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

IN THE HOUSE OF REPRESENTATIVES
JANUARY 15, 2021
Mr. Williams of Texas introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 make permanent certain telehealth flexibilities established in response to COVID–19.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ensuring Telehealth Expansion Act of 2021”.

SEC. 2. MAKING PERMANENT CERTAIN TELEHEALTH FLEXIBILITIES ESTABLISHED IN RESPONSE TO COVID–19.

(a) Exemption for Telehealth Services.—
(1) IN GENERAL.—Subparagraph (E) of section 223(e)(2) of the Internal Revenue Code of 1986 is amended by striking “In the case of plan years beginning on or before December 31, 2021, a plan” and inserting “A plan”.

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

(b) INCREASING MEDICARE TELEHEALTH FLEXIBILITIES.—Section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)) is amended by adding at the end the following new paragraph:

“(9) WAIVER AUTHORITY.—The Secretary may waive any requirement of this subsection if determined appropriate by the Secretary.”.

(c) ENHANCING MEDICARE TELEHEALTH SERVICES FOR FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS; ELIMINATING SPECIAL PAYMENT RULE FOR SUCH SERVICES.—

(1) IN GENERAL.—Paragraph (8) of section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)) is amended to read as follows:
“(8) Enhancing telehealth services for federally qualified health centers and rural health clinics.—

“(A) In general.—With respect to services furnished on or after the first day of the emergency period described in section 1135(g)(1)(B), the Secretary shall pay for telehealth services that are furnished via a telecommunications system by a federally qualified health center or a rural health clinic to an eligible telehealth individual enrolled under this part notwithstanding that the federally qualified health center or rural clinic providing the telehealth service is not at the same location as the beneficiary.

“(B) Payment.—

“(i) In general.—A telehealth service furnished by a rural health clinic or a federally qualified health center serving as a distant site to an individual shall be deemed to be so furnished to such individual as an outpatient of such clinic or center (as applicable) for purposes of section 1861(aa) and payable as a rural health clinic service or federally qualified
health center service (as applicable) under section 1833(a)(3) or under the prospective payment system established under section 1834(o) (as applicable).

“(ii) TREATMENT OF COSTS FOR FQHC PPS CALCULATIONS AND RHC AIR CALCULATIONS.—Costs associated with the delivery of telehealth services by a Federally qualified health center or rural health clinic serving as a distant site pursuant to this paragraph shall be considered allowable costs for purposes of the prospective payment system established under section 1834(o) and any payment methodologies developed under section 1833(a)(3), as applicable.

“(C) DEFINITIONS.—For purposes of this subsection—

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

“(ii) the term ‘telehealth services’ includes a rural health clinic service or Fed-
generally qualified health center service that is
furnished using telehealth to the extent
that payment codes corresponding to serv-
ices identified by the Secretary under
clause (i) or (ii) of paragraph (4)(F) are
listed on the corresponding claim for such
rural health clinic service or Federally
qualified health center service.”.

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

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

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

•HR 341 IH
(e) Use of Telehealth To Conduct Face-to-Face Encounter Prior to Recertification of Eligibility 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 striking “during the emergency period described in section 1135(g)(1)(B)” and inserting “during any period beginning on or after the first day of the emergency period described in section 1135(g)(1)(B)”.

(f) Encouraging Use of Telecommunications Systems for Home Health Services.—Section 3707 of the CARES Act (Public Law 116–136) is amended by striking “during the emergency period described in section 1135(g)(1)(B)” of such Act (42 U.S.C. 1320b–5(g)(1)(B))” and inserting “on or after the first day of the emergency period described in section 1135(g)(1)(B)” of such Act (42 U.S.C. 1320b–5(g)(1)(B))”.

SEC. 3. NONAPPLICATION OF ORIGINATING SITE REQUIREMENTS WITH RESPECT TO TELEHEALTH SERVICES UNDER MEDICARE PROGRAM.

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

(1) in clause (i), by inserting before “paragraphs (5), (6), and (7)” the following: “clause (iii) and”;

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

“(iii) NONAPPLICATION OF ORIGINATING SITE REQUIREMENTS.—Beginning on the first day of the emergency period described in section 1135(g)(1)(B), 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.”.

SEC. 4. REPORT BY COMPTROLLER GENERAL.

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

(1) details of any savings or costs to the Federal Government that are attributable to the implementation of such provisions; and

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