

118TH CONGRESS
2D SESSION

S. 4122

To amend title XIX of the Social Security Act to develop national quality standards for continuous skilled nursing services provided through Medicaid, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 15, 2024

Mr. VANCE (for himself and Ms. HASSAN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XIX of the Social Security Act to develop national quality standards for continuous skilled nursing services provided through Medicaid, 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 “Continuous Skilled
5 Nursing Quality Improvement Act of 2024”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) FULL-BENEFIT DUAL ELIGIBLE INDIVIDUAL.—The term “full-benefit dual eligible indi-
 2 vidual” means an individual who is entitled to, or
 3 enrolled for, benefits under part A of title XVIII of
 4 the Social Security Act (42 U.S.C. 1395 et seq.), or
 5 enrolled for benefits under part B of title XVIII of
 6 such Act, and is eligible for medical assistance under
 7 the Medicaid program for full benefits under section
 8 1902(a)(10)(A) of such Act (42 U.S.C.
 9 1396a(a)(10)(A)) or 1902(a)(10)(C) of such Act (42
 10 U.S.C. 1396a(a)(10)(C)), by reason of section
 11 1902(f) of such Act (42 U.S.C. 1396a(f)), or under
 12 any other category of eligibility for medical assist-
 13 ance for full benefits, as determined by the Sec-
 14 retary.
 15

16 (2) MEDICAID BENEFICIARY.—The term “Med-
 17 icaid beneficiary” means an individual who is eligible
 18 for, and enrolled in, a State Medicaid program.

19 (3) MEDICAID PROGRAM.—The term “Medicaid
 20 program” means, with respect to a State, the State
 21 program under title XIX of the Social Security Act
 22 (42 U.S.C. 1396 et seq.) (including any waiver or
 23 demonstration under such title or under section
 24 1115 of such Act (42 U.S.C. 1315) relating to such
 25 title).

1 (4) PRIVATE DUTY NURSING SERVICES.—The
 2 term “private duty nursing services” has the mean-
 3 ing given that term for purposes of section
 4 1905(a)(8) of the Social Security Act (42 U.S.C.
 5 1396d(a)(8)) (as in effect on the date of enactment
 6 of this Act).

7 (5) SECRETARY.—The term “Secretary” means
 8 the Secretary of Health and Human Services.

9 (6) STATE.—The term “State” has the mean-
 10 ing given such term in section 1101(a) of the Social
 11 Security Act (42 U.S.C. 1301(a)) for purposes of
 12 title XIX of such Act (42 U.S.C. 1396 et seq.).

13 **SEC. 3. REDEFINING PRIVATE DUTY NURSING SERVICES**
 14 **PROVIDED THROUGH MEDICAID.**

15 (a) DEFINITION OF MEDICAL ASSISTANCE.—

16 (1) IN GENERAL.—Section 1905(a)(8) of the
 17 Social Security Act (42 U.S. 1396d(a)(8)) is amend-
 18 ed by striking “private duty nursing services;” and
 19 inserting “continuous skilled nursing services;”.

20 (2) EFFECTIVE DATE.—The amendment made
 21 by paragraph (1) takes effect on the date that is 18
 22 months after the date of enactment of this Act.

23 (b) DEFINITION OF CONTINUOUS SKILLED NURSING
 24 SERVICES.—Not later than 18 months after the date of

1 enactment of this Act, the Secretary, through notice and
 2 comment rulemaking, shall—

3 (1) revise the definition of “private duty nurs-
 4 ing services” in section 440.80 of title 42, Code of
 5 Federal Regulations, to be “continuous skilled nurs-
 6 ing services”; and

7 (2) require that, a condition for Federal finan-
 8 cial participation for a State’s furnishing medical as-
 9 sistance for such services under the Medicaid pro-
 10 gram to a complex-care patient who requires more
 11 than 2 continuous hours of nursing services per day,
 12 is that such services are provided by a licensed nurse
 13 (including a registered nurse or a licensed practical
 14 nurse).

15 **SEC. 4. DEVELOPMENT OF NATIONAL QUALITY STANDARDS**
 16 **FOR CONTINUOUS SKILLED NURSING SERV-**
 17 **ICES PROVIDED THROUGH MEDICAID.**

18 (a) IN GENERAL.—Not later than 180 days after the
 19 date of enactment of this Act, the Secretary shall convene
 20 a working group that includes representatives of inde-
 21 pendent and national providers of private duty nursing
 22 services under the Medicaid program, other private duty
 23 nursing agencies, full-benefit dual eligible individuals,
 24 Medicaid beneficiaries, patient advocacy groups, officials
 25 of State Medicaid programs, private duty nursing accred-

1 iting bodies, and other relevant stakeholders, to develop
 2 and establish national quality standards for the purposes
 3 of improving the standard of care for private duty nursing
 4 services provided by States under the Medicaid program.

5 (b) ENSURING CLINICALLY APPROPRIATE STAND-
 6 ARDS.—The Secretary shall issue a letter to State Med-
 7 icaid Directors stating that providers of private duty nurs-
 8 ing services under the Medicaid program are not required
 9 to adhere to conditions of participation for home health
 10 agencies under title XVIII of the Social Security Act (42
 11 U.S.C. 1395 et seq.).

12 (c) PUBLICATION OF NATIONAL STANDARDS.—Not
 13 later than 1 year after the date on which the working
 14 group described in subsection (a) is first convened, the
 15 Secretary shall publish the national quality standards de-
 16 veloped by the working group for use by State Medicaid
 17 programs, managed care entities that enter into contracts
 18 with such programs, and providers of items and services
 19 under such programs.

20 **SEC. 5. MAINTAINING UP-TO-DATE CONTINUOUS SKILLED**
 21 **NURSING STANDARDS.**

22 (a) UPDATING HOME AND COMMUNITY-BASED
 23 WAIVER SERVICES.—Not later than 18 months after the
 24 date of enactment of this Act, the Secretary, through no-
 25 tice and comment rulemaking, shall revise the list of serv-

ices that are included as “home and community-based waiver services” under section 440.180(b) of title 42, Code of Federal Regulations, to include continuous skilled nursing care services, as defined for purposes of section 1905(a)(8) of the Social Security Act (as amended by section 3(a)) under section 440.80 of title 42, Code of Federal Regulations (as revised after the application of section 3(b)).

(b) UPDATING THE HOME AND COMMUNITY-BASED SERVICES QUALITY MEASURE SET.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall update and publish the HCBS Quality Measure Set, described in the State Medicaid Director Letter #22–003 issued on July 21, 2022, to include core and supplemental quality measures for continuous skilled nursing services for use by State Medicaid programs, managed care entities that enter into contracts with such programs, and providers of items and services under such programs.

(2) REGULAR REVIEWS AND UPDATES.—The Secretary shall review and update the core set and supplemental set of continuous skilled nursing serv-

- 1 ices quality measures published under paragraph (1)
- 2 not less frequently than every 8 years.

