

Vermont Department of Financial Regulation

Telemedicine Provided Outside A Health Facility: Should Health Insurance Coverage Be Required?

Report submitted to:
House Committee on Health Care,
Senate Committee on Health and Welfare,
Senate Committee on Finance
March 6, 2013

Commissioner, Susan L. Donegan
Deputy Commissioner of Banking and Securities, Thomas J. Candon
Deputy Commissioner of Captive Insurance, David Provost
Deputy Commissioner of HealthCare Administration, David Reynolds

TELEMEDICINE PROVIDED OUTSIDE A HEALTH FACILITY: SHOULD HEALTH INSURANCE COVERAGE BE REQUIRED?

Background

In 2012, the Vermont legislature passed Act 107 requiring all health insurance plans, both private and public, to provide coverage and reimbursement “. . . for telemedicine services delivered to a patient in a health facility to the same extent that the services would be covered if they were provided through in-person consultation.” Section 6 of the Act also directed the Commissioner of the Department of Financial Regulation to form a workgroup “. . . to consider whether and to what extent Vermont should require health insurance coverage of services delivered to a patient by telemedicine outside a health care facility.” The Commissioner was asked to report the workgroup’s recommendations to the House Committee on Health Care and the Senate Committees on Health & Welfare and on Finance.

The Commissioner formed a workgroup that included 25 members representing the Behavioral Health Network, Bi-State Primary Care Association, Blue Cross/Blue Shield, Cigna, Department of Financial Regulation (DFR) , Department of Vermont Health Access (DVHA), Fletcher Allen Health Care, Magellan Health Services, MVP Health Plan, National Council on Compensation, Planned Parenthood, Vermont Assembly of Home Health Agencies, Vermont Council of Developmental and Mental Health Services, Vermont Medical Society, VNA of Chittenden & Grand Isle Counties, Vermont Optometric Association, and Vermont Pharmacist Association. The workgroup met four times by conference call. The use of telemedicine in Vermont since the passage of Act 107 and the status of telemedicine services in other states were examined. As discussed in the recommendation section of this report, *the workgroup members were polled as to their opinion on expanding telemedicine outside of a health facility and there was no consensus on whether to do so.*

Telemedicine Use in Vermont to Date

Medicaid has allowed mental health services to be provided using telemedicine since the fall of 2011. Act 107, requiring private and public insurance coverage for telemedicine services provided in a health facility, took effect on October 1, 2012, for health plans issued or renewed on or after that date. *There has been limited use to date since few plans renew in October.* Based on reports received at the time this report was being written, only eight providers have billed for services to patients provided via telemedicine. Four have billed Medicaid; three have billed Cigna; one has billed MVP; and none have billed Blue Cross/Blue Shield. *This limited use makes it difficult to assess performance and value in terms of considering whether to expand the use of telemedicine in Vermont outside of a health facility.*

Other States Use of Telemedicine

As this report was being prepared, two bills with identical language (S.88 and H.272) were introduced in the 2013 session of the General Assembly that would “provide coverage for services delivered to a patient by telemedicine to the same extent that the services would be covered if they were provided through in-person consultation.” These bills would require insurance reimbursement for services provided from any location equipped with telemedicine capability. *No state has adopted such an expansive requirement on the use, location, and reimbursement of telemedicine.*

That said, legislation mandating private coverage for telemedicine between health facilities is clearly a growing trend. Currently, according to the American Telemedicine Association (2013 State Telemedicine Legislation Tracking), fifteen states do so, and fifteen more have proposals for doing so. Interestingly, fewer states have legislatively mandated Medicaid coverage, though some have done so without legislation. *Regarding requiring telemedicine services outside a health facility, the attached position paper from DVHA indicates that it has not found a state Medicaid program that does.*

