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Repealer

P.L. 2021, CHAPTER 310, *approved December 21, 2021*
Senate, No. 2559 (*Fifth Reprint*)

1 AN ACT concerning telemedicine and telehealth ¹**[and]** ¹ amending
2 P.L.2017, c.117 ³, repealing P.L.2020, c.3 and P.L.2020, c.7³ ¹,
3 and making an appropriation¹ .
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Section 8 of P.L.2017, c.117 (C.26:2S-29) is amended to
9 read as follows:

10 8. a. ⁵**[³(1)³]⁵ A carrier that offers a health benefits plan in
11 this State shall provide coverage and payment for ²**[¹all forms of]²
12 ⁵**[physical and behavioral]⁵ health care services delivered to a
13 covered person through telemedicine or telehealth, on the same
14 basis as, and at a provider reimbursement rate that **[does not**
15 **exceed]** ⁵**[equals]** does not exceed⁵ the provider reimbursement
16 rate that is applicable, when the services are delivered through in-
17 person contact and consultation in New Jersey ², provided the
18 services are otherwise covered under the plan when delivered
19 through in-person contact and consultation in New Jersey² .
20 Reimbursement payments under this section may be provided either
21 to the individual practitioner who delivered the reimbursable
22 services, or to the agency, facility, or organization that employs the
23 individual practitioner who delivered the reimbursable services, as
24 appropriate ³**[²];** provided that, if a telemedicine or telehealth
25 organization does not provide a given service on an in-person basis
26 in New Jersey, the telemedicine or telehealth organization shall not
27 be subject to this requirement²] ⁵**[**.
28******

29 (2) The requirements of paragraph (1) of this subsection shall
30 not apply to:

31 (a) a health care service provided by a telemedicine or telehealth
32 organization that does not provide the health care service on an in-
person basis in New Jersey; or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted January 14, 2021.

²Senate SBA committee amendments adopted March 22, 2021.

³Assembly AAP committee amendments adopted June 16, 2021.

⁴Assembly floor amendments adopted June 21, 2021.

⁵Senate floor amendments adopted December 2, 2021.

1 (b) a physical health care service⁴ that was⁴ provided⁴ [using
2 telemedicine or telehealth utilizing] through⁴ real-time, two way
3 audio without a video component, whether or not utilized in
4 combination with asynchronous store-and-forward technology,
5 ⁴[the] including through audio-only telephone conversation. The⁴
6 reimbursement rate for ⁴[which] a⁴ physical health care service
7 ⁴that is subject to this subparagraph⁴ shall be determined under the
8 ⁴[plan when delivered through in-person contact and consultation in
9 New Jersey] contract between the carrier and the provider;
10 provided that the reimbursement rate for a physical health care
11 service when provided through audio-only telephone conversation
12 shall be at least 50 percent of the reimbursement rate for the service
13 when provided in person⁴ .

14 (3) The provisions of subparagraph (b) of paragraph (2) of this
15 subsection shall not apply to ⁴a⁴ behavioral health ⁴[services]
16 service that was⁴ provided⁴ [using telemedicine or telehealth
17 utilizing] through⁴ real-time, two way audio without a video
18 component, whether or not utilized in combination with
19 asynchronous store-and-forward technology, ⁴[which] including
20 audio-only telephone conversation. A⁴ behavioral health care
21 service ⁴described in this paragraph⁴ shall be reimbursed at a rate
22 that equals the provider reimbursement rate for the service when
23 provided in person³]⁵ .

24 b. A carrier may limit coverage to services that are delivered
25 by health care providers in the health benefits plan's network, but
26 may not charge any deductible, copayment, or coinsurance for a
27 health care service, delivered through telemedicine or telehealth, in
28 an amount that exceeds the deductible, copayment, or coinsurance
29 amount that is applicable to an in-person consultation. In no case
30 shall a carrier:

31 (1) impose any restrictions on the location or setting of the
32 distant site used by a health care provider to provide services using
33 telemedicine and telehealth¹ or on the location or setting of the
34 originating site where the patient is located when receiving services
35 using telemedicine and telehealth¹ ⁵, except to ensure that the
36 services provided using telemedicine and telehealth meet the same
37 standard of care as would be provided if the services were provided
38 in person⁵ ; ¹[or]¹

39 (2) restrict the ability of a provider to use any electronic or
40 technological platform² [, including interactive, real-time, two-way
41 audio in combination with asynchronous store-and-forward
42 technology without video capabilities.] ³[that the federal Centers
43 for Medicare and Medicaid Services has authorized for use in
44 connection with the federal Medicare program²]³ to provide
45 services using telemedicine or telehealth³, including, but not
46 limited to, interactive, real-time, two-way audio, which may be used
47 in combination with asynchronous store-and-forward technology

- 1 without video capabilities, ⁴including audio-only telephone
2 conversations, ⁴ to provide services using telemedicine or telehealth³
3 ², provided² that ²]:
4 (a) ¹ the platform^{2 3} used :
5 (a)³ allows the provider to meet the same standard of care as
6 would be provided if the services were provided in person ²]; and
7 (b) is compliant with the requirements of the federal health
8 privacy rule set forth at 45 CFR Parts 160 and 164]^{2 1}; ³[or] and
9 (b) is compliant with the requirements of the federal health
10 privacy rule set forth at 45 CFR Parts 160 and 164;³
11 (3) deny coverage for or refuse to provide reimbursement for
12 routine patient monitoring performed using telemedicine and
13 telehealth, including remote monitoring of a patient's vital signs
14 and routine check-ins with the patient to monitor the patient's status
15 and condition, if coverage and reimbursement would be provided if
16 those services are provided in person ⁵, and the provider is able to
17 meet the same standard of care as would be provided if the services
18 were provided in person^{5 3}; ⁵or⁵
19 (4) ⁵[use telemedicine or telehealth to satisfy network adequacy
20 requirements with regard to a health care service; or
21 (5)]⁵ limit coverage only to services delivered by select third
22 party telemedicine or telehealth organizations^{3 1} .
23 c. Nothing in this section shall be construed to:
24 (1) prohibit a carrier from providing coverage for only those
25 services that are medically necessary, subject to the terms and
26 conditions of the covered person's health benefits plan; or
27 (2) allow a carrier to require a covered person to use
28 telemedicine or telehealth in lieu of receiving an in-person service
29 from an in-network provider ³[²or] ⁵];
30 (3)³ allow a carrier to impose more stringent utilization
31 management requirements on the provision of services using
32 telemedicine and telehealth than apply when those services are
33 provided in person^{2 3}; or
34 (4) allow a carrier to impose any other requirements for the use
35 of telemedicine or telehealth to provide a health care service that
36 are more restrictive than the requirements that apply when the
37 service is provided in person³]⁵ .
38 d. The Commissioner of Banking and Insurance shall adopt
39 rules and regulations, pursuant to the "Administrative Procedure
40 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the
41 provisions of this section.
42 e. As used in this section:
43 "Asynchronous store-and-forward" means the same as that term
44 is defined by section 1 of P.L.2017, c.117 (C.45:1-61).
45 "Carrier" means the same as that term is defined by section 2 of
46 P.L.1997, c.192 (C.26:2S-2).

