

Arnold I. Palacios
Governor



David M. Apatang
Lieutenant Governor

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

GOV 2024-084

22 NOV 2023

The Honorable Edmund S. Villagomez
Speaker, House of Representatives
Twenty-Third Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

The Honorable Edith E. Deleon Guerrero
President of the Senate
Twenty-Third Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. Speaker and Madame President:

This is to inform you that I have signed into law **House Bill No. 23-47, SD1**, entitled, "To establish parity in coverage and payments for mental health and behavioral health services delivered through telehealth and in person.", which was passed by the House of Representatives and the Senate of the Twenty-Third Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 23-13**. Copies bearing my signature are forwarded for your reference.

Sincerely,


ARNOLD I. PALACIOS
Governor

cc: Lieutenant Governor; Attorney General; Commonwealth Law Revision;
Public Auditor; CHCC; CNMI Medicaid Agency;
Special Assistant for Administration; Programs and Legislative Review Office



HOUSE OF REPRESENTATIVES

P.O. BOX 500586
SAIPAN, MP 96950
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November 7, 2023

The Honorable Arnold I. Palacios
Governor
Commonwealth of the Northern
Mariana Islands
Capitol Hill
Saipan, MP 96950

Dear Governor Palacios:

I have the honor of transmitting herewith for your action **H.B. No. 23-47, SD1**, entitled: "To establish parity in coverage and payments for mental health and behavioral health services delivered through telehealth and in person. ", which was passed by the House of Representatives and the Senate of the Twenty-Third Northern Marianas Commonwealth Legislature.

Sincerely yours,


Linda B. Muña
House Clerk

Attachment



TWENTY-THIRD NORTHERN MARIANA COMMONWEALTH LEGISLATURE IN THE HOUSE OF REPRESENTATIVES

SECOND SPECIAL SESSION

MAY 10, 2023

REPRESENTATIVE MALCOLM J. OMAR OF SAIPAN, PRECINCT 4 (*for himself*) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H. B. No. 23-47, SD1

AN ACT

**TO ESTABLISH PARITY IN COVERAGE AND PAYMENTS
FOR MENTAL HEALTH AND BEHAVIORAL HEALTH
SERVICES DELIVERED THROUGH TELEHEALTH AND IN
PERSON.**

IN THE HOUSE OF REPRESENTATIVES

The Bill was referred to the House Committee on Health and Welfare, which submitted
Standing Committee Report 23-35; adopted 7/28/2023.

**THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON
FIRST AND FINAL READING, JULY 28, 2023;
without amendments and transmitted to THE SENATE.**


IN THE SENATE

The Bill was referred to the Senate Committee on Health, Education and Welfare, which submitted
Standing Committee Report 23-52; adopted 10/24/2023.

**THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, OCTOBER 24, 2023;
with amendments in the form of H. B. No. 23-47, SD1
and returned to THE HOUSE OF REPRESENTATIVES.**

The House of Representatives accepted the Senate amendments and passed H. B. No. 23-47, SD1 during its
Eighth Day, Second Regular Session on November 6, 2023.

**H. B. NO. 23-47, SD1 IS DULY PASSED BY THE TWENTY-THIRD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE.**


Linda B. Muña, House Clerk



**TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
IN THE HOUSE OF REPRESENTATIVES**

EIGHTH DAY, SECOND REGULAR SESSION

NOVEMBER 6, 2023

H. B. No. 23-47, SD1

AN ACT

**TO ESTABLISH PARITY IN COVERAGE AND PAYMENTS FOR
MENTAL HEALTH AND BEHAVIORAL HEALTH SERVICES
DELIVERED THROUGH TELEHEALTH AND IN PERSON.**

**BE IT ENACTED BY THE TWENTY-THIRD NORTHERN
MARIANAS COMMONWEALTH LEGISLATURE:**

SECTION 1. FINDINGS AND PURPOSES.

Public Law 22-23 recognized the Psychology Interjurisdictional Compact (PSYPACT) to establish legal recognition across state boundaries to psychologists licensed in another Compact state. PSYPACT further regulates the day-to-day practice of telepsychology across state boundaries by licensed psychologists, as well as the temporary, in-person, face-to-face practice of psychology across state boundaries by psychologists for 30 days within a calendar year. This bill contributes to the expansion of mental health services by requiring parity for payment of telehealth services in the CNMI.

