

107TH CONGRESS
1ST SESSION

S. 690

To amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2001

Mr. WELLSTONE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

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) IN GENERAL.—This Act may be cited as the
5 “Medicare Mental Health Modernization Act of 2001”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—ESTABLISHING PARITY FOR MENTAL HEALTH
SERVICES

- Sec. 101. Elimination of lifetime limit on inpatient mental health services.
 Sec. 102. Parity in treatment for outpatient mental health services.

TITLE II—EXPANDING COVERAGE OF COMMUNITY-BASED
 MENTAL HEALTH SERVICES

- Sec. 201. Coverage of intensive residential services.
 Sec. 202. Coverage of intensive outpatient services.

TITLE III—IMPROVING BENEFICIARY ACCESS TO MEDICARE-
 COVERED SERVICES

- Sec. 301. Excluding clinical social worker services from coverage under the medicare skilled nursing facility prospective payment system and consolidated payment.
 Sec. 302. Coverage of marriage and family therapist services.
 Sec. 303. Coverage of mental health counselor services.
 Sec. 304. Study of coverage criteria for Alzheimer's disease and related mental illnesses.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Older people have the highest rate of suicide
 4 of any population in the United States, and the sui-
 5 cide rate of that population increases with age, with
 6 individuals 65 and older accounting for 20 percent
 7 of all suicide deaths in the United States, while com-
 8 prising only 13 percent of the population of the
 9 United States.

10 (2) Disability due to mental illness in individ-
 11 uals over 65 years old will become a major public
 12 health problem in the near future because of demo-
 13 graphic changes. In particular, dementia, depression,
 14 schizophrenia, among other conditions, will all
 15 present special problems for this age group.

16 (3) Major depression is strikingly prevalent
 17 among older people, with between 8 and 20 percent

1 of older people in community studies and up to 37
2 percent of those seen in primary care settings experi-
3 encing symptoms of depression.

4 (4) Almost 20 percent of the population of indi-
5 viduals age 55 and older, experience specific mental
6 disorders that are not part of normal aging.

7 (5) Unrecognized and untreated depression,
8 Alzheimer's disease, anxiety, late-life schizophrenia,
9 and other mental conditions can be severely impair-
10 ing and may even be fatal.

11 (6) Substance abuse, particularly the abuse of
12 alcohol and prescription drugs, among adults 65 and
13 older is one of the fastest growing health problems
14 in the United States, with 17 percent of this age
15 group suffering from addiction or substance abuse.
16 While addiction often goes undetected and untreated
17 among older adults, aging and disability makes the
18 body more vulnerable to the effects of alcohol and
19 drugs, further exacerbating other age-related health
20 problems. Medicare coverage for addiction treatment
21 of the elderly needs to recognize these special
22 vulnerabilities.

23 (7) The disabled are another population receiv-
24 ing inadequate mental health care through medicare.
25 According to the Health Care Financing Administra-

1 tion, medicare is the primary health care coverage
 2 for the 5,000,000 non-elderly, disabled people on So-
 3 cial Security Disability Insurance. Up to 40 percent
 4 of these individuals have a diagnosis of mental ill-
 5 ness.

6 (8) The current medicare benefit structure dis-
 7 criminates against the millions of Americans who
 8 suffer from mental illness and maintains an out-
 9 dated bias toward institutionally based service deliv-
 10 ery. According to the report of the Surgeon General
 11 on mental health for 1999, intensive outpatient serv-
 12 ices, such as psychiatric rehabilitation and assertive
 13 community treatment, represent state-of-the-art
 14 mental health services. These evidence-based com-
 15 munity support services help people with psychiatric
 16 disabilities improve their ability to function in the
 17 community and reduce hospitalization rates by 30 to
 18 60 percent, even for people with the most severe
 19 mental illnesses.

