

114TH CONGRESS
1ST SESSION

S. 2416

To amend titles XVIII and XIX of the Social Security Act to require the use of electronic visit verification systems for home health services under the Medicare program and personal care services and home health care services under the Medicaid program.

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2015

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend titles XVIII and XIX of the Social Security Act to require the use of electronic visit verification systems for home health services under the Medicare program and personal care services and home health care services under the Medicaid 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 “Verifying Electroni-
5 cally the Receipt of In-Home Care For Individuals Act”
6 or the “VERIFI Act”.

1 **SEC. 2. REQUIREMENT THAT MEDICARE HOME HEALTH**
2 **AGENCIES HAVE IN PLACE AN ELECTRONIC**
3 **VISIT VERIFICATION SYSTEM.**

4 (a) CONDITION OF PARTICIPATION.—Section
5 1891(a) of the Social Security Act (42 U.S.C.
6 1395bbb(a)) is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(7)(A) In the case of home health services fur-
9 nished on or after January 1, 2018, the agency has
10 in place an electronic visit verification system that
11 meets standards established by the Secretary.

12 “(B) In this paragraph, the term ‘electronic
13 visit verification system’ means a system under
14 which visits conducted as part of home health serv-
15 ices furnished by a home health agency are electroni-
16 cally verified by the agency with respect to—

17 “(i) the type of service performed;

18 “(ii) the individual receiving the service;

19 “(iii) the date of the service;

20 “(iv) the location of the service is fur-
21 nished;

22 “(v) the individual furnishing the service;

23 and

24 “(vi) the time the service begins and ends.

25 “(C) By not later than July 1, 2017, the Sec-
26 retary shall establish standards for electronic visit

1 verification systems. In establishing such standards,
 2 the Secretary shall consult with home health agen-
 3 cies to ensure that such standards—

4 “(i) are minimally burdensome;

5 “(ii) take into account existing best prac-
 6 tices and electronic visit verification systems in
 7 use; and

8 “(iii) require that the systems are con-
 9 ducted in accordance with the requirements of
 10 HIPAA privacy and security law (as defined in
 11 section 3009 of the Public Health Service
 12 Act).”.

13 (b) RULES OF CONSTRUCTION.—

14 (1) NO EMPLOYER-EMPLOYEE RELATIONSHIP
 15 ESTABLISHED.—Nothing in the amendment made by
 16 this section may be construed as establishing an em-
 17 ployer-employee relationship between the home
 18 health agency and the individuals who, under a con-
 19 tract with such an agency, furnish such services for
 20 purposes of part 552 of title 29, Code of Federal
 21 Regulations (or any successor regulations).

22 (2) NO PARTICULAR OR UNIFORM ELECTRONIC
 23 VISIT VERIFICATION SYSTEM REQUIRED.—Nothing
 24 in the amendment made by this section shall be con-
 25 strued to require the use of a particular or uniform

1 electronic visit verification system (as defined in
 2 paragraph (7)(B) of section 1891(a) of the Social
 3 Security Act (42 U.S.C. 1395bbb(a)), as added by
 4 subsection (a)) by all agencies that furnish home
 5 health services under title XVIII of such Act.

6 (3) NO LIMITS ON PROVISION OF CARE.—Noth-
 7 ing in the amendment made by this section may be
 8 construed to limit, with respect to home health serv-
 9 ices furnished under title XVIII of the Social Secu-
 10 rity Act, provider selection, constrain beneficiaries’
 11 selection of a caregiver, or impede the manner in
 12 which care is furnished.

