

116TH CONGRESS
2D SESSION

S. _____

To require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage for services furnished via telehealth if such services would be covered if furnished in-person during the COVID–19 emergency.

IN THE SENATE OF THE UNITED STATES

Ms. SMITH introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage for services furnished via telehealth if such services would be covered if furnished in-person 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. REQUIRING GROUP HEALTH PLANS AND**
2 **HEALTH INSURANCE ISSUERS OFFERING**
3 **GROUP OR INDIVIDUAL HEALTH INSURANCE**
4 **COVERAGE TO PROVIDE COVERAGE FOR**
5 **SERVICES FURNISHED VIA TELEHEALTH IF**
6 **SUCH SERVICES WOULD BE COVERED IF FUR-**
7 **NISHED IN-PERSON DURING THE COVID-19**
8 **EMERGENCY.**

9 (a) IN GENERAL.—During any portion of the emer-
10 gency period described in section 1135(g)(1)(B) of the So-
11 cial Security Act (42 U.S.C. 1320b–5(g)(1)(B)), notwith-
12 standing sections 2703 and 2715(d)(4) of the Public
13 Health Service Act (42 U.S.C. 300gg–2, 300gg–15(d)(4)),
14 a group health plan and a health insurance issuer offering
15 group health insurance coverage, including a grand-
16 fathered health plan (as defined in section 1251(e) of the
17 Patient Protection and Affordable Care Act (42 U.S.C.
18 18011(e)))—

19 (1) shall—

20 (A) provide benefits under such plan or
21 such coverage for any eligible service (as de-
22 fined in subsection (c)), including a mental
23 health and substance use disorder service, fur-
24 nished via a qualifying telecommunications sys-
25 tem (as defined in subsection (c)) by a health
26 care provider to an individual who is a partici-

1 pant, beneficiary, or enrollee under such plan or
2 such coverage, notwithstanding that such pro-
3 vider furnishing such service is not at the same
4 location as the individual;

5 (B) so provide such benefits for such serv-
6 ice under the same terms and with application
7 of the same cost-sharing requirements (includ-
8 ing a deductible, copayment, or coinsurance) as
9 would apply if such service were furnished by
10 such provider to such individual in-person;

11 (C) reimburse such provider for such serv-
12 ice in an amount equal to the amount of reim-
13 bursement for such service had such service
14 been furnished by such provider to such indi-
15 vidual in-person;

16 (D) not impose any requirement under
17 such plan or coverage that such provider have
18 a prior relationship with such individual; and

19 (E) not restrict the ability of any health
20 care provider with a contractual relationship for
21 furnishing an eligible service under such plan or
22 coverage from furnishing such service via a
23 qualifying telecommunications system, and shall
24 not establish incentives or penalties under such
25 plan or coverage for receiving such an eligible

1 service from such a provider via such a system;
2 and

3 (2) may waive any cost-sharing requirement
4 (including application of a deductible, copayment, or
5 coinsurance) for an item or service furnished for
6 purposes of diagnosing or treating COVID–19, in-
7 cluding any such service that is an eligible service
8 furnished via a qualifying telecommunications sys-
9 tem.

10 (b) APPLICATION.—The provisions of this section
11 shall be applied by the Secretary of Health and Human
12 Services, Secretary of Labor, and Secretary of the Treas-
13 ury to group health plans and health insurance issuers of-
14 fering group or individual health insurance coverage as if
15 included in the provisions of part A of title XXVII of the
16 Public Health Service Act, part 7 of the Employee Retire-
17 ment Income Security Act of 1974, and subchapter B of
18 chapter 100 of the Internal Revenue Code of 1986, as ap-
19 plicable.

20 (c) DEFINITIONS.—In this section:

21 (1) ELIGIBLE SERVICE.—The term “eligible
22 service” means, with respect to a group health plan
23 and a health insurance issuer offering group or indi-
24 vidual health insurance coverage, a service—

1 (A) for which benefits are provided under
2 such plan or such coverage when such service is
3 furnished in-person;

4 (B) that is medically necessary (as deter-
5 mined by the health care provider furnishing
6 such service); and

7 (C) that is able to be safely and effectively
8 furnished via a telecommunications system.

9 (2) HEALTH INSURANCE TERMS.—The terms
10 “group health plan”, “health insurance issuer”,
11 “group health insurance coverage”, and “individual
12 health insurance coverage” have the meanings given
13 such terms in section 2791 of the Public Health
14 Service Act (42 U.S.C. 300gg–91), section 733 of
15 the Employee Retirement Income Security Act of
16 1974 (29 U.S.C. 1191b), and section 9832 of the
17 Internal Revenue Code of 1986, as applicable.

18 (3) QUALIFYING TELECOMMUNICATIONS SYS-
19 TEM.—The term “qualifying telecommunications
20 system” means a telecommunications system that in-
21 cludes, at a minimum, audio capabilities permitting
22 two-way, real-time interactive communication be-
23 tween the individual receiving an eligible service via
24 such system and the health care provider furnishing
25 such system, including a telephone,

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1 videoconferencing system, Internet communications
2 system, streaming media communications system,
3 and such other systems as specified by the Secretary
4 of Health and Human Services.

5 (d) EFFECTIVE DATE.—This section shall apply with
6 respect to items and services furnished on or after the first
7 day of the emergency period described in subsection (a).