20 **TITLE I—ESTABLISHING PARITY**
 21 **FOR MENTAL HEALTH SERVICES**

22 **SEC. 101. ELIMINATION OF LIFETIME LIMIT ON INPATIENT**
 23 **MENTAL HEALTH SERVICES.**

24 (a) IN GENERAL.—Section 1812 of the Social Secu-
 25 rity Act (42 U.S.C. 1395d) is amended—

1 (1) in subsection (b)—

2 (A) by adding “and” at the end of para-
3 graph (1);

4 (B) by striking “; and” at the end of para-
5 graph (2); and

6 (C) by striking paragraph (3); and

7 (2) by striking subsection (c).

8 (b) **EFFECTIVE DATE.**—The amendments made by
9 subsection (a) shall apply to items and services furnished
10 on or after January 1, 2002.

11 **SEC. 102. PARITY IN TREATMENT FOR OUTPATIENT MEN-**
12 **TAL HEALTH SERVICES.**

13 (a) **IN GENERAL.**—Section 1833 of the Social Secu-
14 rity Act (42 U.S.C. 1395l) is amended by striking sub-
15 section (c).

16 (b) **EFFECTIVE DATE.**—The amendment made by
17 subsection (a) shall apply to items and services furnished
18 on or after January 1, 2002.

1 **TITLE II—EXPANDING COV-**
 2 **ERAGE OF COMMUNITY-**
 3 **BASED MENTAL HEALTH**
 4 **SERVICES**

5 **SEC. 201. COVERAGE OF INTENSIVE RESIDENTIAL SERV-**
 6 **ICES.**

7 (a) COVERAGE UNDER PART A.—Section 1812(a) of
 8 the Social Security Act (42 U.S.C. 1395d(a)) is
 9 amended—

10 (1) by striking “and” at the end of paragraph
 11 (3);

12 (2) by striking the period at the end of para-
 13 graph (4) and inserting “; and”; and

14 (3) by adding at the end the following new
 15 paragraph:

16 “(5) intensive residential services (as defined in
 17 section 1861(w)) furnished to an individual for up
 18 to 120 days during any calendar year, except that
 19 such services may be furnished to the individual for
 20 additional days (not to exceed 20 days) during the
 21 year if necessary for the individual to complete a
 22 course of treatment.”.

23 (b) SERVICES DESCRIBED.—Section 1861 of the So-
 24 cial Security Act (42 U.S.C. 1395x), as amended by sec-
 25 tions 102(b) and 105(b) of the Medicare, Medicaid, and

1 SCHIP Benefits Improvement and Protection Act of
2 2000, as enacted into law by section 1(a)(6) of Public Law
3 106–554, is amended by adding at the end the following
4 new subsection:

5 “Intensive Residential Services

6 “(ww)(1) Subject to paragraphs (3) and (4), the term
7 ‘intensive residential services’ means a program of residen-
8 tial services (described in paragraph (2)) that is—

9 “(A) prescribed by a physician for an individual
10 entitled to benefits under part A who is under the
11 care of the physician; and

12 “(B) furnished under the supervision of a phy-
13 sician pursuant to an individualized, written plan of
14 treatment established and periodically reviewed by a
15 physician (in consultation with appropriate staff par-
16 ticipating in such services), which plan sets forth—

17 “(i) the individual’s diagnosis,

18 “(ii) the type, amount, frequency, and du-
19 ration of the items and services provided under
20 the plan, and

21 “(iii) the goals for treatment under the
22 plan.

23 In the case of such an individual who is receiving
24 qualified psychologist services (as defined in sub-
25 section (ii)), the individual may be under the care of

1 the clinical psychologist with respect to such services
2 under this subsection to the extent permitted under
3 State law.

4 “(2) The program of residential services described in
5 this paragraph is a nonhospital-based community residen-
6 tial program that furnishes acute mental health services
7 or substance abuse services, or both, on a 24-hour basis.
8 Such services shall include treatment planning and devel-
9 opment, medication management, case management, crisis
10 intervention, individual therapy, group therapy, and de-
11 toxification services. Such services shall be furnished in
12 any of the following facilities:

13 “(A) Crisis residential programs or mental ill-
14 ness residential treatment programs.

