

JAN 20 2023

A BILL FOR AN ACT

RELATING TO TELEHEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that many residents in
2 underserved and low-income communities where cellular data plans
3 and broadband are inaccessible are unable to utilize telehealth
4 services that require internet connectivity. The legislature
5 further finds that medical professionals have used standard
6 telephone contacts for decades to provide necessary access to
7 primary care when a patient is homebound or otherwise unable to
8 access face-to-face care. The Centers for Medicare and Medicaid
9 Services continues to authorize coverage of audio-only
10 (telephone) services used in the treatment of mental health and
11 substance abuse in certain circumstances, allowing federally
12 qualified health centers and rural health clinics to use
13 telehealth to care for patients in patients' homes. Consistent
14 provisions for managed care plans and commercial health care
15 plans are warranted to ensure pay parity for telephonic and
16 telehealth services.



1 Accordingly, the purpose of this Act is to allow for the
 2 use of standard telephone contacts for telehealth purposes,
 3 consistent with the 2023 Medicare Physician Fee Schedule.

4 SECTION 2. Section 346-59.1, Hawaii Revised Statutes, is
 5 amended as follows:

6 1. By amending subsection (b) to read:

7 "(b) Reimbursement for services provided through
 8 telehealth via an interactive telecommunications system shall be
 9 equivalent to reimbursement for the same services provided via
 10 face-to-face contact between a health care provider and a
 11 patient. Nothing in this section shall require a health care
 12 provider to be physically present with the patient at an
 13 originating site unless a health care provider at the distant
 14 site deems it necessary."

15 2. By amending subsection (g) to read:

16 "(g) For the purposes of this section:

17 "Distant site" means the location of the health care
 18 provider delivering services through telehealth at the time the
 19 services are provided.

20 "Health care provider" means a provider of services, as
 21 defined in title 42 United States Code section 1395x(u), a



1 provider of medical and other health services, as defined in
2 title 42 United States Code section 1395x(s), other
3 practitioners licensed by the State and working within their
4 scope of practice, and any other person or organization who
5 furnishes, bills, or is paid for health care in the normal
6 course of business, including but not limited to primary care
7 providers, mental health providers, oral health providers,
8 physicians and osteopathic physicians licensed under chapter
9 453, advanced practice registered nurses licensed under chapter
10 457, psychologists licensed under chapter 465, and dentists
11 licensed under chapter 448.

12 "Interactive telecommunications system" means multimedia
13 communications equipment that includes, at a minimum, audio and
14 video equipment permitting two-way, real-time interactive
15 communications between the patient and distant site physician or
16 practitioner; provided that, for services furnished for purposes
17 of diagnosis, evaluation, or treatment of a mental health
18 disorder to a patient in the patient's home, interactive
19 telecommunications may include two-way, real-time audio-only
20 communication technology if the distant site physician or
21 practitioner is technically capable of using an interactive



1 telecommunications system but the patient is not capable of, or
2 does not consent to, the use of video technology; provided
3 further that the term shall have the same meaning as the term is
4 defined in title 42 Code of Federal Regulations section 410.78,
5 as amended.

6 "Originating site" means the location where the patient is
7 located, whether accompanied or not by a health care provider,
8 at the time services are provided by a health care provider
9 through telehealth, including but not limited to a health care
10 provider's office, hospital, critical access hospital, rural
11 health clinic, federally qualified health center, a patient's
12 home, and other [~~non-medical~~] nonmedical environments such as
13 school-based health centers, university-based health centers, or
14 the work location of a patient.

15 "Telehealth" means the use of telecommunications services,
16 as defined in section 269-1, to encompass four modalities:
17 store and forward technologies, remote monitoring, live
18 consultation, and mobile health; and which shall include but not
19 be limited to real-time video conferencing-based communication,
20 secure interactive and non-interactive web-based communication,
21 and secure asynchronous information exchange, to transmit



1 patient medical information, including diagnostic-quality
2 digital images and laboratory results for medical interpretation
3 and diagnosis, for the purpose of delivering enhanced health
4 care services and information while a patient is at an
5 originating site and the health care provider is at a distant
6 site. ~~[Standard]~~ Except as otherwise provided in this section,
7 standard telephone contacts, facsimile transmissions, or e-mail
8 text, in combination or ~~[by itself, does]~~ alone, do not
9 constitute [a] telehealth ~~[service for the purposes of this~~
10 ~~section.]~~ services."

11 SECTION 3. Section 431:10A-116.3, Hawaii Revised Statutes,
12 is amended as follows:

13 1. By amending subsection (c) to read:

14 "(c) Reimbursement for services provided through
15 telehealth via an interactive telecommunications system shall be
16 equivalent to reimbursement for the same services provided via
17 face-to-face contact between a health care provider and a
18 patient. Nothing in this section shall require a health care
19 provider to be physically present with the patient at an
20 originating site unless a health care provider at the distant
21 site deems it necessary."



