

New Mexico Lawmakers Pass Bill for Telehealth Insurance Coverage, Payment Parity

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New Mexico lawmakers passed new legislation designed to close gaps in the state's current telehealth insurance coverage law, provide coverage clarity to patients, and ensure payment parity to in-network health care providers. The Legislature passed, nearly unanimously (98-1), [legislation](#) ensuring that commercial health plans will cover medical services delivered in-person or via telemedicine. The bill now heads to the office of Governor Michelle Lujan Grisham for signature. If signed into law, the bill should bring New Mexico to the forefront of telehealth coverage, benefitting patients and helping catalyze the growth of these technologies throughout the state.

A Revision to Prior Telehealth Law

New Mexico enacted its initial telehealth coverage law in 2013. However, the restrictive language of that law failed to ensure that patients could enjoy meaningful insurance coverage of services delivered via telehealth. Accordingly, New Mexico revisited the statute and the current bill would amend the law to align with model language and best practices. A number of other state legislatures are considering similar amendments to

their current telehealth coverage laws in order to close these [perceived loopholes](#) and give patients and healthcare providers clarity on what medical services are (and are not) covered when delivered via telehealth.

Note: attorneys in Foley's Telemedicine & Digital Health Industry Team helped draft the legislative language in New Mexico's new bill (SB 354).

How the New Legislation Will Help Patients and Providers

SB 354 amends New Mexico's current telehealth commercial insurance coverage laws (NMSA §§ 13-7-14, 59A-22-49.3, 59A-23-7.12, 59A-46-50.3, 59A-47-45.3) to state that a health plan shall provide coverage for services provided via telemedicine to the same extent the health plan covers the same services when those services are provided via in-person consultation or contact.

Other notable provisions in the legislation are as follows:

- Telemedicine is defined as "telecommunications and information technology to provide clinical health care at a site distinct from the patient." Telemedicine allows health care professionals to evaluate, diagnose and treat patients in remote locations using telecommunications and information technology in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or remote patient monitoring and telecommunications in order to deliver health care services to a site where the patient is located,

along with the use of electronic media and health information.

- A health plan may not impose any unique condition for coverage of services provided via telemedicine.
- A health plan may not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the law shall not be construed to require coverage of an otherwise noncovered benefit.
- A health plan may not limit coverage of services delivered via telemedicine only to those health care providers who are members of the group health plan provider network where no in-network provider is available and accessible, as availability and accessibility are defined in network adequacy standards issued by the superintendent of insurance.
- A health plan may charge a deductible, copayment or coinsurance for a health care service delivered via telemedicine if it does not exceed the deductible, copayment or coinsurance applicable to a service delivered via in-person consultation or contact.
- A health plan may not impose any annual or lifetime dollar maximum on coverage for services delivered via

telemedicine, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the group health plan, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance or deductible amounts, or any plan year, calendar year, lifetime or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the group health

- A health plan shall reimburse for health care services delivered via telemedicine on the same basis and at least the same rate that the group health plan reimburses for comparable services delivered via in-person consultation or

If the updated New Mexico legislation becomes law, approximately 36 states plus D.C. will have laws requiring commercial health insurance plans to cover telehealth services, and approximately ten of those states will have [payment parity language](#). We will continue to monitor for any legislative changes that affect or improve telemedicine opportunities.

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