

106TH CONGRESS
1ST SESSION

H. R. 131

To amend title XVIII of the Social Security Act to provide for coverage of expanded nursing facility and in-home services for dependent individuals under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. ENGEL introduced the following bill; which was referred to the Committee on the Commerce, and in addition to the Committee on Ways and Means, 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

A BILL

To amend title XVIII of the Social Security Act to provide for coverage of expanded nursing facility and in-home services for dependent individuals 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.**

4 This Act may be cited as the “Comprehensive Long-
5 Term Care Act of 1999”.

1 **SEC. 2. EXPANDED LONG-TERM CARE SERVICES UNDER**
2 **MEDICARE PROGRAM FOR DEPENDENT INDIVIDUALS.**
3

4 (a) IN GENERAL.—

5 (1) PART A.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended—

7 (A) in subsection (a)—

8 (i) in paragraph (2)(B), by striking
9 “subsection (f),” and inserting “subsection
10 (f) and section 1889,”

11 (ii) by striking “and” at the end of
12 paragraph (3),

13 (iii) by striking the period at the end
14 of paragraph (4) and inserting “; and”,
15 and

16 (iv) by adding at the end the following
17 new paragraph:

18 “(5) long-term care services consisting of extended care services (in accordance with section
19 1889).”; and
20

21 (B) in subsection (b)(2), by striking “post-hospital” and inserting “except as provided in
22 section 1889, post-hospital”.
23

24 (2) PART B.—Section 1861(s)(2) of such Act
25 (42 U.S.C. 1395x(s)(2)) is amended—

1 (A) in subparagraph (S), by striking
2 “and” at the end;

3 (B) in subparagraph (T), by striking the
4 period at the end and inserting “; and”; and

5 (C) by inserting after subparagraph (T)
6 the following new subparagraph:

7 “(U) long-term care services consisting of in-
8 home care (in accordance with section 1889);”.

9 (b) DESCRIPTION OF SERVICES; ELIGIBILITY.—Title
10 XVIII of such Act is amended by inserting after section
11 1888 the following new section:

12 “LONG-TERM CARE SERVICES FOR DEPENDENT
13 INDIVIDUALS

14 “SEC. 1889. (a) IN GENERAL.—An individual enti-
15 tled to benefits under this part shall be entitled to have
16 payments made on the individual’s behalf for long-term
17 care services if—

18 “(1) the individual is a dependent individual;
19 and

20 “(2) such services are provided in accordance
21 with a case management plan developed by a case
22 management agency.

23 “(b) SERVICES PROVIDED.—In this section, the term
24 ‘long-term care services’ means—

25 “(1) in-home care (as defined in subsection (e));
26 and

1 “(2) extended care services (as defined in sec-
 2 tion 1861(h)), but only with respect to a chronically
 3 dependent individual.

4 “(c) PAYMENT FOR SERVICES.—

5 “(1) IN GENERAL.—Subject to paragraph (2),
 6 the amount payable for long-term care services
 7 under this section shall be determined in accordance
 8 with a fee schedule for such services established by
 9 the Secretary.

10 “(2) IMPOSITION OF DEDUCTIBLE.—The
 11 amount otherwise payable for long-term care services
 12 under this section furnished during a calendar year
 13 shall be reduced by an amount equal to the deduct-
 14 ible imposed for inpatient hospital services for the
 15 year under section 1813(a)(1).

16 “(d) DEPENDENT INDIVIDUAL DEFINED.—

17 “(1) IN GENERAL.—In this section, the term
 18 ‘dependent individual’ means an individual who—

19 “(A) is unable to perform (without sub-
 20 stantial assistance from another individual) be-
 21 cause of physical or cognitive impairment at
 22 least 2 of the following activities of daily living:
 23 bathing, dressing, toileting, transferring, and
 24 eating; or

1 “(B) has a similar level of disability due to
2 cognitive impairment that requires substantial
3 direction, instruction, or supervision of another
4 individual in order—

5 “(i) to perform 2 or more of the ac-
6 tivities of daily living described in subpara-
7 graph (A), or

8 “(ii) to remain in the community
9 without causing harm to self or others be-
10 cause of inappropriate behavioral patterns.

11 “(2) CHRONICALLY DEPENDENT INDIVIDUAL.—

12 In this section, the term ‘chronically dependent indi-
13 vidual’ means an individual described in paragraph
14 (1) who—

15 “(A) for purposes of subparagraph (A) of
16 such paragraph, is unable to perform at least 3
17 of the activities of daily living described in such
18 subparagraph; or

19 “(B) for purposes of subparagraph (B)(i)
20 of such paragraph, has a level of disability that
21 requires direction, instruction, or supervision of
22 another individual to perform 3 or more of such
23 activities of daily living.

1 “(3) ACTIVITIES OF DAILY LIVING DEFINED.—

2 The ‘activities of daily living’ referred to in this sub-
3 section are as follows:

4 “(A) Eating.

5 “(B) Bathing.

6 “(C) Dressing.

7 “(D) Toileting.

