

H.R. 3962, Affordable Health Care for America Act: Telehealth Provisions

Summary

- For Medicare-
 - o Authorizes renal dialysis facilities as originating sites (Section 1191(a), beginning on page 589, line 4)
 - o Creates a Telehealth Advisory Committee (Section 1191(b), beginning on page 589, line 13)
 - o Addresses CMS standards about hospital credentialing of telemedicine physicians and practitioners (Section 1191(c), beginning on page 593, line 11)
 - o For Independence At Home Demonstration Program, includes use of remote monitoring for eligible medical practices (Section 1312(b), beginning page 719, line 14)
 - o Allow a telehealth encounter for a physician to certify need for home health services or durable medical equipment (Section 1639, beginning on page 985, line 14)
- Reauthorizes programs to support telehealth networks and telehealth resource centers and to provide incentives to coordinate telemedicine licensure activities among states. Authorizes \$10 million for FY 2011 and such sums as may be necessary for FY 2012-2015 for each of the programs. (Section 2523, beginning on page 1385, line 20)
- Recognizes the role of telehealth in expanding capacity of Community-Based Collaborative Care Network Program (Under Section 2534, section 3400(c)(1)(B)(v), beginning on page 1447, line 21)
- For Indian Health Services (Under Section ~ 101)-
 - o Authorizes use of Indian Health Care Improvement Fund for telehealth (Section 201 (a)(3), beginning on page 1724, line 20)
 - o Authorizes funding for urban Indian organizations for telemedicine services development (Section 522, beginning on page 1877, line 3)
 - o Authorizes Indian Youth Telemental Health Demonstration Project (Section 708(c), beginning on page 1909, line 8)

Major Telehealth Sections

SEc. 1191. TELEHEALTH EXPANSION AND ENHANCEMENTS.

(a) ADDITIONAL TELEHEALTH SITE.---

(1) IN GENERAL.-Paragraph (4)(C)(ii) of section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)) is amended by adding at the end the following new subclause:

"(IX) A renal dialysis facility."

(2) EFFECTIVE DATE.-The amendment made by paragraph (1) shall apply to services furnished on or after January 1, 2011.

(b) TELEHEALTH ADVISORY COMMITTEE.-

(1) ESTABLISHMENT.-Section 1868 of the Social Security Act (42 U.S.C. 1395ee) is amended-

(A) in the heading, by adding at the end the following:
"TELEHEALTHADVISORY COMMITTEE"; and

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

"(c) TELEHEALTH ADVISORY COMMITTEE.-

"(1) IN GENERAL.-The Secretary shall appoint a Telehealth Advisory Committee (in this subsection referred to as the 'Advisory Committee') to make recommendations to the Secretary on policies of the Centers for Medicare & Medicaid Services regarding telehealth services as established under section 1834(m), including the appropriate addition or deletion of services (and HCPCS codes) to those specified in paragraphs (4)(F)(i) and (4)(F)(ii) of such section and for authorized payment under paragraph (1) of such section.

"(2) MEMBERSHIP; TERMS."(A)

MEMBERSHIP.-

"(i) IN GENERAL.-The Advisory Committee shall be composed of 9 members, to be appointed by the Secretary, of whom-

"(I) 5 shall be practicing physicians;

, '(II) 2 shall be practicing nonphysician health care practitioners; and

"(III) 2 shall be administrators of telehealth programs.

"(ii) REQUIREMENTS FOR APPOINTING MEMBERS.-In appointing members of the Advisory Committee, the Secretary shall-

"(I) ensure that each member has prior experience with the practice of telemedicine or telehealth;

"(II) give preference to individuals who are currently providing telemedicine or telehealth services or who are involved in telemedicine or telehealth programs;

, '(III) ensure that the membership of the Advisory

Committee represents a balance of specialties and geographic regions; and

"(IV) take into account the recommendations of stakeholders.

"(B) TERMS.-The members of the Advisory Committee shall serve for such term as the Secretary may specify.

"(C) CONFLICTS OF INTEREST.-An advisory committee member may not participate with respect to a particular matter considered in an advisory committee meeting if such member (or an immediate family member of such member) has a financial interest that could be affected by the advice given to the Secretary with respect to such matter.

"(3) MEETINGS.-The Advisory Committee shall meet twice each calendar year and at such other times as the Secretary may provide.

"(4) PERMANENT COMMITTEE.-Section 14 of the Federal Advisory Committee Act (5 D.S.C. App.) shall not apply to the Advisory Committee."

