

Discussion Draft

1 **TITLE _____—ENSURING ACCESS**
 2 **TO TELEMENTAL HEALTH**
 3 **SERVICES**

4 **SEC. __01. SHORT TITLE; TABLE OF CONTENTS.**

5 (a) **SHORT TITLE.**—This title may be cited as the
 6 “Telemental Health Access to Care Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
 8 this title is as follows:

TITLE _____—ENSURING ACCESS TO TELEMENTAL HEALTH
 SERVICES

Sec. __01. Short title; table of contents.

Subtitle A—Medicare

Sec. ____1. Ensuring coverage for mental health services furnished through telehealth.

Sec. ____2. Improved access to information on telemental health services.

Sec. ____3. Monitoring utilization and ensuring program integrity for mental health services furnished through telehealth.

Sec. ____4. Establishment of incident to modifier for mental health services furnished through telehealth.

Sec. ____5. Guidance on furnishing behavioral health services via telehealth to individuals with limited English proficiency under Medicare program.

Sec. ____6. Reports.

Sec. ____7. Report on mobile applications.

Sec. ____8. Ensuring timely communication regarding telehealth and interstate licensure requirements.

Sec. ____9. Facilitating accessibility for behavioral health services furnished through telehealth.

Subtitle B—Medicaid and CHIP

Sec. ____11. Guidance to States on furnishing services through telehealth under Medicaid and CHIP.

1 “(I) the eligible telehealth indi-
2 vidual is capable of and consents to
3 the use of telehealth;

4 “(II) the furnishing of the tele-
5 health service via a telecommuni-
6 cations system instead of through an
7 in-person service is suitable for such
8 service for such individual;

9 “(III) the physician or practi-
10 tioner could—

11 “(aa) furnish a service in
12 person to the eligible telehealth
13 individual on the same day that,
14 or within a reasonable period of
15 time after (as determined appro-
16 priate by the Secretary), such
17 telehealth service would be fur-
18 nished; or

19 “(bb) refer the eligible tele-
20 health individual to another phy-
21 sician or practitioner with whom
22 the referring physician or practi-
23 tioner has an arrangement to
24 furnish in-person services to such
25 individual on the same day that,

1 or within a reasonable period of
2 time after (as determined appro-
3 priate by the Secretary), such
4 telehealth service would be fur-
5 nished; and

6 “(IV) the physician or practi-
7 tioner documents in the medical
8 record of the individual that the men-
9 tal health telehealth services are ap-
10 propriately coordinated with other
11 services recommended by the primary
12 care physician or practitioner for the
13 overall treatment of such individual.”.

14 (b) MENTAL HEALTH VISITS FURNISHED BY RURAL
15 HEALTH CLINICS.—Section 1834(y) of the Social Security
16 Act (42 U.S.C. 1395m(y)) is amended—

17 (1) in the subsection heading, by striking “TO
18 HOSPICE PATIENTS”;

19 (2) in paragraph (2), by striking “interactions,
20 the in-person mental health visit requirements” and
21 all that follows through the period and inserting the
22 following: “interactions—

23 “(A) the in-person mental health visit re-
24 quirements established under section
25 405.2463(b)(3) of title 42 of the Code of Fed-

1 eral Regulations (or a successor regulation)
2 shall not apply; and

3 “(B) payment may not be made for such
4 visits furnished on or after the date that is one
5 year after the date of the enactment of this
6 subparagraph by a rural health clinic to a pa-
7 tient for purposes of diagnosis, evaluation, or
8 treatment of a mental health disorder unless
9 the rural health clinic includes on a claim for
10 such visits a code or modifier determined appro-
11 priate by the Secretary indicating that—

12 “(i) the patient is capable of and con-
13 sents to the use of telehealth;

14 “(ii) the furnishing of the telehealth
15 visit via a telecommunications system in-
16 stead of through an in-person visit is suit-
17 able for such visit for such patient;

18 “(iii) the rural health clinic could—

19 “(I) furnish services in person to
20 the patient on the same day that, or
21 within a reasonable period of time
22 after (as determined appropriate by
23 the Secretary), such telehealth visit
24 would be furnished; or

1 “(II) refer the patient to another
2 physician or practitioner with whom
3 the referring rural health clinic has an
4 arrangement to furnish in-person
5 services to such patient on the same
6 day that, or within a reasonable pe-
7 riod of time after (as determined ap-
8 propriate by the Secretary), such tele-
9 health visit would be furnished; and

10 “(iv) the rural health clinic documents
11 in the medical record of the patient that
12 the mental health telehealth visits are ap-
13 propriately coordinated with other services
14 recommended by the primary care physi-
15 cian or practitioner for the overall treat-
16 ment of such patient.”.