13 **SEC. 3. ELECTRONIC VISIT VERIFICATION SYSTEM RE-**
 14 **QUIRED FOR PERSONAL CARE SERVICES AND**
 15 **HOME HEALTH CARE SERVICES UNDER MED-**
 16 **ICAID.**

17 (a) IN GENERAL.—Section 1903 of the Social Secu-
 18 rity Act (42 U.S.C. 1396b) is amended by inserting after
 19 subsection (k) the following new subsection:

20 “(l)(1) Subject to paragraph (3), with respect to any
 21 amount expended for medical assistance for personal care
 22 services or home health care services provided under a
 23 State plan under this title (or under a waiver of the plan)
 24 furnished in a calendar quarter beginning on or after Jan-
 25 uary 1, 2019, unless a State requires the use of an elec-

1 tronic visit verification system for both personal care serv-
2 ices and home health care services furnished in such quar-
3 ter under the plan or such waiver, the Federal medical
4 assistance percentage shall be reduced—

5 “(A) for calendar quarters in 2019 and 2020,
6 by .25 percentage points;

7 “(B) for calendar quarters in 2021, by .5 per-
8 centage points;

9 “(C) for calendar quarters in 2022, by .75 per-
10 centage points; and

11 “(D) for calendar quarters in 2023 and each
12 year thereafter, by 1 percentage point.

13 “(2) Subject to paragraph (3), in implementing the
14 requirement for the use of an electronic visit verification
15 system under paragraph (1), a State shall consult with
16 agencies and entities that provide personal care services,
17 home health care services, or both under the State plan
18 (or under a waiver of the plan) to ensure that such sys-
19 tem—

20 “(A) is minimally burdensome;

21 “(B) takes into account existing best practices
22 and electronic visit verification systems in use in the
23 State; and

24 “(C) is conducted in accordance with the re-
25 quirements of HIPAA privacy and security law (as

1 defined in section 3009 of the Public Health Service
2 Act).

3 “(3) Paragraphs (1) and (2) shall not apply in the
4 case of a State that, as of the date of the enactment of
5 this subsection, requires the use of any system for the elec-
6 tronic verification of visits conducted as part of both per-
7 sonal care services or home health care services.

8 “(4) In this subsection:

9 “(A) The term ‘electronic visit verification sys-
10 tem’ means, with respect to personal care services or
11 home health care services, a system under which vis-
12 its conducted as part of such services are electroni-
13 cally verified with respect to—

14 “(i) the type of service performed;

15 “(ii) the individual receiving the service;

16 “(iii) the date of the service;

17 “(iv) the location of service delivery;

18 “(v) the individual providing the service;

19 and

20 “(vi) the time the service begins and ends.

21 “(B) The term ‘home health care services’
22 means services described in section 1905(a)(7) pro-
23 vided under a State plan under this title (or under
24 a waiver of the plan).

1 “(C) The term ‘personal care services’ means
 2 personal care services provided under a State plan
 3 under this title (or under a waiver of the plan), in-
 4 cluding services provided under section 1905(a)(24),
 5 1915(c), 1915(i), 1915(j), or 1915(k) or under a
 6 waiver under section 1115.”.

7 (b) RULES OF CONSTRUCTION.—

8 (1) NO EMPLOYER-EMPLOYEE RELATIONSHIP
 9 ESTABLISHED.—Nothing in the amendment made by
 10 this section may be construed as establishing an em-
 11 ployer-employee relationship between the agency or
 12 entity that provides for personal care services or
 13 home health care services and the individuals who,
 14 under a contract with such an agency or entity, fur-
 15 nish such services for purposes of part 552 of title
 16 29, Code of Federal Regulations (or any successor
 17 regulations).

18 (2) NO PARTICULAR OR UNIFORM ELECTRONIC
 19 VISIT VERIFICATION SYSTEM REQUIRED.—Nothing
 20 in the amendment made by this section shall be con-
 21 strued to require the use of a particular or uniform
 22 electronic visit verification system (as defined in sub-
 23 section (l)(4) of section 1903 of the Social Security
 24 Act (42 U.S.C. 1396b), as inserted by subsection
 25 (a)) by all agencies or entities that provide personal

1 care services or home health care services under a
2 State plan under title XIX of the Social Security Act
3 (or under a waiver of the plan).

4 (3) NO LIMITS ON PROVISION OF CARE.—Noth-
5 ing in the amendment made by this section may be
6 construed to limit, with respect to personal care
7 services or home health care services provided under
8 a State plan under title XIX of the Social Security
9 Act (or under a waiver of the plan), provider selec-
10 tion, constrain beneficiaries' selection of a caregiver,
11 or impede the manner in which care is delivered.

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