

113TH CONGRESS
1ST SESSION

S. 1053

To amend title XVIII of the Social Security Act to strengthen and protect Medicare hospice programs.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2013

Mr. WYDEN (for himself and Mr. ROBERTS) 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 strengthen and protect Medicare hospice programs.

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 “Hospice Evaluation
5 and Legitimate Payment Act of 2013”.

6 **SEC. 2. ENSURING TIMELY ACCESS TO HOSPICE CARE.**

7 (a) IN GENERAL.—Section 1814(a)(7)(D)(i) of the
8 Social Security Act (42 U.S.C. 1395f(a)(7)(D)(i)) is
9 amended to read as follows:

1 “(i) a hospice physician, nurse practi-
2 tioner, clinical nurse specialist, or physi-
3 cian assistant (as those terms are defined
4 in section 1861(aa)(5)), or other health
5 professional (as designated by the Sec-
6 retary), has a face-to-face encounter with
7 the individual to determine continued eligi-
8 bility of the individual for hospice care
9 prior to the first 60-day period and each
10 subsequent recertification under subpara-
11 graph (A)(ii) (or, in the case where a hos-
12 pice program newly admits an individual
13 who would be entering their first 60-day
14 period or a subsequent hospice benefit pe-
15 riod or where exceptional circumstances, as
16 defined by the Secretary, may prevent a
17 face-to-face encounter prior to the begin-
18 ning of the hospice benefit period, not later
19 than 7 calendar days after the individual’s
20 election under section 1812(d)(1) with re-
21 spect to the hospice program) and attests
22 that such visit took place (in accordance
23 with procedures established by the Sec-
24 retary); and”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) takes effect on January 1, 2014, and ap-
3 plies to hospice care furnished on or after such date.

4 **SEC. 3. RESTORING AND PROTECTING THE MEDICARE HOS-**
5 **PICE BENEFIT.**

6 (a) IN GENERAL.—Section 1814(i) of the Social Se-
7 curity Act (42 U.S.C. 1395f(i)) is amended—

8 (1) in paragraph (6)—

9 (A) in subparagraph (D)—

10 (i) in clause (i)—

11 (I) in the first sentence, by strik-
12 ing “not earlier than October 1, 2013,
13 the Secretary shall, by regulation,”
14 and inserting “subject to clause (iii),
15 not earlier than the later of 2 years
16 after the demonstration program
17 under subparagraph (F) is completed
18 or October 1, 2017, the Secretary
19 shall, by regulation, preceded by a no-
20 tice of the proposed regulation in the
21 Federal Register and a period for
22 public comment in accordance with
23 section 1871(b)(1),”; and

24 (II) in the second sentence, by
25 inserting “ and shall take into ac-

1 count the results of the evaluation
2 conducted under subparagraph
3 (F)(ii)” before the period; and

4 (ii) by adding at the end the following
5 new clause:

6 “(iii) The Secretary shall implement the
7 revisions in payment pursuant to clause (i) un-
8 less the Secretary determines that the dem-
9 onstration program under subparagraph (F)
10 demonstrated that such revisions would ad-
11 versely affect access to quality hospice care by
12 beneficiaries under this title.”; and

13 (B) by adding at the end the following new
14 subparagraph:

15 “(F) HOSPICE PAYMENT REFORM DEMONSTRA-
16 TION PROGRAM.—

17 “(i) ESTABLISHMENT OF DEMONSTRATION
18 PROGRAM.—

19 “(I) IN GENERAL.—Before imple-
20 menting any revisions to the methodology
21 for determining the payment rates for rou-
22 tine home care and other services included
23 in hospice care under subparagraph (D),
24 the Secretary shall establish a Medicare
25 Hospice Payment Reform demonstration

1 program (in this subparagraph referred to
2 as the ‘demonstration program’) to test
3 such proposed revisions.

4 “(II) DURATION.—The demonstration
5 program shall be conducted for a 2-year
6 period beginning on or after October 1,
7 2013.

8 “(III) SCOPE.—Any certified hospice
9 program may apply to participate in the
10 demonstration program and the Secretary
11 shall select not more than 15 such hospice
12 programs to participate in the demonstra-
13 tion program.

14 “(IV) REPRESENTATIVE PARTICIPA-
15 TION.—Hospice programs selected under
16 subclause (III) to participate in the dem-
17 onstration program shall include a rep-
18 resentative cross-section of hospice pro-
19 grams throughout the United States, in-
20 cluding programs located in urban and
21 rural areas.

22 “(ii) EVALUATION AND REPORT.—

23 “(I) EVALUATION.—The Secretary
24 shall conduct an evaluation of the dem-
25 onstration program. Such evaluation shall

1 include an analysis of whether the use of
2 the revised payment methodology under
3 the demonstration program has improved
4 the quality of patient care and access to
5 hospice care for beneficiaries under this
6 title and the impact of such payment revi-
7 sions on hospice care providers, including
8 the impact, if any, on the ability of hospice
9 programs to furnish quality care to bene-
10 ficiaries under this title.

11 “(II) REPORT.—Not later than 2
12 years after the completion of the dem-
13 onstration program, the Secretary shall
14 submit to Congress a report containing the
15 results of the evaluation conducted under
16 subclause (I), together with recommenda-
17 tions for such legislation and administra-
18 tive action as the Secretary determines ap-
19 propriate.

20 “(iii) BUDGET NEUTRALITY.—With respect
21 to the 2-year period of the demonstration pro-
22 gram, the Secretary shall ensure that revisions
23 in payment implemented as part of the dem-
24 onstration program shall result in the same es-
25 timated amount of aggregate payments under

1 this title for hospice care for the programs par-
2 ticipating in the demonstration as would have
3 been made if the hospice programs had not par-
4 ticipated in the demonstration program.”.

5 **SEC. 4. HOSPICE SURVEY REQUIREMENT.**

6 Section 1861(dd)(4) of the Social Security Act (42
7 U.S.C. 1395x(dd)(4)) is amended by adding at the end
8 the following new subparagraph:

9 “(C) Any entity that is certified as a hospice program
10 shall be subject to a standard survey by an appropriate
11 State or local survey agency, or an approved accreditation
12 agency, as determined by the Secretary, not less fre-
13 quently than once every 36 months beginning 6 months
14 after the date of the enactment of this subparagraph.”.

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