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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To amend title XVIII of the Social Security Act to protect access to telehealth services under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

Mr. O'HALLERAN introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to protect access to telehealth services under the Medicare program.

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 “Protecting Rural Tele-
5 health Access Act”.

6 **SEC. 2. ELIMINATION OF RESTRICTIONS RELATING TO**
7 **TELEHEALTH SERVICES.**

8 (a) **ELIMINATION OF GEOGRAPHIC REQUIREMENTS**
9 **FOR ORIGINATING SITES.**—Section 1834(m)(4)(C) of the

1 Social Security Act (42 U.S.C. 1395m(m)(4)(C)) is
2 amended—

3 (1) in clause (i), in the matter preceding sub-
4 clause (I), by inserting “and clause (iii)” after “and
5 (7)”; and

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

8 “(iii) ELIMINATION OF GEOGRAPHIC
9 REQUIREMENTS FOR ORIGINATING
10 SITES.—The geographic requirements de-
11 scribed in clause (i) shall not apply with
12 respect to telehealth services furnished on
13 or after January 1, 2021.”.

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

19 “(X)(aa) For the period begin-
20 ning on the date of the enactment of
21 this subclause and ending on Decem-
22 ber 31, 2020, the home of an indi-
23 vidual but only for purposes of section
24 1881(b)(3)(B) or telehealth services
25 described in paragraph (7).

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

4 **SEC. 3. TELEHEALTH FLEXIBILITIES FOR CRITICAL ACCESS**

5 **HOSPITALS.**

6 Section 1834(m) of the Social Security Act (42
7 U.S.C. 1395m(m)) is amended—

8 (1) in the first sentence of paragraph (1), by
9 striking “paragraph (8)” and inserting “paragraphs
10 (8) and (9)”;

11 (2) in paragraph (2)(A), by striking “paragraph
12 (8)” and inserting “paragraphs (8) and (9)”;

13 (3) in paragraph (4)—

14 (A) in subparagraph (A), by striking
15 “paragraph (8)” and inserting “paragraphs (8)
16 and (9)”;

17 (B) in subparagraph (F)(i), by striking
18 “paragraph (8)” and inserting “paragraphs (8)
19 and (9)”;

20 (4) by adding at the end the following new
21 paragraph:

22 “(9) TELEHEALTH FLEXIBILITIES FOR CRIT-
23 ICAL ACCESS HOSPITALS.—

24 “(A) IN GENERAL.—On or after the date
25 of the enactment of this paragraph—

1 “(i) the Secretary shall pay for tele-
2 health services that are furnished via a
3 telecommunications system by a critical ac-
4 cess hospital, including any practitioner
5 authorized to provide such services within
6 the facility, that is a qualified provider (as
7 defined in subparagraph (B)) to an eligible
8 telehealth individual enrolled under this
9 part notwithstanding that the critical ac-
10 cess hospital providing the telehealth serv-
11 ice is not at the same location as the bene-
12 ficiary, if such services complement a plan
13 of care that includes in-person care at
14 some point, as may be appropriate;

15 “(ii) the amount of payment to a crit-
16 ical access hospital that serves as a distant
17 site for such a telehealth service shall be
18 determined under subparagraph (C); and

19 “(iii) for purposes of this subsection—

20 “(I) the term ‘distant site’ in-
21 cludes a critical access hospital that
22 furnishes a telehealth service to an eli-
23 gible telehealth individual; and

24 “(II) the term ‘telehealth serv-
25 ices’ includes behavioral health serv-

1 ices and any other outpatient critical
2 access hospital service that is fur-
3 nished using telehealth to the extent
4 that payment codes corresponding to
5 services identified by the Secretary
6 under clause (i) or (ii) of paragraph
7 (4)(F) are listed on the corresponding
8 claim for such critical access hospital
9 service.

10 “(B) DEFINITION OF QUALIFIED PRO-
11 VIDER.—For purposes of this subsection, the
12 term ‘qualified provider’ means, with respect to
13 a telehealth service described in subparagraph
14 (A)(i) that is furnished to an eligible telehealth
15 individual, a critical access hospital that has an
16 established patient relationship with such indi-
17 vidual as defined by the State in which the indi-
18 vidual is located.

19 “(C) PAYMENT.—The amount of payment
20 to a critical access hospital that serves as a dis-
21 tant site that furnishes a telehealth service to
22 an eligible telehealth individual under this para-
23 graph shall be equal to 101 percent of the rea-
24 sonable costs of the hospital in providing such
25 services, unless the hospital makes an election

1 under paragraph (2) of section 1834(g) to be
2 paid for such services based on the methodology
3 described in such paragraph. Telehealth services
4 furnished by a critical access hospital shall be
5 counted for purposes of determining the pro-
6 vider productivity rate of the critical access hos-
7 pital for purposes of payment under such sec-
8 tion.

9 “(D) IMPLEMENTATION.—Notwithstanding
10 any other provision of law, the Secretary may
11 implement this paragraph through program in-
12 struction, interim final rule, or otherwise.”.

13 **SEC. 4. EXTENDING MEDICARE TELEHEALTH FLEXIBILI-**
14 **TIES FOR FEDERALLY QUALIFIED HEALTH**
15 **CENTERS AND RURAL HEALTH CLINICS.**

16 Section 1834(m)(8) of the Social Security Act (42
17 U.S.C. 1395m(m)(8)) is amended—

18 (1) in the paragraph heading by striking “DUR-
19 ING EMERGENCY PERIOD”;

20 (2) in subparagraph (A), in the matter pre-
21 ceding clause (i), by inserting “and after such emer-
22 gency period” after “1135(g)(1)(B)”;

23 (3) by striking subparagraph (B) and inserting
24 the following:

25 “(B) PAYMENT.—

1 “(i) IN GENERAL.—A telehealth serv-
2 ice furnished by a Federally qualified
3 health center or a rural health clinic to an
4 eligible telehealth individual pursuant to
5 this paragraph or after the date of the en-
6 actment of this subparagraph shall be re-
7 imbursed under this title at a separate
8 telehealth payment rate as determined
9 under the methodology established by the
10 Secretary pursuant to clause (ii).

