

106TH CONGRESS
1ST SESSION

H. R. 3420

To improve the Medicare telemedicine program, to provide grants for the development of telehealth networks, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 1999

Mr. BILBRAY (for himself, Mr. NORWOOD, Mr. THOMPSON of California, and Mr. BRYANT) introduced the following bill; which was referred to the Committee on 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 improve the Medicare telemedicine program, to provide grants for the development of telehealth networks, 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 “Telehealth Improve-
5 ment Act of 1999”.

6 **SEC. 2. IMPROVEMENT OF TELEHEALTH SERVICES.**

7 (a) MEDICARE COVERAGE OF TELEHEALTH SERV-
8 ICES.—

1 (1) ALL SERVICES FURNISHED UNDER MEDI-
2 CARE.—Section 4206(a) of the Balanced Budget Act
3 of 1997 (42 U.S.C. 1395l note) is amended by strik-
4 ing “furnishing a service for which payment may be
5 made under such part” and inserting “furnishing a
6 service for which payment may be made under such
7 title”.

8 (2) PHYSICAL, OCCUPATIONAL, AND SPEECH
9 THERAPY.—Subsections (a) and (d)(1) of section
10 4206 of the Balanced Budget Act of 1997 (42
11 U.S.C. 1395l note) are each amended by adding at
12 the end the following new sentence: “For purposes
13 of the preceding sentence, the term ‘practitioner’
14 shall include physical, occupational, and speech
15 therapists.”.

16 (3) TELEHEALTH CONSULTATION USING STORE
17 AND FORWARD TECHNOLOGY.—Section 4206(a) of
18 the Balanced Budget Act of 1997 (42 U.S.C. 1395l
19 note), as amended by paragraph (2), is further
20 amended by adding at the end the following new
21 sentence: “Payment shall also be made under this
22 section for professional consultations utilizing tech-
23 nology that provides for the asynchronous trans-
24 mission of health care information, in single or

1 multimedia formats, for the objective of any or all
2 of the following:

3 “(1) Medical diagnosis.

4 “(2) Medical treatment.

5 “(3) Medical education.”.

6 (b) MEDICARE REIMBURSEMENT FOR TELEHEALTH
7 SERVICES IN ALL RURAL AREAS.—Section 4206 of the
8 Balanced Budget Act of 1997 (42 U.S.C. 1395l note) is
9 amended—

10 (1) in subsection (a), by inserting “and in any
11 area” before “that is designated as a health profes-
12 sional shortage area under section 332(a)(1)(A) of
13 the Public Health Service Act (42 U.S.C.
14 254e(a)(1)(A))”; and

15 (2) in subsection (d), by striking “who does not
16 reside in a rural area (as so defined) that is des-
17 ignated as a health professional shortage area under
18 section 332(a)(1)(A) of the Public Health Service
19 Act (42 U.S.C. 254e(a)(1)(A))” and inserting “who
20 resides in a county in a rural area (as so defined)
21 or a county that is not otherwise included in a Met-
22 ropolitan Statistical Area”.

23 (c) PERMITTING PRESENTATION OF PATIENT BY
24 HEALTH CARE PROVIDERS.—Section 4206(a) of the Bal-

1 anced Budget Act of 1997 (42 U.S.C. 1395l note), as
2 amended by subsection (a), is further amended—

3 (1) by inserting “(1)” after “(a) IN GEN-
4 ERAL.—”; and

5 (2) by adding at the end the following new
6 paragraph:

7 “(2)(A) In the case of telehomecare (as described in
8 subparagraph (D)) a registered nurse, acting under the
9 directions of a physician or practitioner, may present the
10 beneficiary for the professional consultation. In the case
11 of such a presentation the presence of a referring or con-
12 sulting physician or practitioner is not required.

13 “(B) Telehomecare may be furnished in areas other
14 than in rural areas.

15 “(C) In this section, the term “registered nurse”
16 means a registered nurse who is licensed to practice nurs-
17 ing and is operating within the scope of that license.

