

[DISCUSSION DRAFT]

116TH CONGRESS
2^D SESSION

H. R. _____

To amend title XVIII of the Social Security Act to expand the availability of telehealth services under the Medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title XVIII of the Social Security Act to expand the availability of telehealth services under the Medicare program, 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 “_____ Act
5 of 2020”.

1 **SEC. 2. REMOVING CERTAIN GEOGRAPHIC AND ORIGI-**
2 **NATING SITE RESTRICTIONS ON THE FUR-**
3 **NISHING OF TELEHEALTH SERVICES UNDER**
4 **THE MEDICARE PROGRAM.**

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

8 (1) in clause (i), by striking “and only if” and
9 all that follows through the period at the end and
10 inserting a period; and

11 (2) in clause (ii)(X), by striking “, but only
12 for” and all that follows through the period at the
13 end and inserting a period.

14 (b) CONFORMING AMENDMENTS.—Section 1834(m)
15 of the Social Security Act (42 U.S.C. 1395m(m)), as
16 amended by subsection (a), is further amended—

17 (1) in paragraph (1), by striking “paragraph
18 (8)” and inserting “paragraph (6)”;

19 (2) in paragraph (2)—

20 (A) in subparagraph (A), by striking
21 “paragraph (8)” and inserting “paragraph
22 (6)”;

23 (B) in subparagraph (B)(i), by striking
24 “paragraph (6)(C)” and inserting “paragraph
25 (5)(B)”;

26 (3) in paragraph (4)—

1 (A) in subparagraph (A), by striking
2 “paragraph (8)” and inserting “paragraph
3 (6)”;

4 (B) in subparagraph (C)(i), by striking
5 “paragraphs (5), (6), and (7)” and inserting
6 “paragraph (5)”;

7 (C) in subparagraph (F)(i), by striking
8 “paragraph (8)” and inserting “paragraph
9 (6)”;
10 (4) by striking paragraph (5);
11 (5) in paragraph (6)—

12 (A) by redesignating such paragraph as
13 paragraph (5);

14 (B) by striking subparagraph (A);

15 (C) by redesignating subparagraphs (B)
16 and (C) as subparagraphs (A) and (B), respec-
17 tively; and

18 (D) in subparagraph (A), as so redesign-
19 ated, by striking “described in subparagraph
20 (A)” and inserting “furnished on or after Janu-
21 ary 1, 2019, for purposes of diagnosis, evalua-
22 tion, or treatment of symptoms of an acute
23 stroke, as determined by the Secretary”;

24 (6) by striking paragraph (7); and

1 (7) by redesignating paragraph (8) as para-
2 graph (6).

3 **SEC. 3. MAKING PERMANENT FQHC AND RHC TELEHEALTH**
4 **PAYMENTS.**

5 Section 1834(m)(6) of the Social Security Act (42
6 U.S.C. 1395m(m)(8)), as so redesignated by section 2(7),
7 is amended—

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

10 (2) in subparagraph (A), in the matter pre-
11 ceding clause (i), by striking “During” and inserting
12 “With respect to services furnished on or after the
13 first day of”; and

14 (3) in subparagraph (B)(i), by striking “during
15 such emergency period”.

16 **SEC. 4. EXPANDING THE LIST OF PRACTITIONERS ELIGI-**
17 **BLE TO FURNISH TELEHEALTH SERVICES.**

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

20 (1) in paragraph (1), by striking “described in
21 section 1842(b)(18)(C)” and inserting “as defined in
22 paragraph (4)(E)”;

23 (2) in paragraph (3)(B), by inserting “de-
24 scribed in subparagraph (C) of such section” after
25 “practitioners”; and

1 (3) in paragraph (4), by amending subpara-
2 graph (E) to read as follows:

3 “(E) PRACTITIONER.—The term ‘practi-
4 tioner’ means any of the following:

5 “(i) A practitioner described in section
6 1842(b)(18)(C).

7 “(ii) A physical therapist.

8 “(iii) An occupational therapist.

9 “(iv) A qualified speech-language pa-
10 thologist (as defined in section
11 1861(l)(4)).

12 “(v) Any other supplier (other than a
13 physician) specified by the Secretary.”.

14 **SEC. 5. ALLOWING FOR THE PROVISION OF TELEHEALTH**
15 **SERVICES VIA AUDIO-ONLY TELECOMMUNI-**
16 **CATIONS SYSTEMS.**

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

20 “(G) TELECOMMUNICATIONS SYSTEM.—

21 “(i) IN GENERAL.—The term ‘tele-
22 communications system’ includes, in the
23 case of a telehealth service furnished by a
24 qualified provider (as defined in clause (ii))
25 to an individual located at an originating

1 site, a communications system consisting
2 of only audio capabilities, but only if such
3 individual does not have access to a com-
4 munications system with audio-visual capa-
5 bilities at such site.