11 “(ii) PAYMENT METHODOLOGY.—The
12 Secretary shall establish a methodology for
13 determining the appropriate payment rate
14 for telehealth services described in clause
15 (i). Such methodology shall consider—

16 “(I) the geography of Federally
17 qualified health centers and rural
18 health clinics;

19 “(II) costs associated with the
20 delivery of such telehealth services as
21 allowable costs for the center or clinic;
22 and

23 “(III) the full cost of providing
24 the services via telehealth.

25 “(iii) IMPLEMENTATION.—

1 “(I) CODING SYSTEM.—The Sec-
2 retary shall establish an effective cod-
3 ing system for telehealth services de-
4 scribed in clause (i) that is reflective
5 of the services provided at a center or
6 clinic.

7 “(II) IMPLEMENTATION.—Not-
8 withstanding any other provision of
9 law, the Secretary may implement this
10 subparagraph through program in-
11 struction, interim final rule, or other-
12 wise.”; and

13 (4) by adding at the end the following new sub-
14 paragraph:

15 “(C) REQUIREMENT DURING ADDITIONAL
16 PERIOD.—

17 “(i) IN GENERAL.—Beginning on the
18 first day after the end of the emergency
19 period described in section 1135(g)(1)(B),
20 payment may only be made under this
21 paragraph for a telehealth service de-
22 scribed in subparagraph (A)(i) that is fur-
23 nished to an eligible telehealth individual if
24 such service is furnished by a qualified
25 provider (as defined in clause (ii)).

1 “(ii) DEFINITION OF QUALIFIED PRO-
2 VIDER.—For purposes of this subpara-
3 graph, the term ‘qualified provider’ means,
4 with respect to a telehealth service de-
5 scribed in subparagraph (A)(i) that is fur-
6 nished to an eligible telehealth individual, a
7 Federally qualified health center or rural
8 health clinic that has an established pa-
9 tient relationship with such individual as
10 defined by the State in which the indi-
11 vidual is located.”.

12 **SEC. 5. ALLOWANCE OF CERTAIN TELEHEALTH SERVICES**
13 **FURNISHED USING AUDIO-ONLY TECH-**
14 **NOLOGY.**

15 Section 1834(m)(4) of the Social Security Act (42
16 U.S.C. 1395m(m)(4)) of the Social Security Act (42
17 U.S.C. 1395m(m)(4)) is amended by adding at the end
18 the following new subparagraph:

19 “(G) TELECOMMUNICATIONS SYSTEM.—
20 “(i) IN GENERAL.—Notwithstanding
21 paragraph (1) and section 410.78(a)(3) of
22 title 42, Code of Federal Regulations (or
23 any successor regulation), subject to clause
24 (v), the term ‘telecommunications system’
25 includes, in the case of the furnishing of a

1 specified telehealth service (as defined in
2 clause (ii)) a communications system that
3 uses audio-only technology.

4 “(ii) SPECIFIED TELEHEALTH SERV-
5 ICE.—In this subparagraph, the term
6 ‘specified telehealth service’ means a tele-
7 health service described in clause (iii) that
8 is furnished by a qualified provider (as de-
9 fined in clause (iv)).

10 “(iii) TELEHEALTH SERVICE DE-
11 SCRIBED.—A telehealth service described
12 in this clause is a telehealth service con-
13 sisting of—

14 “(I) evaluation and management
15 services;

16 “(II) behavioral health counseling
17 and educational services; and

18 “(III) other services determined
19 appropriate by the Secretary.

20 “(iv) QUALIFIED PROVIDER DE-
21 FINED.—

22 “(I) IN GENERAL.—For purposes
23 of clause (ii), the term ‘qualified pro-
24 vider’ means, with respect to a speci-
25 fied telehealth service that is fur-

1 nished to an eligible telehealth indi-
2 vidual—

3 “(aa) a physician or practi-
4 tioner who has an established pa-
5 tient relationship with such indi-
6 vidual as defined by the State in
7 which the individual is located; or

8 “(bb) a critical access hos-
9 pital (as defined in section
10 1861(mm)(1)), a rural health
11 clinic (as defined in section
12 1861(aa)(2)), a Federally quali-
13 fied health center (as defined in
14 section 1861(aa)(4)), a hospital
15 (as defined in section 1861(e)), a
16 hospital-based or critical access
17 hospital-based renal dialysis cen-
18 ter (including satellites), a skilled
19 nursing facility (as defined in
20 section 1819(a)), a community
21 mental health center (as defined
22 in section 1861(ff)(3)(B)), or a
23 rural emergency hospital (as de-
24 fined in section 1861(kkk)(2)).

1 “(v) AUTHORITY.—For purposes of
2 this subparagraph, the Secretary may de-
3 termine whether it is clinically appropriate
4 to furnish a specified telehealth service via
5 a communications system that uses audio-
6 only technology and whether an in-person
7 initial visit (in addition to any requirement
8 with respect to the furnishing of an item
9 or service in person pursuant to clause
10 (iv)(I)) is required prior to the furnishing
11 of such service using such technology.

12 “(vi) CLARIFICATION REGARDING
13 PAYMENT.—The amount of payment for a
14 specified telehealth service that is fur-
15 nished using audio-only technology shall be
16 equal to the amount that would have been
17 paid for such service under this subsection
18 had such service been furnished via any
19 other telecommunications system author-
20 ized under this subsection.”.