

106TH CONGRESS  
2D SESSION

# S. 3233

To amend title XVIII of the Social Security Act to provide for medicare beneficiary copayments for outpatient mental health services that are the same as beneficiary copayments for other part B services, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 25 (legislative day, SEPTEMBER 22), 2000

Mr. WELLSTONE 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 medicare beneficiary copayments for outpatient mental health services that are the same as beneficiary copayments for other part B 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 “Medicare Mental  
5       Health Modernization Act of 2000”.

6       **SEC. 2. FINDINGS.**

7       The Senate finds the following:

1           (1) Older people have the highest rate of suicide  
2 of any population in the United States, and the sui-  
3 cide rate of that population increases with age, with  
4 individuals 65 and older accounting for 20 percent  
5 of all suicide deaths in the United States, while com-  
6 prising only 13 percent of the population of the  
7 United States.

8           (2) Disability due to mental illness in individ-  
9 uals over 65 years old will become a major public  
10 health problem in the near future because of demo-  
11 graphic changes. In particular, dementia, depression,  
12 schizophrenia, among other conditions, will all  
13 present special problems for this age group.

14           (3) Major depression is strikingly prevalent  
15 among older people, with between 8 and 20 percent  
16 of older people in community studies and up to 37  
17 percent of those seen in primary care settings expe-  
18 riencing symptoms of depression.

19           (4) Almost 20 percent of the population of indi-  
20 viduals age 55 and older, experience specific mental  
21 disorders that are not part of normal aging.

22           (5) Unrecognized and untreated depression,  
23 Alzheimer's disease, anxiety, late-life schizophrenia,  
24 and other mental conditions can be severely impair-  
25 ing and may even be fatal.

1           (6) Substance abuse, particularly the abuse of  
2 alcohol and prescription drugs, among adults 65 and  
3 older is one of the fastest growing health problems  
4 in the United States, with 17 percent of this age  
5 group suffering from addiction or substance abuse.  
6 While addiction often goes undetected and untreated  
7 among older adults, aging and disability makes the  
8 body more vulnerable to the effects of alcohol and  
9 drugs, further exacerbating other age-related health  
10 problems. Medicare coverage for addiction treatment  
11 of the elderly needs to recognize these special  
12 vulnerabilities.

13           (7) The disabled are another population receiv-  
14 ing inadequate mental health care through medicare.  
15 According to the Health Care Financing Administra-  
16 tion, medicare is the primary health care coverage  
17 for the 5,000,000 non-elderly, disabled people on So-  
18 cial Security Disability Insurance. Up to 40 percent  
19 of these individuals have a diagnosis of mental ill-  
20 ness, and also face severe discrimination in mental  
21 health coverage.

1 **SEC. 3. DECREASE IN MEDICARE BENEFICIARY COPAY-**  
2 **MENT FOR OUTPATIENT MENTAL HEALTH**  
3 **SERVICES.**

4 (a) IN GENERAL.—Section 1833(c) of the Social Se-  
5 curity Act (42 U.S.C. 1395l(c)) is repealed.

6 (b) CONFORMING AMENDMENT.—Section  
7 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A))  
8 is amended by striking the second sentence.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 subsections (a) and (b) shall apply to items and services  
11 furnished on or after the date of enactment of this Act.

12 **SEC. 4. INTENSIVE RESIDENTIAL SERVICES.**

13 (a) COVERAGE UNDER PART A.—Section 1812(a)  
14 (42 U.S.C. 1395d(a)) is amended—

15 (1) in paragraph (4), by striking “and” at the  
16 end;

17 (2) in paragraph (5), by striking the period at  
18 the end of and inserting “; and”; and

19 (3) by adding at the end the following new  
20 paragraph:

21 “(5) intensive residential services (as defined in  
22 section 1861(uu)) furnished to an individual for up  
23 to 120 days during any calendar year.”.

