

117TH CONGRESS
2D SESSION

H. R. 7876

To amend title XVIII of the Social Security Act to protect access to telehealth services under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2022

Mr. SMITH of Nebraska (for himself, Mr. O'HALLERAN, and Mr. ARMSTRONG) 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 protect access to telehealth services 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 “Connecting Rural Tele-
5 health to the Future Act”.

1 **SEC. 2. REMOVING GEOGRAPHIC REQUIREMENTS AND EX-**
2 **PANDING ORIGINATING SITES FOR TELE-**
3 **HEALTH SERVICES.**

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

6 (1) in paragraph (4)(C)(iii), by striking “during
7 the 151-day period beginning on the first day after
8 the end of the emergency period described in section
9 1135(g)(1)(B)” and inserting “before January 1,
10 2025”; and

11 (2) in paragraph (2)(B)(iii), by striking “during
12 the 151-day period beginning on the first day after
13 the end of the emergency period described in section
14 1135(g)(1)(B)” and inserting “before January 1,
15 2025”.

16 **SEC. 3. EXPANDING PRACTITIONERS ELIGIBLE TO FUR-**
17 **NISH TELEHEALTH SERVICES.**

18 Section 1834(m) of the Social Security Act (42
19 U.S.C. 1395m(m)) is amended in paragraph (4)(E), by
20 striking “151-day” and inserting “and ending on Decem-
21 ber 31, 2024” after “described in section 1135(g)(1)(B)”.

22 **SEC. 4. EXTENDING TELEHEALTH SERVICES FOR FEDER-**
23 **ALLY QUALIFIED HEALTH CENTERS AND**
24 **RURAL HEALTH CLINICS.**

25 Section 1834(m)(8) of the Social Security Act (42
26 U.S.C. 1395m(m)(8)) is amended in subparagraph (A), by

1 striking “151-day” and inserting “and ending on Decem-
2 ber 31, 2024” after “described in section 1135(g)(1)(B)”.

3 **SEC. 5. DELAYING THE IN-PERSON REQUIREMENTS UNDER**
4 **MEDICARE FOR MENTAL HEALTH SERVICES**
5 **FURNISHED THROUGH TELEHEALTH AND**
6 **TELECOMMUNICATIONS TECHNOLOGY.**

7 (a) IN GENERAL.—Section 1834(m)(7)(B)(i) of the
8 Social Security Act (42 U.S.C. 1395m(m)(7)(B)(i)) is
9 amended in the matter preceding subclause (I), by striking
10 “the day that is the 152nd day after the end of the emer-
11 gency period” and inserting “January 1, 2025”.

12 (b) PAYMENT.—Section 1834(y) of the Social Secu-
13 rity Act (42 U.S.C. 1395m(y)) is amended in paragraph
14 (2), by striking “the day that is the 152nd day after the
15 end of the emergency period” and inserting “January 1,
16 2025”.

17 (c) CONFORMING AMENDMENT.—Section 1834(o)(4)
18 of the Social Security Act (42 U.S.C. 1395m(o)(4)) is
19 amended in subparagraph (B), by striking “the day that
20 is the 152nd day after the end of the emergency period
21 described in section 1135(g)(1)(B)” and inserting “Janu-
22 ary 1, 2025”.

1 **SEC. 6. ALLOWING FOR THE FURNISHING OF AUDIO-ONLY**
 2 **TELEHEALTH SERVICES.**

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

5 (1) in paragraph (1), by striking “paragraphs
 6 (8) and (9)” and inserting “paragraph (8)”;

7 (2) by striking paragraph (9); and

8 (3) in paragraph (4), by adding at the end the
 9 following new subparagraph:

10 “(G) TELECOMMUNICATIONS SYSTEM.—

11 “(i) IN GENERAL.—Notwithstanding
 12 paragraph (1) and section 410.78(a)(3) of
 13 title 42, Code of Federal Regulations (or
 14 any successor regulation), subject to clause
 15 (v), the term ‘telecommunications system’
 16 includes, in the case of the furnishing of a
 17 specified telehealth service (as defined in
 18 clause (ii)) a communications system that
 19 uses audio-only technology.

