

115TH CONGRESS
1ST SESSION

H. R. 2550

To amend title XVIII of the Social Security Act to provide for an incremental expansion of telehealth coverage under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2017

Mr. THOMPSON of California (for himself, Mrs. BLACK, Mr. WELCH, and Mr. HARPER) 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 an incremental expansion of telehealth coverage under the Medicare program.

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 “Medicare Telehealth
5 Parity Act of 2017”.

6 **SEC. 2. PHASED-IN EXPANSION OF TELEHEALTH COV-**
7 **ERAGE UNDER MEDICARE.**

8 (a) INITIAL PHASE.—

1 (1) EXPANSION OF ORIGINATING SITES.—Sec-
2 tion 1834(m)(4)(C) of the Social Security Act (42
3 U.S.C. 1395m(m)(4)(C)) is amended—

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

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

9 “(iii) ADDITIONAL SITES.—The term
10 ‘originating site’ shall also include the fol-
11 lowing sites at which the eligible telehealth
12 individual is located at the time the service
13 is furnished via a telecommunications sys-
14 tem, whether or not they are located in an
15 area described in clause (i), insofar as such
16 sites are not otherwise included in the defi-
17 nition of originating site under such
18 clause:

19 “(I) In the case of such a service
20 furnished on or after the date that is
21 6 months after the date of the enact-
22 ment of the Medicare Telehealth Par-
23 ity Act of 2017, any Federally quali-
24 fied health center and any rural

1 health clinic (as such terms are de-
2 fined in section 1861(aa)).

3 “(II) In the case of such a serv-
4 ice furnished on or after the date that
5 is 6 months after the date of the en-
6 actment of the Medicare Telehealth
7 Parity Act of 2017, any site described
8 in clause (ii) that is located in a coun-
9 ty within a Metropolitan Statistical
10 Area with a population of fewer than
11 50,000 individuals, according to the
12 most recent decennial census.”.

13 (2) ORIGINATING SITE FEE NOT TO APPLY TO
14 ADDITIONAL SITES.—Section 1834(m)(2)(B) of such
15 Act (42 U.S.C. 1395m(m)(4)(C)) is amended by in-
16 serting after and below clause (ii) the following:

17 “The facility fee under this subparagraph shall
18 not apply to any site included as an originating
19 site pursuant to clause (iii) of paragraph (4)(C)
20 that would not otherwise be included as an orig-
21 inating site without application of such
22 clause.”.

23 (3) ADDITIONAL TELEHEALTH PROVIDERS.—
24 Section 1834(m) of such Act (42 U.S.C. 1395m(m))
25 is amended—

1 (A) in paragraph (1)—

2 (i) by striking “or a practitioner (de-
3 scribed in section 1842(b)(18)(C))” and
4 inserting “or a professional described in
5 paragraph (4)(E))”; and

6 (ii) by striking “individual physician
7 or practitioner” and inserting “individual
8 physician or professional”; and

9 (B) in paragraph (4), by—

10 (i) striking subparagraph (E); and

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

13 “(E) PROFESSIONAL DESCRIBED.—For
14 purposes of paragraph (1), a professional de-
15 scribed in this subparagraph is—

16 “(i) a practitioner described in section
17 1842(b)(18)(C); or

18 “(ii) with respect to services furnished
19 on or after the date that is 6 months after
20 the date of the enactment of the Medicare
21 Telehealth Parity Act of 2017, a certified
22 diabetes educator or licensed—

23 “(I) respiratory therapist;

24 “(II) audiologist;

25 “(III) occupational therapist;

1 “(IV) physical therapist; or
2 “(V) speech language patholo-
3 gist.”.

4 (4) ADDITIONAL COVERED TELEHEALTH SERV-
5 ICES.—Section 1834(m)(4)(F)(i) of the Social Secu-
6 rity Act (42 U.S.C. 1395m(m)(4)(F)(i)) is amended
7 by adding at the end the following new sentence:
8 “Such term shall include respiratory services, audi-
9 ology services (as defined in section 1861(ll)), and
10 outpatient therapy services, including physical ther-
11 apy, occupational therapy, and speech-language pa-
12 thology services.”.