18 “(D) For purposes of subparagraph (A),
19 telehomecare consists of home health services furnished
20 using a electronic device capable of two-way audio and
21 video transmissions, and capable of monitoring and trans-
22 mitting vital statistics of a patient, including measuring
23 blood pressure and temperature of a patient.”.

1 (d) REVISION OF PAYMENT METHODOLOGY.—Sec-
2 tion 4206(b) of the Balanced Budget Act of 1997 (42
3 U.S.C. 1395l note) is amended—

4 (1) by redesignating paragraphs (1), (2), (3),
5 and (4) as subparagraphs (A), (B), (C), and (D), re-
6 spectively;

7 (2) by inserting “(1)” before “Taking into ac-
8 count”;

9 (3) in subparagraph (A), as so redesignated, to
10 read as follows:

11 “(A) The payment shall be made under a fee
12 schedule established by the Secretary that provides
13 for payment for the referring physician or practi-
14 tioner and for the consulting physician or practi-
15 tioner. If the referring physician or practitioner de-
16 termines it appropriate, such referring physician or
17 practitioner may be present during the professional
18 consultation. The amount of the payment to the
19 physicians or practitioners shall not be greater than
20 the current fee schedule of such consulting physician
21 or practitioner for the health care services pro-
22 vided.”;

23 (2) in subparagraph (B), to read as follows:

24 “(B) The payment shall include payment to a
25 provider of services for the costs associated with pro-

1 fessional consultation via telecommunications sys-
 2 tems. Such costs shall include facility fees, costs of
 3 maintenance of telehealth equipment and of tele-
 4 communications facilities, and costs of staff incurred
 5 in furnishing such professional consultations. In no
 6 case may a beneficiary be billed for any such charges
 7 or fees.”; and

8 (3) by adding at the end the following new
 9 paragraph:

10 “(2) The Secretary shall establish a separate code (or
 11 codes) for purposes of claims for payment for items and
 12 services furnished under this section.”.

13 (e) REPORTS TO CONGRESS.—Section 4206 of the
 14 Balanced Budget Act of 1997 (42 U.S.C. 1395l note) is
 15 amended by adding at the end the following new sub-
 16 section:

17 “(e) ADDITIONAL REPORTS TO CONGRESS.—

18 “(1) INITIAL REPORT.—Not later than August
 19 1, 2003, the Secretary of Health and Human Serv-
 20 ices shall prepare and submit to Congress a report
 21 concerning—

22 “(A) the number, percentage, and types of
 23 health care providers who are—

24 “(i) currently providing telehealth
 25 services across State lines;

1 “(ii) currently licensed to provide tele-
2 health services across State lines, including
3 the number and types of health care pro-
4 viders licensed to provide such services in
5 more than three States; and

6 “(iii) expressing an interest in pro-
7 viding such services across State lines;

8 “(B) the status of any reciprocal, mutual
9 recognition, fast-track, or other licensure agree-
10 ments between or among various States;

11 “(C) the status of any efforts to develop
12 uniform national sets of standards for—

13 “(i) the licensure of health care pro-
14 viders to provide telehealth services across
15 State lines;

16 “(ii) the exclusion from full State
17 medical licensure requirements for licensed
18 providers of other States when called in
19 consultation by a licensed provider of the
20 State in which the patient consultation oc-
21 curs; and

22 “(iii) the incorporation of telehealth li-
23 censure into existing State medical licen-
24 sure processes when the provider of tele-
25 health services is providing medical serv-

1 ices via telehealth that are identical to
2 medical services that fall within the scope
3 of existing State medical licensure when
4 provided directly to the patient by the pro-
5 vider;

6 “(D) a projection of future utilization of
7 telehealth consultations across State lines;

8 “(E) State efforts to increase or reduce li-
9 censure as a burden to interstate telehealth
10 practice; and

11 “(F) any State licensure requirements that
12 appear to constitute unnecessary barriers to the
13 provision of telehealth services across State
14 lines.

