

[DISCUSSION DRAFT]

115TH CONGRESS
2^D SESSION

H. R. _____

To amend title XVIII of the Social Security Act to provide the Secretary of Health and Human Services authority to waive certain Medicare telehealth requirements in the case of certain treatment of an opioid use disorder or co-occurring mental health disorder.

IN THE HOUSE OF REPRESENTATIVES

M____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title XVIII of the Social Security Act to provide the Secretary of Health and Human Services authority to waive certain Medicare telehealth requirements in the case of certain treatment of an opioid use disorder or co-occurring mental health disorder.

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 “Access to Telehealth
5 Services for Opioid Use Disorders Act”.

1 **SEC. 2. AUTHORITY TO WAIVE CERTAIN MEDICARE TELE-**
2 **HEALTH REQUIREMENTS IN THE CASE OF**
3 **CERTAIN TREATMENT OF AN OPIOID USE DIS-**
4 **ORDER OR CO-OCCURRING MENTAL HEALTH**
5 **DISORDER.**

6 Section 1834(m) of the Social Security Act (42
7 U.S.C. 1395m(m)) is amended—

8 (1) in paragraph (2)(B)(i), by inserting “and
9 paragraph (7)(E)” after “subject to clause (ii)”; and

10 (2) by adding at the end the following new
11 paragraph:

12 “(7) AUTHORITY TO WAIVE CERTAIN REQUIRE-
13 MENTS IN THE CASE OF CERTAIN TREATMENT OF
14 OPIOID USE DISORDER OR CO-OCCURRING MENTAL
15 HEALTH DISORDER.—

16 “(A) IN GENERAL.—For purposes of pay-
17 ment under this subsection, in the case of tele-
18 health services furnished on or after January 1,
19 2019, to an eligible beneficiary (as defined in
20 subparagraph (F)(i)) for the treatment of an
21 opioid use disorder or a mental health disorder
22 that is co-occurring with an opioid use disorder,
23 the Secretary may waive any of the require-
24 ments described in subparagraph (B) if at least
25 one of the conditions described in subparagraph
26 (D) is met with respect to such waiver.

1 “(B) REQUIREMENTS DESCRIBED.—For
2 purposes of this paragraph, the requirements
3 described in this subparagraph include—

4 “(i) requirements relating to qualifica-
5 tions for an originating site under para-
6 graph (4)(C)(ii);

7 “(ii) geographic limitations under
8 paragraph (4)(C)(i) (other than applicable
9 State law requirements, including State li-
10 censure requirements); and

11 “(iii) any limitation on the use of
12 store-and-forward technologies described in
13 paragraph (1).

14 “(C) IDENTIFICATION OF PART B CODES
15 FOR APPLICATION OF WAIVERS.—Not later than
16 6 months after the date of the enactment of
17 this paragraph, the Secretary shall review evi-
18 dence related to codes under this part for tele-
19 health services for the treatment of substance
20 abuse and behavioral health that have been ap-
21 proved by the Centers for Medicare & Medicaid
22 Services as part of the process established
23 under paragraph (4)(F)(ii) for purposes of de-
24 termining the codes for which a waiver applied
25 under this paragraph would meet one or more

1 of the conditions described in subparagraph
2 (B). In carrying out this subparagraph, par-
3 ticular priority should be given to reviewing evi-
4 dence related to codes for behavioral health
5 services that would be appropriate to provide to
6 individuals receiving treatment from an opioid
7 agonist treatment practitioner. The Secretary
8 shall review evidence pertaining to substance
9 abuse and behavioral health codes as part of
10 the annual process under paragraph (4)(F)(ii)
11 to determine if a waiver may be granted.

12 “(D) CONDITIONS FOR WAIVER.—For pur-
13 poses of subparagraph (A), the conditions de-
14 scribed in this subparagraph, with respect to a
15 waiver of any requirement described in subpara-
16 graph (B), are the following:

17 “(i) The Secretary determines that
18 the application of the waiver is expected
19 to—

20 “(I) reduce spending under this
21 title without reducing the quality of
22 care;

23 “(II) improve the quality of care
24 without increasing spending; or

1 “(III) increase access to behav-
2 ioral health and substance use services
3 for individuals with opioid use dis-
4 orders.

5 “(ii) The Chief Actuary of the Centers
6 for Medicare & Medicaid Services certifies
7 that the condition described in clause (i) or
8 (iii) is met.

9 “(iii) The Secretary determines that
10 such waiver would not deny or limit the
11 coverage or provision of benefits under this
12 title for individuals.

13 “(E) TREATMENT OF ORIGINATING SITE
14 FACILITY FEE.—No facility fee shall be paid
15 under paragraph (2)(B) to an originating site
16 with respect to a telehealth service for which
17 payment is made under this subsection by rea-
18 son of a waiver under this paragraph if pay-
19 ment for such service would not be permitted
20 under this subsection without such waiver.

21 “(F) DEFINITIONS.—For purposes of this
22 paragraph:

23 “(i) ELIGIBLE BENEFICIARY.—The
24 term ‘eligible beneficiary’ means an indi-
25 vidual who—

1 “(I) is entitled to benefits under
2 part A and enrolled for benefits under
3 this part;

4 “(II) is not enrolled in a Medi-
5 care Advantage plan under part C;

6 “(III) has a diagnosis for an
7 opioid use disorder; and

8 “(IV) meets such other criteria
9 as the Secretary determines appro-
10 priate.

11 “(ii) OPIOID AGONIST TREATMENT
12 PRACTITIONER.—The term ‘opioid agonist
13 treatment practitioner’ means a practi-
14 tioner who—

15 “(I) is enrolled under section
16 1866(j); and

17 “(II) is authorized to prescribe or
18 dispense opioid agonist treatment
19 medication for maintenance or detoxi-
20 fication treatment pursuant to a waiv-
21 er under section 303(g)(2) of the Con-
22 trolled Substances Act.

23 “(G) REPORT.—Not later than 4 years
24 after the date of the enactment of this para-
25 graph, the Secretary shall submit to Congress a

1 report on the impact of any waivers granted
2 under this paragraph on—

3 “(i) any change in utilization rates for
4 behavioral health services for opioid use
5 disorders;

6 “(ii) any change in rates or average
7 length of time of retention in treatment for
8 opioid use disorders;

9 “(iii) any change in emergency de-
10 partment visits related to opioid overdoses;
11 and

12 “(iv) any change in overdose deaths
13 related to opioids abuse.

14 “(H) FUNDING.—For purposes of carrying
15 out this paragraph, in addition to funds other-
16 wise appropriated, the Secretary shall provide
17 for the transfer, from the Federal Supple-
18 mentary Medical Insurance Trust Fund under
19 section 1841, of \$2,000,000 to the Centers for
20 Medicare & Medicaid Services Program Man-
21 agement Account.”.