

116TH CONGRESS  
2D SESSION

# H. R. 7663

To amend title XI of the Social Security Act to authorize the Secretary of Health and Human Services to waive or modify application of Medicare requirements with respect to telehealth services during any emergency period, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2020

Mr. THOMPSON of California (for himself, Ms. MATSUI, Mr. JOHNSON of Ohio, Mr. SCHWEIKERT, and Mr. WELCH) 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

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## A BILL

To amend title XI of the Social Security Act to authorize the Secretary of Health and Human Services to waive or modify application of Medicare requirements with respect to telehealth services during any emergency period, 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 “Protecting Access to  
5 Post-COVID–19 Telehealth Act of 2020”.

1 **SEC. 2. AUTHORIZATION FOR THE SECRETARY OF HEALTH**  
2 **AND HUMAN SERVICES TO WAIVE OR MODIFY**  
3 **APPLICATION OF MEDICARE REQUIREMENTS**  
4 **WITH RESPECT TO TELEHEALTH SERVICES.**

5 (a) SECRETARIAL AUTHORITY TO TEMPORARILY  
6 WAIVE OR MODIFY MEDICARE REQUIREMENTS WITH RE-  
7 SPECT TO TELEHEALTH SERVICES FURNISHED DURING  
8 ANY EMERGENCY PERIOD.—Section 1135 of the Social  
9 Security Act (42 U.S.C. 1320b–5) is amended by adding  
10 at the end the following new subsection:

11 “(h) WAIVER OR MODIFICATION OF CERTAIN RE-  
12 QUIREMENTS WITH RESPECT TO TELEHEALTH SERV-  
13 ICES.—

14 “(1) IN GENERAL.—Notwithstanding any other  
15 provision of this section, during the period described  
16 paragraph (2), the Secretary may waive or modify  
17 any requirement with respect to a telehealth service  
18 payable under section 1834(m)(1) for such period.

19 “(2) PERIOD DESCRIBED.—For purposes of  
20 paragraph (1), the period described in this para-  
21 graph is the period—

22 “(A) beginning on the first day of—

23 “(i) an emergency or disaster declared  
24 by the President pursuant to the National  
25 Emergencies Act or the Robert T. Stafford

1 Disaster Relief and Emergency Assistance  
2 Act; or

3 “(ii) a public health emergency de-  
4 clared by the Secretary pursuant to section  
5 319 of the Public Health Service Act; and

6 “(B) ending on the day that is 90 days  
7 after the last day of an emergency, disaster, or  
8 public health emergency described in subpara-  
9 graph (A).”.

10 (b) REPORT.—

11 (1) IN GENERAL.—Not later than 180 days  
12 after the last day of the period described in section  
13 1135(g)(1)(B) of the Social Security Act (42 U.S.C.  
14 1320b–5(g)(1)(B)), the Secretary of Health and  
15 Human Services, acting through the Administrator  
16 of the Centers for Medicare & Medicaid Services,  
17 shall submit to Congress a report, with respect to  
18 telehealth services (as defined in subparagraph (F)  
19 of such section 1834(m)(4) (42 U.S.C.  
20 1395m(m)(4)) to which a waiver or modification is  
21 applied pursuant to section 1135 of such Act (42  
22 U.S.C. 1320b–5), on—

23 (A) the number of eligible telehealth indi-  
24 viduals (as defined in subparagraph (A) of sec-  
25 tion 1834(m)(4) of such Act (42 U.S.C.

1 1395m(m)(4)) during the period described in  
2 paragraph (2) and how frequently such individ-  
3 uals received telehealth services during such pe-  
4 riod (including the number of eligible telehealth  
5 individuals identified by racial and ethnic popu-  
6 lations);

7 (B) the number of physicians or practi-  
8 tioners that furnished a telehealth service dur-  
9 ing the period described in paragraph (2) and  
10 how frequently physicians or practitioners fur-  
11 nished such a service during such period;

12 (C) the amount payable under title XVIII  
13 of such Act for telehealth services furnished  
14 during the period described in paragraph (2);

15 (D) an assessment of benefits to eligible  
16 telehealth individuals who received telehealth  
17 services during the period described in para-  
18 graph (2); and

19 (E) the most common barriers to eligible  
20 telehealth individuals receiving and physicians  
21 or practitioners furnishing telehealth services  
22 during the period described in paragraph (2).

