

108TH CONGRESS
2D SESSION

S. 2492

To amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

IN THE SENATE OF THE UNITED STATES

JUNE 2, 2004

Mr. CONRAD 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 reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

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 “Improving Access to
5 Nurse-Midwife Care Act of 2004”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Medicare covers approximately 2 million
2 women with disabilities that are of childbearing age.

3 (2) Women with disabilities give birth to 50,000
4 children annually.

5 (3) The Agency for Healthcare Policy and Re-
6 search reports that these women are without appro-
7 priate access to primary care services.

8 (4) Their average time between gynecological
9 visits was 10–12 years.

10 (5) They were less likely to have received a re-
11 cent mammogram.

12 (6) The medicare program reimburses Certified
13 Nurse Midwives (CNMs) at 65 percent of the physi-
14 cian fee schedule, on average, only \$14 per annual
15 exam.

16 (7) CNMs who serve these women are forced to
17 subsidize care with their own money or turn away
18 patients because they cannot afford to operate at a
19 financial loss.

20 (8) Professional liability premiums for CNMs
21 are skyrocketing, leaving no monies to subsidize
22 care.

23 (9) CNMs are forced to leave the marketplace
24 as other public and private payers adopt Medicare
25 payment policies.

1 (10) Midwives are highly educated and available
 2 to serve this special population.

3 **SEC. 3. MEDICARE PAYMENT FOR CERTIFIED NURSE-MID-**
 4 **WIFE AND MIDWIFE SERVICES.**

5 (a) CERTIFIED MIDWIFE, CERTIFIED MIDWIFE
 6 SERVICES DEFINED.—(1) Section 1861(gg) of the Social
 7 Security Act (42 U.S.C. 1395x(gg)) is amended by adding
 8 at the end the following new paragraphs:

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

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

24 (2) The heading in section 1861(gg) of such Act (42
 25 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
 15 nurse-midwife services or certified
 16 midwife services furnished in a hos-
 17 pital which has a teaching program
 18 described in clause (i)(II), such serv-
 19 ices may be furnished as provided
 20 under section 1842(b)(7)(E) and sec-
 21 tion 1861(b)(8);”.

22 (5) AMOUNT OF PAYMENT.—Section
 23 1833(a)(1)(K) of such Act (42 U.S.C.
 24 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 the agent of such person or
 18 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
10 services or certified midwife services furnished
11 to a patient in a hospital with a teaching pro-
12 gram approved as specified in section
13 1861(b)(6) but which does not meet the condi-
14 tions described in section 1861(b)(8), the provi-
15 sions of subparagraphs (A) through (C) shall
16 apply with respect to a certified nurse-midwife
17 or a certified midwife respectively under this
18 subparagraph as they apply to a physician
19 under subparagraphs (A) through (C).”.

20 (B) Not later than 180 days after the date of
21 the enactment of this Act, the Secretary of Health
22 and Human Services shall prescribe regulations to
23 carry out the amendments made by subparagraph
24 (A).

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

2 Except as provided in section 3(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.

○