

116TH CONGRESS
1ST SESSION

S. 2741

To amend title XVIII of the Social Security Act to expand access to telehealth services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 30, 2019

Mr. SCHATZ (for himself, Mr. WICKER, Mr. CARDIN, Mr. THUNE, Mr. WARNER, and Mrs. HYDE-SMITH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to expand access to telehealth 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Creating Opportunities Now for Necessary and Effective
6 Care Technologies (CONNECT) for Health Act of 2019”
7 or the “CONNECT for Health Act of 2019”.

8 (b) **TABLE OF CONTENTS.**—The table of contents of
9 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and sense of Congress.

- Sec. 3. Expanding the use of telehealth through the waiver of certain requirements.
- Sec. 4. Expanding the use of telehealth for mental health services.
- Sec. 5. Use of telehealth in emergency medical care.
- Sec. 6. Improvements to the process for adding telehealth services.
- Sec. 7. Rural health clinics and federally qualified health centers.
- Sec. 8. Native American health facilities.
- Sec. 9. Waiver of telehealth restrictions during national emergencies.
- Sec. 10. Use of telehealth in recertification for hospice care.
- Sec. 11. Clarification for fraud and abuse laws regarding technologies provided to beneficiaries.
- Sec. 12. Study and report on increasing access to telehealth services in the home.
- Sec. 13. Analysis of telehealth waivers in alternative payment models.
- Sec. 14. Model to allow additional health professionals to furnish telehealth services.
- Sec. 15. Testing of models to examine the use of telehealth under the Medicare program.

1 SEC. 2. FINDINGS AND SENSE OF CONGRESS.

2 (a) FINDINGS.—Congress finds the following:

3 (1) The use of technology in health care and
4 coverage of telehealth services are rapidly evolving.

5 (2) Research has found that telehealth services
6 can expand access to care, improve the quality of
7 care, and reduce spending, and that patients receiv-
8 ing telehealth services are satisfied with their experi-
9 ences.

10 (3) Health care workforce shortages are a sig-
11 nificant problem in many areas and for many types
12 of health care clinicians.

13 (4) Telehealth increases access to care in areas
14 with workforce shortages and for individuals who
15 live far away from health care facilities, have limited
16 mobility or transportation, or have other barriers to
17 accessing care.

1 “(A) IN GENERAL.—Notwithstanding the
2 preceding provisions of this subsection, in the
3 case of telehealth services furnished on or after
4 January 1, 2021, the Secretary may waive any
5 restriction applicable to payment for telehealth
6 services under this subsection that is described
7 in subparagraph (B), but only if the Secretary
8 determines that such waiver would not deny or
9 limit the coverage or provision of benefits under
10 this title, and—

11 “(i) the Secretary determines that the
12 waiver is expected to reduce spending
13 under this title without reducing the qual-
14 ity of care or improve the quality of pa-
15 tient care without increasing spending; or

16 “(ii) the waiver would apply to tele-
17 health services furnished in originating
18 sites located in a high-need health profes-
19 sional shortage area (as designated pursu-
20 ant to section 332(a)(1)(A) of the Public
21 Health Service Act (42 U.S.C.
22 254e(a)(1)(A))).

23 “(B) RESTRICTIONS DESCRIBED.—For
24 purposes of this paragraph, restrictions applica-

1 ble to payment for telehealth services under
2 paragraph (1) are—

3 “(i) requirements relating to qualifica-
4 tions for an originating site under para-
5 graph (4)(C)(ii);

6 “(ii) any geographic limitations under
7 paragraph (4)(C)(i) (other than applicable
8 State law requirements, including State li-
9 censure requirements);

10 “(iii) any limitation on the type of
11 technology used to furnish telehealth serv-
12 ices;

13 “(iv) any limitation on the type of
14 provider of services or supplier who may
15 furnish telehealth services (other than the
16 requirement that the provider of services
17 or supplier is enrolled under this title);

18 “(v) any limitation on specific services
19 designated as telehealth services pursuant
20 to this subsection (provided the Secretary
21 determines that such services are clinically
22 appropriate to furnish remotely); or

23 “(vi) any other limitation relating to
24 the furnishing of telehealth services under
25 this title identified by the Secretary.

