

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 824**

**OFFERED BY \_\_\_\_\_**

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. CODIFYING FLEXIBILITIES FOR DEFINED-BENEFIT  
5 TELEHEALTH PLANS.**

6 (a) IN GENERAL.—Section 2791(c) of the Public  
7 Health Service Act (42 U.S.C. 300gg–91(c)) is amended  
8 by adding at the end the following new paragraph:

9 “(5) BENEFITS NOT SUBJECT TO REQUIRE-  
10 MENTS IF OFFERED TO EMPLOYEES WITHOUT AN  
11 OFFER OF GROUP HEALTH INSURANCE COVERAGE.—  
12 Defined-benefit plans that provide benefits solely for  
13 telehealth or remote care services.”.

14 (b) LIMITATION ON EXCEPTION TO GROUP HEALTH  
15 PLANS AND GROUP HEALTH INSURANCE COVERAGE.—  
16 Section 2722(c) of the Public Health Service Act (42  
17 U.S.C. 300gg–21(c)) is amended by adding at the end the  
18 following new paragraph—

1           “(4) BENEFITS NOT SUBJECT TO REQUIRE-  
2           MENTS IF OFFERED TO EMPLOYEES WITHOUT AN  
3           OFFER OF GROUP HEALTH INSURANCE COVERAGE.—  
4           The requirements of subparts I and II of Part A  
5           (except section 2704 (relating to the prohibition of  
6           preexisting condition exclusions or other discrimina-  
7           tion based on health status), section 2705 (relating  
8           to prohibition of discrimination against individual  
9           participants and beneficiaries based on health sta-  
10          tus), section 2712 (relating to prohibition of rescis-  
11          sions); and section 2726 (relating to parity in men-  
12          tal health or substance use disorder benefits), and  
13          subparts I and II of Part D shall not apply to any  
14          group health plan (or group health insurance cov-  
15          erage) offered by an employer in relation to its pro-  
16          vision of excepted benefits described in section  
17          2791(e)(5) if all of the following conditions are met:

18                 “(A) The benefits are only offered to em-  
19                 ployees (or their dependents) who do not receive  
20                 an offer of group health insurance coverage  
21                 from their employer.

22                 “(B) There is no coordination between the  
23                 provision of such benefits and any exclusion of  
24                 benefits under any group health plan main-  
25                 tained by the same plan sponsor.

1           “(C) The sponsor of such benefits provides  
2           a one-page notice to the employee (or their de-  
3           pendents) that—

4                   “(i) Such coverage does not constitute  
5                   minimum essential coverage and is not re-  
6                   quired to comply with certain federal re-  
7                   quirements for health insurance;

8                   “(ii) To the extent applicable, such  
9                   coverage does not include benefits for hos-  
10                  pitalization, emergency services, maternity  
11                  care, or prescription drugs; and

12                  “(iii) The employee may be eligible for  
13                  enrollment in a qualified health plan.”.

14           (c) PUBLICATION OF MODEL NOTICE.—Not later  
15           than 180 days after the date of the enactment of this Act,  
16           the Secretary of Health and Human Services, taking into  
17           account input from the public, shall publish a model notice  
18           that may be used by a group health plan or group health  
19           insurance coverage (as such terms are defined in section  
20           2791 of the Public Health Service Act for purposes satis-  
21           fying the requirement of section 2722 of such Act, as  
22           added by subsection (b).

23           (d) REQUIRED RULEMAKING.—Not later than one  
24           year after enactment of this section, the Secretary of  
25           Health and Human Services shall, through notice-and-

1 comment rulemaking, provide specific instructions for how  
2 benefits described in paragraph (5) of section 2791(c) can  
3 comply with the requirements of Sections 2704, 2705,  
4 2712, and 2726.

5 (e) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply with respect to plan years begin-  
7 ning on or after the date of the enactment of this Act.

