

116TH CONGRESS
1ST SESSION

S. _____

To amend title XVIII of the Social Security Act to provide for a permanent Independence at Home medical practice program under the Medicare program.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY (for himself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title XVIII of the Social Security Act to provide for a permanent Independence at Home medical practice program 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 “Independence at Home
5 Act of 2019”.

1 **SEC. 2. INDEPENDENCE AT HOME MEDICAL PRACTICE PRO-**
2 **GRAM.**

3 (a) PROGRAM.—Title XVIII of the Social Security
4 Act is amended by inserting after section 1866F the fol-
5 lowing new section:

6 “INDEPENDENCE AT HOME MEDICAL PRACTICE PROGRAM

7 “SEC. 1866G. (a) ESTABLISHMENT.—

8 “(1) IN GENERAL.—Not later than January 1,
9 2021, the Secretary shall establish and implement a
10 national independence at home medical practice pro-
11 gram (in this section referred to as the ‘Program’)
12 that utilizes primary care teams that—

13 “(A) are directed by physicians, nurse
14 practitioners, or physician assistants; and

15 “(B) emphasize home-based care that is
16 designed to reduce expenditures and improve
17 health outcomes in the provision of items and
18 services under this title to applicable bene-
19 ficiaries.

20 “(2) GOALS.—Under the Program, an inde-
21 pendence at home medical practice shall be account-
22 able for providing comprehensive, coordinated, con-
23 tinuous, and accessible care to applicable bene-
24 ficiaries at home and coordinating health care across
25 all treatment settings, resulting in—

26 “(A) reducing preventable hospitalizations;

1 “(B) preventing hospital readmissions;

2 “(C) reducing emergency room visits;

3 “(D) improving health outcomes commensurate with each applicable beneficiary’s stage
4 of chronic illness;

5 “(E) improving the efficiency of care, such
6 as by reducing duplicative diagnostic and laboratory tests;

7 “(F) reducing the cost of items and services covered under this title; and

8 “(G) achieving applicable beneficiary and family caregiver satisfaction.

9 “(b) INDEPENDENCE AT HOME MEDICAL PRACTICE.—

10 “(1) INDEPENDENCE AT HOME MEDICAL PRACTICE DEFINED.—In this section:

11 “(A) IN GENERAL.—The term ‘independence at home medical practice’ means a legal
12 entity that meets each of the following requirements:

13 “(i) The entity is comprised of an individual physician, nurse practitioner, or
14 physician assistant or group of such practitioners that furnishes care as part of a
15 team that may include physicians, nurse

1 practitioners, nurses, physician assistants,
2 pharmacists, licensed mental health practi-
3 tioners, social workers, and other health
4 and social services staff, as appropriate.

5 “(ii) The entity is organized, at least
6 in part, for the purpose of furnishing phy-
7 sicians’ services.

8 “(iii) The entity—

9 “(I) has experience in furnishing
10 home-based primary care services to
11 applicable beneficiaries, as determined
12 appropriate by the Secretary;

13 “(II) makes in-home visits; and

14 “(III) is available 24 hours per
15 day, seven days per week, to carry out
16 plans of care that are tailored to an
17 applicable beneficiary’s chronic condi-
18 tions and designed to achieve the
19 goals described in subparagraphs (A)
20 through (G) of subsection (a)(2).

21 “(iv) The entity enters into an agree-
22 ment with the Secretary.

23 “(v) The entity furnishes services to
24 at least 200 applicable beneficiaries during
25 each year covered under the agreement un-

1 less the Secretary determines that a lower
2 minimum number of applicable bene-
3 ficiaries is necessary for the goals of the
4 Program to be achieved.

5 “(vi) The entity uses certified elec-
6 tronic health record technology and may
7 use remote monitoring, mobile diagnostic
8 technology, telehealth, and other commu-
9 nications-based technology services, as de-
10 termined appropriate by the Secretary.

11 “(vii) The entity meets such other cri-
12 teria as the Secretary determines to be ap-
13 propriate to participate in the Program.

14 “(B) PHYSICIAN.—The term ‘physician’
15 means a physician described in section
16 1861(r)(1) who has the medical training or ex-
17 perience to fulfill the physician’s role described
18 in subparagraph (A)(i).

19 “(2) INCLUSION OF AFFILIATED PROVIDERS
20 AND PRACTITIONERS.—Nothing in this subsection
21 shall prevent an independence at home medical prac-
22 tice from including providers of services, practi-
23 tioners described in section 1842(b)(18)(C), or other
24 practitioners, including pharmacists, in an arrange-

1 ment with the practice to share in any savings under
2 the Program.

