

109TH CONGRESS  
1ST SESSION

# S. 784

To amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 14, 2005

Mr. THOMAS (for himself and Mrs. LINCOLN) 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 provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Seniors Mental Health  
5       Access Improvement Act of 2005”.

1 **SEC. 2. COVERAGE OF MARRIAGE AND FAMILY THERAPIST**  
 2 **SERVICES AND MENTAL HEALTH COUNSELOR**  
 3 **SERVICES UNDER PART B OF THE MEDICARE**  
 4 **PROGRAM.**

5 (a) COVERAGE OF SERVICES.—

6 (1) IN GENERAL.—Section 1861(s)(2) of the  
 7 Social Security Act (42 U.S.C. 1395x(s)(2)) is  
 8 amended—

9 (A) in subparagraph (Y), by striking  
 10 “and” after the semicolon at the end;

11 (B) in subparagraph (Z), by inserting  
 12 “and” after the semicolon at the end; and

13 (C) by adding at the end the following new  
 14 subparagraph:

15 “(AA) marriage and family therapist services  
 16 (as defined in subsection (bbb)(1)) and mental  
 17 health counselor services (as defined in subsection  
 18 (bbb)(3));”.

19 (2) DEFINITIONS.—Section 1861 of the Social  
 20 Security Act (42 U.S.C. 1395x) is amended by add-  
 21 ing at the end the following new subsection:

22 “Marriage and Family Therapist Services; Marriage and  
 23 Family Therapist; Mental Health Counselor Serv-  
 24 ices; Mental Health Counselor

25 “(bbb)(1) The term ‘marriage and family therapist  
 26 services’ means services performed by a marriage and

1 family therapist (as defined in paragraph (2)) for the diag-  
2 nosis and treatment of mental illnesses, which the mar-  
3 riage and family therapist is legally authorized to perform  
4 under State law (or the State regulatory mechanism pro-  
5 vided by State law) of the State in which such services  
6 are performed, as would otherwise be covered if furnished  
7 by a physician or as an incident to a physician's profes-  
8 sional service, but only if no facility or other provider  
9 charges or is paid any amounts with respect to the fur-  
10 nishing of such services.

11       “(2) The term ‘marriage and family therapist’ means  
12 an individual who—

13               “(A) possesses a master's or doctoral degree  
14 which qualifies for licensure or certification as a  
15 marriage and family therapist pursuant to State  
16 law;

17               “(B) after obtaining such degree has performed  
18 at least 2 years of clinical supervised experience in  
19 marriage and family therapy; and

20               “(C) in the case of an individual performing  
21 services in a State that provides for licensure or cer-  
22 tification of marriage and family therapists, is li-  
23 censed or certified as a marriage and family thera-  
24 pist in such State.

1       “(3) The term ‘mental health counselor services’  
 2 means services performed by a mental health counselor (as  
 3 defined in paragraph (4)) for the diagnosis and treatment  
 4 of mental illnesses which the mental health counselor is  
 5 legally authorized to perform under State law (or the  
 6 State regulatory mechanism provided by the State law) of  
 7 the State in which such services are performed, as would  
 8 otherwise be covered if furnished by a physician or as inci-  
 9 dent to a physician’s professional service, but only if no  
 10 facility or other provider charges or is paid any amounts  
 11 with respect to the furnishing of such services.

12       “(4) The term ‘mental health counselor’ means an  
 13 individual who—

14               “(A) possesses a master’s or doctor’s degree in  
 15 mental health counseling or a related field;

16               “(B) after obtaining such a degree has per-  
 17 formed at least 2 years of supervised mental health  
 18 counselor practice; and

19               “(C) in the case of an individual performing  
 20 services in a State that provides for licensure or cer-  
 21 tification of mental health counselors or professional  
 22 counselors, is licensed or certified as a mental health  
 23 counselor or professional counselor in such State.”.

24               (3) PROVISION FOR PAYMENT UNDER PART  
 25 B.—Section 1832(a)(2)(B) of the Social Security

1 Act (42 U.S.C. 1395k(a)(2)(B)) is amended by add-  
 2 ing at the end the following new clause:

3 “(v) marriage and family therapist  
 4 services and mental health counselor serv-  
 5 ices;”.

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

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

11 (B) by inserting before the semicolon at  
 12 the end the following: “, and (W) with respect  
 13 to marriage and family therapist services and  
 14 mental health counselor services under section  
 15 1861(s)(2)(AA), the amounts paid shall be 80  
 16 percent of the lesser of the actual charge for  
 17 the services or 75 percent of the amount deter-  
 18 mined for payment of a psychologist under sub-  
 19 paragraph (L)”.

20 (5) EXCLUSION OF MARRIAGE AND FAMILY  
 21 THERAPIST SERVICES AND MENTAL HEALTH COUN-  
 22 SELOR SERVICES FROM SKILLED NURSING FACILITY  
 23 PROSPECTIVE PAYMENT SYSTEM.—Section  
 24 1888(e)(2)(A)(ii) of the Social Security Act (42  
 25 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting

“marriage and family therapist services (as defined in section 1861(bbb)(1)), mental health counselor services (as defined in section 1861(bbb)(3)),” after “qualified psychologist services,”.

(6) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

“(vii) A marriage and family therapist (as defined in section 1861(bbb)(2)).

“(viii) A mental health counselor (as defined in section 1861(bbb)(4)).”.

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or by a clinical social worker (as defined in subsection (hh)(1)),” and inserting “, by a clinical social worker (as defined in subsection (hh)(1)), by a marriage and family therapist (as defined in subsection

1 (bbb)(2)), or by a mental health counselor (as de-  
 2 fined in subsection (bbb)(4)),”.

3 (2) HOSPICE PROGRAMS.—Section  
 4 1861(dd)(2)(B)(i)(III) of the Social Security Act (42  
 5 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by in-  
 6 serting “or one marriage and family therapist (as  
 7 defined in subsection (bbb)(2))” after “social work-  
 8 er”.

9 (c) AUTHORIZATION OF MARRIAGE AND FAMILY  
 10 THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-  
 11 HOSPITAL SERVICES.—Section 1861(ee)(2)(G) of the So-  
 12 cial Security Act (42 U.S.C. 1395x(ee)(2)(G)) is amended  
 13 by inserting “marriage and family therapist (as defined  
 14 in subsection (bbb)(2)),” after “social worker,”.

15 (d) EFFECTIVE DATE.—The amendments made by  
 16 this section shall apply with respect to services furnished  
 17 on or after January 1, 2006.

