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## SENATE BILL NO. 1157

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend and reenact § 38.2-3418.2 of the Code of Virginia, relating to health insurance; coverage for audio-only telehealth services.*

Patrons—Marsden; Delegate: Kory

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-3418.16 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-3418.16. Coverage for telemedicine services.**

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telemedicine services *and audio-only telehealth services*, as provided in this section.

B. As used in this section:

"Audio-only telehealth services" means counseling interventions designed to facilitate a patient's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health and development by a mental health professional as defined in § 54.1-2400.1, delivered to a patient via audio-only means when no other means of real-time two-way audio-visual or other telecommunications or electronic communications are available and operational to the patient or the patient does not have the capability to use such real-time two-way means of communication. "Audio-only telehealth services" does not include counseling interventions delivered by a mental health professional while such mental health professional is operating or riding in a motor vehicle unless the patient is experiencing an acute mental health crisis.

"Originating site" means the location where the patient is located at the time services are provided by a health care provider through telemedicine services.

"Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

"Telemedicine services" as it pertains to the delivery of health care services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient, providing remote patient monitoring services, or consulting with other health care providers regarding a patient's diagnosis or treatment, regardless of the originating site and whether the patient is accompanied by a health care provider at the time such services are provided. "Telemedicine services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire. Nothing in this section shall preclude coverage for a service that is not a telemedicine service, including services delivered through real-time audio-only telephone.

C. An insurer, corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services *or audio-only telehealth services* and is not provided through face-to-face consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services *or audio-only telehealth services*.

D. An insurer, corporation, or health maintenance organization shall not be required to reimburse the treating provider or the consulting provider for technical fees or costs for the provision of telemedicine services *or audio-only telehealth services*; however, such insurer, corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services *or audio-only telehealth services* on the same basis that the insurer, corporation, or health maintenance organization is responsible for coverage for the provision of the same service through face-to-face consultation or contact. No insurer, corporation, or health maintenance organization shall require a provider to use proprietary technology or applications in order to be reimbursed for providing telemedicine services *or audio-only telehealth services*.

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59 E. Nothing shall preclude the insurer, corporation, or health maintenance organization from  
60 undertaking utilization review to determine the appropriateness of telemedicine services *or audio-only*  
61 *telehealth services*, provided that such appropriateness is made in the same manner as those  
62 determinations are made for the treatment of any other illness, condition, or disorder covered by such  
63 policy, contract, or plan. Any such utilization review shall not require pre-authorization of emergent  
64 telemedicine services *or audio-only telehealth services*.

65 F. An insurer, corporation, or health maintenance organization may offer a health plan containing a  
66 deductible, copayment, or coinsurance requirement for a health care service provided through  
67 telemedicine services *or audio-only telehealth services*, provided that the deductible, copayment, or  
68 coinsurance does not exceed the deductible, copayment, or coinsurance applicable if the same services  
69 were provided through face-to-face diagnosis, consultation, or treatment.

70 G. No insurer, corporation, or health maintenance organization shall impose any annual or lifetime  
71 dollar maximum on coverage for telemedicine services *or audio-only telehealth services* other than an  
72 annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under  
73 the policy, or impose upon any person receiving benefits pursuant to this section any copayment,  
74 coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational  
75 benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and  
76 services covered under the policy, contract, or plan.

77 H. The requirements of this section shall apply to all insurance policies, contracts, and plans  
78 delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2021,  
79 or at any time thereafter when any term of the policy, contract, or plan is changed or any premium  
80 adjustment is made. *The requirements of this section regarding audio-only telehealth services shall apply*  
81 *to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in the*  
82 *Commonwealth on and after January 1, 2024, or at any time thereafter when any term of the policy,*  
83 *contract, or plan is changed or any premium adjustment is made.*

84 I. This section shall not apply to short-term travel, accident-only, or limited or specified disease  
85 policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage  
86 under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under  
87 federal governmental plans.

88 J. The coverage required by this section shall include the use of telemedicine technologies as it  
89 pertains to medically necessary remote patient monitoring services to the full extent that these services  
90 are available.

91 K. Prescribing of controlled substances via telemedicine *or audio-only telehealth services* shall  
92 comply with the requirements of § 54.1-3303 and all applicable federal law.