

118TH CONGRESS
1ST SESSION

S. 2459

To amend title XVIII of the Social Security Act to ensure appropriate supervision requirements for outpatient physical therapy and outpatient occupational therapy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2023

Mr. CARPER (for himself and Mr. BARRASSO) 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 ensure appropriate supervision requirements for outpatient physical therapy and outpatient occupational therapy, 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 “Enabling More of the
5 Physical and Occupational Workforce to Engage in Reha-
6 bilitation Act” or the “EMPOWER Act”.

1 **SEC. 2. ENSURING APPROPRIATE SUPERVISION REQUIRE-**
2 **MENTS FOR OUTPATIENT PHYSICAL THER-**
3 **APY AND OUTPATIENT OCCUPATIONAL THER-**
4 **APY.**

5 (a) IN GENERAL.—

6 (1) PAYMENT.—Section 1834(v)(1) of the So-
7 cial Security Act (42 U.S.C. 1395m(v)(1)) is amend-
8 ed, in the second sentence (as amended by sub-
9 section (a)), by inserting “, but in no case shall the
10 Secretary impose a supervision requirement on such
11 services that is different than any such requirement
12 under applicable State law” before the period at the
13 end.

14 (2) DEFINITION.—Section 1861(p) of the So-
15 cial Security Act, is amended, in the first sentence
16 of the flush matter following subparagraph (4)(B),
17 by inserting “, but in no case may those conditions
18 impose a supervision requirement that is different
19 than any such requirement under applicable State
20 law” after “as the Secretary may find necessary”.

21 (3) EFFECTIVE DATE.—The amendments made
22 this subsection shall take effect on July 1, 2024.

23 (4) IMPLEMENTATION.—Notwithstanding any
24 other provision of law, the Secretary may implement
25 the provisions of, and the amendments made by, this
26 subsection by program instruction or otherwise.

1 (b) GAO STUDY AND REPORT ON ACCESS TO THER-
2 APY SERVICES IN RURAL AND UNDERSERVED AREAS.—

3 (1) STUDY.—The Comptroller General of the
4 United States (in this section referred to as the
5 “Comptroller General”) shall conduct a study on
6 how the 15 percent payment differential under sec-
7 tion 1834(v) of the Social Security Act (42 U.S.C.
8 1395m(v)) for services furnished by occupational
9 therapy assistants and physical therapists assistants
10 has impacted access to occupational therapy and
11 physical therapy services in rural and medically un-
12 derserved areas across all settings

13 (2) REPORT.—Not later than December 31,
14 2025, the Comptroller General shall submit to Con-
15 gress a report on the study conducted under para-
16 graph (1), together with recommendations for such
17 legislation and administrative action as the Comp-
18 troller General determines appropriate.

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