

114TH CONGRESS
2D SESSION

S. _____

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

Mr. MARKEY (for himself, Mr. CORNYN, Mr. BENNET, and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on _____

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.

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 “Independence at Home
5 Act of 2016”.

1 **SEC. 2. INDEPENDENCE AT HOME MEDICAL PRACTICE PRO-**
2 **GRAM.**

3 (a) PROGRAM.—Title XVIII of the Social Security
4 Act is amended by inserting after section 1866E the fol-
5 lowing new section:

6 “INDEPENDENCE AT HOME MEDICAL PRACTICE PROGRAM

7 “SEC. 1866F. (a) ESTABLISHMENT.—

8 “(1) IN GENERAL.—Not later than 18 months
9 after the date of the enactment of this section, the
10 Secretary shall establish and implement an inde-
11 pendence at home medical practice program (in this
12 section referred to as the ‘Program’) that utilizes
13 primary care teams that—

14 “(A) are directed by physicians, nurse
15 practitioners, or physician assistants; and

16 “(B) emphasize home-based care that is
17 designed to reduce expenditures and improve
18 health outcomes in the provision of items and
19 services under this title to applicable bene-
20 ficiaries.

21 “(2) GOALS.—Under the Program, an inde-
22 pendence at home medical practice shall be account-
23 able for providing comprehensive, coordinated, con-
24 tinuous, and accessible care to applicable bene-
25 ficiaries at home and coordinating health care across
26 all treatment settings, resulting in—

1 “(A) reducing preventable hospitalizations;

2 “(B) preventing hospital readmissions;

3 “(C) reducing emergency room visits;

4 “(D) improving health outcomes commensurate with each applicable beneficiary’s stage
5 of chronic illness;

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

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

12 “(G) achieving applicable beneficiary and family caregiver satisfaction.

14 “(b) INDEPENDENCE AT HOME MEDICAL PRACTICE.—
15

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

18 “(A) IN GENERAL.—The term ‘independence at home medical practice’ means a legal
19 entity that meets each of the following requirements:
20
21

22 “(i) The entity is comprised of an individual physician, nurse practitioner, or
23 physician assistant or group of such practitioners that furnishes care as part of a
24
25

1 team that may include physicians, nurses,
2 physician assistants, pharmacists, licensed
3 mental health practitioners, and other
4 health and social services staff, as appro-
5 priate.

6 “(ii) The entity is organized, at least
7 in part, for the purpose of furnishing phy-
8 sicians’ services.

9 “(iii) The entity—

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

14 “(II) makes in-home visits; and

15 “(III) is available 24 hours per
16 day, seven days per week, to carry out
17 plans of care that are tailored to an
18 applicable beneficiary’s chronic condi-
19 tions and designed to achieve the
20 goals described in subparagraphs (A)
21 through (G) of subsection (a)(2).

22 “(iv) The entity enters into an agree-
23 ment with the Secretary.

24 “(v) The entity furnishes services to
25 at least 200 applicable beneficiaries during

1 each year covered under the agreement un-
2 less the Secretary determines that a lower
3 minimum number of applicable bene-
4 ficiaries is necessary for the goals of the
5 Program to be achieved.

6 “(vi) The entity uses certified elec-
7 tronic health record technology and may
8 use remote monitoring and mobile diag-
9 nostic technology, as determined appro-
10 priate by the Secretary.

11 “(vii) The entity meets such other cri-
12 teria as the Secretary determines to be ap-
13 propriate to participate in the Program.

14 “(B) PHYSICIAN.—The term ‘physician’
15 means a physician described in section
16 1861(r)(1) who has the medical training or ex-
17 perience to fulfill the physician’s role described
18 in subparagraph (A)(i).

19 “(2) INCLUSION OF AFFILIATED PROVIDERS
20 AND PRACTITIONERS.—Nothing in this subsection
21 shall prevent an independence at home medical prac-
22 tice from including providers of services, practi-
23 tioners described in section 1842(b)(18)(C), or other
24 practitioners, including pharmacists, in an arrange-

1 ment with the practice to share in any savings under
2 the Program.

3 “(c) QUALITY MEASURES AND PERFORMANCE
4 STANDARDS.—

5 “(1) QUALITY MEASURES.—

6 “(A) IN GENERAL.—The Secretary shall
7 determine appropriate quality measures to as-
8 sess the quality of care furnished by independ-
9 ence at home medical practices. To the extent
10 possible, such measures shall include outcome
11 measures and experience of care measures.

12 “(B) REPORTING REQUIREMENTS.—Under
13 the Program, an independence at home medical
14 practice shall submit data in a form and man-
15 ner and at a frequency specified by the Sec-
16 retary.

17 “(2) QUALITY PERFORMANCE STANDARDS.—
18 The Secretary shall establish quality performance
19 standards that independence at home medical prac-
20 tices must meet in order to be eligible to receive in-
21 centive payments under subsection (d)(2).