15 “(2) ANNUAL REPORT.—

16 “(A) IN GENERAL.—Not later than August
17 1, 2004, and each July 1 thereafter, the Sec-
18 retary of Health and Human Services shall pre-
19 pare and submit to Congress, an annual report
20 on relevant developments concerning the mat-
21 ters referred to in subparagraphs (A) through
22 (F) of paragraph (1).

23 “(B) RECOMMENDATIONS.—If, with re-
24 spect to a report submitted under subparagraph
25 (A), the Secretary of Health and Human Serv-

1 ices determines that States are not making
2 progress in facilitating the provision of tele-
3 health services across State lines by eliminating
4 unnecessary requirements, adopting reciprocal
5 licensing arrangements for telehealth services,
6 implementing uniform requirements for tele-
7 health licensure, or other means, the Secretary
8 shall include in the report recommendations
9 concerning the scope and nature of Federal ac-
10 tions required to reduce licensure as a barrier
11 to the interstate provision of telehealth services.

12 (f) INTERIM, FINAL RULE.—The Secretary shall
13 publish a rule under this section in the Federal Register
14 by not later than 180 days after the date of the enactment
15 of this section to carry out the provisions of this section.
16 Such rule shall be effective and final immediately on an
17 interim basis, but is subject to change and revision after
18 public notice and opportunity for a period (of not less than
19 60 days) for public comment. In connection with such rule,
20 the Secretary shall specify the process for the timely re-
21 view and approval of applications of entities to be eligible
22 telehealth networks pursuant to such rules and consistent
23 with this section.

1 **SEC. 3. GRANT PROGRAM FOR THE DEVELOPMENT OF**
2 **TELEHEALTH NETWORKS.**

3 (a) IN GENERAL.—The Secretary of Health and
4 Human Services (in this section referred to as the “Sec-
5 retary”), acting through the Director of the Office for the
6 Advancement of Telehealth (of the Health Resources and
7 Services Administration), shall make grants to eligible re-
8 cipients (as described in subsection (b)(1)) for the purpose
9 of expanding access to health care services for individuals
10 in rural areas, frontier areas, and medically underserved
11 areas through the use of telehealth.

12 (b) ELIGIBLE RECIPIENTS.—

13 (1) APPLICATION.—To be eligible to receive a
14 grant under this section, an eligible entity described
15 in paragraph (2) shall, in consultation with the
16 State office of rural health or other appropriate
17 State entity, prepare and submit to the Secretary an
18 application, at such time, in such manner, and con-
19 taining such information as the Secretary may re-
20 quire, including the following:

21 (A) A description of the anticipated need
22 for the grant.

23 (B) A description of the activities which
24 the entity intends to carry out using amounts
25 provided under the grant.

1 (C) A plan for continuing the project after
2 Federal support under this section is ended.

3 (D) A description of the manner in which
4 the activities funded under the grant will meet
5 health care needs of underserved rural popu-
6 lations within the State.

7 (E) A description of how the local commu-
8 nity or region to be served by the network or
9 proposed network will be involved in the devel-
10 opment and ongoing operations of the network.

11 (F) The source and amount of non-Federal
12 funds the entity would pledge for the project.

13 (G) A showing of the long-term viability of
14 the project and evidence of health care provider
15 commitment to the network.

16 The application should demonstrate the manner in
17 which the project will promote the integration of
18 telehealth in the community so as to avoid redun-
19 dancy of technology and achieve economies of scale.

20 (2) ELIGIBLE ENTITIES.—An eligible entity de-
21 scribed in this paragraph is a hospital or other
22 health care provider in a health care network of
23 community-based health care providers that includes
24 at least two of the organizations described in sub-
25 paragraph (A) and one of the institutions and enti-

1 ties described in subparagraph (B) if the institution
2 or entity is able to demonstrate use of the network
3 for purposes of education and economic development
4 (as required by the Secretary).

5 (A) The organizations described in this
6 subparagraph are the following:

7 (i) Community or migrant health cen-
8 ters.

9 (ii) Local health departments.

10 (iii) Nonprofit hospitals.