3 “(c) QUALITY MEASURES AND PERFORMANCE
4 STANDARDS.—

5 “(1) QUALITY MEASURES.—

6 “(A) IN GENERAL.—The Secretary shall
7 solicit stakeholder input and, taking into con-
8 sideration such input, determine appropriate
9 quality measures to assess the quality of care
10 furnished by independence at home medical
11 practices. To the extent possible, such measures
12 shall include outcome measures and experience
13 of care measures.

14 “(B) REPORTING REQUIREMENTS.—Under
15 the Program, an independence at home medical
16 practice shall submit data in a form and man-
17 ner and at a frequency specified by the Sec-
18 retary.

19 “(2) QUALITY PERFORMANCE STANDARDS.—
20 The Secretary shall establish quality performance
21 standards that independence at home medical prac-
22 tices must meet in order to be eligible to receive in-
23 centive payments under subsection (d)(2).

24 “(3) DATA SHARING.—Not less frequently than
25 on a quarterly basis, the Secretary shall provide

1 independence at home medical practices with regular
2 practice-level feedback reports on cost and utilization
3 data in a clear and actionable manner. These reports
4 shall include, to the extent practicable, information
5 on fee-for-service cost and utilization, as well as ben-
6 eficiary-level lists of emergency department visits,
7 hospitalizations, hierarchical condition category risk
8 scores, quality performance data, claims line feed,
9 and other high-cost services used in the previous
10 quarter, together with other data that may be useful
11 for practices, as determined by the Secretary.

12 “(d) INCENTIVE PAYMENT METHODOLOGY.—

13 “(1) ESTABLISHMENT OF TARGET SPENDING
14 LEVEL.—The Secretary shall establish an estimated
15 annual spending target based on the amount the
16 Secretary estimates would have been spent in the ab-
17 sence of the Program, for items and services covered
18 under parts A and B furnished to applicable bene-
19 ficiaries or comparable beneficiaries, as determined
20 by the Secretary, for each independence at home
21 medical practice under this section. Such spending
22 targets shall be determined on a per capita basis.
23 Such spending targets shall include a risk corridor
24 that takes into account normal variation in expendi-
25 tures for items and services covered under parts A

1 and B furnished to such beneficiaries with the size
2 of the corridor being related to the number of appli-
3 cable beneficiaries furnished services by each inde-
4 pendence at home medical practice. The spending
5 targets may also be adjusted for applicable bene-
6 ficiary risk characteristics, factors relevant to char-
7 acterize random variation among practices, and
8 other factors as the Secretary determines appro-
9 priate.

10 “(2) INCENTIVE PAYMENTS.—Subject to meet-
11 ing the quality performance standards under sub-
12 section (c)(2), an independence at home medical
13 practice is eligible to receive an incentive payment
14 under the Program if actual expenditures for a year
15 for the applicable beneficiaries who are attributed to
16 the practice are less than the estimated spending
17 target established under paragraph (1) for such
18 year. An incentive payment for such year shall be
19 equal to a portion (as determined by the Secretary
20 but in no case greater than 80 percent) of the
21 amount by which actual expenditures (including in-
22 centive payments under this paragraph) for applica-
23 ble beneficiaries under parts A and B for such year
24 are estimated to be less than 5 percent less than the

1 estimated spending target for such year, as deter-
2 mined under paragraph (1).

3 “(e) APPLICABLE BENEFICIARY.—

4 “(1) IN GENERAL.—In this section, the term
5 ‘applicable beneficiary’, with respect to an independ-
6 ence at home medical practice, is an individual who
7 is attributed to such practice as a newly-assigned
8 beneficiary or a continuously-assigned beneficiary
9 (as such terms are defined in paragraphs (2) and
10 (3), respectively).

11 “(2) NEWLY-ASSIGNED BENEFICIARY DE-
12 FINED.—For purposes of paragraph (1), the term
13 ‘newly-assigned beneficiary’ means an individual
14 whom the independence at home medical practice
15 has determined—

16 “(A) is entitled to benefits under part A
17 and enrolled for benefits under part B;

18 “(B) is not—

19 “(i) enrolled in a Medicare Advantage
20 plan under part C or a PACE program
21 under section 1894;

22 “(ii) attributed under—

23 “(I) another shared savings pro-
24 gram, under this title, such as under
25 section 1899; or

1 “(II) a model tested or expanded
2 under section 1115A that involves
3 shared savings under this title, or any
4 other demonstration that involves
5 such shared savings; or

