

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

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Knowing the Efficiency
3 and Efficacy of Permanent Telehealth Options Act of
4 2021” or the “KEEP Telehealth Options Act of 2021”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) On January 21, 2020, the United States
8 confirmed the Nation’s first case of the 2019 novel
9 coronavirus (which presents as the disease COVID–
10 19).

11 (2) On January 31, 2020, the Secretary of
12 Health and Human Services (in this Act referred to
13 as the “Secretary”) declared a public health emer-
14 gency in response to COVID–19.

15 (3) By March, the disease reached the pan-
16 demic level according to the World Health Organiza-
17 tion, and the President proclaimed the COVID–19
18 outbreak in the United States to constitute a na-
19 tional emergency.

20 (4) This emergency declaration authorizes the
21 Secretary “to temporarily waive or modify certain
22 requirements of the Medicare, Medicaid, and State
23 Children’s Health Insurance programs and of the
24 Health Insurance Portability and Accountability Act
25 Privacy Rule throughout the duration of the public

1 health emergency declared in response to the
2 COVID–19 outbreak”.

3 (5) Under this authority, the Secretary, and the
4 Administrator of the Centers for Medicare & Med-
5 icaid Services (in this Act referred to as the “Ad-
6 ministrator”) acting under the Secretary’s authority,
7 issued numerous rules, regulations, and waivers ena-
8 bling the expansion of telehealth services during the
9 public health emergency.

10 (6) Telehealth services play a critical role in en-
11 hancing access to care for patients while simulta-
12 neously reducing the risk of exposure to the
13 coronavirus for both patients and providers.

14 (7) The Administrator expanded access to tele-
15 health services under the public health emergency to
16 all Medicare beneficiaries (including clinician-pro-
17 vided services to new and established patients).

18 (8) On April 23, 2020, the Administrator re-
19 leased a telehealth toolkit to assist States in expand-
20 ing the use of telehealth through Medicaid and
21 CHIP.

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

1 **SEC. 3. STUDIES AND REPORTS ON THE EXPANSION OF AC-**
2 **CESS TO TELEHEALTH SERVICES DURING**
3 **THE COVID-19 EMERGENCY.**

4 (a) HHS.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of the enactment of this Act, the Sec-
7 retary, in consultation with the Administrator, shall
8 conduct a study and submit to Congress a report on
9 actions taken by the Secretary during the emergency
10 period described in section 1135(g)(1)(B) of the So-
11 cial Security Act (42 U.S.C. 1320b-5(g)(1)(B)) to
12 expand access to telehealth services under the Medi-
13 care program, the Medicaid program, and the Chil-
14 dren's Health Insurance Program. Such report shall
15 include the following:

16 (A) A comprehensive list of telehealth serv-
17 ices available under such programs and an ex-
18 planation of all actions undertaken by the Sec-
19 retary during the emergency period described in
20 such paragraph to expand access to such serv-
21 ices.

22 (B) A comprehensive list of types of pro-
23 viders that may be reimbursed for such services
24 furnished under such programs during such pe-
25 riod, including a list of services which may only
26 be reimbursed under such programs during

1 such period if furnished by such providers in-
2 person.

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

8 (D) A quantitative analysis of the use of
9 such services under such programs during such
10 period for mental and behavioral health treat-
11 ments.

12 (E) An analysis of the public health im-
13 pacts of the actions described in subparagraph
14 (A).

15 (2) PUBLICATION OF REPORT.—Not later than
16 180 days after the date of the enactment of this Act,
17 the Secretary shall publish on the public website of
18 the Department of Health and Human Services the
19 report described in paragraph (1).

20 (b) MEDPAC REPORT.—

21 (1) IN GENERAL.—Not later than 210 days
22 after the date of enactment of this Act, the Medicare
23 Payment Advisory Commission shall, in consultation
24 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-

1 ices, conduct a study and submit to Congress a re-
2 port on—

3 (A) the efficiency, management, and suc-
4 cess and failures of the expansion of access to
5 telehealth services under the Medicaid program
6 and the Children’s Health Insurance Program
7 during the emergency period described in sub-
8 section (a)(1); and

9 (B) any risk in increased fraudulent activ-
10 ity, and types of fraudulent activity, associated
11 with such expansion.

12 (2) RECOMMENDATIONS.—The report sub-
13 mitted under paragraph (1) shall include rec-
14 ommendations on—

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

19 (B) ways to address any fraudulent activ-
20 ity described in paragraph (1)(B).

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

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