15 “(B) Therapeutic family or group treatment
16 homes.

17 “(C) Residential detoxification centers.

18 “(D) Residential centers for substance abuse
19 treatment.

20 “(3) No service may be treated as an intensive resi-
21 dential service under paragraph (1) unless the facility at
22 which the service is provided—

23 “(A) is legally authorized to provide such serv-
24 ice under the law of the State (or under a State reg-
25 ulatory mechanism provided by State law) in which

1 the facility is located or meets such certification re-
2 quirements that the Secretary may impose; and

3 “(B) meets such other requirements as the Sec-
4 retary may impose to assure the quality of the inten-
5 sive residential services provided.

6 “(4) No service may be treated as an intensive resi-
7 dential service under paragraph (1) unless the service is
8 furnished in accordance with standards established by the
9 Secretary for the management of such services.”.

10 (c) AMOUNT OF PAYMENT.—Section 1814 of the So-
11 cial Security Act (42 U.S.C. 1395f) is amended—

12 (1) in subsection (b) in the matter preceding
13 paragraph (1), by inserting “other than intensive
14 residential services,” after “hospice care,”; and

15 (2) by adding at the end the following new sub-
16 section:

17 “Payment for Intensive Residential Services

18 “(m)(1) The amount of payment under this part for
19 intensive residential services under section 1812(a)(5)
20 shall be equal to an amount specified under a prospective
21 payment system established by the Secretary, taking into
22 account the prospective payment system to be established
23 for psychiatric hospitals under section 124 of the Medi-
24 care, Medicaid, and SCHIP Balanced Budget Refinement

1 Act of 1999 (113 Stat. 1501A–332), as enacted into law
2 by section 1000(a)(6) of Public Law 106–113.

3 “(2) Prior to the date on which the Secretary imple-
4 ments the prospective payment system established under
5 paragraph (1), the amount of payment under this part for
6 such intensive residential services is the reasonable costs
7 of providing such services.”.

8 (d) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply to items and services furnished on
10 or after January 1, 2002.

11 **SEC. 202. COVERAGE OF INTENSIVE OUTPATIENT SERV-**
12 **ICES.**

13 (a) **COVERAGE.**—Section 1832(a)(2) of the Social Se-
14 curity Act (42 U.S.C. 1395k(a)(2)) is amended—

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

17 (2) in subparagraph (J), by striking the period
18 and inserting “; and”; and

19 (3) by adding at the end the following new sub-
20 paragraph:

21 “(K) intensive outpatient services (as de-
22 scribed in section 1861(xx)).”.

23 (b) **SERVICES DESCRIBED.**—Section 1861 of the So-
24 cial Security Act (42 U.S.C. 1395x), as amended by sec-

1 tion 202(b), is further amended by adding at the end the
2 following new subsection:

3 “Intensive Outpatient Services

4 “(xx)(1) The term ‘intensive outpatient services’
5 means the items and services described in paragraph (2)
6 prescribed by a physician and provided within the context
7 described in paragraph (3) under the supervision of a phy-
8 sician (or, to the extent permitted under the law of the
9 State in which the services are furnished, a non-physician
10 mental health professional) pursuant to an individualized,
11 written plan of treatment established by a physician and
12 is reviewed periodically by a physician or, to the extent
13 permitted under the laws of the State in which the services
14 are furnished, a non-physician mental health professional
15 (in consultation with appropriate staff participating in
16 such services), which plan sets forth the patient’s diag-
17 nosis, the type, amount, frequency, and duration of the
18 items and services provided under the plan, and the goals
19 for treatment under the plan.

