

Representative Steve Eliason proposes the following substitute bill:

TELEPSYCHIATRIC CONSULTATION ACCESS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

and

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

ENACTS:



26 [31A-22-647](#), Utah Code Annotated 1953



27
28 *Be it enacted by the Legislature of the state of Utah:*

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

30 **26-18-13.5. Mental health telehealth services -- Reimbursement -- Reporting.**

31 (1) As used in this section:

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

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

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

38 (d) "Telemedicine services" means the same as that term is defined in Section
39 [26-60-102](#).

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

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

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

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

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

49 (B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No.
50 111-5, 123 Stat. 226, 467, as amended.

51 (2) This section applies to:

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

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

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

56 (4) Before December 1, 2017, the department shall report to the Legislature's Public

- 57 Utilities, Energy, and Technology Interim Committee and Health Reform Task Force on:
- 58 (a) the result of the reimbursement requirement described in Subsection (3);
- 59 (b) existing and potential uses of telehealth and telemedicine services;
- 60 (c) issues of reimbursement to a provider offering telehealth and telemedicine services;
- 61 (d) potential rules or legislation related to:
- 62 (i) providers offering and insurers reimbursing for telehealth and telemedicine services;
- 63 and
- 64 (ii) increasing access to health care, increasing the efficiency of health care, and
- 65 decreasing the costs of health care; and
- 66 (e) the department's efforts to obtain a waiver from the federal requirement that
- 67 telemedicine communication be face-to-face communication.

68 (5) The Medicaid program shall reimburse for telepsychiatric consultations at a rate set

69 by the Medicaid program.

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

71 **31A-22-647. Coverage of telepsychiatric consultations.**

72 (1) As used in this section:

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

74 (b) "Telepsychiatric consultation" means a consultation between a physician and a

75 board certified psychiatrist, both of whom are licensed to engage in the practice of medicine in

76 the state, that utilizes:

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

78 physician;

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

80 (iii) telehealth services that meet industry security and privacy standards, including

81 compliance with the:

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

83 (B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No.

84 111-5, 123 Stat. 226, 467, as amended.

85 (2) Beginning January 1, 2019, a health benefit plan that offers coverage for mental

86 health services shall:

87 (a) provide coverage for a telepsychiatric consultation during or after an initial visit

88 between the patient and a referring in-network physician;

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

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

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

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

101 (a) providing coverage for behavioral health treatment, as defined in Section
102 [31A-22-642](#), in-person or using telehealth services; and

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

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

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

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

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

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

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