

117TH CONGRESS  
2D SESSION

# H. R. 8840

To amend title XVIII of the Social Security Act to waive cost-sharing for advance care planning services, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2022

Mr. BLUMENAUER 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

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## A BILL

To amend title XVIII of the Social Security Act to waive cost-sharing for advance care planning services, 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 “Improving Access to  
5 Advanced Care Planning Act”.

1 **SEC. 2. MEDICARE COVERAGE OF ADVANCE CARE PLAN-**  
2 **NING SERVICES.**

3 (a) ADVANCE CARE PLANNING SERVICES DE-  
4 FINED.—Section 1861 of the Social Security Act (42  
5 U.S.C. 1395x) is amended by adding at the end the fol-  
6 lowing new subsection:

7 “(III) ADVANCE CARE PLANNING SERVICES.—(1)  
8 The term ‘advance care planning services’ means a visit  
9 between an eligible practitioner (as defined in paragraph  
10 (2)) enrolled under section 1866(j) and an individual, a  
11 family member of such individual, or a surrogate des-  
12 ignated by such individual, to discuss—

13 “(A) the health care preferences of such indi-  
14 vidual;

15 “(B) future health care decisions that may need  
16 to be made by, or on behalf of, such individual; and

17 “(C) advance directives or other standard  
18 forms, which may be completed by, or on behalf of,  
19 such individual.

20 “(2) For purposes of paragraph (1), the term ‘eligible  
21 practitioner’ means—

22 “(A) a physician (as defined in subsection (r));

23 “(B) a physician assistant (as defined in sub-  
24 section (aa)(5));

25 “(C) a nurse practitioner (as defined in sub-  
26 section (aa)(5));

1           “(D) a clinical nurse specialist (as defined in  
2 subsection (aa)(5)); or

3           “(E) a clinical social worker (as defined in sub-  
4 section (hh)(1)) that possesses—

5                   “(i) a relevant care planning certification;

6           or

7                   “(ii) experience providing care planning  
8 conversations or similar services, as defined by  
9 the Secretary.”.

10       (b) NO APPLICATION OF COINSURANCE OR DEDUCT-  
11 IBLE UNDER PART B.—

12           (1) AMOUNT.—Section 1833(a)(1) of the Social  
13 Security Act (42 U.S.C. 1395l(a)(1)) is amended—

14                   (A) by striking “and (DD)” and inserting  
15 “(DD)”; and

16                   (B) by inserting before the semicolon at  
17 the end the following: “and (EE) with respect  
18 to advance care planning services (as defined in  
19 section 1861(l)), the amounts paid shall be  
20 100 percent of the lesser of the actual charge  
21 for the services or the amount determined  
22 under the fee schedule established under section  
23 1848(b)”.

24           (2) WAIVER OF APPLICATION OF DEDUCT-  
25 IBLE.—The first sentence of section 1833(b) of the

1 Social Security Act (42 U.S.C. 1395l(b)) is amend-  
2 ed—

3 (A) by striking “and (12)” and inserting  
4 “(12)”; and

5 (B) by inserting “, and (13) such deduct-  
6 ible shall not apply with respect to advance care  
7 planning services (as defined in section  
8 1861(III))” after “section 1861(s)(10)(A)”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to advance care planning services  
11 furnished on or after January 1, 2023.

12 **SEC. 3. HHS PROVIDER OUTREACH AND REPORT.**

13 (a) OUTREACH.—The Secretary of Health and  
14 Human Services (in this section referred to as the “Sec-  
15 retary”) shall conduct outreach to physicians and appro-  
16 priate non-physician practitioners participating under the  
17 Medicare program under title XVIII of the Social Security  
18 Act (42 U.S.C. 1395 et seq.) with respect to Medicare pay-  
19 ment for advance care planning counseling services fur-  
20 nished to individuals to discuss their health care pref-  
21 erences, identified by HCPCS codes 99497 and 99498 (or  
22 any successor to such codes). Such outreach shall include  
23 a new, comprehensive, one-time education initiative to in-  
24 form such physicians and practitioners of the addition of  
25 such services as a covered benefit under the Medicare pro-

1 gram, including the eligibility requirements for such serv-  
2 ices.

3 (b) HHS REPORT ON PROVIDER OUTREACH.—Not  
4 later than one year after the date of enactment of this  
5 Act, the Secretary of Health and Human Services shall  
6 submit to the Committee on Ways and Means and the  
7 Committee on Energy and Commerce of the House of  
8 Representatives and the Committee on Finance of the  
9 Senate a report on the outreach conducted under sub-  
10 section (a). Such report shall include a description of the  
11 methods used for such outreach.

12 **SEC. 4. MEDPAC STUDY AND REPORT ON PROVISION OF**  
13 **ADVANCE CARE PLANNING SERVICES AND**  
14 **USE OF ADVANCE CARE PLANNING CODES.**

15 (a) STUDY.—The Medicare Payment Advisory Com-  
16 mission (in this section referred to as the “Commission”)  
17 shall conduct a study on advance care planning services  
18 under the Medicare program under title XVIII of the So-  
19 cial Security Act (42 U.S.C. 1395 et seq.) analyzing—

20 (1) the furnishing of advance care planning  
21 services to Medicare beneficiaries, including—

22 (A) which providers are trained to provide  
23 such services;

24 (B) which providers are eligible to provide  
25 such services under the Medicare program;

1 (C) the length and frequency of the visits  
2 for furnishing such services; and

3 (D) any barriers related to providers fur-  
4 nishing, or beneficiaries being furnished, such  
5 services;

6 (2) the use of advance care planning Current  
7 Procedural Terminology (CPT) codes to bill for the  
8 furnishing of advance care planning services to  
9 Medicare beneficiaries, including—

10 (A) circumstances under which codes other  
11 than advance care planning CPT codes are used  
12 to bill for such services under the Medicare pro-  
13 gram and why providers do not use advance  
14 care planning CPT codes; and

15 (B) any barriers to providers using ad-  
16 vance care planning CPT codes to bill for such  
17 services under the Medicare program; and

18 (3) such other items determined appropriate by  
19 the Commission.

20 (b) REPORT.—Not later than June 30, 2024, the  
21 Commission shall submit to the Committee on Ways and  
22 Means and the Committee on Energy and Commerce of  
23 the House of Representatives, and the Committee on Fi-  
24 nance of the Senate, a report on the study conducted  
25 under subsection (a), including recommendations for legis-

- 1 lative and administrative action as the Commission deter-
- 2 mines appropriate.

