

105TH CONGRESS
1ST SESSION

S. 385

To provide reimbursement under the Medicare program for telehealth services,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 1997

Mr. CONRAD (for himself, Mr. KERREY, Mr. HARKIN, Mr. WELLSTONE, Mr. BAUCUS, Mr. COCHRAN, and Mr. INOUE) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To provide reimbursement under the Medicare program for
telehealth services, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Comprehensive Telehealth Act of 1997”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—MEDICARE REIMBURSEMENT FOR TELEHEALTH
SERVICES

Sec. 101. Medicare reimbursement for telehealth services.

TITLE II—TELEHEALTH LICENSURE

Sec. 201. Initial report to Congress.

Sec. 202. Annual report to Congress.

TITLE III—PERIODIC REPORTS TO CONGRESS FROM THE JOINT
WORKING GROUP ON TELEHEALTH

Sec. 301. Joint working group on telehealth.

TITLE IV—DEVELOPMENT OF TELEHEALTH NETWORKS

Sec. 401. Development of telehealth networks.

Sec. 402. Administration.

Sec. 403. Guidelines.

Sec. 404. Authorization of appropriations.

1 SEC. 2. FINDINGS AND PURPOSES.

2 (a) FINDINGS.—The Congress finds the following:

3 (1) Hospitals, clinics, and individual health care
4 providers are critically important to the continuing
5 health of rural populations and the economic stabil-
6 ity of rural communities.

7 (2) Rural communities are underserved by spe-
8 cialty health care providers.

9 (3) Telecommunications technology has made it
10 possible to provide a wide range of health care serv-
11 ices, education, and administrative services between
12 health care providers, patients, and administrators
13 across State lines.

14 (4) The delivery of health services by licensed
15 health care providers is a privilege and the licensure
16 of health care providers and the ability to discipline

1 such providers is necessary for the protection of citi-
2 zens and for the public interest, health, welfare, and
3 safety.

4 (5) The licensing of health care providers to
5 provide telehealth services has a significant impact
6 on interstate commerce and any unnecessary bar-
7 riers to the provision of telehealth services across
8 State lines should be eliminated.

9 (6) Rapid advances in the field of telehealth
10 give Congress a need for current information and
11 updates on recent developments in telehealth re-
12 search, policy, technology, and the use of this tech-
13 nology to supply telehealth services to rural and un-
14 derserved areas.

15 (7) Telehealth networks can provide hospitals,
16 clinics, health care providers, and patients in rural
17 and underserved communities with access to spe-
18 cialty care, continuing education, and can act to re-
19 duce the isolation from other professionals that
20 these health care providers sometimes experience.

21 (8) In order for telehealth systems to continue
22 to benefit rural and underserved communities, the
23 Medicare program under title XVIII of the Social

1 Security Act (42 U.S.C. 1395 et seq.) must reim-
2 burse the provision of health care services from re-
3 mote locations via telecommunications.

4 (b) PURPOSES.—The purposes of this Act are as fol-
5 lows:

6 (1) To mandate that the Health Care Financ-
7 ing Administration reimburse the provision of clini-
8 cal health services via telecommunications.

9 (2) To determine if States are making progress
10 in facilitating the provision of telehealth services
11 across State lines.

12 (3) To create a coordinating entity for Federal
13 telehealth research, policy, and program initiatives
14 that reports to Congress annually.

15 (4) To encourage the development of rural tele-
16 health networks that supply appropriate, cost-effec-
17 tive care, and that contribute to the economic health
18 and development of rural communities.

19 (5) To encourage research into the clinical effi-
20 cacy and cost-effectiveness of telehealth diagnosis,
21 treatment, or education on individuals, health care
22 providers, and health care networks.

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

1 (1) HEALTH CARE PROVIDER.—The term
2 “health care provider” means anyone licensed or cer-
3 tified under State law to provide health care services
4 who is operating within the scope of such license.

5 (2) SECRETARY.—The term “Secretary” means
6 the Secretary of Health and Human Services.

7 **TITLE I—MEDICARE REIM-**
8 **BURSEMENT FOR TELE-**
9 **HEALTH SERVICES**

10 **SEC. 101. MEDICARE REIMBURSEMENT FOR TELEHEALTH**
11 **SERVICES.**

12 (a) IN GENERAL.—Not later than July 1, 1998, the
13 Secretary shall make payments from the Federal Supple-
14 mentary Medical Insurance Trust Fund under part B of
15 title XVIII of the Social Security Act (42 U.S.C. 1395j
16 et seq.) in accordance with the methodology described in
17 subsection (b) for professional consultation via tele-
18 communications systems with an individual or entity fur-
19 nishing a service for which payment may be made under
20 such part to a beneficiary under the Medicare program
21 residing in a rural area (as defined in section
22 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)))

1 or an underserved area, notwithstanding that the individ-
2 ual health care provider providing the professional con-
3 sultation is not at the same location as the individual fur-
4 nishing the service to that beneficiary.

