

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 230
98TH GENERAL ASSEMBLY

Reported from the Committee on Veterans' Affairs and Health, March 17, 2015, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 230, adopted March 31, 2015.

Taken up for Perfection March 31, 2015. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

0497S.02P

AN ACT

To repeal section 208.670, RSMo, and to enact in lieu thereof six new sections relating to telehealth services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 208.670, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 208.670, 208.671, 208.673, 208.675, 208.677, and 208.686, to read as follows:

208.670. 1. As used in this section, these terms shall have the following meaning:

(1) "Provider", any provider of medical services and mental health services, including all other medical disciplines;

(2) "Telehealth", the use of medical information exchanged from one site to another via electronic communications to improve the health status of a patient.

2. The department of social services, in consultation with the departments of mental health and health and senior services, shall promulgate rules governing the practice of telehealth in the MO HealthNet program. Such rules shall address, but not be limited to, appropriate standards for the use of telehealth, certification of agencies offering telehealth, and payment for services by providers. Telehealth providers shall be required to obtain patient consent before telehealth services are initiated and to ensure confidentiality of medical information.

3. Telehealth may be utilized to service individuals who are qualified as MO HealthNet participants under Missouri law. Reimbursement for such

18 services shall be made in the same way as reimbursement for in-person contacts.

19 **4. The provisions of section 208.671 shall apply to the use of**
20 **asynchronous store-and-forward technology in the practice of**
21 **telehealth.**

208.671. 1. As used in this section and section 208.673, the
2 **following terms shall mean:**

3 **(1) "Asynchronous store-and-forward", the transfer of a patient's**
4 **clinically important digital samples, such as still images, videos, audio,**
5 **and text files, and relevant data from an originating site through the**
6 **use of a camera or similar recording device that stores digital samples**
7 **that are forwarded via telecommunication to a distant site for**
8 **consultation by a consulting provider without requiring the**
9 **simultaneous presence of the patient and the patient's treating**
10 **provider;**

11 **(2) "Asynchronous store-and-forward technology", cameras or**
12 **other recording devices that store images which may be forwarded via**
13 **telecommunication devices at a later time;**

14 **(3) "Consultation", a type of evaluation and management service**
15 **as defined by the most recent edition of the Current Procedural**
16 **Terminology published annually by the American Medical Association;**

17 **(4) "Consulting provider", a provider who, upon referral by the**
18 **treating provider, evaluates a patient and appropriate medical data or**
19 **images delivered through asynchronous store-and-forward technology.**
20 **If a consulting provider is unable to render an opinion due to**
21 **insufficient information, the consulting provider may request**
22 **additional information to facilitate the rendering of an opinion or**
23 **decline to render an opinion;**

24 **(5) "Distant site", a site where the consulting provider is located**
25 **at the time the consultation service is provided;**

26 **(6) "Originating site", the site where a MO HealthNet participant**
27 **receiving services and such participant's treating provider are both**
28 **physically located;**

29 **(7) "Provider", any provider of medical services or mental health**
30 **services, including all other medical disciplines, licensed in this state**
31 **who has the authority to refer patients for medical services or mental**
32 **health services or dental health services within the scope of practice**
33 **and licensure of the provider;**

34 (8) "Telehealth", the same meaning as such term is defined in
35 section 208.670. Telehealth shall include the use of asynchronous store-
36 and-forward technology for orthopedics, dermatology, ophthalmology
37 in cases of diabetic retinopathy, burn and wound care, and maternal-
38 fetal medicine ultrasounds;

39 (9) "Treating provider", a provider who:

40 (a) Evaluates a patient;

41 (b) Determines the need for a consultation;

42 (c) Arranges the services of a consulting provider for the
43 purpose of diagnosis and treatment;

44 (d) Provides or supplements the patient's history and provides
45 pertinent physical examination findings and medical information to the
46 consulting provider; and

47 (e) Is physically present in the same location as the patient
48 during the time of the asynchronous store-and-forward services.

49 2. The department of social services, in consultation with the
50 departments of mental health and health and senior services, shall
51 promulgate rules governing the use of asynchronous store-and-forward
52 technology in the practice of telehealth in the MO HealthNet
53 program. Such rules shall address, but not be limited to:

54 (1) Appropriate standards for the use of asynchronous store-and-
55 forward technology in the practice of telehealth;

56 (2) Certification of agencies offering asynchronous store-and-
57 forward technology in the practice of telehealth;

58 (3) Time lines for completion and communication of a consulting
59 provider's consultation or opinion, or if the consulting provider is
60 unable to render an opinion, time lines for communicating a request for
61 additional information or that the consulting provider declines to
62 render an opinion;

63 (4) Length of time digital files of such asynchronous store-and-
64 forward services are to be maintained;

65 (5) Security and privacy of such digital files;

66 (6) Patient consent for asynchronous store-and-forward services;
67 and

68 (7) Payment for services by providers; except that, consulting
69 providers who decline to render an opinion shall not receive payment
70 under this section unless and until an opinion is rendered.

