
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 the coronavirus
2 disease 2019 pandemic has placed severe restrictions on in-
3 person gatherings and meetings. The emergency proclamation
4 issued by the governor on December 16, 2020, suspended the
5 application of certain laws that excluded the use of standard
6 telephone contacts from the definition of "telehealth" to enable
7 doctors and patients to minimize in-person meetings while
8 ensuring access to medical care.

9 The use of standard telephone contacts for telehealth
10 benefits in underserved and low-income communities where
11 cellular data plans and broadband services needed for video
12 calls, traditionally the hallmark of telehealth services, are
13 not feasible options for many residents. Moreover, standard
14 telephone contacts have been used by medical professionals for
15 decades to provide necessary access to primary care where a
16 patient is home-bound or otherwise unable to access face-to-face
17 care.



1 The legislature further finds that the Centers for Medicare
2 and Medicaid Services recently made permanent coverage changes
3 to include audio-only (telephone) services used in the treatment
4 of mental health and substance abuse issues in certain
5 circumstances, which will allow federally qualified health
6 centers and rural health clinics to use telehealth to care for
7 patients in their own homes. Consistent provisions for managed
8 care plans and commercial health care plans are warranted to
9 ensure pay parity for telephonic and telehealth services in
10 these circumstances.

11 Accordingly, the purpose of this Act is to allow for the
12 use of standard telephone contacts for telehealth purposes,
13 consistent with the recent rule changes in the 2022 Medicare
14 Physician Fee Schedule.

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

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

18 "(b) Reimbursement for services provided through
19 telehealth via an interactive telecommunications system shall be
20 equivalent to reimbursement for the same services provided via
21 face-to-face contact between a health care provider and a



1 patient. Nothing in this section shall require a health care
2 provider to be physically present with the patient at an
3 originating site unless a health care provider at the distant
4 site deems it necessary."

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

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

7 "Distant site" means the location of the health care
8 provider delivering services through telehealth at the time the
9 services are provided.

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



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

3 "Interactive telecommunications system" means multimedia
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 their 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, critical access hospital, rural
2 health clinic, federally qualified health center, a patient's
3 home, and other non-medical environments such as school-based
4 health centers, university-based health centers, or the work
5 location of a patient.

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



1 SECTION 3. Section 431:10A-116.3, Hawaii Revised Statutes,
2 is 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
4 providers, mental health providers, oral health providers,
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 their 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:
13 store and forward technologies, remote monitoring, live
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,
17 and secure asynchronous information exchange, to transmit
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 for in this
3 section, standard telephone contacts, facsimile transmissions,
4 or e-mail text, in combination or by itself, does not constitute
5 a telehealth service [~~for the purposes of this chapter~~]."

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

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

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

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

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

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



1 title 42 United States Code section 1395x(s), other
2 practitioners licensed by the State and working within their
3 scope of practice, and any other person or organization who
4 furnishes, bills, or is paid for health care in the normal
5 course of business, including but not limited to primary care
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12 communications equipment that includes, at a minimum, audio and
13 video equipment permitting two-way, real-time interactive
14 communications between the patient and distant site physician or
15 practitioner; provided that, for services furnished for purposes
16 of diagnosis, evaluation, or treatment of a mental health
17 disorder to a patient in their home, interactive
18 telecommunications may include two-way, real-time audio-only
19 communication technology if the distant site physician or
20 practitioner is technically capable of using an interactive
21 telecommunications system but the patient is not capable of, or



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

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

13 "Telehealth" means the use of telecommunications services,
14 as defined in section 269-1, to encompass four modalities:
15 store and forward technologies, remote monitoring, live
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21 digital images and laboratory results for medical interpretation



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

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

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

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

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

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



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

4 "Health care provider" means a provider of services, as
5 defined in title 42 United States Code section 1395x(u), a
6 provider of medical and other health services, as defined in
7 title 42 United States Code section 1395x(s), other
8 practitioners licensed by the State and working within their
9 scope of practice, and any other person or organization who
10 furnishes, bills, or is paid for health care in the normal
11 course of business, including but not limited to primary care
12 providers, mental health providers, oral health providers,
13 physicians and osteopathic physicians licensed under chapter
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15 457, psychologists licensed under chapter 465, and dentists
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18 communications equipment that includes, at a minimum, audio and
19 video equipment permitting two-way, real-time interactive
20 communications between the patient and distant site physician or
21 practitioner; provided that, for services furnished for purposes



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

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

19 "Telehealth" means the use of telecommunications services,
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 6 digital images and laboratory results for medical interpretation
 7 and diagnosis, for the purpose of delivering enhanced health
 8 care services and information while a patient is at an
 9 originating site and the health care provider is at a distant
 10 site. [~~Standard~~] Except as otherwise provided in this section,
 11 standard telephone contacts, facsimile transmissions, or e-mail
 12 text, in combination or by itself, does not constitute a
 13 telehealth service [~~for the purposes of this chapter~~]."

14 SECTION 6. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on January 1, 2050,
 17 and shall be repealed on July 1, 2027; provided that sections
 18 346-59.1, 431:10A-116.3, 432:1-601.5, and 432D-23.5, Hawaii
 19 Revised Statutes, shall be reenacted in the form in which they
 20 read on the day before the effective date of this Act.



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 their home, interactive telecommunications may include audio-only communication in certain circumstances. Repeals 07/01/2027. Effective 01/01/2050. (SD2)

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