

117TH CONGRESS
1ST SESSION

S. 1309

To provide payments for home health services furnished via visual or audio telecommunication systems during an emergency period.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2021

Ms. COLLINS (for herself, Mr. CARDIN, Mr. MARSHALL, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide payments for home health services furnished via visual or audio telecommunication systems during an emergency period.

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 “Home Health Emer-
5 gency Access to Telehealth Act” or the “HEAT Act”.

1 **SEC. 2. AUTHORIZATION OF PAYMENTS FOR HOME HEALTH**
 2 **SERVICES FURNISHED VIA VISUAL OR AUDIO**
 3 **TELECOMMUNICATION SYSTEMS DURING AN**
 4 **EMERGENCY PERIOD.**

5 (a) WAIVER AUTHORITY.—

6 (1) IN GENERAL.—The first sentence of section
 7 1135(b) of the Social Security Act (42 U.S.C.
 8 1320b–5(b)) is amended—

9 (A) in paragraph (8), by striking “and” at
 10 the end;

11 (B) in paragraph (9), by striking the pe-
 12 riod at the end and inserting “; and”; and

13 (C) by adding the following new para-
 14 graph:

15 “(10) in the case of home health services fur-
 16 nished in an emergency area (or portion of such an
 17 area) during any portion of any emergency period
 18 (as those terms are defined in subsection (g)(1)(C)),
 19 the provisions of subparagraphs (A) and (B) of sec-
 20 tion 1895(e)(1), as determined appropriate by the
 21 Secretary.”.

22 (2) DEFINITIONS OF EMERGENCY AREA; EMER-
 23 GENCY PERIOD.—Section 1135(g)(1) of the Social
 24 Security Act (42 U.S.C. 1320b–5(g)(1)) is amend-
 25 ed—

1 (A) in subparagraph (A), by striking “sub-
 2 paragraph (B)” and inserting “subparagraphs
 3 (B) and (C)”; and

4 (B) by adding at the end the following new
 5 subparagraph:

6 “(C) ADDITIONAL EXCEPTION.—For pur-
 7 poses of subsection (b)(10), an ‘emergency area’
 8 is a geographical area in which, and an ‘emer-
 9 gency period’ is the period during which, there
 10 exists a public health emergency declared by the
 11 Secretary pursuant to section 319 of the Public
 12 Health Service Act.”.

13 (b) AUTHORIZATION.—Section 1895(e) of the Social
 14 Security Act (42 U.S.C. 1395fff(e)) is amended—

15 (1) in paragraph (1), by striking “Nothing”
 16 and inserting “Subject to paragraph (2), nothing”;

17 (2) by redesignating paragraph (2) as para-
 18 graph (3); and

19 (3) by inserting after paragraph (1) the fol-
 20 lowing new paragraph:

21 “(2) EXCEPTION FOR PUBLIC HEALTH EMER-
 22 GENCIES.—Nothing in this section shall be con-
 23 strued as preventing a home health agency fur-
 24 nishing a home health unit of service for which pay-
 25 ment is made under the prospective payment system

1 established by this section for such units of service
2 from furnishing services via a video or audio tele-
3 communication system if such services—

4 “(A) are furnished pursuant to a waiver
5 under section 1135(b)(10);

6 “(B) constitute no more than 50 percent of
7 the number of billable visits, consistent with the
8 in-person visit equivalency determination, billed
9 under the 30-day period of care established
10 under section 484.215(f) of title 42, Code of
11 Federal Regulations;

12 “(C) are furnished to a beneficiary under
13 a plan of care established by a physician or
14 practitioner with whom the beneficiary has an
15 existing care relationship prior to the receipt of
16 home health services that includes home health
17 services to be furnished via a video or audio
18 telecommunication system; and

19 “(D) such beneficiary consents to receiving
20 home health services via a video or audio tele-
21 communication system.”.

22 (c) IMPLEMENTATION.—

23 (1) IN GENERAL.—The Secretary shall pre-
24 scribe regulations to apply to home health services
25 furnished pursuant to the amendments made by this

1 Act, which shall become effective no later than 60
2 days after the date of enactment of this Act. The
3 Secretary shall issue an interim final rule, if nec-
4 essary, to comply with the required effective date.

5 (2) CONSIDERATIONS.—In prescribing such reg-
6 ulations, the Secretary may consider including—

7 (A) standards for the content of orders
8 and patient consent for such services;

9 (B) documentation of such services pro-
10 vided and billing units of such services;

11 (C) the nature and level of resources uti-
12 lized for such services provided via video or
13 audio telecommunication systems for purposes
14 of determining equivalency with in-person visits
15 in establishing the payment for such services;
16 and

17 (D) standards to ensure program integrity
18 and prevent the incidence of fraud, waste, and
19 abuse with respect to such services.

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