

1 AN ACT relating to telehealth coverage.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 304.17A-138 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Equivalent" means reimbursement in an amount equal to what  
6 reimbursement would have been had the service been furnished in person by  
7 that provider at the provider's place of service;

8 (b) "~~***Federally-qualified***~~[~~Federally-qualified~~] health center" ***has the same***  
9 ***meaning***[~~means the same~~] as in 42 U.S.C. sec. 1396d;

10 (c) "Federally qualified health center look-alike" means an organization that  
11 meets all of the eligibility requirements of a ~~***federally-qualified***~~[~~federally~~  
12 ~~qualified~~] health center but does not receive federal grants issued pursuant to  
13 42 U.S.C. sec. 254b;

14 (d) "Originating site" means the site at which a Medicaid beneficiary is physically  
15 located at the time a telehealth service or telehealth consultation is provided;

16 (e) "Provider" ***has the same meaning***[~~means the same~~] as in KRS 304.17A-005  
17 and also includes behavioral health professionals licensed under KRS  
18 Chapters 309, 319, and 335;

19 (f) [~~"Telehealth" has the same meaning as in KRS 211.332; and~~

20 (~~g~~)] "~~***Rural health clinic***~~" ***has the same meaning***[~~means the same~~] as in 42 U.S.C.  
21 sec. 1395x; ***and***

22 (***g***) "***Telehealth***" ***has the same meaning as in KRS 211.332.***

23 (2) (a) A health benefit plan[~~, issued or renewed on or after January 1, 2022,~~] shall  
24 reimburse for covered services provided to an insured person through  
25 telehealth, including telehealth services provided by a home health agency  
26 licensed under KRS Chapter 216.

27 (***b***) Telehealth coverage and reimbursement shall, except as provided in paragraph

1           ~~(c)(b)~~ of this subsection, be equivalent to the coverage for the same service  
 2           provided in person unless the telehealth provider and the health benefit plan  
 3           contractually agree to a lower reimbursement rate for telehealth services.

4           ~~(c)(b)~~ Rural health clinics, federally-qualified~~federally-qualified~~ health  
 5           centers, and federally qualified health center look-alikes shall be reimbursed  
 6           as an originating site in an amount equal to that which is permitted under 42  
 7           U.S.C. sec. 1395m for Medicare-participating providers, if:

- 8           1. The insured was physically located at the rural health clinic, federally-  
 9           qualified~~federally-qualified~~ health center, or federally qualified health  
 10          center look-alike at the time of service or consultation delivery; and
- 11          2. The provider of the telehealth service or telehealth consultation is not  
 12          employed by the rural health clinic, federally-qualified~~federally-  
 13          ~~qualified~~ health center, or federally qualified health center look-alike.~~

14 (3) In accordance with KRS 211.336, a health benefit plan~~[- issued or renewed on or~~  
 15 ~~after January 1, 2022]~~:

16 (a) Shall not:

- 17          1. Require a provider to be physically present with a patient or client,  
 18          unless the provider determines that it is necessary to perform those  
 19          services in person;
- 20          2. Require prior authorization, medical review, or administrative clearance  
 21          for telehealth that would not be required if a service were provided in  
 22          person;
- 23          3. Require demonstration that it is necessary to provide services to a  
 24          patient or client through telehealth;
- 25          4. Require a provider to be employed by another provider or agency in  
 26          order to provide telehealth services that would not be required if that  
 27          service were provided in person;

1           5. Restrict or deny coverage of telehealth based solely on the  
2           communication technology or application used to deliver the telehealth  
3           services; or

4           6. Require a provider to be part of a telehealth network;

5           (b) Shall:

6           1. Require that telehealth services reimbursed under this section meet all  
7           clinical, technology, and medical coding guidelines for recipient safety  
8           and appropriate delivery of services established by the department ~~of~~  
9           ~~Insurance~~ or the provider's professional licensure board; **and**

10          2. ~~Require a telehealth provider to be licensed in Kentucky, or as allowed~~  
11          ~~under the standards and provisions of a recognized interstate compact, in~~  
12          ~~order to receive reimbursement for telehealth services; and~~

13          3. ~~Reimburse a rural health clinic, federally qualified health clinic, or~~  
14          federally qualified health center look-alike for covered telehealth  
15          services provided by a provider employed by the rural health clinic,  
16          federally qualified health clinic, or federally qualified health center  
17          look-alike, regardless of whether the provider was physically located on  
18          the premises of the rural health clinic, federally qualified health clinic,  
19          or federally qualified health clinic look-alike when the telehealth service  
20          was provided; and

21          (c) May:

22          **1.** Utilize audits for medical coding accuracy in the review of telehealth  
23          services specific to audio-only encounters; **and**

24          **2. Require a telehealth provider to be licensed in Kentucky, or as allowed**  
25          **under the standards and provisions of a recognized interstate compact,**  
26          **in order to receive reimbursement for telehealth services.**

27          (4) **(a)** Benefits for a service provided through telehealth required by this section may

1 be made subject to a deductible, copayment, or coinsurance requirement.

