

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 319
98TH GENERAL ASSEMBLY

0803H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 208.670, RSMo, and to enact in lieu thereof six new sections relating to telehealth services.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 208.670, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 208.670, 208.671, 208.673, 208.675, 208.677, and 208.686, to read as follows:

208.670. 1. As used in this section, these terms shall have the following meaning:

(1) "Provider", any provider of medical services and mental health services, including all other medical disciplines;

(2) "Telehealth", the use of medical information exchanged from one site to another via electronic communications to improve the health status of a patient.

2. The department of social services, in consultation with the departments of mental health and health and senior services, shall promulgate rules governing the practice of telehealth in the MO HealthNet program. Such rules shall address, but not be limited to, appropriate standards for the use of telehealth, certification of agencies offering telehealth, and payment for services by providers. Telehealth providers shall be required to obtain patient consent before telehealth services are initiated and to ensure confidentiality of medical information.

3. Telehealth may be utilized to service individuals who are qualified as MO HealthNet participants under Missouri law. Reimbursement for such services shall be made in the same way as reimbursement for in-person contacts.

4. The provisions of section 208.671 shall apply to the use of asynchronous store-and-forward technology in the practice of telehealth.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

208.671. 1. As used in this section and section 208.673, the following terms shall
2 mean:

3 (1) "Asynchronous store-and-forward", the transfer of a patient's clinically
4 important digital samples, such as still images, videos, audio, and text files, and relevant
5 data from an originating site through the use of a camera or similar recording device that
6 stores digital samples that are forwarded via telecommunication to a distant site for
7 consultation by a consulting provider without requiring the simultaneous presence of the
8 patient and the patient's treating provider;

9 (2) "Asynchronous store-and-forward technology", cameras or other recording
10 devices that store images which may be forwarded via telecommunication devices at a later
11 time;

12 (3) "Consultation", a type of evaluation and management service as defined by the
13 most recent edition of the Current Procedural Terminology published annually by the
14 American Medical Association;

15 (4) "Consulting provider", a provider who, upon referral by the treating provider,
16 evaluates a patient and appropriate medical data or images delivered through
17 asynchronous store-and-forward technology. If a consulting provider is unable to render
18 an opinion due to insufficient information, the consulting provider may request additional
19 information to facilitate the rendering of an opinion or decline to render an opinion;

20 (5) "Distant site", a site where the consulting provider is located at the time the
21 consultation service is provided;

22 (6) "Originating site", the site where a MO HealthNet participant receiving services
23 and such participant's treating provider are both physically located;

24 (7) "Provider", any provider of medical services or mental health services,
25 including all other medical disciplines, licensed in this state who has the authority to refer
26 patients for medical services or mental health services within the scope of practice and
27 licensure of the provider;

28 (8) "Telehealth", the same meaning as such term is defined in section 208.670.
29 Telehealth shall include the use of asynchronous store-and-forward technology for
30 orthopedics, dermatology, ophthalmology in cases of diabetic retinopathy, burn and wound
31 care, and maternal-fetal medicine ultrasounds;

32 (9) "Treating provider", a provider who:

33 (a) Evaluates a patient;

34 (b) Determines the need for a consultation;

35 (c) Arranges the services of a consulting provider for the purpose of diagnosis and
36 treatment;

37 (d) Provides or supplements the patient's history and provides pertinent physical
38 examination findings and medical information to the consulting provider; and

39 (e) Is physically present in the same location as the patient during the time of the
40 asynchronous store-and-forward services.

