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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To make permanent certain telehealth flexibilities established in response to COVID-19.

IN THE HOUSE OF REPRESENTATIVES

Mr. WILLIAMS introduced the following bill; which was referred to the Committee on _____

A BILL

To make permanent certain telehealth flexibilities established in response to COVID-19.

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 “Ensuring Telehealth
5 Expansion Act of 2021”.

6 **SEC. 2. MAKING PERMANENT CERTAIN TELEHEALTH**

7 **FLEXIBILITIES ESTABLISHED IN RESPONSE**

8 **TO COVID-19.**

9 (a) **EXEMPTION FOR TELEHEALTH SERVICES.—**

1 (1) IN GENERAL.—Subparagraph (E) of section
2 223(c)(2) of the Internal Revenue Code of 1986 is
3 amended by striking “In the case of plan years be-
4 ginning on or before December 31, 2021, a plan”
5 and inserting “A plan”.

6 (2) CERTAIN COVERAGE DISREGARDED.—
7 Clause (ii) of section 223(c)(1)(B) of the Internal
8 Revenue Code of 1986 is amended by striking “(in
9 the case of plan years beginning on or before De-
10 cember 31, 2021)”.

11 (b) INCREASING MEDICARE TELEHEALTH FLEXI-
12 BILITIES.—Section 1834(m) of the Social Security Act
13 (42 U.S.C. 1395m(m)) is amended by adding at the end
14 the following new paragraph:

15 “(9) WAIVER AUTHORITY.—The Secretary may
16 waive any requirement of this subsection if deter-
17 mined appropriate by the Secretary.”.

18 (c) ENHANCING MEDICARE TELEHEALTH SERVICES
19 FOR FEDERALLY QUALIFIED HEALTH CENTERS AND
20 RURAL HEALTH CLINICS; ELIMINATING SPECIAL PAY-
21 MENT RULE FOR SUCH SERVICES.—

22 (1) IN GENERAL.—Paragraph (8) of section
23 1834(m) of the Social Security Act (42 U.S.C.
24 1395m(m)) is amended to read as follows:

1 “(8) ENHANCING TELEHEALTH SERVICES FOR
2 FEDERALLY QUALIFIED HEALTH CENTERS AND
3 RURAL HEALTH CLINICS.—

4 “(A) IN GENERAL.—With respect to serv-
5 ices furnished on or after the first day of the
6 emergency period described in section
7 1135(g)(1)(B), the Secretary shall pay for tele-
8 health services that are furnished via a tele-
9 communications system by a Federally qualified
10 health center or a rural health clinic to an eligi-
11 ble telehealth individual enrolled under this part
12 notwithstanding that the Federally qualified
13 health center or rural clinic providing the tele-
14 health service is not at the same location as the
15 beneficiary.

16 “(B) PAYMENT.—

17 “(i) IN GENERAL.—A telehealth serv-
18 ice furnished by a rural health clinic or a
19 Federally qualified health center serving as
20 a distant site to an individual shall be
21 deemed to be so furnished to such indi-
22 vidual as an outpatient of such clinic or
23 center (as applicable) for purposes of sec-
24 tion 1861(aa) and payable as a rural
25 health clinic service or Federally qualified

1 health center service (as applicable) under
2 section 1833(a)(3) or under the prospec-
3 tive payment system established under sec-
4 tion 1834(o) (as applicable).

5 “(ii) TREATMENT OF COSTS FOR
6 FQHC PPS CALCULATIONS AND RHC AIR
7 CALCULATIONS.—Costs associated with the
8 delivery of telehealth services by a Feder-
9 ally qualified health center or rural health
10 clinic serving as a distant site pursuant to
11 this paragraph shall be considered allow-
12 able costs for purposes of the prospective
13 payment system established under section
14 1834(o) and any payment methodologies
15 developed under section 1833(a)(3), as ap-
16 plicable.

