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

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice and referred to the Committee on

A BILL

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “__________ Act of ________”.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MACRA TELEHEALTH BRIDGE PROGRAM

Sec. 101. MACRA Telehealth Bridge Program.

TITLE II—PERMITTING USE OF TELEHEALTH IN ALTERNATIVE PAYMENT MODELS
Sec. 201. Increased access to telehealth services under alternative payment models.

TITLE III—IMPROVEMENTS IN MEDICARE FEE-FOR-SERVICE COVERAGE OF TELEHEALTH

Sec. 301. Coverage of remote patient monitoring services for certain chronic health conditions.
Sec. 302. Use of telehealth for recertifications.
Sec. 303. Treatment of home dialysis service.
Sec. 304. Rural health clinics and Federally qualified health centers authorized to be distant sites.

TITLE IV—GAO STUDY AND REPORT ON TELEHEALTH UTILIZATION AND EXPENDITURES IN STATES

Sec. 401. GAO study and report on telehealth utilization and expenditures in States.

TITLE I—MACRA TELEHEALTH BRIDGE PROGRAM

SEC. 101. MACRA TELEHEALTH BRIDGE PROGRAM.

(a) Establishment.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish and implement a program aimed at assisting MIPS-eligible professionals (as defined in paragraph (1)(C) of section 1848(q) of the Social Security Act (42 U.S.C. 1395r(q)) in implementing telemedicine and remote patient monitoring as part of their effort to comply with performance measures under the Merit-based Incentive Payment Program under such section.

(b) Program Described.—Under the program, the following shall apply with respect to telehealth services furnished by a MIPS-eligible professional:
1 (1) WAIVER OF LIMITATIONS.—Notwithstanding any other provision of law, the Secretary shall waive any provision under section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)) that applies a limitation on what qualifies as an originating site, any geographic limitation, any limitation on the use of store-and-forward technologies, any limitation on the type of service provided, or any limitation on the type of professional who may furnish such services.

(2) PAYMENT AMOUNT.—The Secretary shall pay to a MIPS-eligible professional that furnishes such services an amount equal to the amount that the professional would have been paid under this title had such service been furnished without the use of a telecommunications system.

(3) APPLICATION PROCESS.—The Secretary shall implement an application process under the program under which MIPS-eligible professionals attest to their intention to use telemedicine and remote patient monitoring to meet the goals of the Merit-based Incentive Payment Program, including the goals of quality, resource utilization, and clinical practice improvement (including care coordination and patient engagement). MIPS-eligible profes-
sionals shall agree as part of the application process
to share information with the Secretary that is
deemed essential to completing the evaluation under
paragraph (5).

(4) SUNSET.—The authority to carry out the
program under this section shall expire on Sep-
tember 30, 2021.

(5) REPORT TO CONGRESS.—Not later than
September 30, 2020, the Chief Actuary of the Cen-
ters for Medicare and Medicaid Services shall submit
to Congress a report containing an evaluation of the
impact of telemedicine and the coverage of remote
monitoring under the program on—

(A) spending under the Medicare program;

and

(B) meeting the goals of the Merit-based
Incentive Payment Program.

TITLE II—PERMITTING USE OF
TELEHEALTH IN ALTERNATIVE PAYMENT MODELS

SEC. 201. INCREASED ACCESS TO TELEHEALTH SERVICES
UNDER ALTERNATIVE PAYMENT MODELS.

(a) IN GENERAL.—Title XVIII of the Social Security
Act (42 U.S.C. 1395 et seq.) is amended by adding at
the end the following new section:
"SEC. 1899C. INCREASED ACCESS TO TELEHEALTH SERVICES UNDER ALTERNATIVE PAYMENT MODELS.

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall permit an applicable project or model to include under such project or model, with respect to individuals entitled to benefits under part A or enrolled under part B participating in such project or model, telehealth services furnished to such individuals and for which payment may otherwise be made under this title without application of any provision under section 1834(m) that applies a limitation on what qualifies as an originating site, any geographic limitation, any limitation on the use of store-and-forward technologies, any limitation on the type of service provided, or any limitation on the type of health care provider who may furnish such services.

“(b) APPLICABLE PROJECT OR MODEL.—The term ‘applicable project or model’ means a project or model that uses an alternative payment model, such as a bundled payment model (including the National Pilot Program on Payment Bundling under section 1866D or the shared savings program under section 1899) that is carried out with respect to the program under this title, under section 1115A or otherwise.”."
(b) **Effective Date.**—The amendment made by subsection (a) shall apply with respect to services furnished on or after the date that is 6 months after the date of enactment of this Act.

