

Administrative Procedures – Emergency Rule Filing

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” (CVR 04-000-001) adopted by the Office of the Secretary of State, this emergency filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, the Legislative Committee on Administrative Rules and a copy with the Chair of the Interagency Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

This emergency rule may remain in effect for a total of 180 days from the date it first takes effect.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801(b)(11) for a definition), I believe there exists an imminent peril to public health, safety or welfare, requiring the adoption of this emergency rule.

The nature of the peril is as follows (*PLEASE USE ADDITIONAL SHEETS IF SPACE IS INSUFFICIENT*). The nature of the peril is the COVID-19 outbreak that is the subject of the all-hazard State of Emergency proclaimed by the Governor on March 16, 2020.

I approve the contents of this filing entitled:

COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEPHONE, TELEHEALTH, OR STORE AND FORWARD MEANS



(signature)

on 03/30/2020

(date)

RECEIVED
MAR 31 2020

Printed Name and Title:
Michael S. Pieciak

BY:

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)

Emergency Rule Coversheet

Commissioner of Financial Regulation

Emergency Rule Coversheet

1. TITLE OF RULE FILING:

COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEPHONE, TELEHEALTH, OR STORE AND FORWARD MEANS

2. ADOPTING AGENCY:

Department of Financial Regulation

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Sebastian Arduengo

Agency: Department of Financial Regulation

Mailing Address: 89 Main Street, Montpelier, VT 05620 - 3101

Telephone: 802 828 - 4846 Fax: 802 828 - 5593

E-Mail: Sebastian.Arduengo@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dfr.vermont.gov/about-us/legal-general-counsel/proposed-rules-and-public-comment>

4. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Gavin Boyles

Agency: Department of Financial Regulation

Mailing Address: 89 Main Street, Montpelier, VT 05620 - 3101

Telephone: 802 828 - 1425 Fax: 802 828 - 1919

E-Mail: gavin.boyles@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

N/A

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

N/A

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

This rule is issued pursuant to the authority vested in the Commissioner of the Department of Financial Regulation by Act 91 of 2020.

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

ACT 91 OF 2020, SECTION 8 REQUIRES THE COMMISSIONER TO CONSIDER ADOPTING AND GIVES THE COMMISSIONER THE AUTHORITY TO ADOPT EMERGENCY RULES FOR THE DURATION OF THE STATE OF EMERGENCY EXPANDING PATIENTS' ACCESS TO AND PROVIDERS' REIMBURSEMENT FOR HEALTH CARE SERVICES, INCLUDING PREVENTATIVE SERVICES, INCLUDING PREVENTATIVE SERVICES, CONSULTATION SERVICES, AND SERVICES TO NEW PATIENTS, DELIVERED REMOTELY THROUGH TELEHEALTH, AUDIO-ONLY TELEPHONE, AND BRIEF TELECOMMUNICATION SERVICES.

8. CONCISE SUMMARY (150 WORDS OR LESS):

During the COVID-19 State of Emergency, the emergency rule requires health insurers and workers' compensation insurance carriers to provide coverage for clinically appropriate health care services delivered remotely through telehealth or audio-only telephone on the same basis as in-person consultations. The emergency rule also requires health insurers to cover telephone triage calls without member cost sharing, and implements the provisions of Act 91 with respect to services delivered by store-and-forward means. Finally, the rule temporarily waives compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) consistent with guidance issued by the Department of Health and Human Services.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

The emergency rule is necessary in order to prevent Vermonters from unnecessarily traveling to health care facilities, further protect the most vulnerable Vermonters, and ensure that providers in commercial insurance networks are reimbursed for medically necessary and clinically appropriate services provided through telehealth, telephone, and store-and-forward means.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

On March 16, 2020, the Governor proclaimed an all-hazard State of Emergency proclaimed due to the Covid-19 outbreak. At this time, the Vermont Department of Health is advising individuals who are sick or concerned about their health to contact their health care providers by phone. Consequently, telephone triage calls to providers have increased by 500%, office visits and other revenue-producing activities have dropped dramatically, and many providers are in dire financial straits. The emergency rule narrowly addresses these issues, allowing providers to be reimbursed for telephone triage calls, and expands coverage and reimbursement for telemedicine, audio-only telephone, and store and forward means.

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Health insurers and workers' compensation insurance carriers regulated by the Department of Financial Regulation;

Health care providers;

Members of health insurance plans;

Workers' compensation beneficiaries.

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

Responding to the COVID-19 pandemic requires the provision of health care services by physicians or other health care professionals through remote communications devices, including audio-only telephone. Facilitating the reimbursement for such services by health insurers is expected to significantly decrease the financial burden on these providers while limiting out-of-pocket costs for patients. Health Insurers and workers' compensation insurance carriers are expected to pay the same amount for telehealth consultations as for in-person office visits. Health insurers will pay a nominal amount for telephone triage services.

