

114TH CONGRESS
1ST SESSION

S. _____

To amend title XVIII of the Social Security Act to increase access to telehealth services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to increase access to telehealth services, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “_____ Act of _____”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MACRA TELEHEALTH BRIDGE PROGRAM

Sec. 101. MACRA Telehealth Bridge Program.

TITLE II—PERMITTING USE OF TELEHEALTH IN ALTERNATIVE PAYMENT MODELS

2

Sec. 201. Increased access to telehealth services under alternative payment models.

TITLE III—IMPROVEMENTS IN MEDICARE FEE-FOR-SERVICE
COVERAGE OF TELEHEALTH

Sec. 301. Coverage of remote patient monitoring services for certain chronic health conditions.

Sec. 302. Use of telehealth for recertifications.

Sec. 303. Treatment of home dialysis service.

Sec. 304. Rural health clinics and Federally qualified health centers authorized to be distant sites.

TITLE IV—GAO STUDY AND REPORT ON TELEHEALTH
UTILIZATION AND EXPENDITURES IN STATES

Sec. 401. GAO study and report on telehealth utilization and expenditures in States.

1 **TITLE I—MACRA TELEHEALTH**
2 **BRIDGE PROGRAM**

3 **SEC. 101. MACRA TELEHEALTH BRIDGE PROGRAM.**

4 (a) ESTABLISHMENT.—Not later than 6 months after
5 the date of enactment of this Act, the Secretary of Health
6 and Human Services (in this section referred to as the
7 “Secretary”) shall establish and implement a program
8 aimed at assisting MIPS-eligible professionals (as defined
9 in paragraph (1)(C) of section 1848(q) of the Social Secu-
10 rity Act (42 U.S.C. 1395r(q)) in implementing telemedi-
11 cine and remote patient monitoring as part of their effort
12 to comply with performance measures under the Merit-
13 based Incentive Payment Program under such section.

14 (b) PROGRAM DESCRIBED.—Under the program, the
15 following shall apply with respect to telehealth services
16 furnished by a MIPS-eligible professional:

1 (1) WAIVER OF LIMITATIONS.—Notwith-
2 standing any other provision of law, the Secretary
3 shall waive any provision under section 1834(m) of
4 the Social Security Act (42 U.S.C. 1395m(m)) that
5 applies a limitation on what qualifies as an origi-
6 nating site, any geographic limitation, any limitation
7 on the use of store-and-forward technologies, any
8 limitation on the type of service provided, or any
9 limitation on the type of professional who may fur-
10 nish such services.

11 **[(2) PAYMENT AMOUNT.—The Secretary shall**
12 pay to a MIPS-eligible professional that furnishes
13 such services an amount equal to the amount that
14 the professional would have been paid under this
15 title had such service been furnished without the use
16 of a telecommunications system.]

17 (3) APPLICATION PROCESS.—The Secretary
18 shall implement an application process under the
19 program under which MIPS-eligible professionals at-
20 test to their intention to use telemedicine and re-
21 mote patient monitoring to meet the goals of the
22 Merit-based Incentive Payment Program, including
23 the goals of quality, resource utilization, and clinical
24 practice improvement (including care coordination
25 and patient engagement). MIPS-eligible profes-

1 sionals shall agree as part of the application process
2 to share information with the Secretary that is
3 deemed essential to completing the evaluation under
4 paragraph (5).

5 (4) SUNSET.—The authority to carry out the
6 program under this section shall expire on Sep-
7 tember 30, 2021.

8 (5) REPORT TO CONGRESS.—Not later than
9 September 30, 2020, the Chief Actuary of the Cen-
10 ters for Medicare and Medicaid Services shall submit
11 to Congress a report containing an evaluation of the
12 impact of telemedicine and the coverage of remote
13 monitoring under the program on—

14 (A) spending under the Medicare program;
15 and

16 (B) meeting the goals of the Merit-based
17 Incentive Payment Program.

