2009 SENATE HUMAN SERVICES

SB 2294

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2294

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 2-02-09

Recorder Job Number: 8329

Committee Clerk Signature Mary K Monson

Minutes:

Senator J. Lee opened the public hearing on SB 2294 relating to health insurance coverage for telemedicine.

Sen. Carolyn Nelson (District 21) introduced SB 2294 as a sponsor. Attachment #1. She requested an amendment. Attachment #2.

Dan Ulmer (BC/BS) said they favor the bill if it is amended. He provided a copy of their telemedicine policy and explained it. Attachment #3

Sen. Tim Mathern (District #11) a co sponsor of SB 2294 and was supportive of the amendments. He gave some background experience of his.

Senator J. Lee asked Sparb Collins if he had any comments.

Sparb Collins (PERS) replied that, based on the amendment, it should have no real cost to PERS. The original bill as proposed did have a per contract per month cost. As amended, it would not have that cost.

Senator Heckaman moved to **adopt the amendments**.

Seconded by **Senator Pomeroy**.

Roll call voter 5-0-1. The vote was left open for **Senator Dever**. Final vote 6-0-0.

Amendment adopted.

Senator Heckaman moved a **Do Pass as Amended.**

Seconded by **Senator Pomeroy.**

Roll call vote 5-0-1. **The vote was left open for Senator Dever.** Final vote 6-0-0.

Motion carried.

Carrier is Senator Pomeroy.

90911.0101
Title.0200

Prepared by the Legislative Council staff for
Senator Nelson
January 30, 2009

2-3-9

PROPOSED AMENDMENTS TO SENATE BILL NO. 2294

Page 1, line 2, replace "coverage" with "policies"

Page 1, line 8, remove "1."

Page 1, line 11, after "provides" insert "a policy for"

Page 1, line 12, replace "for" with "of" and after "telemedicine" insert "services"

Page 1, remove lines 13 through 23

Page 2, remove lines 1 through 14

Page 2, line 17, after "provide" insert "a policy for"

Page 2, line 18, after "coverage" insert "of telemedicine services"

Page 2, line 19, remove "for telemedicine services"

Renumber accordingly

Date: 3-2-09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2294

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Nelson Amendment.

Action Taken ☐ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Sen. Heckaman Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 2-2-09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2294

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 90911.0101 Title .0200

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Sen. Heckaman Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Pomeroy

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2294: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2294 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "coverage" with "policies"

Page 1, line 8, remove "1."

Page 1, line 11, after "provides" insert "a policy for"

Page 1, line 12, replace "for" with "of" and after "telemedicine" insert "services"

Page 1, remove lines 13 through 23

Page 2, remove lines 1 through 14

Page 2, line 17, after "provide" insert "a policy for"

Page 2, line 18, after "coverage" insert "of telemedicine services"

Page 2, line 19, remove "for telemedicine services"

Renumber accordingly

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2294

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2294

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 10, 2009

Recorder Job Number: 10619

Committee Clerk Signature

Chairman Keiser: Opened the hearing on SB 2294 relating to health insurance policies for telemedicine.

Senator Carolyn Nelson~District 21 in Fargo. See testimony attachment.

Vice Chairman Kasper: This becomes then a mandate the way the bill reads, is that correct?

Senator Nelson: Yes, however in discussion with the BCBS, they cover the majority of contracts.

Vice Chairman Kasper: All other insurance companies besides the BCBS, they have it as well?

Senator Nelson: Yes.

Representative Ruby: Are there some insurance companies that don't provide policies of coverage of telemedicine services?

Senator Nelson: We don't know that, however if you read this carefully, it says that they will develop some sort of policy. That policy may be that they don't cover telemedicine, but there has to be something there that says, do we or don't we, to help with the discussion.

Dan Ulmer~Blue Cross Blue Shield. Passes out the corporate medical policy on telemedicine-see attachment.

Chairman Keiser: Do you consider this a mandate?

Ulmer: If I recall, (inaudible).

Chairman Keiser: Following up on that question, if it is a mandate, does it have to go through the PERS program for two years and have the study done on the impact of this prior to implementation to the individual and small group market?

Ulmer: I would think the answer is that it's up to you.

Chairman Keiser: Is there anyone else to testify in opposition SB 2294, neutral?

Vice Chairman Kasper: Will the PERS process because of the (?) we have.

Rebecca Ternis-Deputy Insurance Commissioner. We certainly look into the bill if you would like.

Chairman Keiser: Closes the SB 2294 and hold it until we can get an answer to that question.

