

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED HOUSE BILL NO. 1465**

Introduced by

Representatives Westlind, Tveit, Weisz

1 A BILL for an Act to amend and reenact section 26.1-36-09.15 of the North Dakota Century
2 Code, relating to coverage of telehealth services; to provide for a legislative management study
3 of health insurance networks; and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 26.1-36-09.15 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **26.1-36-09.15. Coverage of telehealth services.**

8 1. As used in this section:

9 a. "Distant site" means a site at which a health care provider or health care facility is
10 located while providing medical services by means of telehealth.

11 b. "E-visit" means a face-to-face digital communication initiated by a patient to a
12 provider through the provider's online patient portal.

13 c. "Health care facility" means any office or institution at which health services are
14 provided. The term includes hospitals; clinics; ambulatory surgery centers;
15 outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted
16 living facilities; laboratories; and offices of any health care provider.

17 d. "Health care provider" includes an individual licensed under chapter 43-05,
18 43-06, 43-12.1 as a registered nurse or as an advanced practice registered
19 nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42,
20 43-44, 43-45, 43-47, 43-58, or 43-60.

21 d.e. "Nonpublic facing product" means a remote communication product that, as a
22 default, allows only the intended parties to participate in the communication.

23 f. "Originating site" means a site at which a patient is located at the time health
24 services are provided to the patient by means of telehealth.

- 1 e.g. "Policy" means an accident and health insurance policy, contract, or evidence of
2 coverage on a group, individual, blanket, franchise, or association basis.
- 3 f.h. "Secure connection" means a connection made using a nonpublic facing remote
4 communication product that employs end-to-end encryption, and which allows
5 only an individual and the person with whom the individual is communicating to
6 see what is transmitted.
- 7 i. "Store-and-forward technology" means electronic information, imaging, and
8 communication that is transferred, recorded, or otherwise stored in order to be
9 reviewed at a distant site at a later date by a health care provider or health care
10 facility without the patient present in real time. The term includes telehome
11 monitoring and interactive audio, video, and data communication.
- 12 g.j. "Telehealth":
13 (1) Means the use of interactive audio, video, or other telecommunications
14 technology that is used by a health care provider or health care facility at a
15 distant site to deliver health services at an originating site and that is
16 delivered over a secure connection that complies with the requirements of
17 state and federal laws.
- 18 (2) Includes the use of electronic media for consultation relating to the health
19 care diagnosis or treatment of a patient in real time or through the use of
20 store-and-forward technology.
- 21 (3) Does not include the use of ~~audio-only telephone~~, electronic mail, or
22 ~~facsimile transmissions, or audio-only telephone unless for the purpose of~~
23 e-visits or a virtual check-in.
- 24 k. "Virtual check-in" means a brief communication via telephone or other
25 telecommunications device to decide whether an office visit or other service is
26 needed.
- 27 2. An insurer may not deliver, issue, execute, or renew a policy that provides health
28 benefits coverage unless that policy provides coverage for health services delivered
29 by means of telehealth which is the same as the coverage for health services
30 delivered by in-person means.

- 1 3. Payment or reimbursement of expenses for covered health services delivered by
2 means of telehealth under this section may be established through negotiations
3 conducted by the insurer with the health services providers in the same manner as the
4 ~~insurer with the health services providers in the same manner as the insurer~~
5 establishes payment or reimbursement of expenses for covered health services that
6 are delivered by in-person means.
- 7 4. Coverage under this section may be subject to deductible, coinsurance, and
8 copayment provisions.
- 9 5. This section does not require:
 - 10 a. A policy to provide coverage for health services that are not medically necessary,
11 subject to the terms and conditions of the policy;
 - 12 b. A policy to provide coverage for health services delivered by means of telehealth
13 if the policy would not provide coverage for the health services if delivered by
14 in-person means;
 - 15 c. A policy to reimburse a health care provider or health care facility for expenses
16 for health services delivered by means of telehealth if the policy would not
17 reimburse that health care provider or health care facility if the health services
18 had been delivered by in-person means; or
 - 19 d. A health care provider to be physically present with a patient at the originating
20 site unless the health care provider who is delivering health services by means of
21 telehealth determines the presence of a health care provider is necessary.

22 **SECTION 2. LEGISLATIVE MANAGEMENT STUDY - HEALTH INSURANCE** 23 **NETWORKS.**

- 24 1. During the 2021-22 interim, the legislative management shall consider studying health
25 insurance networks, including narrow networks. The study must include:
 - 26 a. Consideration of the use and regulation of broad and narrow networks in the
27 state by individuals and employers, the sales and marketing of broad and narrow
28 networks, opportunities for consumer choice-of-provider, and premium
29 differentials among states with choice-of-provider laws;
 - 30 b. A review of legislative and court history regarding the impact of choice-of-provider
31 laws on exclusive provider organizations and preferred provider organizations

1 and how choice-of-provider laws apply to risk-pooled health plans regulated by
2 the federal Employee Retirement Income Security Act of 1974;

3 c. The impact of the consolidation of the health care market on consumer cash
4 prices, insurance plan deductibles and premiums prices, and consumer options;

5 d. A comparison of health maintenance organizations provider network designs and
6 other health insurer provider network designs;

7 e. A review of how vertical integrated networks utilize HMO plans; and

8 f. A comparison of premiums of health benefit plans offered in the individual and
9 small group markets in relation to the provider network design associated with
10 those plans along with the growth of value-based purchasing.

11 2. The legislative management shall report its finding and recommendations, together
12 with any legislation required to implement the recommendations, to the sixty-eighth
13 legislative assembly.

14 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.