

114TH CONGRESS
1ST SESSION

S. _____

To require the Center for Medicare and Medicaid Innovation to test the effect of including telehealth services in Medicare health care delivery reform models and to expand eligibility for Healthcare Connect Fund support.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To require the Center for Medicare and Medicaid Innovation to test the effect of including telehealth services in Medicare health care delivery reform models and to expand eligibility for Healthcare Connect Fund support.

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 “Telehealth Innovation
5 and Improvement Act of 2015”.

1 **SEC. 2. CMI TESTING OF COVERAGE OF EXPANDED TELE-**
2 **HEALTH SERVICES.**

3 (a) IN GENERAL.—Section 1115A of the Social Secu-
4 rity Act (42 U.S.C. 1315a) is amended—

5 (1) in subsection (b)(2)—

6 (A) in subparagraph (A), by adding at the
7 end the following new sentence: “The models
8 selected under this subparagraph shall include
9 the model described in subparagraph (D), which
10 shall be implemented by not later than January
11 1, 2017.”; and

12 (B) by adding at the end the following new
13 subparagraph:

14 “(D) TELEHEALTH SERVICES IN DELIVERY
15 REFORM MODELS.—The model described in this
16 subparagraph is a model that meets the re-
17 quirements of subsection (h) with respect to
18 coverage of, and payment for, expanded tele-
19 health services, which shall include remote mon-
20 itoring services, furnished in conjunction with
21 models that test the use of accountable care or-
22 ganizations under title XVIII, bundled pay-
23 ments under such title, and such other coordi-
24 nated care models under such title as the Sec-
25 retary determines to be appropriate.”;

1 (2) in subsection (b)(4), by striking “EVALUA-
2 TION.—” and inserting “EVALUATION.—Subject to
3 subsection (h)(6):”; and

4 (3) by adding at the end the following new sub-
5 section:

6 “(h) MEDICARE COVERAGE OF EXPANDED TELE-
7 HEALTH SERVICES UNDER ACCOUNTABLE CARE ORGANI-
8 ZATION MODELS, BUNDLED PAYMENT MODELS, AND
9 OTHER APPROPRIATE MODELS TESTED BY THE SEC-
10 RETARY.—

11 “(1) ESTABLISHMENT OF TELEHEALTH SERV-
12 ICE MODELS.—

13 “(A) IN GENERAL.—Subject to the suc-
14 ceeding provisions of this subsection, for the 5-
15 year period that begins on January 1, 2017, the
16 Secretary shall test coverage of, and payment
17 for, expanded telehealth services (as defined in
18 paragraph (2)) furnished to applicable individ-
19 uals who are Medicare beneficiaries (as defined
20 in paragraph (3)(B)) in conjunction with mod-
21 els tested under subsection (b), and expanded
22 under subsection (c) (if applicable), that test
23 the use of accountable care organizations under
24 title XVIII, bundled payments under such title,
25 and such other coordinated care models under

1 such title as the Secretary determines to be ap-
2 propriate.

3 “(B) MODEL DESIGN CONSIDERATIONS.—

4 In establishing models to be tested for enhanced
5 telehealth services under subsection (b)(2)(D),
6 the Secretary shall design such models in a
7 manner to permit comparisons of Medicare
8 beneficiaries who are participating in models
9 under subsection (b) that include access to ex-
10 panded telehealth services with Medicare bene-
11 ficiaries in models under subsection (b) who do
12 not have access to such services.

13 “(2) EXPANDED TELEHEALTH SERVICES DE-
14 FINED.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graphs (B) and (C), in this subsection, the term
17 ‘expanded telehealth services’ means services
18 furnished by an eligible physician or practi-
19 tioner to a Medicare beneficiary as part of an
20 episode of care for one or more of the condi-
21 tions specified under paragraph (4) through one
22 or more of the following:

23 “(i) Remote monitoring technologies,
24 including remote device management for
25 purposes of remotely interrogating or pro-

1 gramming a medical device (such as a
2 pacemaker or a cardiac resynchronization
3 therapy device) outside the office of the
4 physician specialist involved.

5 “(ii) Bi-directional audio/video tech-
6 nologies.

7 “(iii) Physiologic and behavioral moni-
8 toring technologies.