Voting roll call was taken on SB

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2294

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 11, 2009

Recorder Job Number: 10655, starting at 1:45 minutes & 10065 starting at 4:30 minutes.

Committee Clerk Signature Ellen LeTang

Chairman Keiser: Opened the committee work session on SB 2294.

Chairman Keiser: This relates to health insurance policies for telemedicine and the question that was raised was, is this a mandate? If it is, does it have to go through the PERS program for two years?

Representative Ruby: I spoke with the tax department. The provision of code is what I handed out to you-see attachment. This is the mandate requiring PERS to have a two year mandate before it is passed on to the insurance companies. I will refer you to the second page, number three, a majority of the members of the committee acting through the chairman has sole authority to determine whether alleged sight of measure, mandates coverage of services under this section. So it's up to the committee to decide if this is a mandate and if it is, then it would go to this provision? When I spoke with Jennifer Clark, she said that it was up to committee, but if you are asking my opinion reading the language, she said she could honestly say with a straight face, that this language is mandating a policy not a service. When I asked a BCBS person, they said the policy could be. They don't have a service in place for that. Whether we need to clarify the language say that they provide a policy for coverage of telemarketing services which may allow that policy to state that they don't have to provide a service. That may clear it up for some of us lay people.

Chairman Keiser: Several years ago, it was argued, that from a policy standpoint, we should require in statue that insurance companies offer and provide a minimum coverage policy. This was a bare bones policy that would be inexpensive. The argument was that the policies have so many bells and whistles, they get so expensive for people who can't afford to work, very young healthy people who just wanted major medical. We did pass the bill , it didn't go through the PERS program and it did not work. Everybody wants a low cost health insurance but they want the bells and whistles. I think we eventually amended that provision out of the statue.

Vice Chairman Kasper: On the other side of that issue, one of the reasons nobody bought it, was the BCBS didn't market it because the revenue goes down.

Chairman Keiser: You don't get the good ones with the minimal ones.

Vice Chairman Kasper: You end up getting the one who are desperate or need of coverage who can't get it.

Chairman Keiser: On lines 14-17, what does that mean? The board, who is the board?

Vice Chairman Kasper: That was the PERS board.

Chairman Keiser: Does that mean that they either have to provide it in their plan or they can provide it separately, that someone can purchase it?

Vice Chairman Kasper: What concerns me, if you look at line 14, the board shall provide a policy for coverage. Now that means that we would have moved this to the PERS board for them to look at it for two years and see what claims experience is compared to the cost benefit. When we are using that same term up above, where we don't know for sure if we have to cover it, down below, provide a policy for coverage, is the same terminology, implies that it is covered. Again, I have that concern that we need to clarify the language.

Representative Ruby: I share that concern because word policy for coverage is also on line 10. Most entities or departments when they talk about their policies, of what they are going to do, talk about the insurance product; they have the insurance policy in place for that bare bones coverage. The word policy and insurance seems to be interpreted as a service in some way. I would need some clarifying to make sure this is their operation policy not their service policy.

Vice Chairman Kasper: If the intent of this bill is to offer coverage for telemedicine and find out the cost benefit ratio of telemedicine, then I think we it would be a disservice to the intent of the bill by not requiring that the policy has coverage for telemedicine in studying the plan for two years and then have them report back with the results. We think it would be cheaper but we don't know. That was the intent in the first place.

Chairman Keiser: Who in the insurance department handles health? (Tyler, would you call the insurance department and have them send someone down).

Representative Ruby: I would feel more comfortable if it had some language that said there would be a requirement into notify whether there is a policy for telemedicine in place.

Chairman Keiser: I think that's the question and Vice Chairman Kasper is raising it. Is this saying you must have, include telemedicine in every policy or must you just have a policy in addition to all your other policies that offer coverage to telemedicine?

Mike: The way I read there has to be a policy that does provide coverage for telemedicine. So, there has to be an option.

Chairman Keiser: So for BCBS, they have to provide at least one policy option and the consumer could opted into taking telemedicine or not, correct?

Mike: That's the way I would read it.

Chairman Keiser: That applies to PERS as well, which is the second part on line 14-17?

Mike: We were discussing if it were a mandate or not. I haven't studied the bill; I don't if this just applies to PERS?

Chairman Keiser: According to the testimony, a line 14-17, is the PERS clause. When it says the board, it means the PERS board shall provide. The way I read it, it appeared they could include it the PERS contract or exclude it but provide it as an optional coverage that individuals could purchase under a self insurance plan.

Mike: That's the way I would read it and I would think on the Milliman report (see attachment), I think the PERS is included.