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

19 (6) RURAL HEALTH CLINICS AND FEDERALLY
20 QUALIFIED HEALTH CENTERS AUTHORIZED TO BE
21 DISTANT SITES.—Section 1834(m)(4)(A) of the So-
22 cial Security Act (42 U.S.C. 1395m(m)(4)(A)) is
23 amended—

24 (A) by striking “SITE.—The term” and in-
25 serting “SITE.—

1 “(i) IN GENERAL.—The term”; and
2 (B) by adding at the end the following new
3 clause:

4 “(ii) TREATMENT OF RURAL HEALTH
5 CLINICS AND FEDERALLY QUALIFIED
6 HEALTH CENTERS.—A site described in
7 clause (i) includes a rural health clinic (as
8 defined in section 1861(aa)(2)) and a Fed-
9 erally qualified health center (as defined in
10 section 1861(aa)(4)). In any case in which
11 such a clinic or center is treated as a dis-
12 tant site with respect to the provision of a
13 telehealth service to an eligible telehealth
14 individual for which payment is made
15 under this subsection, such service shall
16 not be treated as a rural health clinic serv-
17 ice or Federally qualified health center
18 service, respectively, and payment may not
19 otherwise be made under this title with re-
20 spect to such service provided to such indi-
21 vidual.”.

22 (b) SECOND PHASE.—

23 (1) IN GENERAL.—Section 1834(m)(4) of the
24 Social Security Act (42 U.S.C. 1395m(m)(4)) is
25 amended—

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

4 “(III) In the case of such a serv-
5 ice furnished on or after the date that
6 is 2 years after the date of the enact-
7 ment of the Medicare Telehealth Par-
8 ity Act of 2017, any site described in
9 clause (ii) that is located in a county
10 within a Metropolitan Statistical Area
11 with a population of at least 50,000
12 individuals but fewer than 100,000 in-
13 dividuals, according to the most re-
14 cent decennial census.

15 “(IV) In the case of such a serv-
16 ice furnished on or after the date that
17 is 2 years after the date of the enact-
18 ment of the Medicare Telehealth Par-
19 ity Act of 2017, a home telehealth
20 site, as defined in subparagraph (G).

21 “(V) In the case of such a service
22 that is related to the evaluation or
23 treatment of an acute stroke and that
24 is furnished on or after the date de-
25 scribed in subclause (IV) during the

1 evidence-based window of treatment,
2 any site at which the eligible tele-
3 health individual is located at the time
4 the service is furnished via a tele-
5 communications system, regardless of
6 where the site is located.”; and

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

9 “(G) HOME TELEHEALTH SITE.—

10 “(i) IN GENERAL.—The term ‘home
11 telehealth site’ means, with respect to a
12 service described in clause (ii) furnished to
13 an individual, a place of residence used as
14 the home of such individual.

15 “(ii) SERVICES DESCRIBED.—A serv-
16 ice described in this clause is—

17 “(I) a telehealth service that is
18 related to the provision of outpatient
19 mental or behavioral health and shall
20 include the use of video conferencing;
21 and

22 “(II) a service described in sub-
23 paragraph (F)(iii) that is treated as a
24 telehealth service under such subpara-
25 graph.”.

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

“(iii) TREATMENT OF HOME TELEHEALTH SERVICES.—For purposes of subparagraph (G)(ii)(II), beginning 2 years after the date of the enactment of the Medicare Telehealth Parity Act of 2017, services (including the use of video conferencing) furnished at an originating site that is a home telehealth site to an individual that is related to the provision of hospice care, home dialysis, or home health services shall be treated as a telehealth service under this subparagraph.”.

(c) 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 subsection (b)(1), is further amended—

(A) by redesignating subclause (V) as subclause (VI); and

1 (B) by inserting after clause (IV) the fol-
2 lowing new subclause:

3 “(V) In the case of such a service
4 furnished on or after the date that is
5 4 years after the date of the enact-
6 ment of the Medicare Telehealth Par-
7 ity Act of 2017, any site described in
8 clause (ii) that is located in a county
9 within a Metropolitan Statistical Area
10 with a population of at least 100,000
11 individuals, according to the most re-
12 cent decennial census.”.

