SUBJECT: Allowing certain telehealth and telemedicine services under Medicaid

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — Klick, Guerra, Allison, Jetton, Oliverson, Price, Zwiener

0 nays

4 absent — Campos, Coleman, Collier, Smith

WITNESSES: For — Dennis Borel, Coalition of Texans with Disabilities; Laurie Vanhoose, Texas Association of Health Plans; Robert Ball, Texas Children's Hospital; Lee Johnson, Texas Council of Community Centers; Nora Belcher, Texas e-Health Alliance; Cameron Duncan, Texas Hospital Association; Hani Talebi, Texas Psychological Association; (*Registered, but did not testify*: Blake Hutson, AARP Texas; Priscilla Camacho, Alamo Colleges District; Aaron Gregg, Alzheimer's Association; Justin Keener, Americans for Prosperity and Libre Initiative; Gregg Knaupe, Ascension Texas and Texas Association for Home Care and Hospice; Amy Bresnen, Association of Dental Support Organizations; Lisa Poynor, Association of Substance Abuse Programs of Texas; Marisa Finley, Baylor Scott and White Health; Melissa Shannon, Bexar County Commissioners Court; Kwame Walker, Catholic Health Initiatives; Kyle Mauro, Central Health; Allison Greer Francis and David Pan, CHCS; Michaela Bennett, Children's Health; Amber Hausenfluck, CHRISTUS Health; Christine Wright, City of San Antonio; Christine Bryan, Clarity Child Guidance Center; Steve Koebele, Concentra; Adam Haynes, Conference of Urban Counties; Jim Allison, County Judges and Commissioners Association of Texas; Roberto Haddad, Doctors Hospital at Renaissance (DHR Health); Michael Dole, Driscoll Health Plan; Lindsay Munoz, Greater Houston Partnership; Thamara Narvaez, Harris County Commissioners Court; Fred Shannon, Intel Corporation; Rick Bailey, Johnson County; Lindsay Lanagan, Legacy Community Health; Bill Kelly, Mayor's Office for City of Houston; Myra Leo, Methodist Healthcare Ministries; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Greg Hansch, National Alliance on Mental Illness-Texas; Alison Mohr Boleware,

National Association of Social Workers-Texas Chapter; Chris Wallace, North Texas Commission; Martin Gutierrez, San Antonio Hispanic Chamber of Commerce; Russell Schaffner, Tarrant County; Grover Campbell, TASB; Jessica Schleifer, Teaching Hospitals of Texas; Adriana Kohler, Texans Care for Children; Charles Miller, Texas 2036; Marshall Kenderdine, Texas Academy of Family Physicians and Texas Society for Gastroenterology and Endoscopy; Santiago Cirnigliaro, Texas Alliance of Child and Family Services; Courtney Hoffman, Texas Association for Behavior Analysis Public Policy Group; Megan Herring, Texas Association of Business; Kay Ghahremani, Texas Association of Community Based Plans; Shelby Tracy, Texas Association of Community Health Centers; David Reynolds, Texas Chapter American College of Physicians; Mia McCord, Texas Conservative Coalition (TCC); Matt Roberts, Texas Dental Association; Gavin Gadberry, Texas Health Care Association; Reed Clay, Texas Health Resources; Dan Finch, Texas Medical Association; Casey Haney, Texas Nurse Practitioners; Kevin Stewart, Texas Nurses Association; Denise Rose, Texas Occupational Therapy Association; Trent Krienke, Texas Organization of Rural and Community Hospitals; Jill Sutton, Texas Osteopathic Medical Association; Clayton Travis, Texas Pediatric Society; Jessica Karlsruher, Texas Real Estate Advocacy and Defense Coalition; Lawrence Higdon, Texas Speech Language Hearing Association; Dana Harris, The Greater Austin Chamber of Commerce; Leah Rummel, United HealthCare; Molly Weiner, United Ways of Texas; Andrew Smith, University Health; Elisa Hernandez, University Medical Center of El Paso; Knox Kimberly, Upbring)

Against — None

On — (*Registered, but did not testify*: Monica Ayres, Citizens Commission on Human Rights Texas)

BACKGROUND: Occupations Code sec. 111.001 defines "telehealth service" and "telemedicine medical service" as health care provided through telecommunication technology by a practitioner in a different location from the patient receiving the care. In telemedicine the practitioner in

charge of delivering the care is a physician, while in telehealth it is another health professional who is not under a physician's supervision or delegation authority.

Government Code sec. 531.02164 limits home telemonitoring services under Medicaid only to persons who are diagnosed with at least one specified health condition, including pregnancy, diabetes, heart disease, cancer, and mental illness, and who exhibit at least two specified risk factors.

Sec. 533.0061 establishes minimum standards to ensure a managed care organization provides Medicaid recipients sufficient access to certain services, such as primary and specialty care and nursing and therapy services, among others.

Sec. 531.0216(i) authorizes a federally qualified health center to be reimbursed for the originating site facility fee and/or the distant site practitioner fee for a covered telemedicine or telehealth service provided to a Medicaid recipient. This requirement applies only if the Legislature appropriates money for this purpose. Otherwise, the executive commissioner of the Health and Human Services Commission may implement this provision using other available funds appropriated for that purpose.

Health and Safety Code sec. 62.1571 requires a Children's Health Insurance Program health plan provider to allow a child's covered benefits to be provided through telemedicine medical services.

DIGEST:

CSHB 4 would require the executive commissioner of the Health and Human Services Commission (HHSC) to establish policies, procedures, and otherwise ensure certain health care services could be provided through telehealth, telemedicine, telecommunications, or other information technology.