20 “(ii) SPECIFIED TELEHEALTH SERV-
 21 ICE.—In this subparagraph, the term
 22 ‘specified telehealth service’ means a tele-
 23 health service described in clause (iii) that
 24 is furnished by a qualified provider (as de-
 25 fined in clause (iv)).

1 “(iii) TELEHEALTH SERVICE DE-
2 SCRIBED.—A telehealth service as defined
3 in subparagraph (F)(i).

4 “(iv) QUALIFIED PROVIDER DE-
5 FINED.—For purposes of clause (ii), the
6 term ‘qualified provider’ means, with re-
7 spect to a specified telehealth service that
8 is furnished to an eligible telehealth indi-
9 vidual—

10 “(I) a physician or practitioner
11 who has an established patient rela-
12 tionship with such individual as de-
13 fined by the State in which the indi-
14 vidual is located; or

15 “(II) a critical access hospital (as
16 defined in section 1861(mm)(1)), a
17 rural health clinic (as defined in sec-
18 tion 1861(aa)(2)), a federally quali-
19 fied health center (as defined in sec-
20 tion 1861(aa)(4)), a hospital (as de-
21 fined in section 1861(e)), a hospital-
22 based or critical access hospital-based
23 renal dialysis center (including sat-
24 ellites), a skilled nursing facility (as
25 defined in section 1819(a)), a commu-

1 nity mental health center (as defined
2 in section 1861(ff)(3)(B)), or a rural
3 emergency hospital (as defined in sec-
4 tion 1861(kkk)(2)).

5 “(v) AUTHORITY.—For purposes of
6 this subparagraph, the Secretary may de-
7 termine whether it is clinically appropriate
8 to furnish a specified telehealth service via
9 a communications system that uses audio-
10 only technology and whether an in-person
11 initial visit (in addition to any requirement
12 with respect to the furnishing of an item
13 or service in person pursuant to clause
14 (iv)(I)) is required prior to the furnishing
15 of such service using such technology.

16 “(vi) CLARIFICATION REGARDING
17 PAYMENT.—The amount of payment for a
18 specified telehealth service that is fur-
19 nished using audio-only technology shall be
20 equal to the amount that would have been
21 paid for such service under this subsection
22 had such service been furnished via any
23 other telecommunications system author-
24 ized under this subsection.”.

1 **SEC. 7. USE OF TELEHEALTH TO CONDUCT FACE-TO-FACE**
 2 **ENCOUNTER PRIOR TO RECERTIFICATION OF**
 3 **ELIGIBILITY FOR HOSPICE CARE DURING**
 4 **EMERGENCY PERIOD.**

5 Section 1814(a)(7)(D)(i)(II) of the Social Security
 6 Act (42 U.S.C. 1395f(a)(7)(D)(i)(II)) is amended by
 7 striking “151-day” and inserting “and ending on Decem-
 8 ber 31, 2024” after “described in section 1135(g)(1)(B)”.

9 **SEC. 8. EXTENSION OF EXEMPTION FOR TELEHEALTH**
 10 **SERVICES.**

11 (a) IN GENERAL.—Subparagraph (E) of section
 12 223(c)(2) of the Internal Revenue Code of 1986 is amend-
 13 ed by striking “2023” and inserting “2025”.

14 (b) CERTAIN COVERAGE DISREGARDED.—Clause (ii)
 15 of section 223(c)(1)(B) of the Internal Revenue Code of
 16 1986 is amended by striking “2023” and inserting
 17 “2025”.

18 **SEC. 9. FEDERALLY QUALIFIED HEALTH CENTERS AND**
 19 **RURAL HEALTH CLINICS.**

20 Section 1834(m) of the Social Security Act (42
 21 U.S.C. 1395m(m)) is amended in paragraph (8), by strik-
 22 ing subparagraph (B) and inserting the following:

23 “(B) PAYMENT.—

24 “(i) IN GENERAL.—A telehealth serv-
 25 ice furnished by a federally qualified health
 26 center or a rural health clinic to an indi-

vidual pursuant to this paragraph on or after the date of the enactment of this subparagraph 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 federally qualified health center service or rural health clinic service (as applicable) under the prospective payment system established under section 1834(o) or under section 1833(a)(3), respectively.