13. A HEARING IS NOT SCHEDULED .

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Emergency Rule Coversheet

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

16. EMERGENCY RULE EFFECTIVE: 03/30/2020

17. EMERGENCY RULE WILL REMAIN IN EFFECT UNTIL

(A DATE NO LATER THAN 180 DAYS FOLLOWING ADOPTION OF THIS EMERGENCY RULE):

09/30/2020

18. NOTICE OF THIS EMERGENCY RULE SHOULD NOT BE PUBLISHED IN THE WEEKLY NOTICES OF RULEMAKING IN THE NEWSPAPERS OF RECORD.

19. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Health Insurance

Workers' Compensation Insurance

Telehealth

Audio-only Telephone

CORONAVIRUS

Covid-19

Administrative Procedures – Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH
TELEPHONE, TELEHEALTH, OR STORE AND FORWARD MEANS

2. ADOPTING AGENCY:

Department of Financial Regulation

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU
BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF
THE LAST ADOPTION FOR THE EXISTING RULE*):

Administrative Procedures – Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEPHONE, TELEHEALTH, OR STORE AND FORWARD MEANS

2. ADOPTING AGENCY:

Department of Financial Regulation

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Workers' Compensation Insurers

Health Insurers

Health Care Providers

Insured Patients

4. IMPACT ON SCHOOLS:

Economic Impact Analysis

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

None.

5. *ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

N/A

6. **IMPACT ON SMALL BUSINESSES:**

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

The emergency rule will allow small medical and mental health practices to be reimbursed for providing services by audio-only telephone or telehealth, if those providers do not have access to telemedicine equipment. It will also allow providers to be reimbursed for providing telephone triage services for patients.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Only workers' compensation insurers and health insurers are required to comply with the emergency rule; none of these organizations are small businesses.

8. **COMPARISON:**

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

Without the emergency rule, the provision of health care services to Vermonters during the COVID-19 outbreak could be impaired or delayed, and providers would not be reimbursed for providing services remotely. Material impairments or delays in the provision of health care services during the COVID-19 outbreak could have devastating economic consequences for individual patients and for the economy of the entire state.

Economic Impact Analysis

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

In light of the urgency of responding to the COVID-19 outbreak, the analysis described herein is sufficient to enact the emergency rule. The cost of the substantive changes are minimal or a net positive to Vermonters.

Administrative Procedures – Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEPHONE, TELEHEALTH, OR STORE AND FORWARD MEANS

2. ADOPTING AGENCY:

Department of Financial Regulation

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

None.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

None.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

None.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

None.

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

None.

Environmental Impact Analysis

8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

None.

9. SUFFICIENCY: *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

The emergency rule is not expected to have any environmental impacts. Therefore, the analysis is sufficient.

Administrative Procedures – Public Input

Instructions:

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEPHONE, TELEHEALTH, OR STORE AND FORWARD MEANS

2. ADOPTING AGENCY:

Department of Financial Regulation

3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

Despite the unprecedented urgency of addressing the COVID-19 crisis, the Department of Financial Regulation sought extensive comment on the emergency rule.

In drafting the emergency rule, the Department solicited input from a broad array of stakeholders, including the Bi-State Primary Care Association, Vermont Care Partners, Vermont Medical Society, Vermont Association of Hospitals and Health Systems, VNAs of Vermont, Office of the Health Care Advocate, Vermont Care Partners, Vermont Association of Adult Day Centers, Blue Cross and Blue Shield of Vermont, MVP Health Care, Cigna, and Aetna.

The Department has also been in constant communication with industry and the provider community, including multiple calls per week on responses to the Covid-19 pandemic.

4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The emergency rule will be posted on the Department's website.

In addition to ensuring the availability of materials relating to this rule online and in paper form, the Department will work with stakeholders to educate members of the public.

5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Bi-State Primary Care Association, Vermont Care Partners, Vermont Medical Society, Vermont Association of Hospitals and Health Systems, VNAs of Vermont, Office of the Health Care Advocate, Vermont Care Partners, Vermont Association of Adult Day Centers, Blue Cross and Blue Shield of Vermont, MVP Health Care, Cigna, and Aetna.

Administrative Procedures – Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g. federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

1. TITLE OF RULE FILING:

COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEPHONE, TELEHEALTH, OR STORE AND FORWARD MEANS

2. ADOPTING AGENCY:

Department of Financial Regulation

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

This rule incorporates laws and regulations of the State of Vermont, specifically Title 8, section 4100k and Title 21, section 601 of the Vermont Statutes Annotated (V.S.A.).

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

8 V.S.A. § 4100k; 21 V.S.A. § 601.

5. OBTAINING COPIES: *EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

All of the cited materials are available online at the following links:

Vermont Statutes Annotated:

<https://legislature.vermont.gov/statutes/>

Incorporation By Reference

Although all cited materials are readily available online, members of the public may obtain printed copies by contacting the Department by phone at 802-828-3301.

6. MODIFICATIONS (PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED):

No modifications have been made to the cited material.

Run Spell Check

Clean
Text

VERMONT DEPARTMENT OF FINANCIAL REGULATION

EMERGENCY RULE H-2020-02-E

**COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH
TELEHEALTH, TELEPHONE, OR STORE AND FORWARD MEANS**

Section 1. Purpose.