Chairman Keiser: As a self insurance?

Mike: That telemedicine is an option in the PERS plan?

Chairman Keiser: Currently.

Mike: I think that's the way I read that, it is covered.

Representative Ruby: We were told yesterday that they could have a policy in place saying that we don't offer telemedicine. What you are saying is they must have at least a policy as an option, which to me is more of a service rather a policy.

Mike: That's the way I read it.

Chairman Keiser: The original bill, the intent was that telemedicine must be included in the insurance coverage. This means that it gives the individual and the small group market, the option of offering it but not requiring it. For the PERS market, offering it but not requiring it and PERS already has it so why do we even have that section?

Mike: In the Milliman report, it refers to a mandate to make it a policy rather than a mandate towards the end of it?

Vice Chairman Kasper: Reads the last page (see attachment page 4).

Representative N Johnson: Insurance policy or philosophical policy, is that what we are struggling with?

Chairman Keiser: The original legislation mandated that if you sold a policy, it had to include coverage for telemedicine. Current bill as engrossed is saying that BCBS have a policy already. What I don't understand Mike, is it directly covered. Telemedicine is a means of saving money on a claim, not adding money and if that's the strategy, what company wouldn't accept it? That what I don't understand, is there a reason we need this?

Mike: I ask that same question. I agree with you, it's a cheaper thing.

Vice Chairman Kasper: I believe that the intent of the bill was to mandate telemedicine and they were trying to follow the guideline of PERS first, then the senate came up with this and now we don't know what we are trying to do. If we want to mandate, we need to pass the original bill and then that would require all future policies, when renewed, add telemedicine as a benefit.

Representative Ruby: I'm getting that we are trying to mandate common sense.

Chairman Keiser: What are the wishes of the committee?

Representative Ruby: Motions a Do Not Pass on SB 2294.

Vice Chairman Kasper: Second.

Chairman Keiser: Further discussion.

Chairman Keiser: I really do concur. Mandating this will just add cost without any change in function.

Voting rolling was taken on SB 2294 for a Do Not Pass with 7 ayes, 6 nays, 0 absent and Representative Ruby is the carrier.

Date: Mar 11 - 2009

Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2294

House House, Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ As Amended

Motion Made By Seconded By

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman		✓
Vice Chairman Kasper	✓		Representative Boe		✓
Representative Clark	✓		Representative Gruchalla		✓
Representative N Johnson	✓		Representative Schneider		✓
Representative Nottestad		✓	Representative Thorpe		✓
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total (Yes) 7 No 6

Absent 0

Floor Assignment [redacted] Ruby

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2294, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO NOT PASS** (7 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2294 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2294

#1

NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Senator Carolyn Nelson
District 21
1 Second Street South #5-402
Fargo, ND 58103-1959
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cnelson@nd.gov

Assistant Minority Leader

COMMITTEES:
Judiciary
Government and Veterans Affairs

SB 2294

Madam Chairman, members of the Human Services committee, I'm here to talk about Telemedicine.

The Internet defines "Telemedicine" : **Telemedicine** is a rapidly developing application of clinical medicine where medical information is transferred via telephone, the Internet or other networks for the purpose of consulting, and sometimes remote medical procedures or examinations. **Telemedicine** may be as simple as two health professionals discussing a case over the telephone, or as complex as using satellite technology and video-conferencing equipment to conduct a real-time consultation between medical specialists in two different countries.

SB 2294 in its original form is an attempt to understand telemedicine, its services and its billing codes. The Employee Benefits committee was not interested in the late entry of such a bill; however, they did think that the discussion should start and waived jurisdiction of the bill. I agree. The first draft goes too far and I'm asking you to adopt an amendment that basically says that all health insurance grantors shall have some sort of policy concerning telemedicine and that policy will be included in their next contract with clients and the medical providers. I think we may find that insurers already have a policy, although it may be a bit dated, and this bill will jolt them to upgrade the policy and then communicate with those who will be using it.

With the original draft, I had an email from Nancy Willis, VP for Government Relations at St. Alexius Medical Center. She stated that St Alexis has a TeleCare Network, one of the first Telemedicine networks in the county, established in 1995. They provide a large variety of specialty provider clinical consults to rural hospitals and clinics and provide a large number of mental health clinical consults to rural long term care and other healthcare facilities. She commented that they find that Telemedicine services are ordinarily paid once the insurer receives appropriate documentation. She added that payers always have based their coverage on the clinical codes provided for Medicare patients, since Telemedicine regulation was created within Federal legislation and Medicare regulation. The exception is Speech Therapy, where commercial payers have reimbursed even though Medicare does not. She also commented that codes may not, and perhaps should not, exist for some services. According to the email I sent to Ms Willis last week, she is out of the office this week.

