

104TH CONGRESS
2D SESSION

S. 2171

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 1996

Mr. CONRAD (for himself and Mr. KERREY) 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 1996”.

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.

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 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 practitioners, patients, and administrators across
 13 State lines.

14 (4) The delivery of health services by licensed
 15 health practitioners is a privilege and the licensure
 16 of health care practitioners and the ability to dis-
 17 cipline such practitioners is necessary for the protec-

1 tion of citizens and for the public interest, health,
2 welfare, and safety.

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

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

14 (7) Telehealth networks can provide hospitals,
15 clinics, practitioners, and patients in rural and un-
16 derserved communities with access to specialty care,
17 continuing education, and can act to reduce the iso-
18 lation from other professionals that these practition-
19 ers sometimes experience.

20 (8) In order for telehealth systems to continue
21 to benefit rural and underserved communities, Medi-
22 care must reimburse the provision of health care
23 services from remote locations via telecommuni-
24 cations.

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

3 (1) To mandate that the Health Care Financ-
4 ing Administration reimburse the provision of clini-
5 cal health services via telecommunications.

6 (2) To determine if States are making progress
7 in facilitating the provision of telehealth services
8 across State lines.

9 (3) To create a coordinating entity for Federal
10 telehealth research, policy, and program initiatives
11 that reports to Congress annually.

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

16 (5) To encourage research into the clinical effi-
17 cacy and cost-effectiveness of telehealth diagnosis,
18 treatment, or education on individuals, practitioners,
19 and health care networks.

1 **TITLE I—MEDICARE REIM-**
2 **BURSEMENT FOR TELE-**
3 **HEALTH SERVICES**

4 **SEC. 101. MEDICARE REIMBURSEMENT FOR TELEHEALTH**
5 **SERVICES.**

6 (a) IN GENERAL.—Not later than January 1, 1998,
7 the Secretary of Health and Human Services (hereafter
8 in this section referred to as the “Secretary”) shall make
9 payments from the Federal Supplementary Medical Insur-
10 ance Trust Fund under part B of title XVIII of the Social
11 Security Act in accordance with the methodology described
12 in subsection (b) for professional consultation via tele-
13 communications systems with an individual or entity fur-
14 nishing a service for which payment may be made under
15 such part to a Medicare beneficiary residing in a rural
16 area (as defined in section 1886(d)(2)(D) of such Act) or
17 an underserved area, notwithstanding that the individual
18 health care practitioner providing the professional con-
19 sultation is not at the same location as the individual fur-
20 nishing the service to the Medicare beneficiary.

21 (b) METHODOLOGY FOR DETERMINING AMOUNT OF
22 PAYMENTS.—Taking into account the findings of the re-
23 port required under section 192 of the Health Insurance
24 Portability and Accountability Act of 1996, including
25 those findings relating to the clinical efficacy and cost-ef-

1 fectiveness of telehealth applications, the Secretary shall
2 establish a methodology for determining the amount of
3 payments made under subsection (a), including the cost
4 of the consultation service, a reasonable overhead adjust-
5 ment, and a malpractice risk adjustment.

6 (c) ADDITIONAL ANALYSIS INCLUDED IN REPORT.—
7 Section 192 of the Health Insurance Portability and Ac-
8 countability Act of 1996 is amended—

9 (1) by inserting “and telehealth” after “tele-
10 medicine” each place it appears, and

11 (2) by redesignating paragraphs (2) and (3) as
12 paragraphs (3) and (4), respectively, and by insert-
13 ing after paragraph (1) the following new para-
14 graph:

15 “(2) include an analysis of—

16 “(A) how telemedicine and telehealth sys-
17 tems are expanding access to health care serv-
18 ices,

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

21 “(C) the quality of telemedicine and tele-
22 health services delivered, and

23 “(D) the reasonable cost of telecommuni-
24 cations charges incurred in practicing telemedi-

1 eine and telehealth in rural, frontier, and un-
2 derserved areas;”.

3 **TITLE II—TELEHEALTH**
4 **LICENSURE**

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

6 Not later than July 1, 1997, the Secretary of Health
7 and Human Services shall prepare and submit to the ap-
8 propriate committees of Congress a report concerning—

9 (1) the number, percentage and types of practi-
10 tioners licensed to provide telehealth services across
11 State lines, including the number and types of prac-
12 titioners licensed to provide such services in more
13 than 3 States;

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

17 (3) the status of any efforts to develop uniform
18 national sets of standards for the licensure of practi-
19 tioners to provide telehealth services across State
20 lines;

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

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

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

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

5 (a) IN GENERAL.—Not later than July 1, 1998, and
6 each July 1 thereafter, the Secretary of Health and
7 Human Services shall prepare and submit to the appro-
8 priate committees of Congress, an annual report on rel-
9 evant developments concerning the matters referred to in
10 paragraphs (1) through (6) of section 201.

