

118TH CONGRESS
1ST SESSION

S. 2323

To amend title XVIII of the Social Security Act to provide for expanded coverage of services furnished by genetic counselors under part B of the Medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2023

Mr. BARRASSO (for himself, Mr. TESTER, and Mrs. BLACKBURN) 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 provide for expanded coverage of services furnished by genetic counselors under part B of the Medicare program, 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 “Access to Genetic
5 Counselor Services Act of 2023”.

1 **SEC. 2. MEDICARE COVERAGE OF GENETIC COUNSELING**
2 **SERVICES.**

3 (a) IN GENERAL.—Section 1861 of the Social Secu-
4 rity Act (42 U.S.C. 1395x) is amended—

5 (1) in subsection (s)(2)—

6 (A) by striking “and” at the end of sub-
7 paragraph (II);

8 (B) by adding “and” at the end of sub-
9 paragraph (JJ); and

10 (C) by adding at the end the following new
11 subparagraph:

12 “(KK) covered genetic counseling services (as
13 defined in subsection (nnn)(1));”; and

14 (2) by adding at the end the following new sub-
15 section:

16 “Covered Genetic Counseling Services

17 “(nnn)(1) The term ‘covered genetic counseling serv-
18 ices’ means genetic counseling services furnished by a ge-
19 netic counselor (as defined in paragraph (2)) (and such
20 services and supplies furnished as an incident to the provi-
21 sion of such services) as would otherwise be covered under
22 this title if furnished by a physician (or as incident to a
23 physician’s service).

24 “(2) The term ‘genetic counselor’ means an indi-
25 vidual who—

1 “(A) is licensed as a genetic counselor by the
2 State in which the individual furnishes genetic coun-
3 seling services; or

4 “(B) in the case of an individual practicing in
5 a State that does not license genetic counselors,
6 meets such other criteria as the Secretary estab-
7 lishes.

8 The provisions of this paragraph shall not be construed
9 as preventing other practitioners, including those pro-
10 viding telehealth services, from providing covered genetic
11 counseling services within the scope of their practice.”.

12 (b) PHYSICIANS’ SERVICES.—Section 1848(j)(3) of
13 the Social Security Act (42 U.S.C. 1395w-4(j)(3)) is
14 amended by inserting “(2)(KK),” after “(2)(FF) (includ-
15 ing administration of the health risk assessment),”.

16 (c) PAYMENT.—

17 (1) IN GENERAL.—Section 1833(a)(1) of the
18 Social Security Act (42 U.S.C. 1395l(a)(1)) is
19 amended—

20 (A) by striking “and” before “(HH)”;

21 (B) by inserting before the semicolon at
22 the end the following: “, and (II) with respect
23 to covered genetic counseling services under sec-
24 tion 1861(s)(2)(KK), furnished by a genetic
25 counselor, the amount of payment for such

1 service shall be an amount equal to 85 percent
2 of the lesser of the actual charge for the serv-
3 ices or the amount determined under the fee
4 schedule established under section 1848(b) for
5 the same services if furnished by a physician”.

6 (2) MODIFIER.—Section 1834 of the Social Se-
7 curity Act (42 U.S.C. 1395m) is amended by adding
8 at the end the following new subsection:

9 “(aa) USE OF MODIFIER WITH RESPECT TO GE-
10 NETIC COUNSELING SERVICES.—

11 “(1) ESTABLISHMENT.—Not later than Janu-
12 ary 1, 2024, the Secretary shall establish a modifier
13 to be utilized with evaluation and management CPT
14 codes to indicate (in a form and manner specified by
15 the Secretary), in the case of covered genetic coun-
16 seling services under section 1861(s)(2)(KK), if such
17 services were furnished by a genetic counselor.

18 “(2) REQUIRED USE.—Each request for pay-
19 ment, or bill submitted using evaluation and man-
20 agement CPT codes, for covered genetic counseling
21 services (as defined in section 1861(nnn)(1)) fur-
22 nished by a genetic counselor (as defined in section
23 1861(nnn)(2)) on or after January 1, 2024, shall in-
24 clude the modifier established under subparagraph
25 (A) for each such service.”.

1 (d) ASSIGNMENT OF PAYMENT.—Section 1833(r) of
2 the Social Security Act (42 U.S.C. 1395l(r)) is amended
3 by adding at the end the following new paragraph:

4 “(3) APPLICATION TO GENETIC COUNSELORS.—
5 The provisions of paragraphs (1) and (2) shall apply
6 with respect to covered genetic counseling services
7 described in section 1861(s)(2)(KK) and genetic
8 counselors (as defined in section 1861(mnn)(2)) in
9 the same manner as such provisions apply with re-
10 spect to services described in section
11 1861(s)(2)(K)(ii) and nurse practitioners.”.

12 (e) CONFORMING AMENDMENT.—Section
13 1862(a)(14) of the Social Security Act (42 U.S.C.
14 1395y(a)(14)) is amended by inserting “covered genetic
15 counseling services,” after “qualified psychologist serv-
16 ices,”.

17 (f) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by
19 this section shall apply to services furnished on or
20 after January 1, 2024.

21 (2) IMPLEMENTATION.—The Secretary of
22 Health and Human Services may implement the
23 amendments made by this section by interim final
24 rule with comment period.

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