

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

01/22/13

UNOFFICIAL PREAMENDED VERSION

LLS NO. 15-0145.01 Christy Chase x2008

HOUSE BILL 15-1029

HOUSE SPONSORSHIP

Buck and Ginal,

SENATE SPONSORSHIP

Kefalas and Martinez Humenik,

House Committees
Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING COVERAGE UNDER A HEALTH BENEFIT PLAN FOR HEALTH**
102 **CARE SERVICES DELIVERED THROUGH TELEHEALTH IN ANY**
103 **AREA OF THE STATE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, health benefit plans issued, amended, or renewed in this state cannot require in-person health care delivery for a person covered under the plan who resides in a county with 150,000 or fewer residents if the care can be appropriately delivered through telemedicine and the county has the technology necessary for care

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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delivery via telemedicine.

Starting January 1, 2016, the bill removes the population restrictions and precludes a health benefit plan from requiring in-person care delivery when telemedicine is appropriate, regardless of the geographic location of the health care provider and the recipient of care. A provider need not demonstrate that a barrier to in-person care exists for coverage of telemedicine under a health benefit plan to apply.

In addition, carriers:

- Must reimburse providers who deliver care through telemedicine on the same basis that the carrier is responsible for coverage of services delivered in person;
- Cannot charge deductible, copayment, or coinsurance amounts that are not equally imposed on all terms and services covered under the health benefit plan; and
- Cannot impose an annual or lifetime dollar maximum that applies separately to telemedicine services.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-123, **amend**
3 (1) and (2); and **add** (4) as follows:

4 **10-16-123. Telehealth - definitions.** (1) It is the intent of the
5 general assembly to recognize the practice of ~~telemedicine~~ TELEHEALTH
6 as a legitimate means by which an individual in a rural area may receive
7 ~~medical~~ HEALTHCARE services from a provider without ~~person-to-person~~
8 ~~IN-PERSON~~ contact with the provider.

9 (2) (a) On or after January 1, ~~2002, no~~ 2017, A health benefit plan
10 that is issued, amended, or renewed for a person residing in a county with
11 ~~one hundred fifty thousand or fewer residents~~ may IN THIS STATE SHALL
12 NOT require ~~face-to-face~~ IN-PERSON contact between a provider and a
13 covered person for services appropriately provided through ~~telemedicine~~
14 ~~telemedicine, pursuant to section 12-36-106(1)(g), C.R.S.,~~ TELEHEALTH,
15 subject to all terms and conditions of the health benefit plan. ~~if such~~
16 ~~county has the technology necessary for the provisions of telemedicine.~~

1 Any ~~health benefits provided through telemedicine shall meet the~~
2 ~~same standard of care as for in-person care.~~ Nothing in this section
3 shall require REQUIRES the use of ~~telemedicine~~ TELEHEALTH when
4 in-person care by a participating provider is available to a covered person
5 within the carrier's network and within the member's geographic area A
6 PROVIDER DETERMINES THAT DELIVERY OF CARE THROUGH TELEHEALTH
7 IS NOT APPROPRIATE. A PROVIDER IS NOT OBLIGATED TO DOCUMENT OR
8 DEMONSTRATE THAT A BARRIER TO IN-PERSON CARE EXISTS TO TRIGGER
9 COVERAGE UNDER A HEALTH BENEFIT PLAN FOR SERVICES PROVIDED
10 THROUGH TELEHEALTH.

