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(Original Signature of Member)

119TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend titles XVIII and XIX of the Social Security Act to provide for coverage of certain services furnished by freestanding emergency centers.

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IN THE HOUSE OF REPRESENTATIVES

Mr. ARRINGTON introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend titles XVIII and XIX of the Social Security Act to provide for coverage of certain services furnished by freestanding emergency centers.

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 “Emergency Care Im-  
5       provement Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

1           (1) To expand provider capacity to respond to  
2           the COVID–19 pandemic, in April of 2020 the Cen-  
3           ters for Medicare & Medicaid Services issued a waiv-  
4           er allowing freestanding emergency centers (FECs)  
5           to enroll as Medicare-certified hospitals and receive  
6           Medicare reimbursement for the duration of the  
7           COVID–19 public health emergency.

8           (2) FECs are fully licensed emergency depart-  
9           ments that are staffed by both Emergency Medicine  
10          trained physicians and registered nurses who are on-  
11          site 24 hours a day, seven days a week, and possess  
12          licensed pharmacies, clinical laboratories, and ad-  
13          vanced imaging services. FECs are State-licensed,  
14          and adhere to the same standards and provide the  
15          same level of care as Hospital Based Emergency  
16          Rooms, including State EMTALA regulations on  
17          treating all patients.

18          (3) Over 118 FECs, mostly located in Texas,  
19          have enrolled and provided high-quality emergency  
20          services for all kinds of emergency conditions at sig-  
21          nificant savings to the Medicare program and to  
22          thousands of Medicare beneficiaries.

23          (4) An actuarial study of Medicare claims data  
24          found that FECs did not increase overall utilization  
25          of emergency care services and saved the Medicare

1 program 21.8 percent in lower emergency care pay-  
2 ments for patients of similar acuity.

3 **SEC. 3. COVERAGE OF FREESTANDING EMERGENCY CEN-**  
4 **TERS UNDER MEDICARE AND MEDICAID.**

5 (a) COVERAGE UNDER MEDICARE PART B.—Section  
6 1832(a)(2) of the Social Security Act (42 U.S.C.  
7 1395k(a)) is amended—

8 (1) in subparagraph (I), by striking “and” at  
9 the end;

10 (2) in subparagraph (J), by striking the period  
11 at the end and inserting “; and”; and

12 (3) by adding at the end the following new sub-  
13 paragraph:

14 “(K) specified emergency services fur-  
15 nished by a freestanding emergency center (as  
16 such terms are defined in section 1861(nnn)).”.

17 (b) DEFINITIONS.—Section 1861 of the Social Secu-  
18 rity Act (42 U.S.C. 1395x) is amended by adding at the  
19 end the following new subsection:

20 “(nnn) FREESTANDING EMERGENCY CENTER; SPEC-  
21 IFIED EMERGENCY SERVICES.—

22 “(1) FREESTANDING EMERGENCY CENTER.—  
23 The term ‘freestanding emergency center’ means a  
24 health care facility that—

1           “(A) is an independent freestanding emer-  
2           gency department (as defined in section  
3           2799A–1(a)(3)(D) of the Public Health Service  
4           Act);

5           “(B) is staffed 24 hours a day, 7 days a  
6           week, with a physician (as defined in subsection  
7           (r)(1)) available to furnish emergency services  
8           (as defined in section 2799A–1(a)(3)(C)(i) of  
9           the Public Health Service Act) in such facility  
10          24 hours a day;

11          “(C) has arrangements with one or more  
12          hospitals, having agreements in effect under  
13          section 1866, for the referral and admission of  
14          patients requiring inpatient services or such di-  
15          agnostic or other specialized services as are not  
16          available at such facility;

17          “(D) has established a governing body to  
18          determine, implement, and monitor policies gov-  
19          erning the total operation of the facility;

20          “(E) develops, implements, and maintains  
21          an ongoing, data-driven quality assessment and  
22          performance improvement program, and has  
23          oversight and accountability for such program,  
24          ensuring that facility policies and such program

1 are administered so as to provide quality health  
2 care in a safe environment;

