117TH CONGRESS
1ST SESSION

S. 620

To direct the Secretary of Health and Human Services, the Medicare Payment Advisory Commission, and the Medicaid and CHIP Payment and Access Commission to conduct studies and report to Congress on actions taken to expand access to telehealth services under the Medicare, Medicaid, and CHIP programs during the COVID–19 emergency.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2021

Mrs. FISCHER (for herself and Ms. ROSEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To direct the Secretary of Health and Human Services, the Medicare Payment Advisory Commission, and the Medicaid and CHIP Payment and Access Commission to conduct studies and report to Congress on actions taken to expand access to telehealth services under the Medicare, Medicaid, and CHIP programs during the COVID–19 emergency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Knowing the Efficiency and Efficacy of Permanent Telehealth Options Act of 2021'' or the ''KEEP Telehealth Options Act of 2021''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) On January 21, 2020, the United States confirmed the Nation's first case of the 2019 novel coronavirus (which presents as the disease COVID–19).

(2) On January 31, 2020, the Secretary of Health and Human Services (in this Act referred to as the ''Secretary'') declared a public health emergency in response to COVID–19.

(3) By March, the disease reached the pandemic level according to the World Health Organization, and the President proclaimed the COVID–19 outbreak in the United States to constitute a national emergency.

(4) This emergency declaration authorizes the Secretary ''to temporarily waive or modify certain requirements of the Medicare, Medicaid, and State Children's Health Insurance programs and of the Health Insurance Portability and Accountability Act Privacy Rule throughout the duration of the public

health emergency declared in response to the COVID–19 outbreak''.

(5) Under this authority, the Secretary, and the Administrator of the Centers for Medicare & Medicaid Services (in this Act referred to as the ''Administrator'') acting under the Secretary's authority, issued numerous rules, regulations, and waivers enabling the expansion of telehealth services during the public health emergency.

(6) Telehealth services play a critical role in enhancing access to care for patients while simultaneously reducing the risk of exposure to the coronavirus for both patients and providers.

(7) The Administrator expanded access to telehealth services under the public health emergency to all Medicare beneficiaries (including clinician-provided services to new and established patients).

(8) On April 23, 2020, the Administrator released a telehealth toolkit to assist States in expanding the use of telehealth through Medicaid and CHIP.

(9) Expanded telehealth options are valuable for all Americans during this public health crisis, but especially for high-risk patients and rural Americans who already have difficulty accessing care.

SEC. 3. STUDIES AND REPORTS ON THE EXPANSION OF ACCESS TO TELEHEALTH SERVICES DURING THE COVID–19 EMERGENCY.

(a) HHS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Administrator, shall conduct a study and submit to Congress a report on actions taken by the Secretary during the emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)) to expand access to telehealth services under the Medicare program, the Medicaid program, and the Children's Health Insurance Program. Such report shall include the following:

(A) A comprehensive list of telehealth services available under such programs and an explanation of all actions undertaken by the Secretary during the emergency period described in such paragraph to expand access to such services.

(B) A comprehensive list of types of providers that may be reimbursed for such services furnished under such programs during such period, including a list of services which may only be reimbursed under such programs during

such period if furnished by such providers in-person.

(C) A quantitative analysis of the use of such telehealth services under such programs during such period, including data points on use by rural, minority, low-income, and elderly populations.

(D) A quantitative analysis of the use of such services under such programs during such period for mental and behavioral health treatments.

(E) An analysis of the public health impacts of the actions described in subparagraph (A).

(2) PUBLICATION OF REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall publish on the public website of the Department of Health and Human Services the report described in paragraph (1).

(b) MEDPAC REPORT.—

(1) IN GENERAL.—Not later than 210 days after the date of enactment of this Act, the Medicare Payment Advisory Commission shall, in consultation with the Office of the Inspector General of the De-

partment of Health and Human Services, conduct a study and submit to Congress a report on—

(A) the efficiency, management, and success and failures of the expansion of access to telehealth services under the Medicare program during the emergency period described in subsection (a)(1); and

(B) any risk in increased fraudulent activity, and types of fraudulent activity, associated with such expansion.

(2) RECOMMENDATIONS.—The report submitted under paragraph (1) shall include recommendations on—

(A) potential improvements to telehealth services, and expansions of such services, under the Medicare program; and

(B) ways to address any fraudulent activity described in paragraph (1)(B).

(c) MACPAC REPORT.—

(1) IN GENERAL.—Not later than 210 days after the date of enactment of this Act, the Medicaid and CHIP Payment and Access Commission shall, in consultation with the Office of the Inspector General of the Department of Health and Human Serv-

ices, conduct a study and submit to Congress a report on—

(A) the efficiency, management, and success and failures of the expansion of access to telehealth services under the Medicaid program and the Children's Health Insurance Program during the emergency period described in subsection (a)(1); and

(B) any risk in increased fraudulent activity, and types of fraudulent activity, associated with such expansion.

(2) RECOMMENDATIONS.—The report submitted under paragraph (1) shall include recommendations on—

(A) potential improvements to telehealth services, and expansions of such services, under the programs described in paragraph (1)(A); and

(B) ways to address any fraudulent activity described in paragraph (1)(B).

(d) DATA.—In conducting the studies and creating the reports required under this section, the Secretary, the Medicare Payment Advisory Commission, and the Medicaid and CHIP Payment and Access Commission shall review the most recent claims data from the Medicare pro-

gram, the Medicaid program, and the Children's Health Insurance Program (as applicable) that is available as of the date of enactment of this Act.

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