

112TH CONGRESS
2D SESSION

H. R. 6059

To amend title XVIII of the Social Security Act to protect Medicare beneficiaries' access to home health services under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2012

Mr. MCGOVERN (for himself and Mr. JONES) 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 protect Medicare beneficiaries' access to home health services under the Medicare Program.

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 “Home Health Care
5 Access Protection Act of 2012”.

1 **SEC. 2. PROTECTING ACCESS TO MEDICARE HOME HEALTH**
2 **SERVICES.**

3 Section 1895(b)(3)(B) of the Social Security Act (42
4 U.S.C. 1395fff(b)(3)(B)) is amended—

5 (1) in clause (iv), by striking “Insofar as” and
6 inserting “Subject to clause (vii), insofar as”; and

7 (2) by adding at the end the following new
8 clause:

9 “(vii) SPECIAL RULES FOR CASE MIX
10 CHANGES FOR 2013 AND LATER.—

11 “(I) IN GENERAL.—The adjust-
12 ment under clause (iv) shall only be
13 made for years beginning with 2013
14 using standards developed by the Sec-
15 retary consistent with the processes
16 described in subclause (II) taking into
17 account the criteria described in sub-
18 clause (III).

19 “(II) PROCESSES AND CRITERIA
20 FOR EVALUATING CHANGES IN CASE
21 MIX.—For purposes of subclause (I),
22 the processes described in this sub-
23 clause are the following:

24 “(aa) In developing stand-
25 ards referred to in such sub-
26 clause, the Secretary shall con-

1 vene a Technical Advisory Group
2 consisting of stakeholders, includ-
3 ing individuals and organizations
4 representing the interests of
5 Medicare beneficiaries, the home
6 health community, health care
7 academia, and health care profes-
8 sionals, in equal numbers from
9 each and limited to parties with-
10 out an existing contractual rela-
11 tionship with the Secretary, to
12 advise the Secretary concerning
13 the establishment of such stand-
14 ards in order to distinguish be-
15 tween real changes in case mix
16 and changes in coding or classi-
17 fication of different units of serv-
18 ices that do not reflect real
19 changes in case mix. The Tech-
20 nical Advisory Group shall be
21 given the opportunity to review
22 and comment on any proposed
23 rulemaking or final determina-
24 tion by the Secretary on such

1 standards prior to such rule-
2 making or determination.

3 “(bb) If the Secretary en-
4 gages an outside contractor to
5 participate in the evaluation of
6 case mix changes described in
7 item (aa), the Secretary shall
8 only utilize a contractor that has
9 not previously participated in the
10 design and establishment of the
11 case mix adjustment factors
12 under this subparagraph.

13 “(cc) If the Secretary deter-
14 mines that any increase in case
15 mix relates to changes in the vol-
16 ume or nature of services pro-
17 vided to home health services pa-
18 tients, the Secretary shall evalu-
19 ate such increase through actual
20 review of claims and services and
21 shall not use any proxy or surro-
22 gate for determining whether the
23 change in volume or nature of
24 services is reasonable and nec-
25 essary.

1 “(dd) The Secretary shall
2 establish the standards referred
3 to in item (aa) by regulation.

4 “(ee) With respect to estab-
5 lishment of such standards, the
6 Secretary shall make public all
7 data, reports, and supporting
8 materials, including any com-
9 ments by the Technical Advisory
10 Group pursuant to item (aa), re-
11 garding the standards at the time
12 of notice of such standards.

13 “(III) CRITERIA.—The criteria
14 described in this subclause are the fol-
15 lowing:

16 “(aa) The impact of changes
17 in the program under this title
18 that may affect the characteris-
19 tics of individuals receiving home
20 health services.

21 “(bb) The impact of changes
22 in the provision of health care
23 services by providers of services
24 other than home health agencies.

1 “(cc) Distinctions in the
2 characteristics of individuals ini-
3 tiating home health services from
4 the community and institutional
5 care settings.

6 “(dd) Whether any changes
7 in coding resulted in a change in
8 expenditures overall annually and
9 disregarding changes in coding
10 that do not have an overall ex-
11 penditure impact.

12 “(ee) Any other factors de-
13 termined appropriate by the Sec-
14 retary in consultation with the
15 Technical Advisory Group under
16 subclause (II)(aa).”.

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