

111TH CONGRESS
1ST SESSION

H. R. 3826

To amend title XVIII of the Social Security Act to provide payments under the Medicare Program to licensed health care practitioners for unscheduled telephone consultation services in the case that such payments are determined to be cost and quality effective.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 2009

Mrs. BIGGERT (for herself and Mrs. CAPPS) 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 payments under the Medicare Program to licensed health care practitioners for unscheduled telephone consultation services in the case that such payments are determined to be cost and quality effective.

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 “Tele-Care Act of
5 2009”.

1 **SEC. 2. MEDICARE PAYMENT FOR UNSCHEDULED PHYSI-**
2 **CIAN TELEPHONE SERVICES.**

3 (a) COVERAGE UNDER PART B.—

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

7 (A) in subparagraph (DD), by striking
8 “and” at the end;

9 (B) in subparagraph (EE), by adding at
10 the end “and”; and

11 (C) by adding at the end the following new
12 subparagraph:

13 “(FF) subject to section 2(c) of the Tele-
14 Care Act of 2009, unscheduled telephone con-
15 sultation services (as defined in subsection
16 (hhh)(1)) by a licensed health care practitioner,
17 as defined by the Secretary (such as a physi-
18 cian, nurse practitioner, physician assistant, or
19 nurse midwife), with respect to the furnishing
20 of primary care services to an individual, if—

21 “(i) the Medicare number of the indi-
22 vidual is associated with the national pro-
23 vider identifier of the licensed health care
24 practitioner;

25 “(ii) to ensure the quality and appro-
26 priateness of such consultation services,

1 the utilization of such services by the indi-
2 vidual can be reviewed by a utilization and
3 quality control peer review organization or
4 eligible entity with which the Secretary has
5 entered into a contract under part B of
6 title XI or section 1893, respectively, by
7 the organization or entity applying for pur-
8 poses of the review under this subpara-
9 graph the processes and standards used by
10 such organization or entity under such
11 part or section, respectively, in the same
12 manner that such processes and standards
13 apply for purposes of carrying out utiliza-
14 tion and quality review under such part or
15 section, respectively;

16 “(iii) such consultation services are
17 securely recorded by the Secretary (or an
18 entity described in subsection (hhh)(1)
19 with which the Secretary enters into a con-
20 tract) for purposes of appropriate review
21 by peers of the licensed health care practi-
22 tioner who practice in the same medical
23 specialty as the licensed health care practi-
24 tioner and Medicare administrative con-
25 tractor oversight of such services; and

1 “(iv) the licensed health care practi-
2 tioner provides for the submission to the
3 Secretary (or an entity described in sub-
4 section (hhh)(1) with which the Secretary
5 enters into a contract) and the Secretary
6 (or such an entity) records and maintains
7 a summary of each such consultation serv-
8 ice furnished by the licensed health care
9 practitioner that includes—

10 “(I) the date and time (including
11 duration) of the consultation service;

12 “(II) a unique medical record
13 number specified by the Secretary (or
14 such entity) to identify the consulta-
15 tion service;

16 “(III) the name of the individual;

17 “(IV) the name of the licensed
18 health care practitioner; and

19 “(V) a summary of the content
20 of the consultation service;”.

21 (2) UNSCHEDULED TELEPHONE CONSULTATION
22 SERVICES DEFINED.—Section 1861 of such Act (42
23 U.S.C. 1395x) is amended by adding at the end the
24 following new subsection:

1 “Unscheduled Telephone Consultation Services

2 “(hhh)(1) The term ‘unscheduled telephone consulta-
3 tion service’ means a consultation conducted by means of
4 telephone or similar electronic communication device be-
5 tween a licensed health care practitioner described in sub-
6 section (s)(2)(FF) and an individual (or a representative
7 of such individual), with respect to the furnishing of pri-
8 mary care services to such individual, that is not included
9 as a scheduled physician service (as defined by the Sec-
10 retary in regulations), and which is initiated by the indi-
11 vidual (or representative) contacting a communication net-
12 work operated by the Secretary (or an entity with which
13 the Secretary enters into a contract) that connects the in-
14 dividual to the licensed health care practitioner, securely
15 records the consultation for purposes of subsection
16 (s)(2)(FF), and maintains the information described in
17 clause (iv) of such subsection with respect to such con-
18 sultation.

19 “(2) For purposes of applying the regulations pro-
20 mulgated pursuant to section 264(c) of the Health Insur-
21 ance Portability and Accountability Act of 1996 (Public
22 Law 104–191; 110 Stat. 2033) with respect to an un-
23 scheduled telephone consultation service furnished by a li-
24 censed health care practitioner—

1 “(A) an entity with which the Secretary con-
 2 tracts under this subsection shall be treated as a
 3 health oversight agency; and

4 “(B) activities of such an entity described in
 5 subparagraph (A) in relation to such licensed health
 6 care practitioner and such unscheduled telephone
 7 consultation service are deemed to be health over-
 8 sight activities.”.

