

## CHAPTER 2016-240

### Committee Substitute for Committee Substitute for House Bill No. 7087

An act relating to health care; requiring the Agency for Health Care Administration, the Department of Health, and the Office of Insurance Regulation to collect certain information; creating the Telehealth Advisory Council within the agency for specified purposes; specifying council membership; providing for council membership requirements; requiring the council to review certain findings and make recommendations in a report to the Governor and the Legislature by a specified date; requiring the agency to report such information to the Governor and Legislature by a specified date; providing certain enforcement authority to each agency; providing for expiration of the reporting requirement; reenacting s. 409.975(6), F.S., relating to provider payment of managed medical assistance program participants; providing legislative intent regarding the effect of other legislation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

#### Section 1. Telehealth utilization and insurance coverage report.—

(1) The Agency for Health Care Administration, the Department of Health, and the Office of Insurance Regulation shall, within existing resources, survey health care facilities, health maintenance organizations, health care practitioners, and health insurers, respectively, and perform any other research necessary to collect the following information:

(a) The types of health care services provided via telehealth.

(b) The extent to which telehealth is used by health care practitioners and health care facilities nationally and in the state.

(c) The estimated costs and cost savings to health care entities, health care practitioners, and the state associated with using telehealth to provide health care services.

(d) Which health care insurers, health maintenance organizations, and managed care organizations cover health care services provided to patients in Florida via telehealth, whether the coverage is restricted or limited, and how such coverage compares to that insurer's coverage for services provided in person. The comparison shall at a minimum include:

1. Covered medical or other health care services.

2. A description of whether payment rates for such services provided via telehealth are less than, equal to, or greater than payment rates for such services provided in person.

3. Any annual or lifetime dollar maximums on coverage for services provided via telehealth and in person.

4. Any copayments, coinsurance, or deductible amounts, or policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services provided via telehealth and in person.

5. Any conditions imposed for coverage for services provided via telehealth that are not imposed for coverage for the same services provided in person.

(e) The barriers to using, implementing the use of, or accessing services via telehealth.

(2) The Telehealth Advisory Council is created within the Agency for Health Care Administration for the purpose of making recommendations based on the surveys and research findings required by this section. The agency shall use existing and available resources to administer and support the activities of the council under this section. The council may conduct its meetings via teleconference.

(a) Members of the council shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses. The council shall consist of 15 members, as follows:

1. The Secretary of Health Care Administration, or his or her designee, who shall serve as the chair of the council.

2. The State Surgeon General or his or his designee.

3. The following members appointed by the Secretary of Health Care Administration:

a. Two representatives of health insurers that offer coverage for telehealth services.

b. Two representatives of organizations that represent health care facilities, one of whom shall be a representative of a hospital.

c. Two representatives of entities that create or sell telehealth products.

d. One representative of an organization that represents telehealth stakeholders.

e. Two representatives of long-term care services, one of whom shall be a representative of a nursing home and one of whom shall be a representative from a home health agency or community-based health services program.

4. The following members appointed by the State Surgeon General:

a. Two health care practitioners, each of whom practices in a different area of medicine.

b. Two representatives of organizations that represent health care practitioners.

(b) The council shall review the surveys and research findings required by this section and make recommendations to increase the use and accessibility of services provided via telehealth, including the identification of any barriers to implementing or accessing services provided via telehealth, in a report that shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before October 31, 2017.

(3) The Agency for Health Care Administration shall compile the surveys and research findings required by this section and submit a report of such findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before December 31, 2016.

(4) The Department of Health shall survey all health care practitioners, as defined in s. 456.001, upon and as a condition of licensure renewal to compile the information required pursuant to this section. The Department of Health and the Office of Insurance Regulation shall submit their survey and research findings to the agency and shall assist the agency in compiling the information to prepare the report.

(5) The Agency for Health Care Administration, the Department of Health, and the Office of Insurance Regulation may assess fines under ss. 408.813(2)(d), 456.072(2)(d), and 624.310(5), Florida Statutes, respectively, against a health care facility, health maintenance organization, health care practitioner, and health insurer for failure to complete the surveys required under this section.

(6) This section expires June 30, 2018.

Section 2. Subsection (1) of section 636.202, Florida Statutes, is amended to read:

636.202 Definitions.—As used in this part, the term:

(1) “Discount medical plan” means a business arrangement or contract in which a person, in exchange for fees, dues, charges, or other consideration, provides access for plan members to providers of medical services and the right to receive medical services from those providers at a discount. The term “discount medical plan” does not include any product regulated under chapter 627, chapter 641, or part I of this chapter, or any medical services provided through a telecommunications medium that does not offer a discount to the plan member for those medical services.

Section 3. Notwithstanding the amendment made to s. 409.975(6), Florida Statutes, by HB 5101, 1st Eng., 2016 Regular Session, subsection (6) of s. 409.975, Florida Statutes, is reenacted to read:

409.975 Managed care plan accountability.—In addition to the requirements of s. 409.967, plans and providers participating in the managed medical assistance program shall comply with the requirements of this section.

(6) PROVIDER PAYMENT.—Managed care plans and hospitals shall negotiate mutually acceptable rates, methods, and terms of payment. For rates, methods, and terms of payment negotiated after the contract between the agency and the plan is executed, plans shall pay hospitals, at a minimum, the rate the agency would have paid on the first day of the contract between the provider and the plan. Such payments to hospitals may not exceed 120 percent of the rate the agency would have paid on the first day of the contract between the provider and the plan, unless specifically approved by the agency. Payment rates may be updated periodically.

Section 4. It is the intent of the Legislature that the reenactment of s. 409.975(6), Florida Statutes, made by this act shall control over the amendment to that subsection made by HB 5101, 1st Eng., 2016 Regular Session, regardless of the order in which the reenactment and the amendment are enacted.

Section 5. This act shall take effect July 1, 2016.

Approved by the Governor April 14, 2016.

Filed in Office Secretary of State April 14, 2016.