

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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 SENATE OF THE UNITED STATES

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Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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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       Advance Care Planning Act”.

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

8       (a) ADVANCE CARE PLANNING SERVICES DE-  
9       FINED.—Section 1861 of the Social Security Act (42

1 U.S.C. 1395x) is amended by adding at the end the fol-  
2 lowing new subsection:

3 “(nnn) ADVANCE CARE PLANNING SERVICES.—

4 “(1) IN GENERAL.—The term ‘advance care  
5 planning services’ means services provided by an eli-  
6 gible practitioner (as defined in paragraph (2)) to an  
7 individual, a family member of such individual, a  
8 caregiver of such individual, or such individual’s rep-  
9 resentative, to discuss—

10 “(A) the health care preferences of such  
11 individual;

12 “(B) future health care decisions that may  
13 need to be made by, or on behalf of, such indi-  
14 vidual; and

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

18 “(2) ELIGIBLE PRACTITIONER.—For purposes  
19 of paragraph (1), the term ‘eligible practitioner’  
20 means—

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

23 “(B) a physician assistant (as defined in  
24 subsection (aa)(5));

1 “(C) a nurse practitioner (as defined in  
2 subsection (aa)(5));

3 “(D) a clinical nurse specialist (as defined  
4 in subsection (aa)(5));

5 “(E) a clinical social worker (as defined in  
6 subsection (hh)(1)) who possesses—

7 “(i) a relevant care planning certifi-  
8 cation; or

9 “(ii) experience providing care plan-  
10 ning conversations or similar services, as  
11 defined by the Secretary; or

12 “(F) any other practitioner determined ap-  
13 propriate by the Secretary.”.

14 (b) ENCOURAGING ADVANCE CARE PLANNING.—

15 (1) PAYMENT.—Section 1848(b) of the Social  
16 Security Act (42 U.S.C. 1395w-4(b)) is amended by  
17 adding at the end the following new paragraph:

18 “(13) ENCOURAGING ADVANCE CARE PLANNING  
19 SERVICES.—

20 “(A) IN GENERAL.—In order to encourage  
21 advance care planning services, the Secretary  
22 shall, subject to subparagraph (B), make pay-  
23 ments (as the Secretary determines to be ap-  
24 propriate) under this section for advance care  
25 planning services (as defined in section

1 1861(nnn)) furnished on or after the date of  
2 enactment of this paragraph.

3 “(B) POLICIES RELATED TO PAYMENT.—

4 In carrying out this paragraph, with respect to  
5 advance care planning services, the Secretary—

6 “(i) shall make payment to only 1 ap-  
7 plicable provider for such services fur-  
8 nished to an individual during a period;

9 “(ii) shall not make a payment under  
10 subparagraph (A) if such payment would  
11 be duplicative of a payment that is other-  
12 wise made under this title for such serv-  
13 ices; and

14 “(iii) shall not require that an annual  
15 wellness visit (as defined in section  
16 1861(hhh)) or an initial preventive phys-  
17 ical examination (as defined in section  
18 1861(ww)) be furnished as a condition of  
19 payment for such services.”.

20 (2) REMOVING COST-SHARING RESPONSIBIL-  
21 ITIES FOR ADVANCE CARE PLANNING SERVICES  
22 UNDER PART B OF THE MEDICARE PROGRAM.—Sec-  
23 tion 1833 of the Social Security Act (42 U.S.C.  
24 1395l) is amended—

25 (A) in subsection (a)(1)—

1 (i) in subparagraph (GG), by striking  
2 “and” at the end; and

3 (ii) in subparagraph (HH), by strik-  
4 ing the semicolon at the end and inserting  
5 the following: “, and (II) with respect to  
6 advance care planning services (as de-  
7 scribed in section 1848(b)(13)) furnished  
8 on or after January 1, 2027, the amount  
9 paid shall be an amount equal to 100 per-  
10 cent of the lesser of the actual charge for  
11 such services or the amount determined  
12 under such section;” and

13 (B) in subsection (b), in the first sen-  
14 tence—

15 (i) by striking “, and (13)” and in-  
16 serting “(13)”; and

17 (ii) by striking “section 1861(n).” and  
18 inserting the following: “section 1861(n),  
19 and (14) such deductible shall not apply  
20 with respect to advance care planning serv-  
21 ices (as described in section 1848(b)(13))  
22 furnished on or after January 1, 2027”.