This emergency rule is promulgated pursuant to Act 91 of 2020 and in response to the State of Emergency declared by the Governor of the State of Vermont on March 16, 2020 regarding the outbreak of COVID-19. This emergency rule shall be in effect for the duration of the state of emergency. The purpose of this emergency rule is to expand patients' access to and providers' reimbursement for health care services, including preventive services, consultation services, and services to new patients, delivered remotely through telehealth, audio-only telephone, store-and-forward, and brief telecommunication services.

Section 2. Definitions.

Terms used in this emergency rule and not defined herein shall have the meanings given to such terms, if any, in 8 V.S.A. § 4100k and 21 V.S.A. § 601.

Section 3. Coverage of Telehealth and Audio-Only Telephone Services.

- (a) Where clinically appropriate, all health insurance plans and workers' compensation insurance carriers shall provide coverage for all health care services delivered remotely through telehealth or audio-only telephone by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation. Services covered under this subsection shall include services that are covered when provided in the home by home health agencies.
- (b) Health insurance plans and workers' compensation insurance carriers shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telehealth or audio-only telephone.
- (c) A health insurance plan or workers' compensation insurance carrier may charge an otherwise permissible deductible, co-payment, or coinsurance for a health care service delivered remotely through telehealth or audio-only telephone so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.
- (d) A health insurance plan shall cover the same the number of telemedicine consultations as in-person covered services for each covered person.
- (e) Health insurance plans and workers' compensation insurance carriers may require providers to use telemedicine when clinically appropriate, available, and feasible.

- (f) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.
- (g) Health insurance plans and workers' compensation insurance carriers may require practices to notify members in advance that services delivered remotely through telehealth or audio-only telephone will be billed as an in-person visit. Any such notification requirements shall permit providers to notify members during the same call in which services are rendered. No other consent to receive services remotely shall be required.
- (h) Health insurance plans and workers' compensation insurance carriers shall not require providers to have an existing patient relationship with a member in order for the member to be reimbursed for health care services described in subsection (a).

Section 4. Coverage of Telephone Triage Services.

- (a) All health insurance plans shall provide coverage and reimbursement for Healthcare Common Procedure Coding System (HCPCS) code G2012 (virtual check-in via telephone) to allow providers to receive payment for brief virtual communication services used to determine whether an office visit or other service is needed.
- (b) Health insurance plans shall not charge a deductible, co-payment, or coinsurance for telephone triage services.

Section 5. Coverage of Store and Forward Services.

- (a) All health insurance plans shall provide coverage and reimbursement for store and forward HCPCS code G2010 (remote evaluation of a recorded video or image) to determine whether an office visit or other service is needed without member cost-sharing.
- (b) Provisions of Act 91 of 2020 relating to coverage and reimbursement for health care services or dental services delivered by store-and-forward means shall take effect on May 1, 2020 if a declared State of Emergency related to COVID-19 exists at that time.

Section 6. Claims Retroactivity.

All health insurance plans shall process and reimburse appropriate claims for telephone triage services and health care services delivered through telehealth or audio-only telephone retroactively to a date no later than March 13, 2020.

Section 7. Compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Consistent with guidance issued by the Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) announcing enforcement discretion for noncompliance with the regulatory requirements under the HIPAA Privacy, Security and Breach Notification Rules against covered health care providers in connection with the good faith provision of telehealth

during the COVID-19 nationwide public health emergency, health insurance plans and workers' compensation insurance carriers shall permit providers to utilize any non-public facing remote communication product that is available to communicate with patients.

Further guidance is available on the HHS website at: <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

Section 8. Mental Health Parity.

Health insurance plans may not establish any rate, term, or condition that places a greater burden on an insured for access to treatment for a mental condition delivered remotely through telehealth, audio-only telephone, store-and-forward, and brief telecommunication services than for access to treatment for other health conditions, including no greater co-payment for primary mental health care or services than the co-payment applicable to care or services provided by a primary care provider under an insured's policy and no greater co-payment for specialty mental health care or services than the co-payment applicable to care or services provided by a specialist provider under an insured's policy.

Section 9. Physical Location of Remote Services.

Health insurance plans and workers' compensation insurance carriers may not deny or limit coverage or reimbursement of health care services delivered remotely through telehealth, audio-only telephone, store-and-forward, and brief telecommunication services based solely on the physical location of the patient or provider.

Act 91
Havent Received in Act format
from Sec. of State

AS PASSED BY HOUSE AND SENATE
2020

H.742
Page 1 of 49

H.742

An act relating to Vermont's response to COVID-19

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

* * * Supporting Health Care and Human Service Provider Sustainability* * *

Sec. 1. AGENCY OF HUMAN SERVICES; HEALTH CARE AND HUMAN
SERVICE PROVIDER SUSTAINABILITY

During a declared state of emergency in Vermont as a result of COVID-19,
the Agency of Human Services shall consider waiving or modifying existing
rules, or adopting emergency rules, to protect access to health care services,
long-term services and supports, and other human services under the Agency's
jurisdiction. In waiving, modifying, or adopting rules, the Agency shall
consider the importance of the financial viability of providers that rely on
funding from the State, federal government, or Medicaid, or a combination of
these, for a major portion of their revenue.