11 (iv) Private practice health profes-
12 sionals, including community and rural
13 health clinics.

14 (v) Other publicly funded health or so-
15 cial services agencies.

16 (vi) Skilled nursing facilities.

17 (vii) County mental health and other
18 publicly funded mental health facilities.

19 (viii) Providers of home health serv-
20 ices.

21 (B) The institutions and entities described
22 in this subparagraph are the following:

23 (i) A public school.

24 (ii) A public library.

25 (iii) A university or college.

1 (iv) A local government entity.

2 (v) A local nonhealth-related business
3 entity.

4 An eligible entity may include for-profit entities so
5 long as the recipient of the grant is a not-for-profit
6 entity.

7 (d) PRIORITY.—The Secretary shall establish proce-
8 dures to prioritize financial assistance under this section
9 based upon the following considerations:

10 (1) The applicant is a health care provider in
11 a health care network or a health care provider that
12 proposes to form such a network that furnishes or
13 proposes to furnish services in a medically under-
14 served area, health professional shortage area, or
15 mental health professional shortage area.

16 (2) The applicant is able to demonstrate broad
17 geographic coverage in the rural or medically under-
18 served areas of the State, or States in which the ap-
19 plicant is located.

20 (3) The applicant proposes to use Federal
21 funds to develop plans for, or to establish, telehealth
22 systems that will link rural hospitals and rural
23 health care providers to other hospitals, health care
24 providers, and patients.

1 (4) The applicant will use the amounts provided
2 for a range of health care applications and to pro-
3 mote greater efficiency in the use of health care re-
4 sources.

5 (5) The applicant is able to demonstrate the
6 long-term viability of projects through cost participa-
7 tion (cash or in-kind).

8 (6) The applicant is able to demonstrate finan-
9 cial, institutional, and community support for the
10 long-term viability of the network.

11 (7) The applicant is able to provide a detailed
12 plan for coordinating system use by eligible entities
13 so that health care services are given a priority over
14 non-clinical uses.

15 (e) MAXIMUM AMOUNT OF ASSISTANCE TO INDIVIDUAL
16 RECIPIENTS.—The Secretary shall establish, by
17 regulation, the terms and conditions of the grant and the
18 maximum amount of a grant award to be made available
19 to an individual recipient for each fiscal year under this
20 section. The Secretary shall publish in the Federal Reg-
21 ister notice of the terms and conditions of a grant under
22 this section and the maximum amount of such a grant
23 for a fiscal year.

24 (f) USE OF AMOUNTS.—The recipient of a grant
25 under this section may use sums received under such

1 grant for the acquisition of telehealth equipment and
2 modifications or improvements of telecommunications fa-
3 cilities including the following:

4 (1) The development and acquisition through
5 lease or purchase of computer hardware and soft-
6 ware, audio and video equipment, computer network
7 equipment, interactive equipment, data terminal
8 equipment, and other facilities and equipment that
9 would further the purposes of this section.

10 (2) The provision of technical assistance and in-
11 struction for the development and use of such pro-
12 gramming equipment or facilities.

13 (3) The development and acquisition of instruc-
14 tional programming.

15 (4) Demonstration projects for teaching or
16 training medical students, residents, and other
17 health profession students in rural or medically un-
18 derserved training sites about the application of tele-
19 health.

20 (5) Transmission costs, maintenance of equip-
21 ment, and compensation of specialists and referring
22 health care providers.

23 (6) Development of projects to use telehealth to
24 facilitate collaboration between health care providers.

25 (7) Electronic archival of patient records.

1 (8) Collection and analysis of usage statistics
2 and data that can be used to document the cost-ef-
3 fectiveness of the telehealth services.

4 (9) Such other uses that are consistent with
5 achieving the purposes of this section as approved by
6 the Secretary.

7 (g) PROHIBITED USES.—Sums received under a
8 grant under this section may not be used for any of the
9 following:

10 (1) To acquire real property.

11 (2) Expenditures to purchase or lease equip-
12 ment to the extent the expenditures would exceed
13 more than 40 percent of the total grant funds.