23 (c) IMPROVEMENTS TO ADVANCE CARE PLANNING  
24 THROUGH TELEHEALTH.—Section 1834(m) of the Social  
25 Security Act (42 U.S.C. 1395m(m)) is amended—

1 (1) in paragraph (4)(C)—

2 (A) in clause (i), in the matter preceding  
3 subclause (I), by striking “and (7)” and insert-  
4 ing “(7), and (10)”; and

5 (B) in clause (ii)(X), by inserting “or  
6 paragraph (10)” before the period at the end;  
7 and

8 (2) by adding at the end the following new  
9 paragraph:

10 “(10) TREATMENT OF ADVANCE CARE PLAN-  
11 NING SERVICES.—The geographic requirements de-  
12 scribed in paragraph (4)(C)(i) shall not apply with  
13 respect to telehealth services furnished on or after  
14 the date of enactment of this paragraph for purposes  
15 of furnishing advance care planning services (as de-  
16 fined in section 1861(nnn)).”.

17 (d) ALIGNING DEFINITIONS.—Section 1861 of the  
18 Social Security Act (42 U.S.C. 1395x) is amended—

19 (1) in subsection (ww)—

20 (A) in paragraph (1), by striking “end-of-  
21 life planning (as defined in paragraph (3))” and  
22 inserting “advance care planning (as defined in  
23 subsection (nnn))”; and

24 (B) by striking paragraph (3); and

25 (2) in subsection (hhh)(2)—

1 (A) by redesignating subparagraph (I) as  
2 subparagraph (J);

3 (B) by redesignating subparagraph (I) as  
4 subparagraph (J); and

5 (C) by inserting after subparagraph (H)  
6 the following new subparagraph:

7 “(I) Advance care planning services (as defined  
8 in subsection (nnn)).”.

9 **SEC. 3. HHS PROVIDER OUTREACH.**

10 (a) OUTREACH.—The Secretary of Health and  
11 Human Services (in this section referred to as the “Sec-  
12 retary”) shall conduct outreach to physicians and appro-  
13 priate non-physician practitioners participating under the  
14 Medicare program under title XVIII of the Social Security  
15 Act with respect to Medicare payment for advance care  
16 planning services furnished to individuals to discuss their  
17 health care preferences, identified by Healthcare Common  
18 Procedure Coding System (HCPCS) codes 99497 and  
19 99498 (or any successor to such codes). Such outreach  
20 shall include a new, comprehensive, one-time education  
21 initiative to inform such physicians and practitioners of  
22 the addition of such services as a covered benefit under  
23 the Medicare program, including the requirements for ben-  
24 eficiary eligibility for such services.

1 (b) REPORT.—Not later than 1 year after the date  
2 of completion of the outreach described in subsection (a),  
3 the Secretary shall submit to the Committee on Finance  
4 of the Senate and the Committee on Ways and Means and  
5 the Committee on Energy and Commerce of the House  
6 of Representatives a report on the outreach conducted  
7 under subsection (a). Such report shall include a descrip-  
8 tion of the methods used for such outreach.

9 **SEC. 4. MEDPAC REPORT ON THE FURNISHING OF AD-**  
10 **VANCE CARE PLANNING SERVICES AND THE**  
11 **USE OF ADVANCE CARE PLANNING CODES**  
12 **UNDER THE MEDICARE PROGRAM.**

13 (a) STUDY.—The Medicare Payment Advisory Com-  
14 mission (in this section referred to as the “Commission”)  
15 shall conduct a study on advance care planning under the  
16 Medicare program under title XVIII of the Social Security  
17 Act. Such study shall include an analysis of—

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

20 (A) which providers are trained to provide  
21 such services;

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

24 (C) the length and frequency of the visits  
25 for furnishing such services; and



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

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

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

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

16 (3) such other items determined appropriate by  
17 the Commission.

18 (b) REPORT.—Not later than June 30, 2027, the  
19 Commission shall submit to the Committee on Finance of  
20 the Senate and the Committee on Ways and Means and  
21 the Committee on Energy and Commerce of the House  
22 of Representatives a report on the study conducted under  
23 subsection (a), together with recommendations for such  
24 legislation and administrative action as the Commission  
25 determines appropriate.