1 "Covered person" means the same as that term is defined by
2 section 2 of P.L.1997, c.192 (C.26:2S-2).

3 "Distant site" means the same as that term is defined by section 1
4 of P.L.2017, c.117 (C.45:1-61).

5 "Health benefits plan" means the same as that term is defined by
6 section 2 of P.L.1997, c.192 (C.26:2S-2).

7 ¹"Originating site" means the same as that term is defined by
8 section 1 of P.L.2017, c.117 (C.45:1-61).¹

9 "Telehealth" means the same as that term is defined by section 1
10 of P.L.2017, c.117 (C.45:1-61).

11 "Telemedicine" means the same as that term is defined by
12 section 1 of P.L.2017, c.117 (C.45:1-61).

13 ²"Telemedicine or telehealth organization" means the same as
14 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).²
15 (cf: P.L.2017, c.117, s.8)

16
17 2. Section 7 of P.L.2017, c.117 (C.30:4D-6k) is amended to
18 read as follows:

19 7. a. ⁵~~[(1)]~~⁵ The State Medicaid and NJ FamilyCare
20 programs shall provide coverage and payment for ²~~[all forms of]~~²
21 ⁵~~[physical and behavioral]~~⁵ health care services delivered to a
22 benefits recipient through telemedicine or telehealth, on the same
23 basis as, and at a provider reimbursement rate that ~~[does not~~
24 ~~exceed]~~ ⁵~~[equals]~~ does not exceed⁵ the provider reimbursement
25 rate that is applicable, when the services are delivered through in-
26 person contact and consultation in New Jersey ², provided the
27 services are otherwise covered when delivered through in-person
28 contact and consultation in New Jersey². Reimbursement payments
29 under this section may be provided either to the individual
30 practitioner who delivered the reimbursable services, or to the
31 agency, facility, or organization that employs the individual
32 practitioner who delivered the reimbursable services, as appropriate
33 ³~~[~~²; provided that, if a telemedicine or telehealth organization does
34 not provide a given service on an in-person basis in New Jersey, the
35 telemedicine or telehealth organization shall not be subject to this
36 requirement² ⁵~~]~~⁵.

37 (2) The requirements of paragraph (1) of this subsection shall
38 not apply to:

39 (a) a health care service provided by a telemedicine or telehealth
40 organization that does not provide the health care service on an in-
41 person basis in New Jersey; or

42 (b) a physical health care service ⁴that was⁴ provided ⁴~~[using~~
43 ~~telemedicine or telehealth utilizing]~~ ⁴through ⁴real-time, two way
44 audio without a video component, whether or not utilized in
45 combination with asynchronous store-and-forward technology,
46 ⁴~~[the]~~ including through audio-only telephone conversation. The⁴
47 reimbursement rate for ⁴~~[which]~~ ⁴a physical health care service

1 ⁴that is subject to this subparagraph⁴ shall be determined under the
 2 ⁴[plan when delivered through in-person contact and consultation in
 3 New Jersey] contract between the State Medicaid or NJ FamilyCare
 4 program and the provider; provided that the reimbursement rate for
 5 a physical health care service when provided through audio-only
 6 telephone conversation shall be at least 50 percent of the
 7 reimbursement rate for the service when provided in person⁴ .

8 (3) The provisions of subparagraph (b) of paragraph (2) of this
 9 subsection shall not apply to ⁴a⁴ behavioral health ⁴[services]
 10 service that was⁴ provided ⁴[using telemedicine or telehealth
 11 utilizing] through⁴ real-time, two way audio without a video
 12 component, whether or not utilized in combination with
 13 asynchronous store-and-forward technology, ⁴[which] including
 14 audio-only telephone conversation. A⁴ behavioral health care
 15 service ⁴described in this paragraph⁴ shall be reimbursed at a rate
 16 that equals the provider reimbursement rate for the service when
 17 provided in person³]⁵ .

18 b. The State Medicaid and NJ FamilyCare programs may limit
 19 coverage to services that are delivered by participating health care
 20 providers, but may not charge any deductible, copayment, or
 21 coinsurance for a health care service, delivered through
 22 telemedicine or telehealth, in an amount that exceeds the deductible,
 23 copayment, or coinsurance amount that is applicable to an in-person
 24 consultation. In no case shall the State Medicaid and NJ
 25 FamilyCare programs:

26 (1) impose any restrictions on the location or setting of the
 27 distant site used by a health care provider to provide services using
 28 telemedicine and telehealth ¹or on the location or setting of the
 29 originating site where the patient is located when receiving services
 30 using telemedicine and telehealth¹ ⁵, except to ensure that the
 31 services provided using telemedicine and telehealth meet the same
 32 standard of care as would be provided if the services were provided
 33 in person⁵ ; ¹[or]¹

34 (2) restrict the ability of a provider to use any electronic or
 35 technological platform ²[, including interactive, real-time, two-way
 36 audio in combination with asynchronous store-and-forward
 37 technology without video capabilities,] ³[that the federal Centers
 38 for Medicare and Medicaid Services has authorized for use in
 39 connection with the federal Medicare program²]³ to provide
 40 services using telemedicine or telehealth ³, including, but not
 41 limited to, interactive, real-time, two-way audio, which may be used
 42 in combination with asynchronous store-and-forward technology
 43 without video capabilities, ⁴including audio-only telephone
 44 conversations,⁴ to provide services using telemedicine or
 45 telehealth³ ², provided² that ²[:

46 (a) the platform² ³used :

- 1 (a)³ allows the provider to meet the same standard of care as
2 would be provided if the services were provided in person²; and
3 (b) is compliant with the requirements of the federal health
4 privacy rule set forth at 45 CFR Parts 160 and 164^{2 1};³[or] and
5 (b) is compliant with the requirements of the federal health
6 privacy rule set forth at 45 CFR Parts 160 and 164;³
7 (3) deny coverage for or refuse to provide reimbursement for
8 routine patient monitoring performed using telemedicine and
9 telehealth, including remote monitoring of a patient's vital signs
10 and routine check-ins with the patient to monitor the patient's status
11 and condition, if coverage and reimbursement would be provided if
12 those services are provided in person^{1 5}, and the provider is able to
13 meet the same standard of care as would be provided if the services
14 were provided in person^{5 3}; or
15 (4) limit coverage only to services delivered by select third
16 party telemedicine or telehealth organizations³ .
17 c. Nothing in this section shall be construed to:
18 (1) prohibit the State Medicaid or NJ FamilyCare programs
19 from providing coverage for only those services that are medically
20 necessary, subject to the terms and conditions of the recipient's
21 benefits plan; or
22 (2) allow the State Medicaid or NJ FamilyCare programs to
23 require a benefits recipient to use telemedicine or telehealth in lieu
24 of obtaining an in-person service from a participating health care
25 provider³[²or]⁵;
26 (3)³ allow the State Medicaid or NJ FamilyCare programs to
27 impose more stringent utilization management requirements on the
28 provision of services using telemedicine and telehealth than apply
29 when those services are provided in person^{2 3}; or
30 (4) allow the State Medicaid or NJ FamilyCare programs to
31 impose any other requirements for the use of telemedicine or
32 telehealth to provide a health care service that are more restrictive
33 than the requirements that apply when the service is provided in
34 person³]⁵ .
35 d. The Commissioner of Human Services, in consultation with
36 the Commissioner of Children and Families, shall apply for such
37 State plan amendments or waivers as may be necessary to
38 implement the provisions of this section and to secure federal
39 financial participation for State expenditures under the federal
40 Medicaid program and Children's Health Insurance Program.
41 e. As used in this section:
42 "Asynchronous store-and-forward" means the same as that term
43 is defined by section 1 of P.L.2017, c.117 (C.45:1-61).
44 "Benefits recipient" or "recipient" means a person who is eligible
45 for, and who is receiving, hospital or medical benefits under the
46 State Medicaid program established pursuant to P.L.1968, c.413
47 (C.30:4D-1 et seq.), or under the NJ FamilyCare program

