

109TH CONGRESS
1ST SESSION

S. 1909

To improve the provision of telehealth services under the Medicare Program, to provide grants for the development of telehealth networks, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 24, 2005

Mr. BURNS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To improve the provision of telehealth services under the Medicare 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Telehealth Enhancement Act of 2005”.

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

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE PROGRAM

Sec. 101. Expanding access to telehealth services to all areas.

- Sec. 102. Increase in number of types of originating sites; clarification.
 Sec. 103. Expansion of use of store-and-forward technology.
 Sec. 104. Expansion of practitioners eligible to furnish telehealth services.
 Sec. 105. Expansion of covered telehealth services.
 Sec. 106. Facilitating the provision of telehealth services across State lines.
 Sec. 107. Effective Date.

TITLE II—HRSA GRANT PROGRAM

- Sec. 201. Grant program for the development of telehealth networks.
 Sec. 202. Reauthorization of telehealth network and telehealth resource centers grant programs.

1 **TITLE I—MEDICARE PROGRAM**

2 **SEC. 101. EXPANDING ACCESS TO TELEHEALTH SERVICES** 3 **TO ALL AREAS.**

4 Section 1834(m)(4)(C)(i) of the Social Security Act
 5 (42 U.S.C. 1395m(m)(4)(C)(i)) is amended by striking
 6 “and only if such site is located” and all that follows and
 7 inserting “without regard to the geographic area where
 8 the site is located.”.

9 **SEC. 102. INCREASE IN NUMBER OF TYPES OF ORIGI-** 10 **NATING SITES; CLARIFICATION.**

11 (a) INCREASE.—Section 1834(m)(4)(C)(ii) of the So-
 12 cial Security Act (42 U.S.C. 1395m(m)(4)(C)(ii)) is
 13 amended by adding at the end the following new sub-
 14 clauses:

15 “(VI) A skilled nursing facility
 16 (as defined in section 1819(a)).

17 “(VII) A renal dialysis facility.

18 “(VIII) A county mental health
 19 clinic or other publicly funded mental
 20 health facility.”.

1 (b) CLARIFICATION OF INTENT OF THE TERM ORIGI-
 2 NATING SITE.—Such section is further amended by add-
 3 ing at the end the following new paragraph:

4 “(5) CONSTRUCTION.—In applying the term
 5 ‘originating site’ under this subsection, the Secretary
 6 shall apply the term only for the purpose of deter-
 7 mining whether a site is eligible to receive a facility
 8 fee. Nothing in the application of that term under
 9 this subsection shall be construed as affecting the
 10 ability of an eligible practitioner to submit claims for
 11 telehealth services that are provided to other sites
 12 that have telehealth systems and capabilities.”.

13 **SEC. 103. EXPANSION OF USE OF STORE-AND-FORWARD**
 14 **TECHNOLOGY.**

15 The second sentence of section 1834(m)(1) of the So-
 16 cial Security Act (42 U.S.C. 1395m(m)(1)) is amended
 17 to read as follows: “For purposes of the preceding sen-
 18 tence, in the case of any medicare demonstration program
 19 conducted by the Secretary, any disease management pro-
 20 gram under this title, or any site determined appropriate
 21 by the Secretary, the term ‘telecommunications system’ in-
 22 cludes store-and-forward technologies that provide for the
 23 asynchronous transmission of health care information in
 24 single or multimedia formats.”.

1 **SEC. 104. EXPANSION OF PRACTITIONERS ELIGIBLE TO**
 2 **FURNISH TELEHEALTH SERVICES.**

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

5 (1) in paragraph (1), by striking “(as defined
 6 in section 1861(r)) or a practitioner (described in
 7 section 1842(b)(18)(C))” and inserting “or a practi-
 8 tioner”; and

9 (2) by striking paragraph (4)(E) and inserting
 10 the following new subparagraph:

11 “(E) PRACTITIONER.—The term ‘practi-
 12 tioner’ means—

13 “(i) a practitioner described in section
 14 1842(b)(18)(C);

15 “(ii) a physical therapist (as described
 16 in section 1861(p));

17 “(iii) an occupational therapist (as so
 18 described);

19 “(iv) a qualified speech-language pa-
 20 thologist (as defined in section
 21 1861(ll)(3)(A));

22 “(v) a certified provider (as described
 23 in section 1861(qq)(2)(A)); and

24 “(vi) any other individual or entity de-
 25 termined appropriate by the Secretary.”.