9 “(iv) Engagement prompt tech-
10 nologies.

11 “(v) Store and forward technologies.

12 “(vi) Point-of-care testing tech-
13 nologies.

14 “(vii) Such other technologies as the
15 Secretary may specify.

16 “(B) INCLUSION OF MEDICARE TELE-
17 HEALTH SERVICES; NON-APPLICATION OF CER-
18 TAIN RESTRICTIONS.—

19 “(i) INCLUSION OF MEDICARE TELE-
20 HEALTH SERVICES.—The term ‘expanded
21 telehealth services’ shall include a tele-
22 health service, as defined in section
23 1834(m)(4)(F), without regard to the limi-
24 tations specified under section 1834(m)(4).

1 “(ii) RULE OF CONSTRUCTION.—

2 Nothing in this section shall be construed
3 as imposing a requirement on the fur-
4 nishing of expanded telehealth services
5 that such services be furnished in real time
6 through interactive audio or video tele-
7 communications systems between the eligi-
8 ble physician or practitioner and the Medi-
9 care beneficiary.

10 “(iii) NO LIMITATIONS ON GEO-
11 GRAPHIC AREAS OR LOCATION OF PA-
12 TIENT.—The term ‘expanded telehealth
13 services’ shall include services furnished
14 (as described in subparagraph (A)) without
15 regard to the location of the Medicare ben-
16 eficiary at the time the telehealth service is
17 furnished and without regard to the area
18 in which the Medicare beneficiary resides.

19 “(C) REQUIREMENTS.—The term ‘ex-
20 panded telehealth services’ shall not include a
21 service furnished (as described in subparagraph
22 (A)) unless it can be demonstrated that the
23 service, when furnished as an expanded tele-
24 health service, is likely to do one or more of the
25 following:

1 “(i) The service assists eligible physi-
2 cians or practitioners coordinate care for
3 patients.

4 “(ii) The service enhances collabora-
5 tion among providers of services and sup-
6 pliers, including eligible physicians and
7 practitioners, in the provision of care to
8 patients.

9 “(iii) The service improves quality of
10 care furnished to patients.

11 “(iv) The service results in reduced
12 hospital admissions and readmissions.

13 “(v) The service reduces or sub-
14 stitutes for physician office visits.

15 “(vi) The service results in reduced
16 utilization of skilled nursing facility serv-
17 ices.

18 “(vii) The service facilitates the re-
19 turn of patients to the community more
20 quickly than would otherwise occur in the
21 absence of the service.

22 “(3) ADDITIONAL DEFINITIONS.—In this sub-
23 section:

1 “(A) ELIGIBLE PHYSICIAN OR PRACTI-
2 TIONER.—The term ‘eligible physician or prac-
3 titioner’ means—

4 “(i) a physician (as defined in section
5 1861(r)); and

6 “(ii) a practitioner (as defined in sec-
7 tion 1842(b)(18)(C)).

8 “(B) MEDICARE BENEFICIARY.—The term
9 ‘Medicare beneficiary’ means an individual who
10 is entitled to benefits under part A or enrolled
11 under part B of title XVIII who is not enrolled
12 in a Medicare Advantage plan under part C of
13 such title, an eligible organization under section
14 1876, or a PACE program under section 1894.

15 “(4) CONDITIONS.—For purposes of paragraph
16 (2)(A), the conditions with respect to which a cov-
17 erage of an expanded telehealth service is furnished
18 under this subsection shall include the following con-
19 ditions or diseases: chronic hypertension, ischemic
20 heart diseases, chronic obstructive pulmonary dis-
21 ease, heart failure, heart attack, osteoarthritis, dia-
22 betes, chronic kidney disease, depression, atrial fi-
23 brillation, cancer, asthma, stroke, total hip replace-
24 ment procedures, total knee replacement procedures,
25 Parkinson’s disease, and such other conditions or

1 diseases with respect to which the Secretary deter-
2 mines that expanded telehealth services would sat-
3 isfy one or more of the requirements of clauses (i)
4 through (vii) of paragraph (2)(C).