1 “(C) PUBLIC COMMENT.—The Secretary
2 shall establish a process by which stakeholders
3 may (on at least an annual basis) provide public
4 comment for waivers under this paragraph.

5 “(D) PERIODIC REVIEW OF WAIVERS.—
6 The Secretary shall periodically, but not more
7 often than every 3 years, reassess each waiver
8 under this paragraph to determine whether the
9 waiver continues to meet the conditions applica-
10 ble under subparagraph (A).”.

11 (b) POSTING OF INFORMATION.—Not later than 2
12 years after the date on which a waiver under section
13 1834(m)(8) of the Social Security Act, as added by sub-
14 section (a), first becomes effective, and at least biennially
15 thereafter, the Secretary of Health and Human Services
16 shall post on the internet website of the Centers for Medi-
17 care & Medicaid Services—

18 (1) the number of Medicare beneficiaries receiv-
19 ing telehealth services by reason of each waiver
20 under such section;

21 (2) the impact of such waivers on expenditures
22 and utilization under title XVIII of the Social Secu-
23 rity Act (42 U.S.C. 1395 et seq.); and

24 (3) other outcomes, as determined appropriate
25 by the Secretary.

1 **SEC. 4. EXPANDING THE USE OF TELEHEALTH FOR MEN-**
2 **TAL HEALTH SERVICES.**

3 (a) **IN GENERAL.**—Section 1834(m) of the Social Se-
4 curity Act (42 U.S.C. 1395m(m)), as amended by section
5 3, is amended—

6 (1) in paragraph (4)(C)(i), by striking “and
7 (8)” and inserting “(8), and (9)”; and

8 (2) by adding at the end the following:

9 “(9) **TREATMENT OF MENTAL HEALTH SERV-**
10 **ICES FURNISHED THROUGH TELEHEALTH.**—The ge-
11 ographic requirements described in paragraph
12 (4)(C)(i) (other than applicable State law require-
13 ments, including State licensure requirements) shall
14 not apply with respect to telehealth services that are
15 mental health services (as determined by the Sec-
16 retary) furnished on or after January 1, 2021, to an
17 eligible telehealth individual at an originating site
18 described in paragraph (4)(C)(ii) (other than an
19 originating site described in subclause (IX) of such
20 paragraph).”.

21 (b) **INCLUSION OF THE HOME AS AN ORIGINATING**
22 **SITE.**—Section 1834(m)(4)(C)(ii)(X) of such Act (42
23 U.S.C. 1395m(m)(4)(C)(ii)(X)) is amended by striking
24 “paragraph (7)” and inserting “paragraphs (7) and (9)”.

25 (c) **ADDITIONAL SERVICES.**—As part of the imple-
26 mentation of the amendments made by this section, the

1 Secretary of Health and Human Services shall consider
2 whether additional services should be added to the services
3 specified in paragraph (4)(F)(i) of section 1834(m) of
4 such Act (42 U.S.C. 1395m) for authorized payment
5 under paragraph (1) of such section.

6 **SEC. 5. USE OF TELEHEALTH IN EMERGENCY MEDICAL**
7 **CARE.**

8 (a) IN GENERAL.—Section 1834(m) of the Social Se-
9 curity Act (42 U.S.C. 1395m(m)), as amended by sections
10 3 and 4, is amended—

11 (1) in paragraph (4)(C)(i), by striking “and
12 (9)” and inserting “(9), and (10)”; and

13 (2) by adding at the end the following:

14 “(10) TREATMENT OF EMERGENCY MEDICAL
15 CARE FURNISHED THROUGH TELEHEALTH.—The
16 geographic requirements described in paragraph
17 (4)(C)(i) (other than applicable State law require-
18 ments, including State licensure requirements) shall
19 not apply with respect to telehealth services that are
20 services for emergency medical care (as determined
21 by the Secretary) furnished on or after January 1,
22 2021, to an eligible telehealth individual at an origi-
23 nating site described in subclause (II), (V), or (VII)
24 of paragraph (4)(C)(ii).”.

