

Wed 7/29  
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**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 3200  
OFFERED BY MR. BRALEY OF IOWA  
(AINS-EC\_001)**

Amend section 1153 to read as follows:

1 **SEC. 1153. HOME HEALTH PAYMENT UPDATE.**

2 Section 1895(b)(3)(B)(ii) of the Social Security Act  
3 (42 U.S.C. 1395fff(b)(3)(B)(ii)) is amended—

4 (1) in subclause (IV), by striking “and”;

5 (2) by redesignating subclause (V) as subclause  
6 (VII); and

7 (3) by inserting after subclause (IV) the fol-  
8 lowing new subclauses: “(v) “(VI) 2010, 2011, and  
9 2012 the home health market basket increase per-  
10 centage minus 1.0 percentage points; and”.

11 “(V) 2007, 2008, and 2009, sub-  
12 ject to clause (v), the home health  
13 market basket percentage increase;

14 “(VI) 2010, 2011, and 2012 the  
15 home health market basket increase  
16 percentage minus 1.0 percentage  
17 points; and”.

Amend section 1154 to read as follows:

1 **SEC. 1154. PAYMENT ADJUSTMENTS FOR HOME HEALTH**  
2 **CARE.**

3 (a) **ADJUSTMENT FOR CASE MIX CHANGES.**—Sec-  
4 tion 1895(b)(3)(B) of the Social Security Act (42 U.S.C.  
5 1395fff(b)(3)(B)) is amended—

6 (1) in clause (iv), by striking “insofar as” and  
7 inserting “subject to clause (vi), in so far as”;

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

10 “(vi) **SPECIAL RULES FOR CASE MIX**  
11 **CHANGES FOR 2010 AND LATER.**—

12 “(I) **IN GENERAL.**—An adjust-  
13 ment under this subparagraph for  
14 2010 or a subsequent year shall only  
15 be made using standards developed by  
16 the Secretary consistent with the  
17 processes and criteria described in  
18 clause (vii) taking into account the  
19 considerations described in clause  
20 (viii).

21 “(II) **SUSPENSION OF ADJUST-**  
22 **MENT FOR CASE MIX CHANGES.**—No  
23 adjustments shall be made under  
24 clause (iv) until completion of the

1 phase-in of rate rebasing under sub-  
2 paragraph (A)(i)(IV).

3 “(vii) PROCESSES AND CRITERIA FOR  
4 EVALUATING CHANGES IN CASE MIX.—For  
5 purposes of clause (vi), the processes and  
6 criteria described in this clause are the fol-  
7 lowing:

8 “(I) In developing standards re-  
9 ferred to in such clause, the Secretary  
10 shall convene a Technical Advisory  
11 Group consisting of stakeholders, in-  
12 cluding individuals and organizations  
13 representing the interests of Medicare  
14 beneficiaries, the National Association  
15 for Home Care & Hospice, and the  
16 Visiting Nurse Associations of Amer-  
17 ica, health care academia, and health  
18 care professionals, in equal numbers  
19 from each and limited to parties with-  
20 out an existing contractual relation-  
21 ship with the Secretary, to advise the  
22 Secretary concerning the establish-  
23 ment of such standards in order to  
24 distinguish between real changes in  
25 case mix and changes in coding or

1 classification of different units of  
2 services that do not reflect real  
3 changes in case mix. The Technical  
4 Advisory Group shall be given the op-  
5 portunity to review and comment on  
6 any proposed rulemaking or final de-  
7 termination by the Secretary on such  
8 standards prior to such rulemaking or  
9 determination.

10 “(II) If the Secretary engages an  
11 outside contractor to participate in  
12 the evaluation of case mix changes de-  
13 scribed in subclause (I), the Secretary  
14 shall only utilize a contractor that has  
15 not previously participated in the de-  
16 sign and establishment of the case  
17 mix adjustment factors under this  
18 subparagraph.

19 “(III) If the Secretary deter-  
20 mines that any increase in case mix  
21 relates to changes in the volume or  
22 nature of services provided to home  
23 health services patients, the Secretary  
24 shall evaluate that increase through  
25 actual review of claims and services

1 and shall not use any proxy or surro-  
2 gate for determining whether the  
3 change in volume or nature of services  
4 is reasonable and necessary.

5 “(IV) The Secretary shall estab-  
6 lish the standards referred to in  
7 clause (vi) by regulation.