5 “(5) PAYMENT.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graph (B), with respect to expanded telehealth
8 services furnished under a model tested under
9 subsection (b) and expanded under subsection
10 (c) (if applicable), the Secretary shall establish
11 payment amounts under this subsection for
12 such services. The Secretary may use one or
13 more of the following payment methodologies
14 for expanded telehealth services:

15 “(i) MEDICARE FEE SCHEDULE.—Fee
16 schedules established under title XVIII for
17 telehealth services and remote monitoring
18 services.

19 “(ii) NEW FEE SCHEDULE.—A new
20 fee schedule that the Secretary establishes
21 for expanded telehealth services covered by
22 reason of this subsection.

23 “(iii) PAYMENT AMOUNTS BASED ON
24 SHARED RISK.—A payment methodology
25 for shared savings and losses that is de-

1 signed to ensure savings with respect to
2 expanded telehealth services covered under
3 the model.

4 “(B) CONSIDERATION OF CERTAIN
5 COSTS.—In determining the amount of payment
6 for an expanded telehealth service under the
7 payment methodologies referred to in subpara-
8 graph (A), the Secretary shall take into account
9 costs incurred by eligible physicians and practi-
10 tioners—

11 “(i) for the acquisition and implemen-
12 tation information systems necessary to
13 furnish such services, including costs of
14 equipment and requisite software;

15 “(ii) for non-physician clinical per-
16 sonnel in conjunction with such service;
17 and

18 “(iii) for physician interpretation of
19 clinical data through the expanded tele-
20 health service as well as for the supervision
21 or oversight of the system for such service.

22 “(6) EVALUATION OF MODELS.—

23 “(A) USE OF INDEPENDENT ENTITY.—In
24 lieu of the evaluations conducted by the Sec-
25 retary under subsection (b)(4) for models tested

1 under subsection (b), the Secretary shall pro-
2 vide for evaluations of enhanced telehealth serv-
3 ice models under subsection (b)(2)(D) by an
4 independent entity. Such evaluation shall be
5 conducted with respect to the specific enhanced
6 telehealth service and condition or conditions
7 involved that are tested under such models.

8 “(B) TIMING OF EVALUATION.—An eval-
9 uation of such enhanced telehealth service and
10 condition or conditions involved conducted by
11 the independent entity under this paragraph
12 shall begin three years after the implementation
13 of the model that provides for coverage of and
14 payment for the expanded telehealth service
15 with respect to such condition.

16 “(C) CRITERIA.—An evaluation of such en-
17 hanced telehealth service models conducted by
18 the independent entity under this paragraph
19 shall include an analysis of—

20 “(i) the quality of care furnished
21 under the model, including the measure-
22 ment of patient-level outcomes and patient-
23 centeredness criteria determined appro-
24 priate by the Secretary;

1 “(ii) the changes in spending under
2 parts A and B of title XVIII by reason of
3 the model, taking into account costs and
4 savings under such parts across the con-
5 tinuum of care for the episode of care and
6 condition or conditions involved; and

7 “(iii) any impediments that were en-
8 countered under the model, such as—

9 “(I) explicit telehealth restric-
10 tions under Federal or State laws that
11 are not related to health care reim-
12 bursement, such as scope of practice
13 limitations;

14 “(II) licensing or credentialing
15 barriers; and

16 “(III) limited broadband access
17 or limited health information tech-
18 nology capabilities.

19 “(D) INFORMATION.—The provisions of
20 subsection (b)(4)(B) shall apply to evaluations
21 conducted under this paragraph in the same
22 manner as such provisions apply to evaluations
23 conducted under subsection (b)(4).

24 “(7) APPLICATION OF EXPANDED TELEHEALTH
25 SERVICES TO ALL CMI MODELS.—The Secretary

1 shall expand the application of an enhanced tele-
2 health service with respect to the condition or condi-
3 tions involved to all models tested under subsection
4 (b), and expanded under subsection (c) (if applica-
5 ble), that apply with respect to services furnished
6 under title XVIII to provide for coverage of, and
7 payment for, such enhanced telehealth service or
8 services with respect to such condition or conditions
9 under all such models for years beginning after the
10 5-year period described in paragraph (1)(A) if—

11 “(A) the independent evaluation conducted
12 under paragraph (6) with respect to such mod-
13 els demonstrates that such enhanced telehealth
14 service or services with respect to the condition
15 or conditions involved resulted in—

16 “(i) reduced spending under parts A
17 and B of title XVIII without reducing the
18 quality of care; or

19 “(ii) improved quality of patient care
20 without increasing such spending; and

21 “(B) the Chief Actuary of the Centers for
22 Medicare & Medicaid Services certifies that
23 such expansion would reduce net program
24 spending under parts A and B of title XVIII.”.

