

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 293
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Health & Human Services
3/30/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In home health care settings, it is not feasible under current Medicaid benefits to provide daily monitoring of key vital signs. The program does not pay for daily home health visits or physician visits for this purpose; however, this information is vital in the management of intractable chronic conditions to prevent acute exacerbations and expensive emergency room visits and/or hospitalizations. This bill would allow Medicaid to cover telehealth practices that use various telecommunication technologies to transmit medical information from the patient's home to health care providers.

According to the Centers for Medicare and Medicaid Services (CMS), the Medicaid program and Medicaid law do not recognize telemedicine as a distinct service. CMS does note, however, that "telemedicine is viewed as a cost-effective alternative to the more traditional face-to-face way of providing medical care" and that there is "flexibility inherent in federal law to create innovative payment methodologies for services that incorporate telemedicine technology."

This bill enables the Health and Human Services Commission to create a fee structure for reimbursement of telehealth services. The eligibility criteria are targeted at those who are most in need of the service, including frequent hospitalizations, poor adherence to medical regimens, and limited informal support structure, and who have care access challenges. Additionally, this bill ensures that clinical information gathered by a home health agency while providing home telemonitoring services is shared with the patient's physician and that the program does not duplicate existing disease management program services.

C.S.S.B. 293 amends current law relating to telemedicine medical services, telehealth services, and home telemonitoring services provided to certain Medicaid recipients.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Health and Human Services Commission (HHSC) is modified in SECTION 2 (Section 531.0216, Government Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of HHSC is modified in SECTION 2 (Section 531.0216, Government Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner of HHSC in SECTION 3 (Section 531.02164, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 531.001, Government Code, by adding Subdivisions (4-a), (7), and (8), to define "home telemonitoring service," "telehealth service," and "telemedicine medical service."

SECTION 2. Amends Section 531.0216, Government Code, as follows:

Sec. 531.0216. New heading: PARTICIPATION AND REIMBURSEMENT OF
TELEMEDICINE MEDICAL SERVICE PROVIDERS AND TELEHEALTH SERVICE
PROVIDERS UNDER MEDICAID. (a) Requires the Health and Human Services

Commission (HHSC) by rule to develop and implement a system to reimburse providers of services under the state Medicaid program for services performed using telemedicine medical services or telehealth services.

(b) Requires the executive commissioner of HHSC in developing the system by rule to:

(1) review programs and pilot projects in other states to determine the most effective method for reimbursement;

(2) establish billing codes and a fee schedule for services;

(3) consult with the Department of State Health Services and providers, rather than the telemedicine advisory committee, to establish procedures to:

(A) identify clinical evidence supporting delivery of health care services using a telecommunications system;

(B) establish pilot studies for telemedicine medical service delivery; and

(C) annually review health care services, considering new clinical findings, to determine whether reimbursement for particular services should be denied or authorized;

(4) establish pilot programs in designated areas of this state under which HHSC, in administering government-funded health programs, may reimburse a health professional participating in the pilot program for telehealth services authorized under the licensing law applicable to the health professional; and

(5) establish a separate modifier for telemedicine medical services, telehealth services, and home telemonitoring services eligible for reimbursement.

Deletes existing text requiring the executive commissioner of HHSC by rule, in developing the system, to provide for an approval process before a provider can receive reimbursement for services and to establish a separate provider identifier for telemedicine medical services provider. Makes nonsubstantive changes.

(c) Requires HHSC to encourage health care providers and health care facilities to participate as telemedicine medical service providers or telehealth service providers in the health care delivery system. Prohibits HHSC from requiring that a service be provided to a patient through telemedicine medical services (TMS) or telehealth services (TS) when the service can reasonably be provided by a physician through a face-to-face consultation with the patient in the community in which the patient resides or works. Provides that this subsection does not prohibit the authorization of the provision of any service to a patient through TMS or TS at the patient's request.

(d) Authorizes HHSC, in the rules adopted under this section, subject to Section 153.004 (Rules Regarding Telemedicine Medical Services), Occupations Code, to adopt rules as necessary to implement this section. Requires HHSC, in rules adopted under this section, to refer to the site where the patient is physically located as the patient site; and refer to the site where the physician or health professional providing the TMS or TS is physically located as the distant site.

(e) Prohibits HHSC from reimbursing a health care facility for TMS or TS provided to a Medicaid recipient unless the facility complies with the minimum standards adopted under Section 531.02161 (Telemedicine Technology Standards).

(f) Requires HHSC, not later than December 1 of each even-numbered year, to report to the speaker of the house of representatives and the lieutenant governor on the effects of TMS, TS, and home telemonitoring services (HTS) on the Medicaid program in the state, including the number of physicians, health professionals, and licensed health care facilities using TMS, TS, or HTS, the geographic and demographic disposition of physicians and health professionals, the number of patients receiving TMS, TS, and HTS, the types of services being provided, and the cost of utilization of TMS, TS, and HTS to the program.

Deletes existing Subsection (g) defining "telehealth service" and "telemedicine medical service" in this section.

SECTION 3. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.02164, as follows:

Sec. 531.02164. MEDICAID SERVICES PROVIDED THROUGH HOME TELEMONITORING SERVICES. (a) Defines "home health agency" in this section.

(b) Requires the executive commissioner of HHSC by rule to establish a statewide program that permits reimbursement under the state Medicaid program for HTS as provided under this section.

(c) Requires that the program required under this section perform certain tasks as set forth in this subsection.

SECTION 4. Amends Section 531.02171(c), Government Code, as added by Chapter 661 (H.B. 2700), Acts of the 77th Legislature, Regular Session, 2001, to require HHSC, in developing and operating a pilot program under this section to take certain actions, including focus on enhancing health outcomes in the area served by the pilot program through increased access to medical services, including health screenings, prenatal care, medical or surgical follow-up visits, periodic consultation with specialists regarding chronic disorders, triage and pretransfer arrangements, transmission of diagnostic images or data, and monitoring of chronic conditions; and consider condition-specific applications of TMS or TS, including applications for, among other conditions, chronic obstructive pulmonary disease, hypertension, and congestive heart failure. Makes nonsubstantive changes.

SECTION 5. Repealer: Section 531.02161(a) (defining "telemedicine medical service"), Government Code.

Repealers: Sections 531.0217(a)(3) (defining "telehealth service") and (4) (defining telemedicine medical service"), Government Code.

Repealers: Sections 531.02171(a)(3) (defining "telehealth service") and (4) (defining "telemedicine medical service"), Government Code, as added by Chapter 661 (H.B. 2700), Acts of the 77th Legislature, Regular Session, 2001.

Repealer: Section 531.02171 (Telemedicine Medical Services and Telehealth Service Pilot Programs), Government Code, as added by Chapter 959 (S.B. 1536), Acts of the 77th Legislature, Regular Session, 2001.

SECTION 6. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 7. Effective date: September 1, 2011.