118TH CONGRESS
2D SESSION

S. 3

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

DECEMBER 20 (legislative day, DECEMBER 16), 2024

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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Improving Access to Advance Care Planning Act''.

SEC. 2. MEDICARE COVERAGE OF ADVANCE CARE PLANNING SERVICES.

(a) ADVANCE CARE PLANNING SERVICES DEFINED.—Section 1861 of the Social Security Act (42

U.S.C. 1395x) is amended by adding at the end the following new subsection:

''(nnn) ADVANCE CARE PLANNING SERVICES.—

''(1) IN GENERAL.—The term 'advance care planning services' means a visit between an eligible practitioner (as defined in paragraph (2)) enrolled under section 1866(j) and an individual, a family member of such individual, or a surrogate designated by such individual, to discuss—

''(A) the health care preferences of such individual;

''(B) future health care decisions that may need to be made by, or on behalf of, such individual; and

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

''(2) ELIGIBLE PRACTITIONER.—For purposes of paragraph (1), the term 'eligible practitioner' means—

''(A) a physician (as defined in subsection (r));

''(B) a physician assistant (as defined in subsection (aa)(5));

"(C) a nurse practitioner (as defined in subsection (aa)(5));

"(D) a clinical nurse specialist (as defined in subsection (aa)(5)); or

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

"(i) a relevant care planning certification; or

"(ii) experience providing care planning conversations or similar services, as defined by the Secretary.".

(b) NO APPLICATION OF COINSURANCE OR DEDUCTIBLE UNDER PART B.—

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

(A) in subparagraph (GG), by striking "and" at the end; and

(B) in subparagraph (HH), by striking the semicolon at the end and inserting the following: "and (II) with respect to advance care planning services (as defined in section 1861(nnn)) furnished on or after January 1, 2026, the amounts paid shall be 100 percent of the lesser of the actual charge for the services

or the amount determined under the fee schedule established under section 1848(b)''.

(2) WAIVER OF APPLICATION OF DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking '', and (13)'' and inserting ''(13)''; and

(B) by striking ''section 1861(n).'' and inserting the following: ''section 1861(n), and (14) such deductible shall not apply with respect to advance care planning services (as defined in section 1861(nnn)) furnished on or after January 1, 2026''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2026.

SEC. 3. HHS PROVIDER OUTREACH.

(a) OUTREACH.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct outreach to physicians and appropriate non-physician practitioners participating under the Medicare program under title XVIII of the Social Security Act with respect to Medicare payment for advance care planning counseling services furnished to individuals to

discuss their health care preferences, identified by Healthcare Common Procedure Coding System (HCPCS) codes 99497 and 99498 (or any successor to such codes). Such outreach shall include a new, comprehensive, one-time education initiative to inform such physicians and practitioners of the addition of such services as a covered benefit under the Medicare program, including the requirements for eligibility for such services.

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

SEC. 4. MEDPAC REPORT ON THE FURNISHING OF ADVANCE CARE PLANNING SERVICES AND THE USE OF ADVANCE CARE PLANNING CODES UNDER THE MEDICARE PROGRAM.

(a) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the ''Commission'') shall conduct a study on advance care planning under the Medicare program under title XVIII of the Social Security Act. Such study shall include an analysis of—

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

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

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

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

(D) any barriers related to providers furnishing, or beneficiaries being furnished, such services;

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

(A) circumstances under which codes other than advance care planning CPT codes are used to bill for such services under the Medicare program and why providers do not use advance care planning CPT codes; and

(B) any barriers to providers using advance care planning CPT codes to bill for such services under the Medicare program; and

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

(b) REPORT.—

(1) IN GENERAL.—Not later than June 30, 2026, the Commission shall submit to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Commission determines appropriate.

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