18 **TITLE II—PERMITTING USE OF**
19 **TELEHEALTH IN ALTER-**
20 **NATIVE PAYMENT MODELS**

21 **SEC. 201. INCREASED ACCESS TO TELEHEALTH SERVICES**
22 **UNDER ALTERNATIVE PAYMENT MODELS.**

23 (a) IN GENERAL.—Title XVIII of the Social Security
24 Act (42 U.S.C. 1395 et seq.) is amended by adding at
25 the end the following new section:

1 **“SEC. 1899C. INCREASED ACCESS TO TELEHEALTH SERV-**
2 **ICES UNDER ALTERNATIVE PAYMENT MOD-**
3 **ELS.**

4 “(a) IN GENERAL.—Notwithstanding [any other pro-
5 vision of law], the Secretary shall permit an applicable
6 project or model to include under such project or model,
7 with respect to individuals entitled to benefits under part
8 A or enrolled under part B participating in such project
9 or model, telehealth services [furnished to such individ-
10 uals and for which payment may otherwise be made under
11 this title] without application of [any provision under sec-
12 tion 1834(m) that applies a limitation on what qualifies
13 as an originating site, any geographic limitation, any limi-
14 tation on the use of store-and-forward technologies, any
15 limitation on the type of service provided, or any limitation
16 on the type of health care provider who may furnish such
17 services].

18 “(b) APPLICABLE PROJECT OR MODEL.—The term
19 ‘applicable project or model’ means a project or model that
20 uses an alternative payment model, such as a bundled pay-
21 ment model (including the National Pilot Program on
22 Payment Bundling under section 1866D or the shared
23 savings program under section 1899) that is carried out
24 with respect to the program under this title, under section
25 1115A or otherwise.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply with respect to services fur-
3 nished on or after the date that is 6 months after the date
4 of enactment of this Act.

5 **TITLE III—IMPROVEMENTS IN**
6 **MEDICARE FEE-FOR-SERVICE**
7 **COVERAGE OF TELEHEALTH**

8 **SEC. 301. COVERAGE OF REMOTE PATIENT MONITORING**
9 **SERVICES FOR CERTAIN CHRONIC HEALTH**
10 **CONDITIONS.**

11 (a) IN GENERAL.—Section 1861(s)(2) of the Social
12 Security Act (42 U.S.C. 1395x(s)(2)) is amended—

13 (1) in subparagraph (EE), by striking “and” at
14 the end;

15 (2) in subparagraph (FF), by inserting “and”
16 at the end; and

17 (3) by inserting after subparagraph (FF) the
18 following new subparagraph:

19 “(GG) applicable remote patient monitoring
20 services (as defined in paragraph (1)(A) of sub-
21 section (iii));”.

22 (b) SERVICES DESCRIBED.—Section 1861 of the So-
23 cial Security Act (42 U.S.C. 1395x) is amended by adding
24 at the end the following new subsection:

1 “(iii) REMOTE PATIENT MONITORING SERVICES FOR
2 CHRONIC HEALTH CONDITIONS.—(1)(A) The term ‘appli-
3 cable remote patient monitoring services’ means remote
4 patient monitoring services (as defined in subparagraph
5 (B)) furnished to provide for the monitoring, evaluation,
6 and management of a covered chronic condition (as de-
7 fined in paragraph (2)) of an applicable individual (as de-
8 fined in subparagraph (D)), insofar as such services are
9 for the management of such chronic condition.

10 “(B) The term ‘remote patient monitoring services’
11 means services furnished through remote patient moni-
12 toring technology (as defined in subparagraph (C)).

13 “(C) The term ‘remote patient monitoring tech-
14 nology’ means a coordinated system that uses one or more
15 home-based or mobile monitoring devices that automati-
16 cally transmit vital sign data or information on activities
17 of daily living and may include responses to assessment
18 questions collected on the devices wirelessly or through a
19 telecommunications connection to a server that complies
20 with the Federal regulations (concerning the privacy of in-
21 dividually identifiable health information) promulgated
22 under section 264(c) of the Health Insurance Portability
23 and Accountability Act of 1996, as part of an established
24 plan of care for that patient that includes the review and
25 interpretation of that data by a health care professional.

1 “(D) The term ‘applicable individual’ means an indi-
2 vidual—

3 “(i) with a covered chronic condition (as de-
4 fined in paragraph (2)); and

5 “(ii) who has a recent history of costly service
6 use due to one or more covered chronic conditions as
7 evidenced by 2 or more hospitalizations, including
8 emergency room visits, in the preceding 12 months.

