To amend title XVIII of the Social Security Act to provide payments under the Medicare Program to licensed health care practitioners for unscheduled telephone consultation services in the case that such payments are determined to be cost and quality effective.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2011

Mrs. Biggert 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 provide payments under the Medicare Program to licensed health care practitioners for unscheduled telephone consultation services in the case that such payments are determined to be cost and quality effective.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Tele-Care Act of 2011”.
SEC. 2. MEDICARE PAYMENT FOR UNSCHEDULED PHYSICIAN TELEPHONE SERVICES.

(a) COVERAGE UNDER PART B.—

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

(A) in subparagraph (EE), by striking “and” at the end;

(B) in subparagraph (FF), by adding at the end “and”; and

(C) by adding at the end the following new subparagraph:

“(GG) subject to section 2(c) of the TeleCare Act of 2011, unscheduled telephone consultation services (as defined in subsection (iii)(1)) by a licensed health care practitioner, as defined by the Secretary (such as a physician, nurse practitioner, physician assistant, or nurse midwife), with respect to the furnishing of primary care services to an individual, if—

“(i) the Medicare number of the individual is associated with the national provider identifier of the licensed health care practitioner;

“(ii) to ensure the quality and appropriateness of such consultation services,
the utilization of such services by the individual can be reviewed by a utilization and quality control peer review organization or eligible entity with which the Secretary has entered into a contract under part B of title XI or section 1893, respectively, by the organization or entity applying for purposes of the review under this subparagraph the processes and standards used by such organization or entity under such part or section, respectively, in the same manner that such processes and standards apply for purposes of carrying out utilization and quality review under such part or section, respectively;

“(iii) such consultation services are securely recorded by the Secretary (or an entity described in subsection (iii)(1) with which the Secretary enters into a contract) for purposes of appropriate review by peers of the licensed health care practitioner who practice in the same medical specialty as the licensed health care practitioner and Medicare administrative contractor oversight of such services; and
“(iv) the licensed health care practitioner provides for the submission to the Secretary (or an entity described in subsection (iii)(1) with which the Secretary enters into a contract) and the Secretary (or such an entity) records and maintains a summary of each such consultation service furnished by the licensed health care practitioner that includes—

“(I) the date and time (including duration) of the consultation service;

“(II) a unique medical record number specified by the Secretary (or such entity) to identify the consultation service;

“(III) the name of the individual;

“(IV) the name of the licensed health care practitioner; and

“(V) a summary of the content of the consultation service;”.

(2) UNSCHEDULED TELEPHONE CONSULTATION SERVICES DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:
“Unscheduled Telephone Consultation Services

“(iii)(1) The term ‘unscheduled telephone consultation service’ means a consultation conducted by means of telephone or similar electronic communication device between a licensed health care practitioner described in subsection (s)(2)(GG) and an individual (or a representative of such individual), with respect to the furnishing of primary care services to such individual, that is not included as a scheduled physician service (as defined by the Secretary in regulations), and which is initiated by the individual (or representative) contacting a communication network operated by the Secretary (or an entity with which the Secretary enters into a contract) that connects the individual to the licensed health care practitioner, securely records the consultation for purposes of subsection (s)(2)(GG), and maintains the information described in clause (iv) of such subsection with respect to such consultation.

“(2) For purposes of applying the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033) with respect to an unscheduled telephone consultation service furnished by a licensed health care practitioner—
“(A) an entity with which the Secretary contracts under this subsection shall be treated as a health oversight agency; and

“(B) activities of such an entity described in subparagraph (A) in relation to such licensed health care practitioner and such unscheduled telephone consultation service are deemed to be health oversight activities.”.

(b) Payment Under Physician Fee Schedule.—

Section 1848(j)(3) of such Act (42 U.S.C. 1395w–4(j)(3)) is amended by inserting “(2)(GG),” after “health risk assessment),”.

(c) Contingent Effective Date, Demonstration Program.—

(1) Contingent effective date.—The amendments made by this section shall become effective (if at all) in accordance with paragraph (2).

(2) Demonstration program.—

(A) In general.—The Secretary of Health and Human Services (in this paragraph referred to as the “Secretary”) shall establish a demonstration program to begin not later than 6 months after the date of the enactment of this Act to test the effectiveness of providing coverage under the Medicare program for un-
scheduled telephone consultation services (as defined in section 1861(iii) of the Social Security Act, as added by subsection (a)(2)), by licensed health care practitioners to the extent provided under the amendments made by this section to a sample group of Medicare beneficiaries. For purposes of such demonstration program, the Secretary shall find that the provision of such coverage is effective if—

(i) the coverage reduces costs to the Medicare program (such as through a reduction in admissions to the emergency departments of hospitals), whether or not such reduction is demonstrated in a reduction in the facility fees of hospital emergency departments, professional fees of emergency department licensed health care practitioners, laboratory fees, pathologist fees, hospital radiology department fees for technical components of x-rays, radiologist professional fees for interpreting x-rays, hospital respiratory department fees for respiratory treatments, hospital cardiology department fees for electrocardiograms, professional fees for interpreting such elec-
trocardiograms, or any other cost specified by the Secretary; and

(ii) the coverage results in patient health outcomes that are at least as favorable as would apply in the absence of such coverage (as determined in accordance with criteria established by the Centers for Medicare & Medicaid Services, in consultation with physician organizations).

(B) Initial period of demonstration program.—The demonstration program under subparagraph (A) shall be conducted for an initial period of 24 months.

(C) Report to Congress.—

(i) In general.—Not later than 30 days after the last day of the initial period under subparagraph (B), the Secretary shall submit to Congress a report on the results of the demonstration program under this paragraph.

(ii) Finding that payments are effective.—If the Secretary finds, on the basis of the data derived from the demonstration program under subparagraph (A) and in accordance with such subpara-
graph, that providing coverage under the Medicare program for unscheduled telephone consultation services by licensed health care practitioners (to the extent provided under the amendments made by this section) is effective, the amendments made by this section shall become effective on the first day of the first month beginning after the date the report under clause (i) is submitted to Congress.

(iii) Finding that payments are not effective.—If the Secretary finds, on the basis of the data derived from the demonstration program under subparagraph (A) and in accordance with such subparagraph, that a finding of effectiveness (as described in clause (ii)) cannot be made, the demonstration program shall continue for a period of an additional 24 months. Not later than 30 days after the last day of such period, the Secretary shall submit to Congress a final report on the results of such program. The amendments made by this section shall become effective on the first day of the first month begin-
ning after the date such report is submitted to Congress unless the report contains a finding by the Secretary, on the basis of such data and in accordance with such subparagraph, that providing coverage under the Medicare program for unscheduled telephone consultation services by licensed health care practitioners (to the extent provided under the amendments made by this section) is not effective, in which case the amendments made by this section shall not become effective.

(d) Clarification.—Nothing in the provisions of this section or the amendments made by this section shall be construed as authorizing the creation of a national reporting system on licensed health care practitioner quality.