71 Telehealth providers using asynchronous store-and-forward technology
72 shall be required to obtain patient consent before asynchronous store-
73 and-forward services are initiated and to ensure confidentiality of
74 medical information.

75 3. Asynchronous store-and-forward technology in the practice of
76 telehealth may be utilized to service individuals who are qualified as
77 MO HealthNet participants under Missouri law. Reimbursement for
78 such asynchronous store-and-forward services shall be made so that the
79 total payment for the consultation shall be divided between the
80 treating provider and the consulting provider. The total payment for
81 both the treating provider and the consulting provider shall not exceed
82 the payment for a face-to-face consultation of the same level.

83 4. The standard of care for the use of asynchronous store-and-
84 forward technology in the practice of telehealth shall be the same as
85 the standard of care for face-to-face care.

208.673. 1. There is hereby established the "Telehealth Services
2 Advisory Committee" to advise the department of social services and
3 propose rules regarding the coverage of telehealth services utilizing
4 asynchronous store-and-forward technology.

5 2. The committee shall be comprised of the following members:

6 (1) The director of the MO HealthNet division, or the director's
7 designee;

8 (2) The medical director of the MO HealthNet division;

9 (3) A representative from a Missouri institution of higher
10 education with expertise in telemedicine;

11 (4) A representative from the Missouri office of primary care and
12 rural health;

13 (5) Two board-certified specialists licensed to practice medicine
14 in this state;

15 (6) A representative from a hospital located in this state that
16 utilizes telehealth medicine;

17 (7) A primary care provider from a federally qualified health
18 center (FQHC) or rural health clinic; and

19 (8) A primary care provider from a rural setting other than from
20 an FQHC or rural health clinic.

21 3. Members of the committee listed in subdivisions (3) to (8) of
22 subsection 2 of this section shall be appointed by the governor, with the

23 advice and consent of the senate. The first appointments to the
24 committee shall consist of three members to serve three-year terms, two
25 members to serve two-year terms, and two members to serve one-year
26 terms as designated by the governor. Each member of the committee
27 shall serve for a term of three years thereafter.

28 4. Members of the committee shall not receive any compensation
29 for their services but shall be reimbursed for any actual and necessary
30 expenses incurred in the performance of their duties.

31 5. Any member appointed by the governor may be removed from
32 office by the governor without cause. If there is a vacancy for any
33 cause, the governor shall make an appointment to become effective
34 immediately for the unexpired term.

35 6. Any rule or portion of a rule, as that term is defined in section
36 536.010, that is created under the authority delegated in this section
37 shall become effective only if it complies with and is subject to all of
38 the provisions of chapter 536 and, if applicable, section 536.028. This
39 section and chapter 536 are nonseverable and if any of the powers
40 vested with the general assembly pursuant to chapter 536 to review, to
41 delay the effective date, or to disapprove and annul a rule are
42 subsequently held unconstitutional, then the grant of rulemaking
43 authority and any rule proposed or adopted after August 28, 2015, shall
44 be invalid and void.

208.675. For purposes of the provision of telehealth services, the
2 following individuals, licensed in Missouri, shall be considered eligible
3 health care providers:

- 4 (1) Physicians, assistant physicians, and physician assistants;
- 5 (2) Advanced registered nurse practitioners;
- 6 (3) Dentists, oral surgeons, and dental hygienists under the
7 supervision of a currently registered and licensed dentist;
- 8 (4) Psychologists and provisionally licensed psychologists;
- 9 (5) Pharmacists;
- 10 (6) Speech, occupational, or physical therapists;
- 11 (7) Clinical social workers;
- 12 (8) Podiatrists;
- 13 (9) Licensed professional counselors; and
- 14 (10) Eligible health care providers under subdivisions (1) to (9)
15 of this section practicing in a rural health clinic or federally qualified

16 health center or community mental health center.

