

CHAPTER 310

AN ACT concerning telemedicine and telehealth, amending P.L.2017, c.117, repealing P.L.2020, c.3 and P.L.2020, c.7, and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 8 of P.L.2017, c.117 (C.26:2S-29) is amended to read as follows:

C.26:2S-29 Carrier offering a health benefits plan to provide coverage, payment.

8. a. A carrier that offers a health benefits plan in this State shall provide coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered under the plan when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A carrier may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation. In no case shall a carrier:

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth, except to ensure that the services provided using telemedicine and telehealth meet the same standard of care as would be provided if the services were provided in person;

(2) restrict the ability of a provider to use any electronic or technological platform to provide services using telemedicine or telehealth, including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video capabilities, including audio-only telephone conversations, to provide services using telemedicine or telehealth, provided that the platform used:

(a) allows the provider to meet the same standard of care as would be provided if the services were provided in person; and

(b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164;

(3) deny coverage for or refuse to provide reimbursement for routine patient monitoring performed using telemedicine and telehealth, including remote monitoring of a patient's vital signs and routine check-ins with the patient to monitor the patient's status and condition, if coverage and reimbursement would be provided if those services are provided in person, and the provider is able to meet the same standard of care as would be provided if the services were provided in person; or

(4) limit coverage only to services delivered by select third-party telemedicine or telehealth organizations.

c. Nothing in this section shall be construed to:

(1) prohibit a carrier from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow a carrier to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The Commissioner of Banking and Insurance shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Asynchronous store-and-forward" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Carrier" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Covered person" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Distant site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Health benefits plan" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Originating site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine or telehealth organization" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

2. Section 7 of P.L.2017, c.117 (C.30:4D-6k) is amended to read as follows:

C.30:4D-6k State Medicaid, NJ FamilyCare programs to provide coverage, payment.

7. a. The State Medicaid and NJ FamilyCare programs shall provide coverage and payment for health care services delivered to a benefits recipient through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. The State Medicaid and NJ FamilyCare programs may limit coverage to services that are delivered by participating health care providers, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation. In no case shall the State Medicaid and NJ FamilyCare programs:

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth, except to ensure that the services provided using telemedicine and telehealth meet the same standard of care as would be provided if the services were provided in person;

(2) restrict the ability of a provider to use any electronic or technological platform to provide services using telemedicine or telehealth, including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video capabilities, including audio-only telephone conversations, to provide services using telemedicine or telehealth, provided that the platform used:

(a) allows the provider to meet the same standard of care as would be provided if the services were provided in person; and

(b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164;

(3) deny coverage for or refuse to provide reimbursement for routine patient monitoring performed using telemedicine and telehealth, including remote monitoring of a patient's vital signs and routine check-ins with the patient to monitor the patient's status and condition, if coverage and reimbursement would be provided if those services are provided in person, and the provider is able to meet the same standard of care as would be provided if the services were provided in person; or

(4) limit coverage only to services delivered by select third-party telemedicine or telehealth organizations.

c. Nothing in this section shall be construed to:

(1) prohibit the State Medicaid or NJ FamilyCare programs from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the recipient's benefits plan; or

(2) allow the State Medicaid or NJ FamilyCare programs to require a benefits recipient to use telemedicine or telehealth in lieu of obtaining an in-person service from a participating health care provider.

d. The Commissioner of Human Services, in consultation with the Commissioner of Children and Families, shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this section and to secure federal financial participation for State expenditures under the federal Medicaid program and Children's Health Insurance Program.

e. As used in this section:

"Asynchronous store-and-forward" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Benefits recipient" or "recipient" means a person who is eligible for, and who is receiving, hospital or medical benefits under the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), or under the NJ FamilyCare program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), as appropriate.

"Distant site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Originating site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Participating health care provider" means a licensed or certified health care provider who is registered to provide health care services to benefits recipients under the State Medicaid or NJ FamilyCare programs, as appropriate.

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine or telehealth organization" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

3. Section 1 of P.L.2017, c.117 (C.45:1-61) is amended to read as follows:

C.45:1-61 Definitions relative to telemedicine and telehealth.

1. As used in P.L.2017, c.117 (C.45:1-61 et al.):

"Asynchronous store-and-forward" means the acquisition and transmission of images, diagnostics, data, and medical information either to, or from, an originating site or to, or from, the health care provider at a distant site, which allows for the patient to be evaluated without being physically present.

