

107TH CONGRESS  
2D SESSION

# S. 1967

To amend title XVIII of the Social Security Act to improve outpatient vision services under part B of the medicare program.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2002

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

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## A BILL

To amend title XVIII of the Social Security Act to improve outpatient vision services under part B of 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 “Medicare Vision Reha-  
5       bilitation Services Act of 2002”.

6       **SEC. 2. IMPROVEMENT OF OUTPATIENT VISION SERVICES**

7                       **UNDER PART B.**

8       (a) COVERAGE UNDER PART B.—Section 1861(s)(2)  
9       of the Social Security Act (42 U.S.C. 1395x(s)(2)) is  
10       amended—

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

3 (2) in subparagraph (V), by inserting “and” at  
4 the end; and

5 (3) by adding at the end the following new sub-  
6 paragraph:

7 “(W) vision rehabilitation services (as defined  
8 in subsection (ww)(1));”.

9 (b) SERVICES DESCRIBED.—Section 1861 of the So-  
10 cial Security Act (42 U.S.C. 1395x) is amended by adding  
11 at the end the following new subsection:

12 “Vision Rehabilitation Services: Vision Rehabilitation  
13 Professional

14 “(ww)(1)(A) The term ‘vision rehabilitation services’  
15 means rehabilitative services (as determined by the Sec-  
16 retary in regulations) furnished—

17 “(i) to an individual diagnosed with a vision im-  
18 pairment (as defined in paragraph (6)),

19 “(ii) pursuant to a plan of care established by  
20 a qualified physician (as defined in subparagraph  
21 (C)), or by a qualified occupational therapist, and is  
22 periodically reviewed by the qualified physician,

23 “(iii) in an appropriate setting (including the  
24 home of the individual receiving such services if  
25 specified in the plan of care), and

1 “(iv) by any of the following individuals:

2 “(I) A qualified physician.

3 “(II) A qualified occupational therapist.

4 “(III) A vision rehabilitation professional  
5 (as defined in paragraph (2)) while under the  
6 general supervision (as defined in subparagraph  
7 (D)) of a qualified physician.

8 “(B) In the case of vision rehabilitation services fur-  
9 nished by a vision rehabilitation professional, the plan of  
10 care may only be established and reviewed by a qualified  
11 physician.

12 “(C) The term ‘qualified physician’ means—

13 “(i) a physician (as defined in subsection  
14 (r)(1)) who is an ophthalmologist; or

15 “(ii) a physician (as defined in subsection (r)(4)  
16 (relating to a doctor of optometry)).

17 “(D) The term ‘general supervision’ means, with re-  
18 spect to a vision rehabilitation professional, overall direc-  
19 tion and control of that professional by the qualified physi-  
20 cian who established the plan of care for the individual,  
21 but the presence of the qualified physician is not required  
22 during the furnishing of vision rehabilitation services by  
23 that professional to the individual.

24 “(2) The term ‘vision rehabilitation professional’  
25 means any of the following individuals:

1           “(A) An orientation and mobility specialist (as  
2 defined in paragraph (3)).

3           “(B) A rehabilitation teacher (as defined in  
4 paragraph (4)).

5           “(C) A low vision therapist (as defined in para-  
6 graph (5)).

7           “(3) The term ‘orientation and mobility specialist’  
8 means an individual who—

9           “(A) if a State requires licensure or certifi-  
10 cation of orientation and mobility specialists, is li-  
11 censed or certified by that State as an orientation  
12 and mobility specialist;

13           “(B)(i) holds a baccalaureate or higher degree  
14 from an accredited college or university in the  
15 United States (or an equivalent foreign degree) with  
16 a concentration in orientation and mobility; and

17           “(ii) has successfully completed 350 hours of  
18 clinical practicum under the supervision of an ori-  
19 entation and mobility specialist and has furnished  
20 not less than 9 months of supervised full-time ori-  
21 entation and mobility services;

22           “(C) has successfully completed the national ex-  
23 amination in orientation and mobility administered  
24 by the Academy for Certification of Vision Rehabili-  
25 tation and Education Professionals; and

1           “(D) meets such other criteria as the Secretary  
2       establishes.

3           “(4) The term ‘rehabilitation teacher’ means an indi-  
4       vidual who—

5           “(A) if a State requires licensure or certifi-  
6       cation of rehabilitation teachers, is licensed or cer-  
7       tified by the State as a rehabilitation teacher;

8           “(B)(i) holds a baccalaureate or higher degree  
9       from an accredited college or university in the  
10      United States (or an equivalent foreign degree) with  
11      a concentration in rehabilitation teaching, or holds  
12      such a degree in a health field; and

13          “(ii) has successfully completed 350 hours of  
14      clinical practicum under the supervision of a reha-  
15      bilitation teacher and has furnished not less than 9  
16      months of supervised full-time rehabilitation teach-  
17      ing services;

18          “(C) has successfully completed the national ex-  
19      amination in rehabilitation teaching administered by  
20      the Academy for Certification of Vision Rehabilita-  
21      tion and Education Professionals; and

22          “(D) meets such other criteria as the Secretary  
23      establishes.

24          “(5) The term ‘low vision therapist’ means an indi-  
25      vidual who—

1           “(A) if a State requires licensure or certifi-  
 2           cation of low vision therapists, is licensed or certified  
 3           by the State as a low vision therapist;

4           “(B)(i) holds a baccalaureate or higher degree  
 5           from an accredited college or university in the  
 6           United States (or an equivalent foreign degree) with  
 7           a concentration in low vision therapy, or holds such  
 8           a degree in a health field; and

9           “(ii) has successfully completed 350 hours of  
 10          clinical practicum under the supervision of a physi-  
 11          cian, and has furnished not less than 9 months of  
 12          supervised full-time low vision therapy services;

13          “(C) has successfully completed the national ex-  
 14          amination in low vision therapy administered by the  
 15          Academy for Certification of Vision Rehabilitation  
 16          and Education Professionals; and

17          “(D) meets such other criteria as the Secretary  
 18          establishes.

