

**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”); and

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

24 (b) PHSA.—

1           (1) IN GENERAL.—Section 2791(c)(2) of the  
2 Public Health Service Act (42 U.S.C. 300gg–  
3 91(c)(2)) is amended—

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

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

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

9           (2) LIMITATION ON EXCEPTION TO GROUP  
10 HEALTH PLANS AND GROUP HEALTH INSURANCE  
11 COVERAGE.—Section 2722(c)(1) of the Public  
12 Health Service Act (42 U.S.C. 300gg–21(c)(1)) is  
13 amended—

14           (A) by redesignating subparagraphs (A)  
15 and (B) as clauses (i) and (ii), respectively, and  
16 adjusting the margins accordingly;

17           (B) by striking “The requirements” and  
18 inserting the following:

19           “(A) IN GENERAL.—Except as provided in  
20 subparagraph (B), the requirements.”; and

21           (C) by adding at the end the following new  
22 subparagraph:

23           “(B) APPLICATION OF PROVISIONS IN THE  
24 CASE OF INDIVIDUAL HEALTH INSURANCE COV-  
25 ERAGE FOR CERTAIN EXCEPTED BENEFITS.—

1           The requirements of subparts I and II shall  
2           apply to any individual health insurance cov-  
3           erage in relation to its provision of excepted  
4           benefits described in section 2791(c)(2)(C).”.

5           (c) IRC.—Section 9832(c)(2) of the Internal Revenue  
6 Code of 1986 is amended—

7           (1) by redesignating subparagraph (C) as sub-  
8           paragraph (D); and

9           (2) by inserting after subparagraph (B) the fol-  
10          lowing new subparagraph:

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

12          (d) PUBLICATION OF MODEL NOTICE.—Not later  
13 than 180 days after the date of the enactment of this Act,  
14 the Secretary of Labor, in consultation with the Secretary  
15 of Health and Human Services and the Secretary of the  
16 Treasury and taking into account input from the public,  
17 shall publish a model notice that may be used by a group  
18 health plan or group health insurance coverage (as such  
19 terms are defined in section 733 of the Employee Retire-  
20 ment Income Security Act of 1974 (29 U.S.C. 1191b))  
21 for purposes satisfying the requirement of section  
22 732(c)(1)(C) of such Act, as added by subsection (a).

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