Blue Cross/Blue Shield shared their policy with me prior to the Employee Benefits meeting last week. It is Medical Policy #433.2, effective date October 24, 1996 and reviewed on June 17, 2008.

A revised version of this bill with the proposed amendments is on page 2.

Sen. Carolyn Nelson

SB 2294 as amended:

A BILL for an Act to create and enact a new section to chapter 26.1-36 and a new section chapter 54-52.1 of the North Dakota Century Code, relating to health insurance policies for telemedicine.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 26.1-36 OF THE North Dakota Century Code is created and enacted as follows:

Telemedicine.

An insurance company, nonprofit health service corporation, or health maintenance organization may not deliver, issue, execute or renew any hospital, surgical, medical, or major medical benefit policy on an individual, group blanket franchise, or association basis unless the policy, contract, or evidence of coverage provides a policy for coverage of telemedicine services.

SECTION 2. A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Uniform group insurance program – Telemedicine. The board shall provide a policy for coverage of telemedicine services under either a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 in the same manner as provided under section 2 of this Act.

BlueCross BlueShield of North Dakota
An independent licensee of the Blue Cross & Blue Shield Association

Corporate Medical Policy

Same handout given to House.

Telemedicine

Medical Policy #433.2

Effective Date: October 24, 1996

Reviewed: June 17, 2008

Description

Telemedicine is the use of interactive video equipment to link practitioners and patients in different sites.

Policy/Criteria

1. To qualify as a professional service, actual visual contact (face to face) must be maintained between physician and patient. No Provider-to-Provider consultations, such as telephone consultations, will be reimbursed.

2. Reimbursable services are those professional office or outpatient services such as Evaluation and Management services, psychiatric diagnostic interviews, individual psychotherapy services, diabetes education and speech therapy services listed in the Current Procedural Terminology (CPT®) of the American Medical Association. Only those services currently reimbursable in an office or outpatient setting will be allowed for payment. Reimbursement will be based on the current fee schedule in place at the time services are rendered.

3. All services provided must be medically appropriate and necessary. Documentation to support the service must be included in the clinical record.

4. Originating and distant sites of telemedicine services shall not be in the same facility or community, and the distant site shall be of a sufficient distance from the originating site to provide services to patients who do not have readily available access to such specialty services.

   The term originating site means the location of an eligible member at the time the service is being provided via a telecommunications system.

   The term distant site means the site where the practitioner providing the professional service is located.

5. A designated room with appropriate equipment, including camera(s), lighting, transmission and other needed electronics and the appropriate medical office amenities, shall be established in both the originating and the distant site. An on-site visit may be made to the originating telemedicine facility to address quality issues.

6. Reimbursement will be provided only to the consulting physician during the telemedicine session. No benefits will be available to a provider if his/her sole function is presentation of the patient to the consultant via telemedicine.

   Reimbursement will be provided to the originating facility when HCPCS Q3014 (telehealth originating site facility fee) is billed. There will be no additional reimbursement for equipment, technicians or other technology or personnel utilized in the performance of the telemedicine service.

Members must consult their applicable benefit plans or contact a Member Services representative for specific coverage information.

Coding/Billing Information

Providers should use the modifier GT to identify a service as being performed via telemedicine.

Institutional providers should use revenue code 510 when billing HCPCS Q3014.

CPT® Modifier	GT	Via interactive audio and video telecommunications system
HCPCS	Q3014	Telehealth originating site facility fee

Source

HealthCare News. Telemedicine. Blue Cross Blue Shield of North Dakota 2001. Issue 215:3.

American Speech-Language and Hearing Association. Telepractices and ASHA: Report of the Telepractices Team. December 2001.

Krizner K. Telemedicine still looks for inroads to total acceptability. Managed Healthcare Executive. May 2002. 44-45.

Telemedicine for the Medicare Population. Summary, Evidence Report/Technology Assessment: Number 24. AHRQ Publication Number 01-E011, February 2001. Agency for Healthcare Research and Quality, Rockville, MD. http://www.ahrq.gov/clinic/epcsums/telemedsum.htm (Last accessed 12/19/2002)

BlueCross BlueShield Association. Telemedicine Issue Brief. 1/30/1998.

