

1 Introduced by Committee on Health Care

2 Date:

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

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

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

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

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

15 Subchapter 14. ~~Telemedicine~~ Telehealth

16 * * *

17 § 4100l. 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 provided that it does not exceed the deductible, co-
4 payment, or coinsurance applicable to an in-person consultation.

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

8 Sec. 2. 18 V.S.A. chapter 219 is redesignated and 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) 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 **(B) A health care provider shall deliver timely care and shall not**
15 **delay care unnecessarily if a patient elects to receive services through an**
16 **in-person visit or telemedicine instead of by audio-only telephone.**

17 (c) A health care provider delivering health care services by audio-only
18 telephone shall obtain and document a patient’s oral or written informed
19 consent for the use of audio-only telephone prior to delivering services to the
20 patient. **The provider may obtain the patient’s informed consent prior to**

1 **the appointment or at the start of the appointment but prior to delivering**
2 **any billable service (provider coalition).**

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

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

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

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

15 **(D) informing the patient of the presence of any other individual**
16 **who will be participating in or observing the patient’s consultation with**
17 **the provider and obtaining the patient’s permission for the participation**
18 **or observation (HHC);** and

19 (E) whether the services will be billed to the patient’s health
20 insurance plan if delivered by audio-only telephone and what this may mean

1 for the patient’s financial responsibility for co-payments, coinsurance, and
2 deductibles.

3 **(2) For services delivered by audio-only telephone on an ongoing**
4 **basis, the health care provider shall be required to obtain consent only at**
5 **the first episode of care (from 18 V.S.A. § 9361, telemedicine statute).**

6 **(3)** Notwithstanding any provision of this subsection to the contrary, a
7 health care provider shall not be required to obtain a patient’s informed
8 consent for the use of audio-only telephone services in the case of a medical
9 emergency.

10 **(4) A health care provider may use a single consent form to address**
11 **all telehealth modalities, including telemedicine, store and forward, and**
12 **audio-only telephone, as long as the form complies with the provisions of**
13 **section 9361 of this chapter and this section (provider coalition).**

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

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

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

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

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

5 (a)(1) On or before July 1, 2021, the Department of Financial Regulation,
6 in consultation with the Department of Vermont Health Access, the Green
7 Mountain Care Board, representatives of health care providers, health insurers,
8 and other interested stakeholders, shall determine the appropriate codes or
9 modifiers, or both, to be used by providers and insurers, including Vermont
10 Medicaid, in the billing of and payment for health care services delivered using
11 audio-only telephone in order to allow for consistent data collection by
12 insurers, maintain reimbursement rates equal to those for in-person services,
13 identify appropriate codes for services that do not have in-person
14 equivalents (Bi-State), and minimize the administrative burden on providers.
15 To the extent possible, the use of codes or modifiers, or both, shall be done in a
16 manner that allows data on the use of audio-only telephone services to be
17 identified using the Vermont Healthcare Claims Uniform Reporting and
18 Evaluation System (VHCURES).

19 (2) Not later than January 1, 2022, all Vermont-licensed health care
20 providers and health insurers offering health insurance plans in Vermont
21 shall use the codes and modifiers determined by the Department of

1 **Financial Regulation pursuant to subdivision (1) of this subsection when**
2 **delivering services by audio-only telephone.**

3 (b) On or before **January 15, 2023**, the Department of Financial
4 Regulation, **the Vermont Program for Quality in Health Care**, and, to the
5 extent VHCURES data are available, the Green Mountain Care Board shall
6 present information to the House Committee on Health Care and the Senate
7 Committee on Health and Welfare regarding the use of audio-only telephone
8 services in Vermont **during calendar year 2022**. The Department shall
9 consult with interested stakeholders in order to include in its presentation
10 information on utilization of audio-only telephone services, quality of care, and
11 patient satisfaction with receiving health care services by audio-only
12 telephone.

13 **Sec. 4. TELEPHONE TRIAGE SERVICES; DEPARTMENT OF**

14 **FINANCIAL REGULATION; EMERGENCY RULEMAKING**

15 **Notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the**
16 **Department of Financial regulation shall consider adopting, and shall**
17 **have the authority to adopt, emergency rules to address health insurance**
18 **coverage of and reimbursement for telephone calls used to determine**
19 **whether an office visit or other service is needed. Emergency rules**
20 **adopted pursuant to this section shall remain in effect until not later than**
21 **April 1, 2022.**

1 Sec. 5. AUDIO-ONLY TELEPHONE REIMBURSEMENT PARITY;

2 REPEAL

3 8 V.S.A. § 4100l(b)(2) (audio-only telephone reimbursement parity) is
4 repealed on **January 1, 2025.**

5 Sec. 6. EFFECTIVE DATE

6 This act shall take effect on passage.