

1           **TELEPSYCHIATRIC CONSULTATION ACCESS AMENDMENTS**

2                                   2018 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Steve Eliason**

5                                   Senate Sponsor: Curtis S. Bramble

6    Cosponsor:

7    Edward H. Redd

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9    **LONG TITLE**

10   **General Description:**

11           This bill amends the Insurance Code to provide health benefit plan coverage for the use  
12   of telepsychiatric consultations.

13   **Highlighted Provisions:**

14           This bill:

- 15           ▶ defines terms;
- 16           ▶ requires the state Medicaid program to reimburse for telepsychiatric consultations;

17   and

- 18           ▶ requires certain health benefit plans to provide coverage for the use of  
19   physician-to-physician psychiatric consultations using telehealth services.

20   **Money Appropriated in this Bill:**

21           None

22   **Other Special Clauses:**

23           None

24   **Utah Code Sections Affected:**

25    AMENDS:

26           **26-18-13.5**, as enacted by Laws of Utah 2017, Chapter 241

27    ENACTS:

28           **31A-22-647**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **26-18-13.5** is amended to read:

**26-18-13.5. Mental health telehealth services -- Reimbursement -- Reporting -- Telepsychiatric consultations.**

(1) As used in this section:

(a) "Mental health therapy" means the same as the term "practice of mental health therapy" is defined in Section [58-60-102](#).

(b) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed in Section [58-60-102](#).

(c) "Telehealth services" means the same as that term is defined in Section [26-60-102](#).

(d) "Telemedicine services" means the same as that term is defined in Section [26-60-102](#).

(e) "Telepsychiatric consultation" means a consultation between a physician and a board certified psychiatrist, both of whom are licensed to engage in the practice of medicine in the state, that utilizes:

(i) the health records of the patient, provided from the patient or the referring physician;

(ii) a written, evidence-based patient questionnaire; and

(iii) telehealth services that meet industry security and privacy standards, including compliance with the:

(A) Health Insurance Portability and Accountability Act; and

(B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

(2) This section applies to:

(a) a managed care organization that contracts with the Medicaid program; and

(b) a provider who is reimbursed for health care services under the Medicaid program.

57 (3) The Medicaid program shall reimburse for personal mental health therapy office  
58 visits provided through telemedicine services at a rate set by the Medicaid program.

59 (4) Before December 1, 2017, the department shall report to the Legislature's Public  
60 Utilities, Energy, and Technology Interim Committee and Health Reform Task Force on:

- 61 (a) the result of the reimbursement requirement described in Subsection (3);
- 62 (b) existing and potential uses of telehealth and telemedicine services;
- 63 (c) issues of reimbursement to a provider offering telehealth and telemedicine services;
- 64 (d) potential rules or legislation related to:
  - 65 (i) providers offering and insurers reimbursing for telehealth and telemedicine services;

66 and

67 (ii) increasing access to health care, increasing the efficiency of health care, and  
68 decreasing the costs of health care; and

69 (e) the department's efforts to obtain a waiver from the federal requirement that  
70 telemedicine communication be face-to-face communication.

71 (5) The Medicaid program shall reimburse for telepsychiatric consultations at a rate set  
72 by the Medicaid program.

73 Section 2. Section **31A-22-647** is enacted to read:

74 **31A-22-647. Coverage of telepsychiatric consultations.**

75 (1) As used in this section:

76 (a) "Telehealth services" means the same as that term is defined in Section [26-60-102](#).

77 (b) "Telepsychiatric consultation" means a consultation between a physician and a  
78 board certified psychiatrist, both of whom are licensed to engage in the practice of medicine in  
79 the state, that utilizes:

80 (i) the health records of the patient, provided from the patient or the referring  
81 physician;

82 (ii) a written, evidence-based patient questionnaire; and

83 (iii) telehealth services that meet industry security and privacy standards, including  
84 compliance with the:

85 (A) Health Insurance Portability and Accountability Act; and

86 (B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No.  
87 111-5, 123 Stat. 226, 467, as amended.

88 (2) Beginning January 1, 2019, a health benefit plan that offers coverage for mental  
89 health services shall:

90 (a) provide coverage for a telepsychiatric consultation during or after an initial visit  
91 between the patient and a referring in-network physician;

92 (b) provide coverage for a telepsychiatric consultation from an out-of-network board  
93 certified psychiatrist if a telepsychiatric consultation is not made available to a physician within  
94 seven business days after the initial request is made by the physician to an in-network provider  
95 of telepsychiatric consultations; and

96 (c) reimburse for the services described in Subsections (2)(a) and (b) at the equivalent  
97 in-network or out-of-network rate set by the health benefit plan after taking into account  
98 cost-sharing that may be required under the health benefit plan.

99 (3) A single telepsychiatric consultation includes all contacts, services, discussion, and  
100 information review required to complete an individual request from a referring physician for a  
101 patient.

102 (4) An insurer may satisfy the requirement to cover a telepsychiatric consultation  
103 described in Subsection (2)(a) for a patient by:

104 (a) providing coverage for behavioral health treatment, as defined in Section  
105 [31A-22-642](#), in person or using telehealth services; and

106 (b) ensuring that the patient receives an appointment for the behavioral health  
107 treatment in person or using telehealth services on a date that is within seven business days  
108 after the initial request is made by the in-network referring physician.

109 (5) A referring physician who uses a telepsychiatric consultation for a patient shall, at  
110 the time that the questionnaire described in Subsection (1)(b)(ii) is completed, notify the  
111 patient that:

112 (a) the referring physician plans to request a telepsychiatric consultation; and

113 (b) additional charges to the patient may apply.

114 (6) (a) An insurer may receive a temporary waiver from the department from the  
115 requirements in this section if the insurer demonstrates to the department that the insurer is  
116 unable to provide the benefits described in this section due to logistical reasons.

117 (b) An insurer that receives a waiver from the department under Subsection (6)(a) is  
118 subject to the requirements of this section beginning July 1, 2019.

119 (7) This section does not limit an insurer from engaging in activities that ensure  
120 payment integrity or facilitate review and investigation of improper practices by health care  
121 providers.