

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1760

To amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2001

Mr. THOMAS (for himself and Mrs. LINCOLN) 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 the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, 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 “Seniors Mental Health  
5       Access Improvement Act of 2001”.

1 **SEC. 2. COVERAGE OF MARRIAGE AND FAMILY THERAPIST**  
2 **SERVICES AND MENTAL HEALTH COUNSELOR**  
3 **SERVICES UNDER PART B OF THE MEDICARE**  
4 **PROGRAM.**

5 (a) COVERAGE OF SERVICES.—

6 (1) IN GENERAL.—Section 1861(s)(2) of the  
7 Social Security Act (42 U.S.C. 1395x(s)(2)), as  
8 amended by sections 102(a) and 105(a) of the Medi-  
9 care, Medicaid, and SCHIP Benefits Improvement  
10 and Protection Act of 2000 (114 Stat. 2763A–468  
11 and 2763A–471), as enacted into law by section  
12 1(a)(6) of Public Law 106–554, is amended—

13 (A) in subparagraph (U), by striking  
14 “and” after the semicolon at the end;

15 (B) in subparagraph (V)(iii), by inserting  
16 “and” after the semicolon at the end; and

17 (C) by adding at the end the following new  
18 subparagraph:

19 “(W) marriage and family therapist services (as  
20 defined in subsection (ww)(1)) and mental health  
21 counselor services (as defined in subsection  
22 (ww)(3));”.

23 (2) DEFINITIONS.—Section 1861 of such Act  
24 (42 U.S.C. 1395x), as amended by sections 102(b)  
25 and 105(b) of the Medicare, Medicaid, and SCHIP  
26 Benefits Improvement and Protection Act of 2000

1 (114 Stat. 2763A–468 and 2763A–471), as enacted  
2 into law by section 1(a)(6) of Public Law 106–554,  
3 is amended by adding at the end the following new  
4 subsection:

5 “Marriage and Family Therapist Services; Marriage and  
6 Family Therapist; Mental Health Counselor Serv-  
7 ices; Mental Health Counselor

8 “(ww)(1) The term ‘marriage and family therapist  
9 services’ means services performed by a marriage and  
10 family therapist (as defined in paragraph (2)) for the diag-  
11 nosis and treatment of mental illnesses, which the mar-  
12 riage and family therapist is legally authorized to perform  
13 under State law (or the State regulatory mechanism pro-  
14 vided by State law) of the State in which such services  
15 are performed, as would otherwise be covered if furnished  
16 by a physician or as an incident to a physician’s profes-  
17 sional service, but only if no facility or other provider  
18 charges or is paid any amounts with respect to the fur-  
19 nishing of such services.

20 “(2) The term ‘marriage and family therapist’ means  
21 an individual who—

22 “(A) possesses a master’s or doctoral degree  
23 which qualifies for licensure or certification as a  
24 marriage and family therapist pursuant to State  
25 law;

1           “(B) after obtaining such degree has performed  
2           at least 2 years of clinical supervised experience in  
3           marriage and family therapy; and

4           “(C) in the case of an individual performing  
5           services in a State that provides for licensure or cer-  
6           tification of marriage and family therapists, is li-  
7           censed or certified as a marriage and family thera-  
8           pist in such State.

9           “(3) The term ‘mental health counselor services’  
10          means services performed by a mental health counselor (as  
11          defined in paragraph (2)) for the diagnosis and treatment  
12          of mental illnesses which the mental health counselor is  
13          legally authorized to perform under State law (or the  
14          State regulatory mechanism provided by the State law) of  
15          the State in which such services are performed, as would  
16          otherwise be covered if furnished by a physician or as inci-  
17          dent to a physician’s professional service, but only if no  
18          facility or other provider charges or is paid any amounts  
19          with respect to the furnishing of such services.

20          “(4) The term ‘mental health counselor’ means an  
21          individual who—

22                 “(A) possesses a master’s or doctor’s degree in  
23                 mental health counseling or a related field;

1           “(B) after obtaining such a degree has per-  
2           formed at least 2 years of supervised mental health  
3           counselor practice; and

4           “(C) in the case of an individual performing  
5           services in a State that provides for licensure or cer-  
6           tification of mental health counselors or professional  
7           counselors, is licensed or certified as a mental health  
8           counselor or professional counselor in such State.”.

