehealth provisions in the physician licensure statute.

Subd. 1. Definition. Changes terminology from "telemedicine" to "telehealth" and modifies definition to be consistent with the definition in § 62A.673.

Subd. 2. Physician-patient relationship. Modifies terminology from "telemedicine" to "telehealth."

Subd. 3. Standards of practice and conduct. Modifies terminology from "telemedicine" to "telehealth."

3 **Prescribing and filing.**

Amends § 151.37, subd. 2. Reorganizes provision relating to examination requirement for licensed practitioners prescribing certain drugs; specifies drugs for which an examination via telehealth meets the requirements.

Makes this section effective the day following final enactment.

4 **Face-to-face.**

Amends § 245G.01, subd. 13. Modifies definition of "face-to-face" in the substance use disorder treatment program licensing chapter, to clarify that services delivered via telehealth should prioritize using combined audio and visual communication.

Makes this section effective January 1, 2022, or upon federal approval, whichever is later.

Section	Description
5	**Telehealth.** Amends § 245G.01, subd. 26. Modifies terminology to "telehealth" and definition for "telemedicine" in the substance use disorder treatment program licensing chapter.
6	**General.** Amends § 245G.06, subd. 1. Allows an alcohol and drug counselor to document a client's approval of a treatment plan verbally, in lieu of a signature, if a client is receiving services or an assessment via telehealth.
7	**Assessment via telehealth.** Amends § 254A.19, subd. 5. Adds cross-reference to definition of telehealth. Makes this section effective January 1, 2022, or upon federal approval, whichever is later.
8	**Rate requirements.** Amends § 254B.05, subd. 5. Modifies paragraph (f) to clarify terminology and add cross-reference to definition of telehealth. Makes this section effective January 1, 2022, or upon federal approval, whichever is later.
9	**Mental health case management.** Amends § 256B.0596. Adds telehealth contact, with at least one in-person contact every six months, to provider requirements for mental health case management.
10	**Telehealth services.** Amends § 256B.0625, subd. 3b. Modifies MA coverage of telehealth services, to be consistent with changes made to telemedicine coverage requirements for health carriers that are reflected in § 62A.676. Under current law, MA coverage is generally consistent with § 62A.67 to 62A.672 (these sections are repealed in the bill and modified provisions are included in § 62A.676). The amendment to paragraph (a) eliminates the three visit per enrollee per calendar week limit on the provision of telehealth services and makes conforming changes. The amendment to paragraph (b) allows the commissioner to establish criteria that health care providers must attest to in order to demonstrate the safety or efficacy of a service delivered through telehealth (this is required of the commissioner under current law). Also makes conforming changes. The amendment to paragraph (c) makes conforming changes.

Section	Description

The amendment to paragraph (d) replaces the definition of "telemedicine" with the definition of "telehealth." (This is the same definition as provided in § 62A.673, except that audio-only communication between a provider and patient is not covered if interactive visual and audio communication is specifically required.) The amendment to paragraph (d) also makes conforming changes in terminology.

The amendment to paragraph (e) of current law incorporates the definition of "health care provider" used in § 62A.673 (this includes adding mental health practitioners), but expands the definition to also include other mental health and substance use disorder service providers. The amendment also incorporates the definitions of originating site, distant site, and store-and-forward transfer used in § 62A.673 into the MA statute. "Distant site" and "store-and-forward transfer" had not previously been defined in this section. Community paramedics and community health workers are retained in the MA definition of "health care provider" (these providers are not included in the definition of health care provider used in § 62A.673).

The amendment to paragraph (f) of current law makes a conforming change to the elimination of the three visit per week limit on the provision of telehealth services.

States that the section is effective January 1, 2022, or upon federal approval, whichever is later.

11 **Telemonitoring services.**

Amends § 256B.0625, by adding subd. 3h.

(a) States that MA covers telemonitoring services if the recipient:

1) has been diagnosed with and is receiving services for at least one specified chronic condition;
2) requires monitoring at least five times per week to manage the condition;
3) has had two or more emergency room or inpatient hospital stays within the last 12 months due to the chronic condition, or the recipient's health care provider has identified that telemonitoring would likely prevent admission or readmission to a hospital, emergency room, or nursing facility;
4) is capable of operating the monitoring device or equipment, or has a caregiver willing and able to assist; and
5) resides in a setting suitable for telemonitoring and not in a setting with health care staff on site.

Section	Description

(b) Provides a definition of "telemonitoring services." The definition specifies the provider types that can assess and monitor the data transmitted by telemonitoring.

12 **Medication therapy management services.**

Amends §256B.0625, subd. 13h.

The amendment to paragraph (b) eliminates the requirement that a pharmacist practice in an ambulatory care setting as part of a multidisciplinary team or have developed a structured patient care process, in order to be eligible for MA reimbursement for medication therapy management services.

The amendment to paragraph (c) eliminates a reference to the commissioner establishing contact requirements between the pharmacist and recipient.

The amendment to paragraph (d) states that medication therapy management services may be provided by telehealth and delivered in a patient's residence. Strikes current law which provides coverage for the service when provided through two-way interactive video if there are no pharmacists practicing within a reasonable geographic distance. Also strikes language limiting reimbursement to situations in which both the pharmacist and patient are located in an ambulatory care setting, and prohibiting services from being transmitted into the patient's residence.

Strikes paragraph (e), which specifies requirements for the delivery of medication therapy management services into a patient's residence through secure interactive video.

13 **Mental health case management.**

Amends § 256B.0625, subd. 20. Adds "in-person" clarifying language; modifies terminology for telehealth.

14 **Mental health targeted case management through telehealth.**

Amends § 256B.0625, subd. 20b. Modifies terminology from "interactive video" to "telehealth;" adds paragraph citing telehealth definition and allowing the commissioner to limit mental health targeted case management telehealth if the commissioner determines that face-to-face interaction is necessary.

15 **Mental health telehealth.**

Amends § 256B.0625, subd. 46. Clarifies terminology and adds cross-reference to definition of telehealth.

Makes this section effective January 1, 2022, or upon federal approval, whichever is later.

Section	Description
16	**Targeted case management through interactive video.** Amends § 256B.0924, subd. 4a. Modifies terminology from "interactive video" to "telehealth;" adds paragraph citing telehealth definition and allowing the commissioner to limit mental health targeted case management telehealth if the commissioner determines that face-to-face interaction is necessary.
17	**Payment for targeted case management.** Amends § 256B.0924, subd. 6. Clarifies that documented contact for targeted case management payment purposes may be either in-person or via telehealth, with not more than two consecutive months without in-person contact.
18	**Medical assistance reimbursement of case management services.** Amends § 256B.094, subd. 6. Clarifies that contact for case management reimbursement purposes may be either in-person or via telehealth, with in-person contact at least once a month.
19	**Revisor instruction.** Directs the revisor to substitute the term "telehealth" for "telemedicine" in Minnesota Statutes and Minnesota Rules, and to substitute "section 62A.673" whenever references to sections 62A.67, 62A.671, and 62A.672 appear.
20	**Repealer.** Repeals sections 62A.67, 62A.671, and 62A.672 (current law governing coverage of telemedicine services by health carriers).