

118TH CONGRESS
1ST SESSION

S. 2137

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

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2023

Ms. STABENOW (for herself and Ms. COLLINS) 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 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”.

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

8 (a) REPEAL OF PERMANENT AND TEMPORARY AD-
9 JUSTMENTS.—Section 1895(b)(3) of the Social Security

1 Act (42 U.S.C. 1395fff(b)(3)) is amended by striking sub-
2 paragraph (D).

3 (b) EFFECTIVE DATE; IMPLEMENTATION.—

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

8 (2) IMPLEMENTATION.—The Secretary of
9 Health and Human Services (in this section referred
10 to as the “Secretary”) shall implement such section
11 1895(b)(3) for 2024 and subsequent years as if the
12 amendment made by section 51001(a)(2)(B) of divi-
13 sion E of the Bipartisan Budget Act of 2018 (Public
14 Law 115–123) (adding such subparagraph (D)) had
15 not been made.

16 (c) CONSTRUCTION.—Nothing in this section shall be
17 construed as signifying congressional approval or dis-
18 approval of the methodology promulgated by the Secretary
19 to implement section 1895(b)(3)(D) of the Social Security
20 Act in the final rule entitled, “Medicare Program; Cal-
21 endar Year (CY) 2023 Home Health Prospective Payment
22 System Rate Update; Home Health Quality Reporting
23 Program Requirements; Home Health Value-Based Pur-
24 chasing Expanded Model Requirements; and Home Infu-
25 sion Therapy Services Requirements” published in the

1 Federal Register on November 4, 2022 (87 Fed. Reg.
2 66790).

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

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

7 (1) by striking “GENERALLY.—Specifically,”
8 and inserting “GENERALLY.—

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

10 (2) by adding at the end the following new
11 clause:

12 “(ii) SPECIAL RULE FOR HOME
13 HEALTH AGENCIES.—

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

20 “(aa) review and report on
21 aggregate trends in spending,
22 utilization, and financial perform-
23 ance under the Medicare Advan-
24 tage program, the Medicaid pro-
25 gram under title XIX (both fee-

1 for-service and managed care
2 payment models), and other pay-
3 ers for home health agency serv-
4 ices;

5 “(bb) evaluate and consider
6 the impact of all payers on access
7 to care for Medicare bene-
8 ficiaries; and

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

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

21 “(II) MEDICARE HOME HEALTH
22 COST REPORT AMENDMENTS.—For
23 cost reporting periods beginning in
24 2025 and subsequent years, the Sec-
25 retary shall have in effect an amended

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

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

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