

118TH CONGRESS
1ST SESSION

H. R. 3876

To amend title XVIII of the Social Security Act to provide for expanded coverage of services furnished by genetic counselors under part B of the Medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2023

Mr. SMITH of Nebraska (for himself, Mr. HIGGINS of New York, Mr. BALDERSON, Ms. SEWELL, Mrs. GONZÁLEZ-COLÓN, Ms. CHU, Mr. FLOOD, Ms. CASTOR of Florida, Mr. RASKIN, Mr. FITZPATRICK, Mr. SWALWELL, Mr. DUNN of Florida, Mr. AUCHINCLOSS, and Mr. RUTHERFORD) 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 for expanded coverage of services furnished by genetic counselors under part B of the Medicare program, and for other purposes.

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 “Access to Genetic
5 Counselor Services Act of 2023”.

1 **SEC. 2. MEDICARE COVERAGE OF GENETIC COUNSELING**
2 **SERVICES.**

3 (a) IN GENERAL.—Section 1861 of the Social Secu-
4 rity Act (42 U.S.C. 1395x) is amended—

5 (1) in subsection (s)(2)—

6 (A) by striking “and” at the end of sub-
7 paragraph (II);

8 (B) by adding “and” at the end of sub-
9 paragraph (JJ); and

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

12 “(KK) covered genetic counseling services (as
13 defined in subsection (nnn)(1));”; and

14 (2) by adding at the end the following new sub-
15 section:

16 “Covered Genetic Counseling Services

17 “(nnn)(1) The term ‘covered genetic counseling serv-
18 ices’ means genetic counseling services furnished by a ge-
19 netic counselor (as defined in paragraph (2)) (and such
20 services and supplies furnished as an incident to the provi-
21 sion of such services) as would otherwise be covered under
22 this title if furnished by a physician (or as incident to a
23 physician’s service).

24 “(2) The term ‘genetic counselor’ means an indi-
25 vidual who—

1 “(A) is licensed as a genetic counselor by the
2 State in which the individual furnishes genetic coun-
3 seling services; or

4 “(B) in the case of an individual practicing in
5 a State that does not license genetic counselors,
6 meets such other criteria as the Secretary estab-
7 lishes.

8 The provisions of this paragraph shall not be construed
9 as preventing other practitioners, including those pro-
10 viding telehealth services, from providing covered genetic
11 counseling services within the scope of their practice.”.

12 (b) PHYSICIANS’ SERVICES.—Section 1848(j)(3) of
13 the Social Security Act (42 U.S.C. 1395w-4(j)(3)) is
14 amended by inserting “(2)(KK),” after “(2)(FF) (includ-
15 ing administration of the health risk assessment),”.

16 (c) PAYMENT.—

17 (1) IN GENERAL.—Section 1833(a)(1) of the
18 Social Security Act (42 U.S.C. 1395l(a)(1)) is
19 amended—

20 (A) by striking “and (HH)” and inserting
21 “(HH)”; and

22 (B) by inserting before the semicolon at
23 the end the following: “, and (II) with respect
24 to covered genetic counseling services under sec-
25 tion 1861(s)(2)(KK), furnished by a genetic

1 counselor, the amount of payment for such
2 service shall be an amount equal to 85 percent
3 of the lesser of the actual charge for the serv-
4 ices or the amount determined under the fee
5 schedule established under section 1848(b) for
6 the same services if furnished by a physician”.

7 (2) MODIFIER.—Section 1834 of the Social Se-
8 curity Act (42 U.S.C. 1395m) is amended by adding
9 at the end the following new subsection:

10 “(aa) USE OF MODIFIER WITH RESPECT TO GE-
11 NETIC COUNSELING SERVICES.—

12 “(1) ESTABLISHMENT.—Not later than Janu-
13 ary 1, 2024, the Secretary shall establish a modifier
14 to be utilized with evaluation and management CPT
15 codes to indicate (in a form and manner specified by
16 the Secretary), in the case of covered genetic coun-
17 seling services under section 1861(s)(2)(KK), if such
18 services were furnished by a genetic counselor.

19 “(2) REQUIRED USE.—Each request for pay-
20 ment, or bill submitted using evaluation and man-
21 agement CPT codes, for covered genetic counseling
22 services (as defined in section 1861(nnn)(1)) fur-
23 nished by a genetic counselor (as defined in section
24 1861(nnn)(2)) on or after January 1, 2024, shall in-

1 include the modifier established under subparagraph
2 (A) for each such service.”.

3 (d) ASSIGNMENT OF PAYMENT.—Section 1833(r) of
4 the Social Security Act (42 U.S.C. 1395l(r)) is amended
5 by adding at the end the following new paragraph:

6 “(3) APPLICATION TO GENETIC COUNSELORS.—
7 The provisions of paragraphs (1) and (2) shall apply
8 with respect to covered genetic counseling services
9 described in section 1861(s)(2)(KK) and genetic
10 counselors (as defined in section 1861(mnn)(2)) in
11 the same manner as such provisions apply with re-
12 spect to services described in section
13 1861(s)(2)(K)(ii) and nurse practitioners.”.

14 (e) CONFORMING AMENDMENT.—Section
15 1862(a)(14) of the Social Security Act (42 U.S.C.
16 1395(y)(a)(14)) is amended by inserting “covered genetic
17 counseling services,” after “qualified psychologist serv-
18 ices,”.

19 (f) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The amendments made by
21 this section shall apply to services furnished on or
22 after January 1, 2024.

23 (2) IMPLEMENTATION.—The Secretary of
24 Health and Human Services may implement the

- 1 amendments made by this section by interim final
- 2 rule with comment period.

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