6 “(ii) QUALIFIED PROVIDER.—For
7 purposes of clause (i), the term ‘qualified
8 provider’ means, with respect a telehealth
9 service furnished to an individual, a physi-
10 cian or practitioner who—

11 “(I) furnished to such individual
12 an item or service (other than such
13 telehealth service) for which payment
14 was made under any group health
15 plan (as defined in section 2791 of
16 the Public Health Service Act), health
17 insurance coverage (as so defined),
18 Federal health care program (as de-
19 fined in section 1128B(f)), or the
20 health care program under chapter 89
21 of title 5, United States Code, during
22 the 3-year period ending on the date
23 such telehealth service was furnished;
24 or

1 “(II) is in the same practice (as
2 determined by tax identification num-
3 ber) of a physician or practitioner who
4 furnished such an item or service to
5 such individual during such period.”.

6 **SEC. 6. MAKING PERMANENT THE SAFE HARBOR FOR AB-**
7 **SENCE OF DEDUCTIBLE FOR TELEHEALTH.**

8 (a) IN GENERAL.—Section 223(c)(2)(E) of the Inter-
9 nal Revenue Code of 1986 is amended by striking “In the
10 case of plan years beginning on or before December 31,
11 2021, a” and inserting “A”.

12 (b) CERTAIN COVERAGE DISREGARDED.—Section
13 223(c)(1)(B)(ii) of the Internal Revenue Code of 1986 is
14 amended by striking “(in the case of plan years beginning
15 on or before December 31, 2021)”.

16 **SEC. 7. REMOVING REQUIREMENT FOR FACE-TO-FACE VIS-**
17 **ITS BETWEEN HOME DIALYSIS PATIENTS AND**
18 **PHYSICIANS.**

19 (a) IN GENERAL.—Section 1881(b)(3)(B) of the So-
20 cial Security Act (42 U.S.C. 1395rr(b)(3)(B)) is amend-
21 ed—

22 (1) in clause (i), by striking “clauses (ii) and
23 (iii)” and inserting “clause (ii)”;

24 (2) in clause (ii), by inserting “or (iv)” after
25 “clause (iii)”;

1 (3) by moving clause (iii) 6 ems to the left; and

2 (4) by adding at the end the following new

3 clause:

4 “(iii) Clause (ii) shall not apply in the case of an indi-
5 vidual who has received in-person training with respect to
6 home dialysis.”.

7 (b) GENERAL WAIVER AUTHORITY.—Notwith-
8 standing any provision of title XVIII of the Social Security
9 Act (42 U.S.C. 1395 et seq.), with respect to any such
10 provision that requires an in-person visit with a provider
11 of services or supplier (as such terms are defined in sec-
12 tion 1861 of such Act (42 U.S.C. 1395x)) as a pre-
13 requisite for payment of any item or service under such
14 title or for any other purpose, the Secretary of Health and
15 Human Services may modify such provision to allow such
16 visit to be conducted through the use of telehealth if deter-
17 mined appropriate by the Secretary.

18 **SEC. 8. REPORT ON TELEHEALTH PAYMENT INTEGRITY.**

19 Not later than 1 year after the termination of the
20 emergency period described in section 1135(g)(1)(B) of
21 the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)), the
22 Inspector General of the Department of Health and
23 Human Services shall review claims for payment for tele-
24 health services furnished under the Medicare program
25 during such period and submit to Congress a report on

1 any instances of waste, fraud, or abuse identified through
2 such review.

3 **SEC. 9. INCREASING FUNDING FOR REVIEW OF TELE-**
4 **HEALTH CLAIMS.**

5 There are authorized to be appropriated to the In-
6 spector General of the Department of Health and Human
7 Services \$10,000,000 for fiscal year 2021 for purposes of
8 conducting audits and other oversight activities with re-
9 spect to payments made under section 1834(m) of the So-
10 cial Security Act (42 U.S.C. 1395m(m)).

11 **SEC. 10. TELEHEALTH RESOURCES.**

12 Not later than 6 months after the last day of the
13 emergency period described in section 1135(g)(1)(B) of
14 the Social Security Act (42 U.S.C. 1320b-5(g)(1)(B)), the
15 Secretary of Health and Human Services shall develop and
16 make available to physicians (as defined in section 1861(r)
17 of such Act (42 U.S.C. 1395x(r))) and practitioners (as
18 defined in section 1834(m)(4)(E) of such Act (42 U.S.C.
19 1395m(m)(4)(E))) educational resources and training ses-
20 sions on requirements relating to the furnishing of tele-
21 health services under section 1834(m) of such Act (42
22 U.S.C. 1395m(m)).