

107TH CONGRESS  
1ST SESSION

# H. R. 3602

To amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services, to provide for more equitable reimbursement rates for certified nurse-midwife services, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2001

Mr. TOWNS (for himself, Mr. UPTON, Mrs. CAPPS, Ms. MILLENDER-McDONALD, Mr. WAXMAN, Mr. LEWIS of Georgia, Mr. ABERCROMBIE, Mr. RUSH, Mr. LEACH, Mr. BALDACCI, Ms. RIVERS, Mrs. MORELLA, Mr. THOMPSON of Mississippi, Mr. PALLONE, Mr. HINCHEY, Mrs. LOWEY, Mrs. MALONEY of New York, Mrs. CLAYTON, Mr. PRICE of North Carolina, Mr. UDALL of New Mexico, Mr. OXLEY, Mr. GILLMOR, Mr. KENNEDY of Rhode Island, Mr. KLECZKA, Mr. DINGELL, Mr. OWENS, Mr. MOORE, Mr. STRICKLAND, Mr. THOMPSON of California, Mr. WEINER, Mr. DAVIS of Illinois, Mr. HILLIARD, Mr. McNULTY, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Ms. KILPATRICK, Ms. ROYBAL-ALLARD, and Ms. CARSON of Indiana) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services, to provide for more equitable reimbursement rates for certified nurse-midwife 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Certified Nurse Mid-  
3 wifery Medicare Services Act of 2001”.

4 **SEC. 2. MEDICARE PAYMENT FOR CERTIFIED NURSE-MID-  
5 WIFE AND MIDWIFE SERVICES.**

6       (a) CERTIFIED MIDWIFE, CERTIFIED MIDWIFE  
7 SERVICES DEFINED.—(1) Section 1861(gg) of the Social  
8 Security Act (42 U.S.C. 1395x(gg)) is amended by adding  
9 at the end the following new paragraphs:

10           “(3) The term ‘certified midwife services’  
11 means such services furnished by a certified midwife  
12 (as defined in paragraph (4)) and such services and  
13 supplies furnished as an incident to the certified  
14 midwife’s service which the certified midwife is le-  
15 gally authorized to perform under State law (or the  
16 State regulatory mechanism provided by State law)  
17 as would otherwise be payable under this title if fur-  
18 nished by a physician or as an incident to a physi-  
19 cian’s service.

20           “(4) The term ‘certified midwife’ means an in-  
21 dividual who has successfully completed a bachelor’s  
22 degree from an accredited educational institution  
23 and a program of study and clinical experience meet-  
24 ing guidelines prescribed by the Secretary, or has  
25 been certified by an organization recognized by the  
26 Secretary.”.

1       (2) The heading in section 1861(gg) of such Act (42  
2 U.S.C. 1395x(gg)) is amended to read as follows: “CER-  
3 TIFIED NURSE-MIDWIFE SERVICES; CERTIFIED MIDWIFE  
4 SERVICES”.

5       (b) CERTIFIED MIDWIFE SERVICE BENEFIT.—

6           (1) MEDICAL AND OTHER SERVICES.—Section  
7       1861(s)(2)(L) of such Act (42 U.S.C.  
8       1395x(s)(2)(L)) is amended by inserting “and cer-  
9       tified midwife services” before the semicolon.

10       (2) PAYMENT TO HOSPITAL FOR PATIENTS  
11       UNDER CARE OF CERTIFIED NURSE-MIDWIFE OR  
12       CERTIFIED MIDWIFE.—Section 1861(e)(4) of such  
13       Act (42 U.S.C. 1395x(e)(4)) is amended—

14           (A) by inserting “(i)” after “except that”;  
15       and

16           (B) by inserting before the semicolon the  
17       following: “and (ii) a patient receiving certified  
18       nurse-midwife services or certified midwife serv-  
19       ices (as defined in paragraphs (1) and (3), re-  
20       spectively, of subsection (gg)) may be under the  
21       care of a certified nurse-midwife or certified  
22       midwife with respect to such services to the ex-  
23       tent permitted under State law”.

