AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5603
OFFERED BY MS. MATSUI OF CALIFORNIA

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Access to Telehealth Services for Substance Use Disorders Act”.

SEC. 2. AUTHORITY NOT TO APPLY CERTAIN MEDICARE TELEHEALTH REQUIREMENTS IN THE CASE OF CERTAIN TREATMENT OF A SUBSTANCE USE DISORDER OR CO-OCCURRING MENTAL HEALTH DISORDER.

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

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

(2) by adding at the end the following new paragraphs:

“(7) AUTHORITY NOT TO APPLY CERTAIN REQUIREMENTS IN THE CASE OF CERTAIN TREATMENT OF SUBSTANCE USE DISORDER OR CO-OCCURRING MENTAL HEALTH DISORDER.—
“(A) IN GENERAL.—For purposes of payment under this subsection, in the case of telehealth services described in subparagraph (C) furnished on or after January 1, 2020, to an eligible beneficiary (as defined in subparagraph (F)) for the treatment of a substance use disorder or a mental health disorder that is co-occurring with a substance use disorder, the Secretary is authorized to, through rulemaking, not apply any of the requirements described in subparagraph (B).

“(B) REQUIREMENTS DESCRIBED.—For purposes of this paragraph, the requirements described in this subparagraph are any of the following:

“(i) Qualifications for an originating site under paragraph (4)(C)(ii).

“(ii) Geographic limitations under paragraph (4)(C)(i).

“(C) TELEHEALTH SERVICES DESCRIBED.—For purposes of this paragraph, the telehealth services described in this subparagraph are services that are both telehealth services and identified by the Secretary, through rulemaking, as services that are the most com-
monly furnished (as defined by the Secretary) under this part to individuals diagnosed with a substance use disorder or a mental health disorder that is co-occurring with a substance use disorder.

“(D) CLARIFICATION.—Nothing in this paragraph shall be construed as limiting or otherwise affecting the authority of the Secretary to limit or eliminate the non-application pursuant to this paragraph of any of the requirements under subparagraph (B).

“(E) TREATMENT OF ORIGINATING SITE FACILITY FEE.—No facility fee shall be paid under paragraph (2)(B) to an originating site with respect to a telehealth service described in subparagraph (B) for which payment is made under this subsection by reason of the non-application of a requirement described in subparagraph (B) pursuant to this paragraph if payment for such service would not otherwise be permitted under this subsection if such requirement were applied.

“(F) ELIGIBLE BENEFICIARY DEFINED.—For purposes of this paragraph, the term ‘eligible beneficiary’ means an individual who—
“(i) is entitled to, or enrolled for, benefits under part A and enrolled for benefits under this part;

“(ii) has a diagnosis for a substance use disorder; and

“(iii) meets such other criteria as the Secretary determines appropriate.

“(G) REPORT.—Not later than 5 years after the date of the enactment of this paragraph, the Secretary shall submit to Congress a report on the impact of any non-application under this paragraph of any of the requirements described in subparagraph (B) on

“(i) the utilization of health care services related to substance use disorder, such as behavioral health services and emergency department visits; and

“(ii) health outcomes related to substance use disorder, such as substance use overdose deaths.

“(H) FUNDING.—For purposes of carrying out this paragraph, in addition to funds otherwise available, the Secretary shall provide for the transfer, from the Federal Supplementary Medical Insurance Trust Fund under section
1841, of $3,000,000 to the Centers for Medicare & Medicaid Services Program Management Account to remain available until expended.

“(8) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed as waiving requirements under this title to comply with applicable State law, including State licensure requirements.”.

Amend the title so as to read: “A bill To amend title XVIII of the Social Security Act to provide the Secretary of Health and Human Services authority not to apply certain Medicare telehealth requirements in the case of certain treatment of a substance use disorder or co-occurring mental health disorder.”.