17 (c) MENTAL HEALTH VISITS FURNISHED BY FEDER-
18 ALLY QUALIFIED HEALTH CENTERS.—Section
19 1834(o)(4) of the Social Security Act (42 U.S.C.
20 1395m(o)(4)) is amended—

21 (1) in the paragraph heading, by striking “TO
22 HOSPICE PATIENTS”; and

23 (2) in subparagraph (B), by striking “inter-
24 actions, the in-person mental health visit require-

1 ments” and all that follows through the period and
2 inserting the following: “interactions—

3 “(i) the in-person mental health visit
4 requirements established under section
5 405.2463(b)(3) of title 42 of the Code of
6 Federal Regulations (or a successor regula-
7 tion) shall not apply; and

8 “(ii) payment may not be made for
9 such visits furnished on or after the date
10 that is year after the date of the enact-
11 ment of this clause by a Federally qualified
12 health center to a patient for purposes of
13 diagnosis, evaluation, or treatment of a
14 mental health disorder, unless the Feder-
15 ally qualified clinic includes on a claim for
16 such visits a code or modifier determined
17 appropriate by the Secretary indicating
18 that—

19 “(I) the patient is capable of and
20 consents to the use of telehealth;

21 “(II) the furnishing of the tele-
22 health visit via a telecommunications
23 system instead of through an in-per-
24 son visit is suitable for such visit for
25 such patient;

1 “(III) the Federally qualified
2 health center could—

3 “(aa) furnish services in
4 person to the patient on the same
5 day that, or within a reasonable
6 period of time after (as deter-
7 mined appropriate by the Sec-
8 retary), such telehealth visit
9 would be furnished; or

10 “(bb) refer the patient to
11 another physician or practitioner
12 with whom the referring Feder-
13 ally qualified health center has
14 an arrangement to furnish in-
15 person services to such patient on
16 the same day that, or within a
17 reasonable period of time after
18 (as determined appropriate by
19 the Secretary), such telehealth
20 visit would be furnished; and

21 “(IV) the Federally qualified
22 health center documents in the med-
23 ical record of the patient that the
24 mental health telehealth visits are ap-
25 propriately coordinated with other

1 services recommended by the primary
2 care physician or practitioner for the
3 overall treatment of such patient.”.

4 (d) HEALTH BEHAVIOR ASSESSMENT AND INTER-
5 VENTION SERVICES.—Section 1834(m)(7) of the Social
6 Security Act (42 U.S.C. 1395m(m)(7)) is amended—

7 (1) in subparagraph (A), by inserting “or, in
8 the case of telehealth services furnished on or after
9 the date that is 1 year after the date of the enact-
10 ment of the Telemental Health Access to Care Act,
11 for purposes of furnishing health behavior assess-
12 ment and intervention services” after “diagnosis,
13 evaluation, or treatment of a mental health dis-
14 order”; and

15 (2) in subparagraph (B)(i), as amended by sub-
16 section (a), by inserting “or for purposes of fur-
17 nishing health behavior assessment and intervention
18 services” after “diagnosis, evaluation, or treatment
19 of a mental health disorder”.

20 (e) COVERAGE OF MENTAL HEALTH SERVICES FUR-
21 NISHED VIA AUDIO-ONLY TELECOMMUNICATIONS TECH-
22 NOLOGY.—Section 1834(m)(9) of the Social Security Act
23 (42 U.S.C. 1395m(m)(9)) is amended—

24 (1) by striking “TECHNOLOGY.—The Sec-
25 retary” and inserting “TECHNOLOGY.—

1 “(A) EMERGENCY PERIOD EXTENSION.—
2 The Secretary”; and

3 (2) by adding at the end the following new sub-
4 paragraph:

5 “(B) MENTAL HEALTH SERVICES FUR-
6 NISHED VIA AUDIO-ONLY TELECOMMUNI-
7 CATIONS TECHNOLOGY.—

8 “(i) IN GENERAL.—In the case of
9 telehealth services furnished after the end
10 of the 151-day period described in the first
11 sentence of subparagraph (A) to an eligible
12 telehealth individual for purposes of diag-
13 nosis, evaluation, or treatment of a mental
14 health disorder, the Secretary shall provide
15 coverage and payment under this part for
16 such telehealth services that are furnished
17 via an audio-only telecommunications sys-
18 tem, subject to clauses (ii) and (iii), as on-
19 going data becomes available.

