

116TH CONGRESS
2D SESSION

S. 3517

To increase the ability of nursing facilities to access to telehealth services and obtain technologies to allow virtual visits during the public health emergency relating to an outbreak of coronavirus disease 2019 (COVID–19), and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2020

Ms. KLOBUCHAR (for herself and Mr. CASEY) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To increase the ability of nursing facilities to access to telehealth services and obtain technologies to allow virtual visits during the public health emergency relating to an outbreak of coronavirus disease 2019 (COVID–19), 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 “Advancing
5 Connectivity during the Coronavirus to Ensure Support
6 for Seniors Act” or the “ACCESS Act”.

1 **TITLE I—SUPPLEMENTAL**
2 **APPROPRIATIONS**

3 **SEC. 101. SUPPLEMENTAL APPROPRIATIONS.**

4 The following sums are hereby appropriated, out of
5 any money in the Treasury not otherwise appropriated,
6 for the fiscal year ending September 30, 2020, and for
7 other purposes, namely:

8 DEPARTMENT OF HEALTH AND HUMAN
9 SERVICES

10 HEALTH RESOURCES AND SERVICES ADMINISTRATION
11 RURAL HEALTH

12 For an additional amount for the Telehealth Re-
13 source Center of the Federal Office of Rural Health Policy
14 of the Office for the Advancement of Telehealth, to pro-
15 vide assistance with respect to technical, legal, regulatory
16 service delivery or other related barriers to the develop-
17 ment of telehealth technologies for skilled nursing facilities
18 (as defined in section 1819 of the Social Security Act) and
19 nursing facilities (as defined in section 1919 of such Act),
20 \$50,000,000 to remain available through September 30,
21 2021.

1 **TITLE II—INCREASED ACCESS**
2 **TO TELEHEALTH SERVICES**
3 **AND OTHER TECHNOLOGIES**

4 **SEC. 201. DEFINITIONS.**

5 In this title:

6 (1) COVID–19 PUBLIC HEALTH EMERGENCY
7 PERIOD.—The term “COVID–19 public health emer-
8 gency period” means the portion of the emergency
9 period defined in paragraph (1)(B) of section
10 1135(g) of the Social Security Act (42 U.S.C.
11 1320b–5(g)) beginning on or after the date of the
12 enactment of this Act.

13 (2) MEDICAID PROGRAM.—The term “Medicaid
14 program” means, with respect to a State, the State
15 program under title XIX of the Social Security Act
16 (42 U.S.C. 1396 et seq.) (including any waiver or
17 demonstration under such title or under section
18 1115 of such Act (42 U.S.C. 1315) relating to such
19 title).

20 (3) MEDICARE.—The term “Medicare” means
21 the program of health insurance for the aged and
22 disabled established under title XVIII of the Social
23 Security Act.

24 (4) NURSING FACILITY.—The term “nursing
25 facility” has the meaning given that term in section

1 1919(a) of the Social Security Act (42 U.S.C.
2 1396r(a)).

3 (5) SECRETARY.—The term “Secretary” means
4 the Secretary of Health and Human Services.

5 (6) SKILLED NURSING FACILITY.—The term
6 “skilled nursing facility” has the meaning given that
7 term in section 1819(a) of the Social Security Act
8 (42 U.S.C. 1395i–3(a)).

9 (7) STATE.—The term “State” has the mean-
10 ing given such term for purposes of title XIX of the
11 Social Security Act (42 U.S.C. 1396 et seq.).

12 **SEC. 202. IDENTIFICATION OF BARRIERS TO NURSING FA-**
13 **CILITIES ACCESSING TELEHEALTH SERVICES**
14 **UNDER MEDICARE AND MEDICAID DURING**
15 **THE COVID–19 PUBLIC HEALTH EMERGENCY.**

16 (a) CONGRESSIONAL BRIEFING.—Not later than 15
17 days after the date of enactment of this Act, the Secretary
18 shall brief the congressional committees specified in sub-
19 section (c) on options for immediately increasing access
20 during the COVID–19 public health emergency period to
21 telehealth services for which payment is available under
22 Medicare for skilled nursing facilities and under Medicaid
23 for nursing facilities. The briefing shall also include—

24 (1) information regarding the extent to which
25 access to telehealth services is required for any fa-

1 cilities that are temporarily designated during the
2 COVID–19 public health emergency period as par-
3 ticipating providers under Medicare, Medicaid, or
4 both, for purposes of furnishing skilled nursing serv-
5 ices or nursing facility services to individuals who
6 are eligible for such services under Medicare or Med-
7 icaid; and

8 (2) recommendations for such administrative
9 and legislative actions, including with respect to
10 funding, as the Secretary determines are necessary.

