

117TH CONGRESS
1ST SESSION

H. R. 6202

To amend titles XI and XVIII of the Social Security Act to establish requirements for the provision of certain high-cost durable medical equipment and laboratory testing; to extend and expand access to telehealth services; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 9, 2021

Mr. DOGGETT (for himself, Mr. NUNES, Mr. THOMPSON of California, Mr. KELLY of Pennsylvania, Mr. SCHWEIKERT, Mrs. AXNE, Mr. BLUMENAUER, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. BUTTERFIELD, Mr. CARSON, Ms. CRAIG, Mr. DANNY K. DAVIS of Illinois, Mr. FITZPATRICK, Mrs. FLETCHER, Mr. HIGGINS of New York, Mr. KILDEE, Mr. LAHOOD, Mrs. LESKO, Mrs. MILLER of West Virginia, Mr. O'HALLERAN, Mr. RASKIN, Mr. RICE of South Carolina, Ms. SCHAKOWSKY, Ms. SEWELL, Mr. SMITH of Nebraska, Mr. SMUCKER, Mr. VEASEY, Mrs. WALORSKI, Ms. WILD, Mr. GREEN of Texas, and Mr. BUCHANAN) 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 titles XI and XVIII of the Social Security Act to establish requirements for the provision of certain high-cost durable medical equipment and laboratory testing; to extend and expand access to telehealth services; and for other purposes.

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 “Telehealth Extension
5 Act of 2021”.

6 **SEC. 2. REQUIREMENT FOR PROVISION OF HIGH-COST DU-**
7 **RABLE MEDICAL EQUIPMENT AND LABORA-**
8 **TORY TESTS.**

9 (a) HIGH-COST DURABLE MEDICAL EQUIPMENT.—
10 Section 1834(a)(1)(E) of the Social Security Act (42
11 U.S.C. 1395m(a)(1)(E)) is amended by adding at the end
12 the following new clause:

13 “(vi) STANDARDS FOR HIGH-COST DU-
14 RABLE MEDICAL EQUIPMENT.—

15 “(I) LIMITATION ON PAYMENT
16 FOR HIGH-COST DURABLE MEDICAL
17 EQUIPMENT.—Payment may not be
18 made under this subsection for a
19 high-cost durable medical equipment
20 ordered by a physician or other practi-
21 tioner described in clause (ii) via tele-
22 health for an individual, unless such
23 physician or practitioner furnished to
24 such individual a service in-person at
25 least once during the 6-month period

1 prior to ordering such high-cost dura-
2 ble medical equipment.

3 “(II) HIGH-COST DURABLE MED-
4 ICAL EQUIPMENT DETERMINATION.—
5 For purposes of this clause, the Ad-
6 ministrator of the Centers for Medi-
7 care & Medicaid Services shall define
8 the term ‘high-cost durable medical
9 equipment’ and specify the durable
10 medical equipment for which such def-
11 inition shall apply.

12 “(vii) AUDIT OF PROVIDERS AND
13 PRACTITIONERS FURNISHING A HIGH VOL-
14 UME OF DURABLE MEDICAL EQUIPMENT
15 VIA TELEHEALTH.—

16 “(I) IDENTIFICATION OF PRO-
17 VIDERS.—Beginning 6 months after
18 the effective date of this clause, Medi-
19 care administrative contractors shall
20 conduct reviews on a schedule deter-
21 mined by the Secretary, of claims for
22 durable medical equipment prescribed
23 by a physician or other practitioner
24 described in clause (ii) during the 12-
25 month period preceding such review to

1 identify physicians or other practi-
2 tioners with respect to whom at least
3 90 percent of all durable medical
4 equipment prescribed by such physi-
5 cian or practitioner during such pe-
6 riod was prescribed pursuant to a
7 telehealth visit.

8 “(II) AUDIT.—In the case of a
9 physician or practitioner identified
10 under subclause (I), with respect to a
11 period described in such subclause,
12 the Medicare administrative contrac-
13 tors shall conduct audits of all claims
14 for durable medical equipment pre-
15 scribed by such physicians or practi-
16 tioners to determine whether such
17 claims comply with the requirements
18 for coverage under this title.”.

19 (b) HIGH-COST LABORATORY TESTS.—Section
20 1834A(b) of the Social Security Act (42 U.S.C. 1395m–
21 1(b)) is amended by adding at the end the following new
22 paragraph:

23 “(6) REQUIREMENT FOR HIGH-COST LABORA-
24 TORY TESTS.—

1 “(A) LIMITATION ON PAYMENT FOR HIGH-
2 COST LABORATORY TESTS.—Payment may not
3 be made under this subsection for a high-cost
4 laboratory test ordered by a physician or practi-
5 tioner via telehealth for an individual, unless
6 such physician or practitioner furnished to such
7 individual a service in-person at least once dur-
8 ing the 6-month period prior to ordering such
9 high-cost laboratory test.

