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Rhode Island's New Law Requires Health Plans Cover Telemedicine Services

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Rhode Island marks the 31st state to enact a telemedicine commercial reimbursement statute. The ***Telemedicine Coverage Act*** ***(HB 7160B)*** was signed into law by Rhode Island Governor Gina Raimondo on June 28, 2016, representing a forward step for telehealth providers in a state that historically has held one of the lowest-rankings in the nation for telehealth coverage policy. The new law requires commercial health insurers in the Ocean State to cover treatment provided via telemedicine to the same extent the services are covered via in-person care. The law takes effect January 1, 2018 and applies to all policies delivered, issued, or reissued in the State after that date.

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The law states as follows:

> Each health insurer that issues individual or group accident and sickness insurance policies for health care services and/or provides a health care plan for health care services shall provide coverage for the cost of such covered health care services provided through telemedicine services. R.I. Gen. Laws §27-81-4(a).

A health insurer shall not exclude a health care service for coverage solely because the service is provided only through telemedicine and not provided through in-person consultation or contact, so long as "such health care services are medically appropriate to be provided through telemedicine services and as such may be subject to the terms and conditions of is appropriate for the provision of such service. *See* R.I. Gen. Laws §27-81-4(b). This requirement helps ensure Rhode Island health plan members enjoy benefits of all telemedicine services, including new telemedicine services which may not be currently covered under the health plan policy as in-person services. In contrast to the Rhode Island law, language in some other state statutes is less clear that insurers are required to cover telemedicine services if those services are not currently covered under the health plan policy as in-person services.

Yet, the law contains some peculiar language that appears to incorporate terms and conditions of a "telemedicine agreement" between the insurer and the participating provider. Whether this will be interpreted as grounds for a health plan to limit coverage based on the terms of such "telemedicine agreement" is not yet known, and we may see further clarity in subsequent rulemaking. Until then, the law provides as follows:

> "A health insurer shall not exclude a health care service for coverage solely because the health care service is provided through telemedicine and is not provided through in-person consultation or contact, so long as such health care services are medically appropriate to be provided through telemedicine services *and as such may be subject to the terms and conditions of a telemedicine agreement between the insurer and the participating health care provider or provider group"* (emphasis added). R.I. Gen. Laws §27-81-4(b).

Other highlights of the new law include the following:

- The law contains a broad definition of telemedicine, including store & forward, but excluding the use of facsimile, audio-only telephone, electronic mail, or automatic computer programs used for ocular or refractive conditions:

"*Telemedicine means the delivery of clinical health care services by means of real time two-way electronic audiovisual communications, including the application of secure video conferencing or store-and-forward technology to provide or support health care delivery, which facilitate the assessment, diagnosis, treatment, and care management of a patient's health care while such patient is at an originating site and the health care provider is at a distant site, consistent with applicable federal laws and regulations. Telemedicine does not include an audio-only telephone conversation, email message or facsimile transmission between the provider and patient, or an automated computer program used to diagnose and/or treat ocular or refractive conditions.*" R.I. Gen. Laws §27-81-3(12)

- The law defines the "originating site" as the a site at which a patient is located at the time healthcare services are provided to them by means of telemedicine which can be a patient's home where medically appropriate. It does not limit originating sites to rural areas or facilities. However, the law includes a curious sentence stating, "health insurers and health care providers may agree to alternative siting arrangements deemed appropriate by the parties." *See* R.I. Gen. Laws §27-81-3(9). Hopefully, this language will not be interpreted to permit health insurers to unilaterally impose originating site restrictions via the terms and conditions of the insurer's "telemedicine agreement."

- The statute contains no payment parity language. In other words, unlike several states (*e.g.* Delaware, Minnesota, New York), the Rhode Island law does not require health plans to pay providers at the same or equivalent reimbursement rate/basis for identical in-person and telemedicine-based services. Payment parity is an important issue when drafting and considering proposed telehealth coverage bills.

With the enactment of Rhode Island's new law, 31 states plus the District of Columbia have telehealth commercial insurance laws on the books. Continued expansion in coverage and reimbursement means providers can enhance telemedicine offerings, both for the immediate cost savings and growing opportunities for revenue generation, to say nothing of patient quality and satisfaction. Commercial insurance reimbursement is among the five telemedicine trends driving health care transformation in 2016 and beyond.

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