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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R. 3727

To amend title XVIII of the Social Security Act to include additional telehealth services for purposes of MA organization bids, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. BLACK (for herself, Mr. THOMPSON of California, Mrs. BROOKS of Indiana, and Ms. MATSUI) introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to include additional telehealth services for purposes of MA organization bids, 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. INCLUSION OF ADDITIONAL TELEHEALTH**
4 **SERVICES IN MEDICARE ADVANTAGE ORGA-**
5 **NIZATION BIDS.**

6 (a) IN GENERAL.—Section 1852 of the Social Secu-
7 rity Act (42 U.S.C. 1395w-22) is amended—

1 (1) in subsection (a)(1)(B)(i), by adding at the
2 end the following new sentence: “For plan year 2020
3 and each subsequent plan year, for purposes of sub-
4 section (m) and section 1854, in the case that an
5 MA plan makes an election described in subsection
6 (m)(1) with respect to such plan year, additional
7 telehealth services shall be treated as a service in-
8 cluded as a benefit under the original medicare fee-
9 for-service program option with respect to such plan
10 and plan year.”; and

11 (2) by adding at the end the following new sub-
12 section:

13 “(m) PROVISION OF ADDITIONAL TELEHEALTH
14 SERVICES.—

15 “(1) MA PLAN OPTION.—For purposes of sub-
16 section (a)(1)(B)(i), an election described in this
17 paragraph, with respect to an MA plan and plan
18 year, is an election by the sponsor of such plan to
19 provide under the plan for such plan year, in accord-
20 ance with the subsequent provisions of this sub-
21 section, additional telehealth services (as defined in
22 paragraph (2)) as a benefit under the original medi-
23 care fee-for-service program option. Such additional
24 telehealth services, with respect to a plan year, shall
25 be in addition to benefits included under the original

1 medicare fee-for-service program option for such
2 year.

3 “(2) ADDITIONAL TELEHEALTH SERVICES DE-
4 FINED.—

5 “(A) IN GENERAL.—For purposes of this
6 subsection and section 1854, the term ‘addi-
7 tional telehealth services’ means, subject to sub-
8 paragraph (C), services—

9 “(i) for which payment may be made
10 under part B (without regard to applica-
11 tion of section 1834(m));

12 “(ii) that, if furnished via a tele-
13 communications system, would not be pay-
14 able under section 1834(m);

15 “(iii) furnished using electronic infor-
16 mation and telecommunications technology;

17 “(iv) furnished in accordance with
18 such requirements as the Secretary speci-
19 fies pursuant to paragraph (3); and

20 “(v) which are identified annually by
21 the Secretary as appropriate to furnish
22 using electronic information and tele-
23 communications technology where a physi-
24 cian (as defined in section 1861(r)) or
25 practitioner (described in section

1 1842(b)(18)(C)) furnishing the service is
2 not at the same location as the plan en-
3 rollee.

4 “(B) FLEXIBILITY FOR PHASING IN IDEN-
5 TIFICATIONS.—In making identifications under
6 subparagraph (A)(iv), the Secretary may make
7 such identifications in a manner that results in
8 additional telehealth services being phased in,
9 as determined appropriate by the Secretary.

10 “(C) EXCLUSION OF CAPITAL AND INFRA-
11 STRUCTURE COSTS AND INVESTMENTS.—For
12 purposes of this subsection and section 1854,
13 the term ‘additional telehealth services’ does not
14 include capital and infrastructure costs and in-
15 vestments relating to such benefits provided
16 pursuant to this subsection.

17 “(3) REQUIREMENTS FOR ADDITIONAL TELE-
18 HEALTH SERVICES.—The Secretary shall specify re-
19 quirements for the provision of additional telehealth
20 services with respect to—

21 “(A) qualifications (other than licensure)
22 of physicians and practitioners who furnish
23 such services;

24 “(B) the technology used in furnishing
25 such services;

1 “(C) factors necessary for coordination of
2 additional telehealth services with other serv-
3 ices; and

4 “(D) such other criteria (such as clinical
5 criteria) as determined by the Secretary.

6 “(4) ENROLLEE CHOICE.—An MA plan that
7 provides a service as an additional telehealth service
8 may not, when furnished without use of electronic
9 information and telecommunications technology, re-
10 strict access to the equivalent in-person service, in-
11 cluding by encouraging or discouraging an individual
12 from being furnished such service as an additional
13 telehealth service.

14 “(5) CONSTRUCTION.—

15 “(A) IN GENERAL.—In determining if an
16 MA organization or MA plan, as applicable, is
17 in compliance with each requirement specified
18 in subparagraph (B), such determination shall
19 be made without regard to any additional tele-
20 health services covered by the plan offered by
21 such organization or plan pursuant to this sub-
22 section.

23 “(B) REQUIREMENTS SPECIFIED.—The re-
24 quirements specified in this subparagraph are
25 the following:

1 “(i) The requirements under sub-
2 section (d).

3 “(ii) The requirement under sub-
4 section (a)(1) with respect to covering ben-
5 efits under the original medicare fee-for-
6 service program option, as defined in the
7 first sentence of paragraph (B)(i) of such
8 subsection.”.

9 (b) **INCLUSION OF ADDITIONAL TELEHEALTH SERV-**
10 **ICES IN MA ORGANIZATION BID AMOUNT.**—Section
11 1854(a)(6)(A)(ii)(I) of the Social Security Act (42 U.S.C.
12 1395w–24(a)(6)(A)(ii)(I)) is amended by inserting “, in-
13 cluding, for plan year 2019 and subsequent plan years,
14 the provision of such benefits through the use of additional
15 telehealth services under section 1852(m)” before the
16 semicolon at the end.

17 **SEC. 2. USE OF TELECOMMUNICATIONS SYSTEMS IN FUR-**
18 **NISHING CHRONIC CARE MANAGEMENT**
19 **SERVICES.**

20 Section 1848(b)(8) of the Social Security Act (42
21 U.S.C. 1395(b)(8)) is amended by adding at the end the
22 following new subparagraph:

23 “(C) **CLARIFICATION.**—In carrying out
24 this paragraph, with respect to chronic care
25 management services, the Secretary may, sub-

1 ject to subparagraph (B), make payment for
2 such services furnished through the use of se-
3 cure messaging, Internet, store and forward
4 technologies, or other non-face-to-face commu-
5 nication methods determined appropriate by the
6 Secretary.”.

7 **SEC. 3. SENSE OF CONGRESS REGARDING PARITY OF TELE-**
8 **HEALTH SERVICES.**

9 It is the sense of Congress that there should be—
10 (1) parity, with respect to access to telehealth,
11 between the original medicare fee-for-service pro-
12 gram under parts A and B of title XVIII of the So-
13 cial Security Act and the Medicare Advantage pro-
14 gram under part C of such title; and
15 (2) access to medically appropriate, quality tele-
16 health for all Medicare beneficiaries.