

109TH CONGRESS
1ST SESSION

H. R. 872

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 HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2005

Mr. TOWNS (for himself and Mr. UPTON) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and 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 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-Midwifery Care Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Since 1988, Congress has authorized cer-
2 tified nurse-midwives (in this section referred to as
3 “CNMs”) to provide maternity-related services to
4 Medicare-eligible women who are of childbearing age.
5 Approximately 3,000,000 disabled women are Medi-
6 care-eligible beneficiaries. In 1993, Congress author-
7 ized CNMs to also provide additional services out-
8 side the maternity cycle. Medicare reimburses CNMs
9 for primary care services if those services are part
10 of the practitioner’s State-regulated scope of prac-
11 tice.

12 (2) In its June 2002 report to Congress, the
13 Medicare Payment Advisory Commission (MedPAC)
14 unanimously recommended that the percentage of
15 part B reimbursement for certified nurse-midwife
16 services to be increased.

17 (3) In this same report, MedPAC also stated
18 that research shows the quality of care and out-
19 comes for services provided by CNMs are at least
20 comparable to obstetricians and gynecologists.

21 (4) A 1998 study from the National Center for
22 Health Statistics published *Journal of Epidemiology*
23 and *Community Health* found the risk of experi-
24 encing an infant death was 19 percent lower for
25 births attended by CNMs than for births attended

1 by physicians. The risk of neonatal mortality (an in-
2 fant death occurring in the first 28 days of life) was
3 33 percent lower, and the risk of delivering a low
4 birth weight infant was 31 percent lower. Mean
5 birth weight was 37 grams heavier for the CNM-at-
6 tended than for the physician-attended births. Low
7 birth weight is a major predictor of infant mortality,
8 subsequent disease, or developmental disabilities.

9 (5) The study also found that CNMs attended
10 a greater proportion of women who are at higher
11 risk for poor birth outcome: African Americans,
12 American Indians, teenagers, unmarried women, and
13 those with less than a high school education. Physi-
14 cians attended a slightly higher proportion of births
15 with medical complications. However, birth outcomes
16 for CNMs were better even after socio-demographic
17 and medical risk factors were controlled for in statis-
18 tical analyses.

19 (6) Medicare covers 3,000,000 women with dis-
20 abilities that are of childbearing age. These women
21 give birth to approximately 50,000 infants annually
22 within the program.

23 (7) CNMs and certified midwives (in this sec-
24 tion referred to as “CMs”) are highly educated
25 health professionals. Completion of a post-bacca-

1 laureate educational program, licensure, and passage
 2 of a national certification examination are required
 3 to become CNMs and CMs.

4 (8) Inequitable reimbursement for obstetrical
 5 and gynecological services provided by CNMs or
 6 CMs jeopardizes access for women (particularly
 7 those covered by Medicare) to the health care pro-
 8 vider of their choice.

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

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

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

24 “(4) The term ‘certified midwife’ means an individual
 25 who has successfully completed a bachelor’s degree from

1 an accredited educational institution and a program of
 2 study and clinical experience meeting guidelines prescribed
 3 by the Secretary, or has been certified by an organization
 4 recognized by the Secretary.”.

5 (2) The heading in section 1861(gg) of the Social Se-
 6 curity Act (42 U.S.C. 1395x(gg)) is amended to read as
 7 follows:

8 “Certified Nurse-Midwife Services; Certified Midwife
 9 Services”.

10 (b) CERTIFIED MIDWIFE SERVICE BENEFIT.—

11 (1) MEDICAL AND OTHER SERVICES.—Section
 12 1861(s)(2)(L) of the Social Security Act (42 U.S.C.
 13 1395x(s)(2)(L)) is amended by inserting “and cer-
 14 tified midwife services” before the semicolon.

15 (2) PAYMENT TO HOSPITAL FOR PATIENTS
 16 UNDER CARE OF CERTIFIED NURSE-MIDWIFE OR
 17 CERTIFIED MIDWIFE.—Section 1861(e)(4) of the So-
 18 cial Security Act (42 U.S.C. 1395x(e)(4)) is amend-
 19 ed—

20 (A) by inserting “(i)” after “except that”;
 21 and

22 (B) by inserting before the semicolon the
 23 following: “and (ii) a patient receiving certified
 24 nurse-midwife services or certified midwife serv-
 25 ices (as defined in paragraphs (1) and (3), re-

1 spectively, of subsection (gg)) may be under the
2 care of a certified nurse-midwife or certified
3 midwife with respect to such services to the ex-
4 tent permitted under State law”.