8 “(V) With respect to the estab-  
9 lishment of such standards, the Sec-  
10 retary shall make public all data, re-  
11 ports, and supporting materials, in-  
12 cluding any comments by the Tech-  
13 nical Advisory Group pursuant to sub-  
14 clause (A), regarding the standards at  
15 the time of notice of such standards.

16 “(viii) CONSIDERATIONS FOR EVALU-  
17 ATING CHANGES IN CASE MIX.—For pur-  
18 poses of clause (vi), the criteria described  
19 in this clause are the following:

20 “(I) The impact of changes in  
21 the program under this title that may  
22 affect the characteristics of individ-  
23 uals receiving home health services.

24 “(II) The impact of changes in  
25 the provision of health care services

1 by providers of services other than  
2 home health agencies.

3 “(III) Distinctions in the charac-  
4 teristics of individuals initiating home  
5 health services from the community  
6 and institutional care settings.

7 “(IV) Whether any changes in  
8 coding resulted in a change in expend-  
9 itures overall annually and dis-  
10 regarding changes in coding that do  
11 not have an overall expenditure im-  
12 pact.

13 “(V) Any other factors deter-  
14 mined appropriate by the Secretary in  
15 consultation with the Technical Advi-  
16 sory Group under clause (vii).”

17 (b) REBASING HOME HEALTH PROSPECTIVE PAY-  
18 MENT AMOUNT.—Section 1895(b)(3)(A) of the Social Se-  
19 curity Act (42 U.S.C. 1395fff(b)(3)(A)) is amended—

20 (1) in clause (i)—

21 (A) in subclause (III), by inserting “and  
22 before 2013” after “after the period described  
23 in subclause (II)”; and

24 (B) by inserting after subclause (III) the  
25 following new subclauses:

1                   “(IV) Consistent with clause (iii),  
2                   for 2013, such amount (or amounts)  
3                   shall be adjusted by a uniform per-  
4                   centage determined to be appropriate  
5                   by the Secretary based on analysis of  
6                   factors such as changes in the average  
7                   number and types of visits in an epi-  
8                   isode, changes in the intensity of visits  
9                   in an episode, growth in cost per epi-  
10                  isode, and other factors that the Sec-  
11                  retary considers relevant.”;

12                  (2) by adding at the end the following clause:

13                   “(iii) SPECIAL RULES.—For purposes  
14                   of clause (i)(IV) the following apply for  
15                   computation of a standard prospective pay-  
16                   ment amount (or amounts):

17                   “(I) In evaluating the cost per  
18                   episode, the Secretary shall include all  
19                   usual and customary business costs  
20                   consistent with standards under the  
21                   Internal Revenue Code, including,  
22                   telehealth services, the use of care dis-  
23                   ciplines outside of those listed at  
24                   1861(m), and usual business oper-  
25                   ating expenses.

1                   “(II) The rates shall be set at  
2 levels to reasonably reflect the needs  
3 of normal businesses for operating  
4 capital and operating margins and in  
5 no case shall be lower than average  
6 cost plus 5 percent.

7                   “(III) The rates shall be adjusted  
8 to achieve budget neutrality to the  
9 home health expenditures as esti-  
10 mated by the Congressional Budget  
11 Office in its evaluation of this clause  
12 and clause (i)(III).

13                   “(IV) The rates under such  
14 clause shall be implemented over a  
15 four year period from 2013 to 2016  
16 as follows:

17                   “(aa) For 2013, by blending  
18 25 percent of the rates deter-  
19 mined under clause (i)(IV) with  
20 75 percent of the rates that  
21 would be paid in the absence of  
22 such clause.

23                   “(bb) For 2014, by blending  
24 50 percent of the rates deter-  
25 mined under clause (i)(IV) with

1 50 percent of the rates that  
2 would be paid in the absence of  
3 such clause;

4 “(cc) For 2015, by blending  
5 75 percent of the rates deter-  
6 mined under clause (i)(IV) with  
7 25 percent of the rates that  
8 would be paid in the absence of  
9 such clause; and

10 “(dd) For 2016, 100 percent  
11 of the rates determined under  
12 clause (i)(IV) shall apply.”.

13 (e) STUDY AND REPORT REGARDING THE DEVELOP-  
14 MENT OF HOME HEALTH PAYMENT REFORMS TO SE-  
15 CURE ACCESS TO CARE AND QUALITY SERVICES.—

16 (1) STUDY.—The Secretary of Health and  
17 Human Services shall conduct a study to evaluate  
18 the variations in costs of home health services and  
19 develop recommendations for payment system re-  
20 forms that would improve the alignment of the  
21 amount of payment with the efficient operating costs  
22 and capital needs of home health agencies within the  
23 specific service area of the home health agencies.

