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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 679
(1_133_2814-5)
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 679's Bill Analysis](#)

Version: In House Insurance

Primary Sponsors: Reps. Fraizer and Holmes

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill's prohibition against imposing cost-sharing requirements related to specified types of communication, and its adding new health care providers to the list of those whose telehealth services currently must be reimbursed by health insurers have the potential to increase costs for the state and local governments to provide health benefits to employees and their dependents.
- Any increase in costs to the state health benefit plan would be paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through state employee payroll deductions and state agency contributions toward their employees' health benefits, which come out of the GRF and various other state funds.
- The prohibition is also likely to increase costs to local governments' health benefit plans, though LBO staff are uncertain about the extent of such increase.
- The bill may increase the Department of Insurance's administrative cost to adopt any necessary rules to carry out the bill's provisions. Any increase in such cost would be paid from the Department of Insurance Operating Fund (Fund 5540).¹
- The bill permits specified health care professionals to provide telehealth services according to specified conditions and standards. Relevant licensing boards could realize an increase in costs to adopt rules, educate licensees, and ensure compliance.

¹ Revenue to Fund 5540 comes from various fees imposed on insurance companies, primarily insurance agent license fees and agent appointment fees.

- The bill codifies the types of medical practitioners which are eligible for Medicaid coverage via telehealth. As these providers are eligible for telehealth under current emergency policies that are in place to respond to COVID-19, these provisions should initially not have a fiscal impact. However, the fiscal impact is unclear when the emergency rules are no longer effective.
- The bill requires long-term care facilities to provide video-conference visitation for their residents when in-person visitation is prohibited for public health reasons. This may potentially result in an increase in costs if any associated costs are passed to the Medicaid Program.

Detailed Analysis

Health insurers

Current law requires a health benefit plan to provide coverage for telehealth services on the same basis and to the same extent that the plan provides coverage for in-person health care services.² It allows a plan to impose cost-sharing requirements with regard to such telehealth services, as long as the requirements do not exceed those for equivalent in-person medical care. The bill prohibits a health benefit plan from imposing cost-sharing³ requirements in regard to telehealth services delivered via a communication when (1) the communication was initiated by the health care professional, (2) the patient consented to receive a telehealth service from that provider on any prior occasion, and (3) the communication is conducted for the purposes of preventive medicine only. The bill specifies that if such communication is coded based on time, only the time the health care professional spends engaged in the communication is billable. The bill also adds new types of health care professionals to the list of those whose telehealth services must be reimbursed by health benefit plans. Under current law, only the services of licensed physicians, physician assistants, and advanced practice registered nurses must be reimbursed. The bill adds licensed psychologists, school psychologists, audiologists, speech-language pathologists, occupational and physical therapists, professional clinical counselors, independent social workers, independent marriage and family therapists, independent chemical dependency counselors, and dietitians to the list of health care professionals.

The bill allows the Superintendent of Insurance to adopt any necessary rules to carry out its provisions. The bill applies to “health benefit plans” as defined under existing law in section 3922.01 of the Revised Code, which includes public employees’ health benefit plans.

Telehealth services are currently covered in the state’s health benefit plan. However, the bill’s prohibition against cost sharing for telehealth services delivered via specified types of communication and its expansion of the types of health care professionals whose telehealth

² Enacted in H.B. 166 of the 133rd General Assembly, the requirement applies to health benefit plans issued, offered, or renewed on or after January 1, 2021. The bill removes this effective date.

³ “Cost-sharing” means the cost to a covered individual under a health benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the plan.

services must be reimbursed may increase costs to the state and local governments to provide health benefits to employees and their dependents. Any increase in costs to the state health benefit plan would be paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through state employee payroll deductions and state agency contributions toward their employees' health benefits, which come out of the GRF and various other state funds. LBO staff could not determine the magnitude of the bill's fiscal impact on counties, municipalities, townships, and school districts statewide due to lack of information on the number of plans that do not currently comply with the bill's cost-sharing requirements. To the extent that a particular local government's health benefit plan complies with the bill's cost-sharing requirements, there would be no impact on its costs of providing health benefits to employees and their dependents.

The bill may increase the Department of Insurance's administrative costs for regulating health insurers. Any increase in the Department's administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540).

Health care professionals and telehealth services

The bill permits specified health care professionals to provide telehealth services and requires those services be provided according to specified conditions and standards. In addition, the bill permits certain health care licensing boards to adopt rules as necessary to carry out the bill's provisions regarding the provision of telehealth services. As a result, it is possible that certain boards may realize costs to adopt rules and any other necessary administrative measures to comply with the bill, including costs to educate licensees or ensure compliance. The bill outlines some requirements regarding the provision of telehealth services. It is possible that there could be some costs to comply with this for state or local government entities that hire these individuals.

