

108TH CONGRESS  
1ST SESSION

# S. 1095

To amend title XVIII of the Social Security Act to improve outpatient vision services under part B of the medicare program.

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IN THE SENATE OF THE UNITED STATES

MAY 21, 2003

Mr. SUNUNU (for himself, Mr. KERRY, Mr. STEVENS, Mr. MCCAIN, Mrs. LINCOLN, Ms. COLLINS, Mr. BUNNING, Mr. MILLER, Mr. SPECTER, Mr. ROCKEFELLER, Ms. CANTWELL, Mr. KENNEDY, Ms. LANDRIEU, Mr. BURNS, and Mr. ALLEN) 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 outpatient vision services under part B of 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 “Medicare Vision Reha-  
5 bilitation Services Act of 2003”.

1 **SEC. 2. IMPROVEMENT OF OUTPATIENT VISION SERVICES**

2 **UNDER PART B.**

3 (a) **COVERAGE UNDER PART B.**—Section 1861(s)(2)  
4 of the Social Security Act (42 U.S.C. 1395x(s)(2)) is  
5 amended—

6 (1) in subparagraph (U), by striking “and”  
7 after the semicolon at the end;

8 (2) in subparagraph (V)(iii), by adding “and”  
9 after the semicolon at the end; and

10 (3) by adding at the end the following new sub-  
11 paragraph:

12 “(W) vision rehabilitation services (as defined  
13 in subsection (ww)(1));”.

14 (b) **SERVICES DESCRIBED.**—Section 1861 of the So-  
15 cial Security Act (42 U.S.C. 1395x) is amended by adding  
16 at the end the following new subsection:

17 “Vision Rehabilitation Services: Vision Rehabilitation  
18 Professional

19 “(ww)(1)(A) The term ‘vision rehabilitation services’  
20 means rehabilitative services (as determined by the Sec-  
21 retary in regulations) furnished—

22 (i) to an individual diagnosed with a vision im-  
23 pairment (as defined in paragraph (6));

24 (ii) pursuant to a plan of care established by  
25 a qualified physician (as defined in subparagraph

1 (C) or by a qualified occupational therapist that is  
2 periodically reviewed by a qualified physician;

3 “(iii) in an appropriate setting (including the  
4 home of the individual receiving such services if  
5 specified in the plan of care); and

6 “(iv) by any of the following individuals:

7 “(I) A qualified physician.

8 “(II) A qualified occupational therapist.

9 “(III) A vision rehabilitation professional  
10 (as defined in paragraph (2)) while under the  
11 general supervision (as defined in subparagraph  
12 (D)) of a qualified physician.

13 “(B) In the case of vision rehabilitation services fur-  
14 nished by a vision rehabilitation professional, the plan of  
15 care may only be established and reviewed by a qualified  
16 physician.

17 “(C) The term ‘qualified physician’ means—

18 “(i) a physician (as defined in subsection  
19 (r)(1)) who is an ophthalmologist; or

20 “(ii) a physician (as defined in subsection (r)(4)  
21 (relating to a doctor of optometry)).

22 “(D) The term ‘general supervision’ means, with re-  
23 spect to a vision rehabilitation professional, overall direc-  
24 tion and control of that professional by the qualified physi-  
25 cian who established the plan of care for the individual,

1 but the presence of the qualified physician is not required  
2 during the furnishing of vision rehabilitation services by  
3 that professional to the individual.

4 “(2) The term ‘vision rehabilitation professional’  
5 means any of the following individuals:

6 “(A) An orientation and mobility specialist (as  
7 defined in paragraph (3)).

8 “(B) A rehabilitation teacher (as defined in  
9 paragraph (4)).

10 “(C) A low vision therapist (as defined in para-  
11 graph (5)).

