

115TH CONGRESS
2D SESSION

S. 3458

To amend title XVIII of the Social Security Act to improve home health payment reforms under the Medicare program.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2018

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

A BILL

To amend title XVIII of the Social Security Act to improve home health payment reforms 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. IMPROVEMENTS TO HOME HEALTH PAYMENT**

4 **REFORMS UNDER MEDICARE.**

5 (a) APPLICATION OF BUDGET NEUTRALITY.—Sec-
6 tion 1895(b)(3) of the Social Security Act (42 U.S.C.
7 1395fff(b)(3)), as amended by section 51001(a)(2) of the
8 Bipartisan Budget Act of 2018 (Public Law 115–123),
9 is amended—

1 (1) in subparagraph (A)(iv), in the fourth sen-
2 tence—

3 (A) by striking “shall make” and inserting
4 “shall not make”; and

5 (B) by striking “and shall provide a de-
6 scription” and all that follows through the pe-
7 riod and inserting a period; and

8 (2) in subparagraph (D)—

9 (A) in the subparagraph heading, by strik-
10 ing “ASSUMPTIONS” and inserting “OBSERVED
11 EVIDENCE”;

12 (B) in clause (i)—

13 (i) by striking “differences between
14 assumed” and all that follows through
15 “and actual”;

16 (ii) by inserting “attributable to the
17 implementation of paragraphs (2)(B) and
18 (4)(B)” after “behavior changes”; and

19 (iii) by adding at the end the fol-
20 lowing: “The Secretary shall publish the
21 determination under this clause with re-
22 spect to an applicable year, including a de-
23 scription of the observed evidence used to
24 make such determination, in the notice and
25 comment rulemaking to update the pro-

spective payment system under this subsection for such year. For purposes of the preceding sentence, the term ‘observed evidence’ means statistically valid data from the most recent cost report and claims regarding changes in the nature of home health agency patients, patterns of care, service costs, and claims coding after January 1, 2020, reflecting behavioral changes relating to implementation of the provisions of and amendments made by section 51001 of the Bipartisan Budget Act of 2018 (Public Law 115–123).”;

(C) in clause (ii), by inserting “attributable to the implementation of paragraphs (2)(B) and (4)(B)” after “expenditures”; and

(D) in clause (iii)—

(i) by adding “attributable to the implementation of paragraphs (2)(B) and (4)(B)” after “expenditures”; and

(ii) by adding at the end the following: “If such a temporary increase or decrease does not exceed 2.00 percent in any given year, the Secretary shall apply the entire increase or decrease in the next

1 calendar year payment update; however, if
2 such a temporary increase or decrease ex-
3 ceeds 2.00, to provide for minimal disrup-
4 tion to patients and providers, the Sec-
5 retary shall phase in the temporary in-
6 crease or decrease in equal amounts not to
7 exceed 2.00 percent in any given year
8 through the respective calendar year pay-
9 ment updates.”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect as if included in the enact-
12 ment of such section 51001(a)(2).

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