S. 1450

To amend title XVIII of the Social Security Act to provide for expanded coverage of services furnished by genetic counselors under part B of the Medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2021

Mr. BARRASSO (for himself and Mr. Tester) 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 provide for expanded coverage of services furnished by genetic counselors under part B of the Medicare program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Access to Genetic Counselor Services Act of 2021”.

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SEC. 2. MEDICARE COVERAGE OF GENETIC COUNSELING SERVICES.

(a) In General.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking “and” at the end of subparagraph (GG);

(B) by adding “and” at the end of subparagraph (HH); and

(C) by adding at the end the following new subparagraph:

“(II) covered genetic counseling services (as defined in subsection (lll)(1));”;

(2) by adding at the end the following new subsection:

“Covered Genetic Counseling Services

“(lll)(1) The term ‘covered genetic counseling services’ means genetic counseling services furnished by a genetic counselor (as defined in paragraph (2)) (and such services and supplies furnished as an incident to the provision of such services) as would otherwise be covered under this title if furnished by a physician (or as incident to a physician’s service).

“(2) The term ‘genetic counselor’ means an individual who—
“(A) is licensed as a genetic counselor by the State in which the individual furnishes genetic counseling services; or

“(B) in the case of an individual practicing in a State that does not license genetic counselors, meets such other criteria as the Secretary establishes.

The provisions of this paragraph shall not be construed as preventing other practitioners, including those providing telehealth services, from providing covered genetic counseling services within the scope of their practice.”.

(b) Physicians’ Services.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w–4(j)(3)) is amended by inserting “(2)(II),” after “(2)(FF) (including administration of the health risk assessment),”.

(c) Payment.—

(1) In general.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking “and” before “(DD)”; and

(B) by inserting before the semicolon at the end the following: “, and (EE) with respect to covered genetic counseling services under section 1861(s)(2)(II), furnished by a genetic counselor, the amount of payment for such
service shall be an amount equal to 85 percent
of the lesser of the actual charge for the serv-
ices or the amount determined under the fee
schedule established under section 1848(b) for
the same services if furnished by a physician”.

(2) MODIFIER.—Section 1834 of the Social Se-
curity Act (42 U.S.C. 1395m) is amended by adding
at the end the following new subsection:
“(z) USE OF MODIFIER WITH RESPECT TO GENETIC
COUNSELING SERVICES.—
“(1) ESTABLISHMENT.—Not later than Janu-
ary 1, 2022, the Secretary shall establish a modifier
to be utilized with evaluation and management CPT
codes to indicate (in a form and manner specified by
the Secretary), in the case of covered genetic coun-
seling services under section 1861(s)(2)(II), if such
services were furnished by a genetic counselor.
“(2) REQUIRED USE.—Each request for pay-
ment, or bill submitted using evaluation and man-
agement CPT codes, for covered genetic counseling
services (as defined in section 1861(lll)(1)) furnished
by a genetic counselor (as defined in section
1861(lll)(2)) on or after January 1, 2022, shall in-
clude the modifier established under subparagraph
(A) for each such service.”.
(d) ASSIGNMENT OF PAYMENT.—Section 1833(r) of the Social Security Act (42 U.S.C. 1395l(r)) is amended by adding at the end the following new paragraph:

“(3) APPLICATION TO GENETIC COUNSELORS.—

The provisions of paragraphs (1) and (2) shall apply with respect to covered genetic counseling services described in section 1861(s)(2)(II) and genetic counselors (as defined in section 1861(lll)(2)) in the same manner as such provisions apply with respect to services described in section 1861(s)(2)(K)(ii) and nurse practitioners.”.

(e) CONFORMING AMENDMENT.—Section 1862(a)(14) of the Social Security Act (42 U.S.C. 1395(y)(a)(14)) is amended by inserting “covered genetic counseling services,” after “qualified psychologist services,”.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to services furnished on or after January 1, 2022.

(2) IMPLEMENTATION.—The Secretary of Health and Human Services may implement the amendments made by this section by interim final rule with comment period.