

Outline of Questions and Proposed Changes in Telehealth Bills Being Considered by HCIFS Committee

Questions/Proposed changes	Comments	Committee Decision/Vote
#1: How should telehealth services be delivered? What methods and technology should be permitted?		
Remove restriction in current law in Title 24-A in definition of “telehealth” that it does not include use of audio-only telephone (LD 323, LD 849, LD 1194, LD 1361)	- Pursuant to Governor’ executive order and Superintendent’s insurance order, telehealth services through audio-only means are permitted during state of emergency -- the orders are currently in place until rescinded or until the Governor terminates the state of emergency, whichever occurs first - Consider what is appropriate on a permanent basis?	
Allow use of audio-only telephone when no means of interactive real-time visual and audio or other electronic media are available to the enrollee due to lack of such electronic media or of adequate broadband access or when the use of other means of interactive real-time visual and audio or other electronic media is infeasible, impractical or otherwise not medically advisable, as determined by the provider providing telehealth services to the enrollee or as determined by another provider with an existing relationship with the enrollee (LD 333)	- Pursuant to Governor’ executive order and Superintendent’s insurance order, telehealth services through audio-only means are permitted during state of emergency -- the orders are currently in place until rescinded or until the Governor terminates the state of emergency, whichever occurs first - As drafted, this provision would put some limitations on when providers may utilize telephone only method of telehealth - Consider what is appropriate on a permanent basis?	
Remove limitation that requires carriers to provide coverage of telephonic services when scheduled telehealth services are technologically unavailable at the time of the scheduled telehealth service for an existing enrollee and the telephonic services are medically appropriate for the corresponding covered health care services (LD 323, LD 333, LD 849, LD 1194)	- Pursuant to Governor’ executive order and Superintendent’s insurance order, telehealth services through audio-only means are permitted during state of emergency-- the orders are currently in place until rescinded or until the Governor terminates the state of emergency, whichever occurs first - Consider what is appropriate on a permanent basis?	
Define “telehealth” to include use of facsimile machine, email or texting (LD 323, LD 1361)	- Consider what is appropriate on a permanent basis? - Testimony from Northern Light Health indicated these methods are used to communicate clinical information and the current language creates confusion particularly when clinical information is transmitted	

Outline of Questions and Proposed Changes in Telehealth Bills Being Considered by HCIFS Committee

Questions/Proposed changes	Comments	Committee Decision/Vote
	between providers via secure email communication. What impact on current billing practices?	
Remove restriction in Title 22 relating to MaineCare coverage in definition of “telehealth” that it includes telephonic services only when interactive telehealth services are unavailable or when a telephonic service is medically appropriate for the underlying covered services (LD 849)	- Consider differences in how “telehealth” is defined in Title 22 for MaineCare purposes and in Title 24-A for health insurance purposes? - Should definitions be consistent? - DHHS testimony stated that the department generally believes that interactive telehealth is preferable, and that the exception to allow telephonic only when interactive video technology is unavailable is reasonable and necessary to sustaining telehealth as a service delivery model moving forward. DHHS also unclear on whether permanent removal of restrictions will be allowed at federal level - Consider input of HHS Committee?	
Add explicit language in Title 22 relating to MaineCare coverage of telehealth services permitting verbal, electronic or written consent for telehealth and telemonitoring services (LD 323)	- Testimony indicated MaineCare provided temporary flexibility for verbal consent - Consider continuing this as a permanent policy? - Consider seeking input from HHS Committee or MaineCare? No testimony from DHHS on this part of LD 849	
#2: Should carriers be required to pay the same reimbursement rates for telehealth services? Should MaineCare?		
Require MaineCare reimbursement to providers of telehealth and telemonitoring services at the same rate as comparable services provided through in-person consultation (LD 849)	Consider seeking input from HHS Committee or MaineCare? No testimony from DHHS on this part of LD 849	
Require health insurance carriers to reimburse providers of telehealth services on the same basis and at least the same rate as the same, or substantially similar, services provided through in-person consultation (LD 333, LD 849)	- Intended to make permanent provisions Governor’ executive order and Superintendent’s insurance order that telehealth services required to be reimbursed at same rates during state of emergency -- the orders are currently in place until rescinded or until the Governor terminates the state of emergency, whichever occurs first - Consider what is appropriate on a permanent basis?	

Outline of Questions and Proposed Changes in Telehealth Bills Being Considered by HCIFS Committee

Questions/Proposed changes	Comments	Committee Decision/Vote
Prohibit health insurance carriers from offering a health plan in which any deductible applied to services delivered through telehealth accumulates separately from the deductible that applies in the aggregate to all services (LD 333, LD 849)	- Consider whether this is necessary? - Testimony from MAHP indicated that carriers do not have separate deductibles for telehealth services, although some health plans do offer telehealth services to members through entities such as Teledoc or MDLive that charge a fee. This is separate from the medical policy and not a copay or payment under a deductible but rather a flat fee for service	
<i>#3: Should carriers be subject to certain requirements for telehealth services related to prior authorization or utilization review? Prescribing through telehealth? Network adequacy?</i>		
Prohibit health insurance carriers from imposing any restriction on the prescribing of medication through telehealth that is more restrictive than any requirement for prescribing medication through in-person consultation (LD 333)	- Consider whether this is necessary? - Under current law, a clinical evaluation is required either in-person or through telehealth before a provider may write a prescription through telehealth that is covered	
Clarify that utilization review of telehealth services is permitted as the utilization review is applied no more stringently than utilization review for in-person consultation for the same service (LD 333)	- Consider whether this is necessary? - Under current law, carriers may use prior authorization and utilization review processes for telehealth as long as treated same as process for in-person service	
Clarify that a health insurance carrier can not use the availability of telehealth services for purposes of meeting network adequacy standards (not proposed in any bill, concern raised at public hearing)	- Bureau of Insurance has indicated their standard is to count only in-person services for purposes of determining network adequacy - Under Bureau of Insurance Rule 850, network adequacy requirements explicitly refer to the number and the geographic distribution of types of providers - Consider whether additional clarification is needed?	