The bill also provides that a health care professional is not liable in damages under a claim that telehealth services provided do not meet the standard of care that would apply if services were provided in person. This might decrease any associated civil court case costs.

Medicaid

Existing law requires the Ohio Department of Medicaid to establish, through rulemaking, standards for Medicaid payments for health care services that the Department determines are appropriate to be covered by the Medicaid Program when those services are provided as telehealth services. The bill requires the Department to adopt rules to authorize the directors of other state agencies that administer portions of the Medicaid Program to adopt rules regarding Medicaid coverage of telehealth services. In addition, the bill specifies the categories of medical practitioners which are eligible to provide telehealth services under Medicaid. During the COVID-19 emergency, the Ohio Department of Medicaid (ODM) has issued emergency rules and policies which permit many telehealth services to be performed by Medicaid providers and be paid for by Medicaid.⁴ These emergency rules are in effect during any time period in which the Governor declares a state of emergency and when authorized by

⁴ ODM Emergency Rule 5160-1-21 Telehealth during a state of emergency and associated appendix.

the Medicaid Director. As a result, this provision should initially not result in any fiscal impact to the state. However, at the time of publication, the fiscal impact is unclear when the emergency rules are no longer effective.

Mental health and addiction services telehealth provision

Under existing law, the Ohio Department of Mental Health and Addiction Services (OhioMHAS) certifies community mental health service providers and community addiction service providers. The bill specifies requirements that these providers must meet to provide telehealth. The bill allows OhioMHAS to adopt rules as necessary to carry out the bill's requirements.

Long-term care facility visitation

The bill specifies that during a declared disaster, epidemic, pandemic, etc. every long-term care facility must provide each resident and their family with a video-conference visitation option, if specified individuals or entities determine that allowing in-person visits would create a health risk. Long-term care facilities are defined to include (1) a nursing home, residential care facility, home for the aging, nursing facility, or skilled nursing facility, (2) a residential facility licensed by OhioMHAS, (3) a residential facility licensed by the Ohio Department of Developmental Disabilities (ODODD), and/or (4) a facility operated by a hospice care program used exclusively for care of hospice patients or other facility in which a hospice care program provides care for hospice patients. This requirement could result in cost increases if facilities pass along any potential costs to the state Medicaid Program. The costs will depend on the length of restrictions on in-person visitation, the level of utilization of these services by residents, as well as if any additional information technology equipment is necessary or if staff assist with these conferences.

Assistance for individuals with developmental disabilities

The bill also provides for an individual who has been diagnosed with a permanent disability in need of surgery or any other health care procedure, test, or clinical care visit to have a parent or guardian present with them during a health care appointment or procedure if the presence is necessary to alleviate any negative reactions that may be experienced by the individual. This provision specifically addresses that an individual with a permanent disability is entitled to have a parent or guardian present during a public health emergency or pandemic, etc. The bill specifies that the Director of Health has the authority to take any actions which are necessary to enforce these provisions.

Synopsis of Fiscal Effect Changes

L_133_2818-5 expands the list of medical professionals who may provide telehealth services. The substitute bill requires a health plan issuer to reimburse eligible health care professionals for such telehealth services, but it does not specify a specific reimbursement amount. The substitute bill modifies the prohibition against a health insurer requiring any cost sharing for telehealth services provided by telephone or email, making it instead a prohibition against imposing a cost sharing requirement for a communication when (1) the communication was initiated by the health care professional, (2) the patient consented to receive a telehealth service from that provider on any prior occasion, and (3) the communication is conducted for the purposes of preventive medicine only. The bill specifies that if such communication is coded

based on time, the bill provides that only the time the health care professional spends engaged in the communication is billable.

The substitute bill may increase costs for the state and local governments to provide health benefits to employees and their dependents more than the As Introduced version, due to the expansion of the list of medical professionals whose telehealth services must be reimbursed. The substitute bill removes the provision that specifies the types of services that are eligible for payments as telehealth services under the Medicaid Program. However, the Medicaid Director still has rulemaking authority regarding the standards for Medicaid payments for health care services that are appropriate to be covered as telehealth services. It is possible that Medicaid could specify some of these services.

The substitute bill changes the entity that has the authority to enforce the provisions providing for individuals with permanent disabilities to have a parent or guardian present for health care appointments or procedures. The substitute bill grants the authority to take actions to enforce the section to the Director of Health, instead of Disability Rights Ohio. This change will impact which entity may experience any enforcement costs.

The substitute bill removes the declaration of emergency, and thus delays the effective date of any fiscal impacts until the effective date of the bill.