

116TH CONGRESS
2D SESSION

S. 4840

To amend title XVIII of the Social Security Act to require the inclusion of certain audio-only diagnoses in the determination of risk adjustment for Medicare Advantage plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 21 (legislative day, OCTOBER 19), 2020

Mr. ROBERTS (for himself, Ms. CORTEZ MASTO, Mr. SCOTT of South Carolina, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to require the inclusion of certain audio-only diagnoses in the determination of risk adjustment for Medicare Advantage plans, and for other purposes.

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 “Ensuring Parity in
5 MA for Audio-Only Telehealth Act of 2020”.

1 **SEC. 2. REQUIRING THE INCLUSION OF CERTAIN AUDIO-**
2 **ONLY DIAGNOSES IN THE DETERMINATION**
3 **OF RISK ADJUSTMENT FOR MEDICARE AD-**
4 **VANTAGE PLANS.**

5 Section 1853(a)(1) of the Social Security Act (42
6 U.S.C. 1395w-23(a)(1)) is amended by adding at the end
7 the following new subparagraph:

8 “(J) INCLUSION OF CERTAIN AUDIO-ONLY
9 DIAGNOSES FOR PURPOSES OF RISK ADJUST-
10 MENT.—

11 “(i) IN GENERAL.—For purposes of
12 determining the appropriate adjustment
13 for health status under subparagraph
14 (C)(i) for plan years 2020 and 2021 (and
15 for such other plan years determined ap-
16 propriate by the Secretary), the Secretary,
17 in determining the diseases or conditions
18 of an individual, shall take into account a
19 qualified diagnosis (as defined in clause
20 (ii)) made with respect to such individual
21 by a qualified provider (as so defined) via
22 telehealth regardless of whether such diag-
23 nosis so made included the use of video
24 communications.

25 “(ii) DEFINITIONS.—For purposes of
26 this subparagraph:

1 “(I) QUALIFIED DIAGNOSIS.—

2 The term ‘qualified diagnosis’ means
3 a diagnosis made with respect to a
4 chronic disease or condition of an in-
5 dividual during a plan year if such di-
6 agnosis was also made with respect to
7 such individual in one of the last of
8 the 3 plan years preceding such plan
9 year.

10 “(II) QUALIFIED PROVIDER.—

11 The term ‘qualified provider’ means,
12 with respect to a qualified diagnosis
13 made with respect to an individual
14 during a plan year, a provider of serv-
15 ices, clinician or supplier that—

16 “(aa) furnished an item or
17 service to such individual during
18 the 3-year period ending on the
19 date such diagnosis was so made;
20 or

21 “(bb) is in the same practice
22 (as determined by tax identifica-
23 tion number) of a provider of
24 services or supplier who fur-
25 nished such an item or service to

1 such individual during such pe-
2 riod.”.

3 **SEC. 3. REQUIRING PARITY IN TELEHEALTH PAYMENTS**
4 **DURING THE COVID-19 EMERGENCY.**

5 Section 1834(m) of the Social Security Act (42
6 U.S.C. 1395m(m)) is amended by adding at the end the
7 following new paragraph:

8 “(9) SPECIAL RULE FOR TELEHEALTH PAY-
9 MENT PARITY DURING THE COVID-19 EMER-
10 GENCY.—In the case of a telehealth service fur-
11 nished during the emergency period described in sec-
12 tion 1135(g)(1)(B) for which payment may be made
13 under this subsection (including any service for
14 which payment may be so made due to application
15 of a waiver made under section 1135(b)), the
16 amount of such payment shall be equal to the
17 amount that would have been paid for such service
18 had such service been furnished in-person.”.

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