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113TH CONGRESS
1ST SESSION

S. 1053

To amend title XVIII of the Social Security Act to strengthen and protect Medicare hospice programs.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2013

Mr. WYDEN (for himself and Mr. ROBERTS) 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 strengthen and protect Medicare hospice programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hospice Evaluation and Legitimate Payment Act of 2013''.

SEC. 2. ENSURING TIMELY ACCESS TO HOSPICE CARE.

(a) IN GENERAL.—Section 1814(a)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395f(a)(7)(D)(i)) is amended to read as follows:

"(i) a hospice physician, nurse practitioner, clinical nurse specialist, or physician assistant (as those terms are defined in section 1861(aa)(5)), or other health professional (as designated by the Secretary), has a face-to-face encounter with the individual to determine continued eligibility of the individual for hospice care prior to the first 60-day period and each subsequent recertification under subparagraph (A)(ii) (or, in the case where a hospice program newly admits an individual who would be entering their first 60-day period or a subsequent hospice benefit period or where exceptional circumstances, as defined by the Secretary, may prevent a face-to-face encounter prior to the beginning of the hospice benefit period, not later than 7 calendar days after the individual's election under section 1812(d)(1) with respect to the hospice program) and attests that such visit took place (in accordance with procedures established by the Secretary); and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2014, and applies to hospice care furnished on or after such date.

SEC. 3. RESTORING AND PROTECTING THE MEDICARE HOSPICE BENEFIT.

(a) IN GENERAL.—Section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i)) is amended—

(1) in paragraph (6)—

(A) in subparagraph (D)—

(i) in clause (i)—

(I) in the first sentence, by striking ''not earlier than October 1, 2013, the Secretary shall, by regulation,'' and inserting ''subject to clause (iii), not earlier than the later of 2 years after the demonstration program under subparagraph (F) is completed or October 1, 2017, the Secretary shall, by regulation, preceded by a notice of the proposed regulation in the Federal Register and a period for public comment in accordance with section 1871(b)(1),''; and

(II) in the second sentence, by inserting '' and shall take into ac-

count the results of the evaluation conducted under subparagraph (F)(ii)'' before the period; and

(ii) by adding at the end the following new clause:

''(iii) The Secretary shall implement the revisions in payment pursuant to clause (i) unless the Secretary determines that the demonstration program under subparagraph (F) demonstrated that such revisions would adversely affect access to quality hospice care by beneficiaries under this title.''; and

(B) by adding at the end the following new subparagraph:

''(F) HOSPICE PAYMENT REFORM DEMONSTRATION PROGRAM.—

''(i) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

''(I) IN GENERAL.—Before implementing any revisions to the methodology for determining the payment rates for routine home care and other services included in hospice care under subparagraph (D), the Secretary shall establish a Medicare Hospice Payment Reform demonstration

program (in this subparagraph referred to as the 'demonstration program') to test such proposed revisions.

"(II) DURATION.—The demonstration program shall be conducted for a 2-year period beginning on or after October 1, 2013.

"(III) SCOPE.—Any certified hospice program may apply to participate in the demonstration program and the Secretary shall select not more than 15 such hospice programs to participate in the demonstration program.

"(IV) REPRESENTATIVE PARTICIPATION.—Hospice programs selected under subclause (III) to participate in the demonstration program shall include a representative cross-section of hospice programs throughout the United States, including programs located in urban and rural areas.

"(ii) EVALUATION AND REPORT.—

"(I) EVALUATION.—The Secretary shall conduct an evaluation of the demonstration program. Such evaluation shall

include an analysis of whether the use of the revised payment methodology under the demonstration program has improved the quality of patient care and access to hospice care for beneficiaries under this title and the impact of such payment revisions on hospice care providers, including the impact, if any, on the ability of hospice programs to furnish quality care to beneficiaries under this title.

"(II) REPORT.—Not later than 2 years after the completion of the demonstration program, the Secretary shall submit to Congress a report containing the results of the evaluation conducted under subclause (I), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

"(iii) BUDGET NEUTRALITY.—With respect to the 2-year period of the demonstration program, the Secretary shall ensure that revisions in payment implemented as part of the demonstration program shall result in the same estimated amount of aggregate payments under

this title for hospice care for the programs participating in the demonstration as would have been made if the hospice programs had not participated in the demonstration program.''.

SEC. 4. HOSPICE SURVEY REQUIREMENT.

Section 1861(dd)(4) of the Social Security Act (42 U.S.C. 1395x(dd)(4)) is amended by adding at the end the following new subparagraph:

''(C) Any entity that is certified as a hospice program shall be subject to a standard survey by an appropriate State or local survey agency, or an approved accreditation agency, as determined by the Secretary, not less frequently than once every 36 months beginning 6 months after the date of the enactment of this subparagraph.''.

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