11 (b) RECOMMENDATIONS.—If, with respect to a report
12 submitted under subsection (a), the Secretary of Health
13 and Human Services determines that States are not mak-
14 ing progress in facilitating the provision of telehealth serv-
15 ices across State lines by eliminating unnecessary require-
16 ments, adopting reciprocal licensing arrangements for
17 telehealth services, implementing uniform requirements
18 for telehealth licensure, or other means, the Secretary
19 shall include in the report recommendations concerning
20 the scope and nature of Federal actions required to reduce
21 licensure as a barrier to the interstate provision of tele-
22 health services.

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

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

6 (a) IN GENERAL.—

7 (1) REDESIGNATION.—The Joint Working
8 Group on Telemedicine, established by the Secretary
9 of Health and Human Services, shall hereafter be
10 known as the “Joint Working Group on Telehealth”
11 with the chairperson being designated by the Direc-
12 tor of the Office of Rural Health Policy.

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

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

18 (B) to analyze—

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

22 (ii) the clinical, educational, or admin-
23 istrative efficacy and cost-effectiveness of
24 telehealth applications, and

1 (iii) the quality of the services deliv-
2 ered, and

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

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

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

14 (1) an analysis of—

15 (A) how telehealth systems are expanding
16 access to health care services,

17 (B) the clinical efficacy and cost-effective-
18 ness of telehealth applications,

19 (C) the quality of telehealth services deliv-
20 ered,

21 (D) the Federal activity regarding tele-
22 health, and

23 (E) the progress of the Working Group’s
24 efforts to coordinate Federal telehealth pro-
25 grams; and

1 (2) recommendations for a coordinated Federal
2 strategy to increase health care access through tele-
3 health.

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

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

12 **TITLE IV—DEVELOPMENT OF** 13 **TELEHEALTH NETWORKS**

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

15 (a) IN GENERAL.—The Secretary of Health and
16 Human Services (hereafter referred to in this title as the
17 “Secretary”), acting through the Director of the Office of
18 Rural Health Policy (of the Health Resources and Services
19 Administration), shall provide financial assistance (as de-
20 scribed in subsection (b)(1)) to recipients (as described in
21 subsection (c)(1)) for the purpose of expanding access to
22 health care services for individuals in rural and frontier
23 areas through the use of telehealth.

24 (b) FINANCIAL ASSISTANCE.—

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

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

11 (3) LOAN FORGIVENESS PROGRAM.—

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

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

22 (i) within 180 days of the end of the
23 loan cycle, submit an application to the
24 Secretary requesting forgiveness of the
25 loan involved;

1 (ii) demonstrate that the recipient has
2 a financial need for such forgiveness;

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

7 (iv) provide any other information de-
8 termined appropriate by the Secretary.

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

14 (c) RECIPIENTS.—

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

23 (A) a description of the anticipated need
24 for the grant or loan;

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

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

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

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

14 (E) the source and amount of non-Federal
15 funds the entity would pledge for the project;
16 and

17 (F) a showing of the long-term viability of
18 the project and evidence of provider commit-
19 ment to the network.

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

24 (2) ELIGIBLE ENTITIES.—An entity described
25 in this paragraph is a hospital or other health care

1 provider in a health care network of community-
2 based providers that includes at least—

3 (A) two of the following:

4 (i) community or migrant health cen-
5 ters;

6 (ii) local health departments;

7 (iii) nonprofit hospitals;

8 (iv) private practice health profes-
9 sionals, including rural health clinics;

10 (v) other publicly funded health or so-
11 cial services agencies;

12 (vi) skilled nursing facilities;

13 (vii) county mental health and other
14 publicly funded mental health facilities;

15 and

16 (viii) home health providers; and

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

21 (i) public schools;

22 (ii) public library;

23 (iii) universities or colleges;

24 (iv) local government entity; or

1 (v) local nonhealth-related business
2 entity.

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

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

8 (1) is a health care provider in a rural health
9 care network or a provider that proposes to form
10 such a network, and the majority of the providers in
11 such a network are located in a medically under-
12 served, health professional shortage areas, or mental
13 health professional shortage areas;

14 (2) can demonstrate broad geographic coverage
15 in the rural areas of the State, or States in which
16 the applicant is located;

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

22 (4) will use the amounts provided for a range
23 of health care applications and to promote greater
24 efficiency in the use of health care resources;

1 (5) can demonstrate the long term viability of
2 projects through use of local matching funds (cash
3 or in-kind); and

4 (6) can demonstrate financial, institutional, and
5 community support for the long-term viability of the
6 network.

