SENATE BILL  258

AN ACT relative to telemedicine and telehealth services.


COMMITTEE:  Health and Human Services

ANALYSIS

This bill adds definitions to and clarifies the statute governing telemedicine and Medicaid coverage for telehealth services.

Explanation:  Matter added to current law appears in bold italics.  
Matter removed from current law appears [in brackets and struckthrough.] 
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
AN ACT relative to telemedicine and telehealth services.

Be it Enacted by the Senate and House of Representatives in General Court convened:

321:1 Medicaid Coverage of Telehealth Services. RSA 167:4-d is repealed and reenacted to read as follows:

167:4-d Medicaid Coverage of Telehealth Services.

I. It is the intent of this section to recognize the application of telehealth for covered services provided within the scope of practice of a physician or other health care provider as a method of delivery of medical care by which an individual at an originating site shall receive medical services which are clinically appropriate for delivery through telehealth from a health care provider at a distant site without in-person contact with the provider.

II. In this section:

(a) "Telehealth services" shall comply with 42 C.F.R. section 410.78, except for 42 C.F.R. section 410.78(b)(4). The use of the term "telemedicine" shall comply with the Centers for Medicare and Medicaid Services requirements governing the aforementioned telehealth services.

(b) "Distant site" means the location of the health care provider delivering services through telemedicine at the time the services are provided.

(c) "Originating site" means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including, but not limited to, a health care provider's office, a hospital, or a health care facility, or the patient's home or another nonmedical environment such as a school-based health center, a university-based health center, or the patient's workplace.

(d) "Remote patient monitoring" means the use of electronic technology to remotely monitor a patient's health status through the collection and interpretation of clinical data while the patient remains at an originating site. Remote patient monitoring may or may not take place in real time. Remote patient monitoring shall include assessment, observation, education and virtual visits provided by all covered providers including licensed home health care providers.

(e) "Store and forward," as it pertains to telemedicine and as an exception to 42 C.F.R. section 410.78, means the use of asynchronous electronic communications between a patient at an originating site and a health care service provider at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients. This includes the forwarding and/or transfer of stored medical data from the originating site to the distant site through the use of any electronic device.
that records data in its own storage and forwards its data to the distant site via telecommunication for the purpose of diagnostic and therapeutic assistance.

III.(a) Coverage under this section shall include the use of telehealth or telemedicine for Medicaid-covered services provided within the scope of practice of a physician or other health care provider as a method of delivery of medical care:

(1) Which is an appropriate application of telehealth services provided by physicians and other health care providers, as determined by the department based on the Centers for Medicare and Medicaid Services regulations, and also including persons providing psychotherapeutic services as provided in He-M 426.08 and 426.09;

(2) By which telemedicine services for primary care, remote patient monitoring, and substance use disorder services shall only be covered in the event that the patient has already established care at an originating site via face-to-face in-person service; and

(3) By which an individual shall receive medical services from a physician or other health care provider who is an enrolled Medicaid provider without in-person contact with that provider.

(b) Nothing in this section shall be construed to prohibit the Medicaid program from providing coverage for only those services that are medically necessary and subject to all other terms and conditions of the coverage.

IV. This section shall be conditioned upon review and approval of a state plan amendment submitted by the department to the Centers for Medicare and Medicaid Services, as deemed necessary.

V. The department shall adopt rules, pursuant to RSA 541-A, necessary to carry out the purposes of this section.

321:2 New Subparagraph; Rulemaking. Amend RSA 167:3-c by inserting after subparagraph XIV the following new subparagraph:

XV. Telehealth services under RSA 167:4-d.

321:3 New Paragraphs; New Hampshire Telemedicine Act. Amend RSA 415-J:2 by inserting after paragraph II-a the following new paragraphs:

II-b. “Remote patient monitoring” means the use of electronic technology to remotely monitor a patient’s health status through the collection and interpretation of clinical data while the patient remains at an originating site. Remote patient monitoring may or may not take place in real time. Remote patient monitoring shall include assessment, observation, education, and virtual visits provided by all covered providers including licensed home health care providers.

II-c. “Store and forward,” as it pertains to telemedicine, means the use of asynchronous electronic communications between a patient at an originating site and a health care service provider at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients. This includes the forwarding and/or transfer of stored medical data from the originating
site to the distant site through the use of any electronic device that records data in its own storage and forwards its data to the distant site via telecommunication for the purpose of diagnostic and therapeutic assistance.

321:4 New Hampshire Telemedicine Act; Coverage for Telemedicine Services. Amend RSA 415-J:3, I to read as follows:

I. It is the intent of the general court to recognize the application of telemedicine for covered services provided within the scope of practice of a physician or other health care provider as a method of delivery of medical care by which an individual at an originating site shall receive medical services which are clinically appropriate for delivery through telemedicine from a health care provider at a distant site without in-person contact with the provider. For the purposes of this chapter, covered services include remote patient monitoring and store and forward.

321:5 Contingent Renumbering. If SB 274 of the 2019 regular legislative session becomes law, RSA 167:3-c, XV, as inserted by section 2 of this act, shall be renumbered to read as RSA 167:3-c, XVI.

321:6 Effective Date.

I. Sections 3 and 4 of this act shall take effect January 1, 2020.

II. The remainder of this act shall take effect 60 days after its passage.