6 “(iii) determined to have end stage
7 renal disease as provided in section 226A
8 or receiving dialysis at home;

9 “(C) has two or more chronic illnesses, as
10 determined by the Secretary, such as congestive
11 heart failure, diabetes, chronic obstructive pul-
12 monary disease, ischemic heart disease, stroke,
13 Alzheimer’s Disease and neurodegenerative dis-
14 eases, other dementias designated by the Sec-
15 retary, and other diseases and conditions which
16 result in high costs under this title;

17 “(D) subject to paragraph (4), during the
18 12-month period immediately preceding the in-
19 dividual’s attribution to an independence at
20 home medical practice—

21 “(i) had a nonelective hospital admis-
22 sion; and

23 “(ii) received—

1 “(I) skilled nursing care or reha-
2 bilitation services in a skilled nursing
3 facility paid under section 1888(e);

4 “(II) rehabilitation services in an
5 inpatient rehabilitation facility; or

6 “(III) part-time or intermittent
7 nursing care (as described in section
8 1861(m)(1)) through a home health
9 agency or physical or occupational
10 therapy or speech-language pathology
11 services (as described in section
12 1861(m)(2)) through a home health
13 agency;

14 “(E) has not been assigned to an inde-
15 pendence at home medical practice in a pre-
16 vious participation year during an agreement
17 period; and

18 “(F) meets such other criteria as the Sec-
19 retary determines appropriate.

20 “(3) CONTINUOUSLY-ASSIGNED BENEFICIARY
21 DEFINED.—For purposes of paragraph (1), the term
22 ‘continuously-assigned beneficiary’ means an indi-
23 vidual whom the independence at home medical
24 practice has determined—

1 “(A) meets the criteria described in sub-
2 paragraphs (A) through (C) and subparagraph
3 (F) of paragraph (2); and

4 “(B) has two or more functional depend-
5 encies requiring the assistance of another per-
6 son (such as bathing, dressing, toileting, walk-
7 ing, or feeding).

8 “(4) WAIVER OF CERTAIN REQUIREMENTS
9 WHEN BENEFICIARY CHANGES PLANS.—The require-
10 ments under paragraph (2)(D) shall not apply when
11 an individual is attributed to an independence at
12 home medical practice under this section subsequent
13 to the first time an individual is attributed to such
14 a practice under this section.

15 “(5) PATIENT ELECTION TO PARTICIPATE.—
16 The Secretary shall adopt an appropriate method to
17 determine that applicable beneficiaries have agreed
18 to enroll in an independence at home medical prac-
19 tice. Enrollment in an independence at home medical
20 practice shall be voluntary.

21 “(6) BENEFICIARY ACCESS TO SERVICES.—
22 Nothing in this section shall be construed as—

23 “(A) encouraging physicians, nurse practi-
24 tioners, physician assistants, or other team

1 members to limit applicable beneficiary access
2 to services covered under this title; or

3 “(B) requiring applicable beneficiaries to
4 relinquish access to any benefit under this title
5 as a condition of receiving services from an
6 independence at home medical practice.

7 “(f) AGREEMENTS.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 an agreement with an independence at home medical
10 practice under the Program shall be for a period de-
11 termined appropriate by the Secretary but in no case
12 less than 3 years.

13 “(2) RENEWALS.—Subject to subsection (j), the
14 Secretary may renew an agreement with an inde-
15 pendence at home medical practice under the Pro-
16 gram.

17 “(g) PERMITTING PRACTICES TO FURNISH SUPPLE-
18 MENTAL BENEFITS AT OWN EXPENSE.—Under the Pro-
19 gram, independence at home medical practices may fur-
20 nish applicable beneficiaries with items and services for
21 which payment is not made under parts A and B, as deter-
22 mined by the Secretary. No payment for such items and
23 services shall be made under this title.

24 “(h) WAIVER AUTHORITY.—

1 “(2) PERMISSIVE TERMINATION.—The Sec-
2 retary may terminate an agreement with an inde-
3 pendence at home medical practice for such other
4 reasons determined appropriate by the Secretary.

5 “(3) RE-ENTRY.—In the case where an inde-
6 pendence at home medical practice voluntarily elects
7 to exit the program during the demonstration phase
8 under section 1866E or the transition under sub-
9 section (k)(1), the Secretary may re-enter into an
10 agreement with such practice under this section if
11 the Secretary determines that the practice would
12 have otherwise met the requirements to remain in
13 the Program under this section.