7 (e) MAXIMUM AMOUNT OF ASSISTANCE TO INDIVID-
8 UAL RECIPIENTS.—The Secretary may establish the maxi-
9 mum amount of financial assistance to be made available
10 to an individual recipient for each fiscal year under this
11 title, and establish the term of the loan or grant, by pub-
12 lishing notice of the maximum amount in the Federal Reg-
13 ister.

14 (f) USE OF AMOUNTS.—

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

17 (A) with respect to cost of money loans, to
18 encourage the initial development of rural tele-
19 health networks, expand existing networks, or
20 link existing networks together; and

21 (B) with respect to grants, as described in
22 paragraph (2).

23 (2) GRANTS AND LOANS.—The recipient of a
24 grant or loan under this title may use financial as-
25 sistance received under such grant or loan for the

1 acquisition of telehealth equipment and modifica-
2 tions or improvements of telecommunications facili-
3 ties including—

4 (A) the development and acquisition
5 through lease or purchase of computer hard-
6 ware and software, audio and video equipment,
7 computer network equipment, interactive equip-
8 ment, data terminal equipment, and other fa-
9 cilities and equipment that would further the
10 purposes of this section;

11 (B) the provision of technical assistance
12 and instruction for the development and use of
13 such programming equipment or facilities;

14 (C) the development and acquisition of in-
15 structional programming;

16 (D) demonstration projects for teaching or
17 training medical students, residents, and other
18 health professions students in rural training
19 sites about the application of telehealth;

20 (E) transmission costs, maintenance of
21 equipment, and compensation of specialists and
22 referring practitioners;

23 (F) development of projects to use tele-
24 health to facilitate collaboration between health
25 care providers;

1 (G) electronic archival of patient records;

2 (H) collection of usage statistics; or

3 (I) such other uses that are consistent with
4 achieving the purposes of this section as ap-
5 proved by the Secretary.

6 (3) EXPENDITURES IN RURAL AREAS.—In
7 awarding a grant or cost of money loan under this
8 section, the Secretary shall ensure that not less than
9 50 percent of the grant or loan award is expended
10 in a rural area or to provide services to residents of
11 rural areas.

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

15 (1) To build or acquire real property.

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

19 (3) To purchase or install transmission equip-
20 ment (such as laying cable or telephone lines, micro-
21 wave towers, satellite dishes, amplifiers, and digital
22 switching equipment).

23 (4) For construction, except that such funds
24 may be expended for minor renovations relating to
25 the installation of equipment.

1 (5) Expenditures for indirect costs (as deter-
2 mined by the Secretary) to the extent the expendi-
3 tures would exceed more than 20 percent of the total
4 grant funds.

5 (h) **MATCHING REQUIREMENT FOR GRANTS.**—The
6 Secretary may not make a grant to an entity State under
7 this section unless that entity agrees that, with respect
8 to the costs to be incurred by the entity in carrying out
9 the program for which the grant was awarded, the entity
10 will make available (directly or through donations from
11 public or private entities) non-Federal contributions (in
12 cash or in kind) in an amount equal to not less than 50
13 percent of the Federal funds provided under the grant.

14 **SEC. 402. ADMINISTRATION.**

15 (a) **NONDUPLICATION.**—The Secretary shall ensure
16 that facilities constructed using financial assistance pro-
17 vided under this title do not duplicate adequate established
18 telehealth networks.

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

23 (c) **LOAN SECURITY AND FEASIBILITY.**—The Sec-
24 retary shall make a cost of money loan only if the Sec-
25 retary determines that the security for the loan is reason-

1 ably adequate and that the loan will be repaid within the
2 period of the loan.

3 (d) COORDINATION WITH OTHER AGENCIES.—The
4 Secretary shall coordinate, to the extent practicable, with
5 other Federal and State agencies with similar grant or
6 loan programs to pool resources for funding meritorious
7 proposals in rural areas.

8 (e) INFORMATIONAL EFFORTS.—The Secretary shall
9 establish and implement procedures to carry out informa-
10 tional efforts to advise potential end users located in rural
11 areas of each State about the program authorized by this
12 title.

13 **SEC. 403. GUIDELINES.**

14 Not later than 180 days after the date of enactment
15 of this Act, the Secretary shall issue guidelines to carry
16 out this title.

17 **SEC. 404. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated to carry out
19 this title, \$25,000,000 for fiscal year 1997, and such sums
20 as may be necessary for each of the fiscal years 1998
21 through 2004.

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