

118TH CONGRESS
1ST SESSION

H. R. 5128

To amend title XVIII of the Social Security Act to ensure stability in payments to home health agencies under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2023

Ms. SEWELL 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 ensure stability in payments to home health agencies 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 “Preserving Access to
5 Home Health Act of 2023”.

1 **SEC. 2. ENSURING STABILITY IN PAYMENTS TO HOME**
2 **HEALTH AGENCIES.**

3 (a) REPEAL OF PERMANENT AND TEMPORARY AD-
4 JUSTMENTS.—Section 1895(b)(3) of the Social Security
5 Act (42 U.S.C. 1395fff(b)(3)) is amended by striking sub-
6 paragraph (D).

7 (b) EFFECTIVE DATE; IMPLEMENTATION.—

8 (1) EFFECTIVE DATE.—The amendment made
9 by subsection (a) shall take effect as if included in
10 the enactment of the Bipartisan Budget Act of 2018
11 (Public Law 115–123).

12 (2) IMPLEMENTATION.—The Secretary of
13 Health and Human Services (in this section referred
14 to as the “Secretary”) shall implement such section
15 1895(b)(3) for 2024 and subsequent years as if the
16 amendment made by section 51001(a)(2)(B) of divi-
17 sion E of the Bipartisan Budget Act of 2018 (Public
18 Law 115–123) (adding such subparagraph (D)) had
19 not been made.

20 (c) CONSTRUCTION.—Nothing in this section shall be
21 construed as signifying congressional approval or dis-
22 approval of the methodology promulgated by the Secretary
23 to implement section 1895(b)(3)(D) of the Social Security
24 Act in the final rule entitled, “Medicare Program; Cal-
25 endar Year (CY) 2023 Home Health Prospective Payment
26 System Rate Update; Home Health Quality Reporting

1 Program Requirements; Home Health Value-Based Pur-
 2 chasing Expanded Model Requirements; and Home Infu-
 3 sion Therapy Services Requirements” published in the
 4 Federal Register on November 4, 2022 (87 Fed. Reg.
 5 66790).

6 **SEC. 3. INTERACTION OF MEDICARE PAYMENT POLICIES**
 7 **WITH HEALTH CARE DELIVERY GENERALLY.**

8 Section 1805(b)(2)(C) of the Social Security Act (42
 9 U.S.C. 1395b–6(b)(2)(C)) is amended—

10 (1) by striking “GENERALLY.—Specifically,”
 11 and inserting “GENERALLY.—

12 “(i) IN GENERAL.—Specifically,”; and

13 (2) by adding at the end the following new
 14 clause:

15 “(ii) SPECIAL RULE FOR HOME
 16 HEALTH AGENCIES.—

17 “(I) IN GENERAL.—When con-
 18 ducting the review of home health
 19 agency financial performance and its
 20 impact on access to care under the
 21 original fee-for-service system, the
 22 Commission shall—

23 “(aa) review and report on
 24 aggregate trends in spending,
 25 utilization, and financial perform-

1 ance under the Medicare Advan-
2 tage program, the Medicaid pro-
3 gram under title XIX (both fee-
4 for-service and managed care
5 payment models), and other pay-
6 ers for home health agency serv-
7 ices;

8 “(bb) evaluate and consider
9 the impact of all payers on access
10 to care for Medicare bene-
11 ficiaries; and

12 “(cc) comprehensively dis-
13 close the methodologies used to
14 evaluate and calculate home
15 health agency margins under this
16 title and all other payers, includ-
17 ing the process for developing the
18 data used.

19 Where appropriate, the Commission
20 shall conduct such reviews in con-
21 sultation with the Medicaid and CHIP
22 Payment and Access Commission es-
23 tablished under section 1900.

24 “(II) MEDICARE HOME HEALTH
25 COST REPORT AMENDMENTS.—For

1 cost reporting periods beginning in
2 2025 and subsequent years, the Sec-
3 retary shall have in effect an amended
4 Medicare home health cost report that
5 collects data on visit utilization and
6 total payments by payer source, in-
7 cluding original fee-for-service pay-
8 ments, Medicare Advantage, the Med-
9 icaid program under title XIX (both
10 fee-for-service and managed care pay-
11 ment models), and other payers. The
12 Secretary shall make such amended
13 cost reports available to the Commis-
14 sion in the form and manner nec-
15 essary to conduct the analysis de-
16 scribed in subclause (I).

17 “(III) FINANCIAL DATA.—Prior
18 to the availability of cost report data
19 as described in subclause (II), the
20 Commission shall utilize data on cost
21 and revenues from sources it deems as
22 reliable and valid for purposes of con-
23 ducting the analysis described in sub-
24 clause (I).”.

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