

117TH CONGRESS
1ST SESSION

H. R. 4437

To amend title XVIII of the Social Security Act to provide for permanent payments for telehealth services furnished by Federally qualified health centers and rural health clinics under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2021

Mr. THOMPSON of Pennsylvania (for himself and Mr. BUTTERFIELD) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to provide for permanent payments for telehealth services furnished by Federally qualified health centers and rural health clinics under the Medicare program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Helping Ensure Access
5 to Local TeleHealth Act of 2021” or the “HEALTH Act
6 of 2021”.

1 **SEC. 2. PROVIDING FOR PERMANENT COST-RELATED PAY-**
2 **MENTS FOR TELEHEALTH SERVICES FUR-**
3 **NISHED BY FEDERALLY QUALIFIED HEALTH**
4 **CENTERS AND RURAL HEALTH CLINICS**
5 **UNDER THE MEDICARE PROGRAM AND PER-**
6 **MANENTLY REMOVING ORIGINATING SITE**
7 **FACILITY AND LOCATION REQUIREMENTS**
8 **FOR DISTANT SITE TELEHEALTH SERVICES**
9 **FURNISHED BY SUCH CENTERS AND SUCH**
10 **CLINICS.**

11 (a) COVERAGE OF AUDIO-ONLY TELEHEALTH SERV-
12 ICES.—

13 (1) IN GENERAL.—Section 1834(m)(4) of the
14 Social Security Act (42 U.S.C. 1395m(m)(4)) is
15 amended by adding at the end the following new
16 subparagraph:

17 “(G) TELECOMMUNICATIONS SYSTEM.—
18 Except as provided in paragraph (1), the term
19 ‘telecommunications system’ means a two-way,
20 real-time interactive communications system,
21 whether by audiovisual or audio-only commu-
22 nications.”.

23 (2) REQUIRED IMPLEMENTATION STEPS.—Not
24 later than 60 days after the date of the enactment
25 of this Act, the Secretary of Health and Human
26 Services shall—

1 (A) revise section 410.78(a)(3) of title 42,
2 Code of Federal Regulations (or a successor
3 regulation) to define the term “interactive tele-
4 communications system” in accordance with the
5 amendment made by paragraph (1); and

6 (B) revise section 405.2463 of such title
7 (or a successor regulation) to provide that, for
8 purposes of distant site telehealth services fur-
9 nished by Federally qualified health centers and
10 rural health clinics under section 1834(m)(8) of
11 the Social Security Act (42 U.S.C.
12 1395m(m)(8)), a visit includes any two-way,
13 real-time interactive communication between an
14 individual and the distant site Federally quali-
15 fied health center provider or rural health clin-
16 ic, whether by audiovisual or audio-only com-
17 munication.

18 (b) PERMANENT TELEHEALTH PAYMENTS.—Section
19 1834(m)(8) of the Social Security Act (42 U.S.C.
20 1395m(m)(8)) is amended—

21 (1) in the header, by striking “DURING EMER-
22 GENCY PERIOD”;

23 (2) in subparagraph (A), in the matter pre-
24 ceding clause (i), by striking “During the emergency
25 period described in section 1135(g)(1)(B)” and in-

serting “With respect to telehealth services furnished on or after the date of the beginning of the emergency period described in section 1135(g)(1)(B)”;

and

(3) by striking subparagraph (B) and inserting the following new subparagraph:

“(B) PAYMENT.—

“(i) IN GENERAL.—A telehealth service furnished by a rural health clinic or a Federally qualified health center serving as a distant site to an individual shall be deemed to be so furnished to such individual as an outpatient of such clinic or facility (as applicable) for purposes of paragraph (1) or (3), respectively, of section 1861(aa) and payable as a rural health clinic service or Federally-qualified health center service (as applicable) under section 1833(a)(3) or under the prospective payment system established under section 1834(o), respectively.

“(ii) TREATMENT OF COSTS FOR FQHC PPS CALCULATIONS AND RHC AIR CALCULATIONS.—Costs associated with the delivery of telehealth services by a Feder-

ally qualified health center or rural health clinic serving as a distant site pursuant to this paragraph shall be considered allowable costs for purposes of the prospective payment system established under section 1834(o) and any payment methodologies developed under section 1833(a)(3), as applicable.”.

(c) ELIMINATION OF ORIGINATING SITE REQUIREMENTS FOR TELEHEALTH SERVICES FURNISHED BY FQHCs OR RHCs.—

(1) IN GENERAL.—Section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)), as amended by subsection (b), is further amended—

(A) in paragraph (4)(C)(i), by striking “and (7)” and inserting “(7), and (8)”; and

(B) in paragraph (8), by adding at the end the following new subparagraph:

“(C) NONAPPLICATION OF ORIGINATING SITE REQUIREMENTS.—The geographic and site requirements described in paragraph (4)(C) shall not apply with respect to telehealth services furnished by a Federally qualified health center or a rural health clinic serving as a distant site.”.

1 (2) SPECIAL PAYMENT RULE FOR ORIGINATING
2 SITES WITH RESPECT TO TELEHEALTH SERVICES
3 FURNISHED BY AN FQHC OR RHC.—Section
4 1834(m)(2)(B) of the Social Security Act (42 U.S.C.
5 1395m(m)(2)(B)) is amended—

6 (A) in clause (i), by striking “clause (ii)”
7 and inserting “clauses (ii) and (iii)”; and

8 (B) by adding at the end the following new
9 clause:

10 “(iii) SPECIAL RULE FOR TELE-
11 HEALTH SERVICES FURNISHED BY FQHCS
12 AND RHCS.—No facility fee shall be paid
13 under this subparagraph to an originating
14 site with respect to telehealth services fur-
15 nished by a Federally qualified health cen-
16 ter or rural health clinic serving as a dis-
17 tant site unless such originating site is a
18 site described in any of subclauses (I)
19 through (IX) or (XI) of paragraph
20 (4)(C)(ii).”.

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