116TH CONGRESS
1ST SESSION

S. 1202

To amend title XVIII of the Social Security Act to provide for a permanent Independence at Home medical practice program under the Medicare program.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2019

Mr. MARKEY (for himself and Mr. PORTMAN) 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 permanent Independence at Home medical practice program under the Medicare program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Independence at Home Act of 2019''.

SEC. 2. INDEPENDENCE AT HOME MEDICAL PRACTICE PROGRAM.

(a) PROGRAM.—Title XVIII of the Social Security Act is amended by inserting after section 1866F the following new section:

''INDEPENDENCE AT HOME MEDICAL PRACTICE PROGRAM

''SEC. 1866G. (a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than January 1, 2021, the Secretary shall establish and implement a national independence at home medical practice program (in this section referred to as the 'Program') that utilizes primary care teams that—

''(A) are directed by physicians, nurse practitioners, or physician assistants; and

''(B) emphasize home-based care that is designed to reduce expenditures and improve health outcomes in the provision of items and services under this title to applicable beneficiaries.

''(2) GOALS.—Under the Program, an independence at home medical practice shall be accountable for providing comprehensive, coordinated, continuous, and accessible care to applicable beneficiaries at home and coordinating health care across all treatment settings, resulting in—

''(A) reducing preventable hospitalizations;

''(B) preventing hospital readmissions;

''(C) reducing emergency room visits;

''(D) improving health outcomes commensurate with each applicable beneficiary's stage of chronic illness;

''(E) improving the efficiency of care, such as by reducing duplicative diagnostic and laboratory tests;

''(F) reducing the cost of items and services covered under this title; and

''(G) achieving applicable beneficiary and family caregiver satisfaction.

''(b) INDEPENDENCE AT HOME MEDICAL PRACTICE.—

''(1) INDEPENDENCE AT HOME MEDICAL PRACTICE DEFINED.—In this section:

''(A) IN GENERAL.—The term 'independence at home medical practice' means a legal entity that meets each of the following requirements:

''(i) The entity is comprised of an individual physician, nurse practitioner, or physician assistant or group of such practitioners that furnishes care as part of a team that may include physicians, nurse practitioners, nurses, physician assistants, pharmacists, licensed mental health practi-

tioners, social workers, and other health and social services staff, as appropriate.

''(ii) The entity is organized, at least in part, for the purpose of furnishing physicians' services.

''(iii) The entity—

''(I) has experience in furnishing home-based primary care services to applicable beneficiaries, as determined appropriate by the Secretary;

''(II) makes in-home visits; and

''(III) is available 24 hours per day, seven days per week, to carry out plans of care that are tailored to an applicable beneficiary's chronic conditions and designed to achieve the goals described in subparagraphs (A) through (G) of subsection (a)(2).

''(iv) The entity enters into an agreement with the Secretary.

''(v) The entity furnishes services to at least 200 applicable beneficiaries during each year covered under the agreement unless the Secretary determines that a lower minimum number of applicable bene-

ficiaries is necessary for the goals of the Program to be achieved.

''(vi) The entity uses certified electronic health record technology and may use remote monitoring, mobile diagnostic technology, telehealth, and other communications-based technology services, as determined appropriate by the Secretary.

''(vii) The entity meets such other criteria as the Secretary determines to be appropriate to participate in the Program.

''(B) PHYSICIAN.—The term 'physician' means a physician described in section 1861(r)(1) who has the medical training or experience to fulfill the physician's role described in subparagraph (A)(i).

''(2) INCLUSION OF AFFILIATED PROVIDERS AND PRACTITIONERS.—Nothing in this subsection shall prevent an independence at home medical practice from including providers of services, practitioners described in section 1842(b)(18)(C), or other practitioners, including pharmacists, in an arrangement with the practice to share in any savings under the Program.

''(c) QUALITY MEASURES AND PERFORMANCE STANDARDS.—

''(1) QUALITY MEASURES.—

''(A) IN GENERAL.—The Secretary shall solicit stakeholder input and, taking into consideration such input, determine appropriate quality measures to assess the quality of care furnished by independence at home medical practices. To the extent possible, such measures shall include outcome measures and experience of care measures.

''(B) REPORTING REQUIREMENTS.—Under the Program, an independence at home medical practice shall submit data in a form and manner and at a frequency specified by the Secretary.

''(2) QUALITY PERFORMANCE STANDARDS.—The Secretary shall establish quality performance standards that independence at home medical practices must meet in order to be eligible to receive incentive payments under subsection (d)(2).

''(3) DATA SHARING.—Not less frequently than on a quarterly basis, the Secretary shall provide independence at home medical practices with regular practice-level feedback reports on cost and utilization

data in a clear and actionable manner. These reports shall include, to the extent practicable, information on fee-for-service cost and utilization, as well as beneficiary-level lists of emergency department visits, hospitalizations, hierarchical condition category risk scores, quality performance data, claims line feed, and other high-cost services used in the previous quarter, together with other data that may be useful for practices, as determined by the Secretary.