"Cross-coverage service provider" means a health care provider, acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes, who engages in a remote medical evaluation of a patient, without in-person contact, at the request of another health care provider who has established a proper provider-patient relationship with the patient.

"Distant site" means a site at which a health care provider, acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes, is located while providing health care services by means of telemedicine or telehealth.

"Health care provider" means an individual who provides a health care service to a patient, and includes, but is not limited to, a licensed physician, nurse, nurse practitioner, psychologist, psychiatrist, psychoanalyst, clinical social worker, physician assistant, professional counselor, respiratory therapist, speech pathologist, audiologist, optometrist, or any other health care professional acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes.

"On-call provider" means a licensed or certified health care provider who is available, where necessary, to physically attend to the urgent and follow-up needs of a patient for whom the provider has temporarily assumed responsibility, as designated by the patient's primary care provider or other health care provider of record.

"Originating site" means a site at which a patient is located at the time that health care services are provided to the patient by means of telemedicine or telehealth.

"Telehealth" means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

"Telemedicine" means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care provider who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening health care provider, and in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.). "Telemedicine" does not include the use, in isolation, of electronic mail, instant messaging, phone text, or facsimile transmission.

"Telemedicine or telehealth organization" means a corporation, sole proprietorship, partnership, or limited liability company that is organized for the primary purpose of administering services in the furtherance of telemedicine or telehealth.

4. Section 2 of P.L.2017, c.117 (C.45:1-62) is amended to read as follows:

C.45:1-62 Provision of health care through use of telemedicine, telehealth; requirements for provider.

2. a. Unless specifically prohibited or limited by federal or State law, a health care provider who establishes a proper provider-patient relationship with a patient may remotely provide

health care services to a patient through the use of telemedicine. A health care provider may also engage in telehealth as may be necessary to support and facilitate the provision of health care services to patients. Nothing in P.L.2017, c.117 (C.45:1-61 et al.) shall be construed to allow a provider to require a patient to use telemedicine or telehealth in lieu of receiving services from an in-network provider.

b. Any health care provider who uses telemedicine or engages in telehealth while providing health care services to a patient, shall: (1) be validly licensed, certified, or registered, pursuant to Title 45 of the Revised Statutes, to provide such services in the State of New Jersey; (2) remain subject to regulation by the appropriate New Jersey State licensing board or other New Jersey State professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction.

c. (1) Telemedicine services may be provided using interactive, real-time, two-way communication technologies or, subject to the requirements of paragraph (2) of this paragraph, asynchronous store-and-forward technology.

(2) A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to provide services with or without the use of interactive, real-time, two-way audio if, after accessing and reviewing the patient's medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person and informs the patient of this determination at the outset of the telemedicine or telehealth encounter.

(3) (a) At the time the patient requests health care services to be provided using telemedicine or telehealth, the patient shall be clearly advised that the telemedicine or telehealth encounter may be with a health care provider who is not a physician, and that the patient may specifically request that the telemedicine or telehealth encounter be scheduled with a physician. If the patient requests that the telemedicine or telehealth encounter be with a physician, the encounter shall be scheduled with a physician.

(b) The identity, professional credentials, and contact information of a health care provider providing telemedicine or telehealth services shall be made available to the patient at the time the patient schedules services to be provided using telemedicine or telehealth, if available, or upon confirmation of the scheduled telemedicine or telehealth encounter, and shall be made available to the patient during and after the provision of services. The contact information shall enable the patient to contact the health care provider, or a substitute health care provider authorized to act on behalf of the provider who provided services, for at least 72 hours following the provision of services. If the health care provider is not a physician, and the patient requests that the services be provided by a physician, the health care provider shall assist the patient with scheduling a telemedicine or telehealth encounter with a physician.

(4) A health care provider engaging in telemedicine or telehealth shall review the medical history and any medical records provided by the patient. For an initial encounter with the patient, the provider shall review the patient's medical history and medical records prior to initiating contact with the patient, as required pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017, c.117 (C.45:1-63). In the case of a subsequent telemedicine or telehealth encounter conducted pursuant to an ongoing provider-patient relationship, the provider may review the information prior to initiating contact with the patient or contemporaneously with the telemedicine or telehealth encounter.

