

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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

Health & Human Services

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/bills summaries>.)

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.*

SENATE
3rd Reading Unamended
February 27, 2015

SENATE
Amended 2nd Reading
February 24, 2015

HOUSE
3rd Reading Unamended
January 28, 2015

HOUSE
Amended 2nd Reading
January 27, 2015

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
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 OR WHEN A COVERED PERSON CHOOSES NOT TO
8 RECEIVE CARE THROUGH TELEHEALTH. A PROVIDER IS NOT OBLIGATED TO
9 DOCUMENT OR DEMONSTRATE THAT A BARRIER TO IN-PERSON CARE EXISTS
10 TO TRIGGER COVERAGE UNDER A HEALTH BENEFIT PLAN FOR SERVICES
11 PROVIDED THROUGH TELEHEALTH.

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

27 (c) A CARRIER SHALL INCLUDE IN THE PAYMENT FOR TELEHEALTH

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

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

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

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

1 CARE SERVICES WHEN PERFORMED BY THE SAME PROVIDER THROUGH
2 IN-PERSON CARE.

3 (g) (I) THE REQUIREMENTS OF THIS SECTION APPLY TO ALL HEALTH
4 BENEFIT PLANS DELIVERED, ISSUED FOR DELIVERY, AMENDED, OR
5 RENEWED IN THIS STATE ON OR AFTER JANUARY 1, 2017, OR AT ANY TIME
6 AFTER THAT DATE WHEN A TERM OF THE PLAN IS CHANGED OR A PREMIUM
7 ADJUSTMENT IS MADE.

8 (II) THIS SECTION DOES NOT APPLY TO:

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

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

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

19 (4) AS USED IN THIS SECTION:

20 (a) "DISTANT SITE" MEANS A SITE AT WHICH A PROVIDER IS
21 LOCATED WHILE PROVIDING HEALTH CARE SERVICES BY MEANS OF
22 TELEHEALTH.

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

26 (c) "STORE-AND-FORWARD TRANSFER" MEANS THE ELECTRONIC
27 TRANSFER OF A PATIENT'S MEDICAL INFORMATION OR AN INTERACTION

1 BETWEEN PROVIDERS THAT OCCURS BETWEEN AN ORIGINATING SITE
2 AND DISTANT SITES WHEN THE PATIENT IS NOT PRESENT.

3 (d) "SYNCHRONOUS INTERACTION" MEANS A REAL-TIME
4 INTERACTION BETWEEN A PATIENT LOCATED AT THE ORIGINATING SITE
5 AND A PROVIDER LOCATED AT A DISTANT SITE.

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

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

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

20 **10-16-102. Definitions - repeal.** As used in this article, unless the
21 context otherwise requires:

22 (33) "Health care services" means any services included in or
23 incidental to the furnishing of medical, mental, dental, or optometric care;
24 hospitalization; or nursing home care to an individual, as well as the
25 furnishing to any person of any other services for the purpose of
26 preventing, alleviating, curing, or healing human physical or mental
27 illness or injury. "Health care services" includes the rendering of the

1 services through the use of ~~telemedicine~~ TELEHEALTH, AS DEFINED IN
2 SECTION 10-16-123 (4) (e).

3 **SECTION 3.** In Colorado Revised Statutes, 10-16-704, **amend**
4 (1) (a), (9) (a.5), and (11) as follows:

5 **10-16-704. Network adequacy - rules - legislative declaration.**

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

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

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

1 marketing materials shall clearly disclose the existence and availability
2 of the access plan. All rights and responsibilities of the covered person
3 under the health benefit plan, however, shall be included in the contract
4 provisions, regardless of whether or not such provisions are also specified
5 in the access plan. The carrier shall prepare an access plan prior to
6 offering a new managed care network and shall update an existing access
7 plan whenever the carrier makes any material change to an existing
8 managed care network, but not less than annually. The access plan of a
9 carrier offering a managed care plan shall demonstrate the following:

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

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

19 **SECTION 4. Act subject to petition - effective date -**
20 **applicability.** (1) This act takes effect January 1, 2017; except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within the ninety-day period after final adjournment of the general
24 assembly, then the act, item, section, or part will not take effect unless
25 approved by the people at the general election to be held in November
26 2016 and, in such case, will take effect on the date of the official
27 declaration of the vote thereon by the governor.

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