''(d) INCENTIVE PAYMENT METHODOLOGY.—

''(1) ESTABLISHMENT OF TARGET SPENDING LEVEL.—The Secretary shall establish an estimated annual spending target based on the amount the Secretary estimates would have been spent in the absence of the Program, for items and services covered under parts A and B furnished to applicable beneficiaries or comparable beneficiaries, as determined by the Secretary, for each independence at home medical practice under this section. Such spending targets shall be determined on a per capita basis. Such spending targets shall include a risk corridor that takes into account normal variation in expenditures for items and services covered under parts A and B furnished to such beneficiaries with the size of the corridor being related to the number of appli-

cable beneficiaries furnished services by each independence at home medical practice. The spending targets may also be adjusted for applicable beneficiary risk characteristics, factors relevant to characterize random variation among practices, and other factors as the Secretary determines appropriate.

''(2) INCENTIVE PAYMENTS.—Subject to meeting the quality performance standards under subsection (c)(2), an independence at home medical practice is eligible to receive an incentive payment under the Program if actual expenditures for a year for the applicable beneficiaries who are attributed to the practice are less than the estimated spending target established under paragraph (1) for such year. An incentive payment for such year shall be equal to a portion (as determined by the Secretary but in no case greater than 80 percent) of the amount by which actual expenditures (including incentive payments under this paragraph) for applicable beneficiaries under parts A and B for such year are estimated to be less than 5 percent less than the estimated spending target for such year, as determined under paragraph (1).

''(e) APPLICABLE BENEFICIARY.—

''(1) IN GENERAL.—In this section, the term 'applicable beneficiary', with respect to an independence at home medical practice, is an individual who is attributed to such practice as a newly-assigned beneficiary or a continuously-assigned beneficiary (as such terms are defined in paragraphs (2) and (3), respectively).

''(2) NEWLY-ASSIGNED BENEFICIARY DEFINED.—For purposes of paragraph (1), the term 'newly-assigned beneficiary' means an individual whom the independence at home medical practice has determined—

''(A) is entitled to benefits under part A and enrolled for benefits under part B;

''(B) is not—

''(i) enrolled in a Medicare Advantage plan under part C or a PACE program under section 1894;

''(ii) attributed under—

''(I) another shared savings program, under this title, such as under section 1899; or

''(II) a model tested or expanded under section 1115A that involves shared savings under this title, or any

other demonstration that involves such shared savings; or

"(iii) determined to have end stage renal disease as provided in section 226A or receiving dialysis at home;

"(C) has two or more chronic illnesses, as determined by the Secretary, such as congestive heart failure, diabetes, chronic obstructive pulmonary disease, ischemic heart disease, stroke, Alzheimer's Disease and neurodegenerative diseases, other dementias designated by the Secretary, and other diseases and conditions which result in high costs under this title;

"(D) subject to paragraph (4), during the 12-month period immediately preceding the individual's attribution to an independence at home medical practice—

"(i) had a nonelective hospital admission; and

"(ii) received—

"(I) skilled nursing care or rehabilitation services in a skilled nursing facility paid under section 1888(e);

"(II) rehabilitation services in an inpatient rehabilitation facility; or

"(III) part-time or intermittent nursing care (as described in section 1861(m)(1)) through a home health agency or physical or occupational therapy or speech-language pathology services (as described in section 1861(m)(2)) through a home health agency;

"(E) has not been assigned to an independence at home medical practice in a previous participation year during an agreement period; and

"(F) meets such other criteria as the Secretary determines appropriate.

"(3) CONTINUOUSLY-ASSIGNED BENEFICIARY DEFINED.—For purposes of paragraph (1), the term 'continuously-assigned beneficiary' means an individual whom the independence at home medical practice has determined—

"(A) meets the criteria described in subparagraphs (A) through (C) and subparagraph (F) of paragraph (2); and

"(B) has two or more functional dependencies requiring the assistance of another per-

son (such as bathing, dressing, toileting, walking, or feeding).

''(4) WAIVER OF CERTAIN REQUIREMENTS WHEN BENEFICIARY CHANGES PLANS.—The requirements under paragraph (2)(D) shall not apply when an individual is attributed to an independence at home medical practice under this section subsequent to the first time an individual is attributed to such a practice under this section.

''(5) PATIENT ELECTION TO PARTICIPATE.—The Secretary shall adopt an appropriate method to determine that applicable beneficiaries have agreed to enroll in an independence at home medical practice. Enrollment in an independence at home medical practice shall be voluntary.

''(6) BENEFICIARY ACCESS TO SERVICES.—Nothing in this section shall be construed as—

''(A) encouraging physicians, nurse practitioners, physician assistants, or other team members to limit applicable beneficiary access to services covered under this title; or

''(B) requiring applicable beneficiaries to relinquish access to any benefit under this title as a condition of receiving services from an independence at home medical practice.

''(f) AGREEMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), an agreement with an independence at home medical practice under the Program shall be for a period determined appropriate by the Secretary but in no case less than 3 years.

''(2) RENEWALS.—Subject to subsection (j), the Secretary may renew an agreement with an independence at home medical practice under the Program.