Telehealth and telemedicine services. By January 1, 2022, HHSC would have to ensure that enrollees in Medicaid, the Children's Health Insurance

Program (CHIP), and other specified public benefits programs had the option to receive certain services as telemedicine or telehealth services, or otherwise use telecommunications or information technology, regardless of whether the services were provided through managed care or another delivery model. This provision would apply to the following services:

- preventative health and wellness;
- case management, including targeted case management;
- certain behavioral health services;
- occupational, physical, and speech therapy;
- nutritional counseling; and
- assessments, including nursing assessments under certain Section 1915(c) home and community-based services waiver programs.

HHSC would have to ensure the required service options were provided only if permitted by federal law and if the commission determined it was cost-effective and clinically effective.

Audio-only services. Under the bill, HHSC by rule would have to develop and implement a system to ensure behavioral health services could be provided using audio-only technology to enrollees in Medicaid, CHIP, and other specified public benefits programs. The executive commissioner of HHSC by rule could provide audio-only technology through non-behavioral health services if the executive commissioner determined that using that technology would be cost-effective and clinically effective.

HHSC would have to implement these audio-only provisions by January 1, 2022.

Medicaid managed care. The bill would require HHSC to establish policies and procedures for improving access to care under the Medicaid managed care program by encouraging the use of telehealth services, telemedicine medical services, home telemonitoring services, and other telecommunications or information technology.

Reimbursement for home telemonitoring services. The bill would allow a

Medicaid managed care organization (MCO) to reimburse providers for home telemonitoring services provided to persons and in circumstances other than those specified in Government Code sec. 531.02164. The MCO would have to consider whether the reimbursement for the service would be cost-effective and providing the service would be clinically effective.

Text messaging. By January 1, 2022, the executive commissioner would have to adopt and publish guidelines for MCOs on how they could communicate by text message with enrollees, which would include standardized consent language.

Home and community-based services. To the extent permitted by federal law, HHSC would have to establish policies and procedures that allowed a Medicaid MCO to conduct assessments of and provide care coordination services to recipients receiving home and community-based services using other telecommunication or technology if those methods were deemed appropriate by the MCO or HHSC. The bill also would permit telecommunication and information technology for the assessments and care coordination services if requested by the recipient, or if an in-person assessment or activity would not be feasible because of an emergency or state of disaster, including a public health emergency or natural disaster.

HHSC would be required to determine categories of recipients of home and community-based services who must receive in-person visits. Except when not feasible due to a public health emergency or disaster, the bill would require an MCO to conduct for a recipient of home and community-based services at least one in-person visit with the recipient, and additional visits if necessary, as determined by the MCO.

If an MCO assessed or provided care coordination services to a recipient using telecommunications or information technology, the MCO would have to monitor the provided health care services for evidence of fraud, waste, and abuse and determine whether additional social services or supports were needed. HHSC would have to allow a recipient receiving certain services using telecommunication and information technology to consent verbally instead of in writing.

Provider access standards. The bill would require provider access standards for Medicaid managed care to include consideration of and the availability of telehealth and telemedicine services within an MCO's provider network.

Reimbursement for rural health clinics. The bill would establish that a rural health clinic as defined by 42 U.S.C. sec. 1396d(l)(1) was eligible for reimbursement for certain fees under Government Code sec. 531.0216(i).

Other provisions. The bill would make conforming changes under Health and Safety Code sec. 62.1571 by requiring telehealth services also be offered as covered benefits to CHIP enrollees.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 4 would improve access to health care for Texans, especially those in rural and medically underserved areas, by allowing multiple services to be provided through telemedicine, telehealth, telecommunications, or other information technology.

During the COVID-19 pandemic, demand for telehealth and telemedicine services increased due to heightened mental health needs exacerbated by illness, fear, and social and economic hardship. In response, many health care providers quickly shifted from providing in-person visits to using telehealth and telemedicine and other remote technology tools. This bill would preserve telehealth and telemedicine efforts made in the pandemic to address provider shortages and provide Texans access to virtual health care services beyond the public health emergency. The bill also would establish sufficient protections for Texans by requiring the Health and Human Services Commission to determine whether providing virtual services would be cost-effective and clinically effective.

By increasing access to telemedicine and telehealth, the bill would ensure continuity of care and could generate cost-savings for families and the state. Providing telemedicine, telehealth, and telecommunication services could help families save time and money that they might otherwise spend traveling to appointments or finding child care. Elderly and medically fragile individuals, who often have limited mobility, also would benefit from virtual appointments. Allowing services like preventative health and wellness and care coordination to be provided through telemedicine and telehealth could help practitioners improve "no-show" appointment rates, identify patients' health issues early, efficiently refer a patient to a specialist, and help decrease emergency room visits.

Allowing audio-only benefits for behavioral health services would address a gap in health care services and create flexibility for patients and providers. Many Texans do not have internet access or smartphones, making audio-only their most viable option. Additionally, an audio-only option could help reduce stigma for patients seeking mental health and substance use disorder services.

CRITICS SAY:

CSHB 4 could reduce the quality of health care by allowing audio-only benefits to be provided for certain behavioral health services. A health practitioner may not be able to accurately assess a patient through audio-only technology.

OTHER CRITICS SAY:

While CSHB 4 makes significant strides to advance telehealth and telemedicine services for Texans beyond the pandemic, the bill should require health care professionals' reimbursement rates for telemedicine and telehealth services to be the same rate as those for in-person services. Providing payment parity would help encourage more providers to use telehealth and telemedicine services.