Outline of Questions and Proposed Changes in Telehealth Bills Being Considered by HCIFS Committee

Questions/Proposed changes	Comments	Committee Decision/Vote
#4: What licensing or scope of practice requirements should be in place for providing telehealth services to Maine residents?		
Authorize licensed health care providers in the State to provide services through the use of telehealth (including audio-only) to deliver those services as long as those services are within the provider's scope of practice (LD 649, LD 1007, LD 1194, LD 1681)	As drafted, provision would telehealth services to be provided by licensed providers as long as the licensee is acting within scope of practice of licensee's license –same standard as delivery of in-person services	
Require health care professional licensing boards to adopt rules governing telehealth services, including the establishment of standards of practice and appropriate restrictions for the various forms and types of telehealth services (LD 1681)	- As drafted, provisions would allow each licensing board to develop own standards for use of telehealth - Consider potential differences in definition of “telehealth” here and definitions in Title 22 and Title 24-A? - Consider whether licensing board rules should be consistent? Establish minimum consistent standards for each board? - As drafted, adoption of rules is mandatory but no specific timeline or requirement that rules must be in place before telehealth services may be provided - Consider potential for state of emergency to be lifted before any provisions that are enacted are effective? Add emergency? Or specific application provision? - Consider that rules are routine technical? Require legislative approval through major substantive rule process? Require specific reporting on results of rulemaking?	
Require the Board of Medicine to permit an out-of-state physician to be registered to provide telehealth services to a patient in the State, reduces the fee from \$500 to \$300 and makes discretionary the requirement that the board obtain confirmation of licensure of the out-of-state provider from all states and that the board request notice of future adverse action taken against the physician's license in any jurisdiction (LD 649)	- Under current law, out-of-state physicians may register to provide consultative services in the State through interstate medicine and the board may register a physician to do so subject to certain conditions, including providing the consultative services only as requested by a physician, physician assistant, advanced practice registered nurse and the ultimate authority for the diagnosis, care and treatment of the patient remains with the in-state provider - Current law requires the board to obtain licensing information from	

Outline of Questions and Proposed Changes in Telehealth Bills Being Considered by HCIFS Committee

Questions/Proposed changes	Comments	Committee Decision/Vote
	other states, including notice of any adverse actions taken against a physician's license in another state Concerns raised by licensing board in opposition	
Authorize allopathic and osteopathic physicians licensed in good standing in another state to engage in consultation through telehealth with licensed physicians in Maine and repeals registration requirement for allopathic physicians (LD 1361)	- Removes discretionary authority of board in current law and removes conditions on provision of consultative services - Concerns raised by licensing board in opposition	
#5: Can licensed health care providers in Maine provide telehealth services to Maine residents located outside of the State? To out-of-state residents? Under what parameters?		
Authorize nurses, physician assistants and physicians to provide telehealth services to residents of this State (LD 1194)	- As drafted, provision would allow services to be provided through telehealth to Maine residents located out of State for travel purposes or otherwise without restriction - Consider approach taken in LD 1681 to authorize each licensing board to address standards for telehealth services?	
Authorize Maine to join the Psychology Interjurisdictional Compact, an interstate compact designed to facilitate the practice of telepsychology and the temporary in-person, face-to-face practice of psychology (LD 863)	- As drafted, compact would permit a psychologist licensed in a compact state (Maine) to provide telepsychology services in other compact states subject to the scope of practice and licensing requirements of the state where the patient is receiving those services - As drafted, compact would also permit a psychologist licensed in a compact state to provide temporary in-person services for up to 30-days in another compact state - Consider impact on authority of licensing board here in Maine? As member of compact, state agrees to follow compact rules and requirements - Concerns raise about potential inconsistency between rules of compact and state law?	

Outline of Questions and Proposed Changes in Telehealth Bills Being Considered by HCIFS Committee

Questions/Proposed changes	Comments	Committee Decision/Vote
	• Compact has just recently been authorized in April 2019 upon adoption by 7th state and rules for implementation are being developed • What costs to Maine to participate in compact? Licensing board testimony indicated increase in fees may be warranted	
#6: Are there barriers to licensing of out-of-state health care providers or retired Maine providers that should be removed?		
Require the immediate issuance of a license in Maine to nurses, physician assistants and physicians licensed in good standing in another state who has not been subject to disciplinary action in the last 10 years involving loss of license, probation or practice restriction or limitation (LD 1194)	• As drafted, provision would allow the provision of services within the provider's scope of practice in-person or across state lines through telehealth • Intended to make permanent provisions of Governor's executive order issued during current public health emergency--the executive order is currently in place until rescinded or until the Governor terminates the state of emergency, whichever occurs first • Concerns raised by licensing board in opposition	
Require the immediate issuance of a license in Maine to retired nurses, physician assistants and physicians who retired in good standing in this State within 2 years and who has not been subject to disciplinary action in the last 10 years involving loss of license, probation or practice restriction or limitation (LD 1194)	• Intended to make permanent provisions of Governor's executive order issued during current public health emergency-- the executive order is currently in place until rescinded or until the Governor terminates the state of emergency, whichever occurs first • Concerns raised by licensing boards in opposition	