Reflective of the fact that coverage and reimbursement for telemedicine are in early stages of adoption, state rules and laws run the gamut in terms of what they allow and/or require of telemedicine in health care facilities. Some permit reimbursement but do not mandate it; others require it for Medicaid, but not private insurance and *vice versa*; some restrict its use for certain conditions or populations or limit the scope of treatment and prescribing allowed. *In short, there is no consensus on the use, regulation, and reimbursement of telemedicine among the states.*

Medicare, Medicaid, and Telemedicine Outside a Health Care Facility

Medicare does not allow coverage for telemedicine for services outside of a health facility. As noted in the DVHA position paper, fees for services provided in this way would have to be paid by the patient or be absorbed by the provider. DVHA further indicates that, since Vermont follows Medicare guidelines, it would need to seek CMS approval of a State Plan Amendment in order to cover telemedicine services outside a health care facility. In the event this was not granted, providers would not be reimbursed for such visits by Medicaid and dual eligible populations. *Thus, a significant number of Vermonters enrolled in Medicare would not be covered for telemedicine services provided outside a health care facility, and potentially many Vermonters would not be covered if enrolled in Medicaid.* DVHA noted that it was not able to quantify the potential costs of these services given how little experience it had had to date with services provided via telemedicine and lack of knowledge about who would use these services and how much.

Recommendation on Extending Coverage for Telemedicine Outside a Health Care Facility

The Workgroup members were surveyed to ascertain their opinions on whether they favor:

- expansion of telemedicine services outside a health care facility in the same manner as within a health facility;
- expansion of telemedicine services outside a health care facility with limitations;
- waiting and assessing the current use of telemedicine before expanding its use outside a health care facility; or
- not expanding telemedicine services outside a health care facility.

The result was that, *of the 6 responses received, 2 favored expansion now; 2 favored waiting; and 2 were not in favor of expansion.* Planned Parenthood, favoring expansion now, stated that:

We strongly favor expansion of telemedicine services outside a health care facility in the same manner as within a health facility. Telemedicine is widely considered an easy way to improve care, safety and maximize cost efficiency for health providers. Expanding telemedicine to include coverage outside of a health center will reach some of the most rural Vermonters and ensure that as many people as possible get access to essential health services. Vermonters unable to access public transportation and those without licenses will benefit from this expansion and reimbursement will make it possible to provide this service which many Vermonters will utilize.

In addition to the lack of Medicare coverage and the unknown financial impact, concerns expressed in opposition to expansion of telemedicine services outside a health care facility were:

- research is lacking on out of health care facility telemedicine services that demonstrates an evidence-basis for care delivered this way; and
- there are no clinical guidelines for services delivered this way.

Given the lack of consensus among stakeholders on expanding telemedicine services outside a health care facility, and the lack of data about the potential for use of these services and their associated cost, it seems prudent to hold off mandating this coverage now. That does not mean Vermont should not explore the potential for telemedicine used outside of a health care facility. Given the legitimate interests for improving access and assuring quality care with the use of telemedicine, *pursuing a middle ground is the recommended option.* Vermont is embarked on a wide range of delivery and payment system reforms. Both DVHA and the Green Mountain Care Board are actively engaged in promoting these. In addition, the Blueprint for Health continues its expansion, and Accountable Care Organizations are developing. *DFR recommends that, as part of these initiatives, provision of telemedicine services outside of a health care facility should*

be considered on a pilot basis. Doing so would enable targeting of specific populations in need to improve their access while, at the same time, providing assessment of the efficacy of care delivered in this way and promoting the development of clinical guidelines. Vermont would then be able to determine:

- the appropriate scope of services that could/should be provided via telemedicine outside of a health care facility;
- the potential cost of and changes in access to those services, relative to current service delivery; and
- safeguards of quality of care, patient confidentiality, and information security needed if these services are provided.

DFR encourages both the Green Mountain Care Board, as Accountable Care Organizations emerge, and the Blueprint for Health to consider proposals for pilot telemedicine projects outside a health care facility and to report on their results. Telemedicine technology may become an important part of the health care armamentarium in Vermont and the state must be ready to use it wisely and well.

