

117TH CONGRESS
1ST SESSION

H. R. 4040

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2021

Ms. CHENEY (for herself and Mrs. DINGELL) 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 title XVIII of the Social Security Act to extend telehealth flexibilities 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 “Advancing Telehealth
5 Beyond COVID–19 Act of 2021”.

1 **SEC. 2. EXTENDING MEDICARE TELEHEALTH FLEXIBILI-**
2 **TIES.**

3 (a) **EXPANDING ACCESS TO TELEHEALTH SERV-**
4 **ICES.—**

5 (1) **IN GENERAL.—**Section 1834(m)(4)(C) of
6 the Social Security Act (42 U.S.C. 1395m(m)(4)(C))
7 is amended by adding at the end the following new
8 clause:

9 “(iii) **EXPANDING ACCESS TO TELE-**
10 **HEALTH SERVICES.—**With respect to tele-
11 health services furnished beginning on the
12 first day after the end of the emergency
13 period described in section 1135(g)(1)(B),
14 the term ‘originating site’ means any site
15 at which the eligible telehealth individual is
16 located at the time the service is furnished
17 via a telecommunications system, including
18 the home of an individual.”.

19 (2) **CONFORMING AMENDMENTS.—**Such section
20 is amended—

21 (A) in paragraph (2)(B)—

22 (i) in clause (i), in the matter pre-
23 ceding subclause (I), by striking “clause
24 (ii)” and inserting “clauses (ii) and (iii)”;
25 and

1 (ii) by adding at the end the following
2 new clause:

3 “(iii) NO FACILITY FEE FOR NEW
4 SITES.—With respect to telehealth services
5 furnished on or after the date of enact-
6 ment of this clause, a facility fee shall only
7 be paid under this subparagraph to an
8 originating site that is described in para-
9 graph (4)(C)(ii) (other than subclause (X)
10 of such paragraph).”.

11 (B) in paragraph (4)(C)—

12 (i) in clause (i), in the matter pre-
13 ceding subclause (I), by inserting “and
14 clause (iii)” after “and (7)”; and

15 (ii) in clause (ii)(X), by inserting
16 “prior to the first day after the end of the
17 emergency period described in section
18 1135(g)(1)(B)” before the period;

19 (C) in paragraph (5), by inserting “and
20 prior to the first day after the end of the emer-
21 gency period described in section
22 1135(g)(1)(B)” after “January 1, 2019,”;

23 (D) in paragraph (6)(A), by inserting “and
24 prior to the first day after the end of the emer-

1 gency period described in section
2 1135(g)(1)(B),” after “January 1, 2019,”; and
3 (E) in paragraph (7), by inserting “and
4 prior to the first day after the end of the emer-
5 gency period described in section
6 1135(g)(1)(B),” after “July 1, 2019,”.

7 (b) EXPANDING PRACTITIONERS ELIGIBLE TO FUR-
8 NISH TELEHEALTH SERVICES.—Section 1834(m) of the
9 Social Security Act (42 U.S.C. 1395m(m)) is amended—

10 (1) in paragraph (1), by striking “(described in
11 section 1842(b)(18)(C))” and inserting “(defined in
12 paragraph (4)(E))”; and

13 (2) in paragraph (4)(E)—

14 (A) by striking “PRACTITIONER.—The
15 term” and inserting “PRACTITIONER.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), the term”; and

18 (B) by adding at the end the following new
19 subparagraph:

20 “(B) EXPANSION.—The Secretary, after
21 consulting with stakeholders regarding services
22 that are clinically appropriate, may expand the
23 types of practitioners who may furnish tele-
24 health services to include any health care pro-

1 fessional that is eligible to bill the program
2 under this title for their professional services.”.

3 (c) ALLOWING FOR THE FURNISHING OF AUDIO-
4 ONLY TELEHEALTH SERVICES.—Section 1834(m)(4) of
5 the Social Security Act (42 U.S.C. 1395m(m)(4)) is
6 amended by adding at the end the following new subpara-
7 graph:

8 “(G) TELECOMMUNICATIONS SYSTEM.—

9 “(i) IN GENERAL.—The term ‘tele-
10 communications system’ includes, in the
11 case of a specified telehealth service (as de-
12 fined in clause (ii)) furnished to an indi-
13 vidual, a communications system consisting
14 only of audio capabilities.

15 “(ii) SPECIFIED TELEHEALTH SERV-
16 ICE DEFINED.—The term ‘specified tele-
17 health service’ means a telehealth service
18 consisting of—

19 “(I) evaluation and management
20 services;

21 “(II) mental and behavioral
22 health services;

23 “(III) substance use disorder
24 services; or

1 “(IV) any other service specified
2 by the Secretary.

3 Such term does not include communication
4 of lab results from a physician or practi-
5 tioner to an individual via a telecommuni-
6 cations system unless such communication
7 involves a diagnosis of such individual
8 based on such results or the prescription,
9 or modification of a prescription, of a drug
10 based on such results.”.

11 **SEC. 3. MAKING PERMANENT THE ABILITY OF FEDERALLY**
12 **QUALIFIED HEALTH CENTERS AND RURAL**
13 **HEALTH CLINICS TO FURNISH TELEHEALTH**
14 **SERVICES UNDER THE MEDICARE PROGRAM.**

15 Section 1834(m)(8) of the Social Security Act (42
16 U.S.C. 1395m(m)(8)) is amended—

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

19 (2) in subparagraph (A), in the matter pre-
20 ceding clause (i), by striking “During” and inserting
21 “Beginning on the first day of”; and

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

1 **SEC. 4. CLARIFICATION FOR FRAUD AND ABUSE LAWS RE-**
2 **GARDING TECHNOLOGIES PROVIDED TO**
3 **BENEFICIARIES.**

4 Section 1128A(i)(6) of the Social Security Act (42
5 U.S.C. 1320a–7a(i)(6)) is amended—

6 (1) in subparagraph (I), by striking “; or” and
7 inserting a semicolon;

8 (2) in subparagraph (J), by striking the period
9 at the end and inserting “; or”; and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(K) the provision of technologies (as de-
13 fined by the Secretary) on or after the date of
14 the enactment of this subparagraph, by a pro-
15 vider of services or supplier (as such terms are
16 defined for purposes of title XVIII) directly to
17 an individual who is entitled to benefits under
18 part A of title XVIII, enrolled under part B of
19 such title, or both, for the purpose of furnishing
20 telehealth services, remote patient monitoring
21 services, or other services furnished through the
22 use of technology (as defined by the Secretary),
23 if—

24 “(i) the technologies are not offered
25 as part of any advertisement or sollicita-
26 tion; and

1 “(ii) the provision of the technologies
2 meets any other requirements set forth in
3 regulations promulgated by the Sec-
4 retary.”.

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