Committee Review:

Internal Medical Policy Committee: 7/31/03 (Added speech therapy), 7/16/02, 6/26/07 (annual review - no changes)

Medical Claims Review Advisory Committee: 8/28/96, 10/8/96

Central Professional Services Committee: 4/14/98, 10/24/96

Policy Disclaimer:

Current Company medical policy is to be used in determining a Member's contract benefits on the date that services are rendered. Contract language, including definitions and specific inclusions/exclusions, as well as state and federal law, must be considered in determining eligibility for coverage. Members must consult their applicable benefit plans or contact a Company Member Services representative for specific coverage information. Likewise, medical policy, which addresses the issue(s) in any specific case, should be considered before utilizing medical opinion in adjudication. Medical technology is constantly evolving and the Company reserves the right to review and update medical policy periodically.

Noridian Mutual Insurance Company

Posted on: 7/1/2008

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February 18, 2009

Same handout given to House.

Mr. Jim W. Smith
Director
North Dakota Legislative Council
600 E Boulevard
Bismarck, ND 58505-0360

Re: Analysis of Senate Bill 2294

Dear Mr. Smith:

Thank you for your letter of January 26, 2009 requesting a cost-benefit analysis of the mandates included in Senate Bill 2294. In accordance with North Dakota Century Code (NDCC) 54-03-28, you asked that we provide information to help determine the following:

a. the extent to which the proposed mandate would increase or decrease the cost of the service;
b. the extent to which the proposed mandate would increase the appropriate use of the service;
c. the extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of insureds; and
d. the impact of the proposed mandate on the total cost of health care.

This letter is intended for use by North Dakota legislators and officials for the purpose of considering this proposed legislation. This letter should not be used for other purposes. To the extent that this letter is not subject to disclosure under public records laws, this document should not be distributed to third parties without Milliman's prior written consent. This document may only be released in its entirety. Milliman does not intend to benefit and assumes no duty or liability to other parties who may receive this work.

The results in this letter are technical in nature and are dependent upon specific assumptions and methods. No party should rely upon these results without a thorough understanding of medical insurance policies and how they are priced. Such an understanding may require consultation with qualified professionals.

In doing our work, we have relied on the data and information cited in this letter. This information includes the Senate Bill attached to your letter and various emails and phone conversations. If there are changes to the bill, the comments here may no longer be appropriate. This letter is subject to the Professional Services Contract between the State of North Dakota and Milliman executed on January 6, 2009.

Background

Senate Bill 2294 is for an Act to create new sections in NDCC 26.1-36 and NDCC 54-52.1-04 regarding coverage for telemedicine services. Section 1 of the original bill refers to NDCC 26.1-36 regarding most accident and health insurance. Section 2 of the original bill refers to NDCC 54-52.1-04 regarding North Dakota Public Employees Retirement System (NDPERS). An amendment to the bill was later added that, in effect, removed the coverage mandate. The engrossed version of the bill merely requires that payors have a policy for coverage of telemedicine services. There is no requirement that this policy include any provision of coverage.

As requested by the legislative council (in an email from Jennifer Clark dated February 6, 2009) we have performed an analysis of the introduced version of the bill and will comment on the impact of any amendments to date.

The definition of telemedicine varies from one source to another, so a detailed definition is essential for understanding and pricing a mandate for coverage of telemedicine services. The introduced version of Senate Bill 2294 stipulates that payors provide coverage for telecommunication services including:

1. Consultation or office visit with a licensed healthcare practitioner,
2. Individual psychotherapy,
3. Pharmacological management service, and
4. Emergency services.

The bill also includes a definition of telecommunication services as the services related to providing a means of transmission of information between users, including two-way video or data messages.

There are two different types of technology that can be used to classify telemedicine: 1) store-and-forward, including lab and radiology tests and 2) two-way interactive television (IATV). Such classifications were absent from the definition in the original legislation.

Analysis

NDCC 54-03-28 provides instruction on legislative mandates requiring coverage under NDPERS for a two year trial period before mandating coverage for all accident and health insurance policies. The original legislation included a coverage mandate for all accident and health insurance policies as well as a mandate for the NDPERS program. We have assumed for purposes of this analysis that the mandate will only apply to NDPERS. Our assumptions should not be considered formal legal opinions. We are not attorneys and do not render legal opinions.

When evaluating coverage mandates, it is often instructive to review how similar coverage is treated under Medicaid and Medicare. Although CMS has not formally defined telemedicine benefits for Medicaid beneficiaries, a number of states provide for such benefits in hopes of reducing travel costs and increasing access to providers. CMS encourages states to incorporate telemedicine into their Medicaid programs,[1] and several states have done so. The use of telemedicine is particularly beneficial for patients living in rural areas or for providing services to prisoners or Medicaid

beneficiaries where significant transportation costs can be incurred and paid by the entity responsible for such payments. The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2002 loosened Medicare reimbursement rules to allow providers to be reimbursed for telemedicine services.