5 (b) METHODOLOGY FOR DETERMINING AMOUNT OF
6 PAYMENTS.—Taking into account the findings of the re-
7 port required under section 192 of the Health Insurance
8 Portability and Accountability Act of 1996 (Public Law
9 104–191; 110 Stat. 1988), the findings of the report re-
10 quired under paragraph (c), and any other findings related
11 to the clinical efficacy and cost-effectiveness of telehealth
12 applications, the Secretary shall establish a methodology
13 for determining the amount of payments made under sub-
14 section (a), including the cost of the consultation service,
15 a reasonable overhead adjustment, and a malpractice risk
16 adjustment.

17 (c) SUPPLEMENTAL REPORT.—Not later than Janu-
18 ary 1, 1998, the Secretary shall submit a report to Con-
19 gress which shall contain a detailed analysis of—

20 (1) how telemedicine and telehealth systems are
21 expanding access to health care services;

22 (2) the clinical efficacy and cost-effectiveness of
23 telemedicine and telehealth applications;

24 (3) the quality of telemedicine and telehealth
25 services delivered; and

1 (4) the reasonable cost of telecommunications
2 charges incurred in practicing telemedicine and tele-
3 health in rural, frontier, and underserved areas.

4 (d) EXPANSION OF TELEHEALTH SERVICES FOR
5 CERTAIN MEDICARE BENEFICIARIES.—

6 (1) IN GENERAL.—Not later than January 1,
7 1999, the Secretary shall submit a report to Con-
8 gress that examines the possibility of making pay-
9 ments from the Federal Supplementary Medical In-
10 surance Trust Fund under part B of title XVIII of
11 the Social Security Act (42 U.S.C. 1395j et seq.) for
12 professional consultation via telecommunications sys-
13 tems with an individual or entity furnishing a service
14 for which payment may be made under such part to
15 a beneficiary described in paragraph (2), notwith-
16 standing that the individual health care provider
17 providing the professional consultation is not at the
18 same location as the individual furnishing the service
19 to that beneficiary.

20 (2) BENEFICIARY DESCRIBED.—A beneficiary
21 described in this paragraph is a beneficiary under
22 the Medicare program who does not reside in a rural
23 area (as so defined) or an underserved area, who is
24 homebound or nursing homebound, and for whom

1 being transferred for health care services imposes a
2 serious hardship.

3 (3) REPORT.—The report described in para-
4 graph (1) shall contain a detailed statement of the
5 potential costs to the Medicare program under title
6 XVIII of that Act of making the payments described
7 in that paragraph using various reimbursement
8 schemes.

9 **TITLE II—TELEHEALTH** 10 **LICENSURE**

11 **SEC. 201. INITIAL REPORT TO CONGRESS.**

12 Not later than January 1, 1998, the Secretary shall
13 prepare and submit to the appropriate committees of Con-
14 gress a report concerning—

15 (1) the number, percentage and types of health
16 care providers licensed to provide telehealth services
17 across State lines, including the number and types
18 of health care providers licensed to provide such
19 services in more than 3 States;

20 (2) the status of any reciprocal, mutual recogni-
21 tion, fast-track, or other licensure agreements be-
22 tween or among various States;

23 (3) the status of any efforts to develop uniform
24 national sets of standards for the licensure of health

1 care providers to provide telehealth services across
2 State lines;

3 (4) a projection of future utilization of tele-
4 health consultations across State lines;

5 (5) State efforts to increase or reduce licensure
6 as a burden to interstate telehealth practice; and

7 (6) any State licensure requirements that ap-
8 pear to constitute unnecessary barriers to the provi-
9 sion of telehealth services across State lines.

10 **SEC. 202. ANNUAL REPORT TO CONGRESS.**

11 (a) IN GENERAL.—Not later than January 1, 1999,
12 and each July 1 thereafter, the Secretary shall prepare
13 and submit to the appropriate committees of Congress, an
14 annual report on relevant developments concerning the
15 matters referred to in paragraphs (1) through (6) of sec-
16 tion 201.