1 **SEC. 105. EXPANSION OF COVERED TELEHEALTH SERV-**
 2 **ICES.**

3 Section 1834(m)(4)(F)(i) of the Social Security Act
 4 (42 U.S.C. 1395m(m)(4)(F)(i)) is amended to read as fol-
 5 lows:

6 “(i) IN GENERAL.—The term ‘tele-
 7 health service’ means—

8 “(I) any professional service
 9 (identified as of July 1, 2000, by
 10 HCPCS codes approved for face-to-
 11 face care, and as subsequently modi-
 12 fied by the Secretary); and

13 “(II) any additional service speci-
 14 fied by the Secretary.”.

15 **SEC. 106. FACILITATING THE PROVISION OF TELEHEALTH**
 16 **SERVICES ACROSS STATE LINES.**

17 (a) IN GENERAL.—For purposes of expediting the
 18 provision of telehealth services, for which payment is made
 19 under the medicare program, across State lines, the Sec-
 20 retary of Health and Human Services shall, in consulta-
 21 tion with representatives of States, physicians, health care
 22 practitioners, and patient advocates, encourage and facili-
 23 tate the adoption of provisions allowing for multistate
 24 practitioner licensure across State lines.

25 (b) DEFINITIONS.—In subsection (a):

1 (1) TELEHEALTH SERVICE.—The term “tele-
 2 health service” has the meaning given that term in
 3 subparagraph (F) of section 1834(m)(4) of the So-
 4 cial Security Act (42 U.S.C. 1395m(m)(4)), as
 5 amended by this title.

6 (2) PHYSICIAN, PRACTITIONER.—The terms
 7 “physician” and “practitioner” have the meaning
 8 given those terms in subparagraphs (D) and (E), re-
 9 spectively, of such section, as so amended.

10 (3) MEDICARE PROGRAM.—The term “medicare
 11 program” means the program of health insurance
 12 administered by the Secretary of Health and Human
 13 Services under title XVIII of the Social Security Act
 14 (42 U.S.C. 1395 et seq.).

15 **SEC. 107. EFFECTIVE DATE.**

16 The amendments made by sections 101 through 105
 17 shall apply to services furnished on or after the date that
 18 is 90 days after the date of enactment of this Act.

19 **TITLE II—HRSA GRANT**
 20 **PROGRAM**

21 **SEC. 201. GRANT PROGRAM FOR THE DEVELOPMENT OF**
 22 **TELEHEALTH NETWORKS.**

23 (a) IN GENERAL.—The Secretary of Health and
 24 Human Services (in this section referred to as the “Sec-
 25 retary”), acting through the Director of the Office for the

1 Advancement of Telehealth (of the Health Resources and
2 Services Administration), shall make grants to eligible en-
3 tities (as described in subsection (b)(2)) for the purpose
4 of expanding access to health care services for individuals
5 in rural areas, frontier areas, and urban medically under-
6 served areas through the use of telehealth.

7 (b) ELIGIBLE ENTITIES.—

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

16 (A) A description of the anticipated need
17 for the grant.

18 (B) A description of the activities which
19 the entity intends to carry out using amounts
20 provided under the grant.

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

23 (D) A description of the manner in which
24 the activities funded under the grant will meet

1 health care needs of underserved rural popu-
 2 lations within the State.

3 (E) A description of how the local commu-
 4 nity or region to be served by the network or
 5 proposed network will be involved in the devel-
 6 opment and ongoing operations of the network.

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

9 (G) A showing of the long-term viability of
 10 the project and evidence of health care provider
 11 commitment to the network.

12 The application should demonstrate the manner in
 13 which the project will promote the integration of
 14 telehealth in the community so as to avoid redun-
 15 dancy of technology and achieve economies of scale.

16 (2) ELIGIBLE ENTITIES.—An eligible entity de-
 17 scribed in this paragraph is a hospital or other
 18 health care provider in a health care network of
 19 community-based health care providers that includes
 20 at least two of the organizations described in sub-
 21 paragraph (A) and one of the institutions and enti-
 22 ties described in subparagraph (B) if the institution
 23 or entity is able to demonstrate use of the network
 24 for purposes of education or economic development
 25 (as required by the Secretary).

1 (A) The organizations described in this
2 subparagraph are the following:

3 (i) Community or migrant health cen-
4 ters.

5 (ii) Local health departments.

6 (iii) Nonprofit hospitals.