A coverage mandate for Telemedicine services may not save money for the commercial health insurance payors as it would for Medicaid or prison health services payors. NDPERS does not provide any benefits for travel costs, and the current payor, BlueCross Blue Shield of North Dakota, would not realize any savings on travel. The original legislation could potentially increase access to providers for commercial insurance policyholders in rural areas, however.

There is nothing in the definition of telemedicine in the original bill that would prevent a doctor from scheduling follow-up calls with their patients and subsequently billing the health insurance carrier. This would benefit the commercial policyholder, but would add to the claim cost and premium rates ultimately charged by the commercial payor.

As of 2004, California, Louisiana, Texas, Oklahoma, and Kentucky are the only states with government legislation regarding commercial payor reimbursement for telemedicine services[1]. There are several other states that are beginning to enact legislation acknowledging telemedicine as a reimbursable medical service[2]. Commercial payors in several states will reimburse for such services on a policy or case-by-case basis rather than by a state-mandated benefit. Blue Cross/Blue Shield in the states of Kansas, Montana, and North Dakota, and a minority of other commercial health insurers, pay for select telemedicine services[1] on a case-by-case basis.

CMS has identified CPT codes that may be used for telemedicine services, such as T1014 and Q3014, or any CPT code with modifier GT[3]. We have searched two different data sources for evidence of telemedicine coverage using these codes.

The data sources include commercial group medical insurance detailed claim data. These data sources exclude claims paid by Medicaid and Medicare policies. Each data source contains a different proportion of the commercial market in each state, and each state will have a different proportion of the total claim costs. Therefore, comparisons between states are not meaningful.

Data Source 1 shows the total allowed amount for outpatient hospital and physician claims that were ultimately paid by a commercial payor with dates of service in 2006. This data is summarized in Exhibit A. This data was based on allowed claims and would not capture claims that were denied by the payor. This exhibit shows that the state with the largest percentage of allowed medical claim dollars with a code identifying telemedicine was Kansas with 0.0011%. No other state had more than 0.0010%. Note that Kansas is not on the mandated benefit list of states, but is one of the states with a BC/BS plan providing coverage.

Data Source 2 shows billed charge amounts for all claims including claims that are ultimately denied or disallowed, with dates of service in 2006. This data is summarized in Exhibit B. This exhibit shows that the proportion of billed claim costs for telemedicine services was not significantly different than the proportion of claim costs shown in Exhibit A. In other words, we did not find any evidence that reimbursement requests for telemedicine services have been denied with any level of significance.

Conclusion

Even in states with a mandate requiring commercial payor reimbursement we have not found evidence of significant usage of telemedicine services. The two data sources we analyzed showed less than $0.01 PMPM in claim costs for telemedicine services.

We have not completely eliminated the possibility that telemedicine claims may be billed under codes that are not included in our analysis. Also, many commercial insurance carriers, HMOs in particular, already provide access to a nurse helpline free of charge, which could significantly reduce the need for telemedicine. There is a possibility that the use of telemedicine services will significantly increase over the next few years as providers develop the necessary infrastructure and communication techniques become easier to use and less expensive.

We understand that BlueCross BlueShield of North Dakota is the current payor for NDPERS. Given the lack of telemedicine services in our two detailed claim data sources, and since telemedicine is already covered under certain circumstances, we do not believe that adding a legislative mandate would significantly increase the usage of, the cost of, or the administrative costs associated with telemedicine services in NDPERS over the next biennium.

Furthermore, the original bill was amended to remove the coverage mandate and to merely require the commercial payors to have a policy for coverage of telemedicine services. BlueCross BlueShield of North Dakota already has such a policy.

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This letter contains an estimate that future claim costs for telemedicine services will be less than $0.01 PMPM, based on the assumptions described here. It is certain that actual experience will not conform exactly to the assumptions used in this analysis. If actual experience is different from the assumptions used in the calculations, the actual amounts will also deviate from the projected amounts.

Jim, I hope this letter is helpful to you as you consider these bills. If you have questions regarding this letter, or would like us to do additional analysis, please feel free to contact me at (952) 820-2474 or kent.roepke@milliman.com.