(5) Following the provision of services using telemedicine or telehealth, the patient's medical information shall be entered into the patient's medical record, whether the medical record is a physical record, an electronic health record, or both, and, if so requested to by the patient, forwarded directly to the patient's primary care provider, health care provider of record

or any other health care providers as may be specified by the patient. For patients without a primary care provider or other health care provider of record, the health care provider engaging in telemedicine or telehealth may advise the patient to contact a primary care provider, and, upon request by the patient, shall assist the patient with locating a primary care provider or other in-person medical assistance that, to the extent possible, is located within reasonable proximity to the patient. The health care provider engaging in telemedicine or telehealth shall also refer the patient to appropriate follow up care where necessary, including making appropriate referrals for in-person care or emergency or complementary care, if needed. Consent may be oral, written, or digital in nature, provided that the chosen method of consent is deemed appropriate under the standard of care.

d. (1) Any health care provider providing health care services using telemedicine or telehealth shall be subject to the same standard of care or practice standards as are applicable to in-person settings. If telemedicine or telehealth services would not be consistent with this standard of care, the health care provider shall direct the patient to seek in-person care.

(2) Diagnosis, treatment, and consultation recommendations, including discussions regarding the risk and benefits of the patient's treatment options, which are made through the use of telemedicine or telehealth, including the issuance of a prescription based on a telemedicine or telehealth encounter, shall be held to the same standard of care or practice standards as are applicable to in-person settings. Unless the provider has established a proper provider-patient relationship with the patient, a provider shall not issue a prescription to a patient based solely on the responses provided in an online static questionnaire.

(3) In the event that a mental health screener, screening service, or screening psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.) determines that an in-person psychiatric evaluation is necessary to meet standard of care requirements, or in the event that a patient requests an in-person psychiatric evaluation in lieu of a psychiatric evaluation performed using telemedicine or telehealth, the mental health screener, screening service, or screening psychiatrist may nevertheless perform a psychiatric evaluation using telemedicine and telehealth if it is determined that the patient cannot be scheduled for an in-person psychiatric evaluation within the next 24 hours. Nothing in this paragraph shall be construed to prevent a patient who receives a psychiatric evaluation using telemedicine and telehealth as provided in this paragraph from receiving a subsequent, in-person psychiatric evaluation in connection with the same treatment event, provided that the subsequent in-person psychiatric evaluation is necessary to meet standard of care requirements for that patient.

e. The prescription of Schedule II controlled dangerous substances through the use of telemedicine or telehealth shall be authorized only after an initial in-person examination of the patient, as provided by regulation, and a subsequent in-person visit with the patient shall be required every three months for the duration of time that the patient is being prescribed the Schedule II controlled dangerous substance. However, the provisions of this subsection shall not apply, and the in-person examination or review of a patient shall not be required, when a health care provider is prescribing a stimulant which is a Schedule II controlled dangerous substance for use by a minor patient under the age of 18, provided that the health care provider is using interactive, real-time, two-way audio and video technologies when treating the patient and the health care provider has first obtained written consent for the waiver of these in-person examination requirements from the minor patient's parent or guardian.

f. A mental health screener, screening service, or screening psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.):

(1) shall not be required to obtain a separate authorization in order to engage in telemedicine or telehealth for mental health screening purposes; and

(2) shall not be required to request and obtain a waiver from existing regulations, prior to engaging in telemedicine or telehealth.

g. A health care provider who engages in telemedicine or telehealth, as authorized by P.L.2017, c.117 (C.45:1-61 et al.), shall maintain a complete record of the patient's care, and shall comply with all applicable State and federal statutes and regulations for recordkeeping, confidentiality, and disclosure of the patient's medical record.

h. A health care provider shall not be subject to any professional disciplinary action under Title 45 of the Revised Statutes solely on the basis that the provider engaged in telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-61 et al.).

i. (1) In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the State boards or other entities that, pursuant to Title 45 of the Revised Statutes, are responsible for the licensure, certification, or registration of health care providers in the State, shall each adopt rules and regulations that are applicable to the health care providers under their respective jurisdictions, as may be necessary to implement the provisions of this section and facilitate the provision of telemedicine and telehealth services. Such rules and regulations shall, at a minimum:

(a) include best practices for the professional engagement in telemedicine and telehealth;

(b) ensure that the services patients receive using telemedicine or telehealth are appropriate, medically necessary, and meet current quality of care standards;

(c) include measures to prevent fraud and abuse in connection with the use of telemedicine and telehealth, including requirements concerning the filing of claims and maintaining appropriate records of services provided; and

(d) provide substantially similar metrics for evaluating quality of care and patient outcomes in connection with services provided using telemedicine and telehealth as currently apply to services provided in person.

(2) In no case shall the rules and regulations adopted pursuant to paragraph (1) of this subsection require a provider to conduct an initial in-person visit with the patient as a condition of providing services using telemedicine or telehealth.