Sec. 2. AGENCY OF HUMAN SERVICES; TEMPORARY PROVIDER
TAX MODIFICATION AUTHORITY

(a) During a declared state of emergency in Vermont as a result of COVID-
19 and for a period of six months following the termination of the state of
emergency, the Secretary of Human Services may modify payment of all or a
prorated portion of the assessment imposed on hospitals by 33 V.S.A. § 1953,
and may waive or modify payment of all or a prorated portion of the

Board's approval for the action or actions prior to waiving or modifying payment of the assessment.

(2) Upon the Emergency Board's approval of the action or actions, the Secretary may waive or modify payment of the assessment as proposed.

* * * Protections for Employees of Health Care Facilities
and Human Service Providers * * *

Sec. 3. PROTECTIONS FOR EMPLOYEES OF HEALTH CARE
FACILITIES AND HUMAN SERVICE PROVIDERS

In order to protect employees of a health care facility or human service provider who are not licensed health care professionals from the risks associated with COVID-19, all health care facilities and human service providers in Vermont, including hospitals, federally qualified health centers, rural health clinics, residential treatment programs, homeless shelters, home- and community-based service providers, and long-term care facilities, shall follow guidance from the Vermont Department of Health regarding measures to address employee safety, to the extent feasible.

* * * Compliance Flexibility * * *

Sec. 4. HEALTH CARE AND HUMAN SERVICE PROVIDER
REGULATION; WAIVER OR VARIANCE PERMITTED

Notwithstanding any provision of the Agency of Human Services' administrative rules or standards to the contrary, during a declared state of

(12) Child Care Licensing Regulations;

(13) Public Assistance Program Regulations;

(14) Foster Care and Residential Program Regulations; and

(15) other rules and standards for which the Agency of Human Services

is the adopting authority under 3 V.S.A. chapter 25.

Sec. 5. GREEN MOUNTAIN CARE BOARD RULES; WAIVER OR
VARIANCE PERMITTED

Notwithstanding any provision of 18 V.S.A. chapter 220 or 221, 8 V.S.A. § 4062, 33 V.S.A. chapter 18, subchapter 1, or the Green Mountain Care Board's administrative rules, guidance, or standards to the contrary, during a declared state of emergency in Vermont as a result of COVID-19 and for a period of six months following the termination of the state of emergency, the Green Mountain Care Board may waive or permit variances from State laws, guidance, and standards with respect to the following regulatory activities, to the extent permitted under federal law, as necessary to prioritize and maximize direct patient care, safeguard the stability of health care providers, and allow for orderly regulatory processes that are responsive to evolving needs related to the COVID-19 pandemic:

(1) hospital budget review;

(2) certificates of need;

(3) health insurance rate review; and

(b) Nothing in this section shall be construed to suspend or waive any of the requirements in 18 V.S.A. chapter 181 relating to judicial proceedings for involuntary treatment and medication.

* * * Access to Health Care Services and Human Services * * *

Sec. 8. ACCESS TO HEALTH CARE SERVICES; DEPARTMENT OF
FINANCIAL REGULATION; EMERGENCY RULEMAKING

It is the intent of the General Assembly to increase Vermonters' access to medically necessary health care services during a declared state of emergency in Vermont as a result of COVID-19. During such a declared state of emergency, the Department of Financial Regulation shall consider adopting, and shall have the authority to adopt, emergency rules to address the following for the duration of the state of emergency:

(1) expanding health insurance coverage for, and waiving or limiting cost-sharing requirements directly related to, COVID-19 diagnosis, treatment, and prevention;

(2) modifying or suspending health insurance plan deductible requirements for all prescription drugs, except to the extent that such an action would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223; and

(3) expanding patients' access to and providers' reimbursement for health care services, including preventive services, consultation services, and

medication for which the patient has no refills remaining or for which the authorization for refills has recently expired if it is not feasible to obtain a new prescription or refill authorization from the prescriber.

(b) A pharmacist who extends a prescription for a maintenance medication pursuant to this section shall take all reasonable measures to notify the prescriber of the prescription extension in a timely manner.

(c) As used in this section, “maintenance medication” means a prescription drug taken on a regular basis over an extended period of time to treat a chronic or long-term condition. The term does not include a regulated drug, as defined in 18 V.S.A. § 4201.

Sec. 11. PHARMACISTS; CLINICAL PHARMACY; THERAPEUTIC
SUBSTITUTION DUE TO LACK OF AVAILABILITY

(a) During a declared state of emergency in Vermont as a result of COVID-19, a pharmacist may, with the informed consent of the patient, substitute an available drug or insulin product for an unavailable prescribed drug or insulin product in the same therapeutic class if the available drug or insulin product would, in the clinical judgment of the pharmacist, have substantially equivalent therapeutic effect even though it is not a therapeutic equivalent.