20 “(ii) SAFEGUARDS.—In establishing
21 and maintaining coverage and payment
22 under this part for telehealth services de-
23 scribed in clause (i) that are furnished via
24 an audio-only telecommunications system,
25 the Secretary shall—

1 “(I) require documentation, via a
2 code or modifier, of elements de-
3 scribed in section 410.78(a)(3) of title
4 42, Code of Federal Regulations (or
5 any successor regulation);

6 “(II) regularly review currently
7 available data on relevant topics, in-
8 cluding those mentioned in the find-
9 ings of the report described in clause
10 (iii); and

11 “(III) based on such review, peri-
12 odically update coverage under this
13 part of such telehealth services to en-
14 sure that it is reasonable and nec-
15 essary.

16 “(iii) REPORT.—The Secretary shall
17 request the National Academy of Medicine
18 to conduct an evaluation of, and submit to
19 Congress a report on, mental health serv-
20 ices furnished via audio-only telecommuni-
21 cations systems. The report shall be com-
22 pleted and submitted to Congress not later
23 than five years after the date of the enact-
24 ment of this subparagraph and shall in-
25 clude a review of the following:

1 “(I) Whether quality of care, pa-
2 tient outcomes, patient experience of
3 care, and practitioner experience of
4 care differ based on whether a Medi-
5 care beneficiary receives services de-
6 scribed in clause (i) via an audio-only
7 telecommunications system or an
8 audio-visual telecommunications sys-
9 tem. The review for the elements de-
10 scribed in the preceding sentence
11 shall—

12 “(aa) include the use of
13 claims data, qualitative inter-
14 views, and data reported pursu-
15 ant to section 308 of Division P
16 of the Consolidated Appropria-
17 tions Act, 2022; and

18 “(bb) provide detailed find-
19 ings based on geographic area,
20 race and ethnicity, primary lan-
21 guage, disability status, gender,
22 age, dual eligibility under this
23 title and title XIX, and income.

24 “(II) The extent to which Medi-
25 care beneficiaries are aware that they

1 may choose to receive in-person,
2 audio-visual telehealth, or audio-only
3 telehealth forms of mental health
4 services, including an analysis of the
5 differences in the extent to which
6 beneficiaries are aware of such choices
7 based on relevant factors such as in-
8 come, urban or rural status, age, race
9 and ethnicity, primary language, or
10 other classifications determined appro-
11 priate by the Secretary.

12 “(III) Changes in, and geo-
13 graphic differences in, the availability
14 of sufficient broadband internet access
15 service to allow for reliable connection
16 to an audio-visual form of tele-
17 communications system. To support
18 the review of broadband internet ac-
19 cess service under this subclause, the
20 Secretary shall facilitate input from
21 the Federal Communications Commis-
22 sion.

23 “(iv) FUNDING.—In addition to
24 amounts otherwise available, there is ap-
25 propriated to the Centers for Medicare &

1 Medicaid Services Program Management
2 Account for fiscal year 2023, out of any
3 money in the Treasury not otherwise ap-
4 propriated, \$_____, to remain avail-
5 able until expended, for purposes of car-
6 rying out the report described in clause
7 (iii).”.

