

110TH CONGRESS
2^D SESSION

H. R. 6380

To amend title XVIII of the Social Security Act to provide payments under the Medicare Program for unscheduled physician telephone consultation services in the case that such payments are determined to be cost and quality effective.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2008

Mrs. BIGGERT (for herself, Mr. EMANUEL, and Mrs. EMERSON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 payments under the Medicare Program for unscheduled physician telephone consultation services in the case that such payments are determined to be cost and quality effective.

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 Physician
5 Telephone Consultation Services Coverage Act of 2008”.

1 **SEC. 2. MEDICARE PAYMENT FOR UNSCHEDULED PHYSI-**
2 **CIAN TELEPHONE SERVICES.**

3 (a) COVERAGE UNDER PART B.—

4 (1) IN GENERAL.—Section 1861(s)(2) of the
5 Social Security Act (42 U.S.C. 1395x(s)(2)) is
6 amended—

7 (A) in subparagraph (Z), by striking
8 “and” at the end;

9 (B) in subparagraph (AA), by adding at
10 the end “and”; and

11 (C) by adding at the end the following new
12 subparagraph:

13 “(BB) subject to section 2(c) of the Medi-
14 care Physician Telephone Consultation Services
15 Coverage Act of 2008, unscheduled telephone
16 consultation services (as defined in subsection
17 (ccc)(1)) by a physician, with respect to the
18 treatment of an individual, if—

19 “(i) the Medicare number of the indi-
20 vidual is associated with the national pro-
21 vider identifier of the physician;

22 “(ii) to ensure the quality and appro-
23 priateness of such consultation services,
24 the utilization of such services by the indi-
25 vidual can be reviewed by a utilization and
26 quality control peer review organization or

1 eligible entity with which the Secretary has
2 entered into a contract under part B of
3 title XI or section 1893, respectively, by
4 the organization or entity applying for pur-
5 poses of the review under this subpara-
6 graph the processes and standards used by
7 such organization or entity under such
8 part or section, respectively, in the same
9 manner that such processes and standards
10 apply for purposes of carrying out utiliza-
11 tion and quality review under such part or
12 section, respectively;

13 “(iii) such consultation services are
14 securely recorded by the Secretary (or an
15 entity described in subsection (ccc)(1) with
16 which the Secretary enters into a contract)
17 for purposes of appropriate review by peers
18 of the physician who practice in the same
19 medical specialty as the physician and
20 Medicare administrative contractor over-
21 sight of such services; and

22 “(iv) the physician provides for the
23 submission to the Secretary (or an entity
24 described in subsection (ccc)(1) with which
25 the Secretary enters into a contract) and

1 the Secretary (or such an entity) records
2 and maintains a summary of each such
3 consultation service furnished by the physi-
4 cian that includes—

5 “(I) the date and time (including
6 duration) of the consultation service;

7 “(II) a unique medical record
8 number specified by the Secretary (or
9 such entity) to identify the consulta-
10 tion service;

11 “(III) the name of the individual;

12 “(IV) the name of the physician;

13 and

14 “(V) a summary of the content
15 of the consultation service;”.

16 (2) UNSCHEDULED TELEPHONE CONSULTATION
17 SERVICES DEFINED.—Section 1861 of such Act (42
18 U.S.C. 1395x) is amended by adding at the end the
19 following new subsection:

20 “Unscheduled Telephone Consultation Services

21 “(ccc)(1) The term ‘unscheduled telephone consulta-
22 tion service’ means a consultation conducted by means of
23 telephone or similar electronic communication device be-
24 tween a physician and an individual (or a representative
25 of such individual), with respect to the treatment of such

1 individual, that is not included as a scheduled physician
2 service (as defined by the Secretary in regulations), and
3 which is initiated by the individual (or representative) con-
4 tacting a communication network operated by the Sec-
5 retary (or an entity with which the Secretary enters into
6 a contract) that connects the individual to the physician,
7 securely records the consultation for purposes of sub-
8 section (s)(2)(BB), and maintains the information de-
9 scribed in clause (iv) of such subsection with respect to
10 such consultation.

11 “(2) For purposes of applying the regulations pro-
12 mulgated pursuant to section 264(c) of the Health Insur-
13 ance Portability and Accountability Act of 1996 (Public
14 Law 104–191; 110 Stat. 2033) with respect to an un-
15 scheduled telephone consultation service furnished by a
16 physician—

17 “(A) an entity with which the Secretary con-
18 tracts under this subsection shall be treated as a
19 health oversight agency; and

20 “(B) activities of such an entity described in
21 subparagraph (A) in relation to such physician and
22 such unscheduled telephone consultation service are
23 deemed to be health oversight activities.”.