8 “(E) Transferring in and out of a bed or
9 in and out of a chair.

10 “(e) IN-HOME CARE.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, the term ‘in-home care’ means the items and
13 services described in paragraph (2) furnished to an
14 individual by a home care agency (as defined in sec-
15 tion 1861(uu)) or by others under arrangements
16 with them made by the agency provided in a place
17 of residence used as such individual’s home (other
18 than services described in paragraph (2)(H)).

19 “(2) SERVICES DESCRIBED.—The items and
20 services described in this paragraph are as follows:

21 “(A) Nursing care provided by or under
22 the supervision of a registered professional
23 nurse.

24 “(B) Services of a homemaker/home health
25 aide who has successfully completed a training

1 and competency evaluation program approved
2 by the Secretary.

3 “(C) Personal care services.

4 “(D) Medical social services.

5 “(E) Physical, occupational, or respiratory
6 therapy or speech-language pathology.

7 “(F) Medical supplies (other than drugs
8 and biologicals) and durable medical equipment,
9 while under such a plan.

10 “(G) Patient and caregiver (including fam-
11 ily caregiver) education and training to develop
12 skills necessary to permit the individual to re-
13 main in the home setting.

14 “(H) Community care services furnished
15 outside of the place of residence.

16 “(I) Such other home-based items and
17 services (other than room and board) as the
18 Secretary may approve.

19 “(f) CASE MANAGEMENT REQUIREMENTS.—

20 “(1) REQUESTS FOR ASSESSMENT.—Each indi-
21 vidual entitled to benefits under this title (or an-
22 other person on such individual’s behalf) may re-
23 quest a case management agency to conduct an as-
24 sessment under this section to determine whether

1 the individual is a dependent individual or a chron-
2 ically dependent individual.

3 “(2) DESCRIPTION OF PLANS.—For purposes of
4 this section, a ‘case management plan’ means, with
5 respect to an individual, a written plan of care
6 which—

7 “(A) is established and periodically re-
8 viewed and revised by a case management agen-
9 cy; and

10 “(B) reflects the individual’s needs identi-
11 fied in the assessment under paragraph (1).

12 “(3) CASE MANAGEMENT AGENCY DEFINED.—
13 In this section, the term ‘case management agency’
14 means a nonprofit or public agency or organization
15 (or a nonprofit or public subdivision of such an
16 agency or organization) certified by the Secretary to
17 conduct assessments and establish case management
18 plans under this subsection which—

19 “(A) is experienced in conducting assess-
20 ments, in establishing and periodically reviewing
21 and revising case management plans for nurs-
22 ing facility services and in-home care, and in
23 coordinating and reviewing the quality of the
24 provision of such services and care;

1 “(B) is capable of efficiently and effectively
2 performing directly or through contracts under
3 paragraph (4) such duties; and

4 “(C) does not provide nursing facility serv-
5 ices or in-home care and does not have a direct
6 or indirect ownership or control interest in, or
7 direct or indirect affiliation or relationship with,
8 an entity that provides, such services or care.

9 “(4) CONTRACTING OUT CERTAIN FUNC-
10 TIONS.—The Secretary shall permit a case manage-
11 ment agency, to the extent necessary to carry out
12 functions under this section, to provide for assess-
13 ments and case management plans through con-
14 tracts with nonprofit or public organizations which
15 do not provide nursing facility services or in-home
16 care and do not have a direct or indirect ownership
17 or control interest in, or direct or indirect affiliation
18 or relationship with, an entity that provides, such
19 services or care.”.

20 (c) CONFORMING AMENDMENTS.—(1) Section
21 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is
22 amended—

23 (A) by striking “and (P)” and inserting “(P)”;
24 and

1 (B) by striking the semicolon at the end and in-
2 serting the following: “, and (Q) with respect to ex-
3 penses incurred for services described in section
4 1861(s)(2)(P), the amounts paid shall be the
5 amounts determined under section 1889(e);”.

6 (2) Section 1861 of such Act (42 U.S.C. 1395x) is
7 amended by adding at the end the following new sub-
8 section:

9 “HOME CARE AGENCY

10 “(uu) The term ‘home care agency’ means a public
11 agency or private organization, or a subdivision of such
12 an agency or organization, which is a home health agency
13 (as defined in subsection (o)) or—

14 “(1) is primarily engaged in providing services
15 of homemaker/home health aides and personal care
16 aides;

17 “(2) maintains clinical records on all patients;

18 “(3) in the case of an agency or organization in
19 any State in which State or applicable local law pro-
20 vides for the licensing of agencies or organizations of
21 this nature—

22 “(A) is licensed pursuant to such law, or

23 “(B) is approved, by the agency of such
24 State or locality, responsible for licensing agen-
25 cies or organizations of this nature, as meeting

1 the standards established for such licensing;
2 and

3 “(4) meets such other requirements as the Sec-
4 retary may find necessary in the interest of the
5 health and safety of individuals who are furnished
6 services by such agency or organization and for the
7 effective and efficient operation of the program.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to items and services furnished on
10 or after January 1, 2000.

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