(2) FOLLOWING RECOMMENDATIONS.-Section 1834(m)(4)(F) of such Act (42 U.S.C. 1395m(m)(4)(F)) is amended by adding at the end the following new clause:

"(iii) RECOMMENDATIONS OF THE TELEHEALTH ADVISORY COMMITTEE.-In making determinations under clauses (i) and (ii), the Secretary shall take into account the recommendations of the Telehealth Advisory Committee (established under section 1868(c)) when adding or deleting services (and HCPCS codes) and in establishing policies of the Centers for Medicare & Medicaid Services regarding the delivery of telehealth services. If the Secretary does not implement such a recommendation, the Secretary shall publish in the Federal Register a statement regarding the reason such recommendation was not implemented. "

(3) WAIVER OF ADMINISTRATIVE LIMITATION.-The Secretary of Health and Human Services shall establish the Telehealth Advisory Committee under the amendment made by paragraph (1) notwithstanding any limitation that may apply to the number of advisory committees that may be established (within the Department of Health and Human Services or otherwise).

(c) HOSPITAL CREDENTIALING OF TELEMEDICINE PHYSICIANS AND PRACTITIONERS.-

(1) IN GENERAL.-Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue guidance for

hospitals (as defined in paragraph (4)) to simplify requirements regarding compiling practitioner credentials for the purpose of rendering a medical staff privileging decision (under bylaws of the type described in section 1861(e)(3) of the Social Security Act) for physicians and practitioners (as defined in paragraph (4)) delivering telehealth services that are furnished via a telecommunications system.

(2) FLEXIBILITY IN ACCEPTING CREDENTIALING BY ANOTHER MEDICARE PARTICIPATING HOSPITAL.-

(A) **IN GENERAL.**-Such guidance shall permit a hospital to accept credentialing packages compiled by another hospital participating under Medicare with regard to physicians and practitioners who seek medical staff privileges in the hospital to provide telehealth services via a telecommunications system from a site other than the hospital where the patient is located.

(B) **CONSTRUCTION.**-Nothing in this subsection shall be construed to require a hospital to accept the credentialing package compiled by another facility.

(C) **NO OVERSIGHT REQUIRED.**-If a hospital does accept the credentialing materials prepared by another hospital, the hospital shall not be required to exercise oversight over the other hospital's process for compiling and verifying credentials.

(D) **PRIVILEGING.**-This paragraph shall only apply to credentialing and does not relieve a hospital from any applicable privileging requirements.

(3) **CONSTRUCTION.**-This subsection shall not be construed as limiting the ability of the Secretary to issue additional guidance regarding the requirements for the compilation of credentials for physicians and practitioners not described in paragraph (1).

(4) **DEFINITIONS.**-In this subsection:

(A) The term "hospital" has the meaning given such term in subsection (e) of section 1861 of the Social Security Act (42 U.S.C. 1395x) and includes a critical access hospital (as defined in subsection (mm)(l) of such section).

(B) The term "physician" has the meaning given such term in subsection (r) of such section.

(C) The term "practitioner" means a practitioner described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)).

SEC. 2523. REAUTHORIZATION OF TELEHEALTH AND TELEMEDICINE GRANT PROGRAMS.

(a) **TELEHEALTH NETWORK AND TELEHEALTH RESOURCE CENTERS GRANT PROGRAMS.**-Section 3301 (42 U.S.C. 254c-14) is amended-

(1) in subsection (a)-

(A) by striking paragraph (3) (relating to frontier communities);
and

(B) by inserting after paragraph (2) the following:

"(3) HEALTH DISPARITIES.-The term 'health disparities' has the meaning given such term in section 3171."; (2) in subsection (d)(1)-

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following: "(D)

reduce health disparities. "; (3) in subsection (f)(1)

(B)(iii)-

(A) in subclause (VII), by inserting ", including skilled nursing facilities" before the period at the end;

(B) in subclause (IX), by inserting", including county mental health and public mental health facilities" before the period at the end;
and

(C) by adding at the end the following: "(XIII)

Renal dialysis facilities."; (4) by amending

subsection (i) to read as follows: "(i)

PREFERENCES.-

"(1) TELEHEALTH NETWORKS.-In awarding grants under subsection (d)(1) for projects involving telehealth networks, the Secretary shall give preference to eligible entities meeting at least one of the following:

"(A) NETWORK.-The eligible entity is a health care provider in, or proposing to form, a health care network that furnishes services in a medically underserved area or a health professional shortage area.

"(B) BROAD GEOGRAPHIC COVERAGE.-The eligible entity demonstrates broad geographic coverage in the rural or medically underserved areas of the State or States in which the entity is located.

"(C) HEALTH DISPARITIES.-The eligible entity demonstrates how the project to be funded through the grant will address health disparities.

"(D) LINKAGES.-The eligible entity agrees to use the grant to establish or develop plans for telehealth systems that will link rural hospitals and rural health care providers to other hospitals, health care providers, and patients.

"(E) EFFICIENCY-The eligible entity agrees to use the grant to promote greater efficiency in the use of health care resources.