14 “(k) PRACTICE TRANSITIONS.—

15 “(1) PRACTICE MAKING TRANSITION FROM
16 DEMONSTRATION.—The Secretary shall provide for
17 an appropriate transition from the demonstration
18 program under section 1866E to the Program under
19 this section. Such transition shall include a process
20 that ensures that independence at home medical
21 practices and applicable beneficiaries participating in
22 such demonstration are automatically included in the
23 Program under this section at the time of the imple-
24 mentation of the Program.

1 “(2) PRACTICES NEWLY ENROLLING IN THE
2 PROGRAM.—The Secretary shall also provide for the
3 participation of new medical practices in the Pro-
4 gram under this section, defined as practices that
5 have not participated in the demonstration program
6 under section 1866E previously, as well as practices
7 with previous experience participating in such dem-
8 onstration program but who may not be partici-
9 pating at the time of the implementation of the Pro-
10 gram under this section.

11 “(3) SPECIAL RULE FOR INDIVIDUALS PARTICI-
12 PATING IN SIMILAR PROGRAMS.—In the case of an
13 individual who has regularly received home-based
14 primary care services, as determined by the Sec-
15 retary, during the 12-month period immediately pre-
16 ceding the individual’s attribution to an independ-
17 ence at home medical practice for the first time, the
18 Secretary may, as determined appropriate, apply
19 clause (i) of subsection (e)(2)(D) (relating to a prior
20 nonelective hospital admission) by increasing the 12-
21 month period described in such subsection as it re-
22 lates to such clause to a period of up to 24 months.

23 “(1) LIMITATION ON REVIEW.—There shall be no ad-
24 ministrative or judicial review under section 1869, section
25 1878, or otherwise of—

1 “(1) the attribution of applicable beneficiaries
2 to an independence at home medical practice;

3 “(2) the determination of the estimated annual
4 spending target for an independence at home med-
5 ical practice under subsection (d)(1);

6 “(3) the assessment of the quality of care fur-
7 nished by an independence at home medical practice
8 and the establishment of quality performance stand-
9 ards under subsection (e);

10 “(4) the determination of whether an independ-
11 ence at home medical practice is eligible for incen-
12 tive payments under subsection (d)(2), and the
13 amount of such incentive payments; and

14 “(5) the termination of an independence at
15 home medical practice under subsection (j).”.

16 (b) GAO STUDY AND REPORT.—

17 (1) STUDY.—The Comptroller General of the
18 United States shall conduct a study on the inde-
19 pendence at home medical practice program under
20 section 1866G of the Social Security Act, as added
21 by subsection (a). Such study shall include an anal-
22 ysis of—

23 (A) whether independence at home medical
24 practices are meeting the requirements under
25 such program;

1 (B) whether such program is reducing ex-
2 penditures under this title;

3 (C) the care that beneficiaries are receiving
4 under such program; and

5 (D) other areas determined appropriate by
6 the Comptroller General.

7 (2) REPORT.—Not later than 5 years after the
8 date of the implementation of such independence at
9 home medical practice program, the Comptroller
10 General of the United States shall submit to Con-
11 gress a report on the study conducted under para-
12 graph (1), together with such recommendations as
13 the Comptroller General determines to be appro-
14 priate.

15 (c) REVISIONS TO EXISTING DEMONSTRATION PRO-
16 GRAM.—

17 (1) EXTENSION THROUGH THE IMPLEMENTA-
18 TION OF THE NEW PROGRAM.—Section 1866E(e)(1)
19 of the Social Security Act (42 U.S.C. 1395cc-
20 5(e)(1)) is amended by inserting “plus the period be-
21 ginning at the end of such 7-year period and ending
22 on the date of the implementation of the program
23 under section 1866G” after “7-year period”.

24 (2) PERMITTING EXISTING PRACTICES TO SEE
25 MORE BENEFICIARIES.—Section 1866E(e)(5) of the

1 Social Security Act (42 U.S.C. 1395cc–5(e)(1)) is
2 amended—

3 (A) in the second sentence, by inserting
4 the following before the period: “plus for the
5 period beginning at the end of such seventh
6 year and ending on the date of the implementa-
7 tion of the program under section 1866G”; and

8 (B) by adding at the end the following new
9 sentence: “Beginning on the date of the enact-
10 ment of this sentence, the limitation on the
11 number of beneficiaries that may participate in
12 the demonstration program pursuant to the
13 first sentence shall not apply with respect to
14 independence at home medical practices partici-
15 pating in the demonstration program as of such
16 date of enactment.”.