1 established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), as
2 appropriate.

3 "Distant site" means the same as that term is defined by section 1
4 of P.L.2017, c.117 (C.45:1-61).

5 ¹"Originating site" means the same as that term is defined by
6 section 1 of P.L.2017, c.117 (C.45:1-61).¹

7 "Participating health care provider" means a licensed or certified
8 health care provider who is registered to provide health care
9 services to benefits recipients under the State Medicaid or NJ
10 FamilyCare programs, as appropriate.

11 "Telehealth" means the same as that term is defined by section 1
12 of P.L.2017, c.117 (C.45:1-61).

13 "Telemedicine" means the same as that term is defined by
14 section 1 of P.L.2017, c.117 (C.45:1-61).

15 ²"Telemedicine or telehealth organization" means the same as
16 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).²
17 (cf: P.L.2017, c.117, s.7)

18
19 ⁴3. Section 1 of P.L.2017, c.117 (C. 45:1-61) is amended to read
20 as follows:

21 1. As used in P.L.2017, c.117 (C.45:1-61 et al.):

22 "Asynchronous store-and-forward" means the acquisition and
23 transmission of images, diagnostics, data, and medical information
24 either to, or from, an originating site or to, or from, the health care
25 provider at a distant site, which allows for the patient to be
26 evaluated without being physically present.

27 "Cross-coverage service provider" means a health care provider,
28 acting within the scope of a valid license or certification issued
29 pursuant to Title 45 of the Revised Statutes, who engages in a
30 remote medical evaluation of a patient, without in-person contact, at
31 the request of another health care provider who has established a
32 proper provider-patient relationship with the patient.

33 "Distant site" means a site at which a health care provider, acting
34 within the scope of a valid license or certification issued pursuant to
35 Title 45 of the Revised Statutes, is located while providing health
36 care services by means of telemedicine or telehealth.

37 "Health care provider" means an individual who provides a
38 health care service to a patient, and includes, but is not limited to, a
39 licensed physician, nurse, nurse practitioner, psychologist,
40 psychiatrist, psychoanalyst, clinical social worker, physician
41 assistant, professional counselor, respiratory therapist, speech
42 pathologist, audiologist, optometrist, or any other health care
43 professional acting within the scope of a valid license or
44 certification issued pursuant to Title 45 of the Revised Statutes.

45 "On-call provider" means a licensed or certified health care
46 provider who is available, where necessary, to physically attend to
47 the urgent and follow-up needs of a patient for whom the provider
48 has temporarily assumed responsibility, as designated by the

1 patient's primary care provider or other health care provider of
2 record.

3 "Originating site" means a site at which a patient is located at the
4 time that health care services are provided to the patient by means
5 of telemedicine or telehealth.

6 "Telehealth" means the use of information and communications
7 technologies, including telephones, remote patient monitoring
8 devices, or other electronic means, to support clinical health care,
9 provider consultation, patient and professional health-related
10 education, public health, health administration, and other services in
11 accordance with the provisions of P.L.2017, c.117 (C.45:1-
12 61 et al.).

13 "Telemedicine" means the delivery of a health care service using
14 electronic communications, information technology, or other
15 electronic or technological means to bridge the gap between a
16 health care provider who is located at a distant site and a patient
17 who is located at an originating site, either with or without the
18 assistance of an intervening health care provider, and in accordance
19 with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

20 **["Telemedicine" does not include the use, in isolation, of audio-
21 only telephone conversation, electronic mail, instant messaging,
22 phone text, or facsimile transmission.]** ⁵"Telemedicine" does not
23 include the use, in isolation, of electronic mail, instant messaging,
24 phone text, or facsimile transmission.⁵

25 "Telemedicine or telehealth organization" means a corporation,
26 sole proprietorship, partnership, or limited liability company that is
27 organized for the primary purpose of administering services in the
28 furtherance of telemedicine or telehealth.⁴

29 (cf: P.L.2017, c.117, s.1)

30

31 ⁴**[3.]** ⁴ Section 2 of P.L.2017, c.117 (C.45:1-62) is amended
32 to read as follows:

33 2. a. Unless specifically prohibited or limited by federal or
34 State law, a health care provider who establishes a proper provider-
35 patient relationship with a patient may remotely provide health care
36 services to a patient through the use of telemedicine ¹**[, regardless
37 of whether the health care provider is located in New Jersey at the
38 time the remote health care services are provided]**¹. A health care
39 provider may also engage in telehealth as may be necessary to
40 support and facilitate the provision of health care services to
41 patients. ³Nothing in P.L.2017, c.117 (C.45:1-61 et al.) shall be
42 construed to ⁴**[restrict the right of a patient to receive health care
43 services on an in-person basis upon request, and no patient shall be
44 required to engage in a telemedicine or telehealth encounter to
45 receive health care services if those same services are available, in
46 person, from a provider that is reasonably accessible to the patient]**
47 allow a provider to require a patient to use telemedicine or

1 telehealth in lieu of receiving services from an in-network
2 provider⁴ .³

3 b. Any health care provider who uses telemedicine or engages
4 in telehealth while providing health care services to a patient, shall:
5 (1) be validly licensed, certified, or registered, pursuant to Title 45
6 of the Revised Statutes, to provide such services in the State of New
7 Jersey; (2) remain subject to regulation by the appropriate New
8 Jersey State licensing board or other New Jersey State professional
9 regulatory entity; (3) act in compliance with existing requirements
10 regarding the maintenance of liability insurance; and (4) remain
11 subject to New Jersey jurisdiction ⁵**[if either the patient or the**
12 **provider is located in New Jersey at the time services are**
13 **provided]**⁵ .

14 c. (1) Telemedicine services ¹**[shall]** may¹ be provided using
15 interactive, real-time, two-way communication technologies ¹or,
16 subject to the requirements of paragraph (2) of this paragraph,
17 asynchronous store-and-forward technology¹ .