(b) As soon as reasonably possible after substituting a drug or insulin product pursuant to subsection (a) of this section, the pharmacist shall notify

(i) currently licensed, in good standing, and not subject to disciplinary proceedings in any other jurisdiction; or

(ii) a graduate of an approved education program during a period when licensing examinations are not reasonably available.

(B) The temporary license shall authorize the holder to practice in Vermont until the termination of the declared state of emergency or 90 days, whichever occurs first, as long as provided the licensee remains in good standing, and may be reissued by the board if the declared state of emergency continues longer than 90 days.

(C) Fees shall be waived when a license is required to provide services under this subdivision.

* * *

Sec. 15. 26 V.S.A. § 1353 is amended to read:

§ 1353. POWERS AND DUTIES OF THE BOARD

The Board shall have the following powers and duties to:

* * *

(11) During a declared state of emergency:

(A) The Board or the Executive Director of the Board may issue a temporary license to an individual who is currently licensed to practice as a physician, physician assistant, or podiatrist in another jurisdiction, whose license is in good standing, and who is not subject to disciplinary proceedings

Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE
PROFESSIONALS

(a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, during a declared state of emergency in Vermont as a result of COVID-19, a health care professional, including a mental health professional, who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services, including mental health services, to a patient located in Vermont using telehealth or as part of the staff of a licensed facility, provided the health care professional:

(1) is licensed, certified, or registered in good standing in the other U.S. jurisdiction or jurisdictions in which the health care professional holds a license, certificate, or registration;

(2) is not subject to any professional disciplinary proceedings in any other U.S. jurisdiction; and

(3) is not affirmatively barred from practice in Vermont for reasons of fraud or abuse, patient care, or public safety.

(b) A health care professional who plans to provide health care services in Vermont as part of the staff of a licensed facility shall submit or have submitted on the individual's behalf the individual's name, contact

Vermont license, certificate, or registration in good standing may provide health care services, including mental health services, to a patient located in Vermont using telehealth or as part of the staff of a licensed facility after submitting, or having submitted on the individual's behalf, to the Board of Medical Practice or Office of Professional Regulation, as applicable, the individual's name, contact information, and the location or locations at which the individual will be practicing.

(2) A former health care professional who returns to the Vermont health care workforce pursuant to this subsection shall be subject to the regulatory jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable.

(b) During a declared state of emergency in Vermont as a result of COVID-19, the Board of Medical Practice and the Office of Professional Regulation may permit former health care professionals, including mental health professionals, who retired more than three but less than 10 years earlier with their Vermont license, certificate, or registration in good standing to return to the health care workforce on a temporary basis to provide health care services, including mental health services, to patients in Vermont. The Board of Medical Practice and Office of Professional Regulation may issue temporary licenses to these individuals at no charge and may impose limitations on the

(2) During a declared state of emergency in Vermont as a result of COVID-19, if the Executive Director of the Board of Medical Practice finds that the Board cannot reasonably, safely, and expeditiously convene a quorum to transact business, the Executive Director may exercise the full powers and authorities of the Board, including disciplinary authority.

(b) The signature of the Director of the Office of Professional Regulation or of the Executive Director of the Board of Medical Practice shall have the same force and effect as a voted act of their respective boards.

(c)(1) A record of the actions of the Director of the Office of Professional Regulation taken pursuant to the authority granted by this section shall be published conspicuously on the website of the regulatory body on whose behalf the Director took the action.

(2) A record of the actions of the Executive Director of the Board of Medical Practice taken pursuant to the authority granted by this section shall be published conspicuously on the website of the Board of Medical Practice.

Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF

MEDICAL PRACTICE; EMERGENCY REGULATORY ORDERS

During a declared state of emergency in Vermont as a result of COVID-19, the Director of Professional Regulation and the Commissioner of Health may issue such orders governing regulated professional activities and practices as may be necessary to protect the public health, safety, and welfare. If the

(b) Notwithstanding any provision of statute or rule to the contrary, it shall not be considered seclusion, as defined in the Department for Children and Families' Licensing Regulations for Residential Treatment Programs in Vermont, for a child in a residential treatment facility to be placed in quarantine if the child has been exposed to COVID-19 or in isolation if the child has tested positive for COVID-19.

* * * Telehealth * * *

Sec. 23. TELEHEALTH EXPANSION; LEGISLATIVE INTENT

It is the intent of the General Assembly to increase Vermonters' access to health care services through an expansion of telehealth services without increasing social isolation or supplanting the role of local, community-based health care providers throughout rural Vermont.

Sec. 24. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED
THROUGH TELEMEDICINE AND BY STORE-AND-
FORWARD MEANS

(a)(1) All health insurance plans in this State shall provide coverage for health care services and dental services delivered through telemedicine by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation.

~~(e) A health insurance plan may reimburse for teleophthalmology or tele dermatology provided by store and forward means and may require the distant site health care provider to document the reason the services are being provided by store and forward means.~~

(1) A health insurance plan shall reimburse for health care services and dental services delivered by store-and-forward means.