12 “(3) The term ‘orientation and mobility specialist’  
13 means an individual who—

14 “(A) if a State requires licensure or certifi-  
15 cation of orientation and mobility specialists, is li-  
16 censed or certified by that State as an orientation  
17 and mobility specialist;

18 “(B)(i) holds a baccalaureate or higher degree  
19 from an accredited college or university in the  
20 United States (or an equivalent foreign degree) with  
21 a concentration in orientation and mobility; and

22 “(ii) has successfully completed 350 hours of  
23 clinical practicum under the supervision of an ori-  
24 entation and mobility specialist and has furnished

1 not less than 9 months of supervised full-time ori-  
2 entation and mobility services;

3 “(C) has successfully completed the national ex-  
4 amination in orientation and mobility administered  
5 by the Academy for Certification of Vision Rehabili-  
6 tation and Education Professionals; and

7 “(D) meets such other criteria as the Secretary  
8 establishes.

9 “(4) The term ‘rehabilitation teacher’ means an indi-  
10 vidual who—

11 “(A) if a State requires licensure or certifi-  
12 cation of rehabilitation teachers, is licensed or cer-  
13 tified by the State as a rehabilitation teacher;

14 “(B)(i) holds a baccalaureate or higher degree  
15 from an accredited college or university in the  
16 United States (or an equivalent foreign degree) with  
17 a concentration in rehabilitation teaching, or holds  
18 such a degree in a health field; and

19 “(ii) has successfully completed 350 hours of  
20 clinical practicum under the supervision of a reha-  
21 bilitation teacher and has furnished not less than 9  
22 months of supervised full-time rehabilitation teach-  
23 ing services;

24 “(C) has successfully completed the national ex-  
25 amination in rehabilitation teaching administered by

1 the Academy for Certification of Vision Rehabilita-  
2 tion and Education Professionals; and

3 “(D) meets such other criteria as the Secretary  
4 establishes.

5 “(5) The term ‘low vision therapist’ means an indi-  
6 vidual who—

7 “(A) if a State requires licensure or certifi-  
8 cation of low vision therapists, is licensed or certified  
9 by the State as a low vision therapist;

10 “(B)(i) holds a baccalaureate or higher degree  
11 from an accredited college or university in the  
12 United States (or an equivalent foreign degree) with  
13 a concentration in low vision therapy, or holds such  
14 a degree in a health field; and

15 “(ii) has successfully completed 350 hours of  
16 clinical practicum under the supervision of a physi-  
17 cian, and has furnished not less than 9 months of  
18 supervised full-time low vision therapy services;

19 “(C) has successfully completed the national ex-  
20 amination in low vision therapy administered by the  
21 Academy for Certification of Vision Rehabilitation  
22 and Education Professionals; and

23 “(D) meets such other criteria as the Secretary  
24 establishes.

1       “(6) The term ‘vision impairment’ means vision loss  
2 that constitutes a significant limitation of visual capability  
3 resulting from disease, trauma, or a congenital or degen-  
4 erative condition that cannot be corrected by conventional  
5 means, including refractive correction, medication, or sur-  
6 gery, and that is manifested by 1 or more of the following:

7           “(A) Best corrected visual acuity of less than  
8 20/60, or significant central field defect.

9           “(B) Significant peripheral field defect includ-  
10 ing homonymous or heteronymous bilateral visual  
11 field defect or generalized contraction or constriction  
12 of field.

13           “(C) Reduced peak contrast sensitivity in con-  
14 junction with a condition described in subparagraph  
15 (A) or (B).

16           “(D) Such other diagnoses, indications, or other  
17 manifestations as the Secretary may determine to be  
18 appropriate.”.

19       (c) PAYMENT UNDER PART B.—

20           (1) PHYSICIAN FEE SCHEDULE.—Section  
21 1848(j)(3) of the Social Security Act (42 U.S.C.  
22 1395w-4(j)(3)) is amended by inserting “(2)(W),”  
23 after “(2)(S),”.