10 “(B) HIGH-COST LABORATORY TEST DE-
11 FINED.—For purposes of this paragraph, the
12 Administrator for the Centers for Medicare &
13 Medicaid Services shall define the term ‘high-
14 cost laboratory test’ and specify which labora-
15 tory tests such definition shall apply to.

16 “(7) AUDIT OF LABORATORY TESTING OR-
17 DERED PURSUANT TO TELEHEALTH VISIT.—

18 “(A) IDENTIFICATION OF PROVIDERS.—
19 Beginning 6 months after the effective date of
20 this paragraph, Medicare administrative con-
21 tractors shall conduct periodic reviews on a
22 schedule determined by the Secretary, of claims
23 for laboratory tests prescribed by a physician or
24 practitioner during the 12-month period pre-
25 ceding such review to identify physicians or

1 other practitioners with respect to whom at
2 least 90 percent of all laboratory tests pre-
3 scribed by such physician or practitioner during
4 such period was prescribed pursuant to a tele-
5 health visit.

6 “(B) AUDIT.—In the case of a physician
7 or practitioner identified under subparagraph
8 (A), with respect to a period described in such
9 subparagraph, the Medicare administrative con-
10 tractors shall conduct audits of all claims for
11 laboratory tests prescribed by such physicians
12 or practitioners during such period beginning to
13 determine whether such claims comply with the
14 requirements for coverage under this title.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect upon the termination of the
17 emergency period described in section 1135(g)(1)(B) of
18 the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)).

19 **SEC. 3. REQUIREMENT TO SUBMIT NPI NUMBER FOR SEPA-**
20 **RATELY BILLABLE TELEHEALTH SERVICES.**

21 (a) REQUIREMENT TO SUBMIT NPI NUMBER FOR
22 SEPARATELY BILLABLE TELEHEALTH SERVICES.—Sec-
23 tion 1834(m) of the Social Security Act (42 U.S.C.
24 1395m(m)) is amended by adding at the end the following
25 new paragraph:

1 “(9) REQUIREMENT TO SUBMIT NPI NUMBER
 2 FOR SEPARATELY BILLABLE TELEHEALTH SERV-
 3 ICES.—Payment may not be made under this sub-
 4 section for separately billable telehealth services fur-
 5 nished by a physician or practitioner unless such
 6 physician or practitioner submits a claim for pay-
 7 ment under the national provider identification num-
 8 ber assigned to such physician or practitioner.”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 this section shall take effect upon the termination of the
 11 emergency period described in section 1135(g)(1)(B) of
 12 the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)).

13 **SEC. 4. REMOVING GEOGRAPHIC REQUIREMENTS FOR**
 14 **TELEHEALTH SERVICES.**

15 Section 1834(m)(4)(C) of the Social Security Act (42
 16 U.S.C. 1395m(m)(4)(C)) is amended by adding at the end
 17 the following new clause:

18 “(iii) REMOVAL OF GEOGRAPHIC RE-
 19 QUIREMENTS.—The geographic require-
 20 ments described in clause (i) shall not
 21 apply with respect to telehealth services
 22 furnished on or after the date of the enact-
 23 ment of this clause.”.

1 **SEC. 5. EXPANDING ORIGINATING SITES.**

2 (a) EXPANDING THE HOME AS AN ORIGINATING
3 SITE.—Section 1834(m)(4)(C)(ii)(X) of the Social Secu-
4 rity Act (42 U.S.C. 1395m(m)(4)(C)(ii)(X)) is amended
5 to read as follows:

6 “(X) The home of an individual,
7 but, with respect to services furnished
8 before the date of the enactment of
9 the ‘Telehealth Extension and Evalua-
10 tion Act’, only for purposes of section
11 1881(b)(3)(B) or telehealth services
12 described in paragraph (7).”.

13 (b) ALLOWING ADDITIONAL ORIGINATING SITES.—
14 Section 1834(m)(4)(C)(ii) of the Social Security Act (42
15 U.S.C. 1395m(m)(4)(C)(ii)) is amended by adding at the
16 end the following new subclause:

17 “(XII) Any other site determined
18 appropriate by the Secretary at which
19 an eligible telehealth individual is lo-
20 cated at the time a telehealth service
21 is furnished via a telecommunications
22 system.”.

23 (c) PARAMETERS FOR NEW ORIGINATING SITES.—
24 Section 1834(m)(4)(C) of the Social Security Act (42
25 U.S.C. 1395m(m)(4)(C)), as amended by section 4, is
26 amended by adding at the end the following new clause:

1 “(iv) REQUIREMENTS FOR NEW
2 SITES.—

3 “(I) IN GENERAL.—The Sec-
4 retary may establish requirements for
5 the furnishing of telehealth services at
6 sites described in clause (ii)(XII) to
7 provide for beneficiary and program
8 integrity protections.

