

115TH CONGRESS  
2D SESSION

# S. 3458

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

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2018

Mr. KENNEDY (for himself and Mr. CASSIDY) 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 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. IMPROVEMENTS TO HOME HEALTH PAYMENT**

4 **REFORMS UNDER MEDICARE.**

5 (a) APPLICATION OF BUDGET NEUTRALITY.—Sec-  
6 tion 1895(b)(3) of the Social Security Act (42 U.S.C.  
7 1395fff(b)(3)), as amended by section 51001(a)(2) of the  
8 Bipartisan Budget Act of 2018 (Public Law 115–123),  
9 is amended—

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

3 (A) by striking “shall make” and inserting  
4 “shall not make”; and

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

8 (2) in subparagraph (D)—

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

12 (B) in clause (i)—

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

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

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

1           pective payment system under this sub-  
2           section for such year. For purposes of the  
3           preceding sentence, the term ‘observed evi-  
4           dence’ means statistically valid data from  
5           the most recent cost report and claims re-  
6           garding changes in the nature of home  
7           health agency patients, patterns of care,  
8           service costs, and claims coding after Jan-  
9           uary 1, 2020, reflecting behavioral changes  
10          relating to implementation of the provi-  
11          sions of and amendments made by section  
12          51001 of the Bipartisan Budget Act of  
13          2018 (Public Law 115–123).’;

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

17          (D) in clause (iii)—

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

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

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

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

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