1           (3) INPATIENT HOSPITAL SERVICE AT TEACH-  
2       ING HOSPITALS.—Section 1861(b) of such Act (42  
3       U.S.C. 1395x(b)) is amended—

4           (A) in paragraph (4), by inserting “cer-  
5       tified midwife services,” after “certified nurse-  
6       midwife services,”;

7           (B) in paragraph (6), by striking “; or”  
8       and inserting “or in the case of services in a  
9       hospital or osteopathic hospital by an intern or  
10      resident-in-training in the field of obstetrics and  
11      gynecology, nothing in this paragraph shall be  
12      construed to preclude a certified nurse-midwife  
13      or certified midwife (as defined in paragraphs  
14      (1) and (3), respectively, of subsection (gg))  
15      from teaching or supervising such intern or  
16      resident-in-training, to the extent permitted  
17      under State law and as may be authorized by  
18      the hospital; or”;

19          (C) in paragraph (7), by striking the pe-  
20      riod at the end and inserting “; or”; and

21          (D) by adding at the end the following new  
22      paragraph:

23      “(8) a certified nurse-midwife or a certified  
24      midwife where the hospital has a teaching program  
25      approved as specified in paragraph (6), if (A) the

1 hospital elects to receive any payment due under this  
2 title for reasonable costs of such services, and (B)  
3 all certified nurse-midwives or certified midwives in  
4 such hospital agree not to bill charges for profes-  
5 sional services rendered in such hospital to individ-  
6 uals covered under the insurance program estab-  
7 lished by this title.”.

8 (4) BENEFIT UNDER PART B.—Section  
9 1832(a)(2)(B)(iii) of such Act (42 U.S.C.  
10 1395k(a)(2)(B)(iii)) is amended—

11 (A) by inserting “(I)” after “(iii)”,

12 (B) by inserting “certified midwife serv-  
13 ices,” after “certified nurse-midwife services,”  
14 and

15 (C) by adding at the end the following new  
16 subclause:

17 “(II) in the case of certified  
18 nurse-midwife services or certified  
19 midwife services furnished in a hos-  
20 pital which has a teaching program  
21 described in clause (i)(II), such serv-  
22 ices may be furnished as provided  
23 under section 1842(b)(7)(E) and sec-  
24 tion 1861(b)(8);”.

1           (5)     AMOUNT     OF     PAYMENT.—Section  
2     1833(a)(1)(K)     of     such     Act     (42     U.S.C.  
3     1395l(a)(1)(K)) is amended—

4           (A) by inserting “and certified midwife  
5     services” after “certified nurse-midwife serv-  
6     ices”, and

7           (B) by striking “65 percent” each place it  
8     appears and inserting “95 percent”.

9           (6) ASSIGNMENT OF PAYMENT.—The first sen-  
10    tence of section 1842(b)(6) of such Act (42 U.S.C.  
11    1395u(b)(6)) is amended—

12           (A) by striking “and (F)” and inserting  
13    “(F)”; and

14           (B) by inserting before the period the fol-  
15    lowing: “, and (G) in the case of certified  
16    nurse-midwife services or certified midwife serv-  
17    ices under section 1861(s)(2)(L), payment may  
18    be made in accordance with subparagraph (A),  
19    except that payment may also be made to such  
20    person or entity (or the agent of such person or  
21    entity) as the certified nurse-midwife or cer-  
22    tified midwife may designate under an agree-  
23    ment between the certified nurse-midwife or  
24    certified midwife and such person or entity (or  
25    the agent of such person or entity)”.

1           (7) CLARIFICATION REGARDING PAYMENTS  
2 UNDER PART B FOR SUCH SERVICES FURNISHED IN  
3 TEACHING HOSPITALS.—(A) Section 1842(b)(7) of  
4 such Act (42 U.S.C. 1395u(b)(7)) is amended—

5           (i) in subparagraphs (A) and (C), by in-  
6 serting “or, for purposes of subparagraph (E),  
7 the conditions described in section 1861(b)(8),”  
8 after “section 1861(b)(7),”; and

9           (ii) by adding at the end the following new  
10 subparagraph:

11           “(E) In the case of certified nurse-midwife  
12 services or certified midwife services furnished  
13 to a patient in a hospital with a teaching pro-  
14 gram approved as specified in section  
15 1861(b)(6) but which does not meet the condi-  
16 tions described in section 1861(b)(8), the provi-  
17 sions of subparagraphs (A) through (C) shall  
18 apply with respect to a certified nurse-midwife  
19 or a certified midwife respectively under this  
20 subparagraph as they apply to a physician  
21 under subparagraphs (A) through (C).”.

22           (B) Not later than 180 days after the date of  
23 the enactment of this Act, the Secretary shall pre-  
24 scribe regulations to carry out the amendments  
25 made by subparagraph (A).

