

116TH CONGRESS  
1ST SESSION

# S. 433

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

FEBRUARY 11, 2019

Ms. COLLINS (for herself, Ms. STABENOW, Mr. KENNEDY, Mr. JONES, Mr. CASSIDY, Mr. PAUL, and Mrs. SHAHEEN) 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. SHORT TITLE.**

4 This Act may be cited as the “Home Health Payment  
5 Innovation Act of 2019”.

6 **SEC. 2. IMPROVEMENTS TO MEDICARE INNOVATIONS AND**  
7 **MANAGED CARE RELATED TO HOME HEALTH**  
8 **SERVICES.**

9 (a) EXPANDED WAIVERS IN SHARED SAVINGS PRO-  
10 GRAMS.—Section 1899(f) of the Social Security Act (42

1 U.S.C. 395jjj(f)), is amended by adding at the end the  
 2 following: “Beginning not later than January 1, 2020, the  
 3 Secretary shall include a waiver of the ‘confined to his  
 4 home’ requirement under sections 1814(a)(2)(C) and  
 5 1835(a)(2)(A) in one or more programs under this sec-  
 6 tion.”.

7 (b) FLEXIBILITY IN MEDICARE ADVANTAGE  
 8 PLANS.—Section 1852 of the Social Security Act (42  
 9 U.S.C. 1395ww–2) is amended by adding at the end the  
 10 following:

11 “(o) FLEXIBILITY IN PROVIDING HOME HEALTH  
 12 SERVICES.—Notwithstanding any other provision of law,  
 13 any MA organization shall be permitted to waive the ‘con-  
 14 fined to his home’ requirement in the home health services  
 15 benefit when the organization determines it is in the best  
 16 interest of the enrollee.”.

17 **SEC. 3. IMPROVEMENTS TO HOME HEALTH PAYMENT RE-**  
 18 **FORMS UNDER MEDICARE.**

19 (a) APPLICATION OF BUDGET NEUTRALITY.—Sec-  
 20 tion 1895(b)(3) of the Social Security Act (42 U.S.C.  
 21 1395fff(b)(3)), as amended by section 51001(a)(2) of the  
 22 Bipartisan Budget Act of 2018 (Public Law 115–123),  
 23 is amended—

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

1 (A) by striking “shall make” and inserting  
2 “shall not make”; and

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

6 (2) in subparagraph (D)—

7 (A) in the subparagraph heading, by strik-  
8 ing “ASSUMPTIONS” and inserting “EVIDENCE”;

9 (B) in clause (i)—

10 (i) by striking “differences between  
11 assumed” and all that follows through  
12 “and actual”;

13 (ii) by inserting “attributable to the  
14 implementation of paragraphs (2)(B) and  
15 (4)(B)” after “behavior changes”; and

16 (iii) by adding at the end the fol-  
17 lowing: “The Secretary shall publish the  
18 determination under this clause with re-  
19 spect to an applicable year, including a de-  
20 scription of the evidence used to make such  
21 determination, in the notice and comment  
22 rulemaking to update the prospective pay-  
23 ment system under this subsection for such  
24 year. For purposes of the preceding sen-  
25 tence, the term ‘evidence’ means the most

1 recent data after January 1, 2020, that re-  
2 flects the difference between real changes  
3 in case mix and behavioral changes relat-  
4 ing to implementation of the provisions of  
5 and amendments made by section 51001 of  
6 the Bipartisan Budget Act of 2018 (Public  
7 Law 115–123).”;

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

11 (D) in clause (iii)—

12 (i) by adding “attributable to the im-  
13 plementation of paragraphs (2)(B) and  
14 (4)(B)” after “expenditures”; and

15 (ii) by adding at the end the fol-  
16 lowing: “If such a temporary increase or  
17 decrease does not exceed 2.00 percent in  
18 any given year, the Secretary shall apply  
19 the entire increase or decrease in the next  
20 calendar year payment update. In the case  
21 where such a temporary increase or de-  
22 crease exceeds 2.00, the Secretary shall  
23 phase in the temporary increase or de-  
24 crease in equal amounts not to exceed 2.00  
25 percent in any given year through the re-

1           spective calendar year payment updates.  
2           Notwithstanding the preceding sentence,  
3           the Secretary shall complete any such  
4           phase-in adjustment no later than 2029  
5           and shall have the authority, after 2025, to  
6           waive the phase-in requirement as nec-  
7           essary to achieve budget neutrality by  
8           2029. Prior to implementing such phase-in  
9           adjustments after 2025, the Secretary  
10          shall first receive certification from the Of-  
11          fice of the Actuary of the Centers for  
12          Medicare & Medicaid Services that any  
13          such adjustments are appropriate.”.

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

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