1 (b) COVERAGE OF AND PAYMENT FOR CERTAIN EN-
2 HANCED TELEHEALTH SERVICES THAT ARE CERTIFIED
3 AS PROVIDING SAVINGS UNDER THE MEDICARE PRO-
4 GRAM.—

5 (1) COVERAGE.—Section 1834 of the Social Se-
6 curity Act (42 U.S.C. 1395m) is amended by adding
7 at the end the following new subsection:

8 “(s) CERTIFIED ENHANCED TELEHEALTH SERV-
9 ICES.—

10 “(1) IN GENERAL.—The Secretary shall pay for
11 certified enhanced telehealth services (as defined in
12 paragraph (2)(A)) furnished by a physician (as de-
13 fined in section 1861(r)) or a practitioner (as de-
14 fined in section 1842(b)(18)(C)) to a Medicare fee-
15 for-service beneficiary (as defined in paragraph
16 (2)(B)) for one or more of the conditions specified
17 under section 1115A(h)(4) in an amount determined
18 under paragraph (3) without regard to—

19 “(A) the location of the Medicare fee-for-
20 service beneficiary at the time the certified en-
21 hanced telehealth service is furnished; and

22 “(B) the area in which the Medicare fee-
23 for-service beneficiary resides.

24 “(2) DEFINITIONS.—In this subsection:

1 “(A) CERTIFIED ENHANCED TELEHEALTH
2 SERVICE.—The term ‘certified enhanced tele-
3 health service’ means, with respect to a condi-
4 tion or conditions specified under section
5 115A(h)(4), an enhanced telehealth service (as
6 defined in section 1115A(h)(2)) with respect to
7 which—

8 “(i) an independent evaluation con-
9 ducted under section 1115A(h)(6) dem-
10 onstrates that the service tested under a
11 model under section 1115A(b)(2)(D) with
12 respect to the condition or conditions re-
13 sulted in—

14 “(I) reduced spending under
15 parts A and B without reducing the
16 quality of care; or

17 “(II) improved quality of patient
18 care without increasing such spend-
19 ing; and

20 “(ii) the Chief Actuary of the Centers
21 for Medicare & Medicaid Services certifies
22 that such expansion would reduce net pro-
23 gram spending under such parts.

24 “(B) MEDICARE FEE-FOR-SERVICE BENE-
25 FICIARY.—The term ‘Medicare fee-for-service

1 beneficiary' has the meaning given such term in
2 section 1899(h)(3).

3 “(3) PAYMENT AMOUNT.—The amount of pay-
4 ment for certified enhanced telehealth services shall
5 be determined in the same manner as payments for
6 enhanced telehealth services are determined under
7 section 1115A(h)(5).”.

8 (2) PAYMENT.—Section 1833(a)(1) of the So-
9 cial Security Act (42 U.S.C. 1395l(a)(1)) is amend-
10 ed by striking “and” before “(Z)” and inserting be-
11 fore the semicolon at the end the following: “, and
12 (AA) with respect to certified enhanced telehealth
13 services (as defined in section 1834(s)(2)(A)), the
14 amount paid shall be an amount equal to 80 percent
15 of the lesser of the actual charge for the services or
16 the amount determined under section 1834(s)(3)”.

17 **SEC. 3. EXPANDING ELIGIBILITY FOR HEALTHCARE CON-**
18 **NECT FUND SUPPORT.**

19 Section 254(h)(7)(B)(v) of the Communications Act
20 of 1934 (47 U.S.C. 254(h)(7)(B)(v)) is amended by in-
21 serting after “not-for-profit hospitals” the following: “, in-
22 cluding any associated off-site physical facility of a not-
23 for-profit hospital that is not at the same address or on
24 the same premises”.