DVHA Position Paper
on
Telemedicine Services Provided Outside a Health Care Facility
February 26, 2012

Section 6 of Act 107, passed by the Vermont Legislature in 2012, requires the Department of Financial Regulation to submit a report to the House Committee on Health Care and the Senate Committee on Health and Welfare and the Senate Committee on Finance on whether and to what extent Vermont should require health insurance coverage of services delivered to a patient by telemedicine outside a health care facility.

While the Department of Vermont Health Access embraces the use of telemedicine services, we have concerns about requiring services to be covered when the patient is not in a health care facility.

Telemedicine is in its infancy in Vermont. It is unclear how the use of telemedicine as required in Act 107 will evolve and develop. In most states, telemedicine has been used to address specific provider shortages across the state or in specific geographic areas; no such guidance was included in Act 107. This broad-based approach has created a number of challenges to implement the existing legislation as is and concern regarding unintended consequences as implementation goes forward.

- For example, the original legislation covers any services to the same extent that the services would be covered if they were provided through in-person consultation. While there are telemedicine guidelines for some of those services that is not the case for others we cover and provide. The fact that there are guidelines for some services is an indicator that the provision of those telemedicine services is not the same as the provision of in-person services.
- As this is new, there is uncertainty as to how telemedicine services will be used. It could help increase access to care where there are limited or no providers. At the same time, in some rural areas it could undermine existing specialty referral patterns and revenue for the practice. We may find a few financially marginal specialty practices may choose to close up due to a slight reduction in referrals. While the intent may be to increase access to care, the result could be a loss of local specialty care.

So we believe there is plenty of work to be done implementing the original bill without taking on services outside of a health care facility. Given the Vermont definition of health care facility, outside a health care facility would mean anywhere that does not offer diagnosis, treatment, inpatient, or ambulatory care. That could be at home, work, or some other location where live interactive audio and video are available. DVHA has the following concerns in terms of the provision of telemedicine services outside a health care facility.

- There are no restrictions or limitations in Act 107 as written, such as in underserved areas or where there are provider shortages. If the same standard is applied to services outside a health care facility, a person could choose to have services provided to them in their home for no other reason than personal choice. It raises a question about the value of in-person care versus receiving services at home for convenience.
- There appears to be no published research on the provision of telemedicine services where the patient is outside a health care facility. There are published studies on telemonitoring in the patient's home but none were found on telemedicine. If we want to provide evidenced based care we should have some evidence to follow.
- There also are no clinical guidelines that we have found regarding telemedicine services provided outside of health care facilities.

- We have found no evidence at this time that any state Medicaid program covers telemedicine services outside of a health care facility. The Vermont Medicaid State Plan has followed Medicare guidelines and presently requires that the originating site for telemedicine services to be the offices of physicians or practitioners; hospitals; Critical Access Hospitals (CAH); Rural Health Clinics (RHC); Federally Qualified Health Centers (FQHC); Hospital-based or CAH-based Renal Dialysis Centers (including satellites); Skilled Nursing Facilities (SNF); and Community Mental Health Centers (CMHC). A State Plan Amendment would be required to add any additional language. If no other state Medicaid program has an approved State Plan that allows for services to be provided to an originating site outside a health care facility may run the risk of not being approved.
- We are not sure how to quantify any financial impact. Medicare recipients would have to pay for care or the provider would assume the costs. For those who are dual eligible, since Medicare does not cover services outside a health care facility, Medicaid would cover the costs. As to straight Medicaid, we have very little experience with telemedicine services at this time. Given that, trying to project the financial impact of offering care outside a health care facility is very challenging.
- Lastly, while there may be opportunities to improve health care by offering telemedicine services outside a health care facility, requiring it seems inconsistent with the provision of evidenced-based care, given the lack of published studies or clinical guidelines.

It seems clear to us that the prudent approach is not to recommend any changes to existing legislation at this time.