23 (2) PERIOD DESCRIBED.—For purposes of  
24 paragraph (1), the period described in this para-  
25 graph is the period—

1 (A) beginning on the first day of the emer-  
 2 gency period described in section 1135(g)(1)(B)  
 3 of such Act (42 U.S.C. 1320b–5(g)(1)(B); and  
 4 (B) ending on the day that is 90 days  
 5 after the last day such emergency period.

6 **SEC. 3. RURAL HEALTH CLINICS AND FEDERALLY QUALI-**  
 7 **FIED HEALTH CENTERS.**

8 (a) EXPANSION OF DISTANT SITES.—Section  
 9 1834(m) of the Social Security Act (42 U.S.C. 1395m(m))  
 10 is amended—

11 (1) in the first sentence of paragraph (1)—

12 (A) by striking “or a practitioner (de-  
 13 scribed in section 1842(b)(18)(C))” and insert-  
 14 ing “, a practitioner (described in section  
 15 1842(b)(18)(C)), a federally qualified health  
 16 center, or a rural health clinic”; and

17 (B) by striking “or practitioner” and in-  
 18 serting “, practitioner, federally qualified health  
 19 center, or rural health clinic”;

20 (2) in paragraph (2)(A)—

21 (A) by inserting “or to a federally qualified  
 22 health center or rural health clinic that serves  
 23 as a distant site” after “a distant site”; and

24 (B) by striking “such physician or practi-  
 25 tioner” and inserting “such physician, practi-

tioner, federally qualified health center, or rural health clinic”; and

(3) in paragraph (4)—

(A) in subparagraph (A), by inserting “and includes a federally qualified health center or rural health clinic that furnishes a telehealth service to an eligible individual” before the period at the end; and

(B) in subparagraph (F), by adding at the end the following new clause:

“(iii) INCLUSION OF RURAL HEALTH CLINIC SERVICES AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES FURNISHED USING TELEHEALTH.—For purposes of this subparagraph, the term ‘telehealth services’ includes a rural health clinic service or federally qualified health center service that is furnished using telehealth to the extent that payment codes corresponding to services identified by the Secretary under clause (i) or (ii) are listed on the corresponding claim for such rural health clinic service or Federally qualified health center service.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to services furnished on or after  
 3 January 1, 2021.

4 **SEC. 4. ELIMINATION OF RESTRICTIONS RELATING TO**  
 5 **TELEHEALTH SERVICES.**

6 (a) ELIMINATION OF GEOGRAPHIC RESTRICTIONS OF  
 7 ORIGINATING SITES.—Section 1834(m)(4)(C)(i) of the  
 8 Social Security Act (42 U.S.C. 1395m(m)(4)(C)(i)) is  
 9 amended—

10 (1) by striking “the service is furnished via a  
 11 telecommunications system and only if such site is  
 12 located—” and inserting “the service—”;

13 (2) by redesignating subclauses (I) through  
 14 (III) as items (aa) through (cc), respectively, and  
 15 moving the margins two ems to the right; and

16 (3) by inserting before item (aa), as redesign-  
 17 ated by paragraph (2), the following new sub-  
 18 clauses:

19 “(I) is furnished via a tele-  
 20 communications system; and

21 “(II) for the period beginning on  
 22 the date of the enactment of this sub-  
 23 clause and ending on December 31,  
 24 2020, only if such site is located—”.

1       (b) ELIMINATION OF RESTRICTIONS IN WHICH  
2 TELEHEALTH SERVICES MAY BE FURNISHED IN THE  
3 HOME.—Section 1834(m)(4)(C)(ii)(X) of the Social Secu-  
4 rity Act (42 U.S.C. 1395m(m)(4)(C)(i)(X) is amended to  
5 read as follows:.

6                       “(X)(aa) For the period begin-  
7                       ning on the date of the enactment of  
8                       this subclause and ending on Decem-  
9                       ber 31, 2020, the home of an indi-  
10                      vidual but only for purposes of section  
11                      1881(b)(3)(B) or telehealth services  
12                      described in paragraph (7).

13                     “(bb) For the period beginning  
14                     on or after January 1, 2021, the  
15                     home of an individual.”.

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