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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To amend titles XI and XVIII of the Social Security Act to establish requirements for the provision of certain high-cost durable medical equipment and laboratory testing; to extend and expand access to telehealth services; and for other purposes.

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

A BILL

To amend titles XI and XVIII of the Social Security Act to establish requirements for the provision of certain high-cost durable medical equipment and laboratory testing; to extend and expand access to telehealth services; and for other purposes.

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 “Telehealth Extension
5 Act of 2021”.

1 **SEC. 2. REQUIREMENT FOR PROVISION OF HIGH-COST DU-**
2 **RABLE MEDICAL EQUIPMENT AND LABORA-**
3 **TORY TESTS.**

4 (a) HIGH-COST DURABLE MEDICAL EQUIPMENT.—
5 Section 1834(a)(1)(E) of the Social Security Act (42
6 U.S.C. 1395m(a)(1)(E)) is amended by adding at the end
7 the following new clause:

8 “(vi) STANDARDS FOR HIGH-COST DU-
9 RABLE MEDICAL EQUIPMENT.—

10 “(I) LIMITATION ON PAYMENT
11 FOR HIGH-COST DURABLE MEDICAL
12 EQUIPMENT.—Payment may not be
13 made under this subsection for a
14 high-cost durable medical equipment
15 ordered by a physician or other practi-
16 tioner described in clause (ii) via tele-
17 health for an individual, unless such
18 physician or practitioner furnished to
19 such individual a service in-person at
20 least once during the 6 month period
21 prior to ordering such high-cost dura-
22 ble medical equipment.

23 “(II) HIGH-COST DURABLE MED-
24 ICAL EQUIPMENT DETERMINATION.—
25 For purposes of this clause, the Ad-
26 ministrator of the Centers for Medi-

1 care & Medicaid Services shall define
2 the term ‘high-cost durable medical
3 equipment’ and specify the durable
4 medical equipment for which such def-
5 inition shall apply.

6 “(vii) AUDIT OF PROVIDERS AND
7 PRACTITIONERS FURNISHING A HIGH VOL-
8 UME OF DURABLE MEDICAL EQUIPMENT
9 VIA TELEHEALTH.—

10 “(I) IDENTIFICATION OF PRO-
11 VIDERS.—Beginning 6 months after
12 the effective date of this clause, Medi-
13 care administrative contractors shall
14 conduct reviews on a schedule deter-
15 mined by the Secretary, of claims for
16 durable medical equipment prescribed
17 by a physician or other practitioner
18 described in clause (ii) during the 12
19 month period preceding such review to
20 identify physicians or other practi-
21 tioners with respect to whom at least
22 90 percent of all durable medical
23 equipment prescribed by such physi-
24 cian or practitioner during such pe-

1 riod was prescribed pursuant to a
2 telehealth visit.

3 “(II) AUDIT.—In the case of a
4 physician or practitioner identified
5 under subclause (I), with respect to a
6 period described in such subclause,
7 the Medicare administrative contrac-
8 tors shall conduct audits of all claims
9 for durable medical equipment pre-
10 scribed by such physicians or practi-
11 tioners to determine whether such
12 claims comply with the requirements
13 for coverage under this title.”.

14 (b) HIGH-COST LABORATORY TESTS.—Section
15 1834A(b) of the Social Security Act (42 U.S.C. 1395m–
16 1(b)) is amended by adding at the end the following new
17 paragraph:

18 “(6) REQUIREMENT FOR HIGH-COST LABORA-
19 TORY TESTS.—

20 “(A) LIMITATION ON PAYMENT FOR HIGH-
21 COST LABORATORY TESTS.—Payment may not
22 be made under this subsection for a high-cost
23 laboratory test ordered by a physician or practi-
24 tioner via telehealth for an individual, unless
25 such physician or practitioner furnished to such

1 individual a service in-person at least once dur-
2 ing the 6 month period prior to ordering such
3 high-cost laboratory test.

4 “(B) HIGH-COST LABORATORY TEST DE-
5 FINED.—For purposes of this paragraph, the
6 Administrator for the Centers for Medicare &
7 Medicaid Services shall define the term ‘high-
8 cost laboratory test’ and specify which labora-
9 tory tests such definition shall apply to.

