

117TH CONGRESS
2D SESSION

S. 4873

To amend title XVIII of the Social Security Act to waive cost-sharing for advance care planning services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2022

Mr. WARNER (for himself, Ms. COLLINS, Ms. BALDWIN, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to waive cost-sharing for advance care planning 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 “Improving Access to
5 Advance Care Planning Act”.

6 **SEC. 2. MEDICARE COVERAGE OF ADVANCE CARE PLAN-**
7 **NING SERVICES.**

8 (a) ADVANCE CARE PLANNING SERVICES DE-
9 FINED.—Section 1861 of the Social Security Act (42

1 U.S.C. 1395x) is amended by adding at the end the fol-
 2 lowing new subsection:

3 “(III) ADVANCE CARE PLANNING SERVICES.—

4 “(1) IN GENERAL.—The term ‘advance care
 5 planning services’ means a visit between an eligible
 6 practitioner (as defined in paragraph (2)) enrolled
 7 under section 1866(j) and an individual, a family
 8 member of such individual, or a surrogate des-
 9 ignated by such individual, to discuss—

10 “(A) the health care preferences of such
 11 individual;

12 “(B) future health care decisions that may
 13 need to be made by, or on behalf of, such indi-
 14 vidual; and

15 “(C) advance directives or other standard
 16 forms, which may be completed by, or on behalf
 17 of, such individual.

18 “(2) ELIGIBLE PRACTITIONER.—For purposes
 19 of paragraph (1), the term ‘eligible practitioner’
 20 means—

21 “(A) a physician (as defined in subsection
 22 (r));

23 “(B) a physician assistant (as defined in
 24 subsection (aa)(5));

1 “(C) a nurse practitioner (as defined in
2 subsection (aa)(5));

3 “(D) a clinical nurse specialist (as defined
4 in subsection (aa)(5)); or

5 “(E) a clinical social worker (as defined in
6 subsection (hh)(1)) who possesses—

7 “(i) a relevant care planning certifi-
8 cation; or

9 “(ii) experience providing care plan-
10 ning conversations or similar services, as
11 defined by the Secretary.”.

12 (b) NO APPLICATION OF COINSURANCE OR DEDUCT-
13 IBLE UNDER PART B.—

14 (1) AMOUNT.—Section 1833(a)(1) of the Social
15 Security Act (42 U.S.C. 1395l(a)(1)) is amended—

16 (A) by striking “and (DD)” and inserting
17 “(DD)”; and

18 (B) by inserting before the semicolon at
19 the end the following: “and (EE) with respect
20 to advance care planning services (as defined in
21 section 1861(l)), the amounts paid shall be
22 100 percent of the lesser of the actual charge
23 for the services or the amount determined
24 under the fee schedule established under section
25 1848(b)”.

1 (2) WAIVER OF APPLICATION OF DEDUCT-
 2 IBLE.—The first sentence of section 1833(b) of the
 3 Social Security Act (42 U.S.C. 1395l(b)) is amend-
 4 ed—

5 (A) by striking “and (12)” and inserting
 6 “(12)”; and

7 (B) by inserting before the period the fol-
 8 lowing: “, and (13) such deductible shall not
 9 apply with respect to advance care planning
 10 services (as defined in section 1861(l))”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to items and services furnished on
 13 or after January 1, 2023.

14 **SEC. 3. HHS PROVIDER OUTREACH.**

15 (a) OUTREACH.—The Secretary of Health and
 16 Human Services (in this section referred to as the “Sec-
 17 retary”) shall conduct outreach to physicians and appro-
 18 priate non-physician practitioners participating under the
 19 Medicare program under title XVIII of the Social Security
 20 Act with respect to Medicare payment for advance care
 21 planning counseling services furnished to individuals to
 22 discuss their health care preferences, identified by HCPCS
 23 codes 99497 and 99498 (or any successor to such codes).
 24 Such outreach shall include a new, comprehensive, one-
 25 time education initiative to inform such physicians and

1 practitioners of the addition of such services as a covered
 2 benefit under the Medicare program, including the re-
 3 quirements for eligibility for such services.

4 (b) REPORT.—Not later than 1 year after the date
 5 of enactment of this Act, the Secretary shall submit to
 6 the Committee on Ways and Means and the Committee
 7 on Energy and Commerce of the House of Representatives
 8 and the Committee on Finance of the Senate a report on
 9 the outreach conducted under subsection (a). Such report
 10 shall include a description of the methods used for such
 11 outreach.

12 **SEC. 4. MEDPAC REPORT ON THE FURNISHING OF AD-**
 13 **VANCE CARE PLANNING SERVICES AND THE**
 14 **USE OF ADVANCE CARE PLANNING CODES**
 15 **UNDER THE MEDICARE PROGRAM.**

16 (a) STUDY.—The Medicare Payment Advisory Com-
 17 mission (in this paragraph referred to as the “Commis-
 18 sion”) shall conduct a study on advance care planning
 19 under the Medicare program under title XVIII of the So-
 20 cial Security Act. Such study shall include an analysis
 21 of—

22 (1) the furnishing of advance care planning
 23 services to Medicare beneficiaries, including—

24 (A) which providers are trained to provide
 25 such services;

1 (B) which providers are eligible to provide
 2 such services under the Medicare program;

3 (C) the length and frequency of the visits
 4 for furnishing such services; and

5 (D) any barriers related to providers fur-
 6 nishing, or beneficiaries being furnished, such
 7 services;

8 (2) the use of advance care planning Current
 9 Procedural Terminology (CPT) codes to bill for the
 10 furnishing of advance care planning services to
 11 Medicare beneficiaries, including—

12 (A) circumstances under which codes other
 13 than advance care planning CPT codes are used
 14 to bill for such services under the Medicare pro-
 15 gram and why providers do not use advance
 16 care planning CPT codes; and

17 (B) any barriers to providers using ad-
 18 vance care planning CPT codes to bill for such
 19 services under the Medicare program; and

20 (3) such other items determined appropriate by
 21 the Commission.

22 (b) REPORT.—

23 (1) IN GENERAL.—Not later than June 30,
 24 2024, the Commission shall submit to the Com-
 25 mittee on Ways and Means and the Committee on

1 Energy and Commerce of the House of Representa-
2 tives and the Committee on Finance of the Senate
3 a report on the study conducted under subsection
4 (a), together with recommendations for such legisla-
5 tion and administrative action as the Commission
6 determines appropriate.

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