17 “(C) DEFINITIONS.—for purposes of this
18 subsection—

19 “(i) the term ‘distant site’ includes a
20 Federally qualified health center or rural
21 health clinic that furnishes a telehealth
22 service to an eligible telehealth individual;
23 and

24 “(ii) the term ‘telehealth services’ in-
25 cludes a rural health clinic service or Fed-

1 erally qualified health center service that is
2 furnished using telehealth to the extent
3 that payment codes corresponding to serv-
4 ices identified by the Secretary under
5 clause (i) or (ii) of paragraph (4)(F) are
6 listed on the corresponding claim for such
7 rural health clinic service or Federally
8 qualified health center service.”.

9 (2) CONFORMING AMENDMENT.—Section
10 1834(m)(2)(A) of the Social Security Act (42 U.S.C.
11 1395m(m)(2)(A)) is amended by striking “Subject
12 to paragraph (8), the” and inserting “The”.

13 (3) EFFECTIVE DATE.—The amendments made
14 by this subsection shall take effect as if included in
15 the enactment of the CARES Act (Public Law 116–
16 136).

17 (d) WAIVER OF REQUIREMENTS FOR FACE-TO-FACE
18 VISITS BETWEEN HOME DIALYSIS PATIENTS AND PHYSI-
19 CIANS.—Section 1881(b)(3)(B)(iii) of the Social Security
20 Act (42 U.S.C. 1395rr(b)(3)(B)(iii)) is amended by strik-
21 ing “during the emergency period described in section
22 1135(g)(1)(B)” and inserting “during any period begin-
23 ning on or after the first day of the emergency period de-
24 scribed in section 1135(g)(1)(B)”.

1 (e) USE OF TELEHEALTH TO CONDUCT FACE-TO-
2 FACE ENCOUNTER PRIOR TO RECERTIFICATION OF ELI-
3 GIBILITY FOR HOSPICE CARE.—Section
4 1814(a)(7)(D)(i)(II) of the Social Security Act (42 U.S.C.
5 1395f(a)(7)(D)(i)(II)) is amended by striking “during the
6 emergency period described in section 1135(g)(1)(B)” and
7 inserting “during any period beginning on or after the
8 first day of the emergency period described in section
9 1135(g)(1)(B)”.

10 (f) ENCOURAGING USE OF TELECOMMUNICATIONS
11 SYSTEMS FOR HOME HEALTH SERVICES.—Section 3707
12 of the CARES Act (Public Law 116–136) is amended by
13 striking “during the emergency period described in section
14 1135(g)(1)(B) of such Act (42 U.S.C. 1320b–
15 5(g)(1)(B))” and inserting “on or after the first day of
16 the emergency period described in section 1135(g)(1)(B)
17 of such Act (42 U.S.C. 1320b–5(g)(1)(B))”.

18 **SEC. 3. NONAPPLICATION OF ORIGINATING SITE REQUIRE-**
19 **MENTS WITH RESPECT TO TELEHEALTH**
20 **SERVICES UNDER MEDICARE PROGRAM.**

21 Section 1834(m)(4)(C) of the Social Security Act (42
22 U.S.C. 1395m(m)(4)(C)) is amended—

23 (1) in clause (i), by inserting before “para-
24 graphs (5), (6), and (7)” the following: “clause (iii)
25 and”; and

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

3 “(iii) NONAPPLICATION OF ORIGI-
4 NATING SITE REQUIREMENTS.—Beginning
5 on the first day of the emergency period
6 described in section 1135(g)(1)(B), the
7 term ‘originating site’ means any site at
8 which the eligible telehealth individual is
9 located at the time the service is furnished
10 via a telecommunications system.”.

11 **SEC. 4. REPORT BY COMPTROLLER GENERAL.**

12 Not later than 5 years after the date of the enact-
13 ment of this Act, the Comptroller General of the United
14 States shall submit to Congress a report on the successes
15 and limitations of implementing the statutory provisions
16 amended by sections 2 and 3, including—

17 (1) details of any savings or costs to the Fed-
18 eral Government that are attributable to the imple-
19 mentation of such provisions; and

20 (2) an analysis of how the implementation of
21 such provisions have impacted rural hospitals.