

115TH CONGRESS
1ST SESSION

H. R. 2663

To amend title XVIII of the Social Security Act to make changes to documentation of eligibility for Medicare home health services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2017

Mr. MARCHANT (for himself and Mr. BLUMENAUER) 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 make changes to documentation of eligibility for Medicare home health services, 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 “Home Health Docu-
5 mentation and Program Improvement Act of 2017”.

1 **SEC. 2. INFORMATION TO SATISFY DOCUMENTATION OF**
2 **MEDICARE ELIGIBILITY FOR HOME HEALTH**
3 **SERVICES.**

4 (a) PART A.—Section 1814(a) of the Social Security
5 Act (42 U.S.C. 1395f(a)) is amended by inserting before
6 “For purposes of paragraph (2)(C),” the following new
7 sentence: “For purposes of documentation for physician
8 certification and recertification made under paragraph (2)
9 on or after January 1, 2018, and made with respect to
10 home health services furnished by a home health agency,
11 in addition to using documentation in the medical record
12 of the physician who so certifies or the medical record of
13 the acute or post-acute care facility (in the case that home
14 health services were furnished to an individual who was
15 directly admitted to the home health agency from such a
16 facility), the Secretary shall use documentation in the
17 medical record of the home health agency as supporting
18 material, as appropriate to the case involved.”.

19 (b) PART B.—Section 1835(a) of the Social Security
20 Act (42 U.S.C. 1395n(a)) is amended by inserting before
21 “For purposes of paragraph (2)(A),” the following new
22 sentence: “For purposes of documentation for physician
23 certification and recertification made under paragraph (2)
24 on or after January 1, 2018, and made with respect to
25 home health services furnished by a home health agency,
26 in addition to using documentation in the medical record

1 of the physician who so certifies or the medical record of
 2 the acute or post-acute care facility (in the case that home
 3 health services were furnished to an individual who was
 4 directly admitted to the home health agency from such a
 5 facility), the Secretary shall use documentation in the
 6 medical record of the home health agency as supporting
 7 material, as appropriate to the case involved.”.

8 **SEC. 3. VOLUNTARY SETTLEMENT OF HOME HEALTH**
 9 **CLAIMS.**

10 (a) **SETTLEMENT PROCESS FOR HOME HEALTH**
 11 **CLAIMS.—**

12 (1) **IN GENERAL.**—Not later than one year
 13 after the date of enactment of this Act, the Sec-
 14 retary of Health and Human Services shall establish
 15 a settlement process under which a home health
 16 agency entitled to an eligible administrative appeal
 17 has the option to enter into a settlement with the
 18 Secretary that is reached in a manner consistent
 19 with the succeeding paragraphs of this subsection.

20 (2) **PROCESS AND CONSIDERATION OF HOME**
 21 **HEALTH CLAIMS.**—A settlement under paragraph
 22 (1) with a home health agency that is with respect
 23 to an eligible administrative appeal may only be
 24 reached in accordance with the following process:

1 (A) A settlement under such paragraph
2 with the home health agency shall be with re-
3 spect to all claims by such agency, subject to
4 paragraph (4), that, as of the date of such set-
5 tlement, are under an eligible administrative
6 appeal.

7 (B) For the duration of the settlement
8 process with such agency, an eligible adminis-
9 trative appeal that is with respect to any such
10 claim by such agency shall be suspended.

11 (C) Under the settlement process, the Sec-
12 retary shall determine an aggregate amount to
13 be paid to the home health agency with respect
14 to all claims by such agency that are under an
15 eligible administrative appeal in the following
16 manner:

17 (i) The Secretary shall, for purposes
18 of applying clause (ii) with respect to all
19 settlements under paragraph (1), select a
20 percentage. In selecting such percentage,
21 the Secretary shall consider the percentage
22 used under the Centers for Medicare &
23 Medicaid Services hospital appeals settle-
24 ment that began on October 31, 2014.