(2) A health insurance plan shall not impose more than one cost-sharing requirement on a patient for receipt of health care services or dental services delivered by store-and-forward means. If the services would require cost-sharing under the terms of the patient's health insurance plan, the plan may impose the cost-sharing requirement on the services of the originating site health care provider or of the distant site health care provider, but not both.

(f) A health insurer shall not construe a patient's receipt of services delivered through telemedicine or by store-and-forward means as limiting in any way the patient's ability to receive additional covered in-person services from the same or a different health care provider for diagnosis or treatment of the same condition.

(g) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

* * *

(6) “Store and forward” means an asynchronous transmission of medical information, such as one or more video clips, audio clips, still images, x-rays, magnetic resonance imaging scans, electrocardiograms, electroencephalograms, or laboratory results, sent over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104–191 to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty ~~and by which.~~ In store and forward, the health care provider at the distant site reviews the medical information without the patient present in real time and communicates a care plan or treatment recommendation back to the patient or referring provider, or both.

(7) “Telemedicine” means the delivery of health care services, including dental services, such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, ~~Public Law~~ Pub. L. No. 104-191. ~~Telemedicine does not include the use of audio only telephone, e-mail, or facsimile.~~

complies with the requirements of the Health Insurance Portability and
Accountability Act of 1996, Pub. L. No. 104-191.

* * *

~~(e) A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable period of time following the patient's notification of the results of the initial consultation. Receiving teledermatology or teleophthalmology by store and forward means.~~

(1) A patient receiving health care services or dental services by store-and-forward means shall be informed of the patient's right to refuse to receive services in this manner and to request services in an alternative format, such as through real-time telemedicine services or an in-person visit.

(2) Receipt of services by store-and-forward means shall not preclude a patient from receiving real time real-time telemedicine or face-to-face services or an in-person visit with the distant site health care provider at a future date.

(3) Originating site health care providers involved in the store and forward store-and-forward process shall obtain informed consent from the patient as described in subsection (c) of this section.

obtaining or documenting such consent, or both, is not practicable under the circumstances.

Sec. 27. TELEMEDICINE REIMBURSEMENT; SUNSET

8 V.S.A. § 4100k(a)(2) (telemedicine reimbursement) is repealed on January 1, 2026.

* * * Child Care Programs; Extraordinary Financial Relief * * *

Sec. 28. SUPPLEMENTAL CHILD CARE GRANTS; TEMPORARY
SUSPENSION OF CAP

Notwithstanding the provision in 33 V.S.A. § 3505(a) that enables the Commissioner for Children and Families to reserve not more than one-half of one percent of the Child Care Financial Assistance Program (CCFAP) appropriation for extraordinary financial relief to assist child care programs that are at risk of closing due to financial hardship, the Commissioner may direct a greater percentage of the fiscal year 2020 CCFAP appropriation for this purpose while the state of emergency related to COVID-19 is in effect.

* * * Unemployment Insurance * * *

Sec. 29. 21 V.S.A. § 1314a is amended to read:

§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION;
PENALTIES

(a)(1) ~~Effective with the calendar quarter ending September 30, 1986 and all subsequent calendar quarters, each~~ Each employing unit ~~which that~~ is an

(d) Reports required by subsection (c) of this section shall be ~~returned so as to be received by~~ submitted to the Commissioner not later than 10 calendar days after the date of ~~the mailing of~~ the Commissioner's request was mailed to the employing unit.

(e) On ~~the~~ request of the Commissioner, any employing unit or employer shall report, within 10 days of the mailing or personal delivery of the request, separation information ~~with respect to~~ for a claimant, any disqualifying income the claimant may have received, and any other information that the Commissioner may ~~reasonably~~ require to determine a the claimant's eligibility for unemployment compensation. The Commissioner shall make ~~such~~ a request ~~whenever~~ when:

(1) the claimant's eligibility is dependent ~~either~~ upon:

(A) wages paid during an incomplete calendar quarter in which the claimant was separated; or

(B) ~~upon~~ the last completed quarter; and

(2) ~~when to do so would~~ obtaining the information will result in more timely benefit payments.

(f)(1) Any employing unit or employer that fails to:

(A) File ~~any~~ a report required by this section shall be subject to a an administrative penalty of \$100.00 for each report not received by the prescribed due dates.

section be filed, or any departmental registration required prior to submitting the reports required by this section, in an electronic media form.

(2) The Commissioner may waive the requirement that an employing unit submit a report in an electronic media form if the employing unit attests that it is unable to file the required report in that form.

* * * Unemployment Insurance Related to COVID-19 Outbreak * * *

Sec. 30. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

* * *

(I) the family member has been diagnosed with COVID-19;

(II) the family member is experiencing the symptoms of
COVID-19;

(III) the family member has been exposed to COVID-19; or

(IV) the family member belongs to a specific class or group of
persons that have been identified as being at high-risk if exposed to or infected
with COVID-19;

(iv) to care for or assist a family member who has left
employment because of an unreasonable risk that they could be exposed to or
become infected with COVID-19 at their place of employment; or

(v) to care for a child under 18 years of age because the child's
school or child care has been closed or the child care provider is unavailable
due to a public health emergency related to COVID-19.