1 (b) ADDITIONAL SERVICES.—As part of the imple-
2 mentation of the amendments made by this section, the
3 Secretary of Health and Human Services shall consider
4 whether additional services should be added to the services
5 specified in paragraph (4)(F)(i) of section 1834(m) of
6 such Act (42 U.S.C. 1395m) for authorized payment
7 under paragraph (1) of such section.

8 **SEC. 6. IMPROVEMENTS TO THE PROCESS FOR ADDING**
9 **TELEHEALTH SERVICES.**

10 The Secretary shall undertake a review of the process
11 established pursuant to section 1834(m)(4)(F)(ii) of the
12 Social Security Act (42 U.S.C. 1395m(m)(4)(F)(ii)), and
13 based on the results of such review—

14 (1) implement revisions to the process so that
15 the criteria to add services prioritizes, as appro-
16 priate, improved access to care through telehealth
17 services; and

18 (2) provide clarification on what requests to
19 add telehealth services under such process should in-
20 clude.

21 **SEC. 7. RURAL HEALTH CLINICS AND FEDERALLY QUALI-**
22 **FIED HEALTH CENTERS.**

23 (a) EXPANSION OF ORIGINATING SITES.—Section
24 1834(m)(4)(C) of the Social Security Act (42 U.S.C.

1 1395m(m)(4)(C)), as amended by sections 3, 4, and 5,
2 is amended—

3 (1) in clause (i), by striking “and (10)” and in-
4 sserting “and (10), and subject to clause (iii),”; and

5 (2) by adding at the end the following new
6 clause:

7 “(iii) RURAL HEALTH CLINICS AND
8 FEDERALLY QUALIFIED HEALTH CEN-
9 TERS.—The term ‘originating site’ shall
10 also include any Federally qualified health
11 center and any rural health clinic (as such
12 terms are defined in section 1861(aa)) at
13 which the eligible telehealth individual is
14 located at the time the service is furnished
15 via a telecommunications system, whether
16 or not the individual is located in an area
17 described in clause (i), insofar as such
18 sites are not otherwise included in the defi-
19 nition of originating site under such
20 clause, subject to applicable State law re-
21 quirements, including State licensure re-
22 quirements.”.

23 (b) EXPANSION OF DISTANT SITES.—Section
24 1834(m) of the Social Security Act (42 U.S.C. 1395m(m))
25 is amended—

1 (1) in the first sentence of paragraph (1)—

2 (A) by striking “or a practitioner (de-
3 scribed in section 1842(b)(18)(C))” and insert-
4 ing “, a practitioner (described in section
5 1842(b)(18)(C)), a Federally qualified health
6 center, or a rural health clinic”; and

7 (B) by striking “or practitioner” and in-
8 serting “, practitioner, Federally qualified
9 health center, or rural health clinic”; and

10 (2) in paragraph (2)(A)—

11 (A) by inserting “or to a Federally quali-
12 fied health center or rural health clinic that
13 serves as a distant site” after “a distant site”;
14 and

15 (B) by striking “such physician or practi-
16 tioner” and inserting “such physician, practi-
17 tioner, Federally qualified health center, or
18 rural health clinic”; and

19 (3) in paragraph (4)—

20 (A) in subparagraph (A), by inserting
21 “and includes a Federally qualified health cen-
22 ter or rural health clinic that furnishes a tele-
23 health service to an eligible individual” before
24 the period at the end; and

1 (B) in subparagraph (F), by adding at the
2 end the following new clause:

3 “(iii) INCLUSION OF RURAL HEALTH
4 CLINIC SERVICES AND FEDERALLY QUALI-
5 FIED HEALTH CENTER SERVICES FUR-
6 NISHED USING TELEHEALTH.—For pur-
7 poses of this subparagraph, the term ‘tele-
8 health services’ includes a rural health
9 clinic service or Federally qualified health
10 center service that is furnished using tele-
11 health to the extent that payment codes
12 corresponding to services identified by the
13 Secretary under clause (i) or (ii) are listed
14 on the corresponding claim for such rural
15 health clinic service or Federally qualified
16 health center service.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to services furnished on or after
19 January 1, 2021.