13 (2) PAYMENT METHODS FOR OTHER PATIENT
14 SITES.—Section 1834(m)(2) of the Social Security
15 Act (42 U.S.C. 1395m(m)(2)) is amended by adding
16 at the end the following new subparagraph:

17 “(D) PAYMENT METHODS FOR OTHER PA-
18 TIENT SITES.—With respect to services fur-
19 nished on or after the date that is 4 years after
20 the date of the enactment of the Medicare Tele-
21 health Parity Act of 2017, the Secretary may
22 develop and implement payment methods that
23 would apply under this subsection in the case of
24 an individual who would be an eligible tele-
25 health individual except that the telehealth serv-

1 ices are furnished at a site other than an origi-
 2 nating site. Such methods shall be designed to
 3 take into account the costs related to the site
 4 involved and reduced costs for the distant
 5 site.”.

6 (d) INCREMENTAL COVERAGE OF REMOTE PATIENT
 7 MONITORING SERVICES FOR CERTAIN CHRONIC HEALTH
 8 CONDITIONS.—

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

12 (A) in subparagraph (FF), by striking
 13 “and” at the end;

14 (B) in subparagraph (GG), by inserting
 15 “and” at the end; and

16 (C) by inserting after subparagraph (GG)
 17 the following new subparagraph:

18 “(HH) applicable remote patient monitoring
 19 services (as defined in paragraph (1)(A) of sub-
 20 section (iii));”.

21 (2) SERVICES DESCRIBED.—Section 1861 of
 22 the Social Security Act (42 U.S.C. 1395x) is amend-
 23 ed by adding at the end the following new sub-
 24 section:

1 “(iii) REMOTE PATIENT MONITORING SERVICES FOR
2 CHRONIC HEALTH CONDITIONS.—(1)(A) The term ‘appli-
3 cable remote patient monitoring services’ means remote
4 patient monitoring services (as defined in subparagraph
5 (B)) furnished to provide for the monitoring, evaluation,
6 and management of an individual with a covered chronic
7 condition (as defined in paragraph (2)), insofar as such
8 services are for the management of such chronic condition.

9 “(B) The term ‘remote patient monitoring services’
10 means services furnished through remote patient moni-
11 toring technology (as defined in subparagraph (C)).

12 “(C) The term ‘remote patient monitoring tech-
13 nology’ means a coordinated system that uses one or more
14 home-based or mobile monitoring devices that automati-
15 cally transmit vital sign data or information on activities
16 of daily living and may include responses to assessment
17 questions collected on the devices wirelessly or through a
18 telecommunications connection to a server that complies
19 with the Federal regulations (concerning the privacy of in-
20 dividually identifiable health information) promulgated
21 under section 264(c) of the Health Insurance Portability
22 and Accountability Act of 1996, as part of an established
23 plan of care for that patient that includes the review and
24 interpretation of that data by a health care professional.

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

3 “(A) in the case of applicable remote patient
4 monitoring services furnished on or after the date
5 that is 6 months after the date of the enactment of
6 the Medicare Telehealth Parity Act of 2017, applica-
7 ble conditions (as defined in and applied under sec-
8 tion 1886(q)(5)), relating to heart failure and chron-
9 ic obstructive pulmonary disease and related chronic
10 comorbidities when under chronic care management
11 (identified as of July 1, 2015, by HCPCS code
12 99490 (and as subsequently modified by the Sec-
13 retary));

14 “(B) in the case of applicable remote patient
15 monitoring services furnished on or after the date
16 that is 2 years after the date of the enactment of
17 the Medicare Telehealth Parity Act of 2017, in addi-
18 tion to the conditions described in subparagraph (A),
19 diabetes and related chronic comorbidities when
20 under chronic care management (identified as of
21 July 1, 2015, by HCPCS code 99490 (and as subse-
22 quently modified by the Secretary)); and

23 “(C) in the case of applicable remote patient
24 monitoring services furnished on or after the date
25 that is 4 years after the date of the enactment of

1 the Medicare Telehealth Parity Act of 2017, in addi-
 2 tion to the conditions described in subparagraph (A)
 3 and (B), such other conditions that could be speci-
 4 fied by the Secretary that qualify for chronic care
 5 management and related chronic comorbidities when
 6 under chronic care management (identified as of
 7 July 1, 2015, by HCPCS code 99490 (and as subse-
 8 quently modified by the Secretary)).

9 “(3)(A) Payment may be made under this part for
 10 applicable remote patient monitoring services provided to
 11 an individual during a period of up to 90 days and such
 12 additional period as provided for under subparagraph (B).

