

117TH CONGRESS
1ST SESSION

H. R. 5837

To amend title XVIII of the Social Security Act to expand access to telehealth services relating to substance use disorder treatment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2021

Mr. CURTIS (for himself and Mr. PETERS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, 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 expand access to telehealth services relating to substance use disorder treatment, 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. TELEHEALTH FOR SUBSTANCE USE DISORDER**
4 **TREATMENT UNDER MEDICARE.**

5 (a) TELEHEALTH FOR SUBSTANCE USE DISORDER
6 TREATMENT.—

7 (1) SUBSTANCE USE DISORDER SERVICES FUR-
8 NISHED THROUGH TELEHEALTH UNDER MEDI-

CARE.—Section 1834(m)(7)(A) of the Social Security Act (42 U.S.C. 1395m(m)(7)(A)) is amended by adding at the end the following: “With respect to telehealth services described in the preceding sentence that are furnished on or after January 1, 2020, nothing shall require an initial in-person medical evaluation by a physician or practitioner prior to the furnishing of such services through audio or telephone only technologies.”.

(2) CONTROLLED SUBSTANCES DISPENSED BY MEANS OF THE INTERNET.—Section 309(e)(2) of the Controlled Substances Act (21 U.S.C. 829(e)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) by striking “at least 1 in-person medical evaluation” and inserting the following: “at least—

“(I) 1 in-person medical evaluation”; and

(ii) by adding at the end the following:

“(II) for purposes of prescribing a controlled substance in schedule III or IV, 1 telehealth evaluation; or”; and

1 (B) by adding at the end the following:

2 “(D)(i) The term ‘telehealth evaluation’
3 means a medical evaluation that is conducted in
4 accordance with applicable Federal and State
5 laws by a practitioner (other than a phar-
6 macist) who is at a location remote from the
7 patient and is communicating with the patient
8 using a telecommunications system referred to
9 in section 1834(m) of the Social Security Act
10 (42 U.S.C. 1395m(m)) that includes, at a min-
11 imum—

12 “(I) audio and video equipment per-
13 mitting two-way, real-time interactive com-
14 munication between the patient and dis-
15 tant site practitioner; or

16 “(II) audio-only for the prescription of
17 a partial opioid agonist for opioid use dis-
18 order if video services are unavailable to
19 the patient, due to lack of availability of
20 such technology or lack of adequate
21 broadband access, as determined by the
22 practitioner providing telehealth services
23 and a two-way video telehealth appoint-
24 ment for an in-person medical evaluation
25 or telehealth evaluation that utilizes both

1 audio and visual capabilities is required
2 within 10 days of the audio-only prescrip-
3 tion.

4 “(ii) Nothing in clause (i) shall be con-
5 strued to imply that 1 telehealth evaluation
6 demonstrates that a prescription has been
7 issued for a legitimate medical purpose within
8 the usual course of professional practice.

9 “(iii) A practitioner who prescribes the
10 drugs or combination of drugs that are covered
11 under section 303(g)(2)(C) using the authority
12 under subparagraph (A)(i)(II) of this para-
13 graph shall adhere to nationally recognized evi-
14 dence-based guidelines for the treatment of pa-
15 tients with opioid use disorders and a diversion
16 control plan, as those terms are defined in sec-
17 tion 8.2 of title 42, Code of Federal Regula-
18 tions, as in effect on the date of enactment of
19 this subparagraph.”.

20 (b) TASK FORCE.—

21 (1) IN GENERAL.—Not later than 30 days after
22 the date of the enactment of this Act, the Secretary
23 of Health and Human Services shall establish an
24 interagency task force to collect and assess data re-
25 lating to—

1 (A) utilization rates of partial opioid
2 agonist medication prescriptions for opioid use
3 disorder furnished through telehealth based on
4 data from the Centers for Medicare and Med-
5 icaid Services deidentified claims data, deidenti-
6 fied private payer claims data if possible, and
7 state prescription drug monitoring program
8 data if possible (collectively, referred to as
9 “Data Sources”);

10 (B) opioid-related overdose rates in coun-
11 ties with annual rates of such prescriptions fur-
12 nished in-person that are higher than the na-
13 tional average annual rate of such in-person
14 prescriptions, opioid-related overdose rates in
15 counties with less than 100 of such prescrip-
16 tions furnished through telehealth annually, and
17 opioid-related overdose rates in counties with
18 less than 100 of such prescriptions furnished
19 in-person annually, in each case based on the
20 Data Sources;

21 (C) emergency department admissions and
22 readmission rates of counties described in sub-
23 paragraph (B);

24 (D) the cost of care to the Federal Govern-
25 ment for such prescriptions furnished through

1 audio-only and audio-visual telehealth, including
2 if value-based purchasing leads to greater ac-
3 cess to care if possible, lower diversion rates,
4 and overall improved patient outcomes that are
5 defined by the Secretary;

6 (E) patient satisfaction surveys developed
7 by the Secretary and in consultation stake-
8 holder groups, such as patient or provider
9 groups;

10 (F) provider satisfaction survey developed
11 by the Secretary and in consultation with pro-
12 vider groups; and

13 (G) the number of practitioners furnishing
14 such prescriptions through telehealth to 275 pa-
15 tients or more at any one time, including the lo-
16 cation of each such practitioner that can be
17 identified by ZIP code and whether each such
18 practitioner is practicing telehealth across state
19 lines.

20 (2) REPORT.—Not later than 180 days after
21 the date of the enactment of this Act, and every 180
22 days thereafter, the Secretary shall make available
23 on a public website of the Department of Health and
24 Human Services and submit to the Committees on
25 Energy and Commerce and Ways and Means of the

1 House of Representatives and the Committees on Fi-
2 nance and Health, Education, Labor, and Pensions
3 of the Senate a report that summarized the data de-
4 scribed under paragraph (1) for the most recent
5 180-day period.

6 (3) GUIDANCE.—The Secretary of Health and
7 Human Services may issue guidance to providers to
8 assist in the treatment of patients based on the data
9 described under paragraph (1) for the most recent
10 180-day period.

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