

116TH CONGRESS
2D SESSION

H. R. 7154

To amend title XVIII of the Social Security Act to improve and ensure ongoing Medicare beneficiary access to outpatient therapy services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2020

Mr. BRENDAN F. BOYLE of Pennsylvania (for himself, Mr. BUCHANAN, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. PASCARELL, Mr. SOTO, Mrs. BEATTY, Ms. SHERRILL, Ms. BLUNT ROCHESTER, and Mr. RUSH) 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 improve and ensure ongoing Medicare beneficiary access to outpatient therapy 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.**

4 This Act may be cited as the “Outpatient Therapy
5 Modernization and Stabilization Act”.

1 **SEC. 2. MODERATING ANNUAL MEDICARE REIMBURSE-**
2 **MENT CHANGES.**

3 (a) WAIVING CERTAIN RULES WITH RESPECT TO IM-
4 PLEMENTATION OF ADJUSTMENTS OF RELATIVE VALUE
5 UNITS FOR EVALUATION AND MANAGEMENT CODES.—
6 Section 1848(c)(2) of the Social Security Act (42 U.S.C.
7 1395w–4(c)(2)) is amended—

8 (1) in subparagraph (B)(ii)(II), by inserting
9 after “Subject to clauses (iv) and (v)” the following:
10 “and subparagraph (P)”;

11 (2) in subparagraph (F), in the matter pre-
12 ceding clause (i), by striking “The” and inserting
13 “Subject to subparagraph (P), the”; and

14 (3) by adding at the end the following new sub-
15 paragraph:

16 “(P) EVALUATION AND MANAGEMENT
17 CODES.—The Secretary shall not apply sub-
18 paragraph (B)(ii)(II) (relating to limitation on
19 annual adjustments in relative values) or sub-
20 paragraph (F) (relating to budget neutrality
21 adjustments) with respect to the implementa-
22 tion of adjustments of relative value units for
23 the evaluation and management codes described
24 in the final rule published by the Secretary in
25 the Federal Register on November 15, 2019

1 (84 Fed. Reg. 62568, 62847–62860), for 2021
 2 and each subsequent year.”.

3 (b) INCREASE IN UPDATE FACTOR.—Paragraph (19)
 4 of section 1848(d) of the Social Security Act (42 U.S.C.
 5 1395w–4(d)) is amended to read as follows:

6 “(19) UPDATE FOR 2020 THROUGH 2025.—The
 7 update to the single conversion factor established in
 8 paragraph (1)(C) for 2020 and each subsequent
 9 year through 2025 shall be as follows:

10 “(A) For 2020, 0.0 percent.

11 “(B) For 2021, 1.0 percent.

12 “(C) For 2022 and 2023, 0.5 percent.

13 “(D) For 2024 and 2025, 0.0 percent.”.

14 **SEC. 3. HELPING OUTPATIENT PROVIDERS THROUGH THE**
 15 **COVID–19 PANDEMIC.**

16 (a) CLARIFICATION.—The third proviso of the third
 17 paragraph under the heading “Office of the Secretary—
 18 Public Health and Social Services Emergency Fund” in
 19 division B of the Coronavirus Aid, Relief, and Economic
 20 Security Act (Public Law 116–136) is amended by insert-
 21 ing “(including physicians, physical therapists, occupa-
 22 tional therapists, speech language pathology therapists,
 23 audiologists, psychologists, social workers, and any other
 24 supplier enrolled through part B of the Medicare program
 25 under title XVIII of the Social Security Act (42 U.S.C.

1 1395 et seq.))” after “Medicare or Medicaid enrolled sup-
 2 pliers”.

3 (b) EFFECTIVE DATE.—The amendment made by
 4 subsection (a) shall take effect as if included in the enact-
 5 ment of the Coronavirus Aid, Relief, and Economic Secu-
 6 rity Act (Public Law 116–136).