9           (3) PROVISION FOR PAYMENT UNDER PART  
10          B.—Section 1832(a)(2)(B) of such Act (42 U.S.C.  
11          1395k(a)(2)(B)) is amended by adding at the end  
12          the following new clause:

13                       “(v) marriage and family therapist  
14                       services and mental health counselor serv-  
15                       ices;”.

16          (4) AMOUNT OF PAYMENT.—Section 1833(a)(1)  
17          of such Act (42 U.S.C. 1395l(a)(1)), as amended by  
18          sections 105(c) and 223(c) of the Medicare, Med-  
19          icaid, and SCHIP Benefits Improvement and Pro-  
20          tection Act of 2000 (114 Stat. 2763A–472 and  
21          2763A–489), as enacted into law by section 1(a)(6)  
22          of Public Law 106–554, is amended—

23                       (A) by striking “and (U)” and inserting  
24                       “(U)”; and

1 (B) by inserting before the semicolon at  
 2 the end the following: “, and (V) with respect  
 3 to marriage and family therapist services and  
 4 mental health counselor services under section  
 5 1861(s)(2)(W), the amounts paid shall be 80  
 6 percent of the lesser of the actual charge for  
 7 the services or 75 percent of the amount deter-  
 8 mined for payment of a psychologist under  
 9 clause (L)”.

10 (5) EXCLUSION OF MARRIAGE AND FAMILY  
 11 THERAPIST SERVICES AND MENTAL HEALTH COUN-  
 12 SELOR SERVICES FROM SKILLED NURSING FACILITY  
 13 PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)  
 14 of the Social Security Act (42 U.S.C. 1395yy(e)) is  
 15 amended—

16 (A) in paragraph (2)(A)(i)(II), by striking  
 17 “clauses (ii) and (iii)” and inserting “clauses  
 18 (ii) through (iv)”; and

19 (B) by adding at the end of paragraph  
 20 (2)(A) the following new clause:

21 “(iv) EXCLUSION OF CERTAIN MEN-  
 22 TAL HEALTH SERVICES.—Services de-  
 23 scribed in this clause are marriage and  
 24 family therapist services (as defined in sec-  
 25 tion 1861(wv)(1)) and mental health coun-

1           selor services (as defined in section  
2           1861(ww)(3)).”.

3           (6) INCLUSION OF MARRIAGE AND FAMILY  
4           THERAPISTS AND MENTAL HEALTH COUNSELORS AS  
5           PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Sec-  
6           tion 1842(b)(18)(C) of such Act (42 U.S.C.  
7           1395u(b)(18)(C)), as amended by section 105(d) of  
8           the Medicare, Medicaid, and SCHIP Benefits Im-  
9           provement and Protection Act of 2000 (114 Stat.  
10          2763A–472), as enacted into law by section 1(a)(6)  
11          of Public Law 106–554, is amended by adding at  
12          the end the following new clauses:

13           “(vii) A marriage and family therapist (as de-  
14          fined in section 1861(ww)(2)).

15           “(viii) A mental health counselor (as defined in  
16          section 1861(ww)(4)).”.

17          (b) COVERAGE OF CERTAIN MENTAL HEALTH SERV-  
18          ICES PROVIDED IN CERTAIN SETTINGS.—

19           (1) RURAL HEALTH CLINICS AND FEDERALLY  
20          QUALIFIED HEALTH CENTERS.—Section  
21          1861(aa)(1)(B) of the Social Security Act (42  
22          U.S.C. 1395x(aa)(1)(B)) is amended by inserting “,  
23          by a marriage and family therapist (as defined in  
24          subsection (ww)(2)), by a mental health counselor

1 (as defined in subsection (ww)(4)),” after “by a clin-  
2 ical psychologist (as defined by the Secretary)”.

3 (2) HOSPICE PROGRAMS.—Section  
4 1861(dd)(2)(B)(i)(III) of such Act (42 U.S.C.  
5 1395x(dd)(2)(B)(i)(III)) is amended by inserting “or  
6 a marriage and family therapist (as defined in sub-  
7 section (ww)(2))” after “social worker”.

8 (c) AUTHORIZATION OF MARRIAGE AND FAMILY  
9 THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-  
10 HOSPITAL SERVICES.—Section 1861(ee)(2)(G) of the So-  
11 cial Security Act (42 U.S.C. 1395x(ee)(2)(G)) is amended  
12 by inserting “marriage and family therapist (as defined  
13 in subsection (ww)(2)),” after “social worker,”.

14 (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply with respect to services furnished  
16 on or after January 1, 2002.

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