9 “(II) CLARIFICATION.—Nothing
10 in this clause shall be construed to
11 preclude the Secretary from estab-
12 lishing requirements for other origi-
13 nating sites described in clause (ii).”.

14 (d) NO ORIGINATING SITE FACILITY FEE FOR NEW
15 SITES.—Section 1834(m)(2)(B)(ii) of the Social Security
16 Act (42 U.S.C. 1395m(m)(2)(B)(ii)) is amended—

17 (1) in the heading, by striking “IF ORIGINATING
18 SITE IS THE HOME” and inserting “FOR CERTAIN
19 SITES”; and

20 (2) by striking “paragraph (4)(C)(ii)(X)” and
21 inserting “subclause (X) or (XII) of paragraph
22 (4)(C)”.

1 **SEC. 6. FEDERALLY QUALIFIED HEALTH CENTERS AND**
2 **RURAL HEALTH CLINICS.**

3 Section 1834(m) of the Social Security Act (42
4 U.S.C. 1395m(m)) is amended—

5 (1) in paragraph (4)(C)(i), in the matter pre-
6 ceding subclause (I), by striking “(5), (6), and (7)”
7 and inserting “(5) through (8)”; and

8 (2) in paragraph (8)—

9 (A) in the paragraph heading by inserting
10 “AND AFTER” after “DURING”;

11 (B) in subparagraph (A)—

12 (i) in the matter preceding clause (i),
13 by inserting “and after such emergency pe-
14 riod” after “1135(g)(1)(B)”;

15 (ii) in clause (ii), by striking “and” at
16 the end;

17 (iii) by redesignating clause (iii) as
18 clause (iv); and

19 (iv) by inserting after clause (ii) the
20 following new clause:

21 “(iii) the geographic requirements de-
22 scribed in paragraph (4)(C)(i) shall not
23 apply with respect to such a telehealth
24 service; and”; and

25 (C) by striking subparagraph (B) and in-
26 serting the following:

1 “(B) PAYMENT.—

2 “(i) IN GENERAL.—A telehealth serv-
3 ice furnished by a Federally qualified
4 health center or a rural health clinic to an
5 individual pursuant to this paragraph on
6 or after the date of the enactment of this
7 subparagraph shall be deemed to be so fur-
8 nished to such individual as an outpatient
9 of such clinic or facility (as applicable) for
10 purposes of paragraph (1) or (3), respec-
11 tively, of section 1861(aa) and payable as
12 a Federally qualified health center service
13 or rural health clinic service (as applicable)
14 under the prospective payment system es-
15 tablished under section 1834(o) or under
16 section 1833(a)(3), respectively.

17 “(ii) TREATMENT OF COSTS FOR
18 FQHC PPS CALCULATIONS AND RHC AIR
19 CALCULATIONS.—Costs associated with the
20 delivery of telehealth services by a Feder-
21 ally qualified health center or rural health
22 clinic serving as a distant site pursuant to
23 this paragraph shall be considered allow-
24 able costs for purposes of the prospective
25 payment system established under section

1 1834(o) and any payment methodologies
2 developed under section 1833(a)(3), as ap-
3 plicable.”.

4 **SEC. 7. NATIVE AMERICAN HEALTH FACILITIES.**

5 (a) IN GENERAL.—Section 1834(m)(4)(C) of the So-
6 cial Security Act (42 U.S.C. 1395m(m)(4)(C)), as amend-
7 ed by sections 4 and 5(c), is amended—

8 (1) in clause (i), by striking “clause (ii)” and
9 inserting “clauses (ii) and (v)”; and

10 (2) by adding at the end the following new
11 clause:

12 “(v) NATIVE AMERICAN HEALTH FA-
13 CILITIES.—With respect to telehealth serv-
14 ices furnished on or after January 1, 2022,
15 the originating site requirements described
16 in clauses (i) and (ii) shall not apply with
17 respect to a facility of the Indian Health
18 Service, whether operated by such Service,
19 or by an Indian tribe (as that term is de-
20 fined in section 4 of the Indian Health
21 Care Improvement Act (25 U.S.C. 1603))
22 or a tribal organization (as that term is
23 defined in section 4 of the Indian Self-De-
24 termination and Education Assistance Act
25 (25 U.S.C. 5304)), or a facility of the Na-

1 tive Hawaiian health care systems author-
 2 ized under the Native Hawaiian Health
 3 Care Improvement Act (42 U.S.C. 11701
 4 et seq.).”.

