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

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

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

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

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

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

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

(c) No individual or group health insurance policy, medical service
plan, contract, hospital service corporation contract, hospital and medical
service corporation contract, fraternal benefit society or health
maintenance organization that provides coverage for telemedicine or the
Kansas program for medical assistance shall:

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

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

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

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

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

(e) Each appropriate licensing agency shall:

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

(2) not establish a more restrictive standard of professional practice for the practice of telemedicine or telehealth from that specifically authorized by the provider's practice act or other specifically applicable
statute, including the prescribing and dispensing of controlled substances;
and
(3) promulgate all rules and regulations necessary to authorize
telemedicine and telehealth as adequate to perform a physical examination
and establish a valid patient-provider relationship for the purposes of
issuing or dispensing a prescription. Adoption of rules and regulations to
provide for, promote and regulate the provider's practice shall not delay the
implementation and provision of telehealth or telemedicine by a provider
under this section.
(f) Nothing in this section shall be construed to:
(1) Prohibit an individual or group health insurance policy, medical
service plan, contract, hospital service corporation contract, hospital and
medical service corporation contract, fraternal benefit society or health
maintenance organization that provides coverage for telemedicine or
telehealth or the Kansas program of medical assistance from providing
coverage for only those services that are medically necessary, subject to
the terms and conditions of the covered individual's health benefits plan;
(2) allow an individual or group health insurance policy, medical
service plan, contract, hospital service corporation contract, hospital and
medical service corporation contract, fraternal benefit society or health
maintenance organization that provides coverage for telemedicine or
telehealth or the Kansas program of medical assistance to require a
covered individual to use telemedicine or telehealth in lieu of receiving an
in-person service or consultation from an in-network provider; or
(g) The secretary shall promulgate all rules and regulations necessary
to administer the provisions of this section pertaining to the Kansas
program of medical assistance. At a minimum, such rules and regulations
shall provide that:
(1) In-person contact between a provider and a patient is not required
as a prerequisite for payment for services appropriately provided through
telehealth in accordance with generally accepted health care practices and
standards prevailing in the applicable professional community at the time
the services are provided;
(2) health care services provided through in-person consultations or
through telemedicine or telehealth shall be treated as equivalent services
for purposes of reimbursement;
(3) the department may not exclude an otherwise covered health care
service from coverage solely because the service is provided through
telemedicine or telehealth rather than in-person contact;
(4) for the purposes of payment of covered treatments or services
provided through telemedicine or telehealth, the department shall not limit
the type of setting where services are provided for the patient or by the
provider; and

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

(h) For the purposes of this section:

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

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

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

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

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

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

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

Sec. 2. K.S.A. 2016 Supp. 40-2,103 is hereby amended to read as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170; inclusive, and 40-2,250, K.S.A. 2016 Supp. 40-2,105a, 40-2,105b, 40-2,184, 40-2,190 and 40-2,194 and section 1, and amendments thereto, shall apply to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed or issued for delivery within or outside of this state or used within this state by or for an individual who resides or is employed in this state.

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

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

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

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

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