

116TH CONGRESS
1ST SESSION

S. 773

To require the Center for Medicare and Medicaid Innovation to test the effect of including telehealth services in Medicare health care delivery reform models.

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2019

Mr. GARDNER (for himself and Mr. PETERS) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To require the Center for Medicare and Medicaid Innovation to test the effect of including telehealth services in Medicare health care delivery reform models.

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 Innovation
5 and Improvement Act of 2019”.

6 **SEC. 2. CMI TESTING OF COVERAGE OF EXPANDED TELE-**
7 **HEALTH SERVICES.**

8 (a) IN GENERAL.—Section 1115A of the Social Secu-
9 rity Act (42 U.S.C. 1315a) is amended—

1 (1) in subsection (b)(2)—

2 (A) in subparagraph (A), by adding at the
3 end the following new sentence: “The models
4 selected under this subparagraph shall include
5 the model described in subparagraph (D), which
6 shall be implemented by not later than January
7 1, 2020.”; and

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

10 “(D) TELEHEALTH SERVICES IN DELIVERY
11 REFORM MODELS.—The model described in this
12 subparagraph is a model that meets the re-
13 quirements of subsection (h) with respect to
14 coverage of, and payment for, expanded tele-
15 health services, which shall include remote mon-
16 itoring services, furnished in conjunction with
17 models that test the use of accountable care or-
18 ganizations under title XVIII, bundled pay-
19 ments under such title, and such other coordi-
20 nated care models under such title as the Sec-
21 retary determines to be appropriate.”;

22 (2) in subsection (b)(4), by striking “EVALUA-
23 TION.—” and inserting “EVALUATION.—Subject to
24 subsection (h)(6):”; and

1 (3) by adding at the end the following new sub-
2 section:

3 “(h) MEDICARE COVERAGE OF EXPANDED TELE-
4 HEALTH SERVICES UNDER ACCOUNTABLE CARE ORGANI-
5 ZATION MODELS, BUNDLED PAYMENT MODELS, AND
6 OTHER APPROPRIATE MODELS TESTED BY THE SEC-
7 RETARY.—

8 “(1) ESTABLISHMENT OF TELEHEALTH SERV-
9 ICE MODELS.—

10 “(A) IN GENERAL.—Subject to the suc-
11 ceeding provisions of this subsection, for the 5-
12 year period that begins on January 1, 2020, the
13 Secretary shall test coverage of, and payment
14 for, expanded telehealth services (as defined in
15 paragraph (2)) furnished to applicable individ-
16 uals who are Medicare beneficiaries (as defined
17 in paragraph (3)(B)) in conjunction with mod-
18 els tested under subsection (b), and expanded
19 under subsection (c) (if applicable), that test
20 the use of accountable care organizations under
21 title XVIII, bundled payments under such title,
22 and such other coordinated care models under
23 such title as the Secretary determines to be ap-
24 propriate.

1 “(B) MODEL DESIGN CONSIDERATIONS.—

2 In establishing models to be tested for enhanced
 3 telehealth services under subsection (b)(2)(D),
 4 the Secretary shall design such models in a
 5 manner to permit comparisons of Medicare
 6 beneficiaries who are participating in models
 7 under subsection (b) that include access to ex-
 8 panded telehealth services with Medicare bene-
 9 ficiaries in models under subsection (b) who do
 10 not have access to such services.

11 “(2) EXPANDED TELEHEALTH SERVICES DE-
 12 FINED.—

13 “(A) IN GENERAL.—Subject to subpara-
 14 graphs (B) and (C), in this subsection, the term
 15 ‘expanded telehealth services’ means services
 16 furnished by an eligible physician or practi-
 17 tioner to a Medicare beneficiary as part of an
 18 episode of care for one or more of the condi-
 19 tions specified under paragraph (4) through one
 20 or more of the following:

21 “(i) Remote monitoring technologies,
 22 including remote device management for
 23 purposes of remotely interrogating or pro-
 24 gramming a medical device (such as a
 25 pacemaker or a cardiac resynchronization

therapy device) outside the office of the physician specialist involved.