10 “(7) AUDIT OF LABORATORY TESTING OR-
11 DERED PURSUANT TO TELEHEALTH VISIT.—

12 “(A) IDENTIFICATION OF PROVIDERS.—
13 Beginning 6 months after the effective date of
14 this paragraph, Medicare administrative con-
15 tractors shall conduct periodic reviews on a
16 schedule determined by the Secretary, of claims
17 for laboratory tests prescribed by a physician or
18 practitioner during the 12 month period pre-
19 ceding such review to identify physicians or
20 other practitioners with respect to whom at
21 least 90 percent of all laboratory tests pre-
22 scribed by such physician or practitioner during
23 such period was prescribed pursuant to a tele-
24 health visit.

1 “(B) AUDIT.—In the case of a physician
2 or practitioner identified under subparagraph
3 (A), with respect to a period described in such
4 subparagraph, the Medicare administrative con-
5 tractors shall conduct audits of all claims for
6 laboratory tests prescribed by such physicians
7 or practitioners during such period beginning to
8 determine whether such claims comply with the
9 requirements for coverage under this title.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect upon the termination of the
12 emergency period described in section 1135(g)(1)(B) of
13 the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)).

14 **SEC. 3. REQUIREMENT TO SUBMIT NPI NUMBER FOR SEPA-**
15 **RATELY BILLABLE TELEHEALTH SERVICES.**

16 (a) REQUIREMENT TO SUBMIT NPI NUMBER FOR
17 SEPARATELY BILLABLE TELEHEALTH SERVICES.—Sec-
18 tion 1834(m) of the Social Security Act (42 U.S.C.
19 1395m(m)) is amended by adding at the end the following
20 new paragraph:

21 “(9) REQUIREMENT TO SUBMIT NPI NUMBER
22 FOR SEPARATELY BILLABLE TELEHEALTH SERV-
23 ICES.—Payment may not be made under this sub-
24 section for separately billable telehealth services fur-
25 nished by a physician or practitioner unless such

1 physician or practitioner submits a claim for pay-
2 ment under the national provider identification num-
3 ber assigned to such physician or practitioner.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall take effect upon the termination of the
6 emergency period described in section 1135(g)(1)(B) of
7 the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)).

8 **SEC. 4. REMOVING GEOGRAPHIC REQUIREMENTS FOR**
9 **TELEHEALTH SERVICES.**

10 Section 1834(m)(4)(C) of the Social Security Act (42
11 U.S.C. 1395m(m)(4)(C)) is amended by adding at the end
12 the following new clause:

13 “(iii) REMOVAL OF GEOGRAPHIC RE-
14 QUIREMENTS.—The geographic require-
15 ments described in clause (i) shall not
16 apply with respect to telehealth services
17 furnished on or after the date of the enact-
18 ment of this clause.”.

19 **SEC. 5. EXPANDING ORIGINATING SITES.**

20 (a) EXPANDING THE HOME AS AN ORIGINATING
21 SITE.—Section 1834(m)(4)(C)(ii)(X) of the Social Secu-
22 rity Act (42 U.S.C. 1395m(m)(4)(C)(ii)(X)) is amended
23 to read as follows:

24 “(X) The home of an individual,
25 but, with respect to services furnished

1 before the date of the enactment of
2 the [‘Telehealth Extension and Eval-
3 uation Act’], only for purposes of sec-
4 tion 1881(b)(3)(B) or telehealth serv-
5 ices described in paragraph (7).”.

6 (b) ALLOWING ADDITIONAL ORIGINATING SITES.—
7 Section 1834(m)(4)(C)(ii) of the Social Security Act (42
8 U.S.C. 1395m(m)(4)(C)(ii)) is amended by adding at the
9 end the following new subclause:

10 “(XII) Any other site determined
11 appropriate by the Secretary at which
12 an eligible telehealth individual is lo-
13 cated at the time a telehealth service
14 is furnished via a telecommunications
15 system.”.

16 (c) PARAMETERS FOR NEW ORIGINATING SITES.—
17 Section 1834(m)(4)(C) of the Social Security Act (42
18 U.S.C. 1395m(m)(4)(C)), as amended by section 4, is
19 amended by adding at the end the following new clause:

20 “(iv) REQUIREMENTS FOR NEW
21 SITES.—

22 “(I) IN GENERAL.—The Sec-
23 retary may establish requirements for
24 the furnishing of telehealth services at
25 sites described in clause (ii)(XII) to

1 provide for beneficiary and program
2 integrity protections.