1 2. By amending subsection (g) to read:

2 "(g) For the purposes of this section:

3 "Distant site" means the location of the health care
4 provider delivering services through telehealth at the time the
5 services are provided.

6 "Health care provider" means a provider of services, as
7 defined in title 42 United States Code section 1395x(u), a
8 provider of medical and other health services, as defined in
9 title 42 United States Code section 1395x(s), other
10 practitioners licensed by the State and working within their
11 scope of practice, and any other person or organization who
12 furnishes, bills, or is paid for health care in the normal
13 course of business, including but not limited to primary care
14 providers, mental health providers, oral health providers,
15 physicians and osteopathic physicians licensed under chapter
16 453, advanced practice registered nurses licensed under chapter
17 457, psychologists licensed under chapter 465, and dentists
18 licensed under chapter 448.

19 "Interactive telecommunications system" means multimedia
20 communications equipment that includes, at a minimum, audio and
21 video equipment permitting two-way, real-time interactive



1 communications between the patient and distant site physician or
2 practitioner; provided that, for services furnished for purposes
3 of diagnosis, evaluation, or treatment of a mental health
4 disorder to a patient in the patient's home, interactive
5 telecommunications may include two-way, real-time audio-only
6 communication technology if the distant site physician or
7 practitioner is technically capable of using an interactive
8 telecommunications system but the patient is not capable of, or
9 does not consent to, the use of video technology; provided
10 further that the term shall have the same meaning as the term is
11 defined in title 42 Code of Federal Regulations section 410.78,
12 as amended.

13 "Originating site" means the location where the patient is
14 located, whether accompanied or not by a health care provider,
15 at the time services are provided by a health care provider
16 through telehealth, including but not limited to a health care
17 provider's office, hospital, health care facility, a patient's
18 home, and other nonmedical environments such as school-based
19 health centers, university-based health centers, or the work
20 location of a patient.



1 "Telehealth" means the use of telecommunications services,
2 as defined in section 269-1, to encompass four modalities:
3 store and forward technologies, remote monitoring, live
4 consultation, and mobile health; and which shall include but not
5 be limited to real-time video conferencing-based communication,
6 secure interactive and non-interactive web-based communication,
7 and secure asynchronous information exchange, to transmit
8 patient medical information, including diagnostic-quality
9 digital images and laboratory results for medical interpretation
10 and diagnosis, for the purpose of delivering enhanced health
11 care services and information while a patient is at an
12 originating site and the health care provider is at a distant
13 site. ~~[Standard]~~ Except as otherwise provided for in this
14 section, standard telephone contacts, facsimile transmissions,
15 or e-mail text, in combination or ~~[by itself, does]~~ alone, do
16 not constitute [a] telehealth ~~[service for the purposes of this~~
17 ~~chapter.]~~ services."

18 SECTION 4. Section 432:1-601.5, Hawaii Revised Statutes,
19 is amended as follows:

20 1. By amending subsection (c) to read:



1 "(c) Reimbursement for services provided through
2 telehealth via an interactive telecommunications system shall be
3 equivalent to reimbursement for the same services provided via
4 face-to-face contact between a health care provider and a
5 patient. Nothing in this section shall require a health care
6 provider to be physically present with the patient at an
7 originating site unless a health care provider at the distant
8 site deems it necessary."

9 2. By amending subsection (g) to read:

10 "(g) For the purposes of this section:

11 "Health care provider" means a provider of services, as
12 defined in title 42 United States Code section 1395x(u), a
13 provider of medical and other health services, as defined in
14 title 42 United States Code section 1395x(s), other
15 practitioners licensed by the State and working within their
16 scope of practice, and any other person or organization who
17 furnishes, bills, or is paid for health care in the normal
18 course of business, including but not limited to primary care
19 providers, mental health providers, oral health providers,
20 physicians and osteopathic physicians licensed under chapter
21 453, advanced practice registered nurses licensed under chapter



1 457, psychologists licensed under chapter 465, and dentists
2 licensed under chapter 448.

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4 communications equipment that includes, at a minimum, audio and
5 video equipment permitting two-way, real-time interactive
6 communications between the patient and distant site physician or
7 practitioner; provided that, for services furnished for purposes
8 of diagnosis, evaluation, or treatment of a mental health
9 disorder to a patient in the patient's home, interactive
10 telecommunications may include two-way, real-time audio-only
11 communication technology if the distant site physician or
12 practitioner is technically capable of using an interactive
13 telecommunications system but the patient is not capable of, or
14 does not consent to, the use of video technology; provided
15 further that the term shall have the same meaning as the term is
16 defined in title 42 Code of Federal Regulations section 410.78,
17 as amended.

