

115TH CONGRESS  
1ST SESSION

# S. 1738

To amend title XVIII of the Social Security Act to provide for a home infusion therapy services temporary transitional payment under the Medicare program.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2017

Mr. WARNER (for himself, Mr. ISAKSON, Mr. CARDIN, Mr. GRASSLEY, Mr. BENNET, Mr. PORTMAN, Ms. KLOBUCHAR, Mr. ROBERTS, Mr. BLUMENTHAL, Mr. PERDUE, Mrs. GILLIBRAND, Mrs. SHAHEEN, Mr. COCHRAN, Mr. BROWN, Mr. WICKER, Ms. BALDWIN, Mr. KING, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to provide for a home infusion therapy services temporary transitional payment 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 “Medicare Home Infu-  
5       sion Therapy Access Act of 2017”.

1 **SEC. 2. HOME INFUSION THERAPY SERVICES TEMPORARY**  
 2 **TRANSITIONAL PAYMENT.**

3 (a) IN GENERAL.—Section 1834(u) of the Social Se-  
 4 curity Act (42 U.S.C. 1395m(u)) is amended, by adding  
 5 at the end the following new paragraph:

6 “(7) HOME INFUSION THERAPY SERVICES TEM-  
 7 PORARY TRANSITIONAL PAYMENT.—

8 “(A) TEMPORARY TRANSITIONAL PAY-  
 9 MENT.—

10 “(i) IN GENERAL.—The Secretary  
 11 shall, in accordance with the payment  
 12 methodology described in subparagraph  
 13 (B) and subject to the provisions of this  
 14 paragraph, provide a home infusion ther-  
 15 apy services temporary transitional pay-  
 16 ment under this part to an eligible home  
 17 infusion supplier (as defined in subpara-  
 18 graph (F)) for items and services described  
 19 in subparagraphs (A) and (B) of section  
 20 1861(iii)(2) furnished during the period  
 21 specified in clause (ii) by such supplier in  
 22 coordination with the furnishing of transi-  
 23 tional home infusion drugs (as defined in  
 24 clause (iii)).

25 “(ii) PERIOD SPECIFIED.—For pur-  
 26 poses of clause (i), the period specified in

1 this clause is the period beginning on Jan-  
2 uary 1, 2019, and ending on the day be-  
3 fore the date of the implementation of the  
4 payment system under paragraph (1)(A).

5 “(iii) TRANSITIONAL HOME INFUSION  
6 DRUG DEFINED.—For purposes of this  
7 paragraph, the term ‘transitional home in-  
8 fusion drug’ has the meaning given to the  
9 term ‘home infusion drug’ under section  
10 1861(iii)(3)(C), except that clause (ii) of  
11 such section shall not apply if a drug de-  
12 scribed in such clause is identified in  
13 clause (i), (ii), (iii) or (iv) of subparagraph  
14 (C) as of the date of the enactment of this  
15 paragraph.

16 “(B) PAYMENT METHODOLOGY.—For pur-  
17 poses of this paragraph, the Secretary shall es-  
18 tablish a payment methodology, with respect to  
19 items and services described in subparagraph  
20 (A)(i). Under such payment methodology the  
21 Secretary shall—

22 “(i) create the three payment cat-  
23 egories described in clauses (i), (ii), and  
24 (iii) of subparagraph (C);

1 “(ii) assign drugs to such categories,  
2 in accordance with such clauses;

3 “(iii) assign appropriate Healthcare  
4 Common Procedure Coding System  
5 (HCPCS) codes to each payment category;  
6 and

7 “(iv) establish a single payment  
8 amount for each such payment category, in  
9 accordance with subparagraph (D), for  
10 each infusion drug administration calendar  
11 day in the individual’s home for drugs as-  
12 signed to such category.

13 “(C) PAYMENT CATEGORIES.—

14 “(i) PAYMENT CATEGORY 1.—The  
15 Secretary shall create a payment category  
16 1 and assign to such category drugs which  
17 are covered under the Local Coverage De-  
18 termination on External Infusion Pumps  
19 (LCD number L33794) and billed with the  
20 following HCPCS codes (as identified as of  
21 July 1, 2017, and as subsequently modi-  
22 fied by the Secretary): J0133, J0285,  
23 J0287, J0288, J0289, J0895, J1170,  
24 J1250, J1265, J1325, J1455, J1457,

1 J1570, J2175, J2260, J2270, J2274,  
2 J2278, J3010, or J3285.

3 “(ii) PAYMENT CATEGORY 2.—The  
4 Secretary shall create a payment category  
5 2 and assign to such category drugs which  
6 are covered under such local coverage de-  
7 termination and billed with the following  
8 HCPCS codes (as identified as of July 1,  
9 2017, and as subsequently modified by the  
10 Secretary): J1559 JB, J1561 JB, J1562  
11 JB, J1569 JB, or J1575 JB.

12 “(iii) PAYMENT CATEGORY 3.—The  
13 Secretary shall create a payment category  
14 3 and assign to such category drugs which  
15 are covered under such local coverage de-  
16 termination and billed with the following  
17 HCPCS codes (as identified as of July 1,  
18 2017, and as subsequently modified by the  
19 Secretary): J9000, J9039, J9040, J9065,  
20 J9100, J9190, J9200, J9360, or J9370.