17 (b) RECOMMENDATIONS.—If, with respect to a report
18 submitted under subsection (a), the Secretary determines
19 that States are not making progress in facilitating the pro-
20 vision of telehealth services across State lines by eliminat-
21 ing unnecessary requirements, adopting reciprocal licens-
22 ing arrangements for telehealth services, implementing
23 uniform requirements for telehealth licensure, or other
24 means, the Secretary shall include in the report rec-
25 ommendations concerning the scope and nature of Federal

1 actions required to reduce licensure as a barrier to the
2 interstate provision of telehealth services.

3 **TITLE III—PERIODIC REPORTS**
4 **TO CONGRESS FROM THE**
5 **JOINT WORKING GROUP ON**
6 **TELEHEALTH**

7 **SEC. 301. JOINT WORKING GROUP ON TELEHEALTH.**

8 (a) IN GENERAL.—

9 (1) REDESIGNATION.—The Joint Working
10 Group on Telemedicine, established by the Secretary,
11 shall hereafter be known as the “Joint Working
12 Group on Telehealth” with the chairperson being
13 designated by the Director of the Office of Rural
14 Health Policy.

15 (2) MISSION.—The mission of the Joint Work-
16 ing Group on Telehealth is—

17 (A) to identify, monitor, and coordinate
18 Federal telehealth projects, data sets, and pro-
19 grams,

20 (B) to analyze—

21 (i) how telehealth systems are expand-
22 ing access to health care services, edu-
23 cation, and information,

1 (ii) the clinical, educational, or admin-
2 istrative efficacy and cost-effectiveness of
3 telehealth applications, and

4 (iii) the quality of the services deliv-
5 ered, and

6 (C) to make further recommendations for
7 coordinating Federal and State efforts to in-
8 crease access to health services, education, and
9 information in rural and underserved areas.

10 (3) PERIODIC REPORTS.—The Joint Working
11 Group on Telehealth shall report not later than Jan-
12 uary 1 of each year (beginning in 1998) to Congress
13 on the status of the Group’s mission and the state
14 of the telehealth field generally.

15 (b) REPORT SPECIFICS.—The annual report required
16 under subsection (a)(3) shall provide—

17 (1) an analysis of—

18 (A) how telehealth systems are expanding
19 access to health care services,

20 (B) the clinical efficacy and cost-effective-
21 ness of telehealth applications,

22 (C) the quality of telehealth services deliv-
23 ered,

24 (D) the Federal activity regarding tele-
25 health, and

1 (E) the progress of the Joint Working
2 Group on Telehealth's efforts to coordinate
3 Federal telehealth programs; and

4 (2) recommendations for a coordinated Federal
5 strategy to increase health care access through tele-
6 health.

7 (c) TERMINATION.—The Joint Working Group on
8 Telehealth shall terminate immediately after the annual
9 report filed not later than January 1, 2002.

10 (d) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated such sums as are nec-
12 essary for the operation of the Joint Working Group on
13 Telehealth on and after the date of the enactment of this
14 Act.

15 **TITLE IV—DEVELOPMENT OF** 16 **TELEHEALTH NETWORKS**

17 **SEC. 401. DEVELOPMENT OF TELEHEALTH NETWORKS.**

18 (a) IN GENERAL.—The Secretary, acting through the
19 Director of the Office of Rural Health Policy (of the
20 Health Resources and Services Administration), shall pro-
21 vide financial assistance (as described in subsection
22 (b)(1)) to recipients (as described in subsection (c)(1)) for
23 the purpose of expanding access to health care services
24 for individuals in rural and frontier areas through the use
25 of telehealth.

1 (b) FINANCIAL ASSISTANCE.—

2 (1) IN GENERAL.—Financial assistance shall
3 consist of grants or cost of money loans, or both.

4 (2) FORM.—The Secretary shall determine the
5 portion of the financial assistance provided to a re-
6 cipient that consists of grants and the portion that
7 consists of cost of money loans so as to result in the
8 maximum feasible repayment to the Federal Govern-
9 ment of the financial assistance, based on the ability
10 to repay of the recipient and full utilization of funds
11 made available to carry out this title.

12 (3) LOAN FORGIVENESS PROGRAM.—

13 (A) ESTABLISHMENT.—With respect to
14 cost of money loans provided under this section,
15 the Secretary shall establish a loan forgiveness
16 program under which recipients of such loans
17 may apply to have all or a portion of such loans
18 forgiven.

19 (B) REQUIREMENTS.—A recipient de-
20 scribed in subparagraph (A) that desires to
21 have a loan forgiven under the program estab-
22 lished under such paragraph shall—

23 (i) within 180 days of the end of the
24 loan cycle, submit an application to the

1 Secretary requesting forgiveness of the
2 loan involved;

3 (ii) demonstrate that the recipient has
4 a financial need for such forgiveness;

5 (iii) demonstrate that the recipient
6 has met the quality and cost-appropriate-
7 ness criteria developed under subparagraph
8 (C); and

9 (iv) provide any other information de-
10 termined appropriate by the Secretary.

