H. R. 5380

To amend title XVIII of the Social Security Act to provide for a phased-in expansion of telehealth coverage under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2014

Mr. THOMPSON of California (for himself, Mr. HARPER, and Mr. WELCH) 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 for a phased-in expansion of telehealth coverage under the Medicare program.

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 “Medicare Telehealth Parity Act of 2014”.

SEC. 2. PHASED-IN EXPANSION OF TELEHEALTH COVERAGE UNDER MEDICARE.

(a) INITIAL PHASE.—
(1) Expansion of originating sites.—Section 1834(m)(4)(C) of the Social Security Act (42 U.S.C. 1395m(m)(4)(C)) is amended—

(A) in clause (i), by striking “The term” and inserting “Subject to clause (iii), the term”;

and

(B) by adding at the end the following new clause:

“(iii) Additional sites.—The term ‘originating site’ shall also include the following sites at which the eligible telehealth individual is located at the time the service is furnished via a telecommunications system, whether or not they are located in an area described in clause (i), insofar as such sites are not otherwise included in the definition of originating site under such clause:

“(I) In the case of such a service furnished on or after the date that is 6 months after the date of the enactment of the Medicare Telehealth Parity Act of 2014, any Federally qualified health center and any rural
health clinic (as such terms are defined in section 1861(aa)).

“(II) In the case of such a service furnished on or after the date that is 6 months after the date of the enactment of the Medicare Telehealth Parity Act of 2014, any site described in clause (ii) that is located in a county within a Metropolitan Statistical Area with a population of fewer than 50,000 individuals, according to the most recent decennial census.”.

(2) Originating site fee not to apply to additional sites.—Section 1834(m)(2)(B) of such Act (42 U.S.C. 1395m(m)(4)(C)) is amended by inserting after and below clause (ii) the following:

“The facility fee under this subparagraph shall not apply to any site included as an originating site pursuant to clause (iii) of paragraph (4)(C) that would not otherwise be included as an originating site without application of such clause.”.

(3) Additional telehealth providers.—Section 1834(m) of such Act (42 U.S.C. 1395m(m)) is amended—
(A) in paragraph (1), by striking “or a practitioner (described in section 1842(b)(18)(C))” and inserting “or a practitioner (as defined in paragraph (4)(E))”; and

(B) in paragraph (4), by—

(i) striking subparagraph (E); and

(ii) inserting after subparagraph (D) the following new subparagraph:

“(E) PRACTITIONER.—The term ‘practitioner’ means—

“(i) a practitioner described in section 1842(b)(18)(C); and

“(ii) with respect to services furnished on or after the date that is 6 months after the date of the enactment of the Medicare Telehealth Parity Act of 2014, a certified diabetes educator or licensed—

“(I) respiratory therapist;

“(II) audiologist;

“(III) occupational therapist;

“(IV) physical therapist; or

“(V) speech language pathologist.”.
(4) Coverage of remote patient management services for certain chronic health conditions.—

(A) In general.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

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

(ii) in subparagraph (FF), by inserting “and” at the end; and

(iii) by inserting after subparagraph (FF) the following new subparagraph:

“(GG) remote patient management services (as defined in subsection (iii));”.

(B) Services described.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“(iii) Remote Patient Management Services for Chronic Health Conditions.—(1) The term ‘remote patient management services’ means the remote monitoring, evaluation, and management of an individual with a covered chronic health condition (as defined in paragraph (2)), insofar as such monitoring, evaluation, and management is with respect to such condition,
through the utilization of a system of technology that al-
lows a remote interface to collect and transmit clinical
data between the individual and the responsible physician
(as defined in subsection (r)) or practitioner or other sup-
plier (as defined in subsection (d)) for the purposes of clin-
ical review. Such services shall include in-home technology
based professional consultations, patient monitoring, pa-
tient training services, clinical observation, assessment,
treatment, and any other services that utilize technologies
specified by the Secretary. Such term shall not include a
telecommunication that consists solely of a telephone
audio conversation, facsimile, or electronic text mail be-
tween a health care professional and patient.