2 **(b)** A deductible, copayment, or coinsurance applicable to a particular service  
3 provided through telehealth shall not exceed the deductible, copayment, or  
4 coinsurance required by the health benefit plan for the same service provided  
5 in person.

6 (5) Nothing in this section shall be construed to require a health benefit plan to:

7 (a) Provide coverage for telehealth services that are not medically necessary; ~~or~~

8 (b) Reimburse any fees charged by a telehealth facility for transmission of a  
9 telehealth encounter; **or**

10 **(c) Provide in-network coverage or reimbursement to out-of-network providers**  
11 **unless the coverage or reimbursement is provided under the health benefit**  
12 **plan for the same service provided in person.**

13 (6) Providers and home health agencies are strongly encouraged to use audio-only  
14 encounters as a mode of delivering telehealth services when no other approved  
15 mode of delivering telehealth services is available.

16 (7) The **commissioner**~~[department]~~ shall promulgate an administrative regulation in  
17 accordance with KRS Chapter 13A to designate the claim forms and records  
18 required to be maintained in conjunction with this section.

19 ➔Section 2. KRS 164.2871 is amended to read as follows:

20 (1) The governing board of each state postsecondary educational institution is  
21 authorized to purchase liability insurance for the protection of the individual  
22 members of the governing board, faculty, and staff of such institutions from liability  
23 for acts and omissions committed in the course and scope of the individual's  
24 employment or service. Each institution may purchase the type and amount of  
25 liability coverage deemed to best serve the interest of such institution.

26 (2) All retirement annuity allowances accrued or accruing to any employee of a state  
27 postsecondary educational institution through a retirement program sponsored by

1 the state postsecondary educational institution are hereby exempt from any state,  
2 county, or municipal tax, and shall not be subject to execution, attachment,  
3 garnishment, or any other process whatsoever, nor shall any assignment thereof be  
4 enforceable in any court. Except retirement benefits accrued or accruing to any  
5 employee of a state postsecondary educational institution through a retirement  
6 program sponsored by the state postsecondary educational institution on or after  
7 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent  
8 provided in KRS 141.010 and 141.0215.

9 (3) Except as provided in KRS Chapter 44, the purchase of liability insurance for  
10 members of governing boards, faculty and staff of institutions of higher education  
11 in this state shall not be construed to be a waiver of sovereign immunity or any  
12 other immunity or privilege.

13 (4) The governing board of each state postsecondary education institution is authorized  
14 to provide a self-insured employer group health plan to its employees, which plan  
15 shall:

16 (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and

17 (b) Except as provided in subsection (5) of this section, be exempt from  
18 conformity with Subtitle 17A of KRS Chapter 304.

19 (5) A self-insured employer group health plan provided by the governing board of a  
20 state postsecondary education institution to its employees shall comply with:

21 (a) KRS 304.17A-129;

22 (b) KRS 304.17A-133;

23 (c) **Section 1 of this Act;**

24 **(d)** KRS 304.17A-145;

25 **(e)**~~(d)~~ KRS 304.17A-163 and 304.17A-1631;

26 **(f)**~~(e)~~ KRS 304.17A-261;

27 **(g)**~~(f)~~ KRS 304.17A-262;

1        ~~(h)~~~~(g)~~ KRS 304.17A-264; and

2        ~~(i)~~~~(h)~~ KRS 304.17A-265.

3        (6) (a) A self-insured employer group health plan provided by the governing board of  
4                a state postsecondary education institution to its employees shall provide a  
5                special enrollment period to pregnant women who are eligible for coverage in  
6                accordance with the requirements set forth in KRS 304.17-182.

7        (b) The governing board of a state postsecondary education institution shall, at or  
8                before the time an employee is initially offered the opportunity to enroll in the  
9                plan or coverage, provide the employee a notice of the special enrollment  
10                rights under this subsection.

11        ➔Section 3. Section 2 of this Act applies to health benefit plans issued or  
12        renewed on or after the effective date of this Act.