

116TH CONGRESS
1ST SESSION

H. R. 4932

To amend title XVIII of the Social Security Act to expand access to telehealth services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2019

Mr. THOMPSON of California (for himself, Mr. WELCH, Mr. JOHNSON of Ohio, Mr. SCHWEIKERT, and Ms. MATSUI) 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 expand access to telehealth services, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Creating Opportunities Now for Necessary and Effective
6 Care Technologies for Health Act of 2019” or the “CON-
7 NECT for Health Act of 2019”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and sense of Congress.
- Sec. 3. Expanding the use of telehealth through the waiver of certain requirements.
- Sec. 4. Expanding the use of telehealth for mental health services.
- Sec. 5. Use of telehealth in emergency medical care.
- Sec. 6. Improvements to the process for adding telehealth services.
- Sec. 7. Rural health clinics and Federally qualified health centers.
- Sec. 8. Native American health facilities.
- Sec. 9. Waiver of telehealth restrictions during national emergencies.
- Sec. 10. Use of telehealth in recertification for hospice care.
- Sec. 11. Clarification for fraud and abuse laws regarding technologies provided to beneficiaries.
- Sec. 12. Study and report on increasing access to telehealth services in the home.
- Sec. 13. Analysis of telehealth waivers in alternative payment models.
- Sec. 14. Model to allow additional health professionals to furnish telehealth services.
- Sec. 15. Testing of models to examine the use of telehealth under the Medicare program.

3 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) The use of technology in health care and
 6 coverage of telehealth services are rapidly evolving.

7 (2) Research has found that telehealth services
 8 can expand access to care, improve the quality of
 9 care, and reduce spending, and that patients receiving
 10 telehealth services are satisfied with their experi-
 11 ences.

12 (3) Health care workforce shortages are a sig-
 13 nificant problem in many areas and for many types
 14 of health care clinicians.

15 (4) Telehealth increases access to care in areas
 16 with workforce shortages and for individuals who

1 live far away from health care facilities, have limited
2 mobility or transportation, or have other barriers to
3 accessing care.

4 (5) The use of health technologies can strength-
5 en the expertise of the health care workforce, includ-
6 ing by connecting clinicians to specialty consulta-
7 tions.

8 (6) Utilization of telehealth services in Medicare
9 remains low, with only 0.25 percent of Medicare fee-
10 for-service beneficiaries utilizing telehealth services
11 in 2016.

12 (b) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that—

14 (1) health care providers can furnish safe, effec-
15 tive, and high-quality health care services through
16 telehealth; and

17 (2) barriers to the use of telehealth should be
18 removed.

19 **SEC. 3. EXPANDING THE USE OF TELEHEALTH THROUGH**
20 **THE WAIVER OF CERTAIN REQUIREMENTS.**

21 (a) IN GENERAL.—Section 1834(m) of the Social Se-
22 curity Act (42 U.S.C. 1395m(m)) is amended—

23 (1) in paragraph (4)(C)(i), by striking “and
24 (7)” and inserting “(7), and (8)”; and

25 (2) by adding at the end the following:

1 “(8) AUTHORITY TO WAIVE REQUIREMENTS
2 AND LIMITATIONS IF CERTAIN CONDITIONS MET.—

3 “(A) IN GENERAL.—Notwithstanding the
4 preceding provisions of this subsection, in the
5 case of telehealth services furnished on or after
6 January 1, 2021, the Secretary may waive any
7 restriction applicable to payment for telehealth
8 services under this subsection that is described
9 in subparagraph (B), but only if the Secretary
10 determines that such waiver would not deny or
11 limit the coverage or provision of benefits under
12 this title, and—

13 “(i) the Secretary determines that the
14 waiver is expected to reduce spending
15 under this title without reducing the qual-
16 ity of care or improve the quality of pa-
17 tient care without increasing spending; or

18 “(ii) the waiver would apply to tele-
19 health services furnished in originating
20 sites located in a high-need health profes-
21 sional shortage area (as designated pursu-
22 ant to section 332(a)(1)(A) of the Public
23 Health Service Act (42 U.S.C.
24 254e(a)(1)(A))).