19          “(6) The term ‘vision impairment’ means vision loss  
 20          that constitutes a significant limitation of visual capability  
 21          resulting from disease, trauma, or a congenital or degen-  
 22          erative condition that cannot be corrected by conventional  
 23          means, including refractive correction, medication, or sur-  
 24          gery, and that is manifested by one or more of the fol-  
 25          lowing:

1           “(A) Best corrected visual acuity of less than  
2           20/60, or significant central field defect.

3           “(B) Significant peripheral field defect includ-  
4           ing homonymous or heteronymous bilateral visual  
5           field defect or generalized contraction or constriction  
6           of field.

7           “(C) Reduced peak contrast sensitivity in con-  
8           junction with a condition described in subparagraph  
9           (A) or (B).

10          “(D) Such other diagnoses, indications, or other  
11          manifestations as the Secretary may determine to be  
12          appropriate.”.

13          (c) PAYMENT UNDER PART B.—

14               (1) PHYSICIAN FEE SCHEDULE.—Section  
15               1848(j)(3) of the Social Security Act (42 U.S.C.  
16               1395w-4(j)(3)) is amended by inserting “(2)(W),”  
17               after “(2)(S),”.

18               (2) CARVE OUT FROM HOSPITAL OUTPATIENT  
19               DEPARTMENT PROSPECTIVE PAYMENT SYSTEM.—  
20               Section 1833(t)(1)(B)(iv) of such Act (42 U.S.C.  
21               1395l(t)(1)(B)(iv)), as redesignated by section  
22               201(e)(1)(B) of the Medicare, Medicaid, and SCHIP  
23               Balanced Budget Refinement Act of 1999 (as en-  
24               acted into law by section 1000(a)(6) of Public Law  
25               106–113), is amended by inserting “vision rehabili-

tation services (as defined in section 1861(ww)(1)),  
or” after “does not include”.

(3) CLARIFICATION OF BILLING REQUIREMENTS.—The first sentence of section 1842(b)(6) of such Act (42 U.S.C. 1395u(b)(6)) is amended—

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

(B) by inserting before the period the following: “, and (H) in the case of vision rehabilitation services (as defined in section 1861(ww)(1)) furnished by a vision rehabilitation professional (as defined in section 1861(ww)(2)) while under the general supervision (as defined in section 1861(ww)(1)(D)) of a qualified physician (as defined in section 1861(ww)(1)(C)), payment shall be made to (i) the qualified physician or (ii) the facility (such as a rehabilitation agency, a clinic, or other facility) through which such services are furnished under the plan of care if there is a contractual arrangement between the vision rehabilitation professional and the facility under which the facility submits the bill for such services”.

(d) PLAN OF CARE.—Section 1835(a)(2) of the Social Security Act (42 U.S.C. 1395n(a)(2)) is amended—



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

3           (2) in subparagraph (F), by striking the period  
4     and inserting “; and”; and

5           (3) by inserting after subparagraph (F) the fol-  
6     lowing new subparagraph:

7           “(G) in the case of vision rehabilitation  
8     services, that (i) such services are or were re-  
9     quired because the individual needed vision re-  
10    habilitation services, (ii) an individualized, writ-  
11    ten plan for furnishing such services has been  
12    established (I) by a qualified physician (as de-  
13    fined in section 1861(w)(1)(C)), (II) by a  
14    qualified occupational therapist, or (III) in the  
15    case of such services furnished by a vision reha-  
16    bilitation professional, by a qualified physician,  
17    (iii) the plan is periodically reviewed by the  
18    qualified physician, and (iv) such services are or  
19    were furnished while the individual is or was  
20    under the care of the qualified physician.”.

21       (e) RELATIONSHIP TO REHABILITATION ACT OF  
22    1973.—The provision of vision rehabilitation services  
23    under the medicare program under title XVIII of the So-  
24    cial Security Act (42 U.S.C. 1395 et seq.) shall not be

1 taken into account for any purpose under the Rehabilita-  
2 tion Act of 1973 (29 U.S.C. 701 et seq.).

3 (f) EFFECTIVE DATE.—

4 (1) INTERIM, FINAL REGULATIONS.—The Sec-  
5 retary of Health and Human Services shall publish  
6 a rule under this section in the Federal Register by  
7 not later than 180 days after the date of the enact-  
8 ment of this section to carry out the provisions of  
9 this section. Such rule shall be effective and final  
10 immediately on an interim basis, but is subject to  
11 change and revision after public notice and oppor-  
12 tunity for a period (of not less than 60 days) for  
13 public comment.

14 (2) CONSULTATION.—The Secretary of Health  
15 and human Services shall consult with the National  
16 Vision Rehabilitation Cooperative, the Association  
17 for Education and Rehabilitation of the Blind and  
18 Visually Impaired, the Academy for Certification of  
19 Vision Rehabilitation and Education Professionals,  
20 the American Academy of Ophthalmology, the Amer-  
21 ican Occupational Therapy Association, the Amer-  
22 ican Optometric Association, and such other quali-  
23 fied professional and consumer organizations as the

- 1 Secretary determines appropriate in promulgating
- 2 regulations to carry out this Act.

