

Requested by Representative PRUSAK

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2508**

1 On page 1 of the printed bill, delete lines 5 through 30 and delete pages  
2 2 and 3 and insert:

3 **“SECTION 1. Section 2 of this 2021 Act is added to and made a part  
4 of ORS chapter 414.**

5 **“SECTION 2. (1) As used in this section:**

6 **“(a)(A) ‘Audio only’ means the use of audio telephone technology,  
7 permitting real-time communication between a health care provider  
8 and a patient for the purpose of diagnosis, consultation or treatment.**

9 **“(B) ‘Audio only’ does not include:**

10 **“(i) The use of facsimile, electronic mail or text messages.**

11 **“(ii) The delivery of health services that are customarily delivered  
12 by audio telephone technology and customarily not billed as separate  
13 services by a health care provider, such as the sharing of laboratory  
14 results.**

15 **“(b) ‘Telemedicine’ means the mode of delivering health services  
16 using information and telecommunication technologies to provide  
17 consultation and education or to facilitate diagnosis, treatment, care  
18 management or self-management of a patient’s health care.**

19 **“(2) To encourage the efficient use of resources and to promote  
20 cost-effective procedures in accordance with ORS 413.011 (1)(L), the  
21 Oregon Health Authority shall reimburse the cost of health services**

1 delivered using telemedicine, including but not limited to:

2 “(a) Health services transmitted via landlines, wireless communi-  
3 cations, the Internet and telephone networks;

4 “(b) Synchronous or asynchronous transmissions using audio only,  
5 video only, audio and video and transmission of data from remote  
6 monitoring devices; and

7 “(c) Communications between providers or between one or more  
8 providers and one or more patients, family members, caregivers or  
9 guardians.

10 “(3)(a) The authority shall pay the same reimbursement for a health  
11 service regardless of whether the service is provided in person or using  
12 any permissible telemedicine application or technology.

13 “(b) Paragraph (a) of this subsection does not prohibit the use of  
14 value-based payment methods, including global budgets or capitated,  
15 bundled, risk-based or other value-based payment methods, and does  
16 not require that any value-based payment method reimburse telemed-  
17 icine health services based on an equivalent fee-for-service rate.

18 “(4) The authority shall include the costs of telemedicine services  
19 in its rate assumptions for payments made to clinics or other providers  
20 on a prepaid capitated basis.

21 “(5) This section does not require the authority or a coordinated  
22 care organization to pay a provider for a service that is not included  
23 within the Healthcare Procedure Coding System or the American  
24 Medical Association’s Current Procedural Terminology codes.

25 “(6) The authority shall adopt rules to ensure that coordinated care  
26 organizations reimburse the cost of health services delivered using  
27 telemedicine, consistent with subsections (2) and (3) of this section.

28 “SECTION 3. ORS 743A.058 is amended to read:

29 “743A.058. (1) As used in this section:

30 “(a)(A) ‘Audio only’ means the use of audio telephone technology,

1 **permitting real-time communication between a health care provider**  
2 **and a patient for the purpose of diagnosis, consultation or treatment.**

3 **“(B) ‘Audio only’ does not include:**

4 **“(i) The use of facsimile, electronic mail or text messages.**

5 **“(ii) The delivery of health services that are customarily delivered**  
6 **by audio telephone technology and customarily not billed as separate**  
7 **services by a health care provider, such as the sharing of laboratory**  
8 **results.**

9 **“[(a)] (b) ‘Health benefit plan’ has the meaning given that term in ORS**  
10 **743B.005.**

11 **“[(b)] (c) ‘Health professional’ means a person licensed, certified or reg-**  
12 **istered in this state to provide health care services or supplies.**

13 **“(d) ‘Health service’ means physical, oral and behavioral health**  
14 **treatment or service provided by a health professional.**