18 (2) A health care provider engaging in telemedicine or
19 telehealth may use asynchronous store-and-forward technology ¹**[to**
20 **allow for the electronic transmission of images, diagnostics, data,**
21 **and medical information; except that the health care provider may**
22 **use interactive, real-time, two-way audio in combination with**
23 **asynchronous store-and-forward technology, without video**
24 **capabilities,]** to provide services¹ ²with or without the use of
25 interactive, real-time, two-way audio² if, after accessing and
26 reviewing the patient's medical records, the provider determines
27 that the provider is able to meet the same standard of care as if the
28 health care services were being provided in person ¹and ²informs²
29 the patient ²**[concur**, in writing, in the provider's assessment that
30 the provider will be able to meet in-person standard of care
31 requirements when using asynchronous store-and forward
32 technology¹ **] of this determination at the outset of the telemedicine**
33 or telehealth encounter.²

34 (3) ³(a) At the time the patient requests health care services to
35 be provided using telemedicine or telehealth, the patient shall be
36 clearly advised that the telemedicine or telehealth encounter may be
37 with a health care provider who is not a physician, and that the
38 patient may specifically request that the telemedicine or telehealth
39 encounter be scheduled with a physician. If the patient requests that
40 the telemedicine or telehealth encounter be with a physician, the
41 encounter shall be scheduled with a physician.

42 (b)³ The identity, professional credentials, and contact
43 information of a health care provider providing telemedicine or
44 telehealth services shall be made available to the patient ²at the time
45 the patient schedules services to be provided using telemedicine or
46 telehealth, ³**[except that, if the identity of the provider is not known**
47 at the time the services are scheduled, this information] if available,

1 or upon confirmation of the scheduled telemedicine or telehealth
2 encounter, and³ shall be made available to the patient² during and
3 after the provision of services ³], and, at the time the services are
4 scheduled, the patient shall be advised that the health care provider
5 who provides services may not be a physician²]³ . The contact
6 information shall enable the patient to contact the health care
7 provider, or a substitute health care provider authorized to act on
8 behalf of the provider who provided services, for at least 72 hours
9 following the provision of services. ¹If the health care provider is
10 not a physician, ²[the health care provider shall request from the
11 patient, prior to the start of the telemedicine or telehealth encounter,
12 an affirmative written acknowledgement that the patient
13 understands the provider is not a physician and would still like to
14 proceed with the encounter] and the patient requests that the
15 services be provided by a physician, the health care provider shall
16 assist the patient with scheduling a telemedicine or telehealth
17 encounter with a physician² .¹

18 (4) A health care provider engaging in telemedicine or
19 telehealth shall review the medical history and any medical records
20 provided by the patient. For an initial encounter with the patient,
21 the provider shall review the patient's medical history and medical
22 records prior to initiating contact with the patient, as required
23 pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017,
24 c.117 (C.45:1-63). In the case of a subsequent telemedicine or
25 telehealth encounter conducted pursuant to an ongoing provider-
26 patient relationship, the provider may review the information prior
27 to initiating contact with the patient or contemporaneously with the
28 telemedicine or telehealth encounter.

29 (5) Following the provision of services using telemedicine or
30 telehealth, the patient's medical information shall be ²[made
31 available to the patient upon the patient's request, and, with the
32 patient's affirmative consent,] entered into the patient's ³medical
33 record, whether the medical record is a physical record, an³
34 electronic health record ³, or both,³ and, if so requested to by the
35 patient² ³,³ forwarded directly to the patient's primary care provider
36 ²[or] ²,² health care provider of record ²[, or, upon request by the
37 patient, to] or any² other health care providers ²as may be specified
38 by the patient² . For patients without a primary care provider or
39 other health care provider of record, the health care provider
40 engaging in telemedicine or telehealth may advise the patient to
41 contact a primary care provider, and, upon request by the patient,
42 ²shall² assist the patient with locating a primary care provider or
43 other in-person medical assistance that, to the extent possible, is
44 located within reasonable proximity to the patient. The health care
45 provider engaging in telemedicine or telehealth shall also refer the
46 patient to appropriate follow up care where necessary, including
47 making appropriate referrals for ²in-person care or² emergency or

1 ³~~complimentary~~ complementary³ care, if needed. Consent may
2 be oral, written, or digital in nature, provided that the chosen
3 method of consent is deemed appropriate under the standard of care.

4 d. (1) Any health care provider providing health care services
5 using telemedicine or telehealth shall be subject to the same
6 standard of care or practice standards as are applicable to in-person
7 settings. If telemedicine or telehealth services would not be
8 consistent with this standard of care, the health care provider shall
9 direct the patient to seek in-person care.

10 (2) Diagnosis, treatment, and consultation recommendations,
11 including discussions regarding the risk and benefits of the patient's
12 treatment options, which are made through the use of telemedicine
13 or telehealth, including the issuance of a prescription based on a
14 telemedicine or telehealth encounter, shall be held to the same
15 standard of care or practice standards as are applicable to in-person
16 settings. Unless the provider has established a proper provider-
17 patient relationship with the patient, a provider shall not issue a
18 prescription to a patient based solely on the responses provided in
19 an online ¹static¹ questionnaire.

20 ¹(3) In the event that a mental health screener, screening service,
21 or screening psychiatrist subject to the provisions of P.L.1987,
22 c.116 (C.30:4-27.1 et seq.) determines that an in-person psychiatric
23 evaluation is necessary to meet standard of care requirements, or in
24 the event that a patient requests an in-person psychiatric evaluation
25 in lieu of a psychiatric evaluation performed using telemedicine or
26 telehealth, the mental health screener, screening service, or
27 screening psychiatrist may nevertheless perform a psychiatric
28 evaluation using telemedicine and telehealth if it is determined that
29 the patient cannot be scheduled for an in-person psychiatric
30 evaluation within the next 24 hours. Nothing in this paragraph shall
31 be construed to prevent a patient who receives a psychiatric
32 evaluation using telemedicine and telehealth as provided in this
33 paragraph from receiving a subsequent, in-person psychiatric
34 evaluation in connection with the same treatment event, provided
35 that the subsequent in-person psychiatric evaluation is necessary to
36 meet standard of care requirements for that patient.¹

37 e. The prescription of Schedule II controlled dangerous
38 substances through the use of telemedicine or telehealth shall be
39 authorized only after an initial in-person examination of the patient,
40 as provided by regulation, and a subsequent in-person visit with the
41 patient shall be required every three months for the duration of time
42 that the patient is being prescribed the Schedule II controlled
43 dangerous substance. However, the provisions of this subsection
44 shall not apply, and the in-person examination or review of a patient
45 shall not be required, when a health care provider is prescribing a
46 stimulant which is a Schedule II controlled dangerous substance for
47 use by a minor patient under the age of 18, provided that the health
48 care provider is using interactive, real-time, two-way audio and

1 video technologies when treating the patient and the health care
2 provider has first obtained written consent for the waiver of these
3 in-person examination requirements from the minor patient's parent
4 or guardian.

