

FAQs

Improving Access to Mental Health Act (S. 838/H.R. 1638) Frequently Asked Questions

The **