**TITLE III—IMPROVEMENTS IN MEDICARE FEE-FOR-SERVICE COVERAGE OF TELEHEALTH**

**SEC. 301. COVERAGE OF REMOTE PATIENT MONITORING SERVICES FOR CERTAIN CHRONIC HEALTH CONDITIONS.**

(a) *In General.*—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (EE), by striking “and” at the end;

(2) in subparagraph (FF), by inserting “and” at the end; and

(3) by inserting after subparagraph (FF) the following new subparagraph:

“(GG) applicable remote patient monitoring services (as defined in paragraph (1)(A) of subsection (iii));”.

(b) **Services Described.**—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:
“(iii) REMOTE PATIENT MONITORING SERVICES FOR CHRONIC HEALTH CONDITIONS.—(1)(A) The term ‘applicable remote patient monitoring services’ means remote patient monitoring services (as defined in subparagraph (B)) furnished to provide for the monitoring, evaluation, and management of a covered chronic condition (as defined in paragraph (2)) of an applicable individual (as defined in subparagraph (D)), insofar as such services are for the management of such chronic condition.

“(B) The term ‘remote patient monitoring services’ means services furnished through remote patient monitoring technology (as defined in subparagraph (C)).

“(C) The term ‘remote patient monitoring technology’ means a coordinated system that uses one or more home-based or mobile monitoring devices that automatically transmit vital sign data or information on activities of daily living and may include responses to assessment questions collected on the devices wirelessly or through a telecommunications connection to a server that complies with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996, as part of an established plan of care for that patient that includes the review and interpretation of that data by a health care professional.
“(D) The term ‘applicable individual’ means an individual—

“(i) with a covered chronic condition (as defined in paragraph (2)); and

“(ii) who has a recent history of costly service use due to one or more covered chronic conditions as evidenced by 2 or more hospitalizations, including emergency room visits, in the preceding 12 months.

“(2) For purposes of paragraph (1), the term ‘covered chronic health condition’ means a chronic condition, as defined by the Secretary. [did you want to point to the definition of chronic condition used for purposes of chronic care improvement programs under section 1807(a)(2)(D)?]

“(3)(A) Payment may be made under this part for applicable remote patient monitoring services provided to an applicable individual during a period of up to 90 days and such additional period as provided for under subparagraph (B).

“(B) The 90-day period described in subparagraph (A), with respect to an applicable individual, may be renewed by the physician who provides chronic care management to such individual if the individual continues to qualify for such management.”.
(c) Payment Under the Physician Fee Schedule.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended—

(1) in subsection (c)—

(A) in paragraph (2)(B)—

(i) in clause (ii)(II), by striking “and (v)” and inserting “(v), and (vii)”; and

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

“(vii) Budgetary Treatment of Certain Services.—The additional expenditures attributable to services described in section 1861(s)(2)(GG) shall not be taken into account in applying clause (ii)(II).”; and

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

“(7) Treatment of Applicable Remote Patient Monitoring Services.—

“(A) In determining relative value units for applicable remote patient monitoring services (as defined in section 1861(iii)(1)(A)), the Secretary, in consultation with appropriate physician groups, practitioner groups, and supplier groups, shall take into consideration—
“(i) physician or practitioner resources, including physician or practitioner time and the level of intensity of services provided, based on—

“(I) the frequency of evaluation necessary to manage the individual being furnished the services;

“(II) the complexity of the evaluation, including the information that must be obtained, reviewed, and analyzed; and

“(III) the number of possible diagnoses and the number of management options that must be considered;

“(ii) practice expense costs associated with such services, including the direct costs associated with installation and information transmission, costs of remote patient monitoring technology (including equipment and software), device delivery costs, and resource costs necessary for patient monitoring and follow-up (but not including costs of any related item or non-physician service otherwise reimbursed under this title); and
“(iii) malpractice expense resources.

“(B) Using the relative value units determined in subparagraph (A), the Secretary shall provide for separate payment for such services and shall not adjust the relative value units assigned to other services that might otherwise have been determined to include such separately paid remote patient monitoring services.”; and

(2) in subsection (j)(3), by inserting “(2)(GG),” after “health risk assessment),”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this subsection shall apply to services furnished on or after the date that is 6 months after the date of the enactment of this Act.

(2) AVAILABILITY OF CODES AS OF DATE OF ENACTMENT.—The Secretary of Health and Human Services shall—

(A) promptly evaluate existing codes that would be used to bill for applicable remote patient monitoring services (as defined in paragraph (1)(A) of such section 1861(iii), as added by paragraph (2)) under title XVIII of the Social Security Act; and
(B) if the Secretary determines that new codes are necessary to ensure accurate reporting and billing of such services under such title, issue such codes so that they are available for use [as of the date of the enactment of this Act]. [Review feasibility of this deadline.]