11 (b) SUBJECT TO ALL TERMS AND CONDITIONS OF THE HEALTH
12 BENEFIT PLAN, A CARRIER SHALL REIMBURSE THE TREATING
13 PARTICIPATING PROVIDER OR THE CONSULTING PARTICIPATING PROVIDER
14 FOR THE DIAGNOSIS, CONSULTATION, OR TREATMENT OF THE COVERED
15 PERSON DELIVERED THROUGH TELEHEALTH ON THE SAME BASIS THAT THE
16 CARRIER IS RESPONSIBLE FOR REIMBURSING THAT PROVIDER FOR THE
17 PROVISION OF THE SAME SERVICE THROUGH IN-PERSON CONSULTATION OR
18 CONTACT BY THAT PROVIDER. A CARRIER SHALL NOT DENY COVERAGE OF
19 A HEALTH CARE SERVICE THAT IS A COVERED BENEFIT BECAUSE THE
20 SERVICE IS PROVIDED THROUGH TELEHEALTH RATHER THAN IN-PERSON
21 CONSULTATION OR CONTACT BETWEEN THE PARTICIPATING PROVIDER OR,
22 SUBJECT TO SECTION 10-16-704, THE NONPARTICIPATING PROVIDER AND
23 THE COVERED PERSON WHERE THE HEALTH CARE SERVICE IS
24 APPROPRIATELY PROVIDED THROUGH TELEHEALTH. SECTION 10-16-704
25 APPLIES TO THIS PARAGRAPH (b).

26 (c) A CARRIER SHALL INCLUDE IN THE PAYMENT FOR TELEHEALTH
27 INTERACTIONS REASONABLE COMPENSATION TO THE ORIGINATING SITE

1 FOR THE TRANSMISSION COST INCURRED DURING THE DELIVERY OF HEALTH
2 CARE SERVICES THROUGH TELEHEALTH; EXCEPT THAT, FOR PURPOSES OF
3 THIS PARAGRAPH (c), THE ORIGINATING SITE DOES NOT INCLUDE A PRIVATE
4 RESIDENCE AT WHICH THE COVERED PERSON IS LOCATED WHEN HE OR SHE
5 RECEIVES HEALTH CARE SERVICES THROUGH TELEHEALTH.

6 (d) A CARRIER MAY OFFER A HEALTH COVERAGE PLAN CONTAINING
7 A DEDUCTIBLE, COPAYMENT, OR COINSURANCE REQUIREMENT FOR A
8 HEALTH CARE SERVICE PROVIDED THROUGH TELEHEALTH, BUT THE
9 DEDUCTIBLE, COPAYMENT, OR COINSURANCE AMOUNT MUST NOT EXCEED
10 THE DEDUCTIBLE, COPAYMENT, OR COINSURANCE APPLICABLE IF THE SAME
11 HEALTH CARE SERVICES ARE PROVIDED THROUGH IN-PERSON DIAGNOSIS,
12 CONSULTATION, OR TREATMENT.

13 (e) A CARRIER SHALL NOT IMPOSE AN ANNUAL DOLLAR MAXIMUM
14 ON COVERAGE FOR HEALTH CARE SERVICES COVERED UNDER THE HEALTH
15 BENEFIT PLAN THAT ARE DELIVERED THROUGH TELEHEALTH, OTHER THAN
16 AN ANNUAL DOLLAR MAXIMUM THAT APPLIES TO THE SAME SERVICES
17 WHEN PERFORMED BY THE SAME PROVIDER THROUGH IN-PERSON CARE.

18 (f) IF A COVERED PERSON RECEIVES HEALTH CARE SERVICES
19 THROUGH TELEHEALTH, A CARRIER SHALL APPLY THE SAME COPAYMENT,
20 COINSURANCE, OR DEDUCTIBLE AMOUNT AND POLICY-YEAR,
21 CALENDAR-YEAR, LIFETIME, OR OTHER DURATIONAL BENEFIT LIMITATION
22 OR MAXIMUM BENEFITS OR SERVICES UNDER THE HEALTH BENEFIT PLAN TO
23 THE HEALTH CARE SERVICES DELIVERED VIA TELEHEALTH THAT THE
24 CARRIER APPLIES UNDER THE HEALTH BENEFIT PLAN TO THOSE HEALTH
25 CARE SERVICES WHEN PERFORMED BY THE SAME PROVIDER THROUGH
26 IN-PERSON CARE.