1 (ii) The Secretary shall, with respect
2 to each denied claim for such agency that
3 is under an eligible administrative appeal,
4 calculate an amount (referred to in this
5 subparagraph as an “individual claim
6 amount”) by multiplying the net payable
7 amount for such claim by the percentage
8 selected under clause (i).

9 (iii) Such aggregate amount with re-
10 spect to such agency shall be determined
11 by calculating the total sum of all the indi-
12 vidual claim amounts calculated under
13 clause (ii) with respect to such agency.

14 (3) EFFECT OF PROCESS.—

15 (A) EFFECT OF SETTLEMENT.—

16 (i) FURTHER APPEAL.—As part of
17 any settlement under paragraph (1) be-
18 tween a home health agency and the Sec-
19 retary, such home health agency shall be
20 required to forego the right to an adminis-
21 trative appeal under section 1869 of the
22 Social Security Act (42 U.S.C. 1395ff) or
23 section 1878 of such Act (42 U.S.C.
24 1395oo) (including any redetermination,
25 reconsideration, hearing, or review) with

1 respect to any claims for home health serv-
2 ices that are subject to the settlement.

3 (ii) JUDICIAL REVIEW.—There shall
4 be no administrative or judicial review
5 under such section 1869 or otherwise of a
6 settlement under paragraph (1) and the
7 claims covered by the settlement.

8 (B) EFFECT OF NO SETTLEMENT.—In the
9 event that the process described in paragraph
10 (2) does not, with respect to a home health
11 agency, result in a settlement under paragraph
12 (1) with such agency, any appeal under such
13 section 1869 that is with respect to a claim by
14 such agency that was suspended pursuant to
15 paragraph (2)(B) shall resume under such sec-
16 tion.

17 (4) COORDINATION WITH LAW ENFORCE-
18 MENT.—The Secretary of Health and Human Serv-
19 ices shall establish a process under which individuals
20 in the Department of Health and Human Services
21 responsible for executing a settlement under para-
22 graph (1) may, in order to avoid the inadvertent set-
23 tlement of cases that involve fraud or other criminal
24 activity, coordinate with appropriate law enforce-
25 ment agencies.

1 (b) NO ENTITLEMENT TO SETTLEMENT PROCESS.—

2 Nothing in this section shall be construed as creating an
3 entitlement to enter into a settlement process established
4 pursuant to subsection (a).

5 (c) ELIGIBLE ADMINISTRATIVE APPEAL DEFINED.—

6 For purposes of this section, the term “eligible administra-
7 tive appeal” means an appeal under section 1869 of the
8 Social Security Act (42 U.S.C. 1395ff) (including any re-
9 determination, reconsideration, hearing, or review)—

10 (1) that is with respect to one or more claims
11 that—

12 (A) are for home health services that—

13 (i) were furnished on or after January
14 1, 2011, and before January 1, 2015; and

15 (ii) were reasonable and necessary
16 under section 1862(a)(1)(A) of such Act
17 (42 U.S.C. 1395y(a)(1)(A)); and

18 (B) were timely filed consistent with sec-
19 tion 1814(a)(1) of such Act (42 U.S.C.
20 1395f(a)(1)) or sections 1835(a)(1) and
21 1842(b)(3) of such Act (42 U.S.C. 1395n(a)(1),
22 1395u(b)(3)); and

23 (2) either—

1 (A) was timely filed consistent with section
2 1869 of such Act (42 U.S.C. 1395ff) and is
3 pending; or

4 (B) for which the applicable time frame to
5 file an appeal has not expired.

6 (d) CONFORMING AMENDMENT.—Section 1869 of the
7 Social Security Act (42 U.S.C. 1395ff) is amended by add-
8 ing at the end the following new subsection:

9 “(j) APPLICATION WITH RESPECT TO CERTAIN
10 HOME HEALTH CLAIMS.—For the application of the pro-
11 visions of this section with respect to certain claims for
12 home health services that were furnished on or after Janu-
13 ary 1, 2011, and before January 1, 2015, see section 3
14 of the Home Health Documentation and Program Im-
15 provement Act of 2017.”.

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