

105TH CONGRESS  
2D SESSION

# H. R. 4872

To amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services, to provide for more equitable reimbursement rates for certified nurse-midwife services, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 1998

Mr. TOWNS (for himself, Mrs. MORELLA, Mr. McDERMOTT, Mr. LoBIONDO, Mrs. LOWEY, Mr. CARDIN, Mr. LEVIN, Mr. BROWN of Ohio, Mr. WAXMAN, Mr. KLINK, Mr. WYNN, Mr. SCHUMER, Mr. ABERCROMBIE, and Mrs. CAPPs) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services, to provide for more equitable reimbursement rates for certified nurse-midwife services, 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 “Certified Nurse Mid-  
5 wifery Medicare Services Act of 1998”.

1 **SEC. 2. MEDICARE PAYMENT FOR CERTIFIED NURSE-MID-**  
2 **WIFE AND MIDWIFE SERVICES.**

3 (a) CERTIFIED MIDWIFE, CERTIFIED MIDWIFE  
4 SERVICES DEFINED.—(1) Section 1861(gg) of the Social  
5 Security Act (42 U.S.C. 1395x(gg)) is amended by adding  
6 at the end the following new paragraphs:

7 “(3) The term ‘certified midwife services’ means such  
8 services furnished by a certified midwife (as defined in  
9 paragraph (4)) and such services and supplies furnished  
10 as an incident to the certified midwife’s service which the  
11 certified midwife is legally authorized to perform under  
12 State law (or the State regulatory mechanism provided by  
13 State law) as would otherwise be payable under this title  
14 if furnished by a physician or as an incident to a physi-  
15 cian’s service.

16 “(4) The term ‘certified midwife’ means an individual  
17 who has successfully completed a bachelor’s degree from  
18 an accredited educational institution and a program of  
19 study and clinical experience meeting guidelines prescribed  
20 by the Secretary, or has been certified by an organization  
21 recognized by the Secretary.”.

22 (2) The heading in section 1861(gg) of such Act (42  
23 U.S.C. 1395x(gg)) is amended to read as follows:

24 “Certified Nurse-Midwife Services; Certified Midwife  
25 Services”.

26 (b) CERTIFIED MIDWIFE SERVICE BENEFIT.—

1           (1) MEDICAL AND OTHER SERVICES.—Section  
2   1861(s)(2)(L) of such Act (42 U.S.C.  
3   1395x(s)(2)(L)) is amended by inserting “and cer-  
4   tified midwife services” before the semicolon.

5           (2) PAYMENT TO HOSPITAL FOR PATIENTS  
6   UNDER CARE OF CERTIFIED NURSE-MIDWIFE OR  
7   CERTIFIED MIDWIFE.—Section 1861(e)(4) of such  
8   Act (42 U.S.C. 1395x(e)(4)) is amended—

9           (A) by inserting “(i)” after “except that”;  
10          and

11          (B) by inserting before the semicolon the  
12          following: “and (ii) a patient receiving certified  
13          nurse-midwife services or certified midwife serv-  
14          ices (as defined in paragraphs (1) and (3), re-  
15          spectively, of subsection (gg)) may be under the  
16          care of a certified nurse-midwife or certified  
17          midwife with respect to such services to the ex-  
18          tent permitted under State law”.

19          (3) INPATIENT HOSPITAL SERVICE AT TEACH-  
20   ING HOSPITALS.—Section 1861(b) of such Act (42  
21   U.S.C. 1395x(b)) is amended—

22          (A) in paragraph (4), by inserting “cer-  
23          tified midwife services,” after “certified nurse-  
24          midwife services,”;

1           (B) in paragraph (6), by striking “; or”  
2           and inserting “or in the case of services in a  
3           hospital or osteopathic hospital by an intern or  
4           resident-in-training in the field of obstetrics and  
5           gynecology, nothing in this paragraph shall be  
6           construed to preclude a certified nurse-midwife  
7           or certified midwife (as defined in paragraphs  
8           (1) and (3), respectively, of subsection (gg))  
9           from teaching or supervising such intern or  
10          resident-in-training, to the extent permitted  
11          under State law and as may be authorized by  
12          the hospital; or”;