1 “(B) RESTRICTIONS DESCRIBED.—For
2 purposes of this paragraph, restrictions applica-
3 ble to payment for telehealth services under
4 paragraph (1) are—

5 “(i) requirements relating to qualifica-
6 tions for an originating site under para-
7 graph (4)(C)(ii);

8 “(ii) any geographic limitations under
9 paragraph (4)(C)(i) (other than applicable
10 State law requirements, including State li-
11 censure requirements);

12 “(iii) any limitation on the type of
13 technology used to furnish telehealth serv-
14 ices;

15 “(iv) any limitation on the type of
16 provider of services or supplier who may
17 furnish telehealth services (other than the
18 requirement that the provider of services
19 or supplier is enrolled under this title);

20 “(v) any limitation on specific services
21 designated as telehealth services pursuant
22 to this subsection (provided the Secretary
23 determines that such services are clinically
24 appropriate to furnish remotely); or

1 “(vi) any other limitation relating to
2 the furnishing of telehealth services under
3 this title identified by the Secretary.

4 “(C) PUBLIC COMMENT.—The Secretary
5 shall establish a process by which stakeholders
6 may (on at least an annual basis) provide public
7 comment for waivers under this paragraph.

8 “(D) PERIODIC REVIEW OF WAIVERS.—
9 The Secretary shall periodically, but not more
10 often than every 3 years, reassess each waiver
11 under this paragraph to determine whether the
12 waiver continues to meet the conditions applica-
13 ble under subparagraph (A).”.

14 (b) POSTING OF INFORMATION.—Not later than 2
15 years after the date on which a waiver under section
16 1834(m)(8) of the Social Security Act, as added by sub-
17 section (a), first becomes effective, and at least biennially
18 thereafter, the Secretary of Health and Human Services
19 shall post on the internet website of the Centers for Medi-
20 care & Medicaid Services—

21 (1) the number of Medicare beneficiaries receiv-
22 ing telehealth services by reason of each waiver
23 under such section;

1 (2) the impact of such waivers on expenditures
2 and utilization under title XVIII of the Social Secu-
3 rity Act (42 U.S.C. 1395 et seq.); and

4 (3) other outcomes, as determined appropriate
5 by the Secretary.

6 **SEC. 4. EXPANDING THE USE OF TELEHEALTH FOR MEN-**
7 **TAL HEALTH SERVICES.**

8 (a) IN GENERAL.—Section 1834(m) of the Social Se-
9 curity Act (42 U.S.C. 1395m(m)), as amended by section
10 3, is amended—

11 (1) in paragraph (4)(C)(i), by striking “and
12 (8)” and inserting “(8), and (9)”; and

13 (2) by adding at the end the following:

14 “(9) TREATMENT OF MENTAL HEALTH SERV-
15 ICES FURNISHED THROUGH TELEHEALTH.—The ge-
16 ographic requirements described in paragraph
17 (4)(C)(i) (other than applicable State law require-
18 ments, including State licensure requirements) shall
19 not apply with respect to telehealth services that are
20 mental health services (as determined by the Sec-
21 retary) furnished on or after January 1, 2021, to an
22 eligible telehealth individual at an originating site
23 described in paragraph (4)(C)(ii) (other than an
24 originating site described in subclause (IX) of such
25 paragraph).”.

1 (b) INCLUSION OF THE HOME AS AN ORIGINATING
2 SITE.—Section 1834(m)(4)(C)(ii)(X) of such Act (42
3 U.S.C. 1395m(m)(4)(C)(ii)(X)) is amended by striking
4 “paragraph (7)” and inserting “paragraphs (7) and (9)”.

5 (c) ADDITIONAL SERVICES.—As part of the imple-
6 mentation of the amendments made by this section, the
7 Secretary of Health and Human Services shall consider
8 whether additional services should be added to the services
9 specified in paragraph (4)(F)(i) of section 1834(m) of
10 such Act (42 U.S.C. 1395m) for authorized payment
11 under paragraph (1) of such section.