(H) As used in this subdivision (a)(1):

(i) "Family member" means an individual's parent, grandparent,
spouse, child, brother, sister, parent-in-law, grandchild, or foster child. As
used in this subdivision (a)(1)(H)(i), "spouse" includes a domestic partner or
civil union partner.

(ii) "An unreasonable risk that the individual could be exposed to
or become infected with COVID-19 at the individual's place of employment"
shall include the individual's place of employment being out of compliance

because the employer voluntarily ceased operations due to the actual exposure of workers at that place of employment to COVID-19;

(ii) the individual becomes unemployed as a direct result of a state of emergency declared by the Governor or the President in relation to COVID-19 or an order or directive issued by the Governor or President in relation to COVID-19; or

(iii) the individual has been recommended or requested by a medical professional or a public health authority with jurisdiction to be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19.

(B) An employer shall only be eligible for relief of charges for benefits paid under the provisions of this subdivision (a)(3) if the employer rehires or offers to rehire the individual within a reasonable period of time after the employer resumes operations at the individual's place of employment, as determined by the Commissioner, or upon the completion of the individual's period of isolation or quarantine.

(C) The Commissioner may extend the period for which an employer shall be relieved of charges for benefits paid to employees pursuant to subdivision (A)(i) of this subdivision (a)(3) by an amount that the Commissioner determines to be appropriate in light of the terms of any applicable request from a local health official or the Commissioner of Health

deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit; or

~~(ii)~~(II) holds a commission in the U.S. Foreign Service and is assigned overseas, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit;

(ii) the individual has left employment to self-isolate or quarantine at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

(I) the individual has been diagnosed with COVID-19;

(II) the individual is experiencing the symptoms of COVID-19;

(III) the individual has been exposed to COVID-19; or

(IV) the individual belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19;

(iii) the individual has left employment because of an unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment;

(G) As used in this subdivision (a)(2):

(i) "Family member" means an individual's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child. As used in this subdivision (a)(2)(G)(i), "spouse" includes a domestic partner or civil union partner.

(ii) "An unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment" shall include the individual's place of employment being out of compliance with the Guidance on Preparing Workplaces for COVID-19 issued by the U.S. Occupational Safety and Health Administration (OSHA) or any similar guidance issued by OSHA, the U.S. Centers for Disease Control, or the Vermont Department of Health and any other conditions or factors that the Commissioner determines to create an unreasonable risk.

(H)(i) Except as otherwise provided pursuant to subdivision (2) of this subdivision (a)(2)(H), an unemployed individual who is eligible for benefits pursuant to subdivisions (2)(A)(ii)-(vi) of this subsection shall be ineligible for benefits under those subdivisions if the individual becomes eligible for benefits provided pursuant to:

(I) enacted federal legislation that amends or establishes a federal program providing benefits for unemployed individuals that are similar to the benefits provided pursuant to subdivisions (2)(A)(ii)-(vi); or

(F) Sick pay or pay received pursuant to the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.

* * *

* * * Repeal of COVID-19 Related Unemployment Insurance

Provisions * * *

Sec. 32. REPEAL

21 V.S.A. § 1325(a)(1)(G), (H), and (a)(3) are repealed.

Sec. 33. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

* * *

(2) For any week benefits are claimed, except as provided in subdivision (a)(3) of this section, until he or she has presented evidence to the satisfaction of the Commissioner that he or she has performed services in employment for a bona fide employer and has had earnings in excess of six times his or her weekly benefit amount if the Commissioner finds that such individual is unemployed because:

(A) He or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit. An

~~(IV) the individual belongs to a specific class or group of persons that have been identified as being at high risk if exposed to or infected with COVID-19;~~

~~(iii) the individual has left employment because of an unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment;~~

~~(iv) the individual has left employment to care for or assist a family member of the individual who is self-isolating or quarantining at the recommendation of a healthcare provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President, for one of the following reasons:~~

~~(I) the family member has been diagnosed with COVID-19;~~

~~(II) the family member is experiencing the symptoms of COVID-19;~~

~~(III) the family member has been exposed to COVID-19; or~~

~~(IV) the family member belongs to a specific class or group of persons that have been identified as being at high risk if exposed to or infected with COVID-19;~~

~~(v) the individual has left employment to care for or assist a family member who has left employment because of an unreasonable risk that~~

~~except when and to the extent that the benefits provided by the applicable federal program are different from or are not in lieu of the benefits that are available pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection, in which case the benefits provided under subdivisions (2)(A)(ii)–(vi) of this subsection shall continue.~~

~~(iii) Nothing in this subdivision (a)(2)(H) shall be construed to prevent an individual from receiving benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection if the individual’s employer refuses or fails to pay the individual for leave under the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.~~

* * *

~~(G) As used in this subdivision (a)(2):~~

~~(i) “Family member” means an individual’s parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child. As used in this subdivision (a)(2)(G)(i), “spouse” includes a domestic partner or civil union partner.~~

~~(ii) “An unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual’s place of employment” shall include the individual’s place of employment being out of compliance with the Guidance on Preparing Workplaces for COVID-19 issued by the U.S. Occupational Safety and Health Administration (OSHA) or any similar~~

(2) An employer shall provide an individual with notification of the availability of unemployment compensation at the time of the individual's separation from employment. The notification may be based on model notification language provided by the U.S. Secretary of Labor.