11 (C) CRITERIA.—As part of the program
12 established under subparagraph (A), the Sec-
13 retary shall establish criteria for determining
14 the cost-effectiveness and quality of programs
15 operated with loans provided under this section.

16 (c) RECIPIENTS.—

17 (1) APPLICATION.—To be eligible to receive a
18 grant or loan under this section an entity described
19 in paragraph (2) shall, in consultation with the
20 State office of rural health or other appropriate
21 State entity, prepare and submit to the Secretary an
22 application, at such time, in such manner, and con-
23 taining such information as the Secretary may re-
24 quire, including—

1 (A) a description of the anticipated need
2 for the grant or loan;

3 (B) a description of the activities which the
4 entity intends to carry out using amounts pro-
5 vided under the grant or loan;

6 (C) a plan for continuing the project after
7 Federal support under this section is ended;

8 (D) a description of the manner in which
9 the activities funded under the grant or loan
10 will meet health care needs of underserved rural
11 populations within the State;

12 (E) a description of how the local commu-
13 nity or region to be served by the network or
14 proposed network will be involved in the devel-
15 opment and ongoing operations of the network;

16 (F) the source and amount of non-Federal
17 funds the entity would pledge for the project;
18 and

19 (G) a showing of the long-term viability of
20 the project and evidence of health care provider
21 commitment to the network.

22 The application should demonstrate the manner in
23 which the project will promote the integration of
24 telehealth in the community so as to avoid redun-
25 dancy of technology and achieve economies of scale.

1 (2) ELIGIBLE ENTITIES.—An entity described
2 in this paragraph is a hospital or other health care
3 provider in a health care network of community-
4 based health care providers that includes at least—

5 (A) two of the following:

6 (i) community or migrant health cen-
7 ters;

8 (ii) local health departments;

9 (iii) nonprofit hospitals;

10 (iv) private practice health profes-
11 sionals, including rural health clinics;

12 (v) other publicly funded health or so-
13 cial services agencies;

14 (vi) skilled nursing facilities;

15 (vii) county mental health and other
16 publicly funded mental health facilities;

17 and

18 (viii) providers of home health serv-
19 ices; and

20 (B) one of the following, which must dem-
21 onstrate use of the network for purposes of
22 education and economic development (as re-
23 quired by the Secretary):

24 (i) public schools;

25 (ii) public library;

- 1 (iii) universities or colleges;
2 (iv) local government entity; or
3 (v) local nonhealth-related business
4 entity.

5 An eligible entity may include for-profit entities so
6 long as the network grantee is a nonprofit entity.

7 (d) PRIORITY.—The Secretary shall establish proce-
8 dures to prioritize financial assistance under this title con-
9 sidering whether or not the applicant—

10 (1) is a health care provider in a rural health
11 care network or a health care provider that proposes
12 to form such a network, and the majority of the
13 health care providers in such a network are located
14 in a medically underserved, health professional
15 shortage areas, or mental health professional short-
16 age areas;

17 (2) can demonstrate broad geographic coverage
18 in the rural areas of the State, or States in which
19 the applicant is located;

20 (3) proposes to use Federal funds to develop
21 plans for, or to establish, telehealth systems that will
22 link rural hospitals and rural health care providers
23 to other hospitals, health care providers and pa-
24 tients;

1 (4) will use the amounts provided for a range
2 of health care applications and to promote greater
3 efficiency in the use of health care resources;

4 (5) can demonstrate the long-term viability of
5 projects through use of local matching funds (cash
6 or in-kind);

7 (6) can demonstrate financial, institutional, and
8 community support for the long-term viability of the
9 network; and

10 (7) can demonstrate a detailed plan for coordi-
11 nating system use by eligible entities so that health
12 care services are given a priority over non-clinical
13 uses.

14 (e) MAXIMUM AMOUNT OF ASSISTANCE TO INDIVID-
15 UAL RECIPIENTS.—The Secretary may establish the maxi-
16 mum amount of financial assistance to be made available
17 to an individual recipient for each fiscal year under this
18 title, and establish the term of the loan or grant, by pub-
19 lishing notice of the maximum amount in the Federal Reg-
20 ister.

