

112TH CONGRESS
1ST SESSION

H. R. 3506

To strengthen and protect Medicare hospice programs.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 2011

Mr. REED (for himself, Mr. PAULSEN, and Mr. THOMPSON of California) 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 strengthen and protect Medicare hospice programs.

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 “Hospice Evaluation
5 and Legitimate Payment Act”.

6 **SEC. 2. ENSURING TIMELY ACCESS TO HOSPICE CARE.**

7 (a) IN GENERAL.—Section 1814(a)(7)(D)(i) of the
8 Social Security Act (42 U.S.C. 1395f(a)(7)(D)(i)) is
9 amended to read as follows:

1 “(i) a hospice physician, a nurse prac-
2 titioner, a clinical nurse specialist, or a
3 physician assistant (as those terms are de-
4 fined in section 1861(aa)(5)), or other
5 health professional (as designated by the
6 Secretary), has a face-to-face encounter
7 with the individual to determine continued
8 eligibility of the individual for hospice care
9 prior to the first 60-day period and each
10 subsequent recertification under subpara-
11 graph (A)(ii) (or, in the case where a hos-
12 pice program newly admits an individual
13 who would be entering their first 60-day
14 period or a subsequent hospice benefit pe-
15 riod or where exceptional circumstances, as
16 defined by the Secretary, may prevent a
17 face-to-face encounter prior to the begin-
18 ning of the hospice benefit period, not later
19 than 7 calendar days after the individual’s
20 election under section 1812(d)(1) with re-
21 spect to the hospice program) and attests
22 that such visit took place (in accordance
23 with procedures established by the Sec-
24 retary); and”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) takes effect on the date of enactment of
3 this Act and applies to hospice care furnished on or after
4 such date.

5 **SEC. 3. RESTORING AND PROTECTING THE MEDICARE HOS-**
6 **PICE BENEFIT.**

7 (a) IN GENERAL.—Section 1814(i) of the Social Se-
8 curity Act (42 U.S.C. 1395f(i)) is amended—

9 (1) in subparagraph (1)(C)—

10 (A) in clause (ii)—

11 (i) in the matter preceding subclause
12 (I), by striking “(6)(D)” and inserting
13 “(6)(E)”; and

14 (ii) in subclause (VII), by striking
15 “(6)(D)” and inserting “(6)(E)”; and

16 (B) in clause (iii), by moving such clause
17 6 ems to the left and striking “(6)(D)” and in-
18 serting “(6)(E)”; and

19 (2) in paragraph (6)—

20 (A) in subparagraph (A), by striking “sub-
21 paragraph (D)” and inserting “subparagraph
22 (E)”; and

23 (B) by redesignating subparagraphs (D)
24 and (E) as subparagraphs (E) and (F), respec-

1 tively, and inserting after subparagraph (C) the
2 following new subparagraph:

3 “(D) HOSPICE PAYMENT REFORM DEMONSTRA-
4 TION PROGRAM.—

5 “(i) ESTABLISHMENT OF DEMONSTRATION
6 PROGRAM.—

7 “(I) IN GENERAL.—Prior to imple-
8 menting any revisions to the methodology
9 for determining the payment rates for rou-
10 tine home care and other services included
11 in hospice care under subparagraph (E),
12 the Secretary shall establish a Medicare
13 Hospice Payment Reform demonstration
14 program to test such proposed revisions.

15 “(II) DURATION.—The demonstration
16 program shall be conducted for a 2-year
17 period beginning on or after October 1,
18 2013.

19 “(III) SCOPE.—The Secretary shall
20 select not more than 15 hospice programs
21 at which the demonstration program under
22 this subparagraph shall be conducted.

23 “(IV) REPRESENTATIVE PARTICIPA-
24 TION.—Hospice programs selected under
25 subclause (III) to participate in the dem-

1 onstration program shall include a rep-
2 resentative cross-section of such programs
3 throughout the United States, including
4 programs located in urban and rural areas.

5 “(V) VOLUNTARY PARTICIPATION.—

6 Hospice program participation in the dem-
7 onstration program shall be on a voluntary
8 basis.

9 “(ii) EVALUATION AND REPORT.—

10 “(I) EVALUATION.—The Secretary
11 shall conduct an evaluation of the dem-
12 onstration program under this subpara-
13 graph. Such evaluation shall include an
14 analysis of whether the use of the revised
15 payment methodology under the dem-
16 onstration program has improved the qual-
17 ity of patient care and access to hospice
18 services for beneficiaries under this title
19 and the impact of such payment revisions
20 on hospice care providers, including the
21 impact, if any, on the ability of hospice
22 programs to furnish quality care to bene-
23 ficiaries under this title.

24 “(II) REPORT.—Not later than 1 year
25 after the completion of the demonstration

1 program, the Secretary shall submit to
2 Congress a report containing the results of
3 the evaluation conducted under subclause
4 (I), together with recommendations for
5 such legislation and administrative action
6 as the Secretary determines appropriate.

7 “(iii) BUDGET NEUTRALITY.—With respect
8 to the 2-year period of the demonstration pro-
9 gram under this subparagraph, the Secretary
10 shall ensure that the estimated amount of ag-
11 gregate payments under this title to each hos-
12 pice program participating in the demonstration
13 program for such period shall not be more than
14 5 percent higher or 5 percent lower than the es-
15 timated amount of aggregate payments that
16 would have been made under this title to each
17 such hospice program during such period had
18 they not participated in the demonstration pro-
19 gram under this subparagraph.”;

20 (C) in subparagraph (E), as redesignated
21 by subparagraph (B)—

22 (i) in clause (i)—

23 (I) in the first sentence, by strik-
24 ing “October 1, 2013, the Secretary
25 shall, by regulation” and inserting

1 “subject to clause (iii), the later of 2
2 years after the demonstration pro-
3 gram under subparagraph (D) is com-
4 pleted or October 1, 2017, the Sec-
5 retary shall, by regulation, preceded
6 by notice of the proposed regulation in
7 the Federal Register and a period for
8 public comment in accordance with
9 section 1871(b)(1),”; and

10 (II) in the second sentence, by
11 inserting “, and shall take into ac-
12 count the results of the evaluation
13 conducted under subparagraph
14 (D)(ii)” before the period; and

15 (ii) by adding at the end the following
16 new clause:

17 “(iii) In no case may the Secretary imple-
18 ment any revisions in payment pursuant to
19 clause (i) unless the Secretary determines that
20 the demonstration program under subparagraph
21 (D) demonstrated that such revisions would not
22 adversely affect access to quality hospice care
23 by beneficiaries under this title.”; and

1 (D) in subparagraph (F), as redesignated
2 by subparagraph (B), by striking “subpara-
3 graph (D)” and inserting “subparagraph (E)”.

4 **SEC. 4. HOSPICE SURVEY REQUIREMENT.**

5 (a) IN GENERAL.—Section 1861(dd)(4) of the Social
6 Security Act (42 U.S.C. 1395x(dd)(4)) is amended by
7 adding at the end the following new subparagraph:

8 “(C) Any entity seeking certification as a hospice pro-
9 gram shall be subject to an initial survey by an appro-
10 priate State or local survey agency, or an approved accred-
11 itation agency, as determined by the Secretary, not later
12 than 6 months after beginning operations, and any entity
13 which is certified as a hospice program shall be subject
14 to a standard survey not less frequently than every 36
15 months.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) takes effect on the date that is 180 days
18 after the date of enactment of this Act and applies to hos-
19 pice programs on or after such date.

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