27 (g) (I) THE REQUIREMENTS OF THIS SECTION APPLY TO ALL HEALTH

1 BENEFIT PLANS DELIVERED, ISSUED FOR DELIVERY, AMENDED, OR
2 RENEWED IN THIS STATE ON OR AFTER JANUARY 1, 2017, OR AT ANY TIME
3 AFTER THAT DATE WHEN A TERM OF THE PLAN IS CHANGED OR A PREMIUM
4 ADJUSTMENT IS MADE.

5 (II) THIS SECTION DOES NOT APPLY TO:

6 (A) SHORT-TERM TRAVEL, ACCIDENT-ONLY, LIMITED OR SPECIFIED
7 DISEASE, OR INDIVIDUAL CONVERSION POLICIES OR CONTRACTS; OR

8 (B) POLICIES OR CONTRACTS DESIGNED FOR ISSUANCE TO PERSONS
9 ELIGIBLE FOR COVERAGE UNDER TITLE XVIII OF THE "SOCIAL SECURITY
10 ACT", AS AMENDED, OR ANY OTHER SIMILAR COVERAGE UNDER STATE OR
11 FEDERAL GOVERNMENTAL PLANS.

12 (h) NOTHING IN THIS SECTION PROHIBITS A CARRIER FROM
13 PROVIDING COVERAGE OR REIMBURSEMENT FOR HEALTH CARE SERVICES
14 APPROPRIATELY PROVIDED THROUGH TELEHEALTH TO A COVERED PERSON
15 WHO IS NOT LOCATED AT AN ORIGINATING SITE.

16 (4) AS USED IN THIS SECTION:

17 (a) "DISTANT SITE" MEANS A SITE AT WHICH A PROVIDER IS
18 LOCATED WHILE PROVIDING HEALTH CARE SERVICES BY MEANS OF
19 TELEHEALTH.

20 (b) "ORIGINATING SITE" MEANS A SITE AT WHICH A PATIENT IS
21 LOCATED AT THE TIME HEALTH CARE SERVICES ARE PROVIDED TO HIM OR
22 HER BY MEANS OF TELEHEALTH.

23 (c) "STORE-AND-FORWARD TRANSFER" MEANS THE ELECTRONIC
24 TRANSFER OF A PATIENT'S MEDICAL INFORMATION OR AN INTERACTION
25 BETWEEN PROVIDERS THAT OCCURS BETWEEN AN ORIGINATING SITE
26 AND DISTANT SITES WHEN THE PATIENT IS NOT PRESENT.

27 (d) "SYNCHRONOUS INTERACTION" MEANS A REAL-TIME

1 INTERACTION BETWEEN A PATIENT LOCATED AT THE ORIGINATING SITE
2 AND A PROVIDER LOCATED AT A DISTANT SITE.

3 (e) (I) "TELEHEALTH" MEANS A MODE OF DELIVERY OF HEALTH
4 CARE SERVICES THROUGH TELECOMMUNICATIONS SYSTEMS, INCLUDING
5 INFORMATION, ELECTRONIC, AND COMMUNICATION TECHNOLOGIES, TO
6 FACILITATE THE ASSESSMENT, DIAGNOSIS, CONSULTATION, TREATMENT,
7 EDUCATION, CARE MANAGEMENT, OR SELF-MANAGEMENT OF A COVERED
8 PERSON'S HEALTH CARE WHILE THE COVERED PERSON IS LOCATED AT AN
9 ORIGINATING SITE AND THE PROVIDER IS LOCATED AT A DISTANT SITE. THE
10 TERM INCLUDES SYNCHRONOUS INTERACTIONS AND STORE-AND-FORWARD
11 TRANSFERS.