(3) The failure of any licensing board to adopt rules and regulations pursuant to this subsection shall not have the effect of delaying the implementation of this act, and shall not prevent health care providers from engaging in telemedicine or telehealth in accordance with the provisions of this act and the practice act applicable to the provider's professional licensure, certification, or registration.

5. Section 9 of P.L.2017, c.117 (C.52:14-17.29w) is amended to read as follows:

C.52:14-17.29w State Health Benefits Commission to provide coverage, payment.

9. a. The State Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered under the contract when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A health benefits contract purchased by the State Health Benefits Commission may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation. In no case shall a health benefits contract purchased by the State Health Benefits Commission:

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth, except to ensure that the services provided using telemedicine and telehealth meet the same standard of care as would be provided if the services were provided in person;

(2) restrict the ability of a provider to use any electronic or technological platform to provide services using telemedicine or telehealth, including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video capabilities, including audio-only telephone conversations, to provide services using telemedicine or telehealth, provided that the platform used:

(a) allows the provider to meet the same standard of care as would be provided if the services were provided in person; and

(b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164;

(3) deny coverage for or refuse to provide reimbursement for routine patient monitoring performed using telemedicine and telehealth, including remote monitoring of a patient's vital signs and routine check-ins with the patient to monitor the patient's status and condition, if coverage and reimbursement would be provided if those services are provided in person, and the provider is able to meet the same standard of care as would be provided if the services were provided in person; or

(4) limit coverage only to services delivered by select third-party telemedicine or telehealth organizations.

c. Nothing in this section shall be construed to:

(1) prohibit a health benefits contract from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow the State Health Benefits Commission, or a contract purchased thereby, to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The State Health Benefits Commission shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Asynchronous store-and-forward" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Distant site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Originating site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine or telehealth organization" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

6. Section 10 of P.L.2017, c.117 (C.52:14-17.46.6h) is amended to read as follows:

C.52:14-17.46.6h School Employees Health Benefits Commission to provide coverage, payment.

10. a. The School Employees' Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered under the contract when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A health benefits contract purchased by the School Employees' Health Benefits Commission may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation. In no case shall a health benefits contract purchased by the School Employees' Health Benefits Commission:

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth, except to ensure that the services provided using telemedicine and telehealth meet the same standard of care as would be provided if the services were provided in person;

(2) restrict the ability of a provider to use any electronic or technological platform to provide services using telemedicine or telehealth, including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video capabilities, including audio-only telephone conversations, to provide services using telemedicine or telehealth, provided that the platform used:

(a) allows the provider to meet the same standard of care as would be provided if the services were provided in person; and

(b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164;

(3) deny coverage for or refuse to provide reimbursement for routine patient monitoring performed using telemedicine and telehealth, including remote monitoring of a patient's vital signs and routine check-ins with the patient to monitor the patient's status and condition, if coverage and reimbursement would be provided if those services are provided in person, and the provider is able to meet the same standard of care as would be provided if the services were provided in person; or

(4) limit coverage only to services delivered by select third-party telemedicine or telehealth organizations.

c. Nothing in this section shall be construed to:

(1) prohibit a health benefits contract from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow the School Employees' Health Benefits Commission, or a contract purchased thereby, to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The School Employees' Health Benefits Commission shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Asynchronous store-and-forward" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Distant site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Originating site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine or telehealth organization" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

7. a. A carrier that offers a health benefits plan in this State shall provide coverage, without the imposition of any cost sharing requirements, including deductibles, copayments, or coinsurance, prior authorization requirements, or other medical management requirements, for the following items and services furnished during any portion of the federal state of emergency declared in response to the coronavirus disease 2019 (COVID-19) pandemic:

(1) testing for COVID-19, provided that a health care practitioner has issued a medical order for the testing; and

(2) items and services furnished or provided to an individual during health care provider office visits, including in-person visits and telemedicine and telehealth encounters, urgency care center visits, and emergency department visits, that result in an order for administration of a test for COVID-19, but only to the extent that the items and services relate to the furnishing or administration of the test for COVID-19 or to the evaluation of the individual for purposes of determining the need of the individual for that test.

b. As used in this section, "carrier," means an insurance company, health service corporation, hospital service corporation, medical service corporation, or health maintenance organization authorized to issue health benefits plans in this State, and shall include the State Health Benefits Program and the School Employees' Health Benefits Program.

8. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

9. a. The Commissioner of Health shall conduct a study to assess whether or to what extent coverage and payment for health care services delivered to a covered person through telemedicine or telehealth should be reimbursed at a provider reimbursement rate that equals the provider reimbursement rate that is applicable, when the services are delivered through in-

person contact and consultation in New Jersey, as well as to assess whether telemedicine and telehealth may be appropriately used to satisfy network adequacy requirements applicable to health benefits plans in New Jersey. In conducting the study, the commissioner shall consider the effect of the availability and provision of health care services delivered through telemedicine or telehealth upon utilization, access to care, patient outcomes, and patient satisfaction; whether the delivery of services through telemedicine or telehealth affects the standard, quality, or cost of care; whether different or more stringent utilization management requirements should be adopted for coverage and payment for health care services delivered through telehealth or telemedicine; how the incentivization of the provision of telehealth and telemedicine services impacts underserved populations; and any consideration the commissioner deems relevant. As part of the study, the commissioner may also consider the adoption and impact of reimbursement requirements for telehealth and telemedicine in other jurisdictions. Nothing herein shall preclude the commissioner, in the commissioner's discretion, from engaging, contracting, or entering into an agreement with one or more third-party vendors to conduct all or part of the study required by the subsection. Such vendor may consider or analyze any additional factors or information the vendor deems relevant to the study, as approved by the commissioner. The commissioner or such vendor shall consult with the Commissioner of Banking and Insurance, the State Treasurer, and the Commissioner of Human Services in conducting the study.

b. The commissioner shall prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, no later than the first day of the eighteenth month next following the effective date of P.L.2021, c.310 outlining the commissioner's findings and any recommendations for legislation, administrative action, or other actions as the commissioner deems appropriate. Such recommendations shall not on their own be binding on any health benefits plan in New Jersey, State Medicaid and NJ FamilyCare, the State Health Benefits Plan, or the School Employees' Health benefits Plan. Nothing herein shall preclude the commissioner, in the commissioner's discretion, from engaging, contracting, or entering into an agreement with one or more third-party vendors to prepare the report required by this subsection.

c. There is appropriated from the General Fund to the Department of Health the sum of \$500,000 to effectuate the provisions of this section.

Repealer.

10. P.L.2020, c.3 and P.L.2020, c.7 are repealed.

11. a. For the period beginning on the effective date of P.L.2021, c.310 and ending on December 31, 2023, a health benefits plan in this State shall provide coverage and payment for health care services delivered to a covered person through telemedicine or telehealth at a provider reimbursement rate that equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered by the health benefits plan when delivered through in-person contact and consultation in New Jersey. The requirements of this subsection shall not apply to:

(1) a health care service provided by a telemedicine or telehealth organization that does not provide the health care service on an in-person basis in New Jersey; or

(2) a physical health care service that was provided through real-time, two-way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology, including through audio-only telephone conversation. The reimbursement rate for a physical health care service that is subject to this paragraph shall be

determined under the contract with the provider; provided that the reimbursement rate for a physical health care service when provided through audio-only telephone conversation shall be at least 50 percent of the reimbursement rate for the service when provided in person.

(3) The provisions of paragraph (2) of this subsection shall not apply to a behavioral health service that was provided through real-time, two-way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology, including audio-only telephone conversation. A behavioral health care service described in this paragraph shall be reimbursed at a rate that equals the provider reimbursement rate for the service when provided in person.

b. For the purposes of this section:

“Carrier” means an insurance company, health service corporation, hospital service corporation, medical service corporation, or health maintenance organization authorized to issue health benefits plans in this State.

“Covered person” means the same as that term is defined in section 2 of P.L.1997, c.192 (C.26:2S-2); a “benefits recipient” as that term is defined under section 7 of P.L.2017, c.117 (C.30:4D-6k); and a person covered under a contract purchased by the State Health Benefits Commission or the School Employees’ Health Benefits Commission.

“Health benefits plan” means a benefits plan which pays hospital or medical expense benefits for covered services, and is delivered or issued for delivery in this State by or through a carrier or a contract purchased by the State Health Benefits Commission or the School Employees’ Health Benefits Commission. The term shall include the State Medicaid program established pursuant to P.L.1968, c.410 (C.30:4D-1 et seq.) and the NJ FamilyCare program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.).

12. This act shall take effect immediately and shall apply to all health benefits plans or contracts issued or renewed on or after that date. Section 7 of this act shall expire upon the end of the federal state of emergency declared in response to the coronavirus disease 2019 pandemic.

Approved December 21, 2021.