

111TH CONGRESS  
2D SESSION

# S. 3978

To ensure that home health agencies can assign the most appropriate skilled service to make the initial assessment visit for home health services for Medicare beneficiaries requiring rehabilitation therapy under a home health plan of care, based upon physician referral.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 2010

Mr. JOHNSON introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To ensure that home health agencies can assign the most appropriate skilled service to make the initial assessment visit for home health services for Medicare beneficiaries requiring rehabilitation therapy under a home health plan of care, based upon physician referral.

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 “Medicare Home Health  
5       Flexibility Act of 2010”.

1 **SEC. 2. PERMITTING HOME HEALTH AGENCIES TO ASSIGN**  
2 **THE MOST APPROPRIATE SKILLED SERVICE**  
3 **TO MAKE THE INITIAL ASSESSMENT VISIT**  
4 **UNDER A MEDICARE HOME HEALTH PLAN OF**  
5 **CARE FOR REHABILITATION CASES.**

6 (a) IN GENERAL.—Notwithstanding section  
7 484.55(a)(2) of title 42 of the Code of Federal Regula-  
8 tions or any other provision of law, a home health agency  
9 may determine the most appropriate skilled service to  
10 make the initial assessment visit for an individual who is  
11 eligible for home health services under title XVIII of the  
12 Social Security Act but who does not require skilled nurs-  
13 ing care as long as that skilled service is included as part  
14 of the plan of care for home health services for such indi-  
15 vidual. An occupational therapist may make the initial as-  
16 sessment visit in such a case if occupational therapy is  
17 included in such plan in the initial physician referral in  
18 conjunction with physical therapy or speech language pa-  
19 thology services.

20 (b) RULE OF CONSTRUCTION.—Nothing in sub-  
21 section (a) shall be construed to provide for initial eligi-  
22 bility for coverage of home health services under title  
23 XVIII of the Social Security Act on the basis of a need  
24 for occupational therapy.

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