5 f. A mental health screener, screening service, or screening
6 psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-
7 27.1 et seq.):

8 (1) shall not be required to obtain a separate authorization in
9 order to engage in telemedicine or telehealth for mental health
10 screening purposes; and

11 (2) shall not be required to request and obtain a waiver from
12 existing regulations, prior to engaging in telemedicine or telehealth.

13 g. A health care provider who engages in telemedicine or
14 telehealth, as authorized by P.L.2017, c.117 (C.45:1-61 et al.), shall
15 maintain a complete record of the patient's care, and shall comply
16 with all applicable State and federal statutes and regulations for
17 recordkeeping, confidentiality, and disclosure of the patient's
18 medical record.

19 h. A health care provider shall not be subject to any
20 professional disciplinary action under Title 45 of the Revised
21 Statutes solely on the basis that the provider engaged in
22 telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-
23 61 et al.).

24 i. (1) In accordance with the "Administrative Procedure Act,"
25 P.L.1968, c.410 (C.52:14B-1 et seq.), the State boards or other
26 entities that, pursuant to Title 45 of the Revised Statutes, are
27 responsible for the licensure, certification, or registration of health
28 care providers in the State, shall each adopt rules and regulations
29 that are applicable to the health care providers under their
30 respective jurisdictions, as may be necessary to implement the
31 provisions of this section and facilitate the provision of
32 telemedicine and telehealth services. Such rules and regulations
33 shall, at a minimum:

34 (a) include best practices for the professional engagement in
35 telemedicine and telehealth;

36 (b) ensure that the services patients receive using telemedicine
37 or telehealth are appropriate, medically necessary, and meet current
38 quality of care standards;

39 (c) include measures to prevent fraud and abuse in connection
40 with the use of telemedicine and telehealth, including requirements
41 concerning the filing of claims and maintaining appropriate records
42 of services provided; and

43 (d) provide substantially similar metrics for evaluating quality
44 of care and patient outcomes in connection with services provided
45 using telemedicine and telehealth as currently apply to services
46 provided in person.

47 (2) In no case shall the rules and regulations adopted pursuant to
48 paragraph (1) of this subsection require a provider to conduct an

1 initial in-person visit with the patient as a condition of providing
2 services using telemedicine or telehealth.

3 (3) The failure of any licensing board to adopt rules and
4 regulations pursuant to this subsection shall not have the effect of
5 delaying the implementation of this act, and shall not prevent health
6 care providers from engaging in telemedicine or telehealth in
7 accordance with the provisions of this act and the practice act
8 applicable to the provider's professional licensure, certification, or
9 registration.

10 (cf: P.L.2017, c.117, s.2)

11

12 ⁴[4.] ⁵5. ⁴ Section 9 of P.L.2017, c.117 (C.52:14-17.29w) is
13 amended to read as follows:

14 9. a. ⁵[³(1)³]⁵ The State Health Benefits Commission shall
15 ensure that every contract purchased thereby, which provides
16 hospital and medical expense benefits, additionally provides
17 coverage and payment for ²[¹all forms of]² ⁵[physical and
18 behavioral¹]⁵ health care services delivered to a covered person
19 through telemedicine or telehealth, on the same basis as, and at a
20 provider reimbursement rate that [does not exceed] ⁵[equals] does
21 not exceed⁵ the provider reimbursement rate that is applicable,
22 when the services are delivered through in-person contact and
23 consultation in New Jersey ², provided the services are otherwise
24 covered under the contract when delivered through in-person
25 contact and consultation in New Jersey² . Reimbursement
26 payments under this section may be provided either to the
27 individual practitioner who delivered the reimbursable services, or
28 to the agency, facility, or organization that employs the individual
29 practitioner who delivered the reimbursable services, as appropriate
30 ³[²: provided that, if a telemedicine or telehealth organization does
31 not provide a given service on an in-person basis in New Jersey, the
32 telemedicine or telehealth organization shall not be subject to this
33 requirement²]⁵ [⁵].

34 (2) The requirements of paragraph (1) of this subsection shall
35 not apply to:

36 (a) a health care service provided by a telemedicine or telehealth
37 organization that does not provide the health care service on an in-
38 person basis in New Jersey; or

39 (b) a physical health care service ⁴that was⁴ provided ⁴[using
40 telemedicine or telehealth utilizing] through⁴ real-time, two way
41 audio without a video component, whether or not utilized in
42 combination with asynchronous store-and-forward technology,
43 ⁴[the] including audio-only telephone conversation. The⁴
44 reimbursement rate for ⁴[which] a⁴ physical health care service
45 ⁴that is subject to this subparagraph⁴ shall be determined under the
46 ⁴[plan when delivered through in-person contact and consultation in
47 New Jersey] contract purchased by the State Health Benefits

1 Commission with the provider; provided that the reimbursement
 2 rate for a physical health care service when provided through audio-
 3 only telephone conversation shall be at least 50 percent of the
 4 reimbursement rate for the service when provided in person⁴.

5 (3) The provisions of subparagraph (b) of paragraph (2) of this
 6 subsection shall not apply to ⁴a⁴ behavioral health ⁴[services]
 7 service that was⁴ provided ⁴[using telemedicine or telehealth
 8 utilizing] through⁴ real-time, two way audio without a video
 9 component, whether or not utilized in combination with
 10 asynchronous store-and-forward technology, ⁴[which] including
 11 audio-only telephone conversation. A⁴ behavioral health care
 12 service ⁴described in this paragraph⁴ shall be reimbursed at a rate
 13 that equals the provider reimbursement rate for the service when
 14 provided in person³]⁵.

15 b. A health benefits contract purchased by the State Health
 16 Benefits Commission may limit coverage to services that are
 17 delivered by health care providers in the health benefits plan's
 18 network, but may not charge any deductible, copayment, or
 19 coinsurance for a health care service, delivered through
 20 telemedicine or telehealth, in an amount that exceeds the deductible,
 21 copayment, or coinsurance amount that is applicable to an in-person
 22 consultation. In no case shall a health benefits contract purchased
 23 by the State Health Benefits Commission:

24 (1) impose any restrictions on the location or setting of the
 25 distant site used by a health care provider to provide services using
 26 telemedicine and telehealth ¹or on the location or setting of the
 27 originating site where the patient is located when receiving services
 28 using telemedicine and telehealth^{1 5}, except to ensure that the
 29 services provided using telemedicine and telehealth meet the same
 30 standard of care as would be provided if the services were provided
 31 in person⁵ ; ¹[or]¹

32 (2) restrict the ability of a provider to use any electronic or
 33 technological platform ²[, including interactive, real-time, two-way
 34 audio in combination with asynchronous store-and-forward
 35 technology without video capabilities,] ³[that the federal Centers
 36 for Medicare and Medicaid Services has authorized for use in
 37 connection with the federal Medicare program²]³ to provide
 38 services using telemedicine or telehealth ³, including, but not
 39 limited to, interactive, real-time, two-way audio, which may be used
 40 in combination with asynchronous store-and-forward technology
 41 without video capabilities, ⁴including audio-only telephone
 42 conversations,⁴ to provide services using telemedicine or telehealth³
 43 ², provided² that ²[:

44 (a) the platform^{2 3} used :

45 (a)³ allows the provider to meet the same standard of care as
 46 would be provided if the services were provided in person ²[: and

1 (b) is compliant with the requirements of the federal health
 2 privacy rule set forth at 45 CFR Parts 160 and 164]^{2 1; 3}[or] and

3 (b) is compliant with the requirements of the federal health
 4 privacy rule set forth at 45 CFR Parts 160 and 164;³

5 (3) deny coverage for or refuse to provide reimbursement for
 6 routine patient monitoring performed using telemedicine and
 7 telehealth, including remote monitoring of a patient's vital signs
 8 and routine check-ins with the patient to monitor the patient's status
 9 and condition, if coverage and reimbursement would be provided if
 10 those services are provided in person^{1 5}, and the provider is able to
 11 meet the same standard of care as would be provided if the services
 12 were provided in person^{5 3; 5} or⁵

13 (4) ⁵use telemedicine or telehealth to satisfy network adequacy
 14 requirements with regard to a health care service ⁴for plans or
 15 contracts entered into on or after the effective date of P.L. , c.
 16 (pending before the Legislature as this bill)⁴ ; or

17 (5)]⁵ limit coverage only to services delivered by select third
 18 party telemedicine or telehealth organizations³ .

19 c. Nothing in this section shall be construed to:

20 (1) prohibit a health benefits contract from providing coverage
 21 for only those services that are medically necessary, subject to the
 22 terms and conditions of the covered person's health benefits plan; or

23 (2) allow the State Health Benefits Commission, or a contract
 24 purchased thereby, to require a covered person to use telemedicine
 25 or telehealth in lieu of receiving an in-person service from an in-
 26 network provider ³[²or] ⁵];

27 (3)³ allow the State Health Benefits Commission, or a contract
 28 purchased thereby, to impose more stringent utilization
 29 management requirements on the provision of services using
 30 telemedicine and telehealth than apply when those services are
 31 provided in person^{2 3}; or

32 (4) allow State Health Benefits Commission, or a contract
 33 purchased thereby, to impose any other requirements for the use of
 34 telemedicine or telehealth to provide a health care service that are
 35 more restrictive than the requirements that apply when the service is
 36 provided in person³]⁵ .

37 d. The State Health Benefits Commission shall adopt rules and
 38 regulations, pursuant to the "Administrative Procedure Act,"
 39 P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions
 40 of this section.

41 e. As used in this section:

42 "Asynchronous store-and-forward" means the same as that term
 43 is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

44 "Distant site" means the same as that term is defined by section 1
 45 of P.L.2017, c.117 (C.45:1-61).

46 ¹"Originating site" means the same as that term is defined by
 47 section 1 of P.L.2017, c.117 (C.45:1-61).¹

1 "Telehealth" means the same as that term is defined by section 1
2 of P.L.2017, c.117 (C.45:1-61).

3 "Telemedicine" means the same as that term is defined by
4 section 1 of P.L.2017, c.117 (C.45:1-61).

5 ²"Telemedicine or telehealth organization" means the same as
6 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).²
7 (cf: P.L.2017, c.117, s.9)

8
9 ⁴[5.] 6.⁴ Section 10 of P.L.2017, c.117 (C.52:14-17.46.6h) is
10 amended to read as follows:

11 10. a. ⁵[³(1)³]⁵ The School Employees' Health Benefits
12 Commission shall ensure that every contract purchased thereby,
13 which provides hospital and medical expense benefits, additionally
14 provides coverage and payment for ²[¹all forms of]² ⁵[physical and
15 behavioral¹]⁵ health care services delivered to a covered person
16 through telemedicine or telehealth, on the same basis as, and at a
17 provider reimbursement rate that [does not exceed] ⁵[equals] does
18 not exceed⁵ the provider reimbursement rate that is applicable,
19 when the services are delivered through in-person contact and
20 consultation in New Jersey ², provided the services are otherwise
21 covered under the contract when delivered through in-person
22 contact and consultation in New Jersey² . Reimbursement
23 payments under this section may be provided either to the
24 individual practitioner who delivered the reimbursable services, or
25 to the agency, facility, or organization that employs the individual
26 practitioner who delivered the reimbursable services, as appropriate
27 ³[²; provided that, if a telemedicine or telehealth organization does
28 not provide a given service on an in-person basis in New Jersey, the
29 telemedicine or telehealth organization shall not be subject to this
30 requirement²]⁵ [.

31 (2) The requirements of paragraph (1) of this subsection shall
32 not apply to:

33 (a) a health care service provided by a telemedicine or telehealth
34 organization that does not provide the health care service on an in-
35 person basis in New Jersey; or

36 (b) a physical health care service ⁴that was⁴ provided ⁴[using
37 telemedicine or telehealth utilizing] through⁴ real-time, two way
38 audio without a video component, whether or not utilized in
39 combination with asynchronous store-and-forward technology,
40 ⁴[the] including audio-only telephone conversations. The⁴
41 reimbursement rate for ⁴[which] a⁴ physical health care service
42 ⁴that is subject to this subparagraph⁴ shall be determined under the
43 ⁴[plan when delivered through in-person contact and consultation in
44 New Jersey] contract purchased by the School Employees' Health
45 Benefits Commission with the provider; provided that the
46 reimbursement rate for a physical health care service when provided
47 through audio-only telephone conversation shall be at least 50

1 percent of the reimbursement rate for the service when provided in
2 person⁴.

3 (3) The provisions of subparagraph (b) of paragraph (2) of this
4 subsection shall not apply to ⁴a⁴ behavioral health ⁴[services]
5 service that was⁴ provided ⁴[using telemedicine or telehealth
6 utilizing] through⁴ real-time, two way audio without a video
7 component, whether or not utilized in combination with
8 asynchronous store-and-forward technology, ⁴[which] including
9 audio-only telephone conversation. A⁴ behavioral health care
10 service ⁴described in this paragraph⁴ shall be reimbursed at a rate
11 that equals the provider reimbursement rate for the service when
12 provided in person³]⁵.