5 (3) INPATIENT HOSPITAL SERVICE AT TEACH-
6 ING HOSPITALS.—Section 1861(b) of the Social Se-
7 curity Act (42 U.S.C. 1395x(b)) is amended—

8 (A) in paragraph (4), by inserting “cer-
9 tified midwife services,” after “certified nurse-
10 midwife services,”;

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

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

1 (D) by adding at the end the following new
2 paragraph:

3 “(8) a certified nurse-midwife or a certified
4 midwife where the hospital has a teaching program
5 approved as specified in paragraph (6), if (A) the
6 hospital elects to receive any payment due under this
7 title for reasonable costs of such services, and (B)
8 all certified nurse-midwives or certified midwives in
9 such hospital agree not to bill charges for profes-
10 sional services rendered in such hospital to individ-
11 uals covered under the insurance program estab-
12 lished by this title.”.

13 (4) BENEFIT UNDER PART B.—Section
14 1832(a)(2)(B)(iii) of the Social Security Act (42
15 U.S.C. 1395k(a)(2)(B)(iii)) is amended—

16 (A) by inserting “(I)” after “(iii)”,

17 (B) by inserting “certified midwife serv-
18 ices,” after “certified nurse-midwife services,”,
19 and

20 (C) by adding at the end the following new
21 subclause:

22 “(II) in the case of certified
23 nurse-midwife services or certified
24 midwife services furnished in a hos-
25 pital which has a teaching program

1 described in clause (i)(II), such serv-
 2 ices may be furnished as provided
 3 under section 1842(b)(7)(E) and sec-
 4 tion 1861(b)(8);”.

5 (5) AMOUNT OF PAYMENT.—Section
 6 1833(a)(1)(K) of the Social Security Act (42 U.S.C.
 7 1395l(a)(1)(K)) is amended—

8 (A) by inserting “and certified midwife
 9 services” after “certified nurse-midwife serv-
 10 ices”, and

11 (B) by striking “65 percent” each place it
 12 appears and inserting “100 percent”.

13 (6) ASSIGNMENT OF PAYMENT.—The first sen-
 14 tence of section 1842(b)(6) of the Social Security
 15 Act (42 U.S.C. 1395u(b)(6)) is amended—

16 (A) by striking “and (F)” and inserting
 17 “(F)”; and

18 (B) by inserting before the period the fol-
 19 lowing: “, and (G) in the case of certified
 20 nurse-midwife services or certified midwife serv-
 21 ices under section 1861(s)(2)(L), payment may
 22 be made in accordance with subparagraph (A),
 23 except that payment may also be made to such
 24 person or entity (or the agent of such person or
 25 entity) as the certified nurse-midwife or cer-

1 tified midwife may designate under an agree-
2 ment between the certified nurse-midwife or
3 certified midwife and such person or entity (or
4 the agent of such person or entity)’’.

5 (7) CLARIFICATION REGARDING PAYMENTS

6 UNDER PART B FOR SUCH SERVICES FURNISHED IN
7 TEACHING HOSPITALS.—(A) Section 1842(b)(7) of
8 the Social Security Act (42 U.S.C. 1395u(b)(7)) is
9 amended—

10 (i) in subparagraphs (A) and (C), by in-
11 serting “or, for purposes of subparagraph (E),
12 the conditions described in section 1861(b)(8),”
13 after “section 1861(b)(7),”; and

14 (ii) by adding at the end the following new
15 subparagraph:

16 “(E) In the case of certified nurse-midwife
17 services or certified midwife services furnished
18 to a patient in a hospital with a teaching pro-
19 gram approved as specified in section
20 1861(b)(6) but which does not meet the condi-
21 tions described in section 1861(b)(8), the provi-
22 sions of subparagraphs (A) through (C) shall
23 apply with respect to a certified nurse-midwife
24 or a certified midwife respectively under this

1 subparagraph as they apply to a physician
2 under subparagraphs (A) through (C).”.

3 (B) Not later than 180 days after the date of
4 the enactment of this Act, the Secretary of Health
5 and Human Services shall prescribe regulations to
6 carry out the amendments made by subparagraph
7 (A).

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

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

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