

118TH CONGRESS
1ST SESSION

H. R. 5611

To amend title XVIII of the Social Security Act to provide for permanent payments for telehealth services furnished by Federally qualified health centers and rural health clinics under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2023

Mr. THOMPSON of Pennsylvania (for himself and Ms. KUSTER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to provide for permanent payments for telehealth services furnished by Federally qualified health centers and rural health clinics 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 “Helping Ensure Access
5 to Local TeleHealth Act of 2023” or the “HEALTH Act
6 of 2023”.

1 **SEC. 2. PROVIDING FOR PERMANENT COST-RELATED PAY-**
2 **MENTS FOR TELEHEALTH SERVICES FUR-**
3 **NISHED BY FEDERALLY QUALIFIED HEALTH**
4 **CENTERS AND RURAL HEALTH CLINICS**
5 **UNDER THE MEDICARE PROGRAM AND PER-**
6 **MANENTLY REMOVING ORIGINATING SITE**
7 **FACILITY AND LOCATION REQUIREMENTS**
8 **FOR DISTANT SITE TELEHEALTH SERVICES**
9 **FURNISHED BY SUCH CENTERS AND SUCH**
10 **CLINICS.**

11 (a) COVERAGE OF AUDIO-ONLY TELEHEALTH SERV-
12 ICES.—

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

17 “(G) TELECOMMUNICATIONS SYSTEM.—
18 Except as provided in paragraph (1), the term
19 ‘telecommunications system’ means a two-way,
20 real-time interactive communications system,
21 whether by audiovisual or audio-only commu-
22 nications.”.

23 (2) REQUIRED IMPLEMENTATION STEPS.—Not
24 later than 60 days after the date of the enactment
25 of this Act, the Secretary of Health and Human
26 Services shall—

1 (A) revise section 410.78(a)(3) of title 42,
2 Code of Federal Regulations (or a successor
3 regulation) to define the term “interactive tele-
4 communications system” in accordance with the
5 amendment made by paragraph (1); and

6 (B) revise section 405.2463 of such title
7 (or a successor regulation) to provide that, for
8 purposes of distant site telehealth services fur-
9 nished by Federally qualified health centers and
10 rural health clinics under section 1834(m)(8) of
11 the Social Security Act (42 U.S.C.
12 1395m(m)(8)), a visit includes any two-way,
13 real-time interactive communication between an
14 individual and the distant site Federally quali-
15 fied health center provider or rural health clin-
16 ic, whether by audiovisual or audio-only com-
17 munication.

18 (b) PERMANENT TELEHEALTH PAYMENTS.—Section
19 1834(m)(8) of the Social Security Act (42 U.S.C.
20 1395m(m)(8)) is amended—

21 (1) in subparagraph (A), in the matter pre-
22 ceding clause (i), by striking “During the emergency
23 period” and all that follows through “2024—” and
24 inserting “With respect to telehealth services fur-
25 nished on or after the date of the beginning of the

1 emergency period described in section
2 1135(g)(1)(B)—”; and

3 (2) by striking subparagraph (B) and inserting
4 the following new subparagraph:

5 “(B) PAYMENT.—

6 “(i) IN GENERAL.—A telehealth serv-
7 ice furnished by a rural health clinic or a
8 Federally qualified health center serving as
9 a distant site to an individual shall be
10 deemed to be so furnished to such indi-
11 vidual as an outpatient of such clinic or fa-
12 cility (as applicable) for purposes of para-
13 graph (1) or (3), respectively, of section
14 1861(aa) and payable as a rural health
15 clinic service or Federally qualified health
16 center service (as applicable) under section
17 1833(a)(3) or under the prospective pay-
18 ment system established under section
19 1834(o), respectively.

20 “(ii) TREATMENT OF COSTS FOR
21 FQHC PPS CALCULATIONS AND RHC AIR
22 CALCULATIONS.—Costs associated with the
23 delivery of telehealth services by a Feder-
24 ally qualified health center or rural health
25 clinic serving as a distant site pursuant to

1 this paragraph shall be considered allow-
2 able costs for purposes of the prospective
3 payment system established under section
4 1834(o) and any payment methodologies
5 developed under section 1833(a)(3), as ap-
6 plicable.”.

7 (c) ELIMINATION OF ORIGINATING SITE REQUIRE-
8 MENTS FOR TELEHEALTH SERVICES FURNISHED BY
9 FQHCs OR RHCs.—

10 (1) IN GENERAL.—Section 1834(m) of the So-
11 cial Security Act (42 U.S.C. 1395m(m)), as amend-
12 ed by subsection (b), is further amended—

13 (A) in paragraph (4)(C)(i), by striking
14 “and (7)” and inserting “(7), and (8)”; and

15 (B) in paragraph (8), by adding at the end
16 the following new subparagraph:

17 “(C) NONAPPLICATION OF ORIGINATING
18 SITE REQUIREMENTS.—The geographic and site
19 requirements described in paragraph (4)(C)
20 shall not apply with respect to telehealth serv-
21 ices furnished by a Federally qualified health
22 center or a rural health clinic serving as a dis-
23 tant site.”.

24 (2) SPECIAL PAYMENT RULE FOR ORIGINATING
25 SITES WITH RESPECT TO TELEHEALTH SERVICES

1 FURNISHED BY AN FQHC OR RHC.—Section
2 1834(m)(2)(B) of the Social Security Act (42 U.S.C.
3 1395m(m)(2)(B)) is amended—

4 (A) in clause (i), by striking “clause (ii)”
5 and inserting “clauses (ii) and (iii)”; and

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

8 “(iii) SPECIAL RULE FOR TELE-
9 HEALTH SERVICES FURNISHED BY FQHCS
10 AND RHCS.—No facility fee shall be paid
11 under this subparagraph to an originating
12 site with respect to telehealth services fur-
13 nished by a Federally qualified health cen-
14 ter or rural health clinic serving as a dis-
15 tant site unless such originating site is a
16 site described in any of subclauses (I)
17 through (IX) or (XI) of paragraph
18 (4)(C)(ii).”.

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