20 “(2)(A) The items and services described in this
21 paragraph the items and services described in subpara-
22 graph (B) that are reasonable and necessary for the diag-
23 nosis or treatment of the individual’s condition, reasonably
24 expected to improve or maintain the individual’s condition
25 and functional level and to prevent relapse or hospitaliza-

1 tion, and furnished pursuant to such guidelines relating
2 to frequency and duration of services as the Secretary
3 shall by regulation establish (taking into account accepted
4 norms of clinical practice).

5 “(B) For purposes of subparagraph (A), the items
6 and services described in this paragraph are as follows:

7 “(i) Psychiatric rehabilitation.

8 “(ii) Assertive community treatment.

9 “(iii) Intensive case management.

10 “(iv) Day treatment for individuals under 21
11 years of age.

12 “(v) Ambulatory detoxification.

13 “(vi) Such other items and services as the Sec-
14 retary may provide (but in no event to include meals
15 and transportation).

16 “(3) The context described in this paragraph for the
17 provision of intensive outpatient services is as follows:

18 “(A) Such services are furnished in a facility,
19 home, or community setting.

20 “(B) Such services are furnished—

21 “(i) to assist the individual to compensate
22 for, or eliminate, functional deficits and inter-
23 personal and environmental barriers created by
24 the disability; and

1 “(ii) to restore skills to the individual for
2 independent living, socialization, and effective
3 life management.

4 “(C) Such services are furnished by an indi-
5 vidual or entity that—

6 “(i) is legally authorized to furnish such
7 services under State law (or the State regu-
8 latory mechanism provided by State law) or
9 meets such certification requirements that the
10 Secretary may impose; and

11 “(ii) meets such other requirements as the
12 Secretary may impose to assure the quality of
13 the intensive outpatient services provided.”.

14 (c) PAYMENT.—

15 (1) IN GENERAL.—With respect to intensive
16 outpatient services (as defined in section
17 1861(xx)(1) of the Social Security Act (as added by
18 subsection (b)) furnished under the medicare pro-
19 gram, the amount of payment under such Act for
20 such services shall be 80 percent of—

21 (A) during 2002 and 2003, the reasonable
22 costs of furnishing such services; and

23 (B) on or after January 1, 2004, the
24 amount of payment established for such serv-
25 ices under the prospective payment system es-

1 tablished by the Secretary under paragraph (2)
2 for such services.

3 (2) ESTABLISHMENT OF PPS.—

4 (A) IN GENERAL.—With respect to inten-
5 sive outpatient services (as defined in section
6 1861(xx)(1) of the Social Security Act (as
7 added by subsection (b)) furnished under the
8 medicare program on or after January 1, 2004,
9 the Secretary of Health and Human Services
10 shall establish a prospective payment system for
11 payment for such services. Such system shall
12 include an adequate patient classification sys-
13 tem that reflects the differences in patient re-
14 source use and costs, shall provide for an an-
15 nual update to the rates of payment established
16 under the system.

17 (B) ADJUSTMENTS.—In establishing the
18 system under subparagraph (A), the Secretary
19 shall provide for adjustments in the prospective
20 payment amount for variations in wage and
21 wage-related costs, case mix, and such other
22 factors as the Secretary determines appropriate.

23 (C) COLLECTION OF DATA AND EVALUA-
24 TION.—In developing the system described in
25 subparagraph (A), the Secretary may require

1 providers of services under the medicare pro-
2 gram to submit such information to the Sec-
3 retary as the Secretary may require to develop
4 the system, including the most recently avail-
5 able data.

6 (D) REPORTS TO CONGRESS.—Not later
7 than October 1 of each of 2002 and 2003, the
8 Secretary shall submit to Congress a report on
9 the progress of the Secretary in establishing the
10 prospective payment system under this para-
11 graph.