9 (b) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—
 10 Section 1848(j)(3) of such Act (42 U.S.C. 1395w-4(j)(3))
 11 is amended by inserting “(2)(FF),” after “(2)(EE),”.

12 (c) CONTINGENT EFFECTIVE DATE, DEMONSTRA-
 13 TION PROGRAM.—

14 (1) CONTINGENT EFFECTIVE DATE.—The
 15 amendments made by this section shall become ef-
 16 fective (if at all) in accordance with paragraph (2).

17 (2) DEMONSTRATION PROGRAM.—

18 (A) IN GENERAL.—The Secretary of
 19 Health and Human Services (in this paragraph
 20 referred to as the “Secretary”) shall establish a
 21 demonstration program to begin not later than
 22 6 months after the date of the enactment of
 23 this Act to test the effectiveness of providing
 24 coverage under the Medicare program for un-
 25 scheduled telephone consultation services (as

1 defined in section 1861(hhh) of the Social Secu-
2 rity Act, as added by subsection (a)(2)), by li-
3 censed health care practitioners to the extent
4 provided under the amendments made by this
5 section to a sample group of Medicare bene-
6 ficiaries. For purposes of such demonstration
7 program, the Secretary shall find that the pro-
8 vision of such coverage is effective if—

9 (i) the coverage reduces costs to the
10 Medicare program (such as through a re-
11 duction in admissions to the emergency de-
12 partments of hospitals), whether or not
13 such reduction is demonstrated in a reduc-
14 tion in the facility fees of hospital emer-
15 gency departments, professional fees of
16 emergency department licensed health care
17 practitioners, laboratory fees, pathologist
18 fees, hospital radiology department fees for
19 technical components of x-rays, radiologist
20 professional fees for interpreting x-rays,
21 hospital respiratory department fees for
22 respiratory treatments, hospital cardiology
23 department fees for electrocardiograms,
24 professional fees for interpreting such elec-

1 trocardiograms, or any other cost specified
2 by the Secretary; and

3 (ii) the coverage results in patient
4 health outcomes that are at least as favor-
5 able as would apply in the absence of such
6 coverage (as determined in accordance with
7 criteria established by the Centers for
8 Medicare & Medicaid Services, in consulta-
9 tion with physician organizations).

10 (B) INITIAL PERIOD OF DEMONSTRATION
11 PROGRAM.—The demonstration program under
12 subparagraph (A) shall be conducted for an ini-
13 tial period of 24 months.

14 (C) REPORT TO CONGRESS.—

15 (i) IN GENERAL.—Not later than 30
16 days after the last day of the initial period
17 under subparagraph (B), the Secretary
18 shall submit to Congress a report on the
19 results of the demonstration program
20 under this paragraph.

21 (ii) FINDING THAT PAYMENTS ARE
22 EFFECTIVE.—If the Secretary finds, on the
23 basis of the data derived from the dem-
24 onstration program under subparagraph
25 (A) and in accordance with such subpara-

1 graph, that providing coverage under the
2 Medicare program for unscheduled tele-
3 phone consultation services by licensed
4 health care practitioners (to the extent
5 provided under the amendments made by
6 this section) is effective, the amendments
7 made by this section shall become effective
8 on the first day of the first month begin-
9 ning after the date the report under clause
10 (i) is submitted to Congress.

11 (iii) FINDING THAT PAYMENTS ARE
12 NOT EFFECTIVE.—If the Secretary finds,
13 on the basis of the data derived from the
14 demonstration program under subpara-
15 graph (A) and in accordance with such
16 subparagraph, that a finding of effective-
17 ness (as described in clause (ii)) cannot be
18 made, the demonstration program shall
19 continue for a period of an additional 24
20 months. Not later than 30 days after the
21 last day of such period, the Secretary shall
22 submit to Congress a final report on the
23 results of such program. The amendments
24 made by this section shall become effective
25 on the first day of the first month begin-

1 ning after the date such report is sub-
2 mitted to Congress unless the report con-
3 tains a finding by the Secretary, on the
4 basis of such data and in accordance with
5 such subparagraph, that providing cov-
6 erage under the Medicare program for un-
7 scheduled telephone consultation services
8 by licensed health care practitioners (to the
9 extent provided under the amendments
10 made by this section) is not effective, in
11 which case the amendments made by this
12 section shall not become effective.

13 (d) CLARIFICATION.—Nothing in the provisions of
14 this section or the amendments made by this section shall
15 be construed as authorizing the creation of a national re-
16 porting system on licensed health care practitioner quality.

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