24 (b) INTENSIVE RESIDENTIAL SERVICES DEFINED.—  
25 Section 1861 of the Social Security Act (42 U.S.C. 1395x)

1 is amended by adding at the end the following new sub-  
2 section:

3 “Intensive Residential Services

4 “(uu)(1) Subject to paragraphs (2) and (3), the term  
5 ‘intensive residential services’ means inpatient services  
6 provided in any of the following facilities:

7 “(A) Residential detoxification centers.

8 “(B) Crisis residential programs or mental ill-  
9 ness residential treatment programs.

10 “(C) Therapeutic family or group treatment  
11 homes.

12 “(D) Residential centers for substance abuse  
13 treatment.

14 “(2) No service may be treated as an intensive resi-  
15 dential service unless the facility at which the service is  
16 provided—

17 “(A) is legally authorized to provide such serv-  
18 ice under the law of the State (or under a State reg-  
19 ulatory mechanism provided by State law) in which  
20 the facility is located or is certified to provide such  
21 service by an appropriate accreditation entity ap-  
22 proved by the State in consultation with the Sec-  
23 retary; and

1           “(B) meets such other requirements as the Sec-  
2           retary may impose to assure the quality of the inten-  
3           sive residential services provided.

4           “(3) No service may be treated as an intensive resi-  
5           dential service under paragraph (1) unless the service is  
6           furnished in accordance with standards established by the  
7           Secretary for the management of such services.”.

8           (c) REDUCTION IN DAYS OF COVERAGE FOR INPA-  
9           TIENT SERVICES.—Section 1812(b)(3) of the Social Secu-  
10          rity Act (42 U.S.C. 1395d(b)(3)) is amended by striking  
11          the period at the end and inserting the following: “, re-  
12          duced by a number of days determined by the Secretary  
13          so that the actuarial value of providing such number of  
14          days of services under this paragraph to the individual is  
15          equal to the actuarial value of the days of inpatient resi-  
16          dential services furnished to the individual under sub-  
17          section (a)(5) during the year after such services have  
18          been furnished to the individual for 120 days during the  
19          year (rounded to the nearest day).”.

20          (d) AMOUNT OF PAYMENT.—Section 1814 of the So-  
21          cial Security Act (42 U.S.C. 1395f) is amended—

22                 (1) in subsection (b), in the matter preceding  
23                 paragraph (1), by inserting “other than a provider  
24                 of intensive residential services,” after “hospice  
25                 care,”; and

1           (2) by adding at the end the following new sub-  
2           section:

3           “Payment for Intensive Residential Services

4           “(m)(1) Except as provided in paragraphs (2) and  
5 (3), the amount of payment under this part for intensive  
6 residential services under section 1812(a)(5) shall be equal  
7 to the lesser of—

8           “(A) the reasonable cost of such services, as de-  
9           termined under section 1861(v), or

10           “(B) the customary charges with respect to  
11           such services,

12 less the amount a provider may charge as described in  
13 clause (ii) of section 1866(a)(2)(A).

14           “(2) If intensive residential services are furnished by  
15 a public provider of services or by another provider which  
16 demonstrates to the satisfaction of the Secretary that a  
17 significant portion of its patients are low-income (and re-  
18 quests that payment be made under this clause), free of  
19 charge or at nominal charges to the public, the Secretary  
20 shall determine the amount of payment for such services  
21 in accordance with subsection (b)(2).

22           “(3) If (and for so long as) the conditions described  
23 in subsection (b)(3) are met, the Secretary shall determine  
24 the amount of payment for intensive residential services

1 under the reimbursement system described in such sub-  
2 section.”.

3 **SEC. 5. STUDY OF COVERAGE CRITERIA FOR ALZHEIMER’S**  
4 **DISEASE AND RELATED MENTAL ILLNESSES.**

5 (a) STUDY.—

6 (1) IN GENERAL.—The Secretary of Health and  
7 Human Services (in this section referred to as the  
8 “Secretary”) shall conduct a study to determine  
9 whether the criteria for coverage of any therapy  
10 service (including occupational therapy services and  
11 physical therapy services) or any outpatient mental  
12 health care service under the medicare program  
13 under title XVIII of the Social Security Act unduly  
14 restricts the access of any medicare beneficiary who  
15 has been diagnosed with Alzheimer’s disease or a re-  
16 lated mental illness to such a service because the  
17 coverage criteria requires the medicare beneficiary to  
18 display continuing clinical improvement to continue  
19 to receive the service.