12 (d) CONFORMING AMENDMENTS.—(1) Section
13 1835(a)(2) of the Social Security Act (42 U.S.C.
14 1395n(a)(2)) is amended—

15 (A) in subparagraph (E), by striking “and” at
16 the end;

17 (B) in subparagraph (F), by striking the period
18 and inserting “; and

19 (C) by inserting after subparagraph (F) the fol-
20 lowing new subparagraph:

21 “(G) in the case of intensive outpatient
22 services, (i) that those services are reasonably
23 expected to improve or maintain the individual’s
24 condition and functional level and to prevent re-
25 lapse or hospitalization, (ii) an individualized,

1 written plan for furnishing such services has
2 been established by a physician and is reviewed
3 periodically by a physician or, to the extent per-
4 mitted under the laws of the State in which the
5 services are furnished, a non-physician mental
6 health professional, and (iii) such services are
7 or were furnished while the individual is or was
8 under the care of a physician or, to the extent
9 permitted under the law of the State in which
10 the services are furnished, a non-physician men-
11 tal health professional.”.

12 (2) Section 1861(s)(2)(B) of such Act (42 U.S.C.
13 1395x(s)(2)(B)) is amended by inserting “and intensive
14 outpatient services” after “partial hospitalization serv-
15 ices”.

16 (3) Section 1861(ff)(1) of such Act (42 U.S.C.
17 1395x(ff)(1)) is amended—

18 (A) by inserting “or, to the extent permitted
19 under the law of the State in which the services are
20 furnished, a non-physician mental health profes-
21 sional,” after “under the supervision of a physician”
22 and after “periodically reviewed by a physician”; and

23 (B) by striking “physician’s” and inserting “pa-
24 tient’s”.

1 (4) Section 1861(cc) of such Act (42 U.S.C.
2 1395x(cc)) is amended—

3 (A) in paragraph (1), by striking
4 “physician—” and inserting “physician or, to the ex-
5 tent permitted under the law of the State in which
6 the services are furnished, a non-physician mental
7 health professional—” and

8 (B) in paragraph (2)(E), by inserting before
9 the semicolon the following: “, except that a patient
10 receiving social and psychological services under
11 paragraph (1)(D) may be under the care of a non-
12 physician mental health professional with respect to
13 such services to the extent permitted under the law
14 of the State in which the services are furnished”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to items and services furnished on
17 or after January 1, 2002.

1 **TITLE III—IMPROVING BENE-**
 2 **FICIARY ACCESS TO MEDI-**
 3 **CARE-COVERED SERVICES**

4 **SEC. 301. EXCLUDING CLINICAL SOCIAL WORKER SERVICES**
 5 **FROM COVERAGE UNDER THE MEDICARE**
 6 **SKILLED NURSING FACILITY PROSPECTIVE**
 7 **PAYMENT SYSTEM AND CONSOLIDATED PAY-**
 8 **MENT.**

9 (a) IN GENERAL.—Section 1888(e)(2)(A)(ii) of the
 10 Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is
 11 amended by inserting “clinical social worker services,”
 12 after “qualified psychologist services,”.

13 (b) CONFORMING AMENDMENT.—Section
 14 1861(hh)(2) of the Social Security Act (42 U.S.C.
 15 1395x(hh)(2)) is amended by striking “and other than
 16 services furnished to an inpatient of a skilled nursing facil-
 17 ity which the facility is required to provide as a require-
 18 ment for participation”.

19 (c) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to items and services furnished on
 21 or after January 1, 2002.

22 **SEC. 302. COVERAGE OF MARRIAGE AND FAMILY THERA-**
 23 **PIST SERVICES.**

24 (a) COVERAGE OF SERVICES.—Section 1861(s)(2) of
 25 the Social Security Act (42 U.S.C. 1395x(s)(2)), as

1 amended by sections 102(a) and 105(a) of the Medicare,
2 Medicaid, and SCHIP Benefits Improvement and Protec-
3 tion Act of 2000, as enacted into law by section 1(a)(6)
4 of Public Law 106–554, is amended—

5 (1) by striking “and” at the end of subpara-
6 graph (U);

7 (2) by inserting “and” at the end of subpara-
8 graph (V); and

9 (3) by adding at the end the following new sub-
10 paragraph:

11 “(W) marriage and family therapist services (as
12 defined in subsection (yy));”.