3 “(II) CLARIFICATION.—Nothing
4 in this clause shall be construed to
5 preclude the Secretary from estab-
6 lishing requirements for other origi-
7 nating sites described in clause (ii)”.

8 (d) NO ORIGINATING SITE FACILITY FEE FOR NEW
9 SITES.—Section 1834(m)(2)(B)(ii) of the Social Security
10 Act (42 U.S.C. 1395m(m)(2)(B)(ii)) is amended—

11 (1) in the heading, by striking “IF ORIGINATING
12 SITE IS THE HOME” and inserting “FOR CERTAIN
13 SITES”; and

14 (2) by striking “paragraph (4)(C)(ii)(X)” and
15 inserting “subclause (X) or (XII) of paragraph
16 (4)(C)”.

17 **SEC. 6. FEDERALLY QUALIFIED HEALTH CENTERS AND**
18 **RURAL HEALTH CLINICS.**

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

21 (1) in paragraph (4)(C)(i), in the matter pre-
22 ceding subclause (I), by striking “(5), (6), and (7)”
23 and inserting “(5) through (8)”; and

24 (2) in paragraph (8)—

1 (A) in the paragraph heading by inserting
2 “AND AFTER” after “DURING”;

3 (B) in subparagraph (A)—

4 (i) in the matter preceding clause (i),
5 by inserting “and after such emergency pe-
6 riod” after “1135(g)(1)(B)”;

7 (ii) in clause (ii), by striking “and” at
8 the end;

9 (iii) by redesignating clause (iii) as
10 clause (iv); and

11 (iv) by inserting after clause (ii) the
12 following new clause:

13 “(iii) the geographic requirements de-
14 scribed in paragraph (4)(C)(i) shall not
15 apply with respect to such a telehealth
16 service; and”;

17 (C) by striking subparagraph (B) and in-
18 serting the following:

19 “(B) PAYMENT.—

20 “(i) IN GENERAL.—A telehealth serv-
21 ice furnished by a Federally qualified
22 health center or a rural health clinic to an
23 individual pursuant to this paragraph on
24 or after the date of the enactment of this
25 subparagraph shall be deemed to be so fur-

nished to such individual as an outpatient of such clinic or facility (as applicable) for purposes of paragraph (1) or (3), respectively, of section 1861(aa) and payable as a Federally qualified health center service or rural health clinic service (as applicable) under the prospective payment system established under section 1834(o) or under section 1833(a)(3), respectively.

“(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.”.

SEC. 7. NATIVE AMERICAN HEALTH FACILITIES.

(a) IN GENERAL.—Section 1834(m)(4)(C) of the Social Security Act (42 U.S.C. 1395m(m)(4)(C)), as amended by sections 4 and 5(c), is amended—

1 (1) in clause (i), by striking “clause (ii)” and
2 inserting “clauses (ii) and (v)”;

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

5 “(v) NATIVE AMERICAN HEALTH FA-
6 CILITIES.—With respect to telehealth serv-
7 ices furnished on or after January 1, 2022,
8 the originating site requirements described
9 in clauses (i) and (ii) shall not apply with
10 respect to a facility of the Indian Health
11 Service, whether operated by such Service,
12 or by an Indian tribe (as that term is de-
13 fined in section 4 of the Indian Health
14 Care Improvement Act (25 U.S.C. 1603))
15 or a tribal organization (as that term is
16 defined in section 4 of the Indian Self-De-
17 termination and Education Assistance Act
18 (25 U.S.C. 5304)), or a facility of the Na-
19 tive Hawaiian health care systems author-
20 ized under the Native Hawaiian Health
21 Care Improvement Act (42 U.S.C. 11701
22 et seq.).”.

23 (b) NO ORIGINATING SITE FACILITY FEE FOR CER-
24 TAIN NATIVE AMERICAN FACILITIES.—Section
25 1834(m)(2)(B)(i) of the Social Security Act (42 U.S.C.