24 (2) CONSIDERATIONS.—In conducting the  
25 study, the Secretary shall consider such factors as

1 population density, variations in service costs to  
2 Medicare-Medicaid dual eligible beneficiaries, lan-  
3 guage barriers, security costs, staffing shortages,  
4 cost variations related to the provision of employer-  
5 based health insurance, and the provision of uncom-  
6 pensated care.

7 (3) RECOMMENDATIONS.—The study shall in-  
8 clude recommendations on payment system reforms  
9 that include consideration of provider specific adjust-  
10 ments, the application of rate exceptions in extraor-  
11 dinary circumstances, exemption from the prospec-  
12 tive payment system for sole community providers or  
13 critical access providers, the use of payment risk  
14 corridors to address profits and losses, quality of  
15 care incentives and penalties, and improvements in  
16 the application of a wage index.

17 (4) PARTICIPATION OF STAKEHOLDERS.—The  
18 Secretary shall include the participation of stake-  
19 holders in the study, including representatives from  
20 associations representing the interests of home  
21 health agencies and beneficiaries. The Secretary  
22 shall include representatives of the Medicare Pay-  
23 ment Advisory Commission, the Government Ac-  
24 countability Office, and the National Institutes of  
25 Health in its development and design of the study.

1           (5) REPORT.—Not later than January 1, 2011,  
2           the Secretary shall submit to Congress and make  
3           publicly available a report on its findings and rec-  
4           ommendations under this subsection. The report  
5           shall include a timetable for the potential implemen-  
6           tation of the recommendations and a statement as to  
7           which recommendations require a change under title  
8           XVIII of the Social Security Act and those that can  
9           be implemented under the regulatory authority of  
10          the Secretary.

Amend section 1155 to read as follows:

11   **SEC. 1155. INCORPORATING PRODUCTIVITY ADJUSTMENT**  
12                           **INTO MARKET BASKET UPDATE FOR HOME**  
13                           **HEALTH SERVICES.**

14          Section 1895(b)(3)(B) of the Social Security Act (42  
15   U.S.C. 1395fff(b)(3)(B)) is amended—

16           (1) in clause (iii), by inserting “beginning in  
17          2017, including being subject to the productivity ad-  
18          justment           described           in           section  
19          1886(b)(3)(B)(iii)(II))” after “in the same manner”;  
20          and

21           (2) in clause (v)(I), by inserting “(but not  
22          below 0)” after “reduced”.

Redesignate sections 1156, 1157, and 1158 as sections 1159E, 1159F, and 1159G, respectively, and insert after section 1155 the following:

1 **SEC. 1156. REINSTATEMENT OF RURAL SERVICE ADJUST-**  
2 **MENT.**

3 Section 421(a) of the Medicare Prescription Drug,  
4 Improvement, and Modernization Act of 2003 (Public Law  
5 108-173; 117 Stat. 2283), as amended by section 5201(b)  
6 of the Deficit Reduction Act of 2005 (Public Law 109-  
7 171; 120 Stat. 46), is amended—

8 (1) by striking “, and episodes” and insert-  
9 ing “, episodes”; and

10 (2) by inserting “and a 3 percent increase in  
11 payment amount for episodes and visits ending on or  
12 after January 1, 2010, and before January 1,  
13 2016,” after “January 1, 2007,”.

14 **SEC. 1157. REFORM APPLICATION OF HOME HEALTH SERV-**  
15 **ICES OUTLIER ADJUSTMENT.**

16 (a) IN GENERAL.—Section 1895(b)(3)(C) of the So-  
17 cial Security Act (42 U.S.C. 1395fff(b)(3)(C)) is amended  
18 by striking “the aggregate increase in payments resulting  
19 from application of paragraph (5) (relating to outliers).”  
20 and inserting “5 percent of the total payments projected  
21 or estimated to be made based on the prospective payment  
22 system under this subsection in that year.”.

1 (b) OUTLIER PAYMENTS.—(b) Section 1895(b)(5) of  
2 the Social Security Act (42 U.S.C. 1395fff(b)(5)) is  
3 amended—

4 (1) by striking “5 percent” and inserting “3  
5 percent”; and

6 (2) by adding at the end the following new sen-  
7 tences: “The Secretary shall limit the outlier pay-  
8 ments to a home health agency to no greater than  
9 10 percent of the total payments made under this  
10 section in that year. No outlier payment under this  
11 paragraph shall be made until the close of the home  
12 health agency’s cost reporting year under procedures  
13 promulgated by the Secretary.”.