7 **SEC. 4. MAKING APPROPRIATE THERAPY SERVICES ACCES-**
 8 **SIBLE THROUGH THE MEDICARE TELE-**
 9 **HEALTH PROGRAM.**

10 (a) MEDICARE BENEFICIARY ACCESS TO THERAPY
 11 SERVICES DURING NATIONAL HEALTH EMERGENCIES.—

12 (1) PERMITTING QUALIFIED THERAPISTS TO
 13 PROVIDE MEDICARE TELEHEALTH THERAPY SERV-
 14 ICES.—Notwithstanding any other provision of law,
 15 with respect to Medicare telehealth therapy services
 16 furnished on or after March 1, 2020, with respect to
 17 an emergency period during 2020, a physical thera-
 18 pist, an occupational therapist, or a speech language
 19 pathologist who is enrolled under the Medicare pro-
 20 gram under title XVIII of the Social Security Act
 21 (42 U.S.C. 1395 et seq.), or a facility that is partici-
 22 pating in such program, may furnish Medicare tele-
 23 health therapy services to Medicare beneficiaries
 24 during such emergency period under the same terms
 25 and conditions as Medicare telehealth services may

1 be furnished by physicians or practitioners pursuant
2 to the COVID–19 interim final rule.

3 (2) DEFINITIONS.—In this subsection:

4 (A) COVID–19 INTERIM FINAL RULE.—

5 The term “COVID–19 interim final rule”
6 means the interim final rule entitled “Medicare
7 and Medicaid Programs; Policy and Regulatory
8 Revisions in Response to the COVID–19 Public
9 Health Emergency” and published in the Fed-
10 eral Register by the Centers for Medicare &
11 Medicaid Services on April 6, 2020 (85 Fed.
12 Reg. 19230 et seq.).

13 (B) EMERGENCY PERIOD.—The term

14 “emergency period” means the COVID–19
15 emergency period (as described in subsection
16 (g)(1)(B) of section 1135 of the Social Security
17 Act (42 U.S.C. 1320b–5)) or any other subse-
18 quent emergency period during 2020 with re-
19 spect to which an emergency declaration de-
20 scribed in subsection (g)(1)(A) of such section
21 is made.

22 (C) FACILITY.—The term “facility” means

23 an agency, clinic, facility, hospital, and entity
24 described in section 1833(a)(8) of the Social

1 Security Act (42 U.S.C. 1395l(a)(8)) that fur-
2 nishes Medicare telehealth therapy services.

3 (D) MEDICARE TELEHEALTH THERAPY
4 SERVICES DEFINED.—The term “Medicare tele-
5 health therapy services” means services identi-
6 fied by HCPCS codes 92507–92508, 92521–
7 92524, 92526, 92601–92604, 92607–92610,
8 92626–92627, 92630, 92633, 96105, 96125,
9 97110, 97112, 97116, 97129–97130, 97150–
10 97158, 97161–97168, 97530, 97535, 97542,
11 97750, 97755, 97760, and 97761–97763 (and
12 as subsequently modified by the Secretary of
13 Health and Human Services), and which may
14 be furnished to Medicare beneficiaries through
15 telehealth under section 1834(m) of the Social
16 Security Act (42 U.S.C. 1395m(m)) pursuant
17 to the COVID–19 interim final rule.

18 (E) OCCUPATIONAL THERAPIST.—The
19 term “occupational therapist” means a qualified
20 occupational therapist as that term is used in
21 section 1861(g) of the Social Security Act (42
22 U.S.C. 1395x(g)).

23 (F) PHYSICAL THERAPIST.—The term
24 “physical therapist” means a qualified physical
25 therapist as that term is used in section

1 1861(p) of the Social Security Act (42 U.S.C.
2 1395x(p)).

3 (G) SPEECH LANGUAGE PATHOLOGIST.—
4 The term “speech language pathologist” has
5 the meaning given the term “qualified speech-
6 language pathologist” in section 1861(ll)(4)(A)
7 of the Social Security Act (42 U.S.C.
8 1395x(ll)(4)(A)).

9 (3) IMPLEMENTATION.—Notwithstanding any
10 other provision of law, the Secretary of Health and
11 Human Services may implement this subsection by
12 program instruction or otherwise.

13 (b) SERVICES FURNISHED BEGINNING IN 2021.—

14 (1) IN GENERAL.—Section 1834(m) of the So-
15 cial Security Act (42 U.S.C. 1395m(m)) is amend-
16 ed—

17 (A) in paragraph (1)—

18 (i) by striking “or a practitioner (de-
19 scribed in section 1842(b)(18)(C))” and
20 inserting “, a practitioner (as defined in
21 paragraph (4)(E)), or a facility (as defined
22 in paragraph (4)(G))”; and

23 (ii) by striking “individual physician
24 or practitioner” and inserting “individual
25 physician, practitioner, or facility”;