8 **SEC. ____ 2. IMPROVED ACCESS TO INFORMATION ON TELE-**
9 **MENTAL HEALTH SERVICES.**

10 (a) MEDICARE.—

11 (1) SECRETARY.—Section 1804 of the Social
12 Security Act (42 U.S.C. 1395b–2) is amended—

13 (A) in subsection (a), in the matter pre-
14 ceding paragraph (1), by striking “The Sec-
15 retary” and inserting “Subject to subsections
16 (c), (d), and (e)(1), the Secretary”;

17 (B) in subsection (b), in the first sentence,
18 by striking “The Secretary” and inserting
19 “Subject to subsection (e)(1), the Secretary”;
20 and

21 (C) by adding at the end the following new
22 subsection:

23 “(e) ACCESS TO INFORMATION ON TELEMENTAL
24 HEALTH SERVICES.—

25 “(1) WEBPAGE.—

1 “(A) IN GENERAL.—Not later than 1 year
2 after the date of enactment of this subsection,
3 the Secretary, acting through the Administrator
4 of the Centers for Medicare & Medicaid Serv-
5 ices, shall develop and make publicly available a
6 webpage within the Medicare.gov website (or a
7 successor website) that—

8 “(i) provides the information de-
9 scribed in subparagraph (B) in an easily
10 understandable format; and

11 “(ii) includes the search function de-
12 scribed in subparagraph (C) in an easily
13 understandable format.

14 “(B) MEDICARE BENEFICIARIES’ RIGHT TO
15 KNOW OF THE ABILITY TO RECEIVE TELE-
16 MENTAL HEALTH SERVICES.—The information
17 described in this subparagraph is the following:

18 “(i) A Medicare beneficiary can re-
19 ceive Medicare-covered services for the di-
20 agnosis, evaluation, or treatment of a men-
21 tal health or substance use disorder via
22 telehealth, regardless of their location and
23 whether that location is rural or urban.

24 “(ii) A Medicare beneficiary can re-
25 ceive Medicare-covered telehealth services

1 in audio-only format for the diagnosis,
2 evaluation, and treatment of a mental
3 health or substance use disorder.

4 “(iii) A Medicare beneficiary can—

5 “(I) initiate telehealth visits for
6 the diagnosis, evaluation, or treatment
7 of a mental health or substance use
8 disorder without having to first have
9 an in-person visit with the health care
10 provider furnishing the telehealth
11 service; and

12 “(II) continue such Medicare-cov-
13 ered telehealth visits without being re-
14 quired to periodically have an in-per-
15 son visit with the health care provider.

16 “(iv) A Medicare beneficiary’s choice
17 to pursue telehealth visits for the diag-
18 nosis, evaluation, or treatment of a mental
19 health or substance use disorder does not
20 preclude the beneficiary from subsequently
21 seeking in-person mental health or sub-
22 stance use disorder services.

23 “(v) Regardless of whether the mental
24 health or substance use disorder service is
25 provided via telehealth or in person, the

1 same Medicare documentation require-
2 ments apply for the health care provider to
3 document and keep track of key informa-
4 tion.

5 “(vi) Other information determined
6 appropriate by the Secretary.

7 “(C) SEARCH FUNCTION.—

8 “(i) IN GENERAL.— The webpage de-
9 scribed in subparagraph (A) shall contain
10 a search function that enables an indi-
11 vidual to enter a zip code, select from a list
12 of telehealth services covered under part B
13 for the diagnosis, evaluation, and treat-
14 ment of a mental health or substance use
15 disorder, and then view the standard coin-
16 surance amount under part B for the se-
17 lected service in the applicable geographic
18 area, including as adjusted by the physi-
19 cian fee schedule geographic practice cost
20 index (GPCI) .

21 “(ii) DISCLAIMERS.—The search func-
22 tion described in clause (i) shall include
23 disclaimers that clarify that cost-sharing
24 for the selected service under part B may
25 vary—

1 “(I) depending on whether the
2 individual has reached the annual part
3 B deductible;

4 “(II) if the individual has a sup-
5 plemental coverage, such as coverage
6 under the Medicaid program or under
7 a medicare supplemental policy; and

8 “(III) if the individual is enrolled
9 in a Medicare Advantage plan (in
10 which case the individual should con-
11 sult their Medicare Advantage plan).

12 “(D) UPDATING INFORMATION.—The Sec-
13 retary shall, as appropriate (but in no case less
14 frequently than annually), update the informa-
15 tion described in subparagraph (B) and the in-
16 formation available using the search function
17 under subparagraph (C), including to reflect
18 statutory, regulatory, and other subregulatory
19 changes in coverage of telehealth services under
20 part B. To the extent practicable, the Secretary
21 shall ensure that information described in sub-
22 paragraph (B) and the information available
23 using the search function under subparagraph
24 (C) is up-to-date prior to the start of the an-

1 nual, coordinated election period under section
2 1851(e)(3) each year.