HOUSE BILL 23-47, SD1

1 To implement PSYPACT and increase public access in the CNMI to professional
2 psychological and other mental health services by telehealth, the Legislature finds the need to
3 ensure the public is able to afford those services by requiring private payer, Medicaid and other
4 governmental plans or policies, to provide coverage on an equal basis as in person services.

5 **SECTION 2. AMENDMENT.**

6 Title 4, Division 7, of the Commonwealth Code is hereby amended by adding a new
7 Chapter 8 to read as follows:

8 **“Chapter 8. Mental Health & Behavioral Health Coverage.**

9 **§ 7801. Definitions.** The following definitions shall apply in this chapter.

10 (a) “Distant site” means the place a mental or behavioral health services
11 provider legally allowed to practice in the Commonwealth of the Northern Mariana
12 Islands (CNMI) is located while providing mental and/or behavioral health services by
13 means of telehealth.

14 (b) “Health benefit plan or policy” means a policy, contract, certificate, or
15 agreement entered into, offered, or issued by a health insurance issuer to provide,
16 deliver, arrange for, pay for, or reimburse any of the costs of mental health services
17 pursuant to Title 4, Division 7, of the Commonwealth Code and includes Medicaid and
18 any other public health care assistance program offered or administered by the CNMI
19 or by any subdivision or instrumentality of the CNMI.

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1 (c) “Mental health services provider” or “behavioral health services provider”
2 means:

3 (1) a person licensed to provide mental and/or behavioral health services
4 (or a person specifically exempted from the licensure requirements but
5 permitted to practice in the field) under the Commonwealth Health Care
6 Professions Licensing Board Regulations, including a psychiatrist,
7 psychologist, marriage and family therapist, professional counselor and/or a
8 mental health counselor, and social worker, or a similarly regulated
9 professional;

10 (2) a psychologist authorized to practice interjurisdictional psychology
11 in the CNMI pursuant to the Psychology Interjurisdictional Compact
12 (PSYPACT) as authorized in Public Law 22-23; or

13 (3) any mental or behavioral health services provider authorized to
14 practice under any other interjurisdictional or interstate compacts adopted by
15 the CNMI.

16 (d) “Mental health services” and “behavioral health services” shall mean any
17 intervention, including assessment, diagnosis, treatment, education, monitoring, care
18 management, or counseling, offered in a private or public, inpatient or outpatient
19 setting, for the maintenance or enhancement of mental and/or behavioral health or the
20 treatment of mental and/or behavioral disorders, including substance abuse disorders,
21 in individual and group contexts.

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1 (e) "Health insurance issuer" shall mean an entity, as defined in
2 4 CMC § 7103(gg), subject to the insurance laws and regulations of the CNMI that
3 contracts or offers to contract or to provide, deliver, arrange for, pay for, or reimburse
4 any of the costs of mental and/or behavioral health services or otherwise contracts or
5 offers to contract to provide a health benefit plan that includes mental and/or behavioral
6 health services.

7 (f) "Originating site" shall mean a site at which a patient is located at the time
8 that mental and/or behavioral health services are provided to the patient by means of
9 telehealth.

10 (g) "Telehealth" shall mean the delivery of mental and/or behavioral health
11 services through information and communication technologies which facilitate the
12 assessment, diagnosis, consultation, treatment, education, monitoring
13 (including remote patient monitoring), care management, and patient self-management,
14 while such patient is at the originating site and the service provider is at the distant site.
15 Telehealth modalities include but are not limited to:

16 (1) synchronous technology, including live, two-way interaction
17 between a patient and a provider using audiovisual or audio only
18 telecommunications technology;

19 (2) asynchronous or store-and-forward technology, including
20 transmission of recorded health history through an electronic communications
21 system to a practitioner, usually a specialist, who uses the information to

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1 evaluate the case or render a service outside of a real-time or live interaction;
2 and

3 (3) remote patient monitoring, including data collection from an
4 individual in one location by electronic communication technologies and
5 transmitted to a provider in another location for use in care and related support.

6 **§ 7802. Plans to Include Coverage.** Each health insurance issuer that offers or
7 issues health benefit plans delivered, issued for delivery, or renewed in the CNMI on
8 or after the effective date of this Act, shall not deny coverage for mental and/or
9 behavioral health services on the basis that mental and/or behavioral health services are
10 provided by telehealth if the same service would be covered by face-to-face diagnosis,
11 consultation, or treatment.

