

117TH CONGRESS  
1ST SESSION

# H. R. 4040

To amend title XVIII of the Social Security Act to extend telehealth flexibilities under the Medicare program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2021

Ms. CHENEY (for herself and Mrs. DINGELL) 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 XVIII of the Social Security Act to extend telehealth flexibilities under the Medicare program, 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 “Advancing Telehealth  
5 Beyond COVID–19 Act of 2021”.

1 **SEC. 2. EXTENDING MEDICARE TELEHEALTH FLEXIBILI-**  
2 **TIES.**

3 (a) **EXPANDING ACCESS TO TELEHEALTH SERV-**  
4 **ICES.—**

5 (1) **IN GENERAL.—**Section 1834(m)(4)(C) of  
6 the Social Security Act (42 U.S.C. 1395m(m)(4)(C))  
7 is amended by adding at the end the following new  
8 clause:

9 “(iii) **EXPANDING ACCESS TO TELE-**  
10 **HEALTH SERVICES.—**With respect to tele-  
11 health services furnished beginning on the  
12 first day after the end of the emergency  
13 period described in section 1135(g)(1)(B),  
14 the term ‘originating site’ means any site  
15 at which the eligible telehealth individual is  
16 located at the time the service is furnished  
17 via a telecommunications system, including  
18 the home of an individual.”.

19 (2) **CONFORMING AMENDMENTS.—**Such section  
20 is amended—

21 (A) in paragraph (2)(B)—

22 (i) in clause (i), in the matter pre-  
23 ceding subclause (I), by striking “clause  
24 (ii)” and inserting “clauses (ii) and (iii)”;  
25 and

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

3 “(iii) NO FACILITY FEE FOR NEW  
4 SITES.—With respect to telehealth services  
5 furnished on or after the date of enact-  
6 ment of this clause, a facility fee shall only  
7 be paid under this subparagraph to an  
8 originating site that is described in para-  
9 graph (4)(C)(ii) (other than subclause (X)  
10 of such paragraph).”.

11 (B) in paragraph (4)(C)—

12 (i) in clause (i), in the matter pre-  
13 ceding subclause (I), by inserting “and  
14 clause (iii)” after “and (7)”; and

15 (ii) in clause (ii)(X), by inserting  
16 “prior to the first day after the end of the  
17 emergency period described in section  
18 1135(g)(1)(B)” before the period;

19 (C) in paragraph (5), by inserting “and  
20 prior to the first day after the end of the emer-  
21 gency period described in section  
22 1135(g)(1)(B)” after “January 1, 2019,”;

23 (D) in paragraph (6)(A), by inserting “and  
24 prior to the first day after the end of the emer-

1           gency period described in section  
2           1135(g)(1)(B),” after “January 1, 2019,”; and  
3           (E) in paragraph (7), by inserting “and  
4           prior to the first day after the end of the emer-  
5           gency period described in section  
6           1135(g)(1)(B),” after “July 1, 2019,”.

7           (b) EXPANDING PRACTITIONERS ELIGIBLE TO FUR-  
8           NISH TELEHEALTH SERVICES.—Section 1834(m) of the  
9           Social Security Act (42 U.S.C. 1395m(m)) is amended—

10           (1) in paragraph (1), by striking “(described in  
11           section 1842(b)(18)(C))” and inserting “(defined in  
12           paragraph (4)(E))”; and

13           (2) in paragraph (4)(E)—

14           (A) by striking “PRACTITIONER.—The  
15           term” and inserting “PRACTITIONER.—

16           “(A) IN GENERAL.—Subject to subpara-  
17           graph (B), the term”; and

18           (B) by adding at the end the following new  
19           subparagraph:

20           “(B) EXPANSION.—The Secretary, after  
21           consulting with stakeholders regarding services  
22           that are clinically appropriate, may expand the  
23           types of practitioners who may furnish tele-  
24           health services to include any health care pro-

1           fessional that is eligible to bill the program  
2           under this title for their professional services.”.

3           (c) ALLOWING FOR THE FURNISHING OF AUDIO-  
4 ONLY TELEHEALTH SERVICES.—Section 1834(m)(4) of  
5 the Social Security Act (42 U.S.C. 1395m(m)(4)) is  
6 amended by adding at the end the following new subpara-  
7 graph:

8                   “(G) TELECOMMUNICATIONS SYSTEM.—

9                           “(i) IN GENERAL.—The term ‘tele-  
10                           communications system’ includes, in the  
11                           case of a specified telehealth service (as de-  
12                           fined in clause (ii)) furnished to an indi-  
13                           vidual, a communications system consisting  
14                           only of audio capabilities.

15                           “(ii) SPECIFIED TELEHEALTH SERV-  
16                           ICE DEFINED.—The term ‘specified tele-  
17                           health service’ means a telehealth service  
18                           consisting of—

19                                   “(I) evaluation and management  
20                                   services;

21                                   “(II) mental and behavioral  
22                                   health services;

23                                   “(III) substance use disorder  
24                                   services; or

1                   “(IV) any other service specified  
2                   by the Secretary.

3                   Such term does not include communication  
4                   of lab results from a physician or practi-  
5                   tioner to an individual via a telecommuni-  
6                   cations system unless such communication  
7                   involves a diagnosis of such individual  
8                   based on such results or the prescription,  
9                   or modification of a prescription, of a drug  
10                  based on such results.”.

11 **SEC. 3. MAKING PERMANENT THE ABILITY OF FEDERALLY**  
12 **QUALIFIED HEALTH CENTERS AND RURAL**  
13 **HEALTH CLINICS TO FURNISH TELEHEALTH**  
14 **SERVICES UNDER THE MEDICARE PROGRAM.**

15                  Section 1834(m)(8) of the Social Security Act (42  
16 U.S.C. 1395m(m)(8)) is amended—

17                  (1) in the header, by striking “DURING EMER-  
18                  GENCY PERIOD”;

19                  (2) in subparagraph (A), in the matter pre-  
20                  ceding clause (i), by striking “During” and inserting  
21                  “Beginning on the first day of”; and

22                  (3) in subparagraph (B)(i), by striking “during  
23                  such emergency period”.

1 **SEC. 4. CLARIFICATION FOR FRAUD AND ABUSE LAWS RE-**  
2 **GARDING TECHNOLOGIES PROVIDED TO**  
3 **BENEFICIARIES.**

4 Section 1128A(i)(6) of the Social Security Act (42  
5 U.S.C. 1320a–7a(i)(6)) is amended—

6 (1) in subparagraph (I), by striking “; or” and  
7 inserting a semicolon;

8 (2) in subparagraph (J), by striking the period  
9 at the end and inserting “; or”; and

10 (3) by adding at the end the following new sub-  
11 paragraph:

12 “(K) the provision of technologies (as de-  
13 fined by the Secretary) on or after the date of  
14 the enactment of this subparagraph, by a pro-  
15 vider of services or supplier (as such terms are  
16 defined for purposes of title XVIII) directly to  
17 an individual who is entitled to benefits under  
18 part A of title XVIII, enrolled under part B of  
19 such title, or both, for the purpose of furnishing  
20 telehealth services, remote patient monitoring  
21 services, or other services furnished through the  
22 use of technology (as defined by the Secretary),  
23 if—

24 “(i) the technologies are not offered  
25 as part of any advertisement or sollicita-  
26 tion; and

1                   “(ii) the provision of the technologies  
2                   meets any other requirements set forth in  
3                   regulations promulgated by the Sec-  
4                   retary.”.

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