13 (b) DEFINITION.—Section 1861 of the Social Secu-
14 rity Act (42 U.S.C. 1395x), as amended by sections
15 201(b) and 202(b), is further amended by adding at the
16 end the following new subsection:

17 “Marriage and Family Therapist Services

18 “(yy)(1) The term ‘marriage and family therapist
19 services’ means services performed by a marriage and
20 family therapist (as defined in paragraph (2)) for the diag-
21 nosis and treatment of mental illnesses, which the mar-
22 riage and family therapist is legally authorized to perform
23 under State law (or the State regulatory mechanism pro-
24 vided by State law) of the State in which such services
25 are performed provided such services are covered under

1 this title, as would otherwise be covered if furnished by
2 a physician or as incident to a physician's professional
3 service, but only if no facility or other provider charges
4 or is paid any amounts with respect to the furnishing of
5 such services.

6 “(2) The term ‘marriage and family therapist’ means
7 an individual who—

8 “(A) possesses a master's or doctoral degree
9 which qualifies for licensure or certification as a
10 marriage and family therapist pursuant to State
11 law;

12 “(B) after obtaining such degree has performed
13 at least two years of clinical supervised experience in
14 marriage and family therapy; and

15 “(C) is licensed or certified as a marriage and
16 family therapist in the State in which marriage and
17 family therapist services are performed.”.

18 (c) PROVISION FOR PAYMENT UNDER PART B.—Sec-
19 tion 1832(a)(2)(B) of the Social Security Act (42 U.S.C.
20 1395k(a)(2)(B)) is amended by adding at the end the fol-
21 lowing new clause:

22 “(v) marriage and family therapist
23 services;”.

24 (d) AMOUNT OF PAYMENT.—

1 (1) IN GENERAL.—Section 1833(a)(1) of the
2 Social Security Act (42 U.S.C. 1395l(a)(1)), as
3 amended by sections 105(c) and 223(c) of the Medi-
4 care, Medicaid, and SCHIP Benefits Improvement
5 and Protection Act of 2000, as enacted into law by
6 section 1(a)(6) of Public Law 106–554, is
7 amended—

8 (A) by striking “and” before “(U)”; and

9 (B) by inserting before the semicolon at
10 the end the following: “, and (V) with respect
11 to marriage and family therapist services under
12 section 1861(s)(2)(W), the amounts paid shall
13 be 80 percent of the lesser of (i) the actual
14 charge for the services or (ii) 75 percent of the
15 amount determined for payment of a psycholo-
16 gist under clause (L)”.

17 (2) DEVELOPMENT OF CRITERIA WITH RE-
18 SPECT TO CONSULTATION WITH A PHYSICIAN.—The
19 Secretary of Health and Human Services shall, tak-
20 ing into consideration concerns for patient confiden-
21 tiality, develop criteria with respect to payment for
22 marriage and family therapist services for which
23 payment may be made directly to the marriage and
24 family therapist under part B of title XVIII of the
25 Social Security Act under which such a therapist

1 must agree to consult with a patient’s attending or
2 primary care physician in accordance with such cri-
3 teria.

4 (e) EXCLUSION OF MARRIAGE AND FAMILY THERA-
5 PIST SERVICES FROM SKILLED NURSING FACILITY PRO-
6 SPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii)
7 of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)),
8 as amended in section 301(a), is further amended by in-
9 serting “marriage and family therapist services (as de-
10 fined in subsection (yy)(1)),” after “clinical social worker
11 services,”.