''(g) PERMITTING PRACTICES TO FURNISH SUPPLEMENTAL BENEFITS AT OWN EXPENSE.—Under the Program, independence at home medical practices may furnish applicable beneficiaries with items and services for which payment is not made under parts A and B, as determined by the Secretary. No payment for such items and services shall be made under this title.

''(h) WAIVER AUTHORITY.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary may waive such provisions of this title and title XI as the Secretary determines necessary in order to implement the Program.

''(2) LIMITATION.—The Secretary may only waive the collection of coinsurance that is payable by individuals under section 1833(a)(1) if the Chief Ac-

tuary of the Centers for Medicare & Medicaid Services certifies that such a waiver would reduce (or would not result in any increase in) net program spending under this title.

''(i) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall not apply to this section.

''(j) TERMINATION AND RE-ENTRY.—

''(1) MANDATORY TERMINATION.—The Secretary shall terminate an agreement with an independence at home medical practice if—

''(A) the Secretary determines that the practice did not achieve savings for the third of 3 consecutive years under the Program; or

''(B) such practice fails to meet at least a minimum number of quality performance standards established under subsection (c)(2) during any year of the agreement period.

''(2) PERMISSIVE TERMINATION.—The Secretary may terminate an agreement with an independence at home medical practice for such other reasons determined appropriate by the Secretary.

''(3) RE-ENTRY.—In the case where an independence at home medical practice voluntarily elects to exit the Program during the demonstration phase under section 1866E or the transition under sub-

section (k)(1), the Secretary may re-enter into an agreement with such practice under this section if the Secretary determines that the practice would have otherwise met the requirements to remain in the Program under this section.

''(k) PRACTICE TRANSITIONS.—

''(1) PRACTICE MAKING TRANSITION FROM DEMONSTRATION.—The Secretary shall provide for an appropriate transition from the demonstration program under section 1866E to the Program under this section. Such transition shall include a process that ensures that independence at home medical practices and applicable beneficiaries participating in such demonstration are automatically included in the Program under this section at the time of the implementation of the Program.

''(2) PRACTICES NEWLY ENROLLING IN THE PROGRAM.—The Secretary shall also provide for the participation of new medical practices in the Program under this section, defined as practices that have not participated in the demonstration program under section 1866E previously, as well as practices with previous experience participating in such demonstration program but who may not be partici-

pating at the time of the implementation of the Program under this section.

''(3) SPECIAL RULE FOR INDIVIDUALS PARTICIPATING IN SIMILAR PROGRAMS.—In the case of an individual who has regularly received home-based primary care services, as determined by the Secretary, during the 12-month period immediately preceding the individual's attribution to an independence at home medical practice for the first time, the Secretary may, as determined appropriate, apply clause (i) of subsection (e)(2)(D) (relating to a prior nonelective hospital admission) by increasing the 12-month period described in such subsection as it relates to such clause to a period of up to 24 months.

''(l) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of—

''(1) the attribution of applicable beneficiaries to an independence at home medical practice;

''(2) the determination of the estimated annual spending target for an independence at home medical practice under subsection (d)(1);

''(3) the assessment of the quality of care furnished by an independence at home medical practice

and the establishment of quality performance standards under subsection (c);

''(4) the determination of whether an independence at home medical practice is eligible for incentive payments under subsection (d)(2), and the amount of such incentive payments; and

''(5) the termination of an independence at home medical practice under subsection (j).''.

(b) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the independence at home medical practice program under section 1866G of the Social Security Act, as added by subsection (a). Such study shall include an analysis of—

(A) whether independence at home medical practices are meeting the requirements under such program;

(B) whether such program is reducing expenditures under this title;

(C) the care that beneficiaries are receiving under such program; and

(D) other areas determined appropriate by the Comptroller General.

(2) REPORT.—Not later than 5 years after the date of the implementation of such independence at home medical practice program, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1), together with such recommendations as the Comptroller General determines to be appropriate.

(c) REVISIONS TO EXISTING DEMONSTRATION PROGRAM.—

(1) EXTENSION THROUGH THE IMPLEMENTATION OF THE NEW PROGRAM.—Section 1866E(e)(1) of the Social Security Act (42 U.S.C. 1395cc–5(e)(1)) is amended by inserting ''plus the period beginning at the end of such 7-year period and ending on the date of the implementation of the Program under section 1866G'' after ''7-year period''.

(2) PERMITTING EXISTING PRACTICES TO SEE MORE BENEFICIARIES.—Section 1866E(e)(5) of the Social Security Act (42 U.S.C. 1395cc–5(e)(1)) is amended—

(A) in the second sentence, by inserting the following before the period: ''plus for the period beginning at the end of such seventh

year and ending on the date of the implementation of the Program under section 1866G''; and

(B) by adding at the end the following new sentence: ''Beginning on the date of the enactment of this sentence, the limitation on the number of beneficiaries that may participate in the demonstration program pursuant to the first sentence shall not apply with respect to independence at home medical practices participating in the demonstration program as of such date of enactment.''.

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