20 (2) DETERMINATION OF NEW COVERAGE CRI-  
21 TERIA.—If the Secretary determines that the cov-  
22 erage criteria described in paragraph (1) unduly re-  
23 stricts the access of any medicare beneficiary to the  
24 services described in such paragraph, the Secretary  
25 shall identify alternative coverage criteria that would

1 permit a medicare beneficiary who has been diag-  
2 nosed with Alzheimer’s disease or a related mental  
3 illness to receive coverage for health care services  
4 under the medicare program that are designed to  
5 control symptoms, maintain functional capabilities,  
6 reduce or deter deterioration, and prevent or reduce  
7 hospitalization of the beneficiary.

8 (b) REPORT.—Not later than 1 year after the date  
9 of enactment of this Act, the Secretary shall submit to  
10 the committees of jurisdiction of Congress a report on the  
11 study conducted under subsection (a) together with such  
12 recommendations for legislative and administrative action  
13 as the Secretary determines appropriate.

14 **SEC. 6. MENTAL HEALTH COUNSELING SERVICES.**

15 (a) ADDING MENTAL HEALTH COUNSELOR SERV-  
16 ICES TO THE DEFINITION OF MEDICAL AND OTHER  
17 HEALTH SERVICES.—Section 1861(s)(2) of the Social Se-  
18 curity Act (42 U.S.C. 1395(s)(2)) is amended—

19 (1) in subparagraph (S), by striking “and” at  
20 the end;

21 (2) in subparagraph (T)(ii), by adding “and” at  
22 the end; and

23 (3) by adding at the end the following new sub-  
24 paragraph:



1 health provider in an appropriate setting (as de-  
2 termined by the Secretary); and

3 “(II) meet such other criteria as the Sec-  
4 retary establishes.

5 “(2) The term ‘mental health counselor services’  
6 means services performed by a mental health counselor (as  
7 defined in paragraph (1)) for the diagnosis and treatment  
8 of mental illnesses which the mental health counselor is  
9 legally authorized to perform under State law (or the  
10 State regulatory mechanism provided by the State law) of  
11 the State in which such services as performed as would  
12 otherwise be covered if furnished by a physician or as inci-  
13 dent to a physician’s professional service.”.

14 (c) PAYMENT.—Section 1833(a)(1) of the Social Se-  
15 curity Act (42 U.S.C. 1395l(a)(1)) is amended—

16 (1) by striking “and” before “(S)”; and

17 (2) by inserting before the semicolon at the end  
18 the following: “, and (T) with respect to mental  
19 health counselor services under section  
20 1861(s)(2)(U), the amounts paid shall be 80 percent  
21 of (i) the actual charge for the services or (ii) 75  
22 percent of the amount determined for payment of a  
23 psychologist under clause (L)”.

1 **SEC. 7. EXCLUDING CLINICAL SOCIAL WORKER SERVICES**  
2 **FROM COVERAGE UNDER THE MEDICARE**  
3 **SKILLED NURSING FACILITY PROSPECTIVE**  
4 **PAYMENT SYSTEM AND CONSOLIDATED PAY-**  
5 **MENT.**

6 (a) **IN GENERAL.**—Section 1888(e)(2)(A)(ii) of the  
7 Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is  
8 amended by inserting “clinical social worker services,”  
9 after “qualified psychologist services,”.

10 (b) **CONFORMING AMENDMENT.**—Section  
11 1861(hh)(2) of such Act (42 U.S.C. 1395x(hh)(2)) is  
12 amended by striking “and other than services furnished  
13 to an inpatient of a skilled nursing facility which the facil-  
14 ity is required to provide as a requirement for participa-  
15 tion”.

16 (c) **EFFECTIVE DATE.**—The amendments made by  
17 this section apply as if included in the enactment of sec-  
18 tion 4432(a) of the Balanced Budget Act of 1997.

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