

**HOUSE BILL No. 2206**

By Committee on Health and Human Services

1-30

1 AN ACT concerning health and healthcare; relating to coverage for  
2 telemedicine; pertaining to the Kansas program for medical assistance;  
3 the secretary for children and families; certain state licensing agencies;  
4 establishing parity between in-person and telemedicine-delivered health  
5 care services and providers; amending K.S.A. 2016 Supp. 40-2,103 and  
6 40-19c09 and repealing the existing sections.  
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) The provisions of this section shall apply to any  
10 individual or group health insurance policy, medical service plan, contract,  
11 hospital service corporation contract, hospital and medical service  
12 corporation contract, fraternal benefit society or health maintenance  
13 organization that provides coverage for accident and health services and  
14 that is delivered, issued for delivery, amended or renewed on or after  
15 January 1, 2019, and that provides coverage for telemedicine or telehealth.  
16 The provisions of this section shall also apply to the Kansas program of  
17 medical assistance.

18 (b) Each individual or group health insurance policy, medical service  
19 plan, contract, hospital service corporation contract, hospital and medical  
20 service corporation contract, fraternal benefit society or health  
21 maintenance organization that provides coverage for telemedicine or  
22 telehealth, and the Kansas program of medical assistance shall:

23 (1) Provide written notice, as currently required, to all enrollees,  
24 insureds or subscribers regarding the coverage required by this section;

25 (2) provide coverage and payment for health care services delivered  
26 to a covered individual through telehealth or telemedicine on the same  
27 basis as, and at least the same rate, as when the services are delivered  
28 through in-person contact; and

29 (3) not charge any deductible, copayment or coinsurance for a health  
30 care service, delivered by telemedicine or telehealth, in an amount that  
31 exceeds the deductible, copayment or coinsurance that is applicable to an  
32 in-person consultation.

33 (c) No individual or group health insurance policy, medical service  
34 plan, contract, hospital service corporation contract, hospital and medical  
35 service corporation contract, fraternal benefit society or health  
36 maintenance organization that provides coverage for telemedicine or the

1 Kansas program for medical assistance shall:

2 (1) Deny to a patient eligibility, or continued eligibility, to enroll or to  
3 renew coverage under the terms of the plan, solely for the purpose of  
4 avoiding the requirements of this section;

5 (2) penalize or otherwise reduce or limit the reimbursement of an  
6 attending provider, or provide incentives, monetary or otherwise, to an  
7 attending provider, to induce such provider to provide care to an individual  
8 participant or beneficiary in a manner inconsistent with this section;

9 (3) impose any annual or lifetime dollar maximum on coverage for  
10 telemedicine or telehealth services, other than an annual or lifetime dollar  
11 maximum in the aggregate to all items and services covered under the  
12 policy or impose upon any person receiving health benefits under this  
13 section, any copayment, coinsurance or deductible amounts, or any policy  
14 year, calendar year, lifetime or other durational benefit limitations or  
15 maximums for benefits or services that is not equally imposed upon all  
16 terms and services covered by the policy, contract or plan; or

17 (4) exclude an otherwise covered health care service from coverage  
18 solely because the service is provided through telemedicine or telehealth  
19 rather than in-person contact.

20 (d) The provisions of this section shall not apply to any policy or  
21 certificate that provides coverage for any specified disease, specified  
22 accident or accident only coverage, credit, dental, disability income,  
23 hospital indemnity, long-term care insurance as defined by K.S.A. 40-  
24 2227, and amendments thereto, vision care or any other limited  
25 supplemental benefit, nor to any medicare supplement policy of insurance  
26 as defined by the commissioner of insurance by rules and regulations, any  
27 coverage issued as a supplement to liability insurance, workers  
28 compensation or similar insurance, automobile medical-payment insurance  
29 or any insurance under which benefits are payable with or without regard  
30 to fault, whether written on a group, blanket or individual basis.

31 (e) Each appropriate licensing agency shall:

32 (1) Maintain consistent licensure and certification standards and  
33 standards of care requirements between in-person and telemedicine and  
34 telehealth-provided practices. A provider who delivers health care services  
35 through the use of telemedicine or telehealth shall not be subject to  
36 differing state laws requiring licensure, certification or other authorization  
37 to practice a health care profession and shall be held to the same standard  
38 of professional practice as a similar licensee of the same practice area or  
39 specialty that provides the same health care services through in-person  
40 encounters;

41 (2) not establish a more restrictive standard of professional practice  
42 for the practice of telemedicine or telehealth from that specifically  
43 authorized by the provider's practice act or other specifically applicable

1 statute, including the prescribing and dispensing of controlled substances;  
2 and

3 (3) promulgate all rules and regulations necessary to authorize  
4 telemedicine and telehealth as adequate to perform a physical examination  
5 and establish a valid patient-provider relationship for the purposes of  
6 issuing or dispensing a prescription. Adoption of rules and regulations to  
7 provide for, promote and regulate the provider's practice shall not delay the  
8 implementation and provision of telehealth or telemedicine by a provider  
9 under this section.