Sincerely,

Kenton J. Roepke, ASA, MAAA
Consulting Actuary

KJR/mtf

Exhibit A: Data Source #1 - Amount of Allowed Charges for Telemedicine Services as a Percent of Total

	Allowed Charges		Percent of Total Charges	
State	Telemedicine	All Other	Telemedicine	All Other
AK	$103	$50,887,059	0.0002%	99.9998%
AL	$32	$602,069,767	0.0000%	100.0000%
AR	$85	$120,160,733	0.0001%	99.9999%
AZ	$96	$278,169,851	0.0000%	100.0000%
CA	$1,121	$2,473,411,175	0.0000%	100.0000%
CO	$0	$264,060,695	0.0000%	100.0000%
CT	$0	$290,846,761	0.0000%	100.0000%
DC	$0	$9,111,324	0.0000%	100.0000%
DE	$0	$231,604,630	0.0000%	100.0000%
FL	$1,735	$1,106,125,007	0.0002%	99.9998%
GA	$5,133	$2,026,179,794	0.0003%	99.9997%
HI	$0	$3,359,437	0.0000%	100.0000%
IA	$1,154	$405,531,260	0.0003%	99.9997%
ID	$0	$66,707,403	0.0000%	100.0000%
IL	$505	$1,164,539,652	0.0000%	100.0000%
IN	$1,336	$1,052,856,930	0.0001%	99.9999%
KS	$4,102	$362,417,056	0.0011%	99.9989%
KY	$197	$390,819,097	0.0001%	99.9999%
LA	$201	$223,555,260	0.0001%	99.9999%
MA	$0	$526,844,219	0.0000%	100.0000%
MD	$0	$216,207,598	0.0000%	100.0000%
ME	$472	$93,659,360	0.0005%	99.9995%
MI	$487	$2,034,474,008	0.0000%	100.0000%
MN	$325	$229,049,413	0.0001%	99.9999%
MO	$1,176	$729,930,654	0.0002%	99.9998%
MS	$20	$522,032,298	0.0000%	100.0000%
MT	$0	$322,854,470	0.0000%	100.0000%
NC	$660	$753,162,324	0.0001%	99.9999%
ND	$0	$19,091,779	0.0000%	100.0000%
NE	$820	$128,322,091	0.0006%	99.9994%
NH	$0	$103,162,238	0.0000%	100.0000%
NJ	$110	$458,547,332	0.0000%	100.0000%
NM	$271	$81,587,425	0.0003%	99.9997%
NV	$758	$331,526,607	0.0002%	99.9998%
NY	$1,184	$534,734,299	0.0002%	99.9998%
OH	$734	$1,257,981,522	0.0001%	99.9999%
OK	$0	$350,334,292	0.0000%	100.0000%
OR	$236	$131,553,358	0.0002%	99.9998%
PA	$161	$598,553,934	0.0000%	100.0000%
RI	$0	$54,798,667	0.0000%	100.0000%
SC	$0	$1,849,266,978	0.0000%	100.0000%
SD	$202	$39,508,778	0.0005%	99.9995%
TN	$1,159	$1,234,573,144	0.0001%	99.9999%
TX	$4,983	$2,189,037,144	0.0002%	99.9998%
UT	$0	$66,423,955	0.0000%	100.0000%
VA	$697	$502,311,842	0.0001%	99.9999%
VT	$0	$22,233,860	0.0000%	100.0000%
WA	$394	$728,955,703	0.0001%	99.9999%
WI	$358	$458,460,324	0.0001%	99.9999%
WV	$1,045	$111,359,177	0.0009%	99.9991%
WY	$150	$29,046,226	0.0005%	99.9995%

Exhibit B: Data Source #2 - Amount of Billed Charges for Telemedicine Services as a Percent of Total

