

# Minnesota Telehealth Parity Legislation Overview

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**Disclaimer:** *This document should not be viewed as an official legislative interpretation. Independent review by interested organizations is strongly recommended.*

The newly passed Minnesota Telemedicine Act (June 2015) will provide for consistent reimbursement of health care services provided both in-person and via telemedicine technology. gpTRAC has summarized the legislation's highlights and key provisions as follows:

- Effective date for Medicaid is 1/1/16; applies to commercial plans that begin coverage on or after 1/1/17
- Requires parity (equality) of coverage AND payment of services for those provided either in-person or by telemedicine
  - Commercial plans are also prohibited from charging a higher co-pay or deductible for telehealth services
- Limits eligible providers to those licensed health care providers able to deliver the service within their established scope of practice, without direct supervision. (i.e. unlicensed providers cannot deliver or bill for services delivered via telehealth; licensed providers not able to provide a service without direct supervision by another provider cannot provide the service via telehealth)
  - MD (147), PA (147A), Chiropractors (148), Nurses (148.171) Speech Language Pathologists (148.511), Optometrists (148.52), Dietitians/Nutritionists (148.621), OT/OTA (148.6401), PT/PTA (148.65), Athletic Trainers (148.7801), Psychologists (148.79), Doulas (148.995), Marriage and Family counselors, Licensed Professional Counseling, (148B), Social Work (148E), Alcohol and Drug Counselors (148F), Dentistry (150A), Podiatry (153)
  - This is an expanded list of eligible providers under Medicaid
  - Providers NOT eligible include: Pharmacists, Respiratory Therapists, and Genetic Counselors
  - Includes additional budget dollars (Medicaid) to cover these newly eligible providers
- Payment of the originating site fee will **not** be covered
- Does not require an initial in-person visit prior to seeing a patient using telemedicine
- Rural and/or professional shortage service area restrictions have been removed (services can be provided to all areas of the state)
- Site of service location restrictions have been removed (a patient can access services from their home/apartment, place of work, nursing home, hospital, clinic, etc.)
- Telemedicine may be provided using real-time, two-way, interactive audio/visual communications, including secure video conferencing and store-and-forward technology, which facilitates the assessment, diagnosis, consultation, treatment, education and care management of a patient's care.
  - Telephone, email and fax communications between *providers* are **not** included in the definition of telehealth.
  - Under Medicaid - telephone, email and fax communications between *provider and patient* are **excluded** from the definition of telehealth.
  - Commercial payers - Email and fax communications between *provider and patient* are also **excluded** from the definition of telehealth. It is currently unclear if telephone-only to the patient is included.

- The level of coverage for remote monitoring types of services is currently unclear. The legislation does not prohibit its use and may allow it when incorporated under store-and-forward for the care management and other purposes
- Medicaid continues to limit telehealth/telemedicine services to no more than three visits per week. (pre-existing law)
- The bill authorizes the Commissioner to establish criteria for patient safety protections and billing/documentation standards which providers must attest to meeting to ensure the safety and efficacy of the telemedicine services provided.

Click here for a copy of the entire omnibus legislation:

<https://www.revisor.mn.gov/laws/?year=2015&type=0&doctype=Chapter&id=71>

The language regarding telemedicine coverage is found in Article 9 (Health Care Delivery) Sec. 1-3, and 13, and is printed below:

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## ARTICLE 9

### HEALTH CARE DELIVERY

#### Section 1.

##### **[62A.67] SHORT TITLE.**

Sections 62A.67 to 62A.672 may be cited as the "Minnesota Telemedicine Act."

##### **EFFECTIVE DATE.**

This section is effective January 1, 2016.

#### Sec. 2.

##### **[62A.671] DEFINITIONS.**

##### **Subdivision 1.**

##### **Applicability.**

For purposes of sections 62A.67 to 62A.672, the terms defined in this section have the meanings given.

##### **Subd. 2.**

##### **Distant site.**

"Distant site" means a site at which a licensed health care provider is located while providing health care services or consultations by means of telemedicine.

##### **Subd. 3.**

##### **Health care provider.**

"Health care provider" has the meaning provided in section 62A.63, subdivision 2.

#### **Subd. 4.**

##### **Health carrier.**

"Health carrier" has the meaning provided in section 62A.011, subdivision 2.

#### **Subd. 5.**

##### **Health plan.**

"Health plan" means a health plan as defined in section 62A.011, subdivision 3, and includes dental plans as defined in section 62Q.76, subdivision 3, but does not include dental plans that provide indemnity-based benefits, regardless of expenses incurred and are designed to pay benefits directly to the policyholder.

#### **Subd. 6.**

##### **Licensed health care provider.**

"Licensed health care provider" means a health care provider who is:

(1) licensed under chapter 147, 147A, 148, 148B, 148E, 148F, 150A, or 153; a mental health professional as defined under section 245.462, subdivision 18, or 245.4871, subdivision 27; or vendor of medical care defined in section 256B.02, subdivision 7; and

(2) authorized within their respective scope of practice to provide the particular service with no supervision or under general supervision.

#### **Subd. 7.**

##### **Originating site.**

"Originating site" means a site including, but not limited to, a health care facility at which a patient is located at the time health care services are provided to the patient by means of telemedicine.

#### **Subd. 8.**

##### **Store-and-forward technology.**

"Store-and-forward technology" means the transmission of a patient's medical information from an originating site to a health care provider at a distant site without the patient being present, or the delivery of telemedicine that does not occur in real time via synchronous transmissions.

