[DISCUSSION DRAFT]

116TH CONGRESS
2D 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

Mr. ______ 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”.

VerDate Mar 15 2010 13:35 Jul 16, 2020 Jkt 000000 PO 00000 Frm 00001 Fmt 6652 Sfmt 6201 C:\USERS\KCHAGNAUER\APPDATA\ROAMING\SOFTQUAD\XMETAL\7.0\GEN\C\TELEHEALTH-EXPAND-PKGE_01.XML

July 16, 2020 (1:35 p.m.)
SEC. 2. REMOVING CERTAIN GEOGRAPHIC AND ORIGINATING SITE RESTRICTIONS ON THE FURNISHING OF TELEHEALTH SERVICES UNDER THE MEDICARE PROGRAM.

(a) In General.—Section 1834(m)(4)(C) of the Social Security Act (42 U.S.C. 1395m(m)(4)(C)) is amended—

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

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

(b) Conforming Amendments.—Section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)), as amended by subsection (a), is further amended—

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

(2) in paragraph (2)—

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

and

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

(3) in paragraph (4)—
(A) in subparagraph (A), by striking “paragraph (8)” and inserting “paragraph (6)”;

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

(C) in subparagraph (F)(i), by striking “paragraph (8)” and inserting “paragraph (6)”;

(4) by striking paragraph (5);

(5) in paragraph (6)—

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

(B) by striking subparagraph (A);

(C) by redesignating paragraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(D) in subparagraph (A), as so redesignated, by striking “described in subparagraph (A)” and inserting “furnished on or after January 1, 2019, for purposes of diagnosis, evaluation, or treatment of symptoms of an acute stroke, as determined by the Secretary”;
(7) by redesignating paragraph (8) as paragraph (6).

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

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

(1) in the header, by striking “DURING EMERGENCY PERIOD”;

(2) in subparagraph (A), in the matter preceding clause (i), by striking “During” and inserting “With respect to services furnished on or after the first day of”; and

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

SEC. 4. EXPANDING THE LIST OF PRACTITIONERS ELIGIBLE TO FURNISH TELEHEALTH SERVICES.

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

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

(2) in paragraph (3)(B), by inserting “described in subparagraph (C) of such section” after “practitioners”; and
(3) in paragraph (4), by amending subparagraph (E) to read as follows:

“(E) PRACTITIONER.—The term ‘practitioner’ means any of the following:

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

“(ii) A physical therapist.

“(iii) An occupational therapist.

“(iv) A qualified speech-language pathologist (as defined in section 1861(ll)(4)).

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

SEC. 5. ALLOWING FOR THE PROVISION OF TELEHEALTH SERVICES VIA AUDIO-ONLY TELECOMMUNICATIONS SYSTEMS.

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

“(G) TELECOMMUNICATIONS SYSTEM.—

“(i) IN GENERAL.—The term ‘telecommunications system’ includes, in the case of a telehealth service furnished by a qualified provider (as defined in clause (ii)) to an individual located at an originating
site, a communications system consisting of only audio capabilities, but only if such individual does not have access to a communications system with audio-visual capabilities at such site.

“(ii) QUALIFIED PROVIDER.—For purposes of clause (i), the term ‘qualified provider’ means, with respect a telehealth service furnished to an individual, a physician or practitioner who—

“(I) furnished to such individual an item or service (other than such telehealth service) for which payment was made under any group health plan (as defined in section 2791 of the Public Health Service Act), health insurance coverage (as so defined), Federal health care program (as defined in section 1128B(f)), or the health care program under chapter 89 of title 5, United States Code, during the 3-year period ending on the date such telehealth service was furnished; or
“(II) is in the same practice (as determined by tax identification number) of a physician or practitioner who furnished such an item or service to such individual during such period.”.

SEC. 6. MAKING PERMANENT THE SAFE HARBOR FOR ABSENCE OF DEDUCTIBLE FOR TELEHEALTH.

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

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

SEC. 7. REMOVING REQUIREMENT FOR FACE-TO-FACE VISITS BETWEEN HOME DIALYSIS PATIENTS AND PHYSICIANS.

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

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

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

(3) by moving clause (iii) 6 ems to the left; and
(4) by adding at the end the following new clause:

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

(b) General Waiver Authority.—Notwithstanding any provision of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), with respect to any such provision that requires an in-person visit with a provider of services or supplier (as such terms are defined in section 1861 of such Act (42 U.S.C. 1395x)) as a prerequisite for payment of any item or service under such title or for any other purpose, the Secretary of Health and Human Services may modify such provision to allow such visit to be conducted through the use of telehealth if determined appropriate by the Secretary.

SEC. 8. REPORT ON TELEHEALTH PAYMENT INTEGRITY.

Not later than 1 year after the termination of the emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)), the Inspector General of the Department of Health and Human Services shall review claims for payment for telehealth services furnished under the Medicare program during such period and submit to Congress a report on
any instances of waste, fraud, or abuse identified through such review.

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

There are authorized to be appropriated to the Inspector General of the Department of Health and Human Services $10,000,000 for fiscal year 2021 for purposes of conducting audits and other oversight activities with respect to payments made under section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)).

SEC. 10. TELEHEALTH RESOURCES.

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