

109TH CONGRESS
1ST SESSION

H. R. 175

To amend title XVIII of the Social Security Act to provide for the use of qualified family caregivers in the provision of home health aide services under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Ms. MILLENDER-MCDONALD introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and 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

A BILL

To amend title XVIII of the Social Security Act to provide for the use of qualified family caregivers in the provision of home health aide services 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 “Family Caregiver Se-
5 curity Act of 2005”.

1 **SEC. 2. PROVISION OF QUALIFIED FAMILY CAREGIVER**
2 **SERVICES UNDER THE MEDICARE PROGRAM.**

3 (a) IN GENERAL.—Section 1891(a) of the Social Se-
4 curity Act (42 U.S.C. 1395bbb(a)) is amended by adding
5 at the end the following new paragraph:

6 “(7)(A) The agency permits an individual who is
7 under its care to have home health aide services or per-
8 sonal care assistant services provided by a qualified family
9 caregiver (as defined in subparagraph (B)) under an ap-
10 proved plan of care and provides for payment for the serv-
11 ices of the caregiver, regardless of whether the caregiver
12 is an employee of the agency, at a rate comparable to the
13 rate otherwise paid for such services provided by other
14 qualified personnel. In addition, in the case of such a care-
15 giver the agency shall provide for appropriate training and
16 oversight of such services by a registered nurse in the
17 same or similar manner to that provided in the case of
18 such services furnished by another qualified individual and
19 shall provide the caregiver, as part of the plan of care,
20 with educational information and resources related to fam-
21 ily caregiver health and wellness.

22 “(B) For purposes of this paragraph, the term ‘quali-
23 fied family caregiver’ means, with respect to the provision
24 of home health aide services or personal care assistant
25 services to an individual, an individual who is a family
26 caregiver (as defined in section 372(2) of the National

1 Family Caregiver Support Act) of the individual and who
2 demonstrates proficiency in the provision of the home
3 health aide services or personal care assistant services in-
4 volved to the satisfaction of the supervising registered pro-
5 fessional nurse.

6 “(C) This paragraph shall supersede any other re-
7 striction of this title (including section 1862(a)(11)) on
8 the provision of home health aide services or personal care
9 assistant services by a qualified family caregiver described
10 in subparagraph (B) on the basis of the caregiver’s rela-
11 tionship to the recipient of such services. This subpara-
12 graph shall not affect any disqualification of an individual
13 from providing services on the basis of the individual’s
14 lack of qualification to provide the services or on the basis
15 of an exclusion of participation of the individual under
16 part B of title XI.

17 “(D) The Secretary, in consultation with the Sec-
18 retary of Labor, shall provide guidance to home health
19 agencies on payment administration and management
20 methodologies to facilitate the provision of home health
21 aide services and personal assistant care services by quali-
22 fied family caregivers under this paragraph.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall take effect on January 1, 2006, and
25 shall apply to services furnished on or after such date.

1 (c) CONSTRUCTION.—Nothing in this section shall be
2 construed as preventing the application of fraud and abuse
3 sanctions (including those under sections 1128, 1128A,
4 and 1128B of the Social Security Act) with respect to
5 family caregivers under section 1891(a)(7) of the Social
6 Security Act, as added by subsection (a), in the same man-
7 ner as such sanctions may be applied to other individuals
8 who provide home health aide services or personal assist-
9 ant care services.

10 (d) PROHIBITION OF DENIAL OF SERVICES BECAUSE
11 OF REFUSAL OF PHYSICAL THERAPY SERVICES DURING
12 REHABILITATION.—Nothing in title XVIII of the Social
13 Security Act shall be construed as authorizing the exclu-
14 sion of coverage of skilled nursing services for an indi-
15 vidual who is 75 years of age or older as part of home
16 health services solely on the basis of the individual's re-
17 fusals of physical therapy services during rehabilitation, re-
18 gardless of whether such physical therapy services are part
19 of the plan of care for the individual.

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