20 **SEC. 8. NATIVE AMERICAN HEALTH FACILITIES.**

21 (a) IN GENERAL.—Section 1834(m)(4)(C) of the So-
22 cial Security Act (42 U.S.C. 1395m(m)(4)(C)), as amend-
23 ed by sections 3, 4, 5, and 7, is amended—

24 (1) in clause (i), by striking “clause (iii)” and
25 inserting “clauses (iii) and (iv)”; and

1 (2) by adding at the end the following new
2 clause:

3 “(iv) NATIVE AMERICAN HEALTH FA-
4 CILITIES.—The originating site require-
5 ments described in clauses (i) and (ii) shall
6 not apply with respect to a facility of the
7 Indian Health Service, whether operated
8 by such Service, or by an Indian tribe (as
9 that term is defined in section 4 of the In-
10 dian Health Care Improvement Act (25
11 U.S.C. 1603)) or a tribal organization (as
12 that term is defined in section 4 of the In-
13 dian Self-Determination and Education
14 Assistance Act (25 U.S.C. 5304)), or a fa-
15 cility of the Native Hawaiian health care
16 systems authorized under the Native Ha-
17 waiian Health Care Improvement Act (42
18 U.S.C. 11701 et seq.).”.

19 (b) NO ORIGINATING SITE FACILITY FEE FOR NEW
20 SITES.—Section 1834(m)(2)(B)(i) of the Social Security
21 Act (42 U.S.C. 1395m(m)(2)(B)(i)) is amended, in the
22 matter preceding subclause (I), by inserting “(other than
23 an originating site that is only described in clause (iv) of
24 paragraph (4)(C), and does not meet the requirement for

1 an originating site under clause (i) of such paragraph)”
2 after “the originating site”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to services furnished on or after
5 January 1, 2021.

6 **SEC. 9. WAIVER OF TELEHEALTH RESTRICTIONS DURING**
7 **NATIONAL EMERGENCIES.**

8 Section 1135(b) of the Social Security Act (42 U.S.C.
9 1320b–5(b)) is amended—

10 (1) in paragraph (6), by striking “and” after
11 the semicolon;

12 (2) in paragraph (7), by striking the period at
13 the end and inserting “; and”; and

14 (3) by adding at the end the following:

15 “(8) requirements for payment for telehealth
16 services under section 1834(m).”.

17 **SEC. 10. USE OF TELEHEALTH IN RECERTIFICATION FOR**
18 **HOSPICE CARE.**

19 (a) IN GENERAL.—Section 1814(a)(7)(D)(i) of the
20 Social Security Act (42 U.S.C. 1395f(a)(7)(D)(i)) is
21 amended by inserting “(including through use of tele-
22 health, notwithstanding the requirements in section
23 1834(m)(4)(C))” after “face-to-face encounter”.

24 (b) GAO REPORT.—Not later than 3 years after the
25 date of enactment of this Act, the Comptroller General

1 of the United States shall submit a report to Congress
2 evaluating the impact of the amendment made by sub-
3 section (a) on—

4 (1) the number and percentage of beneficiaries
5 recertified for the Medicare hospice benefit at 180
6 days and for subsequent benefit periods;

7 (2) the appropriateness for hospice care of the
8 patients recertified through the use of telehealth;
9 and

10 (3) any other factors determined appropriate by
11 the Comptroller General.