12 (f) COVERAGE OF MARRIAGE AND FAMILY THERA-
13 PIST SERVICES PROVIDED IN RURAL HEALTH CLINICS
14 AND FEDERALLY QUALIFIED HEALTH CENTERS.—Sec-
15 tion 1861(aa)(1)(B) of the Social Security Act (42 U.S.C.
16 1395x(aa)(1)(B)) is amended by striking “or by a clinical
17 social worker (as defined in subsection (hh)(1)),,” and in-
18 serting “, by a clinical social worker (as defined in sub-
19 section (hh)(1)), or by a marriage and family therapist
20 (as defined in subsection (yy)(2)),”.

21 (g) INCLUSION OF MARRIAGE AND FAMILY THERA-
22 PISTS AS PRACTITIONERS FOR ASSIGNMENT OF
23 CLAIMS.—Section 1842(b)(18(C) of the Social Security
24 Act (42 U.S.C. 1395u(b)(18)(C)), as amended by section
25 105(d) of the Medicare, Medicaid, and SCHIP Benefits

1 Improvement and Protection Act of 2000, as enacted into
 2 law by section 1(a)(6) of Public Law 106–554, is amended
 3 by adding at the end the following new clause:

4 “(vii) A marriage and family therapist (as de-
 5 fined in section 1861(yy)(2)).”.

6 (h) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to items and services furnished on
 8 or after January 1, 2002.

9 **SEC. 303. COVERAGE OF MENTAL HEALTH COUNSELOR**
 10 **SERVICES.**

11 (a) COVERAGE OF SERVICES.—Section 1861(s)(2) of
 12 the Social Security Act (42 U.S.C. 1395x(s)(2)), as
 13 amended in section 302(a), is further amended—

14 (1) by striking “and” at the end of subpara-
 15 graph (V);

16 (2) by inserting “and” at the end of subpara-
 17 graph (W); and

18 (3) by adding at the end the following new sub-
 19 paragraph:

20 “(X) mental health counselor services (as
 21 defined in subsection (zz)(2));”.

22 (b) DEFINITION.—Section 1861 of the Social Secu-
 23 rity Act (42 U.S.C. 1395x), as amended by sections
 24 201(b), 202(b), and 302(b), is further amended by adding
 25 at the end the following new subsection:

1 “Mental Health Counselor; Mental Health Counselor
2 Services

3 “(zz)(1) The term ‘mental health counselor’ means
4 an individual who—

5 “(A) possesses a master’s or doctor’s degree in
6 mental health counseling or a related field;

7 “(B) after obtaining such a degree has per-
8 formed at least 2 years of supervised mental health
9 counselor practice; and

10 “(C) is licensed or certified as a mental health
11 counselor or professional counselor by the State in
12 which the services are performed.

13 “(2) The term ‘mental health counselor services’
14 means services performed by a mental health counselor (as
15 defined in paragraph (1)) for the diagnosis and treatment
16 of mental illnesses which the mental health counselor is
17 legally authorized to perform under State law (or the
18 State regulatory mechanism provided by the State law) of
19 the State in which such services are performed provided
20 such services are covered under this title as would other-
21 wise be covered if furnished by a physician or as incident
22 to a physician’s professional service, but only if no facility
23 or other provider charges or is paid any amounts with re-
24 spect to the furnishing of such services.”.

25 (c) PAYMENT.—

1 (1) IN GENERAL.—Section 1833(a)(1) of the
2 Social Security Act (42 U.S.C. 13951(a)(1)), as
3 amended by section 302(d), is further amended—

4 (A) by striking “and” before “(V)”; and

5 (B) by inserting before the semicolon at
6 the end the following: “, and (W) with respect
7 to mental health counselor services under sec-
8 tion 1861(s)(2)(X), the amounts paid shall be
9 80 percent of the lesser of (i) the actual charge
10 for the services or (ii) 75 percent of the amount
11 determined for payment of a psychologist under
12 clause (L)”.

