

SENATE BILL NO. 270

INTRODUCED BY BUTTREY, CAFERRO, FITZPATRICK, NOONAN, PRIEST

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING INSURANCE COVERAGE FOR HEALTH CARE SERVICES PROVIDED VIA TELEMEDICINE; AMENDING SECTIONS 33-22-101, 33-31-111, AND 33-35-306, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Coverage for telemedicine services. (1) Each group or individual policy, certificate of disability insurance, subscriber contract, membership contract, or health care services agreement that provides coverage for health care services must provide coverage for health care services provided by a health care provider or health care facility by means of telemedicine if the services are otherwise covered by the policy, certificate, contract, or agreement.

(2) Coverage under this section must be equivalent to the coverage for services that are provided in person by a health care provider or health care facility.

(3) Nothing in this section may be construed to require:

(a) a health insurance issuer to provide coverage for services that are not medically necessary, subject to the terms and conditions of the insured's policy; or

(b) a health care provider to be physically present with a patient at the site where the patient is located unless the health care provider who is providing health care services by means of telemedicine determines that the presence of a health care provider is necessary.

(4) Coverage under this section may be subject to deductibles, coinsurance, and copayment provisions. Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to other medical services covered under the plan may not be imposed on the coverage for services provided by means of telemedicine.

(5) This section does not apply to disability income, hospital indemnity, medicare supplement, or long-term care policies.

(6) For the purposes of this section, the following definitions apply:

(a) "Health care facility" means a critical access hospital, hospice, hospital, long-term care facility, mental

1 health center, outpatient center for primary care, or outpatient center for surgical services licensed pursuant to
2 Title 50, chapter 5;

3 (b) "Health care provider" means an individual:

4 (i) licensed pursuant to Title 37, chapter 3, 6, 7, 10, 11, 15, 17, 20, 22, 23, 24, 25, or 35;

5 (ii) licensed pursuant to Title 37, chapter 8, to practice as a registered professional nurse or as an
6 advanced practice registered nurse;

7 (iii) certified by the American board of genetic counseling as a genetic counselor; or

8 (iv) certified by the national certification board for diabetes educators as a diabetes educator.

9 (c) "Store-and-forward technology" means electronic information, imaging, and communication that is
10 transferred, recorded, or otherwise stored in order to be reviewed at a later date by a health care provider or
11 health care facility at a distant site without the patient present in real time. The term includes interactive audio,
12 video, and data communication.

13 (d) (i) "Telemedicine" means the use of interactive audio, video, or other telecommunications technology
14 that is:

15 (A) used by a health care provider or health care facility to deliver health care services at a site other
16 than the site where the patient is located; and

17 (B) delivered over a secure connection that complies with the requirements of the Health Insurance
18 Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq.

19 (ii) The term includes the use of electronic media for consultation relating to the health care diagnosis
20 or treatment of a patient in real time or through the use of store-and-forward technology.

21 (iii) The term does not include the use of audio-only telephone, e-mail, or facsimile transmissions.

22

23 **Section 2.** Section 33-22-101, MCA, is amended to read:

24 **"33-22-101. Exceptions to scope.** (1) Subject to subsection (2), parts 1 through 4 of this chapter,
25 except 33-22-107, 33-22-110, 33-22-111, 33-22-114, 33-22-125, 33-22-129, 33-22-130 through 33-22-136,
26 [section 1], 33-22-140, 33-22-141, 33-22-142, 33-22-243, and 33-22-304, and part 19 of this chapter do not apply
27 to or affect:

28 (a) any policy of liability or workers' compensation insurance with or without supplementary expense
29 coverage;

30 (b) any group or blanket policy;

1 (c) life insurance, endowment, or annuity contracts or supplemental contracts that contain only those
2 provisions relating to disability insurance that:

3 (i) provide additional benefits in case of death or dismemberment or loss of sight by accident or
4 accidental means; or

5 (ii) operate to safeguard contracts against lapse or to give a special surrender value or special benefit
6 or an annuity if the insured or annuitant becomes totally and permanently disabled as defined by the contract or
7 supplemental contract;

8 (d) reinsurance.

9 (2) Sections 33-22-137, 33-22-150 through 33-22-152, and 33-22-301 apply to group or blanket policies."
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11 **Section 3.** Section 33-31-111, MCA, is amended to read:

12 **"33-31-111. Statutory construction and relationship to other laws.** (1) Except as otherwise provided
13 in this chapter, the insurance or health service corporation laws do not apply to a health maintenance organization
14 authorized to transact business under this chapter. This provision does not apply to an insurer or health service
15 corporation licensed and regulated pursuant to the insurance or health service corporation laws of this state
16 except with respect to its health maintenance organization activities authorized and regulated pursuant to this
17 chapter.

18 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its
19 representatives is not a violation of any law relating to solicitation or advertising by health professionals.

20 (3) A health maintenance organization authorized under this chapter is not practicing medicine and is
21 exempt from Title 37, chapter 3, relating to the practice of medicine.

22 (4) This chapter does not exempt a health maintenance organization from the applicable certificate of
23 need requirements under Title 50, chapter 5, parts 1 and 3.

24 (5) This section does not exempt a health maintenance organization from the prohibition of pecuniary
25 interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704.
26 A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701
27 through 33-3-704.

28 (6) This section does not exempt a health maintenance organization from:

29 (a) prohibitions against interference with certain communications as provided under chapter 1, part 8;

30 (b) the provisions of Title 33, chapter 22, part 19;

- 1 (c) the requirements of 33-22-134 and 33-22-135;
- 2 (d) network adequacy and quality assurance requirements provided under chapter 36; or
- 3 (e) the requirements of Title 33, chapter 18, part 9.
- 4 (7) Title 33, chapter 1, parts 12 and 13, Title 33, chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212,
- 5 33-3-401, 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, 33-22-129,
- 6 33-22-131, 33-22-136, 33-22-137, [section 1], 33-22-141, 33-22-142, 33-22-152, 33-22-244, 33-22-246,
- 7 33-22-247, 33-22-514, 33-22-515, 33-22-521, 33-22-523, 33-22-524, 33-22-526, and 33-22-706 apply to health
- 8 maintenance organizations."

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10 **Section 4.** Section 33-35-306, MCA, is amended to read:

11 **"33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter,

12 self-funded multiple employer welfare arrangements are subject to the following provisions:

- 13 (a) 33-1-111;
- 14 (b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare
- 15 arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;
- 16 (c) Title 33, chapter 1, part 7;
- 17 (d) 33-3-308;
- 18 (e) Title 33, chapter 18, except 33-18-242;
- 19 (f) Title 33, chapter 19;
- 20 (g) 33-22-107, 33-22-131, 33-22-134, 33-22-135, [section 1], 33-22-141, 33-22-142, and 33-22-152; and
- 21 (h) 33-22-512, 33-22-515, 33-22-525, and 33-22-526.

22 (2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded multiple

23 employer welfare arrangement that has been issued a certificate of authority that has not been revoked."

24

25 NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an

26 integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 1].

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28 NEW SECTION. **Section 6. Effective date.** [This act] is effective January 1, 2014.

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