14 **SEC. 1158. COMMUNITY-BASED CHRONIC CARE MANAGE-**  
15 **MENT.**

16 (a) PILOT PROGRAM AUTHORIZED.—The Secretary  
17 of Health and Human Services (in this section referred  
18 to as the “Secretary”) shall initiate and carry out pilot  
19 projects (each in this section referred to as a ‘pilot  
20 project’) in a variety of geographic locations as set out  
21 herein that provide Medicare coverage of chronic disease  
22 management by home health agencies that will—

23 (1) enhance health outcomes for individuals en-  
24 rolled under parts A and B of title XVIII of the So-  
25 cial Security Act; and

1           (2) reduce part A and B program expenditures  
2           for institutional and other providers, practitioners,  
3           and suppliers of health care items and services.

4           (b) INDIVIDUALS WITHIN THE SCOPE OF PILOT.—

5           (1) IN GENERAL.—The Secretary shall specify,  
6           in accordance with this subsection, the criteria for  
7           identifying those individuals who shall be considered  
8           within the scope of the pilot projects under this sec-  
9           tion for purposes of the incentive payments under  
10          subsection (e) and for assessment of the effective-  
11          ness of the home health agency in achieving the ob-  
12          jectives of the section. The individual must have at  
13          least 1 of the following present:

14                   (A) More than one chronic disease.

15                   (B) Dementia, as defined in the most re-  
16                   cent Diagnostic and Statistical Manual of Men-  
17                   tal Disorders, and at least 1 chronic condition.

18                   (C) Any other condition, as determined by  
19                   the Secretary.

20          (2) PARTICIPATION OF INDIVIDUALS NOT RE-  
21          CEIVING HOME HEALTH SERVICES.—Participation in  
22          these pilot projects shall be limited to individuals  
23          who received home health services under part A or  
24          part B of title XVIII of the Social Security Act  
25          within 60 days of the start of services under this

1 section and are no longer receiving home health  
2 services under such part A or part B.

3 (3) WAIVER.—The Secretary may waive the  
4 qualifications for Medicare coverage of home health  
5 services under section 1814(a)(2)(C), including the  
6 requirement that the individual is confined to his  
7 home to the extent necessary to further the purpose  
8 and intent of this pilot. Notwithstanding any waiver  
9 under this subpart, individuals participating in a  
10 pilot herein shall not be limited to individuals who  
11 are confined to home.

12 (c) LOCATION AND NUMBER OF PILOT SITES.—

13 (1) LOCATION.—At least one of the pilot  
14 projects must be located in a primarily rural area,  
15 at least one of such projects must be located pri-  
16 marily metropolitan area, and at least one of such  
17 projects must be located in the state of Arkansas.  
18 The Secretary shall consider the prevalence of chron-  
19 ic diseases and density of Medicare beneficiaries in  
20 the potential location.

21 (2) NUMBER.—There shall be at least 3 and no  
22 more than 10 pilot projects initially, subject to ex-  
23 pansion under subsection (h). At least one pilot shall  
24 be a not-for-profit home health agency that is inte-

1           grated with a comprehensive health system providing  
2           inpatient, outpatient, and physician services.

3           (d) QUALIFICATIONS AND SERVICES OF THE HOME  
4 HEALTH AGENCY.—

5           (1) IN GENERAL.—Each pilot home health  
6           agency under this section shall have the capacity to  
7           provide the following:

8                   (A) A registered nurse Case Manager expe-  
9                   rienced in care coordination.

10                   (B) Clinical Nurse Specialists credentialed  
11                   in the targeted chronic diseases.

12                   (C) Home telehealth monitoring with con-  
13                   tinual data development and periodic data eval-  
14                   uation.

15                   (D) Direct patient visits in the home as  
16                   needed.

17                   (E) Patient education, care coordination,  
18                   and care; management that is evidence-based  
19                   and data supported.

20                   (F) Active coordination and integration  
21                   with the patient's physician.

22                   (G) Any other criteria considered reason-  
23                   able and appropriate by the Secretary

24           (2) CHRONIC CARE MANAGEMENT SERVICES.—  
25           Each home health agency under the pilot program

1 under this section shall provide all the services de-  
2 scribed in paragraph (1) as needed by the individual  
3 patient. The home health agency shall not be respon-  
4 sible to provide any necessary medical supplies or  
5 durable medical equipment.

