To amend title XVIII of the Social Security Act to make permanent certain telehealth flexibilities under the Medicare program related to the COVID–19 public health emergency.

A BILL

To amend title XVIII of the Social Security Act to make permanent certain telehealth flexibilities under the Medicare program related to the COVID–19 public health emergency.

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 Moderniza-
5 tion Act”.
SEC. 2. EXTENDING MEDICARE TELEHEALTH FLEXIBILITIES.

(a) EXPANDING ACCESS TO TELEHEALTH SERVICES.—

(1) IN GENERAL.—Section 1834(m)(4)(C) of the Social Security Act (42 U.S.C. 1395m(m)(4)(C)) is amended by adding at the end the following new clause:

“(iii) EXPANDING ACCESS TO TELEHEALTH SERVICES.—With respect to telehealth services furnished beginning on the first day after the end of the emergency period described in section 1135(g)(1)(B) of this clause, the term ‘originating site’ means any site at which the eligible telehealth individual is located at the time the service is furnished via a telecommunications system, including the home of an individual.”.

(2) CONFORMING AMENDMENTS.—Such section is amended—

(A) in paragraph (2)(B)—

(i) in clause (i), in the matter preceding subclause (I), by striking “clause (ii)” and inserting “clauses (ii) and (iii)”;

and
(ii) by adding at the end the following new clause:

“(iii) NO FACILITY FEE FOR NEW SITES.—With respect to telehealth services furnished on or after the date of enactment of this clause, a facility fee shall only be paid under this subparagraph to an originating site that is described in paragraph (4)(C)(ii) (other than subclause (X) of such paragraph).”.

(B) in paragraph (4)(C)—

(i) in clause (i), in the matter preceding subclause (I), by inserting “and clause (iii)” after “and (7)”; and

(ii) in clause (ii)(X), by inserting “prior to the first day after the end of the emergency period described in section 1135(g)(1)(B)” before the period;

(C) in paragraph (5), by inserting “and prior to the first day after the end of the emergency period described in section 1135(g)(1)(B)” after “January 1, 2019,”;

(D) in paragraph (6)(A), by inserting “and prior to the first day after the end of the emer-
gency period described in section 1135(g)(1)(B),” after “January 1, 2019,”; and

(E) in paragraph (7), by inserting “and prior to the first day after the end of the emergency period described in section 1135(g)(1)(B),” after “July 1, 2019,”.

(b) Expanding Practitioners Eligible to Furnish Telehealth Services.—Section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)) is amended—

(1) in paragraph (1), by striking “(described in section 1842(b)(18)(C))” and inserting “(defined in paragraph (4)(E))”; and

(2) in paragraph (4)(E)—

(A) by striking “PRACTITIONER.—The term” and inserting “PRACTITIONER.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term”; and

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

“(B) EXPANSION.—The Secretary, after consulting with stakeholders regarding services that are clinically appropriate, may expand the types of practitioners who may furnish telehealth services to include any health care pro-
fessional that is eligible to bill the program under this title for their professional services.’’.

(c) Retention of Additional Services and Sub-regulatory Process for Modifications Following Emergency Period.—Section 1834(m)(4)(F) of the Social Security Act (42 U.S.C. 1395m(m)(4)(F)) is amended—

(1) in clause (i), by inserting ‘‘and clause (iii)’’ after ‘‘paragraph (8)’’;

(2) in clause (ii), by striking ‘‘The Secretary’’ and inserting ‘‘Subject to clause (iii), the Secretary’’; and

(3) by adding at the end the following new clause:

‘‘(iii) Retention of additional services and subregulatory process for modifications following emergency period.—With respect to telehealth services furnished after the last day of the emergency period described in section 1135(g)(1)(B), the Secretary may—

‘‘(I) retain as appropriate the expanded list of telehealth services specified in clause (i) pursuant to the waiver authority under section
1135(b)(8) during such emergency period; and

“(II) retain the subregulatory process used to modify the services included on the list of such telehealth services pursuant to clause (ii) during such emergency period.”.

(d) **Enhancing Telehealth Services for Federally Qualified Health Centers and Rural Health Clinics.**—Section 1834(m)(8) of the Social Security Act (42 U.S.C. 1395m(m)(8)) is amended—

(1) in the paragraph heading by inserting “AND AFTER” after “DURING ”;

(2) in subparagraph (A), in the matter preceding clause (i), by inserting “and after” after “During”; and

(3) in the first sentence of subparagraph (B)(i), by inserting “and after” after “during”.

(e) **Use of Telehealth, as Clinically Appropriate, to Conduct Face-to-face Encounter for Hospice Care.**—Section 1814(a)(7)(D)(i)(II) of the Social Security Act (42 U.S.C. 1395f(a)(7)(D)(i)(II)) is amended by inserting “and after such emergency period as clinically appropriate” after “1135(g)(1)(B)”.
(f) Use of Telehealth, as Clinically Appropriate, to Conduct Face-to-face Clinical Assessments for Home Dialysis.—Clause (iii) of section 1881(b)(3)(B) of the Social Security Act (42 U.S.C. 1395rr(b)(3)(B)) is amended—

(1) by moving such clause 4 ems to the left;

and

(2) by inserting “and after such emergency period as clinically appropriate” before the period.

(g) Implementation.—Notwithstanding any provision of law, the Secretary may implement the provisions of, and amendments made by, this section by interim final rule, program instruction, or otherwise.