208.677. For purposes of the provision of telehealth services, the
2 term "originating site" shall mean a telehealth site where the MO
3 HealthNet participant receiving the telehealth service is located for the
4 encounter, and the term "clinical staff" shall mean any health care
5 provider licensed in this state. The originating site shall ensure
6 immediate availability of clinical staff during a telehealth encounter if
7 a participant requires assistance. No originating site for services or
8 activities provided under section 208.686 shall be required to maintain
9 immediate availability of on-site clinical staff during the telemonitoring
10 services or activities. An originating site shall be one of the following
11 locations:

- 12 (1) Office of a physician or health care provider;
- 13 (2) Hospital;
- 14 (3) Critical access hospital;
- 15 (4) Rural health clinic;
- 16 (5) Federally qualified health center;
- 17 (6) Long-term care facility licensed under chapter 198;
- 18 (7) Dialysis center;
- 19 (8) Missouri state habilitation center or regional office;
- 20 (9) Community mental health center;
- 21 (10) Missouri state mental health facility;
- 22 (11) Missouri state facility;
- 23 (12) Missouri residential treatment facility licensed by and under
24 contract with the children's division that has a contract with the
25 children's division. Facilities shall have multiple campuses and have
26 the ability to adhere to technology requirements. Only Missouri
27 licensed psychiatrists, licensed psychologists, or provisionally licensed
28 psychologists, and advanced registered nurse practitioners who are
29 enrolled MO HealthNet providers shall be consulting providers at these
30 locations;
- 31 (13) Comprehensive substance treatment and rehabilitation
32 (CSTAR) program;
- 33 (14) School;
- 34 (15) The MO HealthNet recipient's home; and
- 35 (16) Clinical designated area in a pharmacy.

208.686. 1. Subject to appropriations, the department shall

2 establish a statewide program that permits reimbursement under the
3 MO HealthNet program for home telemonitoring services. For the
4 purposes of this section, “home telemonitoring service” shall mean a
5 health care service that requires scheduled remote monitoring of data
6 related to a patient’s health and transmission of the data to a
7 Utilization Review Accreditation Commission (URAC) accredited health
8 call center.

9 **2. The program shall:**

10 **(1) Provide that home telemonitoring services are available only**
11 **to persons who:**

12 **(a) Are diagnosed with one or more of the following conditions:**

13 **a. Pregnancy;**

14 **b. Diabetes;**

15 **c. Heart disease;**

16 **d. Cancer;**

17 **e. Chronic obstructive pulmonary disease;**

18 **f. Hypertension;**

19 **g. Congestive heart failure;**

20 **h. Mental illness or serious emotional disturbance;**

21 **i. Asthma;**

22 **j. Myocardial infarction; or**

23 **k. Stroke; and**

24 **(b) Exhibit two or more of the following risk factors:**

25 **a. Two or more hospitalizations in the prior twelve-month**
26 **period;**

27 **b. Frequent or recurrent emergency department admissions;**

28 **c. A documented history of poor adherence to ordered**
29 **medication regimens;**

30 **d. A documented history of falls in the prior six-month period;**

31 **e. Limited or absent informal support systems;**

32 **f. Living alone or being home alone for extended periods of time;**

33 **or**

34 **g. A documented history of care access challenges;**

35 **(2) Ensure that clinical information gathered by a home health**
36 **agency or hospital while providing home telemonitoring services is**
37 **shared with the patient’s physician; and**

38 **(3) Ensure that the program does not duplicate any disease**

39 management program services provided by MO HealthNet.

40 3. If, after implementation, the department determines that the
41 program established under this section is not cost effective, the
42 department may discontinue the program and stop providing
43 reimbursement under the MO HealthNet program for home
44 telemonitoring services.

45 4. The department shall determine whether the provision of
46 home telemonitoring services to persons who are eligible to receive
47 benefits under both the MO HealthNet and Medicare programs achieves
48 cost savings for the Medicare program.

49 5. If, before implementing any provision of this section, the
50 department determines that a waiver or authorization from a federal
51 agency is necessary for implementation of that provision, the
52 department shall request the waiver or authorization and may delay
53 implementing that provision until the waiver or authorization is
54 granted.

55 6. The department shall promulgate rules and regulations to
56 implement the provisions of this section. Any rule or portion of a rule,
57 as that term is defined in section 536.010, that is created under the
58 authority delegated in this section shall become effective only if it
59 complies with and is subject to all of the provisions of chapter 536 and,
60 if applicable, section 536.028. This section and chapter 536 are
61 nonseverable, and if any of the powers vested with the general
62 assembly pursuant to chapter 536 to review, to delay the effective date,
63 or to disapprove and annul a rule are subsequently held
64 unconstitutional, then the grant of rulemaking authority and any rule
65 proposed or adopted after August 28, 2015, shall be invalid and void.

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