13 “(B) The 90-day period described in subparagraph
 14 (A), with respect to an individual, may be renewed by the
 15 physician who provides chronic care management to such
 16 individual if the individual continues to qualify for such
 17 management.”.

18 (3) PAYMENT UNDER THE PHYSICIAN FEE
 19 SCHEDULE.—Section 1848 of the Social Security
 20 Act (42 U.S.C. 1395w–4) is amended—

21 (A) in subsection (c)—

22 (i) in paragraph (2)(B)—

23 (I) in clause (ii)(II), by striking
 24 “and (v)” and inserting “(v), and
 25 (vii)”; and

1 (II) by adding at the end the fol-
2 lowing new clause:

3 “(vii) BUDGETARY TREATMENT OF
4 CERTAIN SERVICES.—The additional ex-
5 penditures attributable to services de-
6 scribed in section 1861(s)(2)(GG) shall not
7 be taken into account in applying clause
8 (ii)(II).”; and

9 (ii) by adding at the end the following
10 new paragraph:

11 “(7) TREATMENT OF APPLICABLE REMOTE PA-
12 TIENT MONITORING SERVICES.—

13 “(A) In determining relative value units
14 for applicable remote patient monitoring serv-
15 ices (as defined in section 1861(iii)(1)(A)), the
16 Secretary, in consultation with appropriate phy-
17 sician groups, practitioner groups, and supplier
18 groups, shall take into consideration—

19 “(i) physician or practitioner re-
20 sources, including physician or practitioner
21 time and the level of intensity of services
22 provided, based on—

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

1 “(II) the complexity of the eval-
2 uation, including the information that
3 must be obtained, reviewed, and ana-
4 lyzed; and

5 “(III) the number of possible di-
6 agnoses and the number of manage-
7 ment options that must be considered;

8 “(ii) practice expense costs associated
9 with such services, including the direct
10 costs associated with installation and infor-
11 mation transmission, costs of remote pa-
12 tient monitoring technology (including
13 equipment and software), device delivery
14 costs, and resource costs necessary for pa-
15 tient monitoring and follow-up (but not in-
16 cluding costs of any related item or non-
17 physician service otherwise reimbursed
18 under this title); and

19 “(iii) malpractice expense resources.

20 “(B) Using the relative value units deter-
21 mined in subparagraph (A), the Secretary shall
22 provide for separate payment for such services
23 and shall not adjust the relative value units as-
24 signed to other services that might otherwise

1 have been determined to include such separately
2 paid remote patient monitoring services.”; and

3 (B) in subsection (j)(3), by inserting
4 “(2)(HH),” after “health risk assessment),”.

5 (4) EFFECTIVE DATE.—

6 (A) IN GENERAL.—The amendments made
7 by this subsection shall apply to services fur-
8 nished on or after the date that is 6 months
9 after the date of the enactment of this Act,
10 without regard to whether the guidelines under
11 paragraph (3)(A) or the standards under para-
12 graph (3)(B) of section 1861(iii) of the Social
13 Security Act, as added by paragraph (2), have
14 been developed.

15 (B) AVAILABILITY OF CODES AS OF DATE
16 OF ENACTMENT.—The Secretary of Health and
17 Human Services shall—

18 (i) promptly evaluate existing codes
19 that would be used to bill for applicable re-
20 mote patient monitoring services (as de-
21 fined in paragraph (1)(A) of such section
22 1861(iii), as so added) under title XVIII of
23 the Social Security Act; and

24 (ii) if the Secretary determines that
25 new codes are necessary to ensure accurate

1 reporting and billing of such services under
2 such title, issue such codes so that they are
3 available for use as of the date of the en-
4 actment of this Act.

5 (e) HOME DIALYSIS SERVICE.—

6 (1) IN GENERAL.—Section 1881(b)(3) of the
7 Social Security Act (42 U.S.C. 1395rr(b)(3)) is
8 amended—

9 (A) by redesignating subparagraphs (A)
10 and (B) as clauses (i) and (ii), respectively;

11 (B) in clause (ii), as redesignated by sub-
12 paragraph (A), strike “on a comprehensive”
13 and insert “subject to subparagraph (B), on a
14 comprehensive”;

15 (C) by striking “With respect to” and in-
16 serting “(A) With respect to”; and

17 (D) by adding at the end the following new
18 subparagraph:

19 “(B) For purposes of subparagraph (A)(ii), the
20 following shall apply:

21 “(i) The monthly fee or other basis of pay-
22 ment described in such subparagraph shall
23 allow for a patient-specific waiver process to
24 allow a physician, clinical nurse specialist, nurse
25 practitioner, or physician’s assistant to request

1 a waiver under this title of face-to-face visit re-
2 quirements for home dialysis furnished to indi-
3 viduals determined to have end stage renal dis-
4 ease.