21 (f) USE OF AMOUNTS.—

22 (1) IN GENERAL.—Financial assistance pro-
23 vided under this title shall be used—

1 (A) with respect to cost of money loans, to
2 encourage the initial development of rural tele-
3 health networks, expand existing networks, or
4 link existing networks together; and

5 (B) with respect to grants, as described in
6 paragraph (2).

7 (2) GRANTS AND LOANS.—The recipient of a
8 grant or loan under this title may use financial as-
9 sistance received under such grant or loan for the
10 acquisition of telehealth equipment and modifica-
11 tions or improvements of telecommunications facili-
12 ties including—

13 (A) the development and acquisition
14 through lease or purchase of computer hard-
15 ware and software, audio and video equipment,
16 computer network equipment, interactive equip-
17 ment, data terminal equipment, and other fa-
18 cilities and equipment that would further the
19 purposes of this section;

20 (B) the provision of technical assistance
21 and instruction for the development and use of
22 such programming equipment or facilities;

23 (C) the development and acquisition of in-
24 structional programming;

1 (D) demonstration projects for teaching or
2 training medical students, residents, and other
3 health professions students in rural training
4 sites about the application of telehealth;

5 (E) transmission costs, maintenance of
6 equipment, and compensation of specialists and
7 referring health care providers;

8 (F) development of projects to use tele-
9 health to facilitate collaboration between health
10 care providers;

11 (G) electronic archival of patient records;

12 (H) collection and analysis of usage statis-
13 tics and data that can be used to document the
14 cost effectiveness of the telehealth services; or

15 (I) such other uses that are consistent with
16 achieving the purposes of this section as ap-
17 proved by the Secretary.

18 (3) EXPENDITURES IN RURAL AREAS.—In
19 awarding a grant or cost of money loan under this
20 section, the Secretary shall ensure that not less than
21 50 percent of the grant or loan award is expended
22 in a rural area or to provide services to residents of
23 rural areas.

1 (g) PROHIBITED USES.—Financial assistance re-
2 ceived under this section may not be used for any of the
3 following:

4 (1) To build or acquire real property.

5 (2) Expenditures to purchase or lease equip-
6 ment to the extent the expenditures would exceed
7 more than 40 percent of the total grant funds.

8 (3) To purchase or install transmission equip-
9 ment (such as laying cable or telephone lines, micro-
10 wave towers, satellite dishes, amplifiers, and digital
11 switching equipment).

12 (4) For construction, except that such funds
13 may be expended for minor renovations relating to
14 the installation of equipment.

15 (5) Expenditures for indirect costs (as deter-
16 mined by the Secretary) to the extent the expendi-
17 tures would exceed more than 20 percent of the total
18 grant funds.

19 (h) MATCHING REQUIREMENT FOR GRANTS.—The
20 Secretary may not make a grant to an entity State under
21 this section unless that entity agrees that, with respect
22 to the costs to be incurred by the entity in carrying out
23 the program for which the grant was awarded, the entity
24 will make available (directly or through donations from
25 public or private entities) non-Federal contributions (in-

1 cash or in-kind) in an amount equal to not less than 50
2 percent of the Federal funds provided under the grant.

3 **SEC. 402. ADMINISTRATION.**

4 (a) NONDUPLICATION.—The Secretary shall ensure
5 that facilities constructed using financial assistance pro-
6 vided under this title do not duplicate adequate established
7 telehealth networks.

8 (b) LOAN MATURITY.—The maturities of cost of
9 money loans shall be determined by the Secretary, based
10 on the useful life of the facility being financed, except that
11 the loan shall not be for a period of more than 10 years.

12 (c) LOAN SECURITY AND FEASIBILITY.—The Sec-
13 retary shall make a cost of money loan only if the Sec-
14 retary determines that the security for the loan is reason-
15 ably adequate and that the loan will be repaid within the
16 period of the loan.

17 (d) COORDINATION WITH OTHER AGENCIES.—The
18 Secretary shall coordinate, to the extent practicable, with
19 other Federal and State agencies with similar grant or
20 loan programs to pool resources for funding meritorious
21 proposals in rural areas.

22 (e) INFORMATIONAL EFFORTS.—The Secretary shall
23 establish and implement procedures to carry out informa-
24 tional efforts to advise potential end users located in rural

1 areas of each State about the program authorized by this
2 title.

3 **SEC. 403. GUIDELINES.**

4 Not later than 180 days after the date of enactment
5 of this Act, the Secretary shall issue guidelines to carry
6 out this title.

7 **SEC. 404. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated to carry out
9 this title, \$25,000,000 for fiscal year 1998, and such sums
10 as may be necessary for each of the fiscal years 1999
11 through 2004.

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