12 **§ 7803. Coverage Parity.** A health benefit plan delivered, issued for delivery,
13 or renewed in the CNMI shall cover mental and/or behavioral health services delivered
14 by telehealth to the same extent the health benefit plan would cover the services if
15 delivered by an in-person encounter.

16 **§ 7804. Reimbursement Parity.** For purposes of reimbursement and payment,
17 a health insurance issuer shall compensate the mental and/or behavioral health services
18 provider for services delivered by telehealth on the same basis and at the same payment
19 rate the health insurer would apply to the services if the services had been delivered by
20 an in-person encounter by the mental or behavioral health services provider. Nothing
21 in this section is intended to limit the ability of a health insurance issuer and a provider
22 to voluntarily negotiate alternate payment rates for mental and/or behavioral health

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1 services delivered through telehealth. Nothing in this section is intended to require
2 reimbursement for services delivered through telehealth to be unbundled from other
3 bundled risk-based payments.

4 **§ 7805. Unrestricted Patient Origination.** A health insurance issuer or health
5 benefit plan shall not impose any unique conditions for coverage of mental health
6 services delivered by telehealth mental health. A health insurance issuer shall not
7 impose any originating site restrictions, nor distinguish between patients in rural or
8 urban locations, nor impose any geographic or distance-based restrictions, when
9 providing coverage for health care services delivered by telehealth. A health benefit
10 plan shall not restrict the type of telehealth technology, including the type of software
11 or platform that a mental health services provider may use to deliver services. Mental
12 and/or behavioral health services providers shall, however, use HIPAA-compliant
13 technologies to deliver mental and/or behavioral health services by telehealth.

14 **§ 7806. Unrestricted Distant Site.** A health insurance issuer or health benefit
15 plan shall not place restrictions on the mental and/or behavioral health services
16 provider's distant site that are more restrictive than what is required under applicable
17 state and/or federal law.

18 **§ 7807. Cost-Shifting Prohibited.** A health insurance issuer or health benefit
19 plan may charge a deductible, co-payment, or co-insurance for mental health services
20 provided by telehealth so long as it does not exceed the deductible, co-payment, or co-
21 insurance applicable to an in-person encounter. A health insurance issuer or health
22 benefit plan may not impose any annual or lifetime dollar maximum on coverage for

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1 mental health services provided by telehealth other than an annual or lifetime dollar
2 maximum that applies in the aggregate to all items and services covered under the
3 policy, or impose upon any person receiving benefits pursuant to this section any co-
4 payment, co-insurance, or deductible amounts, or any policy year, calendar year,
5 lifetime, or other durational benefit limitation or maximum for benefits or services, that
6 is not equally imposed upon all terms and services covered under the policy, contract,
7 or plan.

8 **§ 7808. Utilization Review Procedures.** Decisions denying coverage of mental
9 and/or behavioral health services provided by telehealth shall be subject to the same
10 utilization review procedures as decisions denying coverage of services provided by an
11 in-person encounter. A health insurance issuer or health benefit plan shall not impose
12 any type of utilization management on benefits provided by telehealth unless such type
13 of utilization management is imposed when such benefits are provided by in-person
14 consultation or contact. Any type of utilization management that is imposed on benefits
15 provided by telehealth may not occur with greater frequency or more stringent
16 application than such form of utilization management is imposed on such benefits
17 provided by in-person consultation or contact.

18 **§ 7809. Same Provider Network.** A health insurance issuer may not limit
19 coverage of mental and/or behavioral health services by telehealth to only those
20 providers who are members of the health benefit plan's telehealth narrow network. A
21 health benefit plan must cover telehealth mental and/or behavioral health services

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1 provided by an out-of-network provider to the same extent that the services would be
2 covered if delivered by an out-of-network provider by an in-person encounter.