1 1395m(m)(2)(B)(i)) is amended, in the matter preceding
2 subclause (I), by inserting “(other than an originating site
3 that is only described in clause (v) of paragraph (4)(C),
4 and does not meet the requirement for an originating site
5 under clauses (i) and (ii) of such paragraph)” after “the
6 originating site”.

7 **SEC. 8. WAIVER OF TELEHEALTH REQUIREMENTS DURING**
8 **PUBLIC HEALTH EMERGENCIES.**

9 Section 1135(g)(1) of the Social Security Act (42
10 U.S.C. 1320b–5(g)(1)) is amended—

11 (1) in subparagraph (A), in the matter pre-
12 ceding clause (i), by striking “subparagraph (B)”
13 and inserting “subparagraphs (B) and (C)”; and

14 (2) by adding at the end the following new sub-
15 paragraph:

16 “(C) EXCEPTION FOR WAIVER OF TELE-
17 HEALTH REQUIREMENTS DURING PUBLIC
18 HEALTH EMERGENCIES.—For purposes of sub-
19 section (b)(8), in addition to the emergency pe-
20 riod described in subparagraph (B), an ‘emer-
21 gency area’ is a geographical area in which, and
22 an ‘emergency period’ is the period during
23 which, there exists a public health emergency
24 declared by the Secretary pursuant to section
25 319 of the Public Health Service Act.”.

1 **SEC. 9. TWO-YEAR EXTENSION OF TELEHEALTH SERVICES**
2 **FOLLOWING THE COVID-19 EMERGENCY PE-**
3 **RIOD.**

4 Section 1135(e) of the Social Security Act (42 U.S.C.
5 1320b–5(e)) is amended by adding at the end the fol-
6 lowing new paragraph:

7 “(3) TWO-YEAR EXTENSION OF TELEHEALTH
8 SERVICES FOLLOWING THE COVID-19 EMERGENCY
9 PERIOD.—Notwithstanding any other provision of
10 this section, a waiver or modification of require-
11 ments pursuant to subsection (b)(8) shall terminate
12 on the date that is two years after the last day of
13 the emergency period described in subsection
14 (g)(1)(B).”.

15 **SEC. 10. OUTPATIENT CRITICAL ACCESS HOSPITALS.**

16 (a) IN GENERAL.—Notwithstanding section 1834(m)
17 of the Social Security Act (42 U.S.C. 1395m(m)) and sub-
18 ject to subsection (b), the Secretary of Health and Human
19 Services shall provide payment under section 1834(g) of
20 such Act (42 U.S.C. 1395m(g)) for outpatient critical ac-
21 cess hospital services consisting of behavioral therapy serv-
22 ices furnished by a critical access hospital to an individual
23 during the period beginning on January 1, 2021, and end-
24 ing on the date that is two years after the last day of
25 the emergency period described in section 1135(g)(1)(B)
26 of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)),

1 via telecommunications technology, notwithstanding the
2 fact that such individual is not located at such hospital.

3 (b) INITIATION OF SERVICES VIA TELEHEALTH.—In
4 the case of an individual receiving services described in
5 subsection (a) from a critical access hospital during the
6 period described in subsection (a), if such individual has
7 not, prior to receiving such services, received in-person
8 care at such hospital, payment shall be made to such hos-
9 pital in accordance with such subsection only if such serv-
10 ices complement a plan of care that includes in-person
11 care to be furnished at such hospital not later than 1 year
12 after the date such services are furnished.

13 (c) DEFINITIONS.—For purposes of this section:

14 (1) CRITICAL ACCESS HOSPITAL.—The term
15 “critical access hospital” has the meaning given
16 such term in section 1861(mm)(1) of the Social Se-
17 curity Act (42 U.S.C. 1395x(mm)(1)).

18 (2) OUTPATIENT CRITICAL ACCESS HOSPITAL
19 SERVICES.—The term “outpatient critical access
20 hospital services” has the meaning given such term
21 in section 1861(mm)(3) of such Act (42 U.S.C.
22 1395x(mm)(3)).

23 (3) TELECOMMUNICATIONS TECHNOLOGY.—The
24 term “telecommunications technology” means a com-
25 munications system permitting two-way, real-time

1 interactive communication between the individuals
2 and health care professional and includes a commu-
3 nications system consisting of only audio capabili-
4 ties, but only if such individual does not have access
5 to a communications system with audio-visual capa-
6 bilities.