“(2) For purposes of paragraph (1), the term ‘cov-
ered chronic health condition’ means—

“(A) congestive heart failure;

“(B) chronic obstructive pulmonary disease;

and

“(C) in the case of services furnished at a fed-
erally qualified health center, diabetes.

“(3)(A) The Secretary, in consultation with appro-
priate physician, practitioner, and supplier groups, shall
develop guidelines on the frequency of billing for remote
patient management services. Such guidelines shall be de-
termined based on medical necessity and shall be sufficient
to ensure appropriate and timely monitoring of individuals being furnished such services.

“(B) The Secretary shall do the following:

“(i) Not later than 2 years after the date of the enactment of this subsection, develop, in consultation with appropriate physician, practitioner, and supplier groups, standards (governing such matters as qualifications of personnel and the maintenance of equipment) for remote patient management services for the covered chronic health conditions specified in paragraph (2).

“(ii) Periodically review and update such standards under this subparagraph as necessary.”.

(C) Payment under the physician fee schedule.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended—

(i) in subsection (c)—

(I) in paragraph (2)((B)—

(aa) in clause (ii)(II), by striking “and (v)” and inserting “(v), and (vii)”; and

(bb) by adding at the end the following new clause:

“(vii) Budgetary treatment of certain services.—The additional ex-
penditures attributable to services described in section 1861(s)(2)(GG) shall not be taken into account in applying clause (ii)(II).”; and

(II) by adding at the end the following new paragraph:

“(7) TREATMENT OF REMOTE PATIENT MANAGEMENT SERVICES.—

“(A) In determining relative value units for remote patient management services (as defined in section 1861(iii)), the Secretary, in consultation with appropriate physician groups, practitioner groups, and supplier groups, shall take into consideration—

“(i) physician or practitioner resources, including physician or practitioner time and the level of intensity of services provided, based on—

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

“(II) the complexity of the evaluation, including the information that must be obtained, reviewed, and analyzed; and
“(III) the number of possible diagnoses and the number of management options that must be considered;

“(ii) practice expense costs associated with such services, including the direct costs associated with installation and information transmission, costs of remote patient management technology (including equipment and software), device delivery costs, and resource costs necessary for patient monitoring and follow-up (but not including costs of any related item or non-physician service otherwise reimbursed under this title); and

“(iii) malpractice expense resources.

“(B) Using the relative value units determined in subparagraph (A), the Secretary shall provide for separate payment for such services and shall not adjust the relative value units assigned to other services that might otherwise have been determined to include such separately paid remote patient management services.”; and

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

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(D) Effective date.—

(i) In general.—The amendments made by this subsection shall apply to services furnished on or after the date that is 6 months after the date of the enactment of this Act, without regard to whether the guidelines under paragraph (3)(A) or the standards under paragraph (3)(B) of section 1861(iii) of the Social Security Act, as added by subparagraph (B), have been developed.

(ii) Availability of codes as of date of enactment.—The Secretary of Health and Human Services shall—

(I) promptly evaluate existing codes that would be used to bill for remote patient management services (as defined in paragraph (1) of such section 1861(iii), as so added) under title XVIII of the Social Security Act; and

(II) if the Secretary determines that new codes are necessary to ensure accurate reporting and billing of such services under such title, issue
such codes so that they are available for use as of the date of the enactment of this Act.

(E) GAO STUDY AND REPORT.—

(i) STUDY.—The Comptroller General of the United States shall conduct a study that includes, at a minimum, the following:

(I) The effectiveness of remote patient monitoring on decreasing hospital readmissions for the chronic conditions described in subsection (iii)(2) of section 1861 of the Social Security Act (42 U.S.C. 1395x), as added by subparagraph (A).

(II) The savings to the Medicare program under title XVIII of such Act associated with remote patient monitoring use with respect to such chronic conditions.

(III) The potential for greater use of remote patient monitoring for other chronic conditions.

(IV) Potential implications of greater use of remote patient monitoring with respect to payment and
delivery system transformations under the Medicare program under such title.

(ii) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report containing the results of the study conducted under clause (i).

