

[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 the con-
25 ditions described in clauses (i), (ii), and (iii) of

1 subparagraph (D) are met with respect to such
2 waiver.

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

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

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

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

16 “(C) IDENTIFICATION OF PART B CODES
17 FOR APPLICATION OF WAIVERS.—

18 “(i) IN GENERAL.—Not later than 6
19 months after the date of the enactment of
20 this paragraph, the Secretary shall review
21 evidence related to codes under this part
22 for telehealth services for the treatment of
23 substance abuse and behavioral health that
24 have been approved by the Centers for
25 Medicare & Medicaid Services as part of

1 the process established under paragraph
2 (4)(F)(ii) for purposes of determining the
3 codes for which a waiver applied under this
4 paragraph would meet one or more of the
5 conditions described in subparagraph (B).
6 In carrying out this clause, particular pri-
7 ority should be given to reviewing evidence
8 related to codes for behavioral health serv-
9 ices that would be appropriate to provide
10 to individuals receiving treatment from an
11 opioid agonist treatment practitioner.

12 “(ii) ANNUAL REVIEW PROCESS.—
13 The Secretary shall review evidence per-
14 taining to substance abuse and behavioral
15 health codes as part of the annual process
16 under paragraph (4)(F)(ii) to determine if
17 a waiver may be granted.

18 “(D) CONDITIONS FOR WAIVER.—For pur-
19 poses of subparagraph (A), the conditions de-
20 scribed in this subparagraph, with respect to a
21 waiver of any requirement described in subpara-
22 graph (B), are each of the following:

23 “(i) The Secretary determines that
24 the application of the waiver is expected
25 to—

1 “(I) reduce spending under this
2 title without reducing the quality of
3 care;

4 “(II) improve the quality of care
5 without increasing spending; or

6 “(III) increase access to behav-
7 ioral health and substance use services
8 for individuals with opioid use dis-
9 orders.

10 “(ii) The Chief Actuary of the Centers
11 for Medicare & Medicaid Services certifies
12 that the condition described in clause (i) or
13 (iii) is met.

14 “(iii) The Secretary determines that
15 such waiver would not deny or limit the
16 coverage or provision of benefits under this
17 title for individuals.

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

1 “(F) DEFINITIONS.—For purposes of this
2 paragraph:

3 “(i) ELIGIBLE BENEFICIARY.—The
4 term ‘eligible beneficiary’ means an indi-
5 vidual who—

6 “(I) is entitled to benefits under
7 part A and enrolled for benefits under
8 this part;

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

11 “(III) has a diagnosis for an
12 opioid use disorder; and

13 “(IV) meets such other criteria
14 as the Secretary determines appro-
15 priate.

16 “(ii) OPIOID AGONIST TREATMENT
17 PRACTITIONER.—The term ‘opioid agonist
18 treatment practitioner’ means a practi-
19 tioner who—

20 “(I) is enrolled under section
21 1866(j); and

22 “(II) is authorized to prescribe or
23 dispense opioid agonist treatment
24 medication for maintenance or detoxi-
25 fication treatment pursuant to a waiv-

1 er under section 303(g)(2) of the Con-
2 trolled Substances Act.

3 “(G) REPORT.—Not later than 5 years
4 after the date of the enactment of this para-
5 graph, the Secretary shall submit to Congress a
6 report on the impact of any waivers granted
7 under this paragraph on—

8 “(i) any change in utilization rates for
9 behavioral health services for opioid use
10 disorders;

11 “(ii) any change in rates or average
12 length of time of retention in treatment for
13 opioid use disorders;

14 “(iii) any change in emergency de-
15 partment visits related to opioid overdoses;
16 and

17 “(iv) any change in overdose deaths
18 related to opioids abuse.

19 “(H) FUNDING.—For purposes of carrying
20 out this paragraph, in addition to funds other-
21 wise appropriated, the Secretary shall provide
22 for the transfer, from the Federal Supple-
23 mentary Medical Insurance Trust Fund under
24 section 1841, of \$2,000,000 to the Centers for

- 1 Medicare & Medicaid Services Program Man-
- 2 agement Account.”.