* * * Motor Vehicles * * *

Sec. 35. PHOTOGRAPHS FOR RENEWALS

(a) Notwithstanding any provision of 23 V.S.A. § 115(g), 610(c), or 617(e) to the contrary, a licensee shall be permitted to renew a driver's license, learner's permit, privilege to operate, or non-driver identification card with a photograph obtained not more than 16 years earlier that is compliant with the federal REAL ID Act, 6 C.F.R. part 37.

(b) Notwithstanding 1 V.S.A. § 214, subsection (a) of this section shall take effect retroactively on March 20, 2020 and continue in effect until the termination of the state of emergency declared by the Governor as a result of COVID-19.

Sec. 36. EXTENSIONS

(a) Notwithstanding any provision of 23 V.S.A. § 312, 457, 458, 3702, or 3703 to the contrary, all International Registration Plan trip permits and temporary authorizations, temporary registration certificates, and temporary number plates shall be valid for 90 days from the date of issuance.

alternately flashing red signal lamps of an eight-light system lighted when making deliveries of food to school aged children.

(b) Notwithstanding 1 V.S.A. § 214, subsection (a) of this section shall take effect retroactively on March 20, 2020 and continue in effect until the termination of the state of emergency declared by the Governor as a result of COVID-19.

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATES

This act shall take effect on passage, except that:

- (1) In Sec. 24, 8 V.S.A. § 4100k(e) (coverage of health care services delivered by store-and-forward means) shall take effect on January 1, 2021.
- (2) Sec. 29 shall take effect on July 1, 2020.
- (3) Secs. 32 and 33 shall take effect on March 31, 2021.



Proposed Rules Postings

A Service of the Office of the Secretary of State

- [Vermont.gov](#)
- [Feedback](#)
- [SOS Website](#)
- [APA Site](#)
- [Code of Vermont Rules](#)

- [Recent](#)
- [Search Rules](#)
- [Calendar](#)
- [Subscribe](#)
- [APA Contact Info](#)

Search Rules

Deadline For Public Comment

Deadline: Unavailable.

The deadline for public comment is unavailable for this rule. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	20-E04
Title:	Coverage of Health Care Services Delivered Through Telephone, Telehealth, or Store and Forward Means.
Type:	Emergency
Status:	Adopted
Agency:	Department of Financial Regulation
Legal Authority:	Act 91 of 2020.
Summary:	<p>During the COVID-19 State of Emergency, the emergency rule requires health insurers and workers' compensation insurance carriers to provide coverage for clinically appropriate health care services delivered remotely through telehealth or audio-only telephone through telehealth or audio-only telephone on the same basis as in-person consultations. The emergency rule also requires health insurers to cover telephone triage calls without member cost sharing, and implements the provisions of Act 91 with respect to services delivered by store-and-forward means. Finally, the rule temporarily waives compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) consistent with guidance issued by the Department of Health and Human Services.</p>
Persons Affected:	<p>Health insurers and workers' compensation insurance carriers regulated by the Department of Financial Regulation; Health care providers; Members of health insurance plans; Workers' compensation beneficiaries.</p> <p>Responding to the COVID-19 pandemic requires the provision of health care services by physicians or other health care professionals through remote communications devices, including audio-only telephone. Facilitating the reimbursement for such services by health insurers is expected to significantly decrease the financial burden on these providers while limiting out-of-pocket costs for patients. Health Insurers and workers' compensation insurance carriers are expected to pay the same amount for telehealth consultations as for in-person office visits. Health insurers will pay a nominal amount for telephone triage services.</p>
Economic Impact:	
Posting date:	Mar 31,2020

Hearing Information

There are not Hearings scheduled for this Rule

Contact Information

Information for Primary Contact

PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level: Primary
Name: Sebastian Arduengo
Agency: Department of Financial Regulation
Address: 89 Main Street
City: Montpelier
State: VT
Zip: 05620-3101
Telephone: 802-828-4846
Fax: 802-828-5593
Email: sebastian.arduengo@vermont.gov

[SEND A COMMENT](#)

Website Address: <https://dfr.vermont.gov/about-us/legal-general-counsel/proposed-rules-and-public-comment>

[VIEW WEBSITE](#)

Information for Secondary Contact

SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level: Secondary
Name: Gavin Boyles
Agency: Department of Financial Regulation
Address: 89 Main Street
City: Montpelier
State: VT
Zip: 05620-3101
Telephone: 802-828-1425
Fax: 802-828-1919
Email: gavin.boyles@vermont.gov

[SEND A COMMENT](#)

Keyword Information

Keywords:

- Health Insurance
- Workers' Compensation Insurance
- Telehealth
- Audio-only Telephone
- CORONAVIRUS
- Covid-19

[Back](#)

v 1.0.2