15 **“[(c)] (e) ‘Originating site’ means the physical location of the patient.**

16 **“(f) ‘State of emergency’ includes:**

17 **“(A) A state of emergency declared by the Governor under ORS**  
18 **401.165; or**

19 **“(B) A state of public health emergency declared by the Governor**  
20 **under ORS 433.441.**

21 **“(g) ‘Telemedicine’ means the mode of delivering health services**  
22 **using information and telecommunication technologies to provide**  
23 **consultation and education or to facilitate diagnosis, treatment, care**  
24 **management or self-management of a patient’s health care.**

25 **“(2) A health benefit plan and a dental-only plan must provide coverage**  
26 **of a health service that is provided using [*synchronous two-way interactive***  
27 ***video conferencing*] telemedicine if:**

28 **“(a) The plan provides coverage of the health service when provided in**  
29 **person by a health professional;**

30 **“(b) The health service is medically necessary;**

1 “(c) The health service is determined to be safely and effectively provided  
2 [*using synchronous two-way interactive video conferencing*] **using telemedi-**  
3 **cine** according to generally accepted health care practices and standards;  
4 and

5 “(d) The application and technology used to provide the health service  
6 meet all standards required by state and federal laws governing the privacy  
7 and security of protected health information.

8 “(3) **Except as provided in subsection (4) of this section, permissible**  
9 **telemedicine applications and technologies include:**

10 “(a) **Landlines, wireless communications, the Internet and tele-**  
11 **phone networks; and**

12 “(b) **Synchronous or asynchronous transmissions using audio only,**  
13 **video only, audio and video and transmission of data from remote**  
14 **monitoring devices.**

15 “(4) **During a state of emergency, a health benefit plan or dental-**  
16 **only plan shall provide coverage of a telemedicine service delivered to**  
17 **an enrollee residing in the geographic area specified in the declaration**  
18 **of the state of emergency, if the telemedicine service is delivered using**  
19 **any commonly available technology, regardless of whether the tech-**  
20 **nology meets all standards required by state and federal laws govern-**  
21 **ing the privacy and security of protected health information.**

22 “[3] (5) A health benefit plan **and a dental-only plan** may not:

23 “(a) **Distinguish between rural and urban originating sites in providing**  
24 **coverage under subsection (2) of this section or restrict originating sites**  
25 **that qualify for reimbursement.**

26 “(b) **Restrict a health care provider to delivering services only in**  
27 **person or only via telemedicine.**

28 “(c) **Use telemedicine health care providers to meet network ade-**  
29 **quacy standards under ORS 743B.505.**

30 “(d) **Require an enrollee to have an established patient-provider re-**

1 **lationship with a provider to receive telemedicine health services from**  
2 **the provider or require an enrollee to consent to telemedicine services**  
3 **in person.**

4 **“(e) Impose additional certification, location or training require-**  
5 **ments for telemedicine providers or restrict the scope of services that**  
6 **may be provided using telemedicine to less than a provider’s permis-**  
7 **sible scope of practice.**

8 **“(f) Impose more restrictive requirements for telemedicine applica-**  
9 **tions and technologies than those specified in subsection (3) of this**  
10 **section.**

11 **“(g) Impose on telemedicine health services different annual dollar**  
12 **maximums or prior authorization requirements than the annual dollar**  
13 **maximums and prior authorization requirements imposed on the ser-**  
14 **vices if provided in person.**

15 **“(h) Require a medical assistant or other health professional to be**  
16 **present with an enrollee at the originating site.**

17 **“(i) Deny an enrollee the choice to receive a health service in per-**  
18 **son or via telemedicine.**

19 **“(j) Reimburse an out-of-network provider at a rate for telemedicine**  
20 **health services that is different than the reimbursement paid to the**  
21 **out-of-network provider for health services delivered in person.**

22 **“(k) Restrict a provider from providing telemedicine services across**  
23 **state lines if the services are within the provider’s scope of practice**  
24 **and:**