“(ii) Bi-directional audio/video technologies.

“(iii) Physiologic and behavioral monitoring technologies.

“(iv) Engagement prompt technologies.

“(v) Store and forward technologies.

“(vi) Point-of-care testing technologies.

“(vii) Such other technologies as the Secretary may specify.

“(B) INCLUSION OF MEDICARE TELEHEALTH SERVICES; NON-APPLICATION OF CERTAIN RESTRICTIONS.—

“(i) INCLUSION OF MEDICARE TELEHEALTH SERVICES.—The term ‘expanded telehealth services’ shall include a telehealth service, as defined in section 1834(m)(4)(F), without regard to the limitations specified under section 1834(m)(4).

“(ii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as imposing a requirement on the fur-

nishing of expanded telehealth services that such services be furnished in real time through interactive audio or video telecommunications systems between the eligible physician or practitioner and the Medicare beneficiary.

“(iii) NO LIMITATIONS ON GEOGRAPHIC AREAS OR LOCATION OF PATIENT.—The term ‘expanded telehealth services’ shall include services furnished (as described in subparagraph (A)) without regard to the location of the Medicare beneficiary at the time the telehealth service is furnished and without regard to the area in which the Medicare beneficiary resides.

“(C) REQUIREMENTS.—The term ‘expanded telehealth services’ shall not include a service furnished (as described in subparagraph (A)) unless it can be demonstrated that the service, when furnished as an expanded telehealth service, is likely to do one or more of the following:

“(i) The service assists eligible physicians or practitioners to coordinate care for patients.

1 “(ii) The service enhances collabora-
 2 tion among providers of services and sup-
 3 pliers, including eligible physicians and
 4 practitioners, in the provision of care to
 5 patients.

6 “(iii) The service improves quality of
 7 care furnished to patients.

8 “(iv) The service results in reduced
 9 hospital admissions and readmissions.

10 “(v) The service reduces or sub-
 11 stitutes for physician office visits.

12 “(vi) The service results in reduced
 13 utilization of skilled nursing facility serv-
 14 ices.

15 “(vii) The service facilitates the re-
 16 turn of patients to the community more
 17 quickly than would otherwise occur in the
 18 absence of the service.

19 “(3) ADDITIONAL DEFINITIONS.—In this sub-
 20 section:

21 “(A) ELIGIBLE PHYSICIAN OR PRACTI-
 22 TIONER.—The term ‘eligible physician or prac-
 23 titioner’ means—

24 “(i) a physician (as defined in section
 25 1861(r)); and

1 “(ii) a practitioner (as defined in sec-
2 tion 1842(b)(18)(C)).

3 “(B) MEDICARE BENEFICIARY.—The term
4 ‘Medicare beneficiary’ means an individual who
5 is entitled to benefits under part A or enrolled
6 under part B of title XVIII who is not enrolled
7 in a Medicare Advantage plan under part C of
8 such title, an eligible organization under section
9 1876, or a PACE program under section 1894.

10 “(4) CONDITIONS.—For purposes of paragraph
11 (2)(A), the conditions with respect to which a cov-
12 erage of an expanded telehealth service is furnished
13 under this subsection shall include the following con-
14 ditions or diseases: chronic hypertension, ischemic
15 heart diseases, chronic obstructive pulmonary dis-
16 ease, heart failure, heart attack, osteoarthritis, dia-
17 betes, chronic kidney disease, depression, atrial fi-
18 brillation, cancer, asthma, stroke, total hip replace-
19 ment procedures, total knee replacement procedures,
20 Parkinson’s disease, and such other conditions or
21 diseases with respect to which the Secretary deter-
22 mines that expanded telehealth services would sat-
23 isfy one or more of the requirements of clauses (i)
24 through (vii) of paragraph (2)(C).