6 (e) PAYMENTS.—

7 (1) IN GENERAL.—Subject to paragraph (2),  
8 the Secretary shall pay to each home health agency  
9 participating in a pilot project an amount for each  
10 year under the pilot project equal to at least 50 per-  
11 cent of the reduction in expenditures under such  
12 parts realized for such year due to the agency's par-  
13 ticipation in the project. The computation of such  
14 reduction shall be based on the Secretary's estimate  
15 of the amount by which the amount of expenditures  
16 under such parts for the individuals under the pilot  
17 project is less than the amount that would have been  
18 expended under such parts for such individuals if  
19 the project were not implemented. In determining  
20 the estimate, the Secretary may use estimates for  
21 expenditures for individuals who are not partici-  
22 pating in the project and who are comparable to in-  
23 dividuals participating in the project.

24 (2) LIMITATION ON EXPENDITURES.—The Sec-  
25 retary shall limit incentive payments under this sub-

1 section as necessary to ensure that the aggregate ex-  
2 penditures under title XVIII of the Social Security  
3 Act (inclusive of such incentive payments and pay-  
4 ments under paragraph (3)) with respect to patients  
5 within the scope of the pilot projects do not exceed  
6 the amount that the Secretary estimates would be  
7 expended under such title if the pilot projects under  
8 this section were not implemented.

9 (3) ADDITIONAL PAYMENTS.—In addition to  
10 the incentive payment under paragraph (1), the Sec-  
11 retary shall pay a home health agency under this  
12 pilot—

13 (A) an amount equivalent to the skilled  
14 nursing per visit payment amounts established  
15 under section 484.230 of title 42 of the Code  
16 of Federal Regulations, for each face-to-face  
17 visit with the patient by the Case Manager or  
18 Clinical Nurse Specialist; and

19 (B) an amount, negotiated between the  
20 Secretary and a pilot home health agency, for  
21 daily monitoring of home telehealth services  
22 provided to an eligible individual participant in  
23 the pilot.

24 (f) CONSTRUCTION.—Nothing in this section shall  
25 limit the amount of payment (other than under subsection

1 (e) a home health agency may receive for home health  
2 services provided to eligible individuals under part A or  
3 part B of title XVIII of the Social Security Act.

4 (g) IMPLEMENTATION DATE.—The Secretary shall  
5 implement the pilot projects authorized by this section no  
6 later than nine months after the date of the enactment  
7 of this Act.

8 (h) EXPANSION OF THE PILOT PROJECT.—If the  
9 Secretary determines that any of the pilot projects—

10 (1) result in a decrease in Federal expenditures  
11 under title XVIII of the Social Security Act; and

12 (2) maintain or enhance health outcomes for  
13 the participating beneficiaries;

14 the Secretary may initiate or extend comparable projects  
15 in additional areas.

16 (i) EFFECTIVE DATE.—The Secretary shall initiate  
17 the pilot program under this section no later than January  
18 1, 2010, and shall select pilot participating home health  
19 agencies no later than July 1, 2010.

20 **SEC. 1159. MORATORIUM ON NEW HOME HEALTH AGEN-**  
21 **CIES.**

22 (a) MORATORIUM ON THE ESTABLISHMENT OF A  
23 HOME HEALTH AGENCY.—

24 (1) IN GENERAL.—During the 2 year period be-  
25 ginning on the date of the enactment of this Act, the

1 Secretary of Health and Human Services shall im-  
2 pose a moratorium for purposes of the Medicare pro-  
3 gram under title XVIII of the Social Security Act,  
4 subject to paragraphs (2) and (3), on the establish-  
5 ment of a home health agency, other than an exist-  
6 ing home health agency.

7 (2) EXCEPTION FOR CERTAIN HOME HEALTH  
8 AGENCIES.— The moratorium under paragraph (1)  
9 shall not apply to a home health agency that as of  
10 the date of the enactment of this Act—

11 (A) began the admission of patients as re-  
12 quired to apply for participation as a home  
13 health agency under title XVIII of the Social  
14 Security Act, on or before the date of the enact-  
15 ment of this Act;

16 (B) has obtained an approved certificate of  
17 need in a State where one is required on or be-  
18 fore the date of the enactment of this Act; or

19 (C) the Secretary or the appropriate State  
20 agency where the home health agency is located  
21 determines that access-to-care issues for Medi-  
22 care beneficiaries will result if the home health  
23 agency is not certified for participation in the  
24 Medicare program.