12 **SEC. 5. USE OF TELEHEALTH IN EMERGENCY MEDICAL**
13 **CARE.**

14 (a) IN GENERAL.—Section 1834(m) of the Social Se-
15 curity Act (42 U.S.C. 1395m(m)), as amended by sections
16 3 and 4, is amended—

17 (1) in paragraph (4)(C)(i), by striking “and
18 (9)” and inserting “(9), and (10)”; and

19 (2) by adding at the end the following:

20 “(10) TREATMENT OF EMERGENCY MEDICAL
21 CARE FURNISHED THROUGH TELEHEALTH.—The
22 geographic requirements described in paragraph
23 (4)(C)(i) (other than applicable State law require-
24 ments, including State licensure requirements) shall
25 not apply with respect to telehealth services that are

1 services for emergency medical care (as determined
2 by the Secretary) furnished on or after January 1,
3 2021, to an eligible telehealth individual at an origi-
4 nating site described in subclause (II), (V), or (VII)
5 of paragraph (4)(C)(ii).”.

6 (b) **ADDITIONAL SERVICES.**—As part of the imple-
7 mentation of the amendments made by this section, the
8 Secretary of Health and Human Services shall consider
9 whether additional services should be added to the services
10 specified in paragraph (4)(F)(i) of section 1834(m) of
11 such Act (42 U.S.C. 1395m) for authorized payment
12 under paragraph (1) of such section.

13 **SEC. 6. IMPROVEMENTS TO THE PROCESS FOR ADDING**
14 **TELEHEALTH SERVICES.**

15 The Secretary shall undertake a review of the process
16 established pursuant to section 1834(m)(4)(F)(ii) of the
17 Social Security Act (42 U.S.C. 1395m(m)(4)(F)(ii)), and
18 based on the results of such review—

19 (1) implement revisions to the process so that
20 the criteria to add services prioritizes, as appro-
21 priate, improved access to care through telehealth
22 services; and

23 (2) provide clarification on what requests to
24 add telehealth services under such process should in-
25 clude.

1 **SEC. 7. RURAL HEALTH CLINICS AND FEDERALLY QUALI-**
2 **FIED HEALTH CENTERS.**

3 (a) EXPANSION OF ORIGINATING SITES.—Section
4 1834(m)(4)(C) of the Social Security Act (42 U.S.C.
5 1395m(m)(4)(C)), as amended by sections 3, 4, and 5,
6 is amended—

7 (1) in clause (i), by striking “and (10)” and in-
8 serting “and (10), and subject to clause (iii),”; and

9 (2) by adding at the end the following new
10 clause:

11 “(iii) RURAL HEALTH CLINICS AND
12 FEDERALLY QUALIFIED HEALTH CEN-
13 TERS.—The term ‘originating site’ shall
14 also include any Federally qualified health
15 center and any rural health clinic (as such
16 terms are defined in section 1861(aa)) at
17 which the eligible telehealth individual is
18 located at the time the service is furnished
19 via a telecommunications system, whether
20 or not the individual is located in an area
21 described in clause (i), insofar as such
22 sites are not otherwise included in the defi-
23 nition of originating site under such
24 clause, subject to applicable State law re-
25 quirements, including State licensure re-
26 quirements.”.

1 (b) EXPANSION OF DISTANT SITES.—Section
2 1834(m) of the Social Security Act (42 U.S.C. 1395m(m))
3 is amended—

4 (1) in the first sentence of paragraph (1)—

5 (A) by striking “or a practitioner (de-
6 scribed in section 1842(b)(18)(C))” and insert-
7 ing “, a practitioner (described in section
8 1842(b)(18)(C)), a Federally qualified health
9 center, or a rural health clinic”; and

10 (B) by striking “or practitioner” and in-
11 sserting “, practitioner, Federally qualified
12 health center, or rural health clinic”;

13 (2) in paragraph (2)(A)—

14 (A) by inserting “or to a Federally quali-
15 fied health center or rural health clinic that
16 serves as a distant site” after “a distant site”;
17 and

18 (B) by striking “such physician or practi-
19 tioner” and inserting “such physician, practi-
20 tioner, Federally qualified health center, or
21 rural health clinic”; and