24           (2) CARVE OUT FROM HOSPITAL OUTPATIENT  
25 DEPARTMENT PROSPECTIVE PAYMENT SYSTEM.—

1 Section 1833(t)(1)(B)(iv) of the Social Security Act  
2 (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by insert-  
3 ing “vision rehabilitation services (as defined in sec-  
4 tion 1861(ww)(1)) or” after “does not include”.

5 (3) CLARIFICATION OF BILLING REQUIRE-  
6 MENTS.—The first sentence of section 1842(b)(6) of  
7 such Act (42 U.S.C. 1395u(b)(6)) is amended—

8 (A) by striking “and” before “(G)”; and

9 (B) by inserting before the period the fol-  
10 lowing: “, and (H) in the case of vision rehabili-  
11 tation services (as defined in section  
12 1861(ww)(1)) furnished by a vision rehabilita-  
13 tion professional (as defined in section  
14 1861(ww)(2)) while under the general super-  
15 vision (as defined in section 1861(ww)(1)(D))  
16 of a qualified physician (as defined in section  
17 1861(ww)(1)(C)), payment shall be made to (i)  
18 the qualified physician or (ii) the facility (such  
19 as a rehabilitation agency, a clinic, or other fa-  
20 cility) through which such services are fur-  
21 nished under the plan of care if there is a con-  
22 tractual arrangement between the vision reha-  
23 bilitation professional and the facility under  
24 which the facility submits the bill for such serv-  
25 ices”.

1 (d) PLAN OF CARE.—Section 1835(a)(2) of the So-  
2 cial Security Act (42 U.S.C. 1395n(a)(2)) is amended—

3 (1) in subparagraph (E), by striking “and”  
4 after the semicolon at the end;

5 (2) in subparagraph (F), by striking the period  
6 at the end and inserting “; and”; and

7 (3) by inserting after subparagraph (F) the fol-  
8 lowing new subparagraph:

9 “(G) in the case of vision rehabilitation  
10 services, (i) such services are or were required  
11 because the individual needed vision rehabilita-  
12 tion services, (ii) an individualized, written plan  
13 for furnishing such services has been estab-  
14 lished (I) by a qualified physician (as defined in  
15 section 1861(ww)(1)(C)), (II) by a qualified oc-  
16 cupational therapist, or (III) in the case of such  
17 services furnished by a vision rehabilitation pro-  
18 fessional, by a qualified physician, (iii) the plan  
19 is periodically reviewed by the qualified physi-  
20 cian, and (iv) such services are or were fur-  
21 nished while the individual is or was under the  
22 care of the qualified physician.”.

23 (e) RELATIONSHIP TO REHABILITATION ACT OF  
24 1973.—The provision of vision rehabilitation services  
25 under the medicare program under title XVIII of the So-

1 cial Security Act (42 U.S.C. 1395 et seq.) shall not be  
2 taken into account for any purpose under the Rehabilita-  
3 tion Act of 1973 (29 U.S.C. 701 et seq.).

4 (f) EFFECTIVE DATE.—

5 (1) INTERIM, FINAL REGULATIONS.—The Sec-  
6 retary of Health and Human Services shall publish  
7 a rule under this section in the Federal Register by  
8 not later than 180 days after the date of enactment  
9 of this Act to carry out the provisions of this sec-  
10 tion. Such rule shall be effective and final imme-  
11 diately on an interim basis, but is subject to change  
12 and revision after public notice and opportunity for  
13 a period (of not less than 60 days) for public com-  
14 ment.

15 (2) CONSULTATION.—The Secretary of Health  
16 and Human Services shall consult with the National  
17 Vision Rehabilitation Cooperative, the Association  
18 for Education and Rehabilitation of the Blind and  
19 Visually Impaired, the Academy for Certification of  
20 Vision Rehabilitation and Education Professionals,  
21 the American Academy of Ophthalmology, the Amer-  
22 ican Occupational Therapy Association, the Amer-  
23 ican Optometric Association, and such other quali-  
24 fied professional and consumer organizations as the

- 1 Secretary determines appropriate in promulgating
- 2 regulations to carry out this Act.

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