22 “(d) INCENTIVE PAYMENT METHODOLOGY.—

23 “(1) ESTABLISHMENT OF TARGET SPENDING
24 LEVEL.—The Secretary shall establish an estimated
25 annual spending target based on the amount the

1 Secretary estimates would have been spent in the ab-
2 sence of the Program, for items and services covered
3 under parts A and B furnished to applicable bene-
4 ficiaries or comparable beneficiaries, as determined
5 by the Secretary, for each independence at home
6 medical practice under this section. Such spending
7 targets shall be determined on a per capita basis.
8 Such spending targets shall include a risk corridor
9 that takes into account normal variation in expendi-
10 tures for items and services covered under parts A
11 and B furnished to such beneficiaries with the size
12 of the corridor being related to the number of appli-
13 cable beneficiaries furnished services by each inde-
14 pendence at home medical practice. The spending
15 targets may also be adjusted for other factors as the
16 Secretary determines appropriate.

17 “(2) INCENTIVE PAYMENTS.—Subject to meet-
18 ing the quality performance standards under sub-
19 section (c)(2), an independence at home medical
20 practice is eligible to receive an incentive payment
21 under the Program if actual expenditures for a year
22 for the applicable beneficiaries who are attributed to
23 the practice are less than the estimated spending
24 target established under paragraph (1) for such
25 year. An incentive payment for such year shall be

1 equal to a portion (as determined by the Secretary
2 but in no case greater than 80 percent) of the
3 amount by which actual expenditures (including in-
4 centive payments under this paragraph) for applica-
5 ble beneficiaries under parts A and B for such year
6 are estimated to be less than 5 percent less than the
7 estimated spending target for such year, as deter-
8 mined under paragraph (1).

9 “(e) APPLICABLE BENEFICIARY.—

10 “(1) IN GENERAL.—In this section, the term
11 ‘applicable beneficiary’ means an individual who the
12 independence at home medical practice to which the
13 individual is attributed has determined—

14 “(A) is entitled to benefits under part A
15 and enrolled for benefits under part B;

16 “(B) is not—

17 “(i) enrolled in a Medicare Advantage
18 plan under part C or a PACE program
19 under section 1894;

20 “(ii) attributed under—

21 “(I) another shared savings pro-
22 gram, under this title, such as under
23 section 1899; or

24 “(II) a model tested or expanded
25 under section 1115A that involves

1 shared savings under this title, or any
2 other demonstration that involves
3 such shared savings; or

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

7 “(C) has 2 or more chronic illnesses, as de-
8 termined by the Secretary, such as congestive
9 heart failure, diabetes, chronic obstructive pul-
10 monary disease, ischemic heart disease, stroke,
11 Alzheimer’s Disease and neurodegenerative dis-
12 eases, other dementias designated by the Sec-
13 retary, and other diseases and conditions which
14 result in high costs under this title;

15 “(D) subject to paragraph (2), during the
16 12-month period immediately preceding the in-
17 dividual’s attribution to an independence at
18 home medical practice—

19 “(i) had a nonelective hospital admis-
20 sion; and

21 “(ii) received—

22 “(I) skilled nursing care or reha-
23 bilitation services in a skilled nursing
24 facility paid under section 1888(e);

1 “(II) rehabilitation services in an
2 inpatient rehabilitation facility; or

3 “(III) part-time or intermittent
4 nursing care (as described in section
5 1861(m)(1)) through a home health
6 agency or physical or occupational
7 therapy or speech-language pathology
8 services (as described in section
9 1861(m)(2)) through a home health
10 agency;

11 “(E) has two or more functional depend-
12 encies requiring the assistance of another per-
13 son (such as bathing, dressing, toileting, walk-
14 ing, or feeding); and

15 “(F) meets such other criteria as the Sec-
16 retary determines appropriate.

17 “(2) WAIVER OF CERTAIN REQUIREMENTS
18 WHEN BENEFICIARY CHANGES PLANS.—The require-
19 ments under paragraph (1)(D) shall not apply when
20 an individual is attributed to an independence at
21 home medical practice under this section subsequent
22 to the first time an individual is attributed to such
23 a practice under this section.

24 “(3) PATIENT ELECTION TO PARTICIPATE.—
25 The Secretary shall adopt an appropriate method to

1 determine that applicable beneficiaries have agreed
2 to enroll in an independence at home medical prac-
3 tice. Enrollment in an independence at home medical
4 practice shall be voluntary.

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

7 “(A) encouraging physicians, nurse practi-
8 tioners, physician assistants, or other team
9 members to limit applicable beneficiary access
10 to services covered under this title; or

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

15 “(f) AGREEMENTS.—

16 “(1) IN GENERAL.—Subject to paragraph (2),
17 an agreement with an independence at home medical
18 practice under the Program shall be for a period de-
19 termined appropriate by the Secretary but in no case
20 more than 3 years.

21 “(2) RENEWALS.—Subject to subsection (j), the
22 Secretary may renew an agreement with an inde-
23 pendence at home medical practice under the Pro-
24 gram.