25 “(5) PAYMENT.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), with respect to expanded telehealth
3 services furnished under a model tested under
4 subsection (b) and expanded under subsection
5 (c) (if applicable), the Secretary shall establish
6 payment amounts under this subsection for
7 such services. The Secretary may use one or
8 more of the following payment methodologies
9 for expanded telehealth services:

10 “(i) MEDICARE FEE SCHEDULE.—Fee
11 schedules established under title XVIII for
12 telehealth services and remote monitoring
13 services.

14 “(ii) NEW FEE SCHEDULE.—A new
15 fee schedule that the Secretary establishes
16 for expanded telehealth services covered by
17 reason of this subsection.

18 “(iii) PAYMENT AMOUNTS BASED ON
19 SHARED RISK.—A payment methodology
20 for shared savings and losses that is de-
21 signed to ensure savings with respect to
22 expanded telehealth services covered under
23 the model.

24 “(B) CONSIDERATION OF CERTAIN
25 COSTS.—In determining the amount of payment

1 for an expanded telehealth service under the
2 payment methodologies referred to in subpara-
3 graph (A), the Secretary shall take into account
4 costs incurred by eligible physicians and practi-
5 tioners—

6 “(i) for the acquisition and implemen-
7 tation of information systems necessary to
8 furnish such services, including costs of
9 equipment and requisite software;

10 “(ii) for non-physician clinical per-
11 sonnel in conjunction with such service;
12 and

13 “(iii) for physician interpretation of
14 clinical data through the expanded tele-
15 health service as well as for the supervision
16 or oversight of the system for such service.

17 “(6) EVALUATION OF MODELS.—

18 “(A) USE OF INDEPENDENT ENTITY.—In
19 lieu of the evaluations conducted by the Sec-
20 retary under subsection (b)(4) for models tested
21 under subsection (b), the Secretary shall pro-
22 vide for evaluations of enhanced telehealth serv-
23 ice models under subsection (b)(2)(D) by an
24 independent entity. Such evaluation shall be
25 conducted with respect to the specific enhanced

1 telehealth service and condition or conditions
2 involved that are tested under such models.

3 “(B) TIMING OF EVALUATION.—An eval-
4 uation of such enhanced telehealth service and
5 condition or conditions involved conducted by
6 the independent entity under this paragraph
7 shall begin three years after the implementation
8 of the model that provides for coverage of and
9 payment for the expanded telehealth service
10 with respect to such condition.

11 “(C) CRITERIA.—An evaluation of such en-
12 hanced telehealth service models conducted by
13 the independent entity under this paragraph
14 shall include an analysis of—

15 “(i) the quality of care furnished
16 under the model, including the measure-
17 ment of patient-level outcomes and patient-
18 centeredness criteria determined appro-
19 priate by the Secretary;

20 “(ii) the changes in spending under
21 parts A and B of title XVIII by reason of
22 the model, taking into account costs and
23 savings under such parts across the con-
24 tinuum of care for the episode of care and
25 condition or conditions involved; and

1 “(iii) any impediments that were en-
2 countered under the model, such as—

3 “(I) explicit telehealth restric-
4 tions under Federal or State laws that
5 are not related to health care reim-
6 bursement, such as scope of practice
7 limitations;

8 “(II) licensing or credentialing
9 barriers; and

10 “(III) limited broadband access
11 or limited health information tech-
12 nology capabilities.

13 “(D) INFORMATION.—The provisions of
14 subsection (b)(4)(B) shall apply to evaluations
15 conducted under this paragraph in the same
16 manner as such provisions apply to evaluations
17 conducted under subsection (b)(4).