9 “(2) For purposes of paragraph (1), the term ‘cov-
10 ered chronic health condition’ means a chronic condition,
11 as defined by the Secretary. **【*did you want to point to***
12 *the definition of chronic condition used for purposes of*
13 *chronic care improvement programs under section*
14 *1807(a)(2)(D)?】*

15 “(3)(A) Payment may be made under this part for
16 applicable remote patient monitoring services provided to
17 an applicable individual during a period of up to 90 days
18 and such additional period as provided for under subpara-
19 graph (B).

20 “(B) The 90-day period described in subparagraph
21 (A), with respect to an applicable individual, may be re-
22 newed by the physician who provides chronic care manage-
23 ment to such individual if the individual continues to qual-
24 ify for such management.”.

1 “(i) physician or practitioner re-
2 sources, including physician or practitioner
3 time and the level of intensity of services
4 provided, based on—

5 “(I) the frequency of evaluation
6 necessary to manage the individual
7 being furnished the services;

8 “(II) the complexity of the eval-
9 uation, including the information that
10 must be obtained, reviewed, and ana-
11 lyzed; and

12 “(III) the number of possible di-
13 agnoses and the number of manage-
14 ment options that must be considered;

15 “(ii) practice expense costs associated
16 with such services, including the direct
17 costs associated with installation and infor-
18 mation transmission, costs of remote pa-
19 tient monitoring technology (including
20 equipment and software), device delivery
21 costs, and resource costs necessary for pa-
22 tient monitoring and follow-up (but not in-
23 cluding costs of any related item or non-
24 physician service otherwise reimbursed
25 under this title); and

1 “(iii) malpractice expense resources.

2 “(B) Using the relative value units deter-
3 mined in subparagraph (A), the Secretary shall
4 provide for separate payment for such services
5 and shall not adjust the relative value units as-
6 signed to other services that might otherwise
7 have been determined to include such separately
8 paid remote patient monitoring services.”; and

9 (2) in subsection (j)(3), by inserting “(2)(GG),”
10 after “health risk assessment),”.

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
13 this subsection shall apply to services furnished on
14 or after the date that is 6 months after the date of
15 the enactment of this Act.

16 (2) AVAILABILITY OF CODES AS OF DATE OF
17 ENACTMENT.—The Secretary of Health and Human
18 Services shall—

19 (A) promptly evaluate existing codes that
20 would be used to bill for applicable remote pa-
21 tient monitoring services (as defined in para-
22 graph (1)(A) of such section 1861(iii), as added
23 by paragraph (2)) under title XVIII of the So-
24 cial Security Act; and

1 (B) if the Secretary determines that new
2 codes are necessary to ensure accurate report-
3 ing and billing of such services under such title,
4 issue such codes so that they are available for
5 use [as of the date of the enactment of this
6 Act]. [*Review feasibility of this deadline.*]

7 **SEC. 302. USE OF TELEHEALTH FOR RECERTIFICATIONS.**

8 (a) HOME HEALTH SERVICES.—

9 (1) PART A.—Section 1814(a)(2)(C) of the So-
10 cial Security Act (42 U.S.C. 1395f(a)(2)(C)) is
11 amended by inserting “(except that, notwithstanding
12 paragraph (4)(C) of such section, the home of the
13 individual shall qualify as an originating site for
14 purposes of such encounter)” after “1834(m)”.

15 (2) PART B.—Section 1835(a)(2)(A) of the So-
16 cial Security Act (42 U.S.C. 1395n(a)(2)(A)) is
17 amended by inserting “(except that, notwithstanding
18 section 1834(m)(4)(C), the home of the individual
19 shall qualify as an originating site for purposes of
20 such encounter)” after “telehealth”.

21 (b) DURABLE MEDICAL EQUIPMENT.—Section
22 1834(a)(11)(B)(ii) of the Social Security Act (42 U.S.C.
23 1395m(a)(11)(B)(ii)) is amended by inserting “(except
24 that, notwithstanding paragraph (4)(C) of such sub-
25 section, the home of the individual shall qualify as an orig-

1 inating site for purposes of such encounter)” after “sub-
2 section (m)”.