12 (II) "TELEHEALTH" DOES NOT INCLUDE THE DELIVERY OF HEALTH
13 CARE SERVICES VIA TELEPHONE, FACSIMILE MACHINE, OR ELECTRONIC
14 MAIL SYSTEMS.

15 **SECTION 2.** In Colorado Revised Statutes, 10-16-102, amend
16 (33) as follows:

17 **10-16-102. Definitions - repeal.** As used in this article, unless the
18 context otherwise requires:

19 (33) "Health care services" means any services included in or
20 incidental to the furnishing of medical, mental, dental, or optometric care;
21 hospitalization; or nursing home care to an individual, as well as the
22 furnishing to any person of any other services for the purpose of
23 preventing, alleviating, curing, or healing human physical or mental
24 illness or injury. "Health care services" includes the rendering of the
25 services through the use of telemedicine TELEHEALTH, AS DEFINED IN
26 SECTION 10-16-123 (4) (e).

27 **SECTION 3.** In Colorado Revised Statutes, 10-16-704, amend

1 (1) (a), (9) (a.5), and (11) as follows:

2 **10-16-704. Network adequacy - rules - legislative declaration.**

3 (1) A carrier providing a managed care plan shall maintain a network that
4 is sufficient in numbers and types of providers to assure that all covered
5 benefits to covered persons will be accessible without unreasonable delay.
6 In the case of emergency services, covered persons shall have access to
7 health care services twenty-four hours per day, seven days per week.
8 Sufficiency shall be determined in accordance with the requirements of
9 this section and may be established by reference to any reasonable criteria
10 used by the carrier, including but not limited to:

11 (a) Provider-covered person ratios by specialty, which may
12 include the use of providers through telemedicine TELEHEALTH for
13 services that may appropriately be provided through telemedicine
14 TELEHEALTH;

15 (9) Beginning January 1, 1998, a carrier shall maintain and make
16 available upon request of the commissioner, the executive director of the
17 department of public health and environment, or the executive director of
18 the department of health care policy and financing, in a manner and form
19 that reflects the requirements specified in paragraphs (a) to (k) of this
20 subsection (9), an access plan for each managed care network that the
21 carrier offers in this state. The carrier shall make the access plans, absent
22 confidential information as specified in section 24-72-204 (3), C.R.S.,
23 available on its business premises and shall provide them to any interested
24 party upon request. In addition, all health benefit plans and marketing
25 materials shall clearly disclose the existence and availability of the access
26 plan. All rights and responsibilities of the covered person under the health
27 benefit plan, however, shall be included in the contract provisions,

1 regardless of whether or not such provisions are also specified in the
2 access plan. The carrier shall prepare an access plan prior to offering a
3 new managed care network and shall update an existing access plan
4 whenever the carrier makes any material change to an existing managed
5 care network, but not less than annually. The access plan of a carrier
6 offering a managed care plan shall demonstrate the following:

7 (a.5) An adequate number of accessible specialists and
8 sub-specialists within a reasonable distance or travel time, or both, or who
9 may be available through the use of telemedicine TELEHEALTH;

10 (11) The division of insurance, in cooperation with the chief
11 medical officer for the state, shall evaluate a carrier's network adequacy
12 plan concerning the use of telemedicine TELEHEALTH for providers who
13 are specialists and sub-specialists for rural areas. Such THE DIVISION AND
14 CHIEF MEDICAL OFFICER SHALL CONDUCT THE review shall occur in a
15 timely fashion so as not to delay access to health care services.

16 **SECTION 4. Act subject to petition - effective date -**
17 **applicability.** (1) This act takes effect January 1, 2017; except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within the ninety-day period after final adjournment of the general
21 assembly, then the act, item, section, or part will not take effect unless
22 approved by the people at the general election to be held in November
23 2016 and, in such case, will take effect on the date of the official
24 declaration of the vote thereon by the governor.

25 (2) This act applies to health benefit plans issued, amended, or
26 renewed on or after the applicable effective date of this act.