

# Union Calendar No. 579

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5603

**[Report No. 115–745, Part I]**

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

JUNE 12, 2018

Additional sponsors: Mr. JOHNSON of Ohio, Mrs. BLACKBURN, Mr. GRIFFITH, Mr. THOMPSON of California, Mr. WALDEN, Mr. MITCHELL, and Mr. BOST

JUNE 12, 2018

Reported from the Committee on Energy and Commerce with amendments

[Strike out all after the enacting clause and insert the part printed in *italic*]

JUNE 12, 2018

The Committee on Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 24, 2018]

# **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 Substance Use Disorders Act”.*

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

11 *Section 1834(m) of the Social Security Act (42 U.S.C.*  
12 *1395m(m)) is amended—*

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

15 *(2) by adding at the end the following new para-*  
16 *graphs:*

17 *“(7) AUTHORITY NOT TO APPLY CERTAIN RE-*  
18 *QUIREMENTS IN THE CASE OF CERTAIN TREATMENT*  
19 *OF SUBSTANCE USE DISORDER OR CO-OCCURRING*  
20 *MENTAL HEALTH DISORDER.—*

21 *“(A) IN GENERAL.—For purposes of pay-*  
22 *ment under this subsection, in the case of tele-*  
23 *health services described in subparagraph (C)*  
24 *furnished on or after January 1, 2020, to an eli-*  
25 *gible beneficiary (as defined in subparagraph*

1           *(F)) for the treatment of a substance use disorder*  
2           *or a mental health disorder that is co-occurring*  
3           *with a substance use disorder, the Secretary is*  
4           *authorized to, through rulemaking, not apply*  
5           *any of the requirements described in subpara-*  
6           *graph (B).*

7           “(B) *REQUIREMENTS DESCRIBED.—For*  
8           *purposes of this paragraph, the requirements de-*  
9           *scribed in this subparagraph are any of the fol-*  
10          *lowing:*

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

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

15          “(C) *TELEHEALTH SERVICES DESCRIBED.—*  
16          *For purposes of this paragraph, the telehealth*  
17          *services described in this subparagraph are serv-*  
18          *ices that are both telehealth services and identi-*  
19          *fied by the Secretary, through rulemaking, as*  
20          *services that are the most commonly furnished*  
21          *(as defined by the Secretary) under this part to*  
22          *individuals diagnosed with a substance use dis-*  
23          *order or a mental health disorder that is co-oc-*  
24          *curing with a substance use disorder.*

1           “(D) *CLARIFICATION.—Nothing in this*  
2 *paragraph shall be construed as limiting or oth-*  
3 *erwise affecting the authority of the Secretary to*  
4 *limit or eliminate the non-application pursuant*  
5 *to this paragraph of any of the requirements*  
6 *under subparagraph (B).*

7           “(E) *TREATMENT OF ORIGINATING SITE FA-*  
8 *CILITY FEE.—No facility fee shall be paid under*  
9 *paragraph (2)(B) to an originating site with re-*  
10 *spect to a telehealth service described in subpara-*  
11 *graph (B) for which payment is made under this*  
12 *subsection by reason of the non-application of a*  
13 *requirement described in subparagraph (B) pur-*  
14 *suant to this paragraph if payment for such*  
15 *service would not otherwise be permitted under*  
16 *this subsection if such requirement were applied.*

17           “(F) *ELIGIBLE BENEFICIARY DEFINED.—*  
18 *For purposes of this paragraph, the term ‘eligible*  
19 *beneficiary’ means an individual who—*

20                   “(i) *is entitled to, or enrolled for, bene-*  
21 *fits under part A and enrolled for benefits*  
22 *under this part;*

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

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

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

9                   “(i) the utilization of health care serv-  
10                  ices related to substance use disorder, such  
11                  as behavioral health services and emergency  
12                  department visits; and

13                  “(ii) health outcomes related to sub-  
14                  stance use disorder, such as substance use  
15                  overdose deaths.

16                  “(H) FUNDING.—For purposes of carrying  
17                  out this paragraph, in addition to funds other-  
18                  wise available, the Secretary shall provide for the  
19                  transfer, from the Federal Supplementary Med-  
20                  ical Insurance Trust Fund under section 1841,  
21                  of \$3,000,000 to the Centers for Medicare & Med-  
22                  icaid Services Program Management Account to  
23                  remain available until expended.

24                  “(8) RULE OF CONSTRUCTION.—Nothing in this  
25                  subsection may be construed as waiving requirements

- 1        *under this title to comply with applicable State law,*
- 2        *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.”.

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