"(F) VIABILITY-The eligible entity demonstrates the long-term viability of projects through-

"(i) availability of non-Federal funding sources; or

"(ii) institutional and community support for the telehealth network.

"(G) SERVICES.-The eligible entity provides a plan for coordinating system use by eligible entities and prioritizes use of grant funds for health care services over nonclinical uses.

"(2) TELEHEALTH RESOURCE CENTERS.-In awarding grants under subsection (d)(2) for projects involving telehealth resource centers, the Secretary shall give preference to eligible entities meeting at least one of the following:

"(A) PROVISION OF A BROAD RANGE OF SERVICES.-The eligible entity has a record of success in the provision of a broad range of telehealth services to medically underserved areas or populations.

"(B) PROVISION OF TELEHEALTH TECHNICAL ASSISTANCE.-The eligible entity has a record of success in the provision of technical assistance to providers serving medically underserved communities or populations in the establishment and implementation of telehealth services.

"(C) COLLABORATION AND SHARING OF EXPERTISE.-The eligible entity has a demonstrated record of collaborating and sharing expertise with providers of telehealth services at the national, regional, State, and local levels. ";

(5) in subsection G)(2)(B), by striking "such projects for fiscal year 2001" and all that follows through the period and inserting " such projects for fiscal year 2010.";

(6) in subsection (k)(1)-

(A) in subparagraph (E)(i), by striking' 'transmission of medical data" and inserting' 'transmission and electronic archival of medical data"; and

(B) by amending subparagraph (F) to read as follows:

"(F) developing projects to use telehealth technology to"(i) facilitate collaboration between health care providers;

"(ii) promote telenursing services; or

"(iii) promote patient understanding and adherence to national guidelines for chronic disease and self-management of such conditions;"

(7) in subsection (q), by striking "Not later than September 30, 2005" and inserting' 'Not later than 1 year after the date of the enactment of the Affordable Health Care for America Act, and annually thereafter";

(8) by striking subsection (r);

- (9) by redesignating subsection (s) as subsection (r); and
- (10) in subsection (r) (as so redesignate d)-
 - (A) in paragraph (1)-
 - (i) by striking "and" before "such sums"; and
 - (ii) by inserting", \$10,000,000 for fiscal year 2011, and such sums as may be necessary for each of fiscal years 2012 through 2015" before the semicolon; and
 - (B) in paragraph (2)-
 - (i) by striking "and" before "such sums"; and
 - (ii) by inserting", \$10,000,000 for fiscal year 2011, and such sums as may be necessary for each of fiscal years 2012 through 2015" before the period.

(b) **TELEMEDICINE; INCENTIVE GRANTS REGARDING COORDINATION AMONG STATES.**-Subsection (b) of section 330L (42 D.S.C. 254c-18) is amended by inserting", \$10,000,000 for fiscal year 2011, and such sums as may be necessary for each of fiscal years 2012 through 2015" before the period at the end.

SEe. 3101. INDIAN HEALTH CARE IMPROVEMENT AMENDED.

(a) **IN GENERAL.**-The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended to read⁹ as follows:

"SEC. 708. INDIAN YOUTH TELEMENTAL HEALTH DEMONSTRATION PROJECT.

"(a) **PURPOSE.**-The purpose of this section is to authorize the Secretary to carry out a demonstration project to test the use of telemental health services in suicide prevention, intervention and treatment of Indian youth, including through-

"(1) the use of psychotherapy, psychiatric assessments, diagnostic interviews, therapies for mental health conditions predisposing to suicide, and alcohol and substance abuse treatment;

"(2) the provision of clinical expertise to, consultation services with, and medical advice and training for frontline health care providers working with Indian youth;

"(3) training and related support for community leaders, family members and health and education workers who work with Indian youth;

"(4) the development of culturally relevant educational materials on suicide; and

"(5) data collection and reporting.

"(b) **DEFINITIONS.**-For the purpose of this section, the following definitions shall apply:

"(1) **DEMONSTRATION PROJECT.**-The term 'demonstration project' means the Indian youth telemental health demonstration project authorized under subsection (c).

"(2) **TELEMENTAL HEALTH.**-The term 'telemental health' means the use of electronic information and telecommunications technologies to support

long distance mental health care, patient and professional-related education, public health, and health administration.

"(c) AUTHORIZATION.-

"(1) IN GENERAL.-The Secretary is authorized to award grants under the demonstration project for the provision of telemental health services to Indian youth who-

"(A) have expressed suicidal ideas;

"(B) have attempted suicide; or

"(C) have mental health conditions that increase or could increase the risk of suicide.

"(2) ELIGIBILITY FOR GRANTS.-Such grants shall be awarded to Indian Tribes and Tribal Organizations that operate 1 or more facilities-

"(A) located in Alaska and part of the Alaska Federal Health Care Access Network;

"(B) reporting active clinical telehealth capabilities; or

"(C) offering school-based telemental health services relating to psychiatry to Indian youth.