#### **Subd. 9.**

##### **Telemedicine.**

"Telemedicine" means the delivery of health care services or consultations while the patient is at an originating site and the licensed health care provider is at a distant site. A communication between licensed health care providers that consists solely of a telephone conversation, e-mail, or facsimile transmission does not constitute telemedicine consultations or services. A communication between a licensed health care provider and a patient that consists solely of an e-mail or facsimile transmission does not constitute telemedicine

consultations or services. Telemedicine may be provided by means of real-time two-way, interactive audio and visual communications, including the application of secure video conferencing or store-and-forward technology to provide or support health care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care.

### **EFFECTIVE DATE.**

This section is effective January 1, 2016.

### **Sec. 3.**

### **[62A.672] COVERAGE OF TELEMEDICINE SERVICES.**

#### **Subdivision 1.**

#### **Coverage of telemedicine.**

(a) A health plan sold, issued, or renewed by a health carrier for which coverage of benefits begins on or after January 1, 2017, shall include coverage for telemedicine benefits in the same manner as any other benefits covered under the policy, plan, or contract, and shall comply with the regulations of this section.

(b) Nothing in this section shall be construed to:

(1) require a health carrier to provide coverage for services that are not medically necessary;

(2) prohibit a health carrier from establishing criteria that a health care provider must meet to demonstrate the safety or efficacy of delivering a particular service via telemedicine for which the health carrier does not already reimburse other health care providers for delivering via telemedicine, so long as the criteria are not unduly burdensome or unreasonable for the particular service; or

(3) prevent a health carrier from requiring a health care provider to agree to certain documentation or billing practices designed to protect the health carrier or patients from fraudulent claims so long as the practices are not unduly burdensome or unreasonable for the particular service.

#### **Subd. 2.**

#### **Parity between telemedicine and in-person services.**

A health carrier shall not exclude a service for coverage solely because the service is provided via telemedicine and is not provided through in-person consultation or contact between a licensed health care provider and a patient.

#### **Subd. 3.**

#### **Reimbursement for telemedicine services.**

(a) A health carrier shall reimburse the distant site licensed health care provider for covered services delivered via telemedicine on the same basis and at the same rate as the

health carrier would apply to those services if the services had been delivered in person by the distant site licensed health care provider.

(b) It is not a violation of this subdivision for a health carrier to include a deductible, co-payment, or coinsurance requirement for a health care service provided via telemedicine, provided that the deductible, co-payment, or coinsurance is not in addition to, and does not exceed, the deductible, co-payment, or coinsurance applicable if the same services were provided through in-person contact.

**EFFECTIVE DATE.** –

This section is effective January 1, 2016.

**Sec. 13.**

**Minnesota Statutes 2014, section 256B.0625, subdivision 3b, is amended to read:  
Subd. 3b.**

**Telemedicine services.**

(a) Medical assistance covers medically necessary services and consultations delivered by a licensed health care provider via telemedicine in the same manner as if the service or consultation was delivered in person. Coverage is limited to three telemedicine services per enrollee per calendar week. Telemedicine services shall be paid at the full allowable rate.

(b) The commissioner shall establish criteria that a health care provider must attest to in order to demonstrate the safety or efficacy of delivering a particular service via telemedicine. The attestation may include that the health care provider:

(1) has identified the categories or types of services the health care provider will provide via telemedicine;

(2) has written policies and procedures specific to telemedicine services that are regularly reviewed and updated;

(3) has policies and procedures that adequately address patient safety before, during, and after the telemedicine service is rendered;

(4) has established protocols addressing how and when to discontinue telemedicine services; and

(5) has an established quality assurance process related to telemedicine services.

(c) As a condition of payment, a licensed health care provider must document each occurrence of a health service provided by telemedicine to a medical assistance enrollee. Health care service records for services provided by telemedicine must meet the requirements set forth in Minnesota Rules, part 9505.2175, subparts 1 and 2, and must document:

(1) the type of service provided by telemedicine;

(2) the time the service began and the time the service ended, including an a.m. and p.m. designation;

(3) the licensed health care provider's basis for determining that telemedicine is an appropriate and effective means for delivering the service to the enrollee;

(4) the mode of transmission of the telemedicine service and records evidencing that a particular mode of transmission was utilized;

(5) the location of the originating site and the distant site;

(6) if the claim for payment is based on a physician's telemedicine consultation with another physician, the written opinion from the consulting physician providing the telemedicine consultation; and

(7) compliance with the criteria attested to by the health care provider in accordance with paragraph (b).

(d) For purposes of this subdivision, unless otherwise covered under this chapter, "telemedicine" is defined as the delivery of health care services or consultations while the patient is at an originating site and the licensed health care provider is at a distant site. A communication between licensed health care providers, or a licensed health care provider and a patient that consists solely of a telephone conversation, e-mail, or facsimile transmission does not constitute telemedicine consultations or services. Telemedicine may be provided by means of real-time two-way, interactive audio and visual communications, including the application of secure video conferencing or store-and-forward technology to provide or support health care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care.

(e) For purposes of this section, "licensed health care provider" is defined under section 62A.671, subdivision 6; "health care provider" is defined under section 62A.671, subdivision 3; and "originating site" is defined under section 62A.671, subdivision 7.

### **EFFECTIVE DATE.**

This section is effective January 1, 2016.