5 (b) NO ORIGINATING SITE FACILITY FEE FOR CER-
 6 TAIN NATIVE AMERICAN FACILITIES.—Section
 7 1834(m)(2)(B)(i) of the Social Security Act (42 U.S.C.
 8 1395m(m)(2)(B)(i)) is amended, in the matter preceding
 9 subclause (I), by inserting “(other than an originating site
 10 that is only described in clause (v) of paragraph (4)(C),
 11 and does not meet the requirement for an originating site
 12 under clauses (i) and (ii) of such paragraph)” after “the
 13 originating site”.

14 **SEC. 8. WAIVER OF TELEHEALTH REQUIREMENTS DURING**
 15 **PUBLIC HEALTH EMERGENCIES.**

16 Section 1135(g)(1) of the Social Security Act (42
 17 U.S.C. 1320b–5(g)(1)) is amended—

18 (1) in subparagraph (A), in the matter pre-
 19 ceding clause (i), by striking “subparagraph (B)”
 20 and inserting “subparagraphs (B) and (C)”; and

21 (2) by adding at the end the following new sub-
 22 paragraph:

23 “(C) EXCEPTION FOR WAIVER OF TELE-
 24 HEALTH REQUIREMENTS DURING PUBLIC
 25 HEALTH EMERGENCIES.—For purposes of sub-

1 section (b)(8), in addition to the emergency pe-
 2 riod described in subparagraph (B), an ‘emer-
 3 gency area’ is a geographical area in which, and
 4 an ‘emergency period’ is the period during
 5 which, there exists a public health emergency
 6 declared by the Secretary pursuant to section
 7 319 of the Public Health Service Act.”.

8 **SEC. 9. TWO-YEAR EXTENSION OF TELEHEALTH SERVICES**
 9 **FOLLOWING THE COVID-19 EMERGENCY PE-**
 10 **RIOD.**

11 Section 1135(e) of the Social Security Act (42 U.S.C.
 12 1320b–5(e)) is amended by adding at the end the fol-
 13 lowing new paragraph:

14 “(3) TWO-YEAR EXTENSION OF TELEHEALTH
 15 SERVICES FOLLOWING THE COVID-19 EMERGENCY
 16 PERIOD.—Notwithstanding any other provision of
 17 this section, a waiver or modification of require-
 18 ments pursuant to subsection (b)(8) shall terminate
 19 on the date that is two years after the last day of
 20 the emergency period described in subsection
 21 (g)(1)(B).”.

22 **SEC. 10. OUTPATIENT CRITICAL ACCESS HOSPITALS.**

23 (a) IN GENERAL.—Notwithstanding section 1834(m)
 24 of the Social Security Act (42 U.S.C. 1395m(m)) and sub-
 25 ject to subsection (b), the Secretary of Health and Human

1 Services shall provide payment under section 1834(g) of
2 such Act (42 U.S.C. 1395m(g)) for outpatient critical ac-
3 cess hospital services consisting of behavioral therapy serv-
4 ices furnished by a critical access hospital to an individual
5 during the period beginning on January 1, 2021, and end-
6 ing on the date that is two years after the last day of
7 the emergency period described in section 1135(g)(1)(B)
8 of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)),
9 via telecommunications technology, notwithstanding the
10 fact that such individual is not located at such hospital.

11 (b) INITIATION OF SERVICES VIA TELEHEALTH.—In
12 the case of an individual receiving services described in
13 subsection (a) from a critical access hospital during the
14 period described in subsection (a), if such individual has
15 not, prior to receiving such services, received in-person
16 care at such hospital, payment shall be made to such hos-
17 pital in accordance with such subsection only if such serv-
18 ices complement a plan of care that includes in-person
19 care to be furnished at such hospital not later than 1 year
20 after the date such services are furnished.

21 (c) DEFINITIONS.—For purposes of this section:

22 (1) CRITICAL ACCESS HOSPITAL.—The term
23 “critical access hospital” has the meaning given
24 such term in section 1861(mm)(1) of the Social Se-
25 curity Act (42 U.S.C. 1395x(mm)(1)).

1 (2) OUTPATIENT CRITICAL ACCESS HOSPITAL
2 SERVICES.—The term “outpatient critical access
3 hospital services” has the meaning given such term
4 in section 1861(mm)(3) of such Act (42 U.S.C.
5 1395x(mm)(3)).

6 (3) TELECOMMUNICATIONS TECHNOLOGY.—The
7 term “telecommunications technology” means a com-
8 munications system permitting two-way, real-time
9 interactive communication between the individuals
10 and health care professional and includes a commu-
11 nications system consisting of only audio capabili-
12 ties, but only if such individual does not have access
13 to a communications system with audio-visual capa-
14 bilities.

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