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

1 **SEC. 10. TELEHEALTH FLEXIBILITIES FOR CRITICAL AC-**
 2 **CESS HOSPITALS.**

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

5 (1) in the first sentence of paragraph (1), by
 6 striking “paragraph (8)” and inserting “paragraphs
 7 (8) and (9)”;

8 (2) in paragraph (2)(A), by striking “paragraph
 9 (8)” and inserting “paragraphs (8) and (9)”;

10 (3) in paragraph (4)—

11 (A) in subparagraph (A), by striking
 12 “paragraph (8)” and inserting “paragraphs (8)
 13 and (9)”;

14 (B) in subparagraph (F)(i), by striking
 15 “paragraph (8)” and inserting “paragraphs (8)
 16 and (9)”;

17 (4) by adding at the end the following new
 18 paragraph:

19 “(9) TELEHEALTH FLEXIBILITIES FOR CRIT-
 20 ICAL ACCESS HOSPITALS.—

21 “(A) IN GENERAL.—On or after the date
 22 of the enactment of this paragraph—

23 “(i) the Secretary shall pay for tele-
 24 health services that are furnished between
 25 the end of the emergency period described
 26 in section 1135(g)(1)(B) and January 1,

1 2025, via a telecommunications system by
2 a critical access hospital, including any
3 practitioner authorized to provide such
4 services within the facility, that is a quali-
5 fied provider (as defined in subparagraph
6 (B)) to an eligible telehealth individual en-
7 rolled under this part notwithstanding that
8 the critical access hospital providing the
9 telehealth service is not at the same loca-
10 tion as the beneficiary, if such services
11 complement a plan of care that includes in-
12 person care at some point, as may be ap-
13 propriate;

14 “(ii) the amount of payment to a crit-
15 ical access hospital that serves as a distant
16 site for such a telehealth service shall be
17 determined under subparagraph (C); and

18 “(iii) for purposes of this subsection—

19 “(I) the term ‘distant site’ in-
20 cludes a critical access hospital that
21 furnishes a telehealth service to an eli-
22 gible telehealth individual; and

23 “(II) the term ‘telehealth serv-
24 ices’ includes behavioral health serv-
25 ices and any other outpatient critical

1 access hospital service that is fur-
2 nished using telehealth to the extent
3 that payment codes corresponding to
4 services identified by the Secretary
5 under clause (i) or (ii) of paragraph
6 (4)(F) are listed on the corresponding
7 claim for such critical access hospital
8 service.

9 “(B) DEFINITION OF QUALIFIED PRO-
10 VIDER.—For purposes of this subsection, the
11 term ‘qualified provider’ means, with respect to
12 a telehealth service described in subparagraph
13 (A)(i) that is furnished to an eligible telehealth
14 individual, a critical access hospital that has an
15 established patient relationship with such indi-
16 vidual as defined by the State in which the indi-
17 vidual is located.

18 “(C) PAYMENT.—The amount of payment
19 to a critical access hospital that serves as a dis-
20 tant site that furnishes a telehealth service to
21 an eligible telehealth individual under this para-
22 graph shall be equal to 101 percent of the rea-
23 sonable costs of the hospital in providing such
24 services, unless the hospital makes an election
25 under paragraph (2) of section 1834(g) to be

1 paid for such services based on the methodology
2 described in such paragraph. Telehealth services
3 furnished by a critical access hospital shall be
4 counted for purposes of determining the pro-
5 vider productivity rate of the critical access hos-
6 pital for purposes of payment under such sec-
7 tion.

8 “(D) IMPLEMENTATION.—Notwithstanding
9 any other provision of law, the Secretary may
10 implement this paragraph through program in-
11 struction, interim final rule, or otherwise.”.

12 **SEC. 11. EFFECTIVE DATE.**

13 The amendments made by this Act shall take effect
14 on the date of the enactment of this Act.

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