18 “(7) APPLICATION OF EXPANDED TELEHEALTH
19 SERVICES TO ALL CMI MODELS.—The Secretary
20 shall expand the application of an enhanced tele-
21 health service with respect to the condition or condi-
22 tions involved to all models tested under subsection
23 (b), and expanded under subsection (c) (if applica-
24 ble), that apply with respect to services furnished
25 under title XVIII to provide for coverage of, and

1 payment for, such enhanced telehealth service or
 2 services with respect to such condition or conditions
 3 under all such models for years beginning after the
 4 5-year period described in paragraph (1)(A) if—

5 “(A) the independent evaluation conducted
 6 under paragraph (6) with respect to such mod-
 7 els demonstrates that such enhanced telehealth
 8 service or services with respect to the condition
 9 or conditions involved resulted in—

10 “(i) reduced spending under parts A
 11 and B of title XVIII without reducing the
 12 quality of care; or

13 “(ii) improved quality of patient care
 14 without increasing such spending; and

15 “(B) the Chief Actuary of the Centers for
 16 Medicare & Medicaid Services certifies that
 17 such expansion would reduce net program
 18 spending under parts A and B of title XVIII.”.

19 (b) COVERAGE OF AND PAYMENT FOR CERTAIN EN-
 20 HANCED TELEHEALTH SERVICES THAT ARE CERTIFIED
 21 AS PROVIDING SAVINGS UNDER THE MEDICARE PRO-
 22 GRAM.—

23 (1) COVERAGE.—Section 1834 of the Social Se-
 24 curity Act (42 U.S.C. 1395m) is amended by adding
 25 at the end the following new subsection:

1 “(x) CERTIFIED ENHANCED TELEHEALTH SERV-
2 ICES.—

3 “(1) IN GENERAL.—The Secretary shall pay for
4 certified enhanced telehealth services (as defined in
5 paragraph (2)(A)) furnished by a physician (as de-
6 fined in section 1861(r)) or a practitioner (as de-
7 fined in section 1842(b)(18)(C)) to a Medicare fee-
8 for-service beneficiary (as defined in paragraph
9 (2)(B)) for one or more of the conditions specified
10 under section 1115A(h)(4) in an amount determined
11 under paragraph (3) without regard to—

12 “(A) the location of the Medicare fee-for-
13 service beneficiary at the time the certified en-
14 hanced telehealth service is furnished; and

15 “(B) the area in which the Medicare fee-
16 for-service beneficiary resides.

17 “(2) DEFINITIONS.—In this subsection:

18 “(A) CERTIFIED ENHANCED TELEHEALTH
19 SERVICE.—The term ‘certified enhanced tele-
20 health service’ means, with respect to a condi-
21 tion or conditions specified under section
22 1115A(h)(4), an enhanced telehealth service (as
23 defined in section 1115A(h)(2)) with respect to
24 which—

1 “(i) an independent evaluation con-
 2 ducted under section 1115A(h)(6) dem-
 3 onstrates that the service tested under a
 4 model under section 1115A(b)(2)(D) with
 5 respect to the condition or conditions re-
 6 sulted in—

7 “(I) reduced spending under
 8 parts A and B without reducing the
 9 quality of care; or

10 “(II) improved quality of patient
 11 care without increasing such spend-
 12 ing; and

13 “(ii) the Chief Actuary of the Centers
 14 for Medicare & Medicaid Services certifies
 15 that such expansion would reduce net pro-
 16 gram spending under such parts.

17 “(B) MEDICARE FEE-FOR-SERVICE BENE-
 18 FICIARY.—The term ‘Medicare fee-for-service
 19 beneficiary’ has the meaning given such term in
 20 section 1899(h)(3).

21 “(3) PAYMENT AMOUNT.—The amount of pay-
 22 ment for certified enhanced telehealth services shall
 23 be determined in the same manner as payments for
 24 enhanced telehealth services are determined under
 25 section 1115A(h)(5).”.

1 (2) PAYMENT.—Section 1833(a)(1) of the So-
2 cial Security Act (42 U.S.C. 1395l(a)(1)) is amend-
3 ed by striking “and” before “(CC)” and inserting
4 before the semicolon at the end the following: “, and
5 (CC) with respect to certified enhanced telehealth
6 services (as defined in section 1834(x)(2)(A)), the
7 amount paid shall be an amount equal to 80 percent
8 of the lesser of the actual charge for the services or
9 the amount determined under section 1834(x)(3)”.

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