H. R. 116

To amend title XI of the Social Security Act to authorize the Secretary of Health and Human Services to waive or modify application of Medicare requirements with respect to telehealth services during any emergency period, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. THOMPSON of California introduced the following bill; which was referred to the Committee on __________________

A BILL

To amend title XI of the Social Security Act to authorize the Secretary of Health and Human Services to waive or modify application of Medicare requirements with respect to telehealth services during any emergency period, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Protecting Access to Post-COVID–19 Telehealth Act of 2020”.

SEC. 2. AUTHORIZATION FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES TO WAIVE OR MODIFY APPLICATION OF MEDICARE REQUIREMENTS WITH RESPECT TO TELEHEALTH SERVICES.

(a) Secretarial Authority to Temporarily Waive or Modify Medicare Requirements With Respect to Telehealth Services Furnished During Any Emergency Period.—Section 1135 of the Social Security Act (42 U.S.C. 1320b–5) is amended by adding at the end the following new subsection:

“(h) Waiver or Modification of Certain Requirements With Respect to Telehealth Services.—

“(1) In general.—Notwithstanding any other provision of this section, during the period described paragraph (2), the Secretary may waive or modify any requirement with respect to a telehealth service payable under section 1834(m)(1) for such period.

“(2) Period described.—For purposes of paragraph (1), the period described in this paragraph is the period—

“(A) beginning on the first day of—

“(i) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford
Disaster Relief and Emergency Assistance Act; or

“(ii) a public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act; and

“(B) ending on the day that is 90 days after the last day of an emergency, disaster, or public health emergency described in subparagraph (A).”.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the last day of the period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)), the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall submit to Congress a report, with respect to telehealth services (as defined in subparagraph (F) of such section 1834(m)(4) (42 U.S.C. 1395m(m)(4)) to which a waiver or modification is applied pursuant to section 1135 of such Act (42 U.S.C. 1320b–5), on—

(A) the number of eligible telehealth individuals (as defined in subparagraph (A) of section 1834(m)(4) of such Act (42
U.S.C.1395m(m)(4)) during the period described in paragraph (2) and how frequently such individuals received telehealth services during such period (including the number of eligible telehealth individuals identified by racial and ethnic populations);

(B) the number of physicians or practitioners that furnished a telehealth service during the period described in paragraph (2) and how frequently physicians or practitioners furnished such a service during such period;

(C) the amount payable under title XVIII of such Act for telehealth services furnished during the period described in paragraph (2);

(D) an assessment of benefits to eligible telehealth individuals who received telehealth services during the period described in paragraph (2); and

(E) the most common barriers to eligible telehealth individuals receiving and physicians or practitioners furnishing telehealth services during the period described in paragraph (2).

(2) PERIOD DESCRIBED.—For purposes of paragraph (1), the period described in this paragraph is the period—
(A) beginning on the first day of the emergency period described in section 1135(g)(1)(B) of such Act (42 U.S.C. 1320b–5(g)(1)(B); and

(B) ending on the day that is 90 days after the last day such emergency period.

SEC. 3. RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.

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

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

(A) by striking “or a practitioner (described in section 1842(b)(18)(C))” and inserting “, a practitioner (described in section 1842(b)(18)(C)), a Federally qualified health center, or a rural health clinic”; and

(B) by striking “or practitioner” and inserting “, practitioner, Federally qualified health center, or rural health clinic”;

(2) in paragraph (2)(A)—

(A) by inserting “or to a Federally qualified health center or rural health clinic that serves as a distant site” after “a distant site”; and
(B) by striking “such physician or practitioner” and inserting “such physician, practitioner, Federally qualified health center, or rural health clinic”; and

(3) in paragraph (4)—

(A) in subparagraph (A), by inserting “and includes a Federally qualified health center or rural health clinic that furnishes a telehealth service to an eligible individual” before the period at the end; and

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

“(iii) INCLUSION OF RURAL HEALTH CLINIC SERVICES AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES FURNISHED USING TELEHEALTH.—For purposes of this subparagraph, the term ‘telehealth services’ includes a rural health clinic service or Federally qualified health center service that is furnished using telehealth to the extent that payment codes corresponding to services identified by the Secretary under clause (i) or (ii) are listed on the corresponding claim for such rural
health clinic service or Federally qualified health center service.”.

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

SEC. 4. ELIMINATION OF RESTRICTIONS RELATING TO TELEHEALTH SERVICES.

(a) ELIMINATION OF GEOGRAPHIC RESTRICTIONS OF ORIGINATING SITES.—Section 1834(m)(4)(C)(i) of the Social Security Act (42 U.S.C. 1395m(m)(4)(C)(i)) is amended—

(1) by striking “the service is furnished via a telecommunications system and only if such site is located—” and inserting “the service—”;

(2) by redesignating subclauses (I) through (III) as items (aa) through (cc), respectively, and moving the margins two ems to the right; and

(3) by inserting before item (aa), as redesignated by paragraph (2), the following new subclauses:

“(I) is furnished via a telecommunications system; and

“(II) for the period beginning on the date of the enactment of this sub-
clause and ending on December 31, 2020, only if such site is located—”.

(b) ELIMINATION OF RESTRICTIONS IN WHICH TELEHEALTH SERVICES MAY BE FURNISHED IN THE HOME.—Section 1834(m)(4)(C)(ii)(X) of the Social Security Act (42 U.S.C. 1395m(m)(4)(C)(i)(X) is amended to read as follows:.

“(X)(aa) For the period beginning on the date of the enactment of this subclause and ending on December 31, 2020, the home of an individual but only for purposes of section 1881(b)(3)(B) or telehealth services described in paragraph (7).

“(bb) For the period beginning on or after January 1, 2021, the home of an individual.”.