22 (3) in paragraph (4)—

23 (A) in subparagraph (A), by inserting
24 “and includes a Federally qualified health cen-
25 ter or rural health clinic that furnishes a tele-

1 health service to an eligible individual” before
2 the period at the end; and

3 (B) in subparagraph (F), by adding at the
4 end the following new clause:

5 “(iii) INCLUSION OF RURAL HEALTH
6 CLINIC SERVICES AND FEDERALLY QUALI-
7 FIED HEALTH CENTER SERVICES FUR-
8 NISHED USING TELEHEALTH.—For pur-
9 poses of this subparagraph, the term ‘tele-
10 health services’ includes a rural health
11 clinic service or Federally qualified health
12 center service that is furnished using tele-
13 health to the extent that payment codes
14 corresponding to services identified by the
15 Secretary under clause (i) or (ii) are listed
16 on the corresponding claim for such rural
17 health clinic service or Federally qualified
18 health center service.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to services furnished on or after
21 January 1, 2021.

22 **SEC. 8. NATIVE AMERICAN HEALTH FACILITIES.**

23 (a) IN GENERAL.—Section 1834(m)(4)(C) of the So-
24 cial Security Act (42 U.S.C. 1395m(m)(4)(C)), as amend-
25 ed by sections 3, 4, 5, and 7, is amended—

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

3 (2) by adding at the end the following new
4 clause:

5 “(iv) NATIVE AMERICAN HEALTH FA-
6 CILITIES.—The originating site require-
7 ments described in clauses (i) and (ii) shall
8 not apply with respect to a facility of the
9 Indian Health Service, whether operated
10 by such Service, or by an Indian tribe (as
11 that term is defined in section 4 of the In-
12 dian Health Care Improvement Act (25
13 U.S.C. 1603)) or a tribal organization (as
14 that term is defined in section 4 of the In-
15 dian Self-Determination and Education
16 Assistance Act (25 U.S.C. 5304)), or a fa-
17 cility of the Native Hawaiian health care
18 systems authorized under the Native Ha-
19 waiian Health Care Improvement Act (42
20 U.S.C. 11701 et seq.).”.

21 (b) NO ORIGINATING SITE FACILITY FEE FOR NEW
22 SITES.—Section 1834(m)(2)(B)(i) of the Social Security
23 Act (42 U.S.C. 1395m(m)(2)(B)(i)) is amended, in the
24 matter preceding subclause (I), by inserting “(other than
25 an originating site that is only described in clause (iv) of

1 paragraph (4)(C), and does not meet the requirement for
2 an originating site under clause (i) of such paragraph)”
3 after “the originating site”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to services furnished on or after
6 January 1, 2021.

7 **SEC. 9. WAIVER OF TELEHEALTH RESTRICTIONS DURING**
8 **NATIONAL EMERGENCIES.**

9 Section 1135(b) of the Social Security Act (42 U.S.C.
10 1320b–5(b)) is amended—

11 (1) in paragraph (6), by striking “and” after
12 the semicolon;

13 (2) in paragraph (7), by striking the period at
14 the end and inserting “; and”; and

15 (3) by adding at the end the following:

16 “(8) requirements for payment for telehealth
17 services under section 1834(m).”.

18 **SEC. 10. USE OF TELEHEALTH IN RECERTIFICATION FOR**
19 **HOSPICE CARE.**

20 (a) IN GENERAL.—Section 1814(a)(7)(D)(i) of the
21 Social Security Act (42 U.S.C. 1395f(a)(7)(D)(i)) is
22 amended by inserting “(including through use of tele-
23 health, notwithstanding the requirements in section
24 1834(m)(4)(C))” after “face-to-face encounter”.

1 (b) GAO REPORT.—Not later than 3 years after the
2 date of enactment of this Act, the Comptroller General
3 of the United States shall submit a report to Congress
4 evaluating the impact of the amendment made by sub-
5 section (a) on—

6 (1) the number and percentage of beneficiaries
7 recertified for the Medicare hospice benefit at 180
8 days and for subsequent benefit periods;

9 (2) the appropriateness for hospice care of the
10 patients recertified through the use of telehealth;
11 and

12 (3) any other factors determined appropriate by
13 the Comptroller General.