3 “(2) MEDICARE AND YOU HANDBOOK.—To the
4 extent practicable, the notice provided under sub-
5 section (a) shall include the information described in
6 paragraph (1)(B), including as updated under para-
7 graph (1)(D).”.

8 (2) MEDICARE ADVANTAGE.—Section 1852 of
9 the Social Security Act (42 U.S.C. 1395w–22) is
10 amended—

11 (A) in subsection (e), by adding at the end
12 the following new paragraph:

13 “(3) ACCESS TO INFORMATION ON TELE-
14 MENTAL HEALTH SERVICES.—For plan year 2024
15 and subsequent plan years, the Medicare Advantage
16 organization shall comply with the requirements
17 under such subsection).”; and

18 (B) by adding at the end the following new
19 subsection:

20 “(o) ACCESS TO INFORMATION ON TELEMENTAL
21 HEALTH SERVICES.—

22 “(1) IN GENERAL.—Each Medicare Advantage
23 organization offering a Medicare Advantage plan
24 shall provide, with respect to the plan, information
25 on the covered mental health and substance use dis-

1 order services available through telehealth (including
2 information on services that are offered as supple-
3 mental benefits) in a manner similar to publication
4 of the information described in section
5 1804(e)(1)(B), and estimates of out-of-pocket costs
6 of such telehealth services in an easily understand-
7 able format through—

8 “(A) a toll-free telephone number that is
9 made available through the customer service op-
10 eration of the Medicare Advantage plan;

11 “(B) an internet website; and

12 “(C) subject to paragraph (2), other writ-
13 ten materials determined appropriate by the
14 Secretary.

15 “(2) REQUIREMENT FOR WRITTEN MATE-
16 RIALS.—

17 “(A) APPROVAL.—The written materials
18 described in paragraph (1)(B) shall be subject
19 to the requirements for marketing materials
20 under section 1851(h).

21 “(B) COORDINATION.—The mailing of the
22 written materials described in paragraph (1)(B)
23 shall be coordinated, to the extent practicable,
24 with the mailing of any annual notice under
25 section 1804(a).

1 “(3) INTEGRATION.—The requirements for use
2 of a toll-free telephone number, an internet website,
3 and written materials under paragraph (1) may be
4 provided through an existing toll-free telephone
5 number, internet website, or written materials, as
6 applicable.”.

7 (b) PUBLIC AWARENESS CAMPAIGN.—Part A of title
8 XI of the Social Security Act (42 U.S.C. 1301 et seq.)
9 is amended by inserting after section 1150C the following
10 new section:

11 **“SEC. 1150D. TELEMENTAL HEALTH PUBLIC AWARENESS**
12 **CAMPAIGNS.**

13 “(a) IN GENERAL.—The Secretary shall conduct
14 public awareness campaigns to help ensure that patients
15 who have coverage under an applicable program or plan
16 understand that telehealth benefits are available to them
17 for the furnishing of mental health and substance use dis-
18 order services.

19 “(b) CONSULTATION.—In conducting a public aware-
20 ness campaign under subsection (a), the Secretary shall
21 coordinate, to the extent applicable, with State Medicaid
22 agencies, health insurance issuers, group health plans, and
23 health care providers.

24 “(c) TIMEFRAME.—

1 “(1) INITIAL CAMPAIGN.—The Secretary shall
2 complete the initial public awareness campaign
3 under subsection (a) by not later than 1 year after
4 the date of enactment of this section.

5 “(2) SUBSEQUENT CAMPAIGNS.—After the ini-
6 tial public awareness campaign described in para-
7 graph (1) is completed, the Secretary shall, as ap-
8 propriate, periodically conduct subsequent public
9 awareness campaigns under subsection (a).

10 “(d) APPLICABLE PROGRAM OR PLAN.—In this sec-
11 tion, the term ‘applicable program or plan’ means the fol-
12 lowing:

13 “(1) The Medicare program under title XVIII
14 of the Social Security Act (42 U.S.C. 1395 et seq.).

15 “(2) The Medicaid program under title XIX of
16 the Social Security Act (42 U.S.C. 1396 et seq.).

17 “(3) The Children’s Health Insurance Program
18 under title XXI of the Social Security Act (42
19 U.S.C. 1397aa et seq.).

