

AN ACT

ENTITLED, An Act to provide for the payment of claims for covered services provided by a health care professional via telehealth.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 58-17 be amended by adding a NEW SECTION to read:

Terms used in this Act mean:

- (1) "Health care professional," as defined in § 58-17F-1;
- (2) "Health care services," as defined in § 58-17F-1;
- (3) "Health insurer," as defined in § 58-17-100;
- (4) "Telehealth," the delivery of health care services through the use of HIPAA-compliant interactive audio-video. The term does not include the delivery of health care services through audio-only telephone, electronic mail message, text message, mail service, facsimile transmission, or any combination thereof.

Section 2. That chapter 58-17 be amended by adding a NEW SECTION to read:

No health insurer may exclude a service for coverage solely because the service is provided through telehealth and not provided through in-person consultation or contact between a health care professional and a patient. Health care services delivered by telehealth must be appropriate and delivered in accordance with applicable law and generally accepted health care practices and standards prevailing at the time the health care services are provided, including rules adopted by the appropriate professional licensing board having oversight of the health care professional providing the health care services. Health insurers are not required to provide coverage for health care services that are not medically necessary.

This section does not:

- (1) Prohibit a health insurer from establishing criteria that a health care professional must

meet to demonstrate the safety and efficacy of delivering a particular health care service via telehealth that the health insurer does not already reimburse other health care professionals for delivering via telehealth so long as the criteria are not unduly burdensome or unreasonable for the particular services;

- (2) Prevent a health insurer from requiring a health care professional to agree to certain documentation or billing practices designed to protect the health insurer or patients from fraudulent claims so long as the practices are not unduly burdensome or unreasonable for the particular services; or
- (3) Prevent a health insurer from including a deductible, copayment, or coinsurance requirement for a health care service provided via telehealth, if the deductible, copayment, or coinsurance is not in addition to and does not exceed the deductible, copayment, or coinsurance applicable if the same services were provided through in-person contact.

Section 3. That chapter 58-17 be amended by adding a NEW SECTION to read:

A health insurance policy, contract, or plan providing for third-party payment may not discriminate between coverage benefits for health care services that are provided in person and the same health care services that are delivered through telehealth as long as the services are appropriate to be provided through telehealth. Nothing in this Act prohibits a health insurer and a health care professional from entering into a contract for telehealth with terms subject to negotiation.

Section 4. That chapter 58-17 be amended by adding a NEW SECTION to read:

The requirements of this Act apply to any health insurer offering any individual or group health insurance policy, contract, certificate, or plan delivered, issued for delivery, or renewed in South Dakota on or after January 1, 2020. The requirements of this Act do not apply to any plan, policy, or contract providing coverage only for:

- (1) Specified disease;

- (2) Hospital indemnity;
- (3) Fixed indemnity;
- (4) Accident-only;
- (5) Credit accident and health insurance;
- (6) Vision;
- (7) Prescription drug;
- (8) Medicare supplement;
- (9) Long-term care;
- (10) Disability income insurance;
- (11) Coverage issued as a supplement to liability insurance;
- (12) Workers' compensation or similar insurance;
- (13) Automobile medical payment insurance; or
- (14) Individual health benefit plans of six-months or less duration that are not renewable.

The requirements of this Act do not apply to services offered that are not part of the policy, contract, certificate, or plan offered and for which there is no premium charged.

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I certify that the attached Act originated in the

SENATE as Bill No. 137

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 137
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State