

117TH CONGRESS
1ST SESSION

S. 828

To amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2021

Mr. BARRASSO (for himself and Ms. STABENOW) 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 provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes.

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 “Mental Health Access
5 Improvement Act of 2021”.

1 **SEC. 2. COVERAGE OF MARRIAGE AND FAMILY THERAPIST**
 2 **SERVICES AND MENTAL HEALTH COUNSELOR**
 3 **SERVICES UNDER PART B OF THE MEDICARE**
 4 **PROGRAM.**

5 (a) COVERAGE OF SERVICES.—

6 (1) IN GENERAL.—Section 1861(s)(2) of the
 7 Social Security Act (42 U.S.C. 1395x(s)(2)) is
 8 amended—

9 (A) in subparagraph (GG), by striking
 10 “and” after the semicolon at the end;

11 (B) in subparagraph (HH), by inserting
 12 “and” after the semicolon at the end; and

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

15 “(II) marriage and family therapist services (as
 16 defined in subsection (III)(1)) and mental health
 17 counselor services (as defined in subsection
 18 (III)(3));”.

19 (2) DEFINITIONS.—Section 1861 of the Social
 20 Security Act (42 U.S.C. 1395x) is amended by add-
 21 ing at the end the following new subsection:

22 “Marriage and Family Therapist Services; Marriage and
 23 Family Therapist; Mental Health Counselor Serv-
 24 ices; Mental Health Counselor

25 “(III)(1) The term ‘marriage and family therapist
 26 services’ means services performed by a marriage and

1 family therapist (as defined in paragraph (2)) for the diag-
 2 nosis and treatment of mental illnesses, which the mar-
 3 riage and family therapist is legally authorized to perform
 4 under State law (or the State regulatory mechanism pro-
 5 vided by State law) of the State in which such services
 6 are performed, as would otherwise be covered if furnished
 7 by a physician or as an incident to a physician's profes-
 8 sional service, but only if no facility or other provider
 9 charges or is paid any amounts with respect to the fur-
 10 nishing of such services.

11 “(2) The term ‘marriage and family therapist’ means
 12 an individual who—

13 “(A) possesses a master’s or doctoral degree
 14 which qualifies for licensure or certification as a
 15 marriage and family therapist pursuant to State
 16 law;

17 “(B) after obtaining such degree has performed
 18 at least 2 years of clinical supervised experience in
 19 marriage and family therapy; and

20 “(C) in the case of an individual performing
 21 services in a State that provides for licensure or cer-
 22 tification of marriage and family therapists, is li-
 23 censed or certified as a marriage and family thera-
 24 pist in such State.

1 “(3) The term ‘mental health counselor services’
 2 means services performed by a mental health counselor (as
 3 defined in paragraph (4)) for the diagnosis and treatment
 4 of mental illnesses which the mental health counselor is
 5 legally authorized to perform under State law (or the
 6 State regulatory mechanism provided by the State law) of
 7 the State in which such services are performed, as would
 8 otherwise be covered if furnished by a physician or as inci-
 9 dent to a physician’s professional service, but only if no
 10 facility or other provider charges or is paid any amounts
 11 with respect to the furnishing of such services.

12 “(4) The term ‘mental health counselor’ means an
 13 individual who—

14 “(A) possesses a master’s or doctor’s degree in
 15 mental health counseling or a related field;

16 “(B) after obtaining such a degree has per-
 17 formed at least 2 years of supervised mental health
 18 counselor practice; and

19 “(C) in the case of an individual performing
 20 services in a State that provides for licensure or cer-
 21 tification of mental health counselors or professional
 22 counselors, is licensed or certified as a mental health
 23 counselor or professional counselor in such State.”.

24 (3) PROVISION FOR PAYMENT UNDER PART
 25 B.—Section 1832(a)(2)(B) of the Social Security

1 Act (42 U.S.C. 1395k(a)(2)(B)) is amended by add-
 2 ing at the end the following new clause:

3 “(v) marriage and family therapist
 4 services (as defined in section 1861(l)(1))
 5 and mental health counselor services (as
 6 defined in section 1861(l)(3));”.

7 (4) AMOUNT OF PAYMENT.—Section 1833(a)(1)
 8 of the Social Security Act (42 U.S.C. 1395l(a)(1))
 9 is amended—

10 (A) by striking “and (CC)” and inserting
 11 “(CC)”; and

12 (B) by inserting before the semicolon at
 13 the end the following: “, and (DD) with respect
 14 to marriage and family therapist services and
 15 mental health counselor services under section
 16 1861(s)(2)(II), the amounts paid shall be 80
 17 percent of the lesser of the actual charge for
 18 the services or 75 percent of the amount deter-
 19 mined for payment of a psychologist under sub-
 20 paragraph (L)”.

21 (5) EXCLUSION OF MARRIAGE AND FAMILY
 22 THERAPIST SERVICES AND MENTAL HEALTH COUN-
 23 SELOR SERVICES FROM SKILLED NURSING FACILITY
 24 PROSPECTIVE PAYMENT SYSTEM.—Section
 25 1888(e)(2)(A)(ii) of the Social Security Act (42

1 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting
 2 “marriage and family therapist services (as defined
 3 in section 1861(III)(1)), mental health counselor
 4 services (as defined in section 1861(III)(3)),” after
 5 “qualified psychologist services.”.

6 (6) INCLUSION OF MARRIAGE AND FAMILY
 7 THERAPISTS AND MENTAL HEALTH COUNSELORS AS
 8 PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Sec-
 9 tion 1842(b)(18)(C) of the Social Security Act (42
 10 U.S.C. 1395u(b)(18)(C)) is amended by adding at
 11 the end the following new clauses:

12 “(vii) A marriage and family therapist (as de-
 13 fined in section 1861(III)(2)).

14 “(viii) A mental health counselor (as defined in
 15 section 1861(III)(4)).”.

16 (b) COVERAGE OF CERTAIN MENTAL HEALTH SERV-
 17 ICES PROVIDED IN CERTAIN SETTINGS.—

18 (1) RURAL HEALTH CLINICS AND FEDERALLY
 19 QUALIFIED HEALTH CENTERS.—Section
 20 1861(aa)(1)(B) of the Social Security Act (42
 21 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or
 22 by a clinical social worker (as defined in subsection
 23 (hh)(1))” and inserting “, by a clinical social worker
 24 (as defined in subsection (hh)(1)), by a marriage
 25 and family therapist (as defined in subsection

1 (lll)(2)), or by a mental health counselor (as defined
 2 in subsection (lll)(4))”.

3 (2) HOSPICE PROGRAMS.—Section
 4 1861(dd)(2)(B)(i)(III) of the Social Security Act (42
 5 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by in-
 6 serting “, marriage and family therapist, or mental
 7 health counselor” after “social worker”.

8 (c) AUTHORIZATION OF MARRIAGE AND FAMILY
 9 THERAPISTS AND MENTAL HEALTH COUNSELORS TO
 10 DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERV-
 11 ICES.—Section 1861(ee)(2)(G) of the Social Security Act
 12 (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting “,
 13 including a marriage and family therapist and a mental
 14 health counselor who meets qualification standards estab-
 15 lished by the Secretary” before the period at the end.

16 (d) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply with respect to services furnished
 18 on or after January 1, 2022.

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