3 **SEC. 303. TREATMENT OF HOME DIALYSIS SERVICE.**

4 (a) IN GENERAL.—Section 1881(b)(3) of the Social
5 Security Act (42 U.S.C. 1395rr(b)(3)) is amended—

6 (1) by redesignating subparagraphs (A) and
7 (B) as clauses (i) and (ii), respectively;

8 (2) in clause (ii), as redesignated by subpara-
9 graph (A), strike “on a comprehensive” and insert
10 “subject to subparagraph (B), on a comprehensive”;

11 (3) by striking “With respect to” and inserting
12 “(A) With respect to”; and

13 (4) by adding at the end the following new sub-
14 paragraph:

15 “(B) For purposes of subparagraph (A)(ii), the
16 following shall apply:

17 “(i) The monthly fee or other basis of pay-
18 ment described in such subparagraph shall
19 allow for a patient-specific waiver process to
20 allow a physician, clinical nurse specialist, nurse
21 practitioner, or physician’s assistant to request
22 a waiver under this title of face-to-face visit re-
23 quirements for home dialysis furnished to indi-
24 viduals determined to have end stage renal dis-
25 ease.

1 “(ii) Any request under clause (i) shall in-
2 clude documentation by the physician or practi-
3 tioner involved that supports active and ade-
4 quate care of such individual receiving home di-
5 alysis.

6 “(iii) Any patient-specific waiver under
7 clause (i) that is granted shall remain effective
8 until such date that the Secretary, including
9 through contractor under this title, requests
10 that additional information or a new waiver ap-
11 plication be filed.

12 “(iv) All individuals determined to have
13 end stage renal disease receiving home dialysis
14 shall receive a face-to-face examination at least
15 once every three consecutive months and, in the
16 intervening months, shall receive a monthly
17 clinical assessment which may be furnished, if
18 the patient so chooses, via remote monitoring
19 by a physician, clinical nurse specialist, nurse
20 practitioner, or physician’s assistant.”.

21 (b) CONFORMING AMENDMENT.—Section 1881(b)(1)
22 of such Act (42 U.S.C. 1395rr(b)(1)) is amended by strik-
23 ing “paragraph (3)(A)” and inserting “paragraph
24 (3)(A)(i)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this subsection shall apply with respect to the monthly fee
3 or other basis of payment for home dialysis services fur-
4 nished on or after January 1, 2016.

5 **SEC. 304. RURAL HEALTH CLINICS AND FEDERALLY QUALI-**
6 **FIED HEALTH CENTERS AUTHORIZED TO BE**
7 **DISTANT SITES.**

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

10 (1) by striking “SITE.—The term” and insert-
11 ing “SITE.—

12 “(i) IN GENERAL.—The term”; and

13 (2) by adding at the end the following new
14 clause:

15 “(ii) TREATMENT OF RURAL HEALTH
16 CLINICS AND FEDERALLY QUALIFIED
17 HEALTH CENTERS.—A site described in
18 clause (i) includes a rural health clinic (as
19 defined in section 1861(aa)(2)) and a Fed-
20 erally qualified health center (as defined in
21 section 1861(aa)(4)). In any case in which
22 such a clinic or center is treated as a dis-
23 tant site with respect to the provision of a
24 telehealth service to an eligible telehealth
25 individual for which payment is made

1 under this subsection, the amount of pay-
2 ment for the service shall be an amount
3 equal to the amount that such clinic or
4 center would have been paid under this
5 title had such service been furnished with-
6 out the use of a telecommunications sys-
7 tem.”.

8 **TITLE IV—GAO STUDY AND RE-**
9 **PORT ON TELEHEALTH UTILI-**
10 **ZATION AND EXPENDITURES**
11 **IN STATES**

12 **SEC. 401. GAO STUDY AND REPORT ON TELEHEALTH UTILI-**
13 **ZATION AND EXPENDITURES IN STATES.**

14 (a) STUDY.—The Comptroller General of the United
15 States (in this section referred to as the “Comptroller
16 General”) shall conduct a study on—

- 17 (1) the utilization of telehealth in States; and
18 (2) State expenditures for telehealth.

19 (b) REPORT.—Not later than one year after the date
20 of enactment of this Act, the Comptroller General shall
21 submit to Congress a report containing the results of the
22 study under subsection (a), together with recommenda-
23 tions for such legislation and administrative action as the
24 Comptroller General determines appropriate.