7 (iv) Private practice health profes-
8 sionals, including community and rural
9 health clinics.

10 (v) Other publicly funded health or so-
11 cial services agencies.

12 (vi) Skilled nursing facilities.

13 (vii) County mental health and other
14 publicly funded mental health facilities.

15 (viii) Providers of home health serv-
16 ices.

17 (ix) Renal dialysis facilities.

18 (B) The institutions and entities described
19 in this subparagraph are the following:

20 (i) A public school.

21 (ii) A public library.

22 (iii) A university or college.

23 (iv) A local government entity.

24 (v) A local health entity.

1 (vi) A health-related nonprofit founda-
2 tion.

3 (vii) An academic health center.

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 (c) PREFERENCE.—The Secretary shall establish pro-
8 cedures 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 (d) 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 cause to have published in the
21 Federal Register or the “HRSA Preview” notice of the
22 terms and conditions of a grant under this section and
23 the maximum amount of such a grant for a fiscal year.

24 (e) 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) The provision of telenursing services de-
21 signed to enhance care coordination and promote pa-
22 tient self-management skills.

23 (6) The provision of services designed to pro-
24 mote patient understanding and adherence to na-

1 tional guidelines for common chronic diseases, such
 2 as congestive heart failure or diabetes.

3 (7) Transmission costs, maintenance of equip-
 4 ment, and compensation of specialists and referring
 5 health care providers, when no other form of reim-
 6 bursement is available.

7 (8) Development of projects to use telehealth to
 8 facilitate collaboration between health care providers.

9 (9) Electronic archival of patient records.

10 (10) Collection and analysis of usage statistics
 11 and data that can be used to document the cost-ef-
 12 fectiveness of the telehealth services.

13 (11) Such other uses that are consistent with
 14 achieving the purposes of this section as approved by
 15 the Secretary.

16 (f) PROHIBITED USES.—Sums received under a
 17 grant under this section may not be used for any of the
 18 following:

19 (1) To acquire real property.

20 (2) To purchase or lease equipment to the ex-
 21 tent the expenditures would exceed more than 40
 22 percent of the total grant funds.

23 (3) To purchase or install transmission equip-
 24 ment off the premises of the telehealth site and any
 25 transmission costs not directly related to the grant.

1 (4) For construction, except that such funds
2 may be expended for minor renovations relating to
3 the installation of equipment.

4 (5) Expenditures for indirect costs (as deter-
5 mined by the Secretary) to the extent the expendi-
6 tures would exceed more than 15 percent of the total
7 grant.

8 (g) ADMINISTRATION.—

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

13 (2) COORDINATION WITH OTHER AGENCIES.—
14 The Secretary shall coordinate, to the extent prac-
15 ticable, with other Federal and State agencies and
16 not-for-profit organizations operating similar grant
17 programs to pool resources for funding meritorious
18 proposals.

19 (3) INFORMATIONAL EFFORTS.—The Secretary
20 shall establish and implement procedures to carry
21 out outreach activities to advise potential end users
22 located in rural and medically underserved areas of
23 each State about the program authorized by this
24 section.

1 (h) PROMPT IMPLEMENTATION.—The Secretary shall
 2 take such actions as are necessary to carry out the grant
 3 program as expeditiously as possible.

4 (i) AUTHORIZATION OF APPROPRIATIONS.—There
 5 are authorized to be appropriated to carry out this section
 6 \$10,000,000 for fiscal year 2006, and such sums as may
 7 be necessary for each of the fiscal years 2007 through
 8 2012.

9 **SEC. 202. REAUTHORIZATION OF TELEHEALTH NETWORK**
 10 **AND TELEHEALTH RESOURCE CENTERS**
 11 **GRANT PROGRAMS.**

12 Subsection (s) of section 330I of the Public Health
 13 Service Act (42 U.S.C. 254c–14) is amended—

14 (1) in paragraph (1)—

15 (A) by striking “and” before “such sums”;

16 and

17 (B) by inserting “, \$10,000,000 for fiscal
 18 year 2007, and such sums as may be necessary
 19 for each of fiscal years 2008 through 2012” be-
 20 fore the semicolon at the end; and

21 (2) in paragraph (2)—

22 (A) by striking “and” before “such sums”;

23 and

24 (B) by inserting “, \$10,000,000 for fiscal
 25 year 2007, and such sums as may be necessary

- 1 for each of fiscal years 2008 through 2012” be-
- 2 fore the period at the end.