1 **SEC. 3. MEDICARE PAYMENT FOR FREESTANDING BIRTH**  
2 **CENTER SERVICES.**

3 (a) FREESTANDING BIRTH CENTER SERVICES,  
4 FREESTANDING BIRTH CENTER DEFINED.—

5 (1) IN GENERAL.—(A) Section 1861(gg) of the  
6 Social Security Act (42 U.S.C. 1395x(gg)), as  
7 amended in section 2(a)(1), is amended by adding at  
8 the end the following new paragraphs:

9 “(5) The term ‘freestanding birth center serv-  
10 ices’ means items and services furnished by a free-  
11 standing birth center (as defined in paragraph (6))  
12 and such items and services furnished as an incident  
13 to the freestanding birth center’s services as would  
14 otherwise be covered if furnished by a physician or  
15 as an incident to a physician’s service.

16 “(6) The term ‘freestanding birth center’ means  
17 a facility, institution, or site (other than a rural  
18 health clinic, critical access hospital, or a sole com-  
19 munity hospital) (A) in which births are planned to  
20 occur (outside the mother’s place of residence), (B)  
21 in which comprehensive health care services are fur-  
22 nished, and (C) which has been approved by the Sec-  
23 retary or accredited by an organization recognized  
24 by the Secretary for purposes of accrediting free-  
25 standing birth centers. Such term does not include  
26 a facility, institution, or site that is a hospital or an



1 ambulatory surgical center, unless with respect to  
 2 ambulatory surgical centers, the State law or regula-  
 3 tion that regulates such centers also regulates free-  
 4 standing birth centers in the State.”.

5 (B) The heading in section 1861(gg) of such  
 6 Act (42 U.S.C. 1395x(gg)), as amended in section  
 7 2(b)(2), is further amended by adding at the end the  
 8 following: “; FREESTANDING BIRTH CENTER SERV-  
 9 ICES”.

10 (2) MEDICAL AND OTHER SERVICES.—Section  
 11 1861(s)(2)(L) of such Act (42 U.S.C.  
 12 1395x(s)(2)(L)), as amended in section 2(b)(1), is  
 13 further amended—

14 (A) by inserting “(i)” after “(L)”;

15 (B) by adding “and” after the semicolon;

16 and

17 (C) by adding at the end the following new  
 18 clause:

19 “(ii) freestanding birth center serv-  
 20 ices,”.

21 (b) PART B BENEFIT.—

22 (1) IN GENERAL.—Section 1832(a)(2)(B)(iii) of  
 23 such Act (42 U.S.C. 1395k(a)(2)(B)(iii)), as amend-  
 24 ed in section 2(b)(4), is further amended by insert-

1 ing “freestanding birth center services,” after “cer-  
2 tified midwife services,”.

3 (2) AMOUNT OF PAYMENT.—Section 1833(a)(1)  
4 of such Act (42 U.S.C. 1395l(a)(1)) is amended—

5 (A) by striking “and (S)” and inserting in  
6 lieu thereof “(S)”, and

7 (B) by inserting before the semicolon the  
8 following new subparagraph: “, and (T) with  
9 respect to freestanding birth center services  
10 under section 1861(s)(2)(L)(ii), the amount  
11 paid shall be made on an assignment-related  
12 basis, and shall be 80 percent of the lesser of  
13 (i) the actual charge for the services or (ii) an  
14 amount established by the Secretary for pur-  
15 poses of this subparagraph, such amount being  
16 95 percent of the Secretary’s estimate of the  
17 average total payment made to hospitals and  
18 physicians during 1997 for charges for delivery  
19 and pre-delivery visits, such amounts adjusted  
20 to allow for regional variations in labor costs;  
21 except that (I) such estimate shall not include  
22 payments for diagnostic tests, drugs, or the cost  
23 associated with the transfer of a patient to the  
24 hospital or the physician whether or not sepa-  
25 rate payments were made under this title for

1           such tests, drugs, or transfers, and (II) such  
2           amount shall be updated by applying the single  
3           conversion factor for 1998 under section  
4           1848(d)(1)(C)’’.

5 **SEC. 4. INTERIM, FINAL REGULATIONS.**

6       Except as provided in section 2(b)(7)(B), in order to  
7       carry out the amendments made by this Act in a timely  
8       manner, the Secretary of Health and Human Services may  
9       first promulgate regulations, that take effect on an interim  
10      basis, after notice and pending opportunity for public com-  
11      ment, by not later than 6 months after the date of the  
12      enactment of this Act.

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