

115TH CONGRESS
2D SESSION

S. 3545

To amend title XVIII of the Social Security Act to improve home health payment reforms under the Medicare program.

IN THE SENATE OF THE UNITED STATES

OCTOBER 3 (legislative day, SEPTEMBER 28), 2018

Ms. COLLINS (for herself, Ms. STABENOW, and Mr. NELSON) 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 improve home health payment reforms 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 “Home Health Payment
5 Innovation Act of 2018”.

6 **SEC. 2. IMPROVEMENTS TO MEDICARE INNOVATIONS AND**
7 **MANAGED CARE RELATED TO HOME HEALTH**
8 **SERVICES.**

9 (a) EXPANDED WAIVERS IN SHARED SAVINGS PRO-
10 GRAMS.—Section 1899(f) of the Social Security Act (42

1 U.S.C. 395jjj(f)), is amended by adding at the end the
2 following: “Beginning not later than January 1, 2020, the
3 Secretary shall include a waiver of the ‘confined to his
4 home’ requirement under sections 1814(a)(2)(C) and
5 1835(a)(2)(A) in one or more programs under this sec-
6 tion.”.

7 (b) FLEXIBILITY IN MEDICARE ADVANTAGE
8 PLANS.—Section 1852 of the Social Security Act (42
9 U.S.C. 1395ww–2) is amended by adding at the end the
10 following:

11 “(n) FLEXIBILITY IF PROVIDING HOME HEALTH
12 SERVICES.—Notwithstanding any other provision of law,
13 any MA organization shall be permitted to waive the ‘con-
14 fined to his home’ requirement in the home health services
15 benefit when the organization determines it is in the best
16 interest of the enrollee.”.

17 **SEC. 3. IMPROVEMENTS TO HOME HEALTH PAYMENT RE-**
18 **FORMS UNDER MEDICARE.**

19 (a) APPLICATION OF BUDGET NEUTRALITY.—Sec-
20 tion 1895(b)(3) of the Social Security Act (42 U.S.C.
21 1395fff(b)(3)), as amended by section 51001(a)(2) of the
22 Bipartisan Budget Act of 2018 (Public Law 115–123),
23 is amended—

24 (1) in subparagraph (A)(iv), in the fourth sen-
25 tence—

1 (A) by striking “shall make” and inserting
2 “shall not make”; and

3 (B) by striking “and shall provide a de-
4 scription” and all that follows through the pe-
5 riod and inserting a period; and

6 (2) in subparagraph (D)—

7 (A) in the subparagraph heading, by strik-
8 ing “ASSUMPTIONS” and inserting “OBSERVED
9 EVIDENCE”;

10 (B) in clause (i)—

11 (i) by striking “differences between
12 assumed” and all that follows through
13 “and actual”;

14 (ii) by inserting “attributable to the
15 implementation of paragraphs (2)(B) and
16 (4)(B)” after “behavior changes”; and

17 (iii) by adding at the end the fol-
18 lowing: “The Secretary shall publish the
19 determination under this clause with re-
20 spect to an applicable year, including a de-
21 scription of the observed evidence used to
22 make such determination, in the notice and
23 comment rulemaking to update the pro-
24 spective payment system under this sub-
25 section for such year. For purposes of the

1 preceding sentence, the term ‘observed evi-
2 dence’ means statistically valid data from
3 the most recent cost report and claims re-
4 garding changes in the nature of home
5 health agency patients, patterns of care,
6 service costs, and claims coding after Jan-
7 uary 1, 2020, reflecting behavioral changes
8 relating to implementation of the provi-
9 sions of and amendments made by section
10 51001 of the Bipartisan Budget Act of
11 2018 (Public Law 115–123).”;

12 (C) in clause (ii), by inserting “attrib-
13 utable to the implementation of paragraphs
14 (2)(B) and (4)(B)” after “expenditures”; and

15 (D) in clause (iii)—

16 (i) by adding “attributable to the im-
17 plementation of paragraphs (2)(B) and
18 (4)(B)” after “expenditures”; and

19 (ii) by adding at the end the fol-
20 lowing: “If such a temporary increase or
21 decrease does not exceed 2.00 percent in
22 any given year, the Secretary shall apply
23 the entire increase or decrease in the next
24 calendar year payment update; however, if
25 such a temporary increase or decrease ex-

1 ceeds 2.00, to provide for minimal disrup-
2 tion to patients and providers, the Sec-
3 retary shall phase in the temporary in-
4 crease or decrease in equal amounts not to
5 exceed 2.00 percent in any given year
6 through the respective calendar year pay-
7 ment updates.”.

8 (b) **EFFECTIVE DATE.**—The amendments made by
9 this section shall take effect as if included in the enact-
10 ment of such section 51001(a)(2).

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