1           (3) BRANCH OFFICES AND CHANGES IN GEO-  
2           GRAPHIC SERVICE AREAS DURING MORATORIUM.—

3           (A) IN GENERAL.—Subject to subpara-  
4           graph (B), the moratorium under paragraph  
5           (1) shall not apply to—

6                   (i) the establishment of a branch of-  
7                   fice by an existing home health agency; or

8                   (ii) a change in the geographic service  
9                   area of an existing home health agency.

10           (B) APPLICATION OF EXISTING STAND-  
11           ARDS.— Nothing in this paragraph shall be  
12           considered to establish or modify existing stand-  
13           ards for approval of a branch office or change  
14           in geographic service area.

15           (4) EXISTING HOME HEALTH AGENCY DE-  
16           FINED.—For purposes of this subsection, the term  
17           “existing” means, with respect to a home health  
18           agency, a home health agency that received payment  
19           under the provisions of subpart E of part 484 of  
20           title 42, Code of Federal Regulations, as of the date  
21           of the enactment of this Act.

1 **SEC. 1159A. ACCESS TO TELEHEALTH SERVICES IN THE**  
2 **HOME.**

3 (a) IN GENERAL.—Section 1895 of the Social Secu-  
4 rity Act (42 U.S.C. 1395fff(e)) is amended by adding at  
5 the end the following new subsection:

6 “(f) COVERAGE OF TELEHEALTH SERVICES.—

7 “(1) IN GENERAL.—The Secretary shall include  
8 telehealth services that are furnished via a tele-  
9 communication system by a home health agency to  
10 an individual receiving home health services under  
11 section 1814(a)(2)(C) or 1835(a)(2)(A) as a home  
12 health visit for purposes of eligibility and payment  
13 under this title if the telehealth services—

14 “(A) are ordered as part of a plan of care  
15 certified by a physician pursuant to section  
16 1814(a)(2)(C) or 1835(a)(2)(A);

17 “(B) do not substitute for in-person home  
18 health services ordered as part of a plan of care  
19 certified by a physician pursuant to such re-  
20 spective section; and

21 “(C) are considered the equivalent of a  
22 visit under criteria developed by the Secretary  
23 under paragraph (3).

24 “(2) PHYSICIAN CERTIFICATION.—Nothing in  
25 this section shall be construed as waiving the re-  
26 quirement for a physician certification under section

1 1814(a)(2)(C) or 1835(a)(2)(A) for the payment for  
2 home health services, whether or not furnished via  
3 a telecommunication system.

4 “(3) CRITERIA FOR VISIT EQUIVALENCY.—

5 “(A) STANDARDS.—The Secretary shall es-  
6 tablish standards and qualifications for catego-  
7 rizing and coding under IICPCS codes tele-  
8 health services under this subsection as equiva-  
9 lent to an in-person visit for purposes of eligi-  
10 bility and payment for home health services  
11 under this title. In establishing the standards  
12 and qualifications, the Secretary may distin-  
13 guish between varying modes and modalities of  
14 telehealth services and shall consider—

15 “(i) the nature and amount of service  
16 time involved; and

17 “(ii) the functions of the telecommuni-  
18 cations.

19 “(B) LIMITATION.—A telecommunication  
20 that consists solely of a telephone audio con-  
21 versation, facsimile, electronic text mail, or con-  
22 sultation between two health care practitioners  
23 is not considered a visit under this subsection.

24 “(4) TELEHEALTH SERVICE.—

1           “(A) DEFINITION.—For purposes of this  
2           subsection, the term ‘telehealth service’ means  
3           technology-based professional consultations, pa-  
4           tient monitoring, patient training services, clin-  
5           ical observation, assessment, or treatment, and  
6           any additional services that utilize technologies  
7           specified by the Secretary as HCPCS codes de-  
8           veloped under paragraph (3).

9           “(B) UPDATE OF HCPCS CODES.—The  
10          Secretary shall establish a process for the up-  
11          dating, not less frequently than annually, of  
12          HCPCS codes for telehealth services.

13          “(5) CONDITIONS FOR PAYMENT AND COV-  
14          ERAGE.—Nothing in this subsection shall be con-  
15          strued as waiving any condition of payment under  
16          sections 1814(a)(2)(C) or 1835(a)(2)(A) or exclu-  
17          sion of coverage under section 1862(a)(1).