13          (C) in paragraph (7), by striking the pe-  
14          riod at the end and inserting “; or”; and

15          (D) by adding at the end the following new  
16          paragraph:

17          “(8) a certified nurse-midwife or a certified  
18          midwife where the hospital has a teaching program  
19          approved as specified in paragraph (6), if (A) the  
20          hospital elects to receive any payment due under this  
21          title for reasonable costs of such services, and (B)  
22          all certified nurse-midwives or certified midwives in  
23          such hospital agree not to bill charges for profes-  
24          sional services rendered in such hospital to individ-

1 uals covered under the insurance program estab-  
2 lished by this title.”.

3 (4) BENEFIT UNDER PART B.—Section  
4 1832(a)(2)(B)(iii) of such Act (42 U.S.C.  
5 1395k(a)(2)(B)(iii)) is amended—

6 (A) by inserting “(I)” after “(iii)”;

7 (B) by inserting “certified midwife serv-  
8 ices,” after “certified nurse-midwife services,”;  
9 and

10 (C) by adding at the end the following new  
11 subclause:

12 “(II) in the case of certified nurse-  
13 midwife services or certified midwife serv-  
14 ices furnished in a hospital which has a  
15 teaching program described in clause  
16 (i)(II), such services may be furnished as  
17 provided under section 1842(b)(7)(E) and  
18 section 1861(b)(8);”.

19 (5) AMOUNT OF PAYMENT.—Section  
20 1833(a)(1)(K) of such Act (42 U.S.C.  
21 1395l(a)(1)(K)) is amended—

22 (A) by inserting “and certified midwife  
23 services” after “certified nurse-midwife serv-  
24 ices”; and

1 (B) by striking “65 percent” each place it  
2 appears and inserting “95 percent”.

3 (6) ASSIGNMENT OF PAYMENT.—The first sen-  
4 tence of section 1842(b)(6) of such Act (42 U.S.C.  
5 1395u(b)(6)) is amended—

6 (A) by striking “and (F)” and inserting  
7 “(F)”; and

8 (B) by inserting before the period the fol-  
9 lowing: “, and (G) in the case of certified  
10 nurse-midwife services or certified midwife serv-  
11 ices under section 1861(s)(2)(L), payment may  
12 be made in accordance with subparagraph (A),  
13 except that payment may also be made to such  
14 person or entity (or to the agent of such person  
15 or entity) as the certified nurse-midwife or cer-  
16 tified midwife may designate under an agree-  
17 ment between the certified nurse-midwife or  
18 certified midwife and such person or entity (or  
19 the agent of such person or entity)”.

20 (7) CLARIFICATION REGARDING PAYMENTS  
21 UNDER PART B FOR SUCH SERVICES FURNISHED IN  
22 TEACHING HOSPITALS.—(A) Section 1842(b)(7) of  
23 such Act (42 U.S.C. 1395u(b)(7)) is amended—

24 (i) in subparagraphs (A) and (C), by in-  
25 serting “or, for purposes of subparagraph (E),

1 the conditions described in section 1861(b)(8),”  
2 after “section 1861(b)(7),”; and

3 (ii) by adding at the end the following new  
4 subparagraph:

5 “(E) In the case of certified nurse-midwife services  
6 or certified midwife services furnished to a patient in a  
7 hospital with a teaching program approved as specified in  
8 section 1861(b)(6) but which does not meet the conditions  
9 described in section 1861(b)(8), the provisions of subpara-  
10 graphs (A) through (C) shall apply with respect to a cer-  
11 tified nurse-midwife or a certified midwife respectively  
12 under this subparagraph as they apply to a physician  
13 under subparagraphs (A) through (C).”.

14 (B) Not later than 180 days after the date of  
15 the enactment of this Act, the Secretary shall pre-  
16 scribe regulations to carry out the amendments  
17 made by subparagraph (A).