5 “(ii) Any request under clause (i) shall in-
6 clude documentation by the physician or practi-
7 tioner involved that supports active and ade-
8 quate care of such individual receiving home di-
9 alysis.

10 “(iii) Any patient-specific waiver under
11 clause (i) that is granted shall remain effective
12 until such date that the Secretary, including
13 through contractor under this title, requests
14 that additional information or a new waiver ap-
15 plication be filed.

16 “(iv) All individuals determined to have
17 end stage renal disease receiving home dialysis
18 shall receive a face-to-face examination at least
19 once every three consecutive months and, in the
20 intervening months, shall receive a monthly
21 clinical assessment which may be furnished, if
22 the patient so chooses, via remote monitoring
23 by a physician, clinical nurse specialist, nurse
24 practitioner, or physician’s assistant.”.

1 (2) CONFORMING AMENDMENT.—Section
2 1881(b)(1) of such Act (42 U.S.C. 1395rr(b)(1)) is
3 amended by striking “paragraph (3)(A)” and insert-
4 ing “paragraph (3)(A)(i)”.

5 (3) EFFECTIVE DATE.—The amendments made
6 by this subsection shall apply with respect to the
7 monthly fee or other basis of payment for home di-
8 alysis services furnished on or after January 1,
9 2018.

10 (f) APPROPRIATE VALUATION OF REMOTE DIAG-
11 NOSTIC TEST SERVICES.—Section 1848(c)(2) of the So-
12 cial Security Act (42 U.S.C. 1395w–4(c)(2)) is amended
13 by adding at the end the following new subparagraph:

14 “(P) ADJUSTMENTS FOR REMOTE DIAG-
15 NOSTIC TESTS.—In determining practice ex-
16 pense relative value units for diagnostic tests
17 described in section 1861(s)(3) that are pro-
18 vided remotely, the Secretary shall, in consulta-
19 tion with suppliers of remote diagnostic testing
20 services, include in direct costs of supplies and
21 equipment, the costs of the diagnostic device,
22 clinical systems (including hardware and soft-
23 ware), information transmission, and device de-
24 livery and installation. For purposes of this
25 subsection, diagnostic tests described in section

1861(s)(3) that are provided remotely are such tests that are provided through the utilization of a system of technology that allows a remote interface to collect and transmit clinical data between the individual and a supplier. This subsection shall be implemented in a budget neutral manner.”.

(g) STUDY AND REPORT; SENSE OF CONGRESS.—

(1) 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 telehealth services described in the second sentence of section 1834(m)(4)(F)(i) of the Social Security Act (42 U.S.C. 1395m(m)(4)(F)(i)), as added by subsection (a)(4), between practitioners described in subparagraph (E)(ii) of section 1834(m)(4) of the Social Security Act (42 U.S.C. 1395m(m)(4)), as inserted by subsection (a)(3)(B)(ii), and patients, including with respect to patient satisfaction, provider responsiveness to patient needs and concerns, and the extent to which such

1 telehealth services are at least comparable
2 to face-to-face encounters.

3 (ii) The savings to the Medicare pro-
4 gram under title XVIII of such Act associ-
5 ated with telehealth services utilization for
6 therapy for the additional telehealth serv-
7 ices described in such sentence.

8 (iii) The potential for greater use of
9 telehealth services for forms of additional
10 telehealth services not described in such
11 sentence.

12 (B) REPORT.—Not later than two years
13 after the date of the enactment of this Act, the
14 Comptroller General shall submit to Congress a
15 report on the findings of the study conducted
16 under subparagraph (A).

17 (2) SENSE OF CONGRESS.—It is the sense of
18 Congress that the telehealth expansion efforts initi-
19 ated by the studies and reports on the use of tele-
20 health and remote patient monitoring services under
21 the Medicare Access and CHIP Reauthorization Act
22 of 2015 are continued and furthered through the in-
23 cremental expansion of telehealth and remote patient
24 monitoring services under this Act.

○