

1 **DRAFT language for committee discussion**

2 Introduced by Committee on Health Care

3 Date:

4 Subject: Health; health insurance; Medicaid; telehealth; audio-only telephone

5 Statement of purpose of bill as introduced: This bill proposes to require health
6 insurance plans and the Vermont Medicaid program to provide coverage for
7 health care services delivered by audio-only telephone and to reimburse health
8 care providers the same amount as for in-person services through the end of
9 2024. It would also set certain requirements for health care providers
10 delivering services using audio-only telephone and require data collection and
11 reporting on utilization of services delivered in this manner.

12 An act relating to health care services delivered by audio-only telephone

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 8 V.S.A. chapter 107, subchapter 14 is amended to read:

15 Subchapter 14. ~~Telemedicine~~ Telehealth

16 * * *

17 § 4100I. COVERAGE OF HEALTH CARE SERVICES DELIVERED BY

18 AUDIO-ONLY TELEPHONE

19 (a) As used in this section:

1 (1) “Health care provider” means a person, partnership, or corporation,
2 other than a facility or institution, that is licensed, certified, or otherwise
3 authorized by law to provide professional health care services in this State to
4 an individual during that individual’s medical care, treatment, or confinement.

5 (2) “Health insurance plan” means any health insurance policy or health
6 benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, and
7 Medicaid and any other public health care assistance program offered or
8 administered by the State or by any subdivision or instrumentality of the State.
9 The term does not include policies or plans providing coverage for a specified
10 disease or other limited benefit coverage.

11 (b)(1) A health insurance plan shall provide coverage for all clinically
12 appropriate health care services delivered remotely by audio-only telephone to
13 the same extent that the plan would cover the services if they were provided
14 through in-person consultation. Services covered under this subdivision shall
15 include services that are covered when provided in the home by home health
16 agencies.

17 (2) A health insurance plan shall provide the same reimbursement rate
18 for services billed using equivalent procedure codes and modifiers, subject to
19 the terms of the health insurance plan and provider contract, regardless of
20 whether the service was provided through in-person consultation with a health
21 care provider or by audio-only telephone.

1 (3) A health insurance plan may charge an otherwise permissible
2 deductible, co-payment, or coinsurance for a health care service delivered by
3 audio-only telephone as long as it does not exceed the deductible, co-payment,
4 or coinsurance applicable to an in-person consultation.

5 (4) A health insurance plan shall not require a health care provider to
6 have an existing relationship with a patient in order to be reimbursed for health
7 care services delivered by audio-only telephone.

8 Sec. 2. 18 V.S.A. chapter 219 is amended to read:

9 CHAPTER 219. HEALTH INFORMATION TECHNOLOGY AND

10 ~~TELEMEDICINE~~ TELEHEALTH

11 * * *

12 Subchapter 2. ~~Telemedicine~~ Telehealth

13 * * *

14 § 9362. HEALTH CARE PROVIDERS DELIVERING HEALTH CARE
15 SERVICES BY AUDIO-ONLY TELEPHONE

16 (a) As used in this section, “health insurance plan” and “health care
17 provider” have the same meaning as in 8 V.S.A. § 4100l and “telemedicine”
18 has the same meaning as in 8 V.S.A. § 4100k.

19 (b)(1) Subject to the limitations of the license under which the individual is
20 practicing, a health care provider may deliver health care services to a patient
21 using audio-only telephone if the patient elects to receive the services in this

1 manner and it is clinically appropriate to do so. A health care provider shall
2 comply with any training requirements imposed by the provider’s licensing
3 board on the appropriate use of audio-only telephone in health care delivery.

4 (2) A health care provider delivering health care services using audio-
5 only telephone shall include or document in the patient’s medical record:

6 (A) the patient’s informed consent for receiving services using audio-
7 only telephone in accordance with subsection (c) of this section; and

8 (B) the reason or reasons that the provider determined that it was
9 clinically appropriate to deliver health care services to the patient by audio-
10 only telephone.

11 (3) A health care provider shall not require a patient to receive health
12 care services by audio-only telephone if the patient does not wish to receive
13 services in this manner.

14 (c) A health care provider delivering health care services by audio-only
15 telephone shall obtain and document a patient’s oral or written informed
16 consent for the use of audio-only telephone prior to delivering services to the
17 patient.

18 (1) The informed consent for audio-only telephone services shall be
19 provided in accordance with Vermont national policies and guidelines on the
20 appropriate use of telephone services within the provider’s profession and shall
21 include, in language that patients can easily understand:

1 (A) that the patient is entitled to choose to receive services by audio-
2 only telephone, in person, or through telemedicine, to the extent clinically
3 appropriate;

4 (B) that receiving services by audio-only telephone does not preclude
5 the patient from receiving services in person or through telemedicine at a later
6 date;

7 (C) an explanation of the opportunities and limitations of delivering
8 and receiving health care services using audio-only telephone; and

9 (D) whether the services will be billed to the patient’s health
10 insurance plan if delivered by audio-only telephone and what this may mean
11 for the patient’s financial responsibility for co-payments, coinsurance, and
12 deductibles.

13 (2) Notwithstanding any provision of this subsection to the contrary, a
14 health care provider shall not be required to obtain a patient’s informed
15 consent for the use of telemedicine in the case of a medical emergency.

16 (d) Neither a health care provider nor a patient shall create or cause to be
17 created a recording of a provider’s telephone consultation with a patient.

18 (e) Audio-only telephone services shall not be used in the following
19 circumstances:

1 (1) for the second certification of an emergency examination
2 determining whether an individual is a person in need of treatment pursuant to
3 section 7508 of this title; or

4 (2) for a psychiatrist’s examination to determine whether an individual
5 is in need of inpatient hospitalization pursuant to 13 V.S.A. § 4815(g)(3).

6 Sec. 3. AUDIO-ONLY TELEPHONE; MEDICAL BILLING; DATA
7 COLLECTION; REPORT

8 (a) **On or before July 1, 2021**, the Department of Financial Regulation, in
9 consultation with the Department of Vermont Health Access, the Green
10 Mountain Care Board, representatives of health care providers, health insurers,
11 and other interested stakeholders, shall determine the appropriate codes or
12 modifiers, or both, to be used by providers and insurers, including Vermont
13 Medicaid, in the billing of and payment for health care services delivered using
14 audio-only telephone in order to allow for consistent data collection by
15 insurers, maintain reimbursement rates equal to those for in-person services,
16 and minimize the administrative burden on providers. To the extent possible,
17 the use of codes or modifiers, or both, shall be done in a manner that allows
18 data on the use of audio-only telephone services to be identified using the
19 Vermont Healthcare Claims Uniform Reporting and Evaluation System
20 (VHCURES).

1 (b) On or before **January 15, 2023**, the Department of Financial
2 Regulation and, to the extent VHCURES data are available, the Green
3 Mountain Care Board shall present information to the House Committee on
4 Health Care and the Senate Committee on Health and Welfare regarding the
5 use of audio-only telephone services in Vermont **[during a specific time**
6 **period?]**. The Department shall consult with interested stakeholders in order
7 to include in its presentation information on utilization of audio-only telephone
8 services, quality of care, and patient satisfaction with receiving health care
9 services by audio-only telephone.

10 Sec. 4. AUDIO-ONLY TELEPHONE REIMBURSEMENT PARITY;

11 REPEAL

12 8 V.S.A. § 4100l(b)(2) (audio-only telephone reimbursement parity) is
13 repealed on **January 1, 2025**.

14 Sec. 5. EFFECTIVE DATE

15 This act shall take effect on passage.