3 **§ 7810. In-Person Mental Health Services Not Required.** Neither the health
4 insurance issuer nor the health benefit plan shall require the presence of a mental and/or
5 behavioral health services provider at the patient's physical location. Only the mental
6 and/or behavioral health services provider who is providing the services by means of
7 telehealth may determine whether it is necessary to have an additional mental and/or
8 behavioral health services provider physically present with a patient during treatment.
9 A patient-provider relationship and patient consent to treatment for mental and/or
10 behavioral health services may be established by a real-time, interactive, telehealth
11 modality. No in-person visit shall be required for mental and/or behavioral health
12 services by telehealth at any time during the patient-provider relationship, unless the
13 services provider determines that an in-person visit is in the patient's best interest.

14 **§ 7811. Patient-provider Relationship and Informed Consent Established**
15 **by Telehealth. To establish informed consent from the patient, the provider must:**

- 16 (1) identify the patient and ask the patient to identify where they reside and the
17 originating site;
- 18 (2) disclose the provider's identity and applicable credential(s);
- 19 (3) obtain appropriate consent from the patient, or another individual authorized
20 to make health care treatment decisions for the patient, after disclosures regarding the
21 delivery models and treatment methods, risks, and benefits of various treatment
22 options, including informed consents regarding the use of telehealth modalities; and

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1 (4) to the extent reasonably possible, ensure the availability of the distant site
2 provider or coverage of the patient for appropriate follow-up care.

3 **§ 7812. Medicaid and Other Public Health Assistance.** Consistent with Title
4 19 U.S.C. § 1902(j) and the waiver of the Secretary of the Department of Health and
5 Human Services pursuant thereto, and state and federal law, the Medicaid program
6 managed by the CNMI Medicaid Agency, and any other public health care assistance
7 program offered or managed by the CNMI or by any subdivision or instrumentality of
8 the CNMI, shall provide coverage and payment for mental and/or behavioral health
9 services delivered to a benefits recipient by telehealth, on the same basis and at the
10 same reimbursement rate as when the services are delivered by in-person contact and
11 consultation.

12 **§ 7813. Standard of Care.** Diagnosis, treatment, and consultation
13 recommendations, including discussions regarding the risk and benefits of the patient's
14 treatment options, made by telehealth are held to the same standard of care or practice
15 standards as are applicable to in-person mental and/or behavioral health services
16 settings. If mental and/or behavioral health services by telehealth are not consistent
17 with this standard of care, the services provider must direct the patient to seek in-person
18 care.

19 **§ 7814. Rules and Regulations.** The CNMI Insurance Commissioner
20 ("Commissioner") may adopt regulations as necessary to implement this Act. Within
21 one year of the effective date of the Act, the Commonwealth Medicaid Agency shall

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1 submit its amendments to the State Plan and may promulgate regulations as provided
2 by 1 CMC §§ 20192 and 20215, as needed to implement the requirements of this Act.

3 **§ 7815 Enforcement.** The Commissioner shall enforce this Act consistent with
4 Title 4, Division 7, including, but not limited to, issuing administrative orders and/or
5 bringing enforcement proceedings under 4 CMC §§ 7106-7107. Each instance of
6 noncompliance may be treated as a separate violation of this division for purpose of 4
7 CMC § 7509. The Commissioner may specify additional procedures and remedies by
8 regulation for repeated violations of this law as necessary.”

9 **SECTION 3. SEVERABILITY.**

10 If any provisions of this Act or the application of any such provision to any person or
11 circumstance should be held invalid by a court of competent jurisdiction, the remainder of this
12 Act or the application of its provisions to persons or circumstances other than those to which
13 it is held invalid shall not be affected thereby.

14 **SECTION 4. SAVINGS CLAUSE.**


15 This Act and any repealer contained herein shall not be construed as affecting any
16 existing right acquired under contract or acquired under statutes repealed or under any rule,
17 regulation, or order adopted under the statutes. Repealers contained in this Act shall not affect
18 any proceeding instituted under or pursuant to prior law. The enactment of the Act shall not
19 have the effect of terminating, or in any way modifying, any liability, civil or criminal, which
20 shall already be in existence on the date this Act becomes effective.

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1 **SECTION 5. EFFECTIVE DATE.**

2 This Act shall take effect upon its approval by the Governor, or it becoming law without
3 such approval.

Attested to by:


Linda B. Muña, House Clerk

Certified by:


SPEAKER EDMUND S. VILLAGOMEZ
House of Representatives
23rd Northern Marianas Commonwealth Legislature

Approved this 22nd day of November, 2023


ARNOLD I. PALACIOS

Governor
Commonwealth of the Northern Mariana Islands