

108TH CONGRESS
1ST SESSION

H. R. 796

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

FEBRUARY 13, 2003

Mr. ENGEL introduced the following bill; which was referred to the Committee on Energy and 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 2003”.

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

4 (a) IN GENERAL.—

5 (1) PART A.—Section 1812 of the Social Secu-
6 rity 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 ex-
19 tended care services (in accordance with section
20 1889).”; and

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

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

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

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

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

7 “(W) 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.—Benefits are payable
15 under this title for long-term care services under this sec-
16 tion only if—

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

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

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

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

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

5 “(c) PAYMENT FOR SERVICES.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
7 Notwithstanding any other provision of law, the
8 amount payable under this title for long-term care
9 services under this section shall be determined in ac-
10 cordance with a fee schedule for such services estab-
11 lished by the Secretary.

12 “(2) IMPOSITION OF DEDUCTIBLE.—The
13 amount otherwise payable under this title for long-
14 term care services under this section furnished dur-
15 ing a calendar year shall be reduced by an amount
16 equal to the deductible imposed for inpatient hos-
17 pital services for the year under section 1813(a)(1).

18 “(d) DEPENDENT INDIVIDUAL DEFINED.—

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

21 “(A) is unable to perform (without sub-
22 stantial assistance from another individual) be-
23 cause of physical or cognitive impairment at
24 least 2 activities of daily living (as defined in
25 paragraph (3)); 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 at least 2 activities of
6 daily living; or

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

10 “(2) CHRONICALLY DEPENDENT INDIVIDUAL.—

11 In this section, the term ‘chronically dependent indi-
12 vidual’ means a dependent individual who would
13 meet the requirements of paragraph (1) if ‘3 activi-
14 ties of daily living’ were substituted for ‘2 activities
15 of daily living’.

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

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

19 “(A) Eating.

20 “(B) Bathing.

21 “(C) Dressing.

22 “(D) Toileting.

23 “(E) Transferring in and out of a bed or
24 in and out of a chair.

25 “(e) IN-HOME CARE.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the term ‘in-home care’ means the items and
3 services described in paragraph (2) furnished to an
4 individual by a home care agency (as defined in sec-
5 tion 1861(w)) or by others under arrangements
6 with them made by the agency provided in a place
7 of residence used as such individual’s home (other
8 than services described in paragraph (2)(H)).

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

11 “(A) Nursing care provided by or under
12 the supervision of a registered professional
13 nurse.

14 “(B) Services of a homemaker/home health
15 aide who has successfully completed a training
16 and competency evaluation program approved
17 by the Secretary.

18 “(C) Personal care services.

19 “(D) Medical social services.

20 “(E) Physical, occupational, or respiratory
21 therapy or speech-language pathology services.

22 “(F) Medical supplies (other than drugs
23 and biologicals) and durable medical equipment,
24 while under such a plan.

1 “(G) Patient and caregiver (including fam-
2 ily caregiver) education and training to develop
3 skills necessary to permit the individual to re-
4 main in the home setting.

5 “(H) Community care services furnished
6 outside of the place of residence.

7 “(I) Such other home-based items and
8 services (other than room and board) as the
9 Secretary may approve.

10 “(f) CASE MANAGEMENT REQUIREMENTS.—

11 “(1) REQUESTS FOR ASSESSMENT.—Each indi-
12 vidual entitled to benefits under part A or part B
13 (or another person on such individual’s behalf) may
14 request a case management agency to conduct an as-
15 sessment under this subsection to determine whether
16 the individual is a dependent individual or a chron-
17 ically dependent individual and to assess the individ-
18 ual’s needs for long-term care services under this
19 section.

20 “(2) DESCRIPTION OF PLANS.—For purposes of
21 this section, a ‘case management plan’ means, with
22 respect to an individual, a written plan of care
23 which—

1 “(A) is established and periodically re-
2 viewed and revised by a case management agen-
3 cy; and

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

6 “(3) CASE MANAGEMENT AGENCY DEFINED.—

7 In this section, the term ‘case management agency’
8 means a nonprofit or public agency or organization
9 (or a nonprofit or public subdivision of such an
10 agency or organization) certified by the Secretary to
11 conduct assessments and establish case management
12 plans under this subsection which—

13 “(A) is experienced in conducting assess-
14 ments, in establishing and periodically reviewing
15 and revising case management plans for nurs-
16 ing facility services and in-home care, and in
17 coordinating and reviewing the quality of the
18 provision of such services and care;

19 “(B) is capable of efficiently and effectively
20 performing directly or through contracts under
21 paragraph (4) such duties; and

22 “(C) does not provide long-term care serv-
23 ices or nursing facility services and does not
24 have a direct or indirect ownership or control
25 interest in, or direct or indirect affiliation or re-

1 relationship with, an entity that provides, such
2 services.

3 “(4) CONTRACTING OUT CERTAIN FUNC-
4 TIONS.—The Secretary shall permit a case manage-
5 ment agency, to the extent necessary to carry out
6 functions under this section, to provide for assess-
7 ments and case management plans through con-
8 tracts with nonprofit or public organizations which
9 do not provide long-term care services or nursing fa-
10 cility services and do not have a direct or indirect
11 ownership or control interest in, or direct or indirect
12 affiliation or relationship with, an entity that pro-
13 vides, such services.”.

14 (c) CONFORMING AMENDMENTS.—(1) Section
15 1833(a)(1) of the Social Security Act (42 U.S.C.
16 1395l(a)(1)) is amended—

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

18 (B) by inserting before the semicolon at the end
19 the following: “, and (V) with respect to expenses in-
20 curred for services described in section
21 1861(s)(2)(W), the amounts paid shall be the
22 amounts determined under section 1889(e);”.

23 (2) Section 1861 of the Social Security Act (42
24 U.S.C. 1395x) is amended by adding at the end the fol-
25 lowing new subsection:

1 “HOME CARE AGENCY

2 “(ww) The term ‘home care agency’ means a public
3 agency or private organization, or a subdivision of such
4 an agency or organization, which is a home health agency
5 (as defined in subsection (o)) or—

6 “(1) is primarily engaged in providing services
7 of homemaker/home health aides and personal care
8 aides;

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

10 “(3) in the case of an agency or organization in
11 any State in which State or applicable local law pro-
12 vides for the licensing of agencies or organizations of
13 this nature—

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

15 “(B) is approved, by the agency of such
16 State or locality, responsible for licensing agen-
17 cies or organizations of this nature, as meeting
18 the standards established for such licensing;
19 and

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

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to items and services furnished on
3 or after January 1, 2004.

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