10 (f) Nothing in this section shall be construed to:

11 (1) Prohibit an individual or group health insurance policy, medical  
12 service plan, contract, hospital service corporation contract, hospital and  
13 medical service corporation contract, fraternal benefit society or health  
14 maintenance organization that provides coverage for telemedicine or  
15 telehealth or the Kansas program of medical assistance from providing  
16 coverage for only those services that are medically necessary, subject to  
17 the terms and conditions of the covered individual's health benefits plan;

18 (2) allow an individual or group health insurance policy, medical  
19 service plan, contract, hospital service corporation contract, hospital and  
20 medical service corporation contract, fraternal benefit society or health  
21 maintenance organization that provides coverage for telemedicine or  
22 telehealth or the Kansas program of medical assistance to require a  
23 covered individual to use telemedicine or telehealth in lieu of receiving an  
24 in-person service or consultation from an in-network provider; or

25 (3) create a new standard of care for any provider.

26 (g) The secretary shall promulgate all rules and regulations necessary  
27 to administer the provisions of this section pertaining to the Kansas  
28 program of medical assistance. At a minimum, such rules and regulations  
29 shall provide that:

30 (1) In-person contact between a provider and a patient is not required  
31 as a prerequisite for payment for services appropriately provided through  
32 telehealth in accordance with generally accepted health care practices and  
33 standards prevailing in the applicable professional community at the time  
34 the services are provided;

35 (2) health care services provided through in-person consultations or  
36 through telemedicine or telehealth shall be treated as equivalent services  
37 for purposes of reimbursement;

38 (3) the department may not exclude an otherwise covered health care  
39 service from coverage solely because the service is provided through  
40 telemedicine or telehealth rather than in-person contact;

41 (4) for the purposes of payment of covered treatments or services  
42 provided through telemedicine or telehealth, the department shall not limit  
43 the type of setting where services are provided for the patient or by the

1 provider; and

2 (5) home-based telehealth, including remote patient monitoring, is  
 3 recognized as a reimbursable service by enrolled providers.

4 (h) For the purposes of this section:

5 (1) "Appropriate licensing agency" shall have the meaning ascribed  
 6 to it in K.S.A. 65-4921, and amendments thereto.

7 (2) "Department" means the department for children and families.

8 (3) "Distant site" means the site at which a health care provider is  
 9 located while providing health care services by means of telemedicine or  
 10 telehealth.

11 (4) "Originating site" means a site at which a patient is located at the  
 12 time health care services are provided to such patient by means of  
 13 telemedicine or telehealth.

14 (5) "Provider" shall have the meaning ascribed to it in K.S.A. 40-  
 15 4602, and amendments thereto.

16 (6) "Secretary" means the secretary for children and families.

17 (7) "Telemedicine" or "telehealth" means the delivery of health care  
 18 services by means of telecommunications services that facilitates the  
 19 assessment, diagnosis, consultation, treatment, education, care  
 20 management and self-management of a patient's condition while the  
 21 patient and provider are at remote locations.

22 Sec. 2. K.S.A. 2016 Supp. 40-2,103 is hereby amended to read as  
 23 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-  
 24 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170;  
 25 ~~inclusive; and 40-2250, K.S.A. 2016 Supp. 40-2,105a, 40-2,105b, 40-~~  
 26 ~~2,184, 40-2,190 and, 40-2,194 and section I, and amendments thereto,~~  
 27 shall apply to all insurance policies, subscriber contracts or certificates of  
 28 insurance delivered, renewed or issued for delivery within or outside of  
 29 this state or used within this state by or for an individual who resides or is  
 30 employed in this state.

31 Sec. 3. K.S.A. 2016 Supp. 40-19c09 is hereby amended to read as  
 32 follows: 40-19c09. (a) Corporations organized under the nonprofit medical  
 33 and hospital service corporation act shall be subject to the provisions of  
 34 the Kansas general corporation code, articles ~~60 to through 74, inclusive,~~  
 35 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto,  
 36 applicable to nonprofit corporations, to the provisions of K.S.A. 40-214,  
 37 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-229,  
 38 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250,  
 39 40-251, 40-252, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-  
 40 2,105, 40-2,116, 40-2,117, 40-2,125, 40-2,153, 40-2,154, 40-2,160, 40-  
 41 2,161, 40-2,163 through 40-2,170, ~~inclusive, 40-2a01 et seq., 40-2111 to~~  
 42 ~~through 40-2116, inclusive, 40-2215 to through 40-2220, inclusive, 40-~~  
 43 ~~2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254,~~

1 40-2401 ~~to through 40-2421, inclusive~~, and 40-3301 ~~to through 40-3313;~~  
2 ~~inclusive~~, K.S.A. 2016 Supp. 40-2,105a, 40-2,105b, 40-2,184, 40-2,190  
3 ~~and~~, 40-2,194 *and section 1*, and amendments thereto, except as the  
4 context otherwise requires, and shall not be subject to any other provisions  
5 of the insurance code except as expressly provided in this act.

6 (b) No policy, agreement, contract or certificate issued by a  
7 corporation to which this section applies shall contain a provision which  
8 excludes, limits or otherwise restricts coverage because medicaid benefits  
9 as permitted by title XIX of the social security act of 1965 are or may be  
10 available for the same accident or illness.

11 (c) Violation of subsection (b) shall be subject to the penalties  
12 prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

13 Sec. 4. K.S.A. 2016 Supp. 40-2,103 and 40-19c09 are hereby  
14 repealed.

15 Sec. 5. This act shall take effect and be in force from and after  
16 January 1, 2018, and its publication in the statute book.