1 “(g) PERMITTING PRACTICES TO FURNISH SUPPLE-
2 MENTAL BENEFITS AT OWN EXPENSE.—Under the Pro-
3 gram, independence at home medical practices may fur-
4 nish applicable beneficiaries with items and services for
5 which payment is not made under parts A and B, as deter-
6 mined by the Secretary. No payment for such items and
7 services shall be made under this title.

8 “(h) WAIVER AUTHORITY.—

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

13 “(2) LIMITATION.—The Secretary may only
14 waive the collection of coinsurance that is payable by
15 individuals under section 1833(a)(1) if the Chief Ac-
16 tuary of the Centers for Medicare & Medicaid Serv-
17 ices certifies that such a waiver would reduce (or
18 would not result in any increase in) net program
19 spending under this title.

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

22 “(j) TERMINATION.—

23 “(1) MANDATORY TERMINATION.—The Sec-
24 retary shall terminate an agreement with an inde-
25 pendence at home medical practice if—

1 “(A) the Secretary estimates or determines
2 that such practice will not receive an incentive
3 payment under subsection (d)(2) for the third
4 of 3 consecutive years under the Program; or

5 “(B) such practice fails to meet at least a
6 minimum number of quality performance stand-
7 ards established under subsection (c)(2) during
8 any year of the agreement period.

9 “(2) PERMISSIVE TERMINATION.—The Sec-
10 retary may terminate an agreement with an inde-
11 pendence at home medical practice for such other
12 reasons determined appropriate by the Secretary.

13 “(k) TRANSITION.—

14 “(1) TRANSITION FROM DEMONSTRATION.—
15 The Secretary shall provide for an appropriate tran-
16 sition from the demonstration program under section
17 1866E to the Program under this section. Such
18 transition shall include a process that ensures that
19 independence at home medical practices and applica-
20 ble beneficiaries participating in such demonstration
21 are automatically included in the Program under
22 this section at the time of the implementation of the
23 Program.

24 “(2) SPECIAL RULE FOR INDIVIDUALS PARTICI-
25 PATING IN SIMILAR PROGRAMS.—In the case of an

1 individual who has regularly received home-based
2 primary care services, as determined by the Sec-
3 retary, during the 12-month period immediately pre-
4 ceding the individual's attribution to an independ-
5 ence at home medical practice for the first time, the
6 Secretary may, as determined appropriate, apply
7 clause (i) of subsection (e)(1)(D) (relating to a prior
8 nonelective hospital admission) by increasing the 12-
9 month period described in such subsection as it re-
10 lates to such clause to a period of up to 24 months.

11 “(1) LIMITATION ON REVIEW.—There shall be no ad-
12 ministrative or judicial review under section 1869, section
13 1878, or otherwise of—

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

16 “(2) the determination of the estimated annual
17 spending target for an independence at home med-
18 ical practice under subsection (d)(1);

19 “(3) the assessment of the quality of care fur-
20 nished by an independence at home medical practice
21 and the establishment of quality performance stand-
22 ards under subsection (e);

23 “(4) the determination of whether an independ-
24 ence at home medical practice is eligible for incen-

1 tive payments under subsection (d)(2), and the
2 amount of such incentive payments; and

3 “(5) the termination of an independence at
4 home medical practice under subsection (j).”.

5 (b) GAO STUDY AND REPORT.—

6 (1) STUDY.—The Comptroller General of the
7 United States shall conduct a study on the inde-
8 pendence at home medical practice program under
9 section 1866F of the Social Security Act, as added
10 by subsection (a). Such study shall include an anal-
11 ysis of—

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

15 (B) whether such program is reducing ex-
16 penditures under this title;

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

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

21 (2) REPORT.—Not later than 3 years after the
22 date of the implementation of such independence at
23 home medical practice program, the Comptroller
24 General of the United States shall submit to Con-
25 gress a report on the study conducted under para-

1 graph (1), together with such recommendations as
2 the Comptroller General determines to be appro-
3 priate.

4 (c) REVISIONS TO EXISTING DEMONSTRATION PRO-
5 GRAM.—

6 (1) EXTENSION THROUGH THE IMPLEMENTA-
7 TION OF THE NEW PROGRAM.—Section 1866E(e)(1)
8 of the Social Security Act (42 U.S.C. 1395cc-
9 5(e)(1)) is amended by inserting “plus the period be-
10 ginning at the end of such 5-year period and ending
11 on the date of the implementation of the program
12 under section 1866F” after “5-year period”.

13 (2) PERMITTING EXISTING PRACTICES TO SEE
14 MORE BENEFICIARIES.—Section 1866E(e)(5) of the
15 Social Security Act (42 U.S.C. 1395cc-5(e)(1)) is
16 amended by adding at the end the following new
17 sentence: “Beginning on the date of the enactment
18 of this sentence, the limitation on the number of
19 beneficiaries that may participate in the demonstra-
20 tion program pursuant to the preceding sentence
21 shall not apply with respect to independence at home
22 medical practices participating in the demonstration
23 program as of such date of enactment.”.