18 "Originating site" means the location where the patient is
19 located, whether accompanied or not by a health care provider,
20 at the time services are provided by a health care provider
21 through telehealth, including but not limited to a health care



1 provider's office, hospital, health care facility, a patient's
2 home, and other nonmedical environments such as school-based
3 health centers, university-based health centers, or the work
4 location of a patient.

5 "Telehealth" means the use of telecommunications services,
6 as defined in section 269-1, to encompass four modalities:
7 store and forward technologies, remote monitoring, live
8 consultation, and mobile health; and which shall include but not
9 be limited to real-time video conferencing-based communication,
10 secure interactive and non-interactive web-based communication,
11 and secure asynchronous information exchange, to transmit
12 patient medical information, including diagnostic-quality
13 digital images and laboratory results for medical interpretation
14 and diagnosis, for the purpose of delivering enhanced health
15 care services and information while a patient is at an
16 originating site and the health care provider is at a distant
17 site. ~~[Standard]~~ Except as otherwise provided in this section,
18 standard telephone contacts, facsimile transmissions, or e-mail
19 text, in combination or ~~[by itself, does]~~ alone, do not
20 constitute [a] telehealth ~~[service for the purposes of this~~
21 ~~chapter.]~~ services."



1 SECTION 5. Section 432D-23.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (c) to read:

4 "(c) Reimbursement for services provided through
5 telehealth via an interactive telecommunications system shall be
6 equivalent to reimbursement for the same services provided via
7 face-to-face contact between a health care provider and a
8 patient. Nothing in this section shall require a health care
9 provider to be physically present with the patient at an
10 originating site unless a health care provider at the distant
11 site deems it necessary."

12 2. By amending subsection (g) to read:

13 "(g) For the purposes of this section:

14 "Distant site" means the location of the health care
15 provider delivering services through telehealth at the time the
16 services are provided.

17 "Health care provider" means a provider of services, as
18 defined in title 42 United States Code section 1395x(u), a
19 provider of medical and other health services, as defined in
20 title 42 United States Code section 1395x(s), other
21 practitioners licensed by the State and working within their



1 scope of practice, and any other person or organization who
2 furnishes, bills, or is paid for health care in the normal
3 course of business, including but not limited to primary care
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5 physicians and osteopathic physicians licensed under chapter
6 453, advanced practice registered nurses licensed under chapter
7 457, psychologists licensed under chapter 465, and dentists
8 licensed under chapter 448.

9 "Interactive telecommunications system" means multimedia
10 communications equipment that includes, at a minimum, audio and
11 video equipment permitting two-way, real-time interactive
12 communications between the patient and distant site physician or
13 practitioner; provided that, for services furnished for purposes
14 of diagnosis, evaluation, or treatment of a mental health
15 disorder to a patient in the patient's home, interactive
16 telecommunications may include two-way, real-time audio-only
17 communication technology if the distant site physician or
18 practitioner is technically capable of using an interactive
19 telecommunications system but the patient is not capable of, or
20 does not consent to, the use of video technology; provided
21 further that the term shall have the same meaning as the term is



1 defined in title 42 Code of Federal Regulations section 410.78,
2 as amended.

3 "Originating site" means the location where the patient is
4 located, whether accompanied or not by a health care provider,
5 at the time services are provided by a health care provider
6 through telehealth, including but not limited to a health care
7 provider's office, hospital, health care facility, a patient's
8 home, and other nonmedical environments such as school-based
9 health centers, university-based health centers, or the work
10 location of a patient.

11 "Telehealth" means the use of telecommunications services,
12 as defined in section 269-1, to encompass four modalities:
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14 consultation, and mobile health; and which shall include but not
15 be limited to real-time video conferencing-based communication,
16 secure interactive and non-interactive web-based communication,
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18 patient medical information, including diagnostic-quality
19 digital images and laboratory results for medical interpretation
20 and diagnosis, for the purpose of delivering enhanced health
21 care services and information while a patient is at an



1 originating site and the health care provider is at a distant
2 site. [~~Standard~~] Except as otherwise provided in this section,
3 standard telephone contacts, facsimile transmissions, or e-mail
4 text, in combination or [~~by itself, does~~] alone, do not
5 constitute [a] telehealth [~~service for the purposes of this~~
6 ~~chapter.~~] services."

7 SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act shall take effect upon its approval.

10

INTRODUCED BY: _____



S.B. NO. 1038

Report Title:

Telehealth; Interactive Telecommunications System; Audio-Only Communication Technology; Mental Health Disorders

Description:

Clarifies reimbursement for services provided through telehealth via an interactive telecommunications system. Defines "interactive telecommunications system". Clarifies that, for services furnished for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in the patient's home, interactive telecommunications may include audio-only communication in certain circumstances.

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