115TH CONGRESS
1ST SESSION

H.R. 3727

To amend title XVIII of the Social Security Act to include additional telehealth services for purposes of MA organization bids, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. Black (for herself, Mr. Thompson of California, Mrs. Brooks of Indiana, and Ms. Matsui) introduced the following bill; which was referred to the Committee on

A BILL

To amend title XVIII of the Social Security Act to include additional telehealth services for purposes of MA organization bids, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. INCLUSION OF ADDITIONAL TELEHEALTH SERVICES IN MEDICARE ADVANTAGE ORGANIZATION BIDS.

3 (a) In General.—Section 1852 of the Social Security Act (42 U.S.C. 1395w–22) is amended—
(1) in subsection (a)(1)(B)(i), by adding at the end the following new sentence: "For plan year 2020 and each subsequent plan year, for purposes of subsection (m) and section 1854, in the case that an MA plan makes an election described in subsection (m)(1) with respect to such plan year, additional telehealth services shall be treated as a service included as a benefit under the original medicare fee-for-service program option with respect to such plan and plan year."; and

(2) by adding at the end the following new subsection:

"(m) Provision of Additional Telehealth Services.—

“(1) MA Plan Option.—For purposes of subsection (a)(1)(B)(i), an election described in this paragraph, with respect to an MA plan and plan year, is an election by the sponsor of such plan to provide under the plan for such plan year, in accordance with the subsequent provisions of this subsection, additional telehealth services (as defined in paragraph (2)) as a benefit under the original medicare fee-for-service program option. Such additional telehealth services, with respect to a plan year, shall be in addition to benefits included under the original
medicare fee-for-service program option for such year.

"(2) ADDITIONAL TELEHEALTH SERVICES DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection and section 1854, the term ‘additional telehealth services’ means, subject to subparagraph (C), services—

"(i) for which payment may be made under part B (without regard to application of section 1834(m));

"(ii) that, if furnished via a telecommunications system, would not be payable under section 1834(m);

"(iii) furnished using electronic information and telecommunications technology;

"(iv) furnished in accordance with such requirements as the Secretary specifies pursuant to paragraph (3); and

"(v) which are identified annually by the Secretary as appropriate to furnish using electronic information and telecommunications technology where a physician (as defined in section 1861(r)) or practitioner (described in section
1842(b)(18)(C)) furnishing the service is not at the same location as the plan enrollee.

"(B) Flexibility for phasing in identifications.—In making identifications under subparagraph (A)(iv), the Secretary may make such identifications in a manner that results in additional telehealth services being phased in, as determined appropriate by the Secretary.

"(C) Exclusion of capital and infrastructure costs and investments.—For purposes of this subsection and section 1854, the term ‘additional telehealth services’ does not include capital and infrastructure costs and investments relating to such benefits provided pursuant to this subsection.

"(3) Requirements for additional telehealth services.—The Secretary shall specify requirements for the provision of additional telehealth services with respect to—

"(A) qualifications (other than licensure) of physicians and practitioners who furnish such services;

"(B) the technology used in furnishing such services;
“(C) factors necessary for coordination of additional telehealth services with other services; and

“(D) such other criteria (such as clinical criteria) as determined by the Secretary.

“(4) ENROLLEE CHOICE.—An MA plan that provides a service as an additional telehealth service may not, when furnished without use of electronic information and telecommunications technology, restrict access to the equivalent in-person service, including by encouraging or discouraging an individual from being furnished such service as an additional telehealth service.

“(5) CONSTRUCTION.—

“(A) IN GENERAL.—In determining if an MA organization or MA plan, as applicable, is in compliance with each requirement specified in subparagraph (B), such determination shall be made without regard to any additional telehealth services covered by the plan offered by such organization or plan pursuant to this subsection.

“(B) REQUIREMENTS SPECIFIED.—The requirements specified in this subparagraph are the following:
“(i) The requirements under subsection (d).

“(ii) The requirement under subsection (a)(1) with respect to covering benefits under the original medicare fee-for-service program option, as defined in the first sentence of paragraph (B)(i) of such subsection.”.

(b) INCLUSION OF ADDITIONAL TELEHEALTH SERVICES IN MA ORGANIZATION BID AMOUNT.—Section 1854(a)(6)(A)(ii)(I) of the Social Security Act (42 U.S.C. 1395w–24(a)(6)(A)(ii)(I)) is amended by inserting “, including, for plan year 2019 and subsequent plan years, the provision of such benefits through the use of additional telehealth services under section 1852(m)” before the semicolon at the end.

SEC. 2. USE OF TELECOMMUNICATIONS SYSTEMS IN FURNISHING CHRONIC CARE MANAGEMENT SERVICES.

Section 1848(b)(8) of the Social Security Act (42 U.S.C. 1395(b)(8)) is amended by adding at the end the following new subparagraph:

“(C) CLARIFICATION.—In carrying out this paragraph, with respect to chronic care management services, the Secretary may, sub-
ject to subparagraph (B), make payment for such services furnished through the use of secure messaging, Internet, store and forward technologies, or other non-face-to-face communication methods determined appropriate by the Secretary.”.

SEC. 3. SENSE OF CONGRESS REGARDING PARITY OF TELEHEALTH SERVICES.

It is the sense of Congress that there should be—

(1) parity, with respect to access to telehealth, between the original medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act and the Medicare Advantage program under part C of such title; and

(2) access to medically appropriate, quality telehealth for all Medicare beneficiaries.