21 “(iv) INFUSION DRUGS NOT OTHER-  
22 WISE INCLUDED.—With respect to drugs  
23 that are not included in payment category  
24 1, 2, or 3 under clause (i), (ii), or (iii), re-  
25 spectively, the Secretary shall assign to the

1 most appropriate of such categories, as de-  
 2 termined by the Secretary, drugs which  
 3 are—

4 “(I) covered under such local cov-  
 5 erage determination and billed under  
 6 HCPCS code J7799 or J7999 (as  
 7 identified as of July 1, 2017, and as  
 8 subsequently modified by the Sec-  
 9 retary); or

10 “(II) billed under any code that  
 11 is implemented after the date of the  
 12 enactment of this paragraph and in-  
 13 cluded in such local coverage deter-  
 14 mination or included in subregulatory  
 15 guidance as a home infusion drug de-  
 16 scribed in subparagraph (A)(i).

17 “(D) PAYMENT AMOUNTS.—

18 “(i) IN GENERAL.—Under the pay-  
 19 ment methodology, the Secretary shall pay  
 20 eligible home infusion suppliers, with re-  
 21 spect to items and services described in  
 22 subparagraph (A)(i) furnished during the  
 23 period described in subparagraph (A)(ii) by  
 24 such supplier to an individual, at amounts  
 25 equal to the amounts determined under the

1 physician fee schedule established under  
 2 section 1848 for services furnished during  
 3 the year for codes and units of such codes  
 4 described in clauses (ii), (iii), and (iv) with  
 5 respect to drugs included in the payment  
 6 category under subparagraph (C) specified  
 7 in the respective clause, determined with-  
 8 out application of any adjustment under  
 9 such section.

10 “(ii) PAYMENT AMOUNT FOR CAT-  
 11 EGORY 1.—For purposes of clause (i), the  
 12 codes and units described in this clause,  
 13 with respect to drugs included in payment  
 14 category 1 described in subparagraph  
 15 (C)(i), are one unit of HCPCS code 96365  
 16 plus four units of HCPCS code 96366 (as  
 17 identified as of July 1, 2017, and as subse-  
 18 quently modified by the Secretary).

19 “(iii) PAYMENT AMOUNT FOR CAT-  
 20 EGORY 2.—For purposes of clause (i), the  
 21 codes and units described in this clause,  
 22 with respect to drugs included in payment  
 23 category 2 described in subparagraph  
 24 (C)(i), are one unit of HCPCS code 96369  
 25 plus four units of HCPCS code 96370 (as

1 identified as of July 1, 2017, and as subse-  
2 quently modified by the Secretary).

3 “(iv) PAYMENT AMOUNT FOR CAT-  
4 EGORY 3.—For purposes of clause (i), the  
5 codes and units described in this clause,  
6 with respect to drugs included in payment  
7 category 3 described in subparagraph  
8 (C)(i), are one unit of HCPCS code 96413  
9 plus four units of HCPCS code 96415 (as  
10 identified as of July 1, 2017, and as subse-  
11 quently modified by the Secretary).

12 “(E) CLARIFICATIONS.—

13 “(i) INFUSION DRUG ADMINISTRATION  
14 DAY.—For purposes of this subsection, a  
15 reference, with respect to the furnishing of  
16 transitional home infusion drugs or home  
17 infusion drugs to an individual by an eligi-  
18 ble home infusion supplier, to payment to  
19 such supplier for an infusion drug adminis-  
20 tration calendar day in the individual’s  
21 home shall refer to payment only for the  
22 date on which professional services (as de-  
23 scribed in section 1861(iii)(2)(A)) were  
24 furnished to administer such drugs to such  
25 individual. For purposes of the previous



1 sentence, an infusion drug administration  
 2 calendar day shall include all such drugs  
 3 administered to such individual on such  
 4 day.

5 “(ii) TREATMENT OF MULTIPLE  
 6 DRUGS ADMINISTERED ON SAME INFUSION  
 7 DRUG ADMINISTRATION DAY.—In the case  
 8 that an eligible home infusion supplier,  
 9 with respect to an infusion drug adminis-  
 10 tration calendar day in an individual’s  
 11 home, furnishes to such individual transi-  
 12 tional home infusion drugs which are not  
 13 all assigned to the same payment category  
 14 under subparagraph (C), payment to such  
 15 supplier for such infusion drug administra-  
 16 tion calendar day in the individual’s home  
 17 shall be a single payment equal to the  
 18 amount of payment under this paragraph  
 19 for the drug, among all such drugs so fur-  
 20 nished to such individual during such cal-  
 21 endar day, for which the highest payment  
 22 would be made under this paragraph.

23 “(F) ELIGIBLE HOME INFUSION SUP-  
 24 PLIERS.—In this paragraph, the term ‘eligible  
 25 home infusion supplier’ means a supplier that is

1 enrolled under this part as a pharmacy that  
2 provides external infusion pumps and external  
3 infusion pump supplies and that maintains all  
4 pharmacy licensure requirements in the State in  
5 which the applicable infusion drugs are admin-  
6 istered.

7 “(G) IMPLEMENTATION.—Notwithstanding  
8 any other provision of law, the Secretary may  
9 implement this paragraph by program instruc-  
10 tion or otherwise.”.

11 (b) CONFORMING AMENDMENT.—Section  
12 1842(b)(6)(I) of the Social Security Act (42 U.S.C.  
13 1395u(b)(6)(I)) is amended by inserting “or, in the case  
14 of items and services described in clause (i) of section  
15 1834(u)(7)(A) furnished to an individual during the pe-  
16 riod described in clause (ii) of such section, payment shall  
17 be made to the eligible home infusion therapy supplier”  
18 after “payment shall be made to the qualified home infu-  
19 sion therapy supplier”.

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