13 b. A health benefits contract purchased by the School
14 Employees' Health Benefits Commission may limit coverage to
15 services that are delivered by health care providers in the health
16 benefits plan's network, but may not charge any deductible,
17 copayment, or coinsurance for a health care service, delivered
18 through telemedicine or telehealth, in an amount that exceeds the
19 deductible, copayment, or coinsurance amount that is applicable to
20 an in-person consultation. In no case shall a health benefits
21 contract purchased by the School Employees' Health Benefits
22 Commission:

23 (1) impose any restrictions on the location or setting of the
24 distant site used by a health care provider to provide services using
25 telemedicine and telehealth ¹or on the location or setting of the
26 originating site where the patient is located when receiving services
27 using telemedicine and telehealth¹ ⁵, except to ensure that the
28 services provided using telemedicine⁴ and telehealth meet the same
29 standard of care as would be provided if the services were provided
30 in person⁵ ; ¹[or]¹

31 (2) restrict the ability of a provider to use any electronic or
32 technological platform ²[, including interactive, real-time, two-way
33 audio in combination with asynchronous store-and-forward
34 technology without video capabilities,] ³[that the federal Centers
35 for Medicare and Medicaid Services has authorized for use in
36 connection with the federal Medicare program²]³ to provide
37 services using telemedicine or telehealth ³, including, but not
38 limited to, interactive, real-time, two-way audio, which may be used
39 in combination with asynchronous store-and-forward technology
40 without video capabilities, ⁴including audio-only telephone
41 conversations,⁴ to provide services using telemedicine or
42 telehealth³ ², provided² that ²[:

43 (a)] the platform² ³used :

44 (a)³ allows the provider to meet the same standard of care as
45 would be provided if the services were provided in person ²[: and

46 (b) is compliant with the requirements of the federal health
47 privacy rule set forth at 45 CFR Parts 160 and 164]² ¹; ³[or] and

1 **(b) is compliant with the requirements of the federal health**
2 **privacy rule set forth at 45 CFR Parts 160 and 164;**³

3 **(3) deny coverage for or refuse to provide reimbursement for**
4 **routine patient monitoring performed using telemedicine and**
5 **telehealth, including remote monitoring of a patient's vital signs**
6 **and routine check-ins with the patient to monitor the patient's status**
7 **and condition, if coverage and reimbursement would be provided if**
8 **those services are provided in person**^{1 5}, **and the provider is able to**
9 **meet the same standard of care as would be provided if the services**
10 **were provided in person**^{5 3; 5 or 5}

11 **(4) use telemedicine or telehealth to satisfy network adequacy**
12 **requirements with regard to a health care service**⁴**for plans or**
13 **contracts entered into on or after the effective date of P.L. ,**
14 **c. (pending before the Legislature as this bill)**⁴**; or**

15 **(5) limit coverage only to services delivered by select third**
16 **party telemedicine or telehealth organizations**³.

17 c. Nothing in this section shall be construed to:

18 (1) prohibit a health benefits contract from providing coverage
19 for only those services that are medically necessary, subject to the
20 terms and conditions of the covered person's health benefits plan; or

21 (2) allow the School Employees' Health Benefits Commission,
22 or a contract purchased thereby, to require a covered person to use
23 telemedicine or telehealth in lieu of receiving an in-person service
24 from an in-network provider^{3 [2 or] 5};

25 (3)³ **allow the School Employees' Health Benefits Commission,**
26 **or a contract purchased thereby, to impose more stringent utilization**
27 **management requirements on the provision of services using**
28 **telemedicine and telehealth than apply when those services are**
29 **provided in person**^{2 3}; or

30 (4) **allow the School Employees' Health Benefits Commission,**
31 **or a contract purchased thereby, to impose any other requirements**
32 **for the use of telemedicine or telehealth to provide a health care**
33 **service that are more restrictive than the requirements that apply**
34 **when the service is provided in person**^{3] 5}.

35 d. The School Employees' Health Benefits Commission shall
36 adopt rules and regulations, pursuant to the "Administrative
37 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement
38 the provisions of this section.

39 e. As used in this section:

40 **"Asynchronous store-and-forward" means the same as that term**
41 **is defined by section 1 of P.L.2017, c.117 (C.45:1-61).**

42 **"Distant site" means the same as that term is defined by section 1**
43 **of P.L.2017, c.117 (C.45:1-61).**

44 **"Originating site" means the same as that term is defined by**
45 **section 1 of P.L.2017, c.117 (C.45:1-61).**¹

46 **"Telehealth" means the same as that term is defined by section 1**
47 **of P.L.2017, c.117 (C.45:1-61).**

1 "Telemedicine" means the same as that term is defined by
2 section 1 of P.L.2017, c.117 (C.45:1-61).

3 ²"Telemedicine or telehealth organization" means the same as
4 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).²
5 (cf: P.L.2017, c.117, s.10)

6
7 ³[²6. (New section) The Commissioner of Banking and
8 Insurance shall conduct a study to determine whether telemedicine
9 and telehealth may be appropriately used to satisfy network
10 adequacy requirements applicable to health benefits plans in New
11 Jersey. The commissioner shall prepare and submit a report to the
12 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
13 19.1), to the Legislature, no later than one year after the effective
14 date of this act outlining the commissioner's findings and any
15 recommendations for legislation, administrative action, or other
16 actions as the commissioner deems appropriate.²³

17
18 ⁴[³6.] ^{7.}⁴ (New section) a. A carrier that offers a health
19 benefits plan in this State shall provide coverage, without the
20 imposition of any cost sharing requirements, including deductibles,
21 copayments, or coinsurance, prior authorization requirements, or
22 other medical management requirements, for the following items
23 and services furnished during any portion of the federal state of
24 emergency declared in response to the coronavirus disease 2019
25 (COVID-19) pandemic:

26 (1) testing for COVID-19, provided that a health care
27 practitioner has issued a medical order for the testing; and

28 (2) items and services furnished or provided to an individual
29 during health care provider office visits, including in-person visits
30 and telemedicine and telehealth encounters, urgency care center
31 visits, and emergency department visits, that result in an order for
32 administration of a test for COVID-19⁵, but only to the extent that
33 the items and services relate to the furnishing or administration of
34 the test for COVID-19 or to the evaluation of the individual for
35 purposes of determining the need of the individual for that test⁵.

36 b. As used in this section, "carrier," means an insurance
37 company, health service corporation, hospital service corporation,
38 medical service corporation, or health maintenance organization
39 authorized to issue health benefits plans in this State, and shall
40 include the State Health Benefits Program and the School
41 Employees' Health Benefits Program.³

42
43 ²[6.] ⁴[^{7.}²] ^{8.}⁴ The Commissioner of Human Services shall
44 apply for such State plan amendments or waivers as may be
45 necessary to implement the provisions of this act and to secure
46 federal financial participation for State Medicaid expenditures
47 under the federal Medicaid program.