18          “(6) COST REPORTING.—Notwithstanding any  
19          provision to the contrary, the Secretary shall provide  
20          that the costs of telehealth services under this sub-  
21          section shall be reported as a reimbursable cost cen-  
22          ter on any cost report submitted by a home health  
23          agency to the Secretary.”.

24          (b) EFFECTIVE DATE.—

1           (1) IN GENERAL.—The amendment made by  
2           subsection (a) shall apply to telehealth services fur-  
3           nished on or after October 1, 2010. The Secretary  
4           of Health and Human Services shall develop and im-  
5           plement criteria and standards under section  
6           1895(f)(3) of the Social Security Act, as amended  
7           by subsection (a), by no later than July 1, 2010.

8           (2) ALTERNATE.—In the event that the Sec-  
9           retary has not complied with the deadlines under  
10          paragraph (1), beginning October 1, 2010, a home  
11          health visit for purposes of eligibility and payment  
12          under title XVIII of the Social Security Act shall in-  
13          clude telehealth services under section 1895(f) of  
14          such Act with the aggregate of telecommunication  
15          encounters in a 24-hour period considered the equiv-  
16          alent of one in-person visit.

17 **SEC. 1159B. COVERAGE OF HOME HEALTH REMOTE PA-**  
18 **TIENT MANAGEMENT SERVICES FOR CHRON-**  
19 **IC HEALTH CONDITIONS.**

20 (a) **MEDICARE COVERAGE.—**

21           (1) IN GENERAL.—Section 1861(s)(2) of the  
22           Social Security Act (42 U.S.C. 1395x(s)(2)), as  
23           amended by section 1308, is amended—

24           (A) in subparagraph (GG), by striking  
25           ‘and’ at the end;

1 (B) in subparagraph (III), by adding  
2 'and' at the end; and

3 (C) by inserting after subparagraph (III)  
4 the following new subparagraph:

5 “(II) home health remote patient manage-  
6 ment services (as defined in subsection (III));”.

7 (2) SERVICES DESCRIBED.—Section 1861 of  
8 such Act (42 U.S.C. 1395x), as amended by section  
9 1308, is amended by adding at the end the following  
10 new subsection:

11 “(III) HOME HEALTH REMOTE PATIENT MANAGE-  
12 MENT SERVICES FOR CHRONIC HEALTH CONDITIONS.—

13 (1) The term ‘remote patient management services’ means  
14 the remote monitoring, evaluation, and management of an  
15 individual with a covered chronic health condition (as de-  
16 fined in paragraph (2)) through the utilization of a system  
17 of technology that allows a remote interface to collect and  
18 transmit clinical data between the individual and a home  
19 health agency, in accordance with a plan of care estab-  
20 lished by a physician, for the purposes of clinical review  
21 or response by the home health agency. Such term, with  
22 respect to an individual, does not include any remote mon-  
23 itoring, evaluation, or management of the individual if  
24 such remote monitoring, evaluation, or management, re-

1 spectively, is included as a home health visit under section  
2 1895(f) for purposes of payment under this title.

3 “(2) For purposes of paragraph (1), the term ‘cov-  
4 ered chronic health condition’ means any chronic health  
5 condition specified by the Secretary.”.

6 (b) PAYMENT.—

7 (1) IN GENERAL.—Section 1834 of such Act  
8 (42 U.S.C. 1395l) is amended by adding at the end  
9 the following new subsection:

10 “(n) HOME HEALTH REMOTE PATIENT MANAGE-  
11 MENT SERVICES.—

12 “(1) IN GENERAL.— The Secretary shall estab-  
13 lish a fee schedule for home health remote patient  
14 management services (as defined in section  
15 1861(III)) for which payment is made under this  
16 part. The fee schedule shall be designed in a manner  
17 so that, on an annual basis, the aggregate payment  
18 amounts under this title for such services approxi-  
19 mates 50 percent of the savings amount described in  
20 paragraph (2) for such year.

21 “(2) SAVINGS DESCRIBED.—

22 “(A) IN GENERAL.—For purposes of para-  
23 graph (1), the savings amount described in this  
24 paragraph for a year is the amount (if any), as

1 estimated by the Secretary before the beginning  
2 of the year, by which—

3 “(i) the product described in subpara-  
4 graph (B) for the year, exceeds

5 “(ii) the total payments under this  
6 part and part A for items and services fur-  
7 nished to individuals receiving home health  
8 remote patient management services at any  
9 time during the year.