"(3) GRANT PERIOD.-The Secretary shall award grants under this section for a period of up to 4 years.

"(4) AWARDING OF GRANTS.-Not more than 5 grants shall be provided under paragraph (1), with priority consideration given to Indian Tribes and Tribal Organizations that-

"(A) serve a particular community or geographic area where there is a demonstrated need to address Indian youth suicide;

"(B) enter in to collaborative partnerships with Indian Health Service or Tribal Health Programs or facilities to provide services under this demonstration project;

"(C) serve an isolated community or geographic area which has limited or no access to behavioral health services; or

"(D) operate a detention facility at which Indian youth are detained.

"(d) USE OF FUNDS.-

"(1) IN GENERAL.-An Indian Tribe or Tribal Organization shall use a grant received under subsection (c) for the following purposes:

"(A) To provide telemental health services to Indian youth, including the provision of-

"(i) psychotherapy;

"(ii) psychiatric assessments and diagnostic interviews, therapies for mental health conditions predisposing to suicide, and treatment; and

"(iii) alcohol and substance abuse treatment.

"(B) To provide clinician-interactive medical advice, guidance and training, assistance in diagnosis and interpretation, crisis counseling and intervention, and related assistance to Service, tribal, or urban clinicians and health services providers working with youth being served under this demonstration project.

"(C) To assist, educate and train community leaders, health education professionals and paraprofessionals, tribal outreach workers, and family members who work with the youth receiving telemental health services under this demonstration project, including with identification of suicidal tendencies, crisis intervention and suicide prevention, emergency skill development, and building and expanding networks among these individuals and with State and local health services providers.

"(D) To develop and distribute culturally appropriate community educational materials on-

"(i) suicide prevention;

"(ii) suicide education;

"(iii) suicide screening;

"(iv) suicide intervention; and

"(v) ways to mobilize communities with respect to the identification of risk factors for suicide.

"(E) For data collection and reporting related to Indian youth suicide prevention efforts.

"(2) TRADITIONAL HEALTH CARE PRACTICES.-In carrying out the purposes described in paragraph (1), an Indian Tribe or Tribal Organization may use and promote the traditional health care practices of the Indian Tribes of the youth to be served.

"(e) APPLICATIONS.-To be eligible to receive a grant under subsection (c), an Indian Tribe or Tribal Organization shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including-

"(1) a description of the project that the Indian Tribe or Tribal Organization will carry out using the funds provided under the grant;

"(2) a description of the manner in which the project funded under the grant would-

"(A) meet the telemental health care needs of the Indian youth population to be served by the project; or

"(B) improve the access of the Indian youth population to be served to suicide prevention and treatment services;

"(3) evidence of support for the project from the local community to be served by the project;

"(4) a description of how the families and leadership of the communities or populations to be served by the project would be involved in the development and ongoing operations of the project;

"(5) a plan to involve the tribal community of the youth who are provided services by the project in planning and evaluating the mental health care and suicide prevention efforts provided, in order to ensure the integration of community, clinical, environmental, and cultural components of the treatment; and

"(6) a plan for sustaining the project after Federal assistance for the demonstration project has terminated.

"(f) COLLABORATION; REPORTING TO NATIONAL CLEARINGHOUSE.-

"(1) COLLABORATION.-The Secretary, acting through the Service, shall encourage Indian Tribes and Tribal Organizations receiving grants under this section to collaborate to enable comparisons about best practices across projects.

"(2) REPORTING TO NATIONAL CLEARINGHOUSE.-The Secretary, acting through the Service, shall also encourage Indian Tribes and Tribal Organizations receiving grants under this section to submit relevant, declassified project information to the national clearinghouse authorized under section 70 1 (b)(2) in order to better facilitate program performance and improve suicide prevention, intervention, and treatment services.

"(g) ANNUAL REPORT.-Each grant recipient shall submit to the Secretary an annual report that-

"(1) describes the number of telemental health services provided; and "(2) includes any other information that the Secretary may require.

"(h) REPORT TO CONGRESS.-Not later than 270 days after the termination of the demonstration project, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources and Committee on Energy and Commerce of the House of Representatives a final report, based on the annual reports provided by grant recipients under subsection (h), that-

"(1) describes the results of the projects funded by grants awarded under this section, including any data available which indicates the number of attempted suicides;

"(2) evaluates the impact of the telemental health services funded by the grants in reducing the number of completed suicides among Indian youth;

"(3) evaluates whether the demonstration project should be-

"(A) expanded to provide more than grants; and

"(B) designated a permanent program; and

"(4) evaluates the benefits of expanding the demonstration project to include urban Indian organizations.

"(i) AUTHORIZATION OF APPROPRIATIONS.-There is authorized to be appropriated such sums as may be necessary to carry out this section.