3 “(F) is located—

4 “(i) in a metropolitan statistical area;  
5 or

6 “(ii)(I) in the case of a facility estab-  
7 lished prior to 2022, in a rural county; or

8 “(II) in the case of a facility estab-  
9 lished on or after January 1, 2022, in a  
10 rural county that does not have a Medi-  
11 care-certified hospital or a rural emergency  
12 hospital (as defined in subsection  
13 (kkk)(2)); and

14 “(G) meets all State requirements applica-  
15 ble to facilities that furnish emergency medical  
16 services to individuals but do not typically pro-  
17 vide for stays in excess of 24 hours, and meets  
18 such other requirements as the Secretary may  
19 prescribe not in excess of the conditions of par-  
20 ticipation under this title that are applicable to  
21 off campus dedicated emergency departments of  
22 hospitals (as described in section 482.55 of title  
23 42, Code of Federal Regulations (or any suc-  
24 cessor regulation)).

1           “(2) SPECIFIED EMERGENCY SERVICES.—The  
2           term ‘specified emergency services’ means emergency  
3           services (as defined in section 2799A–1(a)(3)(C)(i)  
4           of the Public Health Service Act) other than a serv-  
5           ice identified, as of the date of the enactment of the  
6           Emergency Care Improvement Act, by any of  
7           HCPCS evaluation and service management service  
8           codes 99281 through 99282.”.

9           (c) APPLICATION OF EMTALA.—Section 1867(e) of  
10          the Social Security Act (42 U.S.C. 1395dd(e)) is amend-  
11          ed—

12                 (1) in paragraph (2), by—

13                         (A) inserting “other than a freestanding  
14                         emergency center (as defined in section  
15                         1861(nnn))” after “a hospital”; and

16                         (B) inserting “or a freestanding emergency  
17                         center (as so defined) participating under this  
18                         title” before the period at the end; and

19                 (2) in paragraph (5), by inserting at the end  
20                 the following new sentence: “Beginning on the date  
21                 of the enactment of the Emergency Care Improve-  
22                 ment Act, such term also includes a freestanding  
23                 emergency center (as defined in section 1861(nnn)),  
24                 and any reference to a hospital that has a hospital

1 emergency department includes such a freestanding  
2 emergency center.”.

3 (d) PAYMENT UNDER MEDICARE.—Section  
4 1833(a)(2) of the Social Security Act (42 U.S.C.  
5 1395l(a)(2)) is amended—

6 (1) in subparagraph (G)(ii), by striking “and”  
7 at the end;

8 (2) in subparagraph (H), by striking the  
9 comma at the end and inserting “; and”; and

10 (3) by inserting after subparagraph (H) the fol-  
11 lowing new subparagraph:

12 “(I) with respect to specified emergency  
13 services furnished by a freestanding emergency  
14 center (as such terms are defined in section  
15 1861(nnn)), the amount that would have been  
16 determined under subsection (t) if such services  
17 had been covered OPD services,”.

18 (e) COVERAGE UNDER MEDICAID.—Section  
19 1905(a)(2) of the Social Security Act (42 U.S.C.  
20 1396d(a)(2)) is amended—

21 (1) in subparagraph (B), by striking “and” at  
22 the end; and

23 (2) by inserting before the semicolon at the end  
24 the following: “, and (D) specified emergency serv-

1        ices furnished by freestanding emergency centers (as  
2        such terms are defined in section 1861(nnn))”.

3        (f) EXCLUSION FROM PROHIBITION ON PHYSICIAN  
4 SELF-REFERRAL.—Section 1877(b) of the Social Security  
5 Act (42 U.S.C. 1395nn(b)) is amended by adding at the  
6 end the following new paragraph:

7                “(6) FREESTANDING EMERGENCY CENTERS.—  
8        In the case of laboratory services and imaging serv-  
9        ices furnished by a freestanding emergency center in  
10       connection with specified emergency services (as  
11       such terms are defined in section 1861(nnn)).”.

12       (g) EFFECTIVE DATE.—The amendments made by  
13 this Act shall apply with respect to items and services fur-  
14 nished on or after the date of the enactment of this Act.