20 “(4) A qualified health plan (as defined in sec-
21 tion 1301(a)(1) of the Patient Protection and Af-
22 fordable Care Act) offered on an exchange estab-
23 lished under section 1311 or 1321 of such Act.

24 “(5) Any other health program or plan deter-
25 mined appropriate by the Secretary.”.

1 (c) FUNDING.—In addition to amounts otherwise
2 available, there is appropriated to the Centers for Medi-
3 care & Medicaid Services Program Management Account
4 for fiscal year 2023, out of any money in the Treasury
5 not otherwise appropriated, \$_____, to remain avail-
6 able until expended, for purposes of carrying out the
7 amendments made by subsections (a)(1) and (b).

8 **SEC. ___ 3. MONITORING UTILIZATION AND ENSURING PRO-**
9 **GRAM INTEGRITY FOR MENTAL HEALTH**
10 **SERVICES FURNISHED THROUGH TELE-**
11 **HEALTH.**

12 In the interests of monitoring utilization and program
13 integrity concerns for mental health services furnished
14 through telehealth under section 1834(m)(7) of the Social
15 Security Act (42 U.S.C. 1395m(m)(7)), not later than one
16 year after the date of the enactment of this Act, the Sec-
17 retary of Health and Human Services shall review claims
18 data to identify physicians and practitioners for whom the
19 number of such claims per beneficiary greatly exceeds the
20 average number of such claims per beneficiary.

21 **SEC. ___ 4. ESTABLISHMENT OF INCIDENT TO MODIFIER**
22 **FOR MENTAL HEALTH SERVICES FURNISHED**
23 **THROUGH TELEHEALTH.**

24 Section 1834(m)(7) of the Social Security Act (42
25 U.S.C. 1395m(m)(7)), as amended by section **【___1】**,

1 is amended by adding at the end the following new sub-
2 paragraph:

3 “(C) ESTABLISHMENT OF INCIDENT TO
4 MODIFIER FOR MENTAL HEALTH SERVICES
5 FURNISHED THROUGH TELEHEALTH.—Not
6 later than one year after the date of the enact-
7 ment of this subparagraph, the Secretary shall
8 require claims for mental health services fur-
9 nished through telehealth under this paragraph
10 that are furnished by auxiliary personnel (as
11 defined in section 410.26(a)(1) of title 42, Code
12 of Federal Regulations, or any successor regula-
13 tion) and billed incident to a physician or prac-
14 titioner’s professional services to include a code
15 or modifier as determined appropriate by the
16 Secretary.”.

17 **SEC. ____ 5. GUIDANCE ON FURNISHING BEHAVIORAL**
18 **HEALTH SERVICES VIA TELEHEALTH TO IN-**
19 **DIVIDUALS WITH LIMITED ENGLISH PRO-**
20 **FICIENCY UNDER MEDICARE PROGRAM.**

21 Not later than 1 year after the date of the enactment
22 of this Act, the Secretary of Health and Human Services
23 shall issue and disseminate guidance on the following:

24 (1) Best practices for providers to work with in-
25 terpreters to furnish behavioral health services via

1 video-based and audio-only telehealth, when video-
2 based telehealth is not an option.

3 (2) Best practices on integrating the use of
4 video platforms that enable multi-person video calls
5 into behavioral health services furnished via tele-
6 health.

7 (3) Best practices on teaching patients, espe-
8 cially those with limited English proficiency, to use
9 video-based telehealth platforms.

10 (4) Best practices for providing patient mate-
11 rials, communications, and instructions in multiple
12 languages, including text message appointment re-
13 minders and prescription information.

14 **SEC. ___ 6. REPORTS.**

15 Not later than 18 months after the date of the enact-
16 ment of this Act, the Secretary of Health and Human
17 Services (referred to in this section as the “Secretary”)
18 shall submit to the Committee on Finance of the Senate
19 and the Committee on Energy and Commerce of the
20 House of Representatives a report on—

21 (1) utilization of mental health services fur-
22 nished through telehealth under section 1834(m)(7)
23 of such Act (42 U.S.C. 1395m(m)(7));

24 (2) utilization of substance use disorder services
25 furnished through telehealth since the effective date