11 (b) REPORT.—The Secretary shall submit a report to
12 the congressional committees specified in subsection (c)
13 after the briefing required under subsection (a) occurs
14 that includes a summary of the briefing, any new or addi-
15 tional information requested during such briefing, and
16 such other information as the Secretary determines appro-
17 priate.

18 (c) CONGRESSIONAL COMMITTEES SPECIFIED.—The
19 congressional committees specified in this subsection are
20 the following:

21 (1) The Committees on Finance, Health, Edu-
22 cation, Labor, and Pensions, Commerce, Science,
23 and Transportation, and the Special Committee on
24 Aging of the Senate.

1 (2) The Committees on Ways and Means and
 2 Energy and Commerce of the House of Representa-
 3 tives.

4 **SEC. 203. AUTHORITY TO AWARD GRANTS TO NURSING FA-**
 5 **CILITIES FOR SUPPORTING VIRTUAL VISITS**
 6 **DURING THE COVID-19 PUBLIC HEALTH**
 7 **EMERGENCY.**

8 (a) IN GENERAL.—The Secretary shall award grants
 9 directly to skilled nursing facilities and nursing facilities
 10 in accordance with this section to support virtual visits
 11 by family members and other individuals for residents of
 12 such facilities during the COVID-19 public health emer-
 13 gency period.

14 (b) APPLICATION REQUIREMENTS.—A facility seek-
 15 ing a grant under this section shall submit an application
 16 to the Secretary at such time, in such form and manner,
 17 and containing such information as the Secretary shall re-
 18 quire.

19 (c) USE OF FUNDS.—A facility awarded a grant
 20 under this section may only use the funds for expenditures
 21 attributable to obtaining and using—

22 (1) technologies to support virtual visits by
 23 family members and other individuals for residents
 24 of the facility; and

1 (2) any other items or services necessary to
2 carry out the purposes for the grant described in
3 subsection (a).

4 (d) FCC COORDINATION.—

5 (1) IN GENERAL.—The Federal Communica-
6 tions Commission (in this subsection referred to as
7 the “Commission”) shall coordinate with the Sec-
8 retary in implementing the grant program estab-
9 lished under this section.

10 (2) WAIVER AUTHORITY.—The Commission
11 shall waive such requirements of the Rural Health
12 Care program under subpart G of part 54 of title
13 47, Code of Federal Regulations (or any successor
14 regulation) as necessary, and for such periods as
15 necessary, to ensure all facilities awarded a grant
16 under this section are able to carry out the purposes
17 for the grant described in subsection (a).

18 (e) LIMITATIONS.—

19 (1) TERMINATION OF AUTHORITY.—The Sec-
20 retary shall not award any grants under this section
21 after the end of the COVID–19 public health emer-
22 gency period.

23 (2) SUPPLEMENT, NOT SUPPLANT.—Federal
24 funds paid to a skilled nursing facility or a nursing
25 facility pursuant to this section must be used to sup-

1 plement, but not supplant, any other Federal, State,
 2 or local funds available to the facility that may be
 3 used for a purpose specified in subsection (c).

4 (f) REPORT.—Not later than 30 days after the end
 5 of the COVID–19 public health emergency period, the Sec-
 6 retary shall submit a report to Congress on the grants
 7 awarded under this section.

8 (g) APPROPRIATION.—There are appropriated to the
 9 Secretary for fiscal year 2020 from any funds in the
 10 Treasury not otherwise appropriated, such sums as are
 11 necessary to carry out this section, to remain through the
 12 last day of the month following the month in which the
 13 COVID–19 public health emergency period ends.

14 **TITLE III—MISCELLANEOUS**

15 **SEC. 301. EMERGENCY DESIGNATION.**

16 (a) IN GENERAL.—The amounts provided by this Act
 17 are designated as an emergency requirement pursuant to
 18 section 4(g) of the Statutory Pay-As-You-Go Act of 2010
 19 (2 U.S.C. 933(g)).

20 (b) DESIGNATION IN SENATE.—In the Senate, this
 21 Act is designated as an emergency requirement pursuant
 22 to section 4112(a) of H. Con. Res. 71 (115th Congress),
 23 the concurrent resolution on the budget for fiscal year
 24 2018.

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