

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2052
(Human Services Committee)
(At the request of the Public Employees Retirement System)

AN ACT to create and enact section 26.1-36-09.15 of the North Dakota Century Code, relating to individual and group health insurance coverage of telehealth services; and to amend and reenact section 54-52.1-04.13 of the North Dakota Century Code, relating to public employees retirement system uniform group insurance coverage of telehealth services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 26.1-36-09.15 of the North Dakota Century Code is created and enacted as follows:

26.1-36-09.15. Coverage of telehealth services.

1. As used in this section:

- a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
- b. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.
- c. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
- d. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
- e. "Policy" means an accident and health insurance policy, contract, or evidence of coverage on a group, individual, blanket, franchise, or association basis.
- f. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.
- g. "Telehealth":
 - (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site and that is delivered over a secure connection that complies with the requirements of state and federal laws.
 - (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.

- (3) Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions.
2. An insurer may not deliver, issue, execute, or renew a policy that provides health benefits coverage unless that policy provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the insurer with the health services providers in the same manner as the insurer with the health services providers in the same manner as the insurer establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
5. This section does not require:

 - a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
 - b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
 - c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
 - d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

SECTION 2. AMENDMENT. Section 54-52.1-04.13 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-04.13. ~~(Effective through July 31, 2017) Insurance coverage~~Coverage of telehealth services.

1. As used in this section:

 - a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
 - b. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.
 - c. "Health care provider" includes an individual licensed under chapter ~~43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.~~
 - d. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.

- e. ~~"Policy" means health benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2.~~
- f. ~~"Store and forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.~~
- g. ~~"Telehealth":~~
 - (1) ~~Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site; and that is delivered over a secure connection that complies with the requirements of state and federal laws.~~
 - (2) ~~Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store and forward technology.~~
 - (3) ~~Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions.~~
- 2. ~~For all policies that become effective after June 30, 2015, and which do not extend past June 30, 2017, the board shall provide health benefits coverage under a policy that provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.~~
- 3. ~~Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the board or the board's contractor with the health services providers in the same manner as the board establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.~~
- 4. ~~Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.~~
- 5. ~~This section does not require:~~
 - a. ~~A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;~~
 - b. ~~A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;~~
 - c. ~~A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or~~
 - d. ~~A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.~~

The board shall provide health benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 which provides coverage of health services delivered by means of telehealth in the same manner as provided under section 26.1-36-09.15.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2052.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 85 Nays 5 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State