41 2. The department of social services, in consultation with the departments of mental
42 health and health and senior services, shall promulgate rules governing the use of
43 asynchronous store-and-forward technology in the practice of telehealth in the MO
44 HealthNet program. Such rules shall address, but not be limited to:

45 (1) Appropriate standards for the use of asynchronous store-and-forward
46 technology in the practice of telehealth;

47 (2) Certification of agencies offering asynchronous store-and-forward technology
48 in the practice of telehealth;

49 (3) Time lines for completion and communication of a consulting provider's
50 consultation or opinion, or if the consulting provider is unable to render an opinion, time
51 lines for communicating a request for additional information or that the consulting
52 provider declines to render an opinion;

53 (4) Length of time digital files of such asynchronous store-and-forward services are
54 to be maintained;

55 (5) Security and privacy of such digital files;

56 (6) Patient consent for asynchronous store-and-forward services; and

57 (7) Payment for services by providers; except that, consulting providers who
58 decline to render an opinion shall not receive payment under this section unless and until
59 an opinion is rendered.

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61 Telehealth providers using asynchronous store-and-forward technology shall be required
62 to obtain patient consent before asynchronous store-and-forward services are initiated and
63 to ensure confidentiality of medical information.

64 3. Asynchronous store-and-forward technology in the practice of telehealth may
65 be utilized to service individuals who are qualified as MO HealthNet participants under
66 Missouri law. Reimbursement for such asynchronous store-and-forward services shall be
67 made so that the total payment for the consultation shall be divided between the treating
68 provider and the consulting provider. The total payment for both the treating provider
69 and the consulting provider shall not exceed the payment for a face-to-face consultation
70 of the same level.

71 4. The standard of care for the use of asynchronous store-and-forward technology
72 in the practice of telehealth shall be the same as the standard of care for face-to-face care.

208.673. 1. There is hereby established the "Telehealth Services Advisory Committee" to advise the department of social services and propose rules regarding the coverage of telehealth services utilizing asynchronous store-and-forward technology.

2. The committee shall be comprised of the following members:

(1) The director of the MO HealthNet division, or the director's designee;

(2) The medical director of the MO HealthNet division;

(3) A representative from a Missouri institution of higher education with expertise in telemedicine;

(4) A representative from the Missouri office of primary care and rural health;

(5) Two board-certified specialists licensed to practice in this state;

(6) A representative from a hospital located in this state that utilizes telehealth medicine;

(7) A primary care provider from a federally qualified health center (FQHC) or rural health clinic; and

(8) A primary care provider from a rural setting other than from an FQHC or rural health clinic.

3. Members of the committee listed in subdivisions (3) to (8) of subsection 2 of this section shall be appointed by the governor, with the advice and consent of the senate. The first appointments to the committee shall consist of three members to serve three-year terms, two members to serve two-year terms, and two members to serve one-year terms as designated by the governor. Each member of the committee shall serve for a term of three years thereafter.

4. Members of the committee shall not receive any compensation for their services but shall be reimbursed for any actual and necessary expenses incurred in the performance of their duties.

5. Any member appointed by the governor may be removed from office by the governor without cause. If there is a vacancy for any cause, the governor shall make an appointment to become effective immediately for the unexpired term.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

208.675. For purposes of the provision of telehealth services, the following individuals, licensed in Missouri, shall be considered eligible health care providers:

- (1) Physicians, assistant physicians, and physician assistants;**
- (2) Advanced registered nurse practitioners;**
- (3) Dentists, oral surgeons, and dental hygienists under the supervision of a currently registered and licensed dentist;**
- (4) Psychologists and provisional licensees;**
- (5) Pharmacists;**
- (6) Speech, occupational, or physical therapists;**
- (7) Clinical social workers;**
- (8) Podiatrists;**
- (9) Licensed professional counselors; or**
- (10) Eligible health care providers under subdivisions (1) through (9) of this section practicing in a rural health clinic or federally qualified health center.**

208.677. 1. For purposes of the provision of telehealth services, the term “originating site” shall mean a telehealth site where the MO HealthNet participant receiving the telehealth service is located for the encounter, and the term “clinical staff” shall mean any health care provider licensed in this state. The originating site shall ensure immediate availability of clinical staff during a telehealth encounter if a participant requires assistance. No originating site for services or activities provided under section 208.686 shall be required to maintain immediate availability of on-site clinical staff during the telemonitoring services or activities. An originating site shall be one of the following locations:

- (1) Office of a physician or health care provider;**
- (2) Hospital;**
- (3) Critical access hospital;**
- (4) Rural health clinic;**
- (5) Federally qualified health center;**
- (6) Long-term care facility licensed under chapter 198;**
- (7) Dialysis center;**
- (8) Missouri state habilitation center or regional office;**
- (9) Community mental health center;**
- (10) Missouri state mental health facility;**
- (11) Missouri state facility;**
- (12) Missouri residential treatment facility licensed by and under contract with the children’s division (CD) that has a contract with the CD. Facilities shall have multiple**

23 campuses and have the ability to adhere to technology requirements. Only Missouri
24 licensed psychiatrists, licensed psychologists, or provisionally licensed psychologists, and
25 advanced registered nurse practitioners who are enrolled MO HealthNet providers shall
26 be consulting providers at these locations;

27 (13) Comprehensive substance treatment and rehabilitation (CSTAR) program;

28 (14) School;

29 (15) The MO HealthNet recipient's home; or

30 (16) Clinical designated area in a pharmacy.

31 2. If the originating site is a school, the school shall obtain permission from the
32 parent or guardian of any student receiving telehealth services prior to each provision of
33 service.

208.686. 1. Subject to appropriations, the department shall establish a statewide
2 program that permits reimbursement under the MO HealthNet program for home
3 telemonitoring services. For the purposes of this section, "home telemonitoring service"
4 shall mean a health care service that requires scheduled remote monitoring of data related
5 to a patient's health and transmission of the data to a Utilization Review Accreditation
6 Commission (URAC) accredited health call center.

7 2. The program shall:

8 (1) Provide that home telemonitoring services are available only to persons who:

9 (a) Are diagnosed with one or more of the following conditions:

10 a. Pregnancy;

11 b. Diabetes;

12 c. Heart disease;

13 d. Cancer;

14 e. Chronic obstructive pulmonary disease;

15 f. Hypertension;

16 g. Congestive heart failure;

17 h. Mental illness or serious emotional disturbance;

18 i. Asthma;

19 j. Myocardial infarction; or

20 k. Stroke; and

21 (b) Exhibit two or more of the following risk factors:

22 a. Two or more hospitalizations in the prior twelve-month period;

23 b. Frequent or recurrent emergency department admissions;

24 c. A documented history of poor adherence to ordered medication regimens;

25 d. A documented history of falls in the prior six-month period;

- 26 e. Limited or absent informal support systems;
- 27 f. Living alone or being home alone for extended periods of time; or
- 28 g. A documented history of care access challenges;
- 29 (2) Ensure that clinical information gathered by a home health agency or hospital
- 30 while providing home telemonitoring services is shared with the patient's physician; and
- 31 (3) Ensure that the program does not duplicate any disease management program
- 32 services provided by MO HealthNet.
- 33 3. If, after implementation, the department determines that the program
- 34 established under this section is not cost effective, the department may discontinue the
- 35 program and stop providing reimbursement under the MO HealthNet program for home
- 36 telemonitoring services.
- 37 4. The department shall determine whether the provision of home telemonitoring
- 38 services to persons who are eligible to receive benefits under both the MO HealthNet and
- 39 Medicare programs achieves cost savings for the Medicare program.
- 40 5. If, before implementing any provision of this section, the department determines
- 41 that a waiver or authorization from a federal agency is necessary for implementation of
- 42 that provision, the department shall request the waiver or authorization and may delay
- 43 implementing that provision until the waiver or authorization is granted.
- 44 6. The department shall promulgate rules and regulations to implement the
- 45 provisions of this section. Any rule or portion of a rule, as that term is defined in section
- 46 536.010, that is created under the authority delegated in this section shall become effective
- 47 only if it complies with and is subject to all of the provisions of chapter 536 and, if
- 48 applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of
- 49 the powers vested with the general assembly pursuant to chapter 536 to review, to delay
- 50 the effective date, or to disapprove and annul a rule are subsequently held
- 51 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
- 52 after August 28, 2015, shall be invalid and void.

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