48

1 ²[¹7.] ⁴[^{8.}²] ⁵[^{9.}⁴] There is appropriated from the General Fund
2 to the Department of Human Services the sum of \$5,000,000 to
3 establish a program under which health care providers that provide
4 telemedicine or telehealth services to patients who are enrolled in
5 the State Medicaid program can be reimbursed for the costs of
6 ²[making telemedicine and telehealth technologies available to]
7 providing² those patients ²with access, on a temporary or permanent
8 basis, to appropriate devices, programs, and technologies necessary
9 to enable patients who do not ordinarily have access to those
10 devices, programs, or technologies to engage in a telemedicine or
11 telehealth encounter². The Commissioner of Human Services shall
12 establish standards and protocols for health care providers to apply
13 for reimbursement under the program established pursuant to this
14 section.¹ ²The funds appropriated pursuant to this section may only
15 be expended on acquiring electronic communication and
16 information devices, programs, and technologies for use by patients,
17 and in no case shall the funds be used to provide any form of direct
18 reimbursement to an individual provider for physical or behavioral
19 health care services provided to a patient using telemedicine or
20 telehealth, or to provide reimbursement for any electronic
21 communication or information device, program, or technology for
22 which payment may be made or covered or for which
23 reimbursement is provided by a health benefits plan or any other
24 State or federal program. Nothing in this section shall be construed
25 to require a health benefits plan, Medicaid or NJ FamilyCare, the
26 State Health Benefits Plan, or the School Employees' Health
27 Benefits plan to provide reimbursement for acquiring or providing
28 access to any electronic communication or information device,
29 program, or technology for which coverage would not ordinarily be
30 provided under the plan or contract.²]⁵

31
32 ⁵9. (New section) a. The Commissioner of Health shall conduct
33 a study to assess whether or to what extent coverage and payment
34 for health care services delivered to a covered person through
35 telemedicine or telehealth should be reimbursed at a provider
36 reimbursement rate that equals the provider reimbursement rate that
37 is applicable, when the services are delivered through in-person
38 contact and consultation in New Jersey, as well as to assess whether
39 telemedicine and telehealth may be appropriately used to satisfy
40 network adequacy requirements applicable to health benefits plans
41 in New Jersey. In conducting the study, the commissioner shall
42 consider the effect of the availability and provision of health care
43 services delivered through telemedicine or telehealth upon
44 utilization, access to care, patient outcomes, and patient
45 satisfaction; whether the delivery of services through telemedicine
46 or telehealth affects the standard, quality, or cost of care; whether
47 different or more stringent utilization management requirements
48 should be adopted for coverage and payment for health care

1 services delivered through telehealth or telemedicine; how the
2 incentivization of the provision of telehealth and telemedicine
3 services impacts underserved populations; and any consideration
4 the commissioner deems relevant. As part of the study, the
5 commissioner may also consider the adoption and impact of
6 reimbursement requirements for telehealth and telemedicine in
7 other jurisdictions. Nothing herein shall preclude the
8 commissioner, in the commissioner's discretion, from engaging,
9 contracting, or entering into an agreement with one or more third-
10 party vendors to conduct all or part of the study required by the
11 subsection. Such vendor may consider or analyze any additional
12 factors or information the vendor deems relevant to the study, as
13 approved by the commissioner. The commissioner or such vendor
14 shall consult with the Commissioner of Banking and Insurance, the
15 State Treasurer, and the Commissioner of Human Services in
16 conducting the study.

17 b. The commissioner shall prepare and submit a report to the
18 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
19 19.1), to the Legislature, no later than the first day of the eighteenth
20 month next following the effective date of P.L. , c. (pending
21 before the Legislature as this bill) outlining the commissioner's
22 findings and any recommendations for legislation, administrative
23 action, or other actions as the commissioner deems appropriate.
24 Such recommendations shall not on their own be binding on any
25 health benefits plan in New Jersey, State Medicaid and NJ
26 FamilyCare, the State Health Benefits Plan, or the School
27 Employees' Health benefits Plan. Nothing herein shall preclude the
28 commissioner, in the commissioner's discretion, from engaging,
29 contracting, or entering into an agreement with one or more third-
30 party vendors to prepare the report required by this subsection.

31 c. There is appropriated from the General Fund to the
32 Department of Health the sum of \$500,000 to effectuate the
33 provisions of this section.⁵
34

35 ⁴~~[³9.] 10.~~⁴ P.L.2020, c.3 and P.L.2020, c.7 are repealed.³
36

37 ⁵11. (New section) a. For the period beginning on the effective
38 date of P.L. , c. (pending before the Legislature as this bill) and
39 ending on December 31, 2023, a health benefits plan in this State
40 shall provide coverage and payment for health care services
41 delivered to a covered person through telemedicine or telehealth at
42 a provider reimbursement rate that equals the provider
43 reimbursement rate that is applicable, when the services are
44 delivered through in-person contact and consultation in New Jersey,
45 provided the services are otherwise covered by the health benefits
46 plan when delivered through in-person contact and consultation in
47 New Jersey. The requirements of this subsection shall not apply to:

1 (1) a health care service provided by a telemedicine or telehealth
 2 organization that does not provide the health care service on an in-
 3 person basis in New Jersey; or

4 (2) a physical health care service that was provided through
 5 real-time, two-way audio without a video component, whether or
 6 not utilized in combination with asynchronous store-and-forward
 7 technology, including through audio-only telephone conversation.
 8 The reimbursement rate for a physical health care service that is
 9 subject to this paragraph shall be determined under the contract
 10 with the provider; provided that the reimbursement rate for a
 11 physical health care service when provided through audio-only
 12 telephone conversation shall be at least 50 percent of the
 13 reimbursement rate for the service when provided in person.

14 (3) The provisions of paragraph (2) of this subsection shall not
 15 apply to a behavioral health service that was provided through real-
 16 time, two-way audio without a video component, whether or not
 17 utilized in combination with asynchronous store-and-forward
 18 technology, including audio-only telephone conversation. A
 19 behavioral health care service described in this paragraph shall be
 20 reimbursed at a rate that equals the provider reimbursement rate for
 21 the service when provided in person.

22 b. For the purposes of this section:

23 “Carrier” means an insurance company, health service
 24 corporation, hospital service corporation, medical service
 25 corporation, or health maintenance organization authorized to issue
 26 health benefits plans in this State.

27 “Covered person” means the same as that term is defined in
 28 section 2 of P.L.1997, c.192 (C.26:2S-2); a “benefits recipient” as
 29 that term is defined under section 7 of P.L.2017, c.117 (C.30:4D-
 30 6k); and a person covered under a contract purchased by the State
 31 Health Benefits Commission or the School Employees’ Health
 32 Benefits Commission.

33 “Health benefits plan” means a benefits plan which pays hospital
 34 or medical expense benefits for covered services, and is delivered or
 35 issued for delivery in this State by or through a carrier or a contract
 36 purchased by the State Health Benefits Commission or the School
 37 Employees’ Health Benefits Commission. The term shall include
 38 the State Medicaid program established pursuant to P.L.1968, c.410
 39 (C.30:4D-1 et seq.) and the NJ FamilyCare program established
 40 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.).⁵

41
 42 ¹[7.] ²[8.] ³[9.] ⁴[10.] ⁵[11.] ⁵12. This act shall take
 43 effect immediately ³[², except that sections 1, 2, 4, and 5 of this act
 44 shall take effect January 1, 2022]³ and shall apply to all health
 45 benefits plans or contracts issued or renewed on or after that date² .

46 ³Section ⁵[6] ⁷5 of this act shall expire upon the end of the federal
 47 state of emergency declared in response to the coronavirus disease
 48 2019 pandemic.³

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S2559 [5R]

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3 Revises requirements for health insurance providers and Medicaid
4 to cover services provided using telemedicine and telehealth;
5 appropriates \$500,000.