

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

468B0449

## SENATE BILL NO. 137

Introduced by: Senators Curd, Ewing, Heinert, Kennedy, Maher, Nesiba, Partridge, Russell, Sohlt, Solano, Stalzer, White, and Wismer and Representatives Peterson (Kent), Chase, Diedrich, Duba, Duvall, Glanzer, Hunhoff, Jensen (Kevin), Johnson (David), Lake, McCleerey, Reed, Ring, Schoenfish, and York

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

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

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

5 Terms used in this Act mean:

6 (1) "Health care professional," as defined in § 58-17F-1, a person who is licensed,  
7 certified, or otherwise authorized under the laws of this state to provide health care  
8 services;

9 (2) "Health care services," as defined in § 58-17F-1;

10 (3) "Health insurer," as defined in § 58-17-100;

11 (4) "Telehealth," the delivery of health care services through the use of  
12 HIPAA-compliant interactive audio-video. The term does not include the delivery of  
13 health care services through audio-only telephone, electronic mail message, text  
14 message, mail service, facsimile transmission, or any combination thereof.



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

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

10 This section does not:

- 11 (1) Prohibit a health insurer from establishing criteria that a health care professional must  
12 meet to demonstrate the safety and efficacy of delivering a particular health care  
13 service via telehealth that the health insurer does not already reimburse other health  
14 care professionals for delivering via telehealth so long as the criteria are not unduly  
15 burdensome or unreasonable for the particular services;
- 16 (2) Prevent a health insurer from requiring a health care professional to agree to certain  
17 documentation or billing practices designed to protect the health insurer or patients  
18 from fraudulent claims so long as the practices are not unduly burdensome or  
19 unreasonable for the particular services; or
- 20 (3) Prevent a health insurer from including a deductible, copayment, or coinsurance  
21 requirement for a health care service provided via telehealth, if the deductible,  
22 copayment, or coinsurance is not in addition to and does not exceed the deductible,  
23 copayment, or coinsurance applicable if the same services were provided through  
24 in-person contact.

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

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

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

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

- 13 (1) Specified disease;
- 14 (2) Hospital indemnity;
- 15 (3) Fixed indemnity;
- 16 (4) Accident-only;
- 17 (5) Credit accident and health insurance;
- 18 (6) Dental;
- 19 (7) Vision;
- 20 (8) Prescription drug;
- 21 (9) Medicare supplement;
- 22 (10) Long-term care;
- 23 (11) Disability income insurance;
- 24 (12) Coverage issued as a supplement to liability insurance;

- 1       (13) Workers' compensation or similar insurance;
- 2       (14) Automobile medical payment insurance; or
- 3       (15) Individual health benefit plans of six-months or less duration that are not renewable;
- 4       The requirements of this Act do not apply to services offered that are not part of the policy,
- 5       contract, certificate, or plan offered and for which there is no premium charged.