18 **SEC. 3. MEDICARE PAYMENT FOR FREESTANDING BIRTH**

19 **CENTER SERVICES.**

20 (a) **FREESTANDING BIRTH CENTER SERVICES,**  
21 **FREESTANDING BIRTH CENTER DEFINED.—**

22 (1) **IN GENERAL.—**(A) Section 1861(gg) of the  
23 Social Security Act (42 U.S.C. 1395x(gg)), as  
24 amended in section 2(a)(1), is amended by adding at  
25 the end the following new paragraphs:

1       “(5) The term ‘freestanding birth center services’  
2 means items and services furnished by a freestanding  
3 birth center (as defined in paragraph (6)) and such items  
4 and services furnished as an incident to the freestanding  
5 birth center’s service as would otherwise be covered if fur-  
6 nished by a physician or as an incident to a physician’s  
7 service.

8       “(6) The term ‘freestanding birth center’ means a fa-  
9 cility, institution, or site (other than a rural health clinic,  
10 critical access hospital, or a sole community hospital) (A)  
11 in which births are planned to occur (outside the mother’s  
12 place of residence), (B) in which comprehensive health  
13 care services are furnished, and (C) which has been ap-  
14 proved by the Secretary or accredited by an organization  
15 recognized by the Secretary for purposes of accrediting  
16 freestanding birth centers. Such term does not include a  
17 facility, institution, or site that is a hospital or an ambula-  
18 tory surgical center, unless with respect to ambulatory  
19 surgical centers, the State law or regulation that regulates  
20 such centers also regulates freestanding birth centers in  
21 the State.”.

22           (B) The heading in section 1861(gg) of such  
23 Act (42 U.S.C. 1395x(gg)), as amended in section  
24 2(b)(2), is further amended by adding at the end the  
25 following:

1 “; Freestanding Birth Center Services”.

2 (2) MEDICAL AND OTHER SERVICES.—Section  
3 1861(s)(2)(L) of such Act (42 U.S.C.  
4 1395x(s)(2)(L)), as amended in section 2(b)(1), is  
5 further amended—

6 (A) by inserting “(i)” after “(L)”;

7 (B) by adding “and” after the semicolon;

8 and

9 (C) by adding at the end the following new  
10 clause:

11 “(ii) freestanding birth center services;”.

12 (b) PART B BENEFIT.—

13 (1) IN GENERAL.—Section 1832(a)(2)(B)(iii) of  
14 such Act (42 U.S.C. 1395k(a)(2)(B)(iii)), as amend-  
15 ed in section 2(b)(4), is further amended by insert-  
16 ing “freestanding birth center services,” after “cer-  
17 tified midwife services,”.

18 (2) AMOUNT OF PAYMENT.—Section 1833(a)(1)  
19 of such Act (42 U.S.C. 1395l(a)(1)) is amended—

20 (A) by striking “and (S)” and inserting in  
21 lieu thereof “(S)”; and

22 (B) by inserting before the semicolon the  
23 following new subparagraph: “, and (T) with  
24 respect to freestanding birth center services  
25 under section 1861(s)(2)(L)(ii), the amount

1           paid shall be made on an assignment-related  
2           basis, and shall be 80 percent of the lesser of  
3           (i) the actual charge for the services or (ii) an  
4           amount established by the Secretary for pur-  
5           poses of this subparagraph, such amount being  
6           95 percent of the Secretary's estimate of the  
7           average total payment made to hospitals and  
8           physicians during 1997 for charges for delivery  
9           and pre-delivery visits, such amounts adjusted  
10          to allow for regional variations in labor costs;  
11          except that (I) such estimate shall not include  
12          payments for diagnostic tests, drugs, or the cost  
13          associated with the transfer of a patient to the  
14          hospital or the physician whether or not sepa-  
15          rate payments were made under this title for  
16          such tests, drugs, or transfers, and (II) such  
17          amount shall be updated by applying the single  
18          conversion factor for 1998 under section  
19          1848(d)(1)(C)".

20 **SEC. 4. INTERIM, FINAL REGULATIONS.**

21           Except as provided in section 2(b)(7)(B), in order to  
22          carry out the amendments made by this Act in a timely  
23          manner, the Secretary of Health and Human Services may  
24          first promulgate regulations, that take effect on an interim  
25          basis, after notice and pending opportunity for public com-

1 ment, by not later than 6 months after the date of the  
2 enactment of this Act.

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