14 **SEC. 11. CLARIFICATION FOR FRAUD AND ABUSE LAWS RE-**
15 **GARDING TECHNOLOGIES PROVIDED TO**
16 **BENEFICIARIES.**

17 Section 1128A(i)(6) of the Social Security Act (42
18 U.S.C. 1320a–7a(i)(6)) is amended—

19 (1) in subparagraph (I), by striking “; or” and
20 inserting a semicolon;

21 (2) in subparagraph (J), by striking the period
22 at the end and inserting “; or”; and

23 (3) by adding at the end the following new sub-
24 paragraph:

1 “(K) the provision of technologies (as de-
2 fined by the Secretary) on or after the date of
3 the enactment of this subparagraph, by a pro-
4 vider of services or supplier (as such terms are
5 defined for purposes of title XVIII) directly to
6 an individual who is entitled to benefits under
7 part A of title XVIII, enrolled under part B of
8 such title, or both, for the purpose of furnishing
9 telehealth services, remote patient monitoring
10 services, or other services furnished through the
11 use of technology (as defined by the Secretary),
12 if—

13 “(i) the technologies are not offered
14 as part of any advertisement or sollicita-
15 tion; and

16 “(ii) the provision of the technologies
17 meets any other requirements set forth in
18 regulations promulgated by the Sec-
19 retary.”.

20 **SEC. 12. STUDY AND REPORT ON INCREASING ACCESS TO**
21 **TELEHEALTH SERVICES IN THE HOME.**

22 (a) **MEDPAC STUDY.**—The Medicare Payment Advi-
23 sory Commission (in this section referred to as the “Com-
24 mission”) shall conduct a study on increasing access under
25 the Medicare program under title XVIII of the Social Se-

1 curity Act (42 U.S.C. 1395 et seq.) to telehealth services
2 in the home. Such study shall include an analysis of the
3 following:

4 (1) How different payers allow the home to be
5 an originating site for telehealth services.

6 (2) Particular types of telehealth services or
7 subgroups of beneficiaries with respect to which al-
8 lowing the home to be an originating site under the
9 Medicare program would be suitable.

10 (b) REPORT.—Not later than 24 months after the
11 date of the enactment of this Act, the Commission shall
12 submit to Congress a report containing the results of the
13 study conducted under subsection (a), together with rec-
14 ommendations for such legislation and administrative ac-
15 tion as the Commission determines appropriate.

16 **SEC. 13. ANALYSIS OF TELEHEALTH WAIVERS IN ALTER-**
17 **NATIVE PAYMENT MODELS.**

18 The second sentence of section 1115A(g) of the So-
19 cial Security Act (42 U.S.C. 1315a(g)) is amended by in-
20 serting “an analysis of waivers under section (d)(1) re-
21 lated to telehealth and the impact on quality and spending
22 under the applicable titles of such waivers,” after “sub-
23 section (c),”.

1 **SEC. 14. MODEL TO ALLOW ADDITIONAL HEALTH PROFES-**
2 **SIONALS TO FURNISH TELEHEALTH SERV-**
3 **ICES.**

4 Section 1115A(b)(2)(B) of the Social Security Act
5 (42 U.S.C. 1315a(b)(2)(B)) is amended by adding at the
6 end the following new clause:

7 “(xxviii) Allowing health professionals,
8 such as those described in section
9 1819(b)(5)(G) or section 1861(ll)(4)(B),
10 who are not otherwise eligible under sec-
11 tion 1834(m) to furnish telehealth services
12 to furnish such services.”.

13 **SEC. 15. TESTING OF MODELS TO EXAMINE THE USE OF**
14 **TELEHEALTH UNDER THE MEDICARE PRO-**
15 **GRAM.**

16 Section 1115A(b)(2) of the Social Security Act (42
17 U.S.C. 1315a(b)(2)) is amended by adding at the end the
18 following new subparagraph:

19 “(D) TESTING MODELS TO EXAMINE USE
20 OF TELEHEALTH UNDER MEDICARE.—The Sec-
21 retary shall consider testing under this sub-
22 section models to examine the use of telehealth
23 under title XVIII.”.

○