12 **SEC. 11. CLARIFICATION FOR FRAUD AND ABUSE LAWS RE-**
13 **GARDING TECHNOLOGIES PROVIDED TO**
14 **BENEFICIARIES.**

15 Section 1128A(i)(6) of the Social Security Act (42
16 U.S.C. 1320a–7a(i)(6)) is amended—

17 (1) in subparagraph (I), by striking “; or” and
18 inserting a semicolon;

19 (2) in subparagraph (J), by striking the period
20 at the end and inserting “; or”; and

21 (3) by adding at the end the following new sub-
22 paragraph:

23 “(K) the provision of technologies (as de-
24 fined by the Secretary) on or after the date of
25 the enactment of this subparagraph, by a pro-

1 vider of services or supplier (as such terms are
2 defined for purposes of title XVIII) directly to
3 an individual who is entitled to benefits under
4 part A of title XVIII, enrolled under part B of
5 such title, or both, for the purpose of furnishing
6 telehealth services, remote patient monitoring
7 services, or other services furnished through the
8 use of technology (as defined by the Secretary),
9 if—

10 “(i) the technologies are not offered
11 as part of any advertisement or sollicita-
12 tion; and

13 “(ii) the provision of the technologies
14 meets any other requirements set forth in
15 regulations promulgated by the Sec-
16 retary.”.

17 **SEC. 12. STUDY AND REPORT ON INCREASING ACCESS TO**
18 **TELEHEALTH SERVICES IN THE HOME.**

19 (a) **MEDPAC STUDY.**—The Medicare Payment Advi-
20 sory Commission (in this section referred to as the “Com-
21 mission”) shall conduct a study on increasing access under
22 the Medicare program under title XVIII of the Social Se-
23 curity Act (42 U.S.C. 1395 et seq.) to telehealth services
24 in the home. Such study shall include an analysis of the
25 following:

1 (1) How different payers allow the home to be
2 an originating site for telehealth services.

3 (2) Particular types of telehealth services or
4 subgroups of beneficiaries with respect to which al-
5 lowing the home to be an originating site under the
6 Medicare program would be suitable.

7 (b) REPORT.—Not later than 24 months after the
8 date of the enactment of this Act, the Commission shall
9 submit to Congress a report containing the results of the
10 study conducted under subsection (a), together with rec-
11 ommendations for such legislation and administrative ac-
12 tion as the Commission determines appropriate.

13 **SEC. 13. ANALYSIS OF TELEHEALTH WAIVERS IN ALTER-**
14 **NATIVE PAYMENT MODELS.**

15 The second sentence of section 1115A(g) of the So-
16 cial Security Act (42 U.S.C. 1315a(g)) is amended by in-
17 serting “an analysis of waivers under section (d)(1) re-
18 lated to telehealth and the impact on quality and spending
19 under the applicable titles of such waivers,” after “sub-
20 section (c),”.

1 **SEC. 14. MODEL TO ALLOW ADDITIONAL HEALTH PROFES-**
2 **SIONALS TO FURNISH TELEHEALTH SERV-**
3 **ICES.**

4 Section 1115A(b)(2)(B) of the Social Security Act
5 (42 U.S.C. 1315a(b)(2)(B)) is amended by adding at the
6 end the following new clause:

7 “(xxviii) Allowing health professionals,
8 such as those described in section
9 1819(b)(5)(G) or section 1861(ll)(4)(B),
10 who are not otherwise eligible under sec-
11 tion 1834(m) to furnish telehealth services
12 to furnish such services.”.

13 **SEC. 15. TESTING OF MODELS TO EXAMINE THE USE OF**
14 **TELEHEALTH UNDER THE MEDICARE PRO-**
15 **GRAM.**

16 Section 1115A(b)(2) of the Social Security Act (42
17 U.S.C. 1315a(b)(2)) is amended by adding at the end the
18 following new subparagraph:

19 “(D) TESTING MODELS TO EXAMINE USE
20 OF TELEHEALTH UNDER MEDICARE.—The Sec-
21 retary shall consider testing under this sub-
22 section models to examine the use of telehealth
23 under title XVIII.”.

○