

115TH CONGRESS  
2D SESSION

# H. R. 5603

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2018

Ms. MATSUI (for herself and Mr. CÁRDENAS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## 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.”.

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