1 of the amendments made by section 2001(a) of the
2 SUPPORT for Patients and Communities Act (Pub-
3 lic Law 115–271), and whether Medicare bene-
4 ficiaries have been affected by the delay in program
5 establishment guidance directed by Congress under
6 section 3232 of such Act;

7 (3) recommendations of the Secretary regarding
8 fraud or abuse prevention with respect to such tele-
9 health services;

10 (4) plans for encouraging increased utilization
11 of and access to behavioral health services furnished
12 through telehealth for beneficiaries of the Medicare,
13 Medicaid, and CHIP programs;

14 (5) changes in utilization of telehealth for be-
15 havioral health services for rural, underserved, and
16 minority communities since the declaration of the
17 COVID–19 public health emergency;

18 (6) the impact of telehealth on access, cost, and
19 quality of behavioral health services offered to Med-
20 icaid and CHIP beneficiaries under the Medicaid
21 and CHIP programs, including specific information
22 on patient experience and the impact of telehealth
23 on access to and quality of behavioral health services
24 in schools;

1 (7) barriers and potential solutions to provider
2 use of telehealth under the Medicare, Medicaid, and
3 CHIP programs; and

4 (8) the frequency of telehealth services fur-
5 nished where the provider is located in a different
6 State than the State in which the patient resides.

7 **SEC. ___ 7. REPORT ON MOBILE APPLICATIONS.**

8 Not later than 18 months after the date of the enact-
9 ment of this Act, the Comptroller General of the United
10 States shall submit to the Committee on Finance of the
11 Senate, the Committee on Health, Education, Labor, and
12 Pensions of the Senate, the Committee on Ways and
13 Means of the House of Representatives, and the Com-
14 mittee on Energy and Commerce of the House of Rep-
15 resentatives a report on mobile applications used to pro-
16 vide behavioral health services, including the prevalence of
17 such mobile applications, the data security and compliance
18 of such applications with the legal framework, including
19 the regulations promulgated under section 264(e) of the
20 Health Insurance Portability and Accountability Act of
21 1996, that governs data security for such mobile applica-
22 tions, the utilization by such mobile applications of clini-
23 cally-supported practices, the prevalence of health insur-
24 ance coverage for such mobile applications and services de-
25 livered through such applications, and the expected long-

1 term use of mobile applications as a means of obtaining
2 behavioral health services.

3 **SEC. ___ 8. ENSURING TIMELY COMMUNICATION REGARD-**
4 **ING TELEHEALTH AND INTERSTATE LICEN-**
5 **SURE REQUIREMENTS.**

6 The Administrator of the Centers for Medicare &
7 Medicaid Services shall provide information on licensure
8 requirements for furnishing telehealth services under
9 Medicare and Medicaid, including regular updates to guid-
10 ance and other information that clarify the extent to which
11 licenses through the interstate license compact pathway
12 can qualify as valid and full licenses for the purposes of
13 meeting Federal licensure requirements under titles XVIII
14 and XIX of the Social Security Act.

15 **SEC. ___ 9. FACILITATING ACCESSIBILITY FOR BEHAV-**
16 **IORAL HEALTH SERVICES FURNISHED**
17 **THROUGH TELEHEALTH.**

18 The Secretary of Health and Human Services shall
19 provide regular updates to guidance to facilitate the acces-
20 sibility of behavioral health services furnished through
21 telehealth for the visually and hearing impaired.

1 **Subtitle B—Medicaid and CHIP**

2 **SEC. ___ 11. GUIDANCE TO STATES ON FURNISHING SERV-**
3 **ICES THROUGH TELEHEALTH UNDER MED-**
4 **ICAID AND CHIP.**

5 Not later than 18 months after the date of enactment
6 of this Act, the Secretary of Health and Human Services
7 shall provide technical assistance and issue guidance to
8 States on improving access to telehealth under Medicaid
9 and the Children’s Health Insurance Program, including
10 with respect to:

11 (1) How States can adopt flexibilities under
12 Medicaid and the Children’s Health Insurance Pro-
13 gram to expand access to care via telehealth, includ-
14 ing when States may adopt such flexibilities without
15 the need for approval of a State plan amendment or
16 waiver.

17 (2) Best practices regarding billing for services,
18 including recommended voluntary billing codes,
19 modifiers, and place of service designations and how
20 such billing codes, modifiers, and designations can
21 be used to create consistent data sets.

