

# The Preserving Access to Home Health Act of 2022 (S. 4605/H.R. 8581)



The Preserving Access to Home Health Act of 2022 (S. 4605/H.R. 8581) would prevent proposed cuts to home health payment rates from taking effect prior to 2026. Any adjustment needed to ensure budget neutrality under the new home health payment system would still be made within the budget window.

## CURRENT AUTHORITY:

Current law includes a multi-step process intended to ensure budget neutrality as home health moved to a new payment system starting in 2020. CMS is required to adjust home health payment rates in order to offset over- or under-payments due to implementation of the Patient-Driven Groupings Model (PDGM), in order to achieve budget neutrality relative to the predecessor home health payment model. Specifically:

- Section 1895(b)(3)(A)(iv) requires the transition to the new payment model in 2020 to apply a budget neutral payment rate that “shall be calculated in a manner such that the estimated aggregate amount of expenditures ... is equal to the estimated aggregate amount of expenditures that otherwise would have been made” if the new payment model “had not been enacted;”
- Section 1895(b)(3)(D)(i) of the Act requires the Secretary to annually determine the impact of differences between assumed behavior changes, as described in section 1895(b)(3)(A)(iv) of the Act, and actual behavior changes on estimated aggregate expenditures under the Home Health Prospective Payment System with respect to years beginning with 2020 and ending with 2026;
- Section 1895(b)(3)(D)(ii) of the Act requires the Secretary, at a time and in a manner determined appropriate, through notice and comment rulemaking, to provide for one or more permanent increases or decreases to the standard prospective payment amount (or amounts) for applicable years, on a prospective basis, to offset for such increases or decreases in estimated aggregate expenditures, as determined under section 1895(b)(3)(D)(i) of the Act; and
- Section 1895(b)(3)(D)(iii) of the Act requires the Secretary, at a time and in a manner determined appropriate, through notice and comment rulemaking, to provide for one or more temporary increases or decreases to the payment amount for a unit of home health services for applicable years, on a prospective basis, to offset for such increases or decreases in estimated aggregate expenditures, as determined under section 1895(b)(3)(D)(i) of the Act. Such a temporary increase or decrease shall apply only with respect to the year for which such temporary increase or decrease is made, and the Secretary shall not take into account such a temporary increase or decrease in computing the payment amount for a unit of home health services for a subsequent year.

## THE LEGISLATION IS INTENDED TO:

1. Prevent CMS from implementing any permanent or temporary adjustment to home health prospective payment rates prior to 2026. This would delay cuts currently proposed by CMS for 2023 and beyond, allowing more time for CMS to refine its proposed approach to determining budget neutrality in home health.
2. Ensure that any adjustments CMS determines to be necessary to offset for increases or decreases in estimated aggregate expenditures are made by 2032, such that no cuts would be delayed beyond the end of the budget window.
3. The legislation is intended to be self-implementing. It would become effective as of the date of enactment and includes instructions allowing for implementation by program instruction or otherwise.