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## BILL ANALYSIS



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Senate Bill 1135 (Substitute S-1)  
Sponsor: Senator Michael D. MacDonald  
Committee: Health Policy and Human Services

Date Completed: 9-27-22

**CONTENT**

**The bill would amend the Social Welfare Act to do the following:**

- **Specify that, beginning on the bill's effective date, telemedicine services would be covered under the medical assistance program and Healthy Michigan Program (HMP) if those services were provided at, or contracted through, a distant site allowed in the Medicaid provider manual.**
- **Require the medical assistance program and HMP to include a comprehensive set of the programs' services and benefits as covered telemedicine services.**
- **Require the medical assistance program and HMP to authorize as many types of healthcare distant providers as allowable by law to render telemedicine services.**
- **Specify that telemedicine services would be covered both when a distant provider's synchronous interactions occurred using an audio and video electronic media or when using an audio only electronic media.**
- **Require a distant provider to notify the recipient that personally identifiable health information would be discussed during the telemedicine services and require the distant provider to encourage the recipient to proceed with the telemedicine service only if the recipient were in a safe and private environment.**
- **Prescribe certain actions the medical assistance program and HMP could not take, including reimbursing distant providers for telemedicine services at a lower rate than comparable services rendered in person, except when reimbursing a provider who exclusively provided telemedicine services.**
- **Require that reimbursement for telemedicine services authorized under Section 105h be contingent upon the availability of Federal financial participation for those services in the medical assistance program and the HMP.**
- **Require that telemedicine services authorized under Section 105h be incorporated in rate development for any managed care program that was implemented in the medical assistance program and the HMP subject to Federal actuarial soundness requirements.**

Under Section 105h of the Act, telemedicine services are covered under the medical assistance program and Health Michigan program if the originating site is an in-home or in-school setting, in addition to any other originating site allowed in the Medicaid provider manual or any established site considered appropriate by the provider. ("Telemedicine" means that term as defined in Section 3476 of the Insurance Code: the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine under Section 3476, the health care professional must be able to examine the patient via a Health Insurance Portability and Accountability Act (HIPAA) compliant, secure interactive audio or

video, or both, telecommunications system, or through the use of store and forward online messaging.)

The bill specifies that, beginning on its effective date, telemedicine services also would be covered under the medical assistance program and HMP if those services were provided at, or contracted through, a distant site allowed in the Medicaid provider manual. "Distant provider" and "distant site" would mean the location of the health care professional providing the service at the time the service is being furnished by a telecommunications system and the health care professional providing those services. Distant site could include the health care professional's office or any established site considered appropriate by the health care professional as long as the privacy of the recipient and security of the information shared during the telemedicine visit were maintained.

The medical assistance program and HMP would have to include a comprehensive set of the programs' services and benefits as covered telemedicine services including, at a minimum, medical, dental, behavioral, and substance use disorder services.

The medical assistance program and HMP would have to authorize as many types of healthcare distant providers as allowable by law to render telemedicine services.

Telemedicine services would be covered both when a distant provider's synchronous interactions occurred using an audio and video electronic media or when using an audio only electronic media.

The distant provider would have to notify the recipient that personally identifiable health information would be discussed during the telemedicine services. The distant provider would have to encourage the recipient to proceed with the telemedicine service only if the recipient were in a safe and private environment.

The distant provider would have to follow generally accepted clinical practice guidelines and ensure the clinical appropriateness and effectiveness of services delivered using telemedicine.

The medical assistance program and HMP could not do any of the following:

- Impose quantity or dollar amount maximums or limitations for services delivered using telemedicine that were more restrictive than those imposed on comparable in-person services.
- Reimburse distant providers for telemedicine services at a lower rate than comparable services rendered in person, except when reimbursing a provider who exclusively provided telemedicine services.
- Impose specific requirements or limitations on the technologies used to deliver telemedicine services, except that the technology be compliant with requirements of HIPAA.
- Impose additional certification, location, or training requirements on health care professionals who were distant providers as a condition of reimbursing the distant provider for telemedicine services.

A telemedicine service would be an allowable encounter for a Federally qualified health center, rural health clinic, or tribal health center in the medical assistance program or HMP.

Reimbursement for telemedicine services authorized under Section 105h would be contingent on the availability of Federal financial participation for those services in the medical assistance program and the HMP.

The Department of Health and Human Services would have to seek any necessary waiver or state plan amendment from the US Department of Health and Human Services to implement the Section 105h's provisions.

Telemedicine services authorized under Section 105h would have to be incorporated in the rate development for any managed care program that was implemented in the medical assistance program and the HMP subject to Federal actuarial soundness requirements.

MCL 400.105h

### **BACKGROUND**

In March 2020, the DHHS issued Medical Services Administration (MSA) Bulletin 20-13, which expanded Medicaid, HMP, Children's Special Health Care Services, and Maternity Outpatient Medical Services program coverage of telemedicine services in response to the COVID-19 pandemic to allow flexibility related to telemedicine audio/visual requirements. (Telemedicine policy before the issuance of MSA 20-13 required both audio and visual service delivery.) Under the revised guidelines, program coverage of telemedicine services was expanded to include telephonic (audio)-only services. The new policy is in effect for 30 days following the termination of the Governor's Declaration of a State of Emergency Order or on the first of the following month, whichever is later.

Legislative Analyst: Stephen P. Jackson

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local units of government, as it would codify current Medicaid and HMP policy as specified under MSA policy bulletin 20-13.

Fiscal Analyst: Ellyn Ackerman