SEC. 302. USE OF TELEHEALTH FOR RECERTIFICATIONS.

(a) Home Health Services.—

(1) Part A.—Section 1814(a)(2)(C) of the Social Security Act (42 U.S.C. 1395f(a)(2)(C)) is amended by inserting “(except that, notwithstanding paragraph (4)(C) of such section, the home of the individual shall qualify as an originating site for purposes of such encounter)” after “1834(m)”.

(2) Part B.—Section 1835(a)(2)(A) of the Social Security Act (42 U.S.C. 1395n(a)(2)(A)) is amended by inserting “(except that, notwithstanding section 1834(m)(4)(C), the home of the individual shall qualify as an originating site for purposes of such encounter)” after “telehealth”.

(b) Durable Medical Equipment.—Section 1834(a)(11)(B)(ii) of the Social Security Act (42 U.S.C. 1395m(a)(11)(B)(ii)) is amended by inserting “(except that, notwithstanding paragraph (4)(C) of such subsection, the home of the individual shall qualify as an orig-
inating site for purposes of such encounter)” after “sub-
section (m)”.

3 SEC. 303. TREATMENT OF HOME DIALYSIS SERVICE.

(a) IN GENERAL.—Section 1881(b)(3) of the Social
Security Act (42 U.S.C. 1395rr(b)(3)) is amended—

(1) by redesignating subparagraphs (A) and
(B) as clauses (i) and (ii), respectively;

(2) in clause (ii), as redesignated by subpara-
graph (A), strike “on a comprehensive” and insert
“subject to subparagraph (B), on a comprehensive”;

(3) by striking “With respect to” and inserting
“(A) With respect to”; and

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

“(B) For purposes of subparagraph (A)(ii), the
following shall apply:

“(i) The monthly fee or other basis of pay-
ment described in such subparagraph shall
allow for a patient-specific waiver process to
allow a physician, clinical nurse specialist, nurse
practitioner, or physician’s assistant to request
a waiver under this title of face-to-face visit re-
quirements for home dialysis furnished to indi-
viduals determined to have end stage renal dis-
 ease.
“(ii) Any request under clause (i) shall include documentation by the physician or practitioner involved that supports active and adequate care of such individual receiving home dialysis.

“(iii) Any patient-specific waiver under clause (i) that is granted shall remain effective until such date that the Secretary, including through contractor under this title, requests that additional information or a new waiver application be filed.

“(iv) All individuals determined to have end stage renal disease receiving home dialysis shall receive a face-to-face examination at least once every three consecutive months and, in the intervening months, shall receive a monthly clinical assessment which may be furnished, if the patient so chooses, via remote monitoring by a physician, clinical nurse specialist, nurse practitioner, or physician’s assistant.”.

(b) CONFORMING AMENDMENT.—Section 1881(b)(1) of such Act (42 U.S.C. 1395rr(b)(1)) is amended by striking “paragraph (3)(A)” and inserting “paragraph (3)(A)(i)”.
(c) **Effective Date.**—The amendments made by this subsection shall apply with respect to the monthly fee or other basis of payment for home dialysis services furnished on or after January 1, 2016.

**SEC. 304. RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS AUTHORIZED TO BE DISTANT SITES.**

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

(1) by striking “SITE.—The term” and inserting “SITE.—

“(i) IN GENERAL.—The term”; and

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

“(ii) TREATMENT OF RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—A site described in clause (i) includes a rural health clinic (as defined in section 1861(aa)(2)) and a Federally qualified health center (as defined in section 1861(aa)(4)). In any case in which such a clinic or center is treated as a distant site with respect to the provision of a telehealth service to an eligible telehealth individual for which payment is made
under this subsection, the amount of pay-
ment for the service shall be an amount
equal to the amount that such clinic or
center would have been paid under this
title had such service been furnished with-
out the use of a telecommunications sys-
tem.”.

TITLE IV—GAO STUDY AND RE-
PORT ON TELEHEALTH UTILI-
ZATION AND EXPENDITURES
IN STATES

SEC. 401. GAO STUDY AND REPORT ON TELEHEALTH UTILI-
ZATION AND EXPENDITURES IN STATES.

(a) Study.—The Comptroller General of the United
States (in this section referred to as the “Comptroller
General”) shall conduct a study on—

(1) the utilization of telehealth in States; and

(2) State expenditures for telehealth.

(b) Report.—Not later than one year after the date
of enactment of this Act, the Comptroller General shall
submit to Congress a report containing the results of the
study under subsection (a), together with recommenda-
tions for such legislation and administrative action as the
Comptroller General determines appropriate.