25 **“(A) The provider has an established practice within this state;**

26 **“(B) The provider’s employer operates health clinics or licensed**  
27 **health care facilities in this state;**

28 **“(C) The provider has an established relationship with the patient;**  
29 **or**

30 **“(D) The patient was referred to the provider by the patient’s pri-**

1 **mary care or specialty provider located in this state.**

2 **“(L) Prevent a provider from prescribing, dispensing or adminis-**  
3 **tering drugs or medical supplies or otherwise providing treatment**  
4 **recommendations to an enrollee after having performed an appropriate**  
5 **examination of the enrollee in person, through telemedicine or by the**  
6 **use of instrumentation and diagnostic equipment through which im-**  
7 **ages and medical records may be transmitted electronically.**

8 **“(m) Establish standards for determining medical necessity for**  
9 **services delivered using telemedicine that are higher than standards**  
10 **for determining medical necessity for services delivered in person.**

11 **“(6) A health benefit plan and a dental-only plan shall:**

12 **“(a) Work with contracted providers to ensure meaningful access**  
13 **to telemedicine services by assessing an enrollee’s capacity to use**  
14 **telemedicine technologies that comply with accessibility standards,**  
15 **including alternate formats, and providing the optimal quality of care**  
16 **for the enrollee given the enrollee’s capacity;**

17 **“(b) Ensure access to auxiliary aids and services to ensure that**  
18 **telemedicine services accommodate the needs of enrollees who have**  
19 **difficulty communicating due to a medical condition, who need an**  
20 **accommodation due to disability or advanced age or who have limited**  
21 **English proficiency;**

22 **“(c) Ensure access to telemedicine services for enrollees who have**  
23 **limited English proficiency or who are deaf or hard-of-hearing by**  
24 **providing interpreter services reimbursed at the same rate as inter-**  
25 **preter services provided in person; and**

26 **“(d) Ensure that telemedicine services are culturally and linguis-**  
27 **tically appropriate and trauma-informed.**

28 **“[(4)] (7) The coverage under subsection (2) of this section is subject to:**

29 **“(a) The terms and conditions of the health benefit plan or dental-only**  
30 **plan; and**

1       “(b) **Subject to subsection (8) of this section**, the reimbursement spec-  
2 ified in the contract between the plan and the health professional.

3       “(8)(a) **A health benefit plan and dental-only plan must pay the**  
4 **same reimbursement for a health service regardless of whether the**  
5 **service is provided in person or using any permissible telemedicine**  
6 **application or technology.**

7       “(b) **Paragraph (a) of this subsection does not prohibit the use of**  
8 **value-based payment methods, including capitated, bundled, risk-based**  
9 **or other value-based payment methods, and does not require that any**  
10 **value-based payment method reimburse telemedicine health services**  
11 **based on an equivalent fee-for-service rate.**

12       “~~[(5)]~~ (9) This section does not require a health benefit plan **or dental-**  
13 **only plan** to reimburse a health professional:

14       “(a) For a health service that is not a covered benefit under the plan;  
15 [*or*]

16       “(b) Who has not contracted with the plan[.]; **or**

17       “(c) **For a service that is not included within the Healthcare Pro-**  
18 **cedure Coding System or the American Medical Association’s Current**  
19 **Procedural Terminology codes or related modifier codes.**

20       “(10) **This section is exempt from ORS 743A.001.**

21       “**SECTION 4. No later than March 1, 2023, the Department of Con-**  
22 **sumer and Business Services shall report to the interim committees**  
23 **of the Legislative Assembly related to health on the impact of the re-**  
24 **imbursement specified in ORS 743A.058 (7) on the cost of health in-**  
25 **surance premiums in this state.**

26       “**SECTION 5. This 2021 Act being necessary for the immediate**  
27 **preservation of the public peace, health and safety, an emergency is**  
28 **declared to exist, and this 2021 Act takes effect on its passage.”.**

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