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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 122  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 122's Bill Analysis](#)

**Version:** As Reported by House Insurance

**Primary Sponsors:** Reps. Fraizer and Holmes

**Local Impact Statement Procedure Required:** Yes

Nelson V. Lindgren, Economist, and other LBO staff

### Highlights

- The bill's prohibition against health insurers 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 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 monitor compliance with the bill's provisions. Any increase in such cost would be paid from the Department of Insurance Operating Fund (Fund 5540).<sup>1</sup>
- 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.

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<sup>1</sup> 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. The Department of Medicaid filed updated rules to make telehealth permanently available to enrollees. These rules became effective in November 2020. Most of the practitioners in the bill are currently allowed to provide telehealth services and receive reimbursements under these rules. To the extent that the bill adds practitioners or services or results in changes to procedures, there could be some costs.

## 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.<sup>2</sup> 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 health care services.

The bill prohibits a health benefit plan from imposing cost-sharing<sup>3</sup> 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 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 pharmacists, optometrists licensed to practice under a therapeutic pharmaceutical agents certificate, licensed psychologists, school psychologists, chiropractors, audiologists, speech-language pathologists, occupational and physical therapists, occupational and physical therapy assistants, professional clinical counselors, independent social workers, independent marriage and family therapists, independent chemical dependency counselors, dietitians, respiratory care professionals, and genetic counselors 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 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

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<sup>2</sup> Enacted in H.B. 166 of the 133<sup>rd</sup> 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. Also, current law uses the terminology “telemedicine services,” while the bill refers to “telehealth services.”

<sup>3</sup> “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.

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 requirements. To the extent that a particular local government's health benefit plan complies with the bill's requirements, there would be no impact on its costs.

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) issued emergency rules and policies which permitted many telehealth services to be performed by Medicaid providers and be paid for by Medicaid.<sup>4</sup> In November 2020, updated telehealth rules filed by the Ohio Department of Medicaid became effective. The rules outlined the practitioners who could perform telehealth services, the provider types that can bill for services, the services that can be rendered, and provider responsibilities.<sup>5</sup> Many of the same practitioners outlined in rules are specified in the bill, so many telehealth services appear to be reimbursable under Medicaid now.

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

<sup>5</sup> Ohio Administration Code 5160-1-18.

To the extent that the bill adds practitioners or services or results in changes to procedures, there could be some costs.

### **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. There could be costs associated with rule adoption and possibly to ensure that these certified providers comply.

### **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.