22 (3) Strategies for integrating telehealth services
23 into value-based care models.

24 (4) Best practices from States that have used
25 Medicaid waivers to test expanded access to tele-

1 health, including during the COVID–19 public
2 health emergency declared by the Secretary pursu-
3 ant to section 319 of the Public Health Service Act
4 on January 31, 2020, entitled “Determination that
5 a Public Health Emergency Exists Nationwide as
6 the Result of the 2019 Novel Coronavirus”, includ-
7 ing any renewal of such declaration.

8 (5) Strategies to promote the delivery of acces-
9 sible and culturally competent care via telehealth, in-
10 cluding addressing the needs of individuals with dis-
11 abilities, medically underserved urban and rural
12 communities, racial and ethnic minorities such as
13 American Indians and Alaska Natives, individuals
14 with limited English proficiency, and individuals of
15 different age groups including children, young
16 adults, and seniors;

17 (6) Strategies for training and providing re-
18 sources to providers and patients on the use of tele-
19 health, including working with interpreters to fur-
20 nish health services and providing resources in mul-
21 tiple languages.

22 (7) Integrating the use of existing video plat-
23 forms that enable multi-person video calls.

24 (8) Best practices to support the delivery of
25 covered services under Medicaid and the Children’s

1 Health Insurance Program via telehealth in schools,
2 including specifically for the provision of mental
3 health and substance use disorder services in such
4 settings.

5 (9) Strategies for evaluating how the delivery of
6 health services via telehealth affects quality, out-
7 comes, and cost under Medicaid and the Children's
8 Health Insurance Program.

9 (10) Best practices for conveying information to
10 patients on the availability of telehealth as an option
11 to receive services covered under Medicaid and the
12 Children's Health Insurance Program, including the
13 availability of audio-only telehealth, the ability to re-
14 ceive such services from a patient's home, and re-
15 quirements related to in-person visits.

1 **SEC. ____12. DISREGARD OF STATE EXPENDITURES ON**
2 **HEALTH SERVICES INITIATIVES TO IN-**
3 **CREASE ACCESS TO BEHAVIORAL HEALTH**
4 **SERVICES FOR CHILDREN IN SCHOOLS FOR**
5 **PURPOSES OF THE CHIP REIMBURSEMENT**
6 **LIMITATION ON EXPENDITURES NOT USED**
7 **FOR MEDICAID OR HEALTH INSURANCE AS-**
8 **SISTANCE.**

9 Section 2105(c)(2) of the Social Security Act (42
10 U.S.C. 1397ee(c)(2)) is amended by adding at the end the
11 following new subparagraph:

12 “(D) DISREGARD OF EXPENDITURES FOR
13 HEALTH SERVICES INITIATIVE FOR BEHAV-
14 IORAL HEALTH SERVICES IN SCHOOLS.—

15 “(i) IN GENERAL.—Beginning with
16 the first fiscal year that begins after the
17 date of enactment of this subparagraph
18 (or, if earlier, the fiscal year in which guid-
19 ance issued by the Secretary to implement
20 this subparagraph takes effect), the
21 amount of any expenditures described in
22 clause (ii) for a fiscal year shall be dis-
23 regarded for purposes of applying the limi-
24 tation under subparagraph (A) for such
25 fiscal year, except that in no case shall the
26 amount of payment that may be made

1 under subsection (a) for a fiscal year for
2 expenditures subject to such limitation (in-
3 cluding expenditures described in clause
4 (ii)) exceed 15 percent.

5 “(ii) EXPENDITURES DESCRIBED.—
6 Expenditures described in this clause are
7 expenditures by a State to implement or
8 operate a health services initiative under
9 the State child health plan under this title
10 that would improve the health of children
11 by increasing access to behavioral health
12 services in schools, including behavioral
13 health services furnished through tele-
14 health.”.

15 **SEC. ___ 13. INCLUDING TELEHEALTH IN PROVIDER DIREC-**
16 **TORIES.**

17 Section 1902(a)(83)(A)(i) of the Social Security Act
18 (42 U.S.C. 1396a(a)(83)(A)(i)) is amended—

19 (1) in subclause (III), by striking “; and” and
20 inserting a semicolon; and

21 (2) by adding at the end the following new sub-
22 clause:

23 “(V) whether the physician or
24 provider provides services via tele-
25 health; and”.