

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 824
OFFERED BY MR. WALBERG OF MICHIGAN**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Telehealth Benefit Ex-
3 pansion for Workers Act of 2023”.

**4 SEC. 2. TREATING BENEFITS FOR TELEHEALTH SERVICES
5 OFFERED UNDER A GROUP HEALTH PLAN OR
6 GROUP HEALTH INSURANCE COVERAGE AS
7 EXCEPTED BENEFITS.**

8 (a) ERISA.—

9 (1) IN GENERAL.—Section 733(c)(2) of the
10 Employee Retirement Income Security Act of 1974
11 (29 U.S.C. 1191b(c)(2)) is amended—

12 (A) by redesignating subparagraph (C) as
13 subparagraph (D); and

14 (B) by inserting after subparagraph (B)
15 the following new subparagraph:

16 “(C) Benefits for telehealth services.”.

17 (2) MAINTAINING APPLICATION OF CERTAIN
18 PROVISIONS.—Section 732(c)(1) of the Employee

1 Retirement Income Security Act of 1974 (29 U.S.C.
2 1191a(c)(1)) is amended—

3 (A) by redesignating subparagraphs (A)
4 and (B) as clauses (i) and (ii), respectively, and
5 adjusting the margins accordingly;

6 (B) by striking “The requirements” and
7 inserting the following:

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B) and subject to subparagraph
10 (C), the requirements.”; and

11 (C) by adding at the end the following new
12 subparagraphs:

13 “(B) APPLICATION OF PROVISIONS.—The
14 requirements of sections 2704, 2705, and 2712
15 of the Public Health Service Act, as applied
16 under section 715, shall apply to any group
17 health plan or group health insurance coverage
18 in relation to its provision of excepted benefits
19 described in section 733(c)(2)(C).

20 “(C) REQUIREMENT FOR PROVISION OF
21 NOTICE WITH RESPECT TO TELEHEALTH EX-
22 CEPTED BENEFITS.—Subparagraph (A) shall
23 not apply to any group health plan (and group
24 health insurance coverage offered in connection
25 with a group health plan) in relation to its pro-

1 vision of excepted benefits described in section
2 733(c)(2)(C) unless such plan or coverage (as
3 applicable) provides to each participant or bene-
4 ficiary enrolled under such plan or coverage
5 (and to each individual seeking to enroll under
6 such plan or coverage) a notice that distin-
7 guishes between the benefits provided under a
8 group health plan or group health insurance
9 that meets the requirements of this part and
10 the benefits provided under a group health plan
11 or group health insurance coverage that pro-
12 vides only excepted benefits described in section
13 733(c)(2)(C).”.

14 (3) CONFORMING AMENDMENT TO APPLICATION
15 PROVISION.—Section 715(a) of the Employee Retirement
16 Income Security Act of 1974 (29 U.S.C.
17 1185d(a)) is amended—

18 (A) in paragraph (1), by inserting “, other
19 than section 2722 of such Act,” after “Afford-
20 able Care Act”;

21 (B) in paragraph (2), by inserting “(other
22 than such section 2722)” after “a provision of
23 such part A”.

24 (b) IRC.—

1 (1) IN GENERAL.—Section 9832(c)(2) of the
2 Internal Revenue Code of 1986 is amended—

3 (A) by redesignating subparagraph (C) as
4 subparagraph (D); and

5 (B) by inserting after subparagraph (B)
6 the following new subparagraph:

7 “(C) Benefits for telehealth services.”.

8 (2) MAINTAINING APPLICATION OF CERTAIN
9 PROVISIONS.—Section 9831(c)(1) of the Internal
10 Revenue Code of 1986 is amended—

11 (A) by redesignating subparagraphs (A)
12 and (B) as clauses (i) and (ii), respectively, and
13 adjusting the margins accordingly;

14 (B) by striking “The requirements” and
15 inserting the following:

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B) and subject to subparagraph
18 (C), the requirements.”; and

19 (C) by adding at the end the following new
20 subparagraphs:

21 “(B) APPLICATION OF PROVISIONS.—The
22 requirements of sections 2704, 2705, and 2712
23 of the Public Health Service Act, as applied
24 under section 9815, shall apply to any group
25 health plan in relation to its provision of ex-

1 cepted benefits described in section
2 9832(c)(2)(C).

3 “(C) REQUIREMENT FOR PROVISION OF
4 NOTICE WITH RESPECT TO TELEHEALTH EX-
5 CEPTED BENEFITS.—Subparagraph (A) shall
6 not apply to any group health plan in relation
7 to its provision of excepted benefits described in
8 section 9832(c)(2)(C) unless such plan provides
9 to each participant or beneficiary enrolled under
10 such plan (and to each individual seeking to en-
11 roll under such plan) a notice that distinguishes
12 between the benefits provided under a group
13 health plan that meets the requirements of this
14 chapter and the benefits provided under a
15 group health plan that only provides excepted
16 benefits described in section 9832(c)(2)(C).”.

17 (3) CONFORMING AMENDMENT TO APPLICATION
18 PROVISION.—Section 9815(a) of the Internal Rev-
19 enue Code of 1986 is amended—

20 (A) in paragraph (1), by inserting “, other
21 than section 2722 of such Act,” after “Afford-
22 able Care Act”); and

23 (B) in paragraph (2), by inserting “(other
24 than such section 2722)” after “a provision of
25 such part A”.

1 (c) PUBLICATION OF MODEL NOTICE.—Not later
2 than 180 days after the date of the enactment of this Act,
3 the Secretary of Labor, in consultation with the Secretary
4 of Health and Human Services and the Secretary of the
5 Treasury and taking into account input from the public,
6 shall publish a model notice that may be used by a group
7 health plan or group health insurance coverage (as such
8 terms are defined in section 733 of the Employee Retirement
9 Income Security Act of 1974 (29 U.S.C. 1191b))
10 for purposes satisfying the requirement of section
11 732(c)(1)(C) of such Act and of section 9831(c)(1)(C) of
12 the Internal Revenue Code of 1986, as added by sub-
13 sections (a) and (b), respectively.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to plan years begin-
16 ning on or after the date of the enactment of this Act.

Amend the title to read as follows: “A bill to amend
the Employee Retirement Income and Security Act of
1974 and the Internal Revenue Code of 1986 to treat
benefits for telehealth services offered under a group
health plan or group health insurance coverage as ex-
cepted benefits.”.