(5) EXPANSION OF TELECOMMUNICATIONS SYSTEM.—The second sentence of section 1834(m)(1) of the Social Security Act (42 U.S.C. 1395m(m)(1)) is amended by striking “in the case of any Federal telemedicine demonstration program conducted in Alaska or Hawaii,”.

(b) SECOND PHASE.—

(1) FURTHER EXPANSION OF ORIGINATING SITES.—Section 1834(m)(4) of the Social Security Act (42 U.S.C. 1395m(m)(4)) is amended—

(A) in clause (iii) of subparagraph (C), as added by subsection (a)(1), by adding at the end the following new subclauses:

“(IV) In the case of such a service furnished on or after the date that is 2 years after the date of the enactment of the Medicare Telehealth Par-
ity Act of 2014, any site described in clause (ii) that is located in a county within a Metropolitan Statistical Area with a population of at least 50,000 individuals but fewer than 100,000 individuals, according to the most recent decennial census.

“(V) In the case of such a service furnished on or after the date that is 2 years after the date of the enactment of the Medicare Telehealth Parity Act of 2014, a home telehealth site, as defined in subparagraph (G).”; and

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

“(G) HOME TELEHEALTH SITE.—

“(i) IN GENERAL.—The term ‘home telehealth site’ means, with respect to a telehealth service described in clause (ii) furnished to an individual, in a place of residence used as the home of such individual.
“(ii) TELEHEALTH SERVICES DESCRIBED.—A telehealth service described in this clause—

“(I) is a telehealth service that is related to the provision of hospice care, home dialysis, home health services, or durable medical equipment; and

“(II) shall include the use of video conferencing.”.

(2) ADDITIONAL COVERED TELEHEALTH SERVICES.—Section 1834(m)(4)(F)(i) of the Social Security Act (42 U.S.C. 1395m(m)(4)(F)(i)) is amended by adding at the end the following new sentence:

“Beginning on the date that is 2 years after the date of the enactment of the Medicare Telehealth Parity Act of 2014, such term shall include respiratory services, audiology services (as defined in section 1861(ll)), and outpatient therapy services, including physical therapy, occupational therapy, and speech-language pathology services.”

(3) GAO STUDY AND REPORT.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study that includes, at a minimum, the following:
(i) The effectiveness of using tele-
health services described in the second sen-
tence of section 1834(m)(4)(F)(i) of the
Social Security Act (42 U.S.C.
1395m(m)(4)(F)(i)), as added by para-
graph (2), between therapy providers and
patients.

(ii) The savings to the Medicare pro-
gram under title XVIII of such Act associ-
ated with telehealth services utilization for
therapy for such services described in such
sentence.

(iii) The potential for greater use of
telehealth services for forms of therapy not
described in such sentence.

(e) Final Phase.—

(1) Further expansion of originating
sites.—Clause (iii) of section 1834(m)(4)(C) of the
Social Security Act (42 U.S.C. 1395m(m)(4)), as
added by subsection (a)(1) and amended by sub-
section (b)(1), is further amended by adding at the
end the following new subclause:

“(VI) In the case of such a serv-
ise furnished on or after the date that
is 4 years after the date of the enact-
ment of the Medicare Telehealth Par-
ity Act of 2014, any site described in
clause (ii) that is located in a county
within a Metropolitan Statistical Area
with a population of at least 100,000
individuals, according to the most re-
cent decennial census.”.

(2) Payment methods for other patient
sites.—Section 1834(m)(2) of the Social Security
Act (42 U.S.C. 1395m(m)(2)) is amended by adding
at the end the following new subparagraph:

“(D) Payment methods for other pa-
tient sites.—With respect to services fur-
nished on or after the date that is 4 years after
the date of the enactment of the Medicare Tele-
health Parity Act of 2014, the Secretary may
develop and implement payment methods that
would apply under this subsection in the case of
an individual who would be an eligible tele-
health individual except that the telehealth serv-
ices are furnished at a site other than an origi-
nating site. Such methods shall be designed to
take into account the costs related to the site
involved and reduced costs for the distant site.”