

AMENDMENT TO H.R. 3962
OFFERED BY MR. BRALEY OF IOWA AND MR.
WELCH OF VERMONT

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:

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

12 “(VI) 2010, 2011, and 2012 the
13 home health market basket increase
14 percentage minus 1.0 percentage
15 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”; and

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
25 phase-in of rate rebasing under sub-
26 paragraph (A)(i)(IV).

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

6 “(I) In developing standards re-
7 ferred to in such clause, the Secretary
8 shall convene a Technical Advisory
9 Group consisting of stakeholders, in-
10 cluding individuals and organizations
11 representing the interests of Medicare
12 beneficiaries, the National Association
13 for Home Care & Hospice, and the
14 Visiting Nurse Associations of Amer-
15 ica, health care academia, and health
16 care professionals, in equal numbers
17 from each and limited to parties with-
18 out an existing contractual relation-
19 ship with the Secretary, to advise the
20 Secretary concerning the establish-
21 ment of such standards in order to
22 distinguish between real changes in
23 case mix and changes in coding or
24 classification of different units of
25 services that do not reflect real

1 changes in case mix. The Technical
2 Advisory Group shall be given the op-
3 portunity to review and comment on
4 any proposed rulemaking or final de-
5 termination by the Secretary on such
6 standards prior to such rulemaking or
7 determination.

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

17 “(III) If the Secretary deter-
18 mines that any increase in case mix
19 relates to changes in the volume or
20 nature of services provided to home
21 health services patients, the Secretary
22 shall evaluate that increase through
23 actual review of claims and services
24 and shall not use any proxy or surro-
25 gate for determining whether the

1 change in volume or nature of services
2 is reasonable and necessary.

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

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

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

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

22 “(II) The impact of changes in
23 the provision of health care services
24 by providers of services other than
25 home health agencies.

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

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

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

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

18 (1) in clause (i)—

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

22 (B) by inserting after subclause (III) the
23 following new subclauses:

24 “(IV) Consistent with clause (iii),
25 for 2013, such amount (or amounts)

1 shall be adjusted by a uniform per-
2 centage determined to be appropriate
3 by the Secretary based on analysis of
4 factors such as changes in the average
5 number and types of visits in an epi-
6 sode, changes in the intensity of visits
7 in an episode, growth in cost per epi-
8 sode, and other factors that the Sec-
9 retary considers relevant.”;

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

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

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

24 “(II) The rates shall be set at
25 levels to reasonably reflect the needs

1 of normal businesses for operating
2 capital and operating margins and in
3 no case shall be lower than average
4 cost plus 5 percent.

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

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

15 “(aa) For 2013, by blending
16 25 percent of the rates deter-
17 mined under clause (i)(IV) with
18 75 percent of the rates that
19 would be paid in the absence of
20 such clause.

21 “(bb) For 2014, by blending
22 50 percent of the rates deter-
23 mined under clause (i)(IV) with
24 50 percent of the rates that

1 would be paid in the absence of
2 such clause;

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

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

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

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

23 (2) CONSIDERATIONS.—In conducting the
24 study, the Secretary shall consider such factors as
25 population density, variations in service costs to

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

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

16 (4) PARTICIPATION OF STAKEHOLDERS.—The
17 Secretary shall include the participation of stake-
18 holders in the study, including representatives from
19 associations representing the interests of home
20 health agencies and beneficiaries. The Secretary
21 shall include representatives of the Medicare Pay-
22 ment Advisory Commission, the Government Ac-
23 countability Office, and the National Institutes of
24 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 experi-
9 enced 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 IICPCS codes de-
8 veloped under paragraph (3).

9 “(B) UPDATE OF IICPCS CODES.—The
10 Secretary shall establish a process for the up-
11 dating, not less frequently than annually, of
12 IICPCS 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(l)) 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(III)), 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(III) 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,”.