14 (3) To purchase or install transmission equip-
15 ment (such as laying cable or telephone lines, micro-
16 wave towers, satellite dishes, amplifiers, and digital
17 switching equipment).

18 (4) For construction, except that such funds
19 may be expended for minor renovations relating to
20 the installation of equipment.

21 (5) Expenditures for indirect costs (as deter-
22 mined by the Secretary) to the extent the expendi-
23 tures would exceed more than 20 percent of the total
24 grant.

25 (h) ADMINISTRATION.—

1 (1) NONDUPLICATION.—The Secretary shall en-
2 sure that facilities constructed using grants provided
3 under this section do not duplicate adequately estab-
4 lished telehealth networks.

5 (2) COORDINATION WITH OTHER AGENCIES.—
6 The Secretary shall coordinate, to the extent prac-
7 ticable, with other Federal and State agencies and
8 not-for-profit organizations, operating similar grant
9 programs to pool resources for funding meritorious
10 proposals.

11 (3) INFORMATIONAL EFFORTS.—The Secretary
12 shall establish and implement procedures to carry
13 out outreach activities to advise potential end users
14 located in rural and medically underserved areas of
15 each State about the program authorized by this
16 section.

17 (i) INTERIM, FINAL RULE.—The Secretary shall pub-
18 lish a rule under this section in the Federal Register by
19 not later than 180 days after the date of the enactment
20 of this Act. Such rule shall be effective and final imme-
21 diately on an interim basis, but is subject to change and
22 revision after public notice and opportunity for a period
23 (of not less than 60 days) for public comment. In connec-
24 tion with such rule, the Secretary shall specify the process
25 for the timely review and approval of applications of enti-

1 ties to be eligible telehealth networks pursuant to such
 2 rules and consistent with this section.

3 (j) AUTHORIZATION OF APPROPRIATIONS.—There
 4 are authorized to be appropriated to carry out this section
 5 \$40,000,000 for fiscal year 2001, and such sums as may
 6 be necessary for each of the fiscal years 2002 through
 7 2007.

8 **SEC. 4. JOINT WORKING GROUP ON TELEMEDICINE.**

9 (a) IN GENERAL.—

10 (1) REPRESENTATION OF RURAL AREAS.—The
 11 Joint Working Group on Telemedicine shall ensure
 12 that individuals that represent the interests of rural
 13 areas and medically underserved areas are members
 14 of the Group.

15 (2) MISSION.—The mission of the Joint Work-
 16 ing Group on Telemedicine is—

17 (A) to identify, monitor, and coordinate
 18 Federal telehealth projects, data sets, and pro-
 19 grams;

20 (B) to analyze—

21 (i) how telehealth systems are expand-
 22 ing access to health care services, edu-
 23 cation, and information;

1 (ii) the clinical, educational, or admin-
2 istrative efficacy and cost-effectiveness of
3 telehealth applications; and

4 (iii) the quality of the telehealth serv-
5 ices delivered; and

6 (C) to make further recommendations for
7 coordinating Federal and State efforts to in-
8 crease access to health services, education, and
9 information in rural and medically underserved
10 areas.

11 (3) ANNUAL REPORTS.—Not later than two
12 years after the date of enactment of this Act and
13 each January 1 thereafter the Joint Working Group
14 on Telemedicine shall submit to Congress a report
15 on the status of the Group’s mission and the state
16 of the telehealth field generally.

17 (b) REPORT SPECIFICS.—The annual report required
18 under subsection (a)(3) shall provide—

19 (1) an analysis of—

20 (A) the matters described in subsection
21 (a)(3)(B);

22 (B) the Federal activities with respect to
23 telehealth; and

1 (C) the progress of the Joint Working
2 Group on Telemedicine's efforts to coordinate
3 Federal telehealth programs; and

4 (2) recommendations for a coordinated Federal
5 strategy to increase health care access through tele-
6 health.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated such sums as are nec-
9 essary for the Joint Working Group on Telemedicine to
10 carry out this section.

○