10 “(B) PRODUCT DESCRIBED.—The product  
11 described in this subparagraph for a year is the  
12 product of—

13 “(i) the average per capita total pay-  
14 ments under this part and part A for items  
15 and services furnished during the year to  
16 individuals not described in subparagraph  
17 (A)(ii), adjusted to remove case mix dif-  
18 ferences between such individuals not de-  
19 scribed in such subparagraph and the indi-  
20 viduals described in such subparagraph;  
21 and

22 “(ii) the number of individuals under  
23 subparagraph (A)(ii) for the year.

24 “(3) LIMITATION.—In no case may payments  
25 under this subsection result in the aggregate expend-

1       itures under this title (including payments under  
2       this subsection) exceeding the amount that the Sec-  
3       retary estimates would have been expended if cov-  
4       erage under this title for home health patient man-  
5       agement services was not provided.

6           “(4) CLARIFICATION.—Payments under the fee  
7       schedule under this subsection, with respect to an  
8       individual, shall be in addition to any other pay-  
9       ments that a home health agency would otherwise  
10      receive under this title for items and services fur-  
11      nished to such individual and shall have no effect on  
12      the amount of such other payments.

13          “(5) PAYMENT TRANSFER.—here shall be  
14      transferred from the Federal Hospital Insurance  
15      Trust Fund under section 1817 to the Federal Sup-  
16      plementary Medical Insurance Trust Fund under  
17      section 1841 each year an amount equivalent to the  
18      product of—

19           “(A) expenditures under this subsection  
20      for the year, and

21           “(B) the ratio of the portion of the savings  
22      described in paragraph (2) for the year that are  
23      attributable to part A, to the total savings de-  
24      scribed in such paragraph for the year.”.

1           (2) CONFORMING AMENDMENT.—Section  
2           1833(a)(1) of such Act (42 U.S.C. 1395l(1)), as  
3           amended by section 1308(a)(4), is amended—

4                   (A) by striking ‘and (X)’ and inserting  
5                   ‘(X)’; and

6                   (B) by inserting before the semicolon at  
7                   the end the following: “, and (Y) with respect  
8                   to home health remote patient management  
9                   services (as defined in section 1861(l)), the  
10                   amounts paid shall be the amount determined  
11                   under the fee schedule established under section  
12                   1834(n)”.

13           (c) EXPANSION OF HOME HEALTH REMOTE PA-  
14           TIENT MANAGEMENT SERVICES COVERAGE TO ADDI-  
15           TIONAL CHRONIC HEALTH CONDITIONS.—The Secretary  
16           of Health and Human Services is authorized to carry out  
17           pilot projects for purposes of determining the extent to  
18           which the coverage under title XVIII of the Social Security  
19           Act of home health remote patient management services  
20           (as defined in paragraph (1) of section 1861(l) of such  
21           Act, as added by subsection (a)) should be extended to  
22           individuals with chronic health conditions other than those  
23           initially specified by the Secretary under paragraph (2)  
24           of such section.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to services furnished on or after  
3 January 1, 2010.

4 **SEC. 1159C. ESTABLISHMENT OF PROGRAM INTEGRITY**  
5 **STANDARDS REGARDING HOME HEALTH**  
6 **AGENCY OWNERS AND MANAGERS.**

7 Section 1891 of the Social Security Act (42 U.S.C.  
8 1395bbb) is amended to add the following new provision:

9 “(h) CREDENTIALING CRITERIA FOR OWNERS AND  
10 MANAGING EMPLOYEES.—The Secretary shall develop  
11 and implement, by no later than January 1, 2011, condi-  
12 tions of participation for home health agencies that in-  
13 clude reasonable and appropriate standards for back-  
14 ground screening and competencies of owners and man-  
15 aging employees of a home health agency. The competency  
16 standards shall include an evaluation and testing of the  
17 owner or manager’s knowledge Medicare participation re-  
18 quirements, benefit coverage standards, and reimburse-  
19 ment policies.”.

20 **SEC. 1159D. SECURING HOME HEALTH SERVICES UNDER**  
21 **MEDICARE ADVANTAGE.**

22 The first sentence of section 1861(m) of the Social  
23 Security Act (42 U.S.C. 1395x(m)) is amended by insert-

1 ing “on an 60-day episodic basis” after “furnished to an  
2 individual,”.