1 (b) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—
2 Section 1848(j)(3) of such Act (42 U.S.C. 1395w-4(j)(3))
3 is amended by inserting “(2)(BB),” after “(2)(AA),”.

4 (c) CONTINGENT EFFECTIVE DATE, DEMONSTRATION PROGRAM.—
5

6 (1) CONTINGENT EFFECTIVE DATE.—The
7 amendments made by this section shall become ef-
8 fective (if at all) in accordance with paragraph (2).

9 (2) DEMONSTRATION PROGRAM.—

10 (A) IN GENERAL.—The Secretary of
11 Health and Human Services (in this paragraph
12 referred to as the “Secretary”) shall establish a
13 demonstration program to begin not later than
14 6 months after the date of the enactment of
15 this Act to test the effectiveness of providing
16 coverage under the Medicare Program for un-
17 scheduled telephone consultation services (as
18 defined in section 1861(ccc) of the Social Secu-
19 rity Act) by physicians to the extent provided
20 under the amendments made by this section to
21 a sample group of Medicare beneficiaries. For
22 purposes of such demonstration program, the
23 Secretary shall find that the provision of such
24 coverage is effective if—

1 (i) the coverage reduces costs to the
2 Medicare Program (such as through a re-
3 duction in admissions to the emergency de-
4 partments of hospitals), whether or not
5 such reduction is demonstrated in a reduc-
6 tion in the facility fees of hospital emer-
7 gency departments, professional fees of
8 emergency department physicians, labora-
9 tory fees, pathologist fees, hospital radi-
10 ology department fees for technical compo-
11 nents of x-rays, radiologist professional
12 fees for interpreting x-rays, hospital res-
13 piratory department fees for respiratory
14 treatments, hospital cardiology department
15 fees for electrocardiograms, professional
16 fees for interpreting such electrocardio-
17 grams, or any other cost specified by the
18 Secretary; and

19 (ii) the coverage results in patient
20 health outcomes that are at least as favor-
21 able as would apply in the absence of such
22 coverage (as determined in accordance with
23 criteria established by the Centers for
24 Medicare & Medicaid Services, in consulta-
25 tion with physician organizations).

1 (B) INITIAL PERIOD OF DEMONSTRATION
2 PROGRAM.—The demonstration program under
3 subparagraph (A) shall be conducted for an ini-
4 tial period of 24 months.

5 (C) REPORT TO CONGRESS.—

6 (i) IN GENERAL.—Not later than 30
7 days after the last day of the initial period
8 under subparagraph (B), the Secretary
9 shall submit to Congress a report on the
10 results of the demonstration program
11 under this paragraph.

12 (ii) FINDING THAT PAYMENTS ARE
13 EFFECTIVE.—If the Secretary finds, on the
14 basis of the data derived from the dem-
15 onstration program under subparagraph
16 (A) and in accordance with such subpara-
17 graph, that providing coverage under the
18 Medicare Program for unscheduled tele-
19 phone consultation services by physicians
20 (to the extent provided under the amend-
21 ments made by this section) is effective,
22 the amendments made by this section shall
23 become effective on the first day of the
24 first month beginning after the date the

1 report under clause (i) is submitted to
2 Congress.

3 (iii) FINDING THAT PAYMENTS ARE
4 NOT EFFECTIVE.—If the Secretary finds,
5 on the basis of the data derived from the
6 demonstration program under subpara-
7 graph (A) and in accordance with such
8 subparagraph, that a finding of effective-
9 ness (as described in clause (ii)) cannot be
10 made, the demonstration program shall
11 continue for a period of an additional 24
12 months. Not later than 30 days after the
13 last day of such period, the Secretary shall
14 submit to Congress a final report on the
15 results of such program. The amendments
16 made by this section shall become effective
17 on the first day of the first month begin-
18 ning after the date such report is sub-
19 mitted to Congress unless the report con-
20 tains a finding by the Secretary, on the
21 basis of such data and in accordance with
22 such subparagraph, that providing cov-
23 erage under the Medicare Program for un-
24 scheduled telephone consultation services
25 by physicians (to the extent provided under

1 the amendments made by this section) is
2 not effective, in which case the amend-
3 ments made by this section shall not be-
4 come effective.

5 (d) CLARIFICATION.—Nothing in the provisions of
6 this section or the amendments made by this section shall
7 be construed as authorizing the creation of a national re-
8 porting system on physician quality.

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