1 (B) in paragraph (2)—

2 (i) in subparagraph (A)—

3 (I) by inserting after “located at
4 a distant site” the following: “, or a
5 facility that is a distant site,”; and

6 (II) by striking “such physician
7 or practitioner” and inserting “such
8 physician, practitioner, or facility”;
9 and

10 (ii) in subparagraph (C), by striking
11 “as determined by the” and inserting “as
12 determined by a”;

13 (C) in paragraph (3)(A)—

14 (i) in the subparagraph heading, by
15 striking “PHYSICIAN AND PRACTITIONER”
16 and inserting “PHYSICIAN, PRACTITIONER,
17 AND FACILITY”; and

18 (ii) by striking “a physician or practi-
19 tioner receiving payment” and all that fol-
20 lows through the period and inserting “a
21 physician, practitioner, or facility receiving
22 payment under this subsection to the same
23 extent as they apply to physicians, practi-
24 tioners, or facilities under such sections.”;

25 (D) in paragraph (4)—

(i) in subparagraph (A), by inserting before the period the following: “, or a facility that furnishes a telehealth service to an eligible telehealth individual via a telecommunications system”;

(ii) in subparagraph (E), by inserting before the period at the end the following: “, and also includes, for purposes of this subsection, a physical therapist, an occupational therapist, and a speech-language pathologist”;

(iii) in subparagraph (F)(i)—

(I) by striking “and office psychiatry” and inserting “office psychiatry”; and

(II) by inserting before “, and any additional” the following: “, therapy services (identified as of April 1, 2020, by HCPCS codes 92507–92508, 92521–92524, 92526, 92601–92604, 92607–92610, 92626–92627, 92630, 92633, 96105, 96125, 97110, 97112, 97116, 97129–97130, 97150–97158, 97161–97168, 97530, 97535, 97542, 97750, 97755, 97760, and

1 97761–97763 (and as subsequently
2 modified by the Secretary))”; and

3 (iv) by adding at the end the following
4 new subparagraph:

5 “(G) FACILITY.—The term ‘facility’ means
6 an agency, clinic, facility, hospital, and entity
7 described in section 1833(a)(8) of the Social
8 Security Act (42 U.S.C. 1395l(a)(8)) that fur-
9 nishes therapy services described in paragraph
10 (4)(F)(i).”; and

11 (E) by adding at the end the following new
12 paragraph:

13 “(9) TREATMENT OF TELEHEALTH THERAPY
14 SERVICES.—The geographic requirements described
15 in paragraph (4)(C)(i) shall not apply with respect
16 to telehealth services that are therapy services de-
17 scribed in paragraph (4)(F)(i).”.

18 (2) EFFECTIVE DATE.—The amendments made
19 by paragraph (1) shall take effect on the date of the
20 enactment of this Act and apply to telehealth serv-
21 ices furnished under the Medicare program on or
22 after January 1, 2021.

1 **SEC. 5. REDUCING UNNECESSARY PAPERWORK IN THE DE-**
2 **LIVERY OF THERAPY SERVICES.**

3 (a) IN GENERAL.—Section 1835(a) of the Social Se-
4 curity Act (42 U.S.C. 1395n(a)) is amended by adding
5 at the end the following new sentence: “The requirement
6 for review of a plan of care described in paragraphs
7 (2)(C)(ii) and (2)(D)(ii) for outpatient physical therapy
8 or outpatient occupational therapy services or speech-lan-
9 guage pathology services, respectively, for an individual
10 under the care of a physician shall be deemed to be met
11 if either of the following is included in the individual’s
12 medical record: an order for such outpatient physical ther-
13 apy or outpatient occupational therapy services or speech-
14 language pathology services, as the case may be, signed
15 by a physician under whom the individual is receiving care;
16 or a certification of the individual’s plan of care signed
17 by a physician under whom the individual is receiving
18 care.”.

19 (b) CONFORMING AMENDMENT.—Section 1861(p) of
20 the Social Security Act (42 U.S.C. 1395x(p)) is amended
21 by adding at the end the following new sentence: “The
22 requirement for review of a plan of care described in para-
23 graph (2) for physical therapy services furnished to an in-
24 dividual under the care of a physician (as so defined) shall
25 be deemed to be met if either of the following is included
26 in the individual’s medical record: an order for such phys-

1 ical therapy services signed by a physician under whom
2 the individual is receiving care; or a certification of the
3 individual's plan of care signed by a physician under whom
4 the individual is receiving care.''.
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