13 (2) DEVELOPMENT OF CRITERIA WITH RE-
14 SPECT TO CONSULTATION WITH A PHYSICIAN.—The
15 Secretary of Health and Human Services shall, tak-
16 ing into consideration concerns for patient confiden-
17 tiality, develop criteria with respect to payment for
18 mental health counselor services for which payment
19 may be made directly to the mental health counselor
20 under part B of title XVIII of the Social Security
21 Act under which such a counselor must agree to con-
22 sult with a patient’s attending or primary care phy-
23 sician in accordance with such criteria.

24 (d) EXCLUSION OF MENTAL HEALTH COUNSELOR
25 SERVICES FROM SKILLED NURSING FACILITY PROSPEC-

1 TIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of
2 the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)),
3 as amended by sections 301(a) and 302(e), is further
4 amended by inserting “mental health counselor services
5 (as defined in section 1861(zz)(2)),” after “marriage and
6 family therapist services (as defined in subsection
7 (yy)(1)),”.

8 (e) COVERAGE OF MENTAL HEALTH COUNSELOR
9 SERVICES PROVIDED IN RURAL HEALTH CLINICS AND
10 FEDERALLY QUALIFIED HEALTH CENTERS.—Section
11 1861(aa)(1)(B) of the Social Security Act (42 U.S.C.
12 1395x(aa)(1)(B)), as amended by section 302(f), is fur-
13 ther amended—

14 (1) by striking “or” before “marriage and fam-
15 ily therapist services”; and

16 (2) by inserting “or mental health counselor
17 services (as defined in section 1861(zz)(2)),” after
18 “marriage and family therapist services (as defined
19 in subsection (yy)(1)),”.

20 (f) INCLUSION OF MENTAL HEALTH COUNSELORS AS
21 PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section
22 1842(b)(18)(C) of the Social Security Act (42 U.S.C.
23 1395u(b)(18)(C)), as amended by section 302(g), is fur-
24 ther amended by adding at the end the following new
25 clause:

1 “(viii) A mental health counselor (as defined in
2 section 1861(zz)(1)).”.

3 (g) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to items and services furnished on
5 or after January 1, 2002.

6 **SEC. 304. STUDY OF COVERAGE CRITERIA FOR ALZ-**
7 **HEIMER’S DISEASE AND RELATED MENTAL**
8 **ILLNESSES.**

9 (a) STUDY.—

10 (1) IN GENERAL.—The Secretary of Health and
11 Human Services (in this section referred to as the
12 “Secretary”) shall conduct a study to determine
13 whether the criteria for coverage of any therapy
14 service (including occupational therapy services and
15 physical therapy services) or any outpatient mental
16 health care service under the medicare program
17 under title XVIII of the Social Security Act unduly
18 restricts the access of any medicare beneficiary who
19 has been diagnosed with Alzheimer’s disease or a re-
20 lated mental illness to such a service because the
21 coverage criteria requires the medicare beneficiary to
22 display continuing clinical improvement to continue
23 to receive the service.

24 (2) DETERMINATION OF NEW COVERAGE CRI-
25 TERIA.—If the Secretary determines that the cov-

1 erage criteria described in paragraph (1) unduly re-
2 stricts the access of any medicare beneficiary to the
3 services described in such paragraph, the Secretary
4 shall identify alternative coverage criteria that would
5 permit a medicare beneficiary who has been diag-
6 nosed with Alzheimer’s disease or a related mental
7 illness to receive coverage for health care services
8 under the medicare program that are designed to
9 control symptoms, maintain functional capabilities,
10 reduce or deter deterioration, and prevent or reduce
11 hospitalization of the beneficiary.

12 (b) REPORT.—Not later than 1 year after the date
13 of enactment of this Act, the Secretary shall submit to
14 the committees of jurisdiction of Congress a report on the
15 study conducted under subsection (a) together with such
16 recommendations for legislative and administrative action
17 as the Secretary determines appropriate.

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