	Billed Charges		Percent of Total Charges	
State	Telemedicine	All Other	Telemedicine	All Other
AK	$0	$5,604,682	0.0000%	100.0000%
AL	$0	$4,712,267	0.0000%	100.0000%
AR	$0	$5,057,101	0.0000%	100.0000%
AZ	$0	$58,236,873	0.0000%	100.0000%
CA	$2,087	$5,901,761,586	0.0000%	100.0000%
CO	$0	$32,015,673	0.0000%	100.0000%
CT	$0	$8,309,825	0.0000%	100.0000%
DC	$0	$1,299,919	0.0000%	100.0000%
DE	$0	$1,198,616	0.0000%	100.0000%
FL	$68	$36,922,972	0.0002%	99.9998%
GA	$0	$25,648,701	0.0000%	100.0000%
HI	$0	$3,082,361	0.0000%	100.0000%
IA	$0	$4,601,125	0.0000%	100.0000%
ID	$0	$266,856,255	0.0000%	100.0000%
IL	$0	$35,559,328	0.0000%	100.0000%
IN	$0	$10,510,818	0.0000%	100.0000%
KS	$0	$4,177,066	0.0000%	100.0000%
KY	$0	$4,537,013	0.0000%	100.0000%
LA	$0	$20,076,977	0.0000%	100.0000%
MA	$0	$18,359,572	0.0000%	100.0000%
MD	$0	$8,339,610	0.0000%	100.0000%
ME	$0	$1,239,394	0.0000%	100.0000%
MI	$0	$9,793,483	0.0000%	100.0000%
MN	$0	$16,153,620	0.0000%	100.0000%
MO	$200	$11,615,837	0.0017%	99.9983%
MS	$0	$2,692,233	0.0000%	100.0000%
MT	$0	$7,730,541	0.0000%	100.0000%
NC	$0	$13,236,737	0.0000%	100.0000%
ND	$0	$604,748	0.0000%	100.0000%
NE	$0	$2,595,682	0.0000%	100.0000%
NH	$0	$6,352,252	0.0000%	100.0000%
NJ	$0	$25,293,841	0.0000%	100.0000%
NM	$0	$7,699,256	0.0000%	100.0000%
NV	$0	$49,767,544	0.0000%	100.0000%
NY	$0	$25,574,330	0.0000%	100.0000%
OH	$0	$16,746,861	0.0000%	100.0000%
OK	$0	$9,130,267	0.0000%	100.0000%
OR	$151	$810,669,999	0.0000%	100.0000%
PA	$60	$18,904,403	0.0003%	99.9997%
RI	$0	$1,281,148	0.0000%	100.0000%
SC	$0	$4,350,252	0.0000%	100.0000%
SD	$0	$1,107,218	0.0000%	100.0000%
TN	$0	$13,280,022	0.0000%	100.0000%
TX	$95	$94,276,198	0.0001%	99.9999%
UT	$2,190	$1,437,831,937	0.0002%	99.9998%
VA	$0	$18,129,165	0.0000%	100.0000%
VT	$0	$897,411	0.0000%	100.0000%
WA	$2,165	$1,482,580,564	0.0001%	99.9999%
WI	$0	$9,452,313	0.0000%	100.0000%
WV	$0	$1,464,933	0.0000%	100.0000%
WY	$0	$4,434,427	0.0000%	100.0000%

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2. "Telemedicine Reimbursement Report", U.S. Department of Health and Human Services, Health Resources and Services Administration, October 2003.
3. www.cms.hhs.gov/Telemedicine

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SB 2294 – March 10, Peace Garden Room at 2:00

Mr. Chairman, members of the Industry, Business and Labor committee, I'm here to talk about Telemedicine.

The Internet defines "Telemedicine" : **Telemedicine** is a rapidly developing application of clinical medicine where medical information is transferred via telephone, the Internet or other networks for the purpose of consulting, and sometimes remote medical procedures or examinations. **Telemedicine** may be as simple as two health professionals discussing a case over the telephone, or as complex as using satellite technology and video-conferencing equipment to conduct a real-time consultation between medical specialists in two different countries.

SB 2294 in its original form was an attempt to understand telemedicine, its services and its billing codes. The Employee Benefits committee was not interested in the late entry of such a bill; however, they did think that the discussion should start and waived jurisdiction of the bill. I'm asking you to give a do-pass recommendation to this engrossed bill that basically says that all health insurance grantors shall have some sort of policy concerning telemedicine and that policy will be included in their next contract with clients and the medical providers. I think we will find that insurers already have a policy, although it may be a bit dated, and this bill will jolt them to upgrade the policy and then communicate with those who will be using it.

Prior to the Senate hearing I had an email from Nancy Willis, VP for Government Relations at St. Alexius Medical Center. She stated that St Alexis has a TeleCare Network, one of the first Telemedicine networks in the county, established in 1995. They provide a large variety of specialty provider clinical consults to rural hospitals and clinics and provide a large number of mental health clinical consults to rural long term care and other healthcare facilities. She commented that they find that Telemedicine services are ordinarily paid once the insurer receives appropriate documentation. She added that payers always have based their coverage on the clinical codes provided for Medicare patients, since Telemedicine regulation was created within Federal legislation and Medicare regulation. The exception is Speech Therapy, where commercial payers have reimbursed even though Medicare does not. She also commented that codes may not, and perhaps should not, exist for some services.

Blue Cross/Blue Shield shared their policy with me prior to the Employee Benefits meeting. It is Medical Policy #433.2, effective date October 24, 1996 and reviewed on June 17, 2008.