

117TH CONGRESS
2D SESSION

H. R. 8878

To amend title XVIII of the Social Security Act to ensure adequate coverage of outpatient mental health services under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2022

Ms. CHU (for herself, Mr. PASCRELL, and Mr. SMITH of Nebraska) 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 ensure adequate coverage of outpatient mental health 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. ENSURING ADEQUATE COVERAGE OF OUT-**
4 **PATIENT MENTAL HEALTH SERVICES UNDER**
5 **THE MEDICARE PROGRAM.**

6 (a) MODIFICATION OF DEFINITION OF PARTIAL HOS-
7 PITALIZATION SERVICES.—Section 1861(ff)(1) of the So-
8 cial Security Act (42 U.S.C. 1395x(ff)(1)) is amended by

1 inserting “for an individual determined (not less fre-
 2 quently than monthly) by a physician to have a need for
 3 such services for a minimum of 20 hours per week” after
 4 “prescribed by a physician”.

5 (b) COVERAGE OF INTENSIVE OUTPATIENT SERV-
 6 ICES.—

7 (1) SCOPE OF BENEFITS.—

8 (A) COMMUNITY MENTAL HEALTH CEN-
 9 TERS.—Section 1832(a)(2)(J) of the Social Se-
 10 curity Act (42 U.S.C. 1395k(a)(2)(J)) is
 11 amended by inserting “and intensive outpatient
 12 services” after “partial hospitalization serv-
 13 ices”.

14 (B) INCIDENT-TO SERVICES.—Section
 15 1861(s)(2)(B) is amended by inserting “or in-
 16 tensive outpatient services” after “partial hos-
 17 pitalization services”.

18 (2) DEFINITION.—Section 1861(ff) of the So-
 19 cial Security Act (42 U.S.C. 1395x(ff)) is amend-
 20 ed—

21 (A) in the header, by inserting “; Intensive
 22 Outpatient Services” after “Partial Hospitaliza-
 23 tion Services”; and

24 (B) by adding at the end the following new
 25 paragraph:

1 “(4) The term ‘intensive outpatient services’ has the
 2 meaning given the term ‘partial hospitalization services’
 3 in paragraph (1), except that—

4 “(A) section 1835(a)(2)(F)(i) shall not apply;

5 “(B) the reference in such paragraph to an in-
 6 dividual ‘determined (not less frequently than
 7 monthly) by a physician to have a need for such
 8 services for a minimum of 20 hours per week’ shall
 9 be treated as a reference to an individual ‘deter-
 10 mined (not less frequently than once every other
 11 month) by a physician to have a need for such serv-
 12 ices for a minimum of 9 hours per week’; and

13 “(C) the reference to ‘a community mental
 14 health center (as defined in subparagraph (B))’ in
 15 paragraph (3) shall be treated as a reference to ‘a
 16 community mental health center (as defined in sub-
 17 paragraph (B)), a Federally qualified health center,
 18 or a rural health clinic’.”.

19 (3) EXCLUSION FROM CALCULATION OF CER-
 20 TAIN TREATMENT COSTS.—Section 1833(c)(2) of the
 21 Social Security Act (42 U.S.C. 1395l(c)(2)) is
 22 amended by inserting “or intensive outpatient serv-
 23 ices” after “partial hospitalization services”.

24 (4) CONFORMING AMENDMENTS.—

1 (A) INTENSIVE OUTPATIENT SERVICES.—

2 Section 1861(aa) of the Social Security Act (42
3 U.S.C. 1395x(aa)) is amended—

4 (i) in paragraph (1)—

5 (I) in subparagraph (B), by
6 striking “and” at the end;

7 (II) in subparagraph (C), by add-
8 ing “and” at the end; and

9 (III) by inserting after subpara-
10 graph (C) the following new subpara-
11 graph:

12 “(D) intensive outpatient services (as defined in
13 section 1861(ff)(4)),”; and

14 (ii) in paragraph (3), by striking
15 “through (C)” and inserting “through
16 (D)”.

17 (B) PROVIDER OF SERVICES.—Section
18 1866(e)(2) of the Social Security Act (42
19 U.S.C. 1395cc(e)(2)) is amended by inserting “,
20 or intensive outpatient services (as described in
21 section 1861(ff)(4))” after “partial hospitaliza-
22 tion services (as described in section
23 1861(ff)(1))”.

1 (c) SPECIAL PAYMENT RULE FOR FQHCs AND
2 RHCs.—Section 1834 of the Social Security Act (42
3 U.S.C. 1395m) is amended—

4 (1) in subsection (o), by adding at the end the
5 following new paragraph:

6 “(5) SPECIAL PAYMENT RULE FOR INTENSIVE
7 OUTPATIENT SERVICES.—

8 “(A) IN GENERAL.—In the case of inten-
9 sive outpatient services furnished by a Federally
10 qualified health center, the payment amount for
11 such services shall be equal to the amount that
12 would have been paid under this title for such
13 services had such services been covered OPD
14 services furnished by a hospital.

15 “(B) EXCLUSION.—Costs associated with
16 intensive outpatient services shall not be used
17 to determine the amount of payment for Feder-
18 ally qualified health center services under the
19 prospective payment system under this sub-
20 section.”; and

21 (2) in subsection (y)—

22 (A) in the header, by striking “TO HOS-
23 PICE PATIENTS”; and

24 (B) by adding at the end the following new
25 paragraph:

1 “(3) SPECIAL PAYMENT RULE FOR INTENSIVE
2 OUTPATIENT SERVICES.—

3 “(A) IN GENERAL.—In the case of inten-
4 sive outpatient services furnished by a rural
5 health clinic, the payment amount for such
6 services shall be equal to the amount that would
7 have been paid under this title for such services
8 had such services been covered OPD services
9 furnished by a hospital.

10 “(B) EXCLUSION.—Costs associated with
11 intensive outpatient services shall not be used
12 to determine the amount of payment for rural
13 health clinic services under the methodology for
14 all-inclusive rates (established by the Secretary)
15 under section 1833(a)(3).”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply with respect to items and services
18 furnished on or after January 1, 2024.

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