

117TH CONGRESS
1ST SESSION

H. R. 2166

To amend title XVIII of the Social Security Act to require the inclusion of certain audio-only diagnoses in the determination of risk adjustment for Medicare Advantage plans and PACE programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2021

Ms. SEWELL (for herself, Mr. BILIRAKIS, Mr. CÁRDENAS, Mrs. WALORSKI, Mr. KIND, Mr. SMITH of Missouri, Ms. HOULAHAN, and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 require the inclusion of certain audio-only diagnoses in the determination of risk adjustment for Medicare Advantage plans and PACE programs, 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 “Ensuring Parity in
5 MA and PACE for Audio-Only Telehealth Act of 2021”.

1 **SEC. 2. REQUIRING THE INCLUSION OF CERTAIN AUDIO-**
2 **ONLY DIAGNOSES IN THE DETERMINATION**
3 **OF RISK ADJUSTMENT FOR MEDICARE AD-**
4 **VANTAGE PLANS AND PACE PROGRAMS.**

5 (a) IN GENERAL.—Section 1853(a)(1) of the Social
6 Security Act (42 U.S.C. 1395w–23(a)(1)) is amended by
7 adding at the end the following new subparagraph:

8 “(J) INCLUSION OF CERTAIN AUDIO-ONLY
9 DIAGNOSES FOR PURPOSES OF RISK ADJUST-
10 MENT.—

11 “(i) IN GENERAL.—For purposes of
12 determining the appropriate adjustment
13 for health status under subparagraph
14 (C)(i) for plan years 2020 and 2021 (and
15 for such other plan years determined ap-
16 propriate by the Secretary), the Secretary,
17 in determining the diseases or conditions
18 of an individual, shall take into account di-
19 agnoses obtained through a telehealth en-
20 counter, and in the case of a qualified di-
21 agnosis (as defined in clause (ii)) made
22 with respect to such individual by a quali-
23 fied provider (as so defined), shall not re-
24 quire the use of video communications with
25 respect to such telehealth encounter.

1 “(ii) DEFINITIONS.—For purposes of
2 this subparagraph:

3 “(I) QUALIFIED DIAGNOSIS.—

4 The term ‘qualified diagnosis’ means
5 a diagnosis made with respect to a
6 chronic disease or condition of an in-
7 dividual during a plan year if such di-
8 agnosis was also made with respect to
9 such individual in one of the last of
10 the 3 plan years preceding such plan
11 year.

12 “(II) QUALIFIED PROVIDER.—

13 The term ‘qualified provider’ means,
14 with respect to a qualified diagnosis
15 made with respect to an individual
16 during a plan year, a provider of serv-
17 ices, clinician or supplier that—

18 “(aa) furnished an item or
19 service to such individual during
20 the 3-year period ending on the
21 date such diagnosis was so made;
22 or

23 “(bb) is in the same practice
24 (as determined by tax identifica-
25 tion number) of a provider of

1 services or supplier who fur-
 2 nished such an item or service to
 3 such individual during such pe-
 4 riod.”.

5 (b) PACE PROGRAM CONFORMING AMENDMENT.—
 6 Section 1894(d)(2) of the Social Security Act (42 U.S.C.
 7 1395eee(d)(2)) is amended by adding at the end the fol-
 8 lowing new sentence: “For purposes of applying the ad-
 9 justment under subparagraph (C)(i) of section 1853(a)(1)
 10 to such amounts, subparagraph (J) of such section shall
 11 be applied as if each reference to ‘plan year’ and ‘plan
 12 years 2020 and 2021’ were instead a reference to ‘year’
 13 and ‘2020 and 2021’, respectively.”.

14 **SEC. 3. REQUIRING PARITY IN TELEHEALTH PAYMENTS**
 15 **DURING THE COVID-19 EMERGENCY.**

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

19 “(9) SPECIAL RULE FOR TELEHEALTH PAY-
 20 MENT PARITY DURING THE COVID-19 EMER-
 21 GENCY.—In the case of a telehealth service fur-
 22 nished during the emergency period described in sec-
 23 tion 1135(g)(1)(B) for which payment may be made
 24 under this subsection (including any service for
 25 which payment may be so made due to application

1 of a waiver made under section 1135(b)), the
2 amount of such payment shall be equal to the
3 amount that would have been paid for such service
4 had such service been furnished in-person.”.

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