

106TH CONGRESS
1ST SESSION

H. R. 2817

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.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 1999

Mr. TOWNS (for himself, Mr. UPTON, Mr. McDERMOTT, Mr. LoBIONDO, Mr. WAXMAN, Mrs. JOHNSON of Connecticut, Mr. BROWN of Ohio, Mr. BILBRAY, Mr. WYNN, Mr. FOLEY, Mrs. CAPPS, Mr. BOEHNER, Mr. LEWIS of Georgia, Mr. LEACH, Mr. PALLONE, Mrs. MORELLA, Mr. KLINK, Mrs. LOWEY, Mr. GILLMOR, Mr. ABERCROMBIE, Mr. HINCHEY, Ms. CARSON, Mr. ACKERMAN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OLVER, Ms. KILPATRICK, Mr. CLYBURN, Ms. LOFGREN, Mr. THOMPSON of Mississippi, Mr. MORAN of Virginia, Mr. BALDACCI, Mr. WISE, Mrs. CLAYTON, Mr. THOMPSON of California, and Ms. RIVERS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on 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

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 1999”.

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

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

25 (2) The heading in section 1861(gg) of such Act (42
26 U.S.C. 1395x(gg)) is amended to read as follows:

1 “Certified Nurse-Midwife Services; Certified Midwife
2 Services”.

3 (b) CERTIFIED MIDWIFE SERVICE BENEFIT.—

4 (1) MEDICAL AND OTHER SERVICES.—Section
5 1861(s)(2)(L) of such Act (42 U.S.C.
6 1395x(s)(2)(L)) is amended by inserting “and cer-
7 tified midwife services” before the semicolon.

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

12 (A) by inserting “(i)” after “except that”;
13 and

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

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

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

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

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

18 (D) by adding at the end the following new
19 paragraph:

20 “(8) a certified nurse-midwife or a certified
21 midwife where the hospital has a teaching program
22 approved as specified in paragraph (6), if (A) the
23 hospital elects to receive any payment due under this
24 title for reasonable costs of such services, and (B)
25 all certified nurse-midwives or certified midwives in

1 such hospital agree not to bill charges for profes-
 2 sional services rendered in such hospital to individ-
 3 uals covered under the insurance program estab-
 4 lished by this title.”.

5 (4) BENEFIT UNDER PART B.—Section
 6 1832(a)(2)(B)(iii) of such Act (42 U.S.C.
 7 1395k(a)(2)(B)(iii)) is amended—

8 (A) by inserting “(I)” after “(iii)”;

9 (B) by inserting “certified midwife serv-
 10 ices,” after “certified nurse-midwife services,”;
 11 and

12 (C) by adding at the end the following new
 13 subclause:

14 “(II) in the case of certified nurse-
 15 midwife services or certified midwife serv-
 16 ices furnished in a hospital which has a
 17 teaching program described in clause
 18 (i)(II), such services may be furnished as
 19 provided under section 1842(b)(7)(E) and
 20 section 1861(b)(8);”.

21 (5) AMOUNT OF PAYMENT.—Section
 22 1833(a)(1)(K) of such Act (42 U.S.C.
 23 1395l(a)(1)(K)) is amended—

1 (A) by inserting “and certified midwife
2 services” after “certified nurse-midwife serv-
3 ices”; and

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

6 (6) ASSIGNMENT OF PAYMENT.—The first sen-
7 tence of section 1842(b)(6) of such Act (42 U.S.C.
8 1395u(b)(6)) is amended—

9 (A) by striking “and (F)” and inserting
10 “(F)”; and

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

23 (7) CLARIFICATION REGARDING PAYMENTS
24 UNDER PART B FOR SUCH SERVICES FURNISHED IN

1 TEACHING HOSPITALS.—(A) Section 1842(b)(7) of
2 such Act (42 U.S.C. 1395u(b)(7)) is amended—

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

7 (ii) by adding at the end the following new
8 subparagraph:

9 “(E) In the case of certified nurse-midwife services
10 or certified midwife services furnished to a patient in a
11 hospital with a teaching program approved as specified in
12 section 1861(b)(6) but which does not meet the conditions
13 described in section 1861(b)(8), the provisions of subpara-
14 graphs (A) through (C) shall apply with respect to a cer-
15 tified nurse-midwife or a certified midwife respectively
16 under this subparagraph as they apply to a physician
17 under subparagraphs (A) through (C).”.

18 (B) Not later than 180 days after the date of
19 the enactment of this Act, the Secretary shall pre-
20 scribe regulations to carry out the amendments
21 made by subparagraph (A).

22 **SEC. 3. MEDICARE PAYMENT FOR FREESTANDING BIRTH**
23 **CENTER SERVICES.**

24 (a) FREESTANDING BIRTH CENTER SERVICES,
25 FREESTANDING BIRTH CENTER DEFINED.—

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

5 “(5) The term ‘freestanding birth center services’
6 means items and services furnished by a freestanding
7 birth center (as defined in paragraph (6)) and such items
8 and services furnished as an incident to the freestanding
9 birth center’s service as would otherwise be covered if fur-
10 nished by a physician or as an incident to a physician’s
11 service.

12 “(6) The term ‘freestanding birth center’ means a fa-
13 cility, institution, or site (other than a rural health clinic,
14 critical access hospital, or a sole community hospital) (A)
15 in which births are planned to occur (outside the mother’s
16 place of residence), (B) in which comprehensive health
17 care services are furnished, and (C) which has been ap-
18 proved by the Secretary or accredited by an organization
19 recognized by the Secretary for purposes of accrediting
20 freestanding birth centers. Such term does not include a
21 facility, institution, or site that is a hospital or an ambula-
22 tory surgical center, unless with respect to ambulatory
23 surgical centers, the State law or regulation that regulates
24 such centers also regulates freestanding birth centers in
25 the State.”.

(B) The heading in section 1861(gg) of such Act (42 U.S.C. 1395x(gg)), as amended in section 2(b)(2), is further amended by adding at the end the following:

“; Freestanding Birth Center Services”.

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

(A) by inserting “(i)” after “(L)”;

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

and

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

“(ii) freestanding birth center services;”.

(b) PART B BENEFIT.—

(1) IN GENERAL.—Section 1832(a)(2)(B)(iii) of such Act (42 U.S.C. 1395k(a)(2)(B)(iii)), as amended in section 2(b)(4), is further amended by inserting “freestanding birth center services,” after “certified midwife services,”.

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

(A) by striking “and (S)” and inserting in lieu thereof “(S)”; and

(B) by inserting before the semicolon the following new subparagraph: “, and (T) with respect to freestanding birth center services under section 1861(s)(2)(L)(ii), the amount paid shall be made on an assignment-related basis, and shall be 80 percent of the lesser of (i) the actual charge for the services or (ii) an amount established by the Secretary for purposes of this subparagraph, such amount being 95 percent of the Secretary’s estimate of the average total payment made to hospitals and physicians during 1997 for charges for delivery and pre-delivery visits, such amounts adjusted to allow for regional variations in labor costs; except that (I) such estimate shall not include payments for diagnostic tests, drugs, or the cost associated with the transfer of a patient to the hospital or the physician whether or not separate payments were made under this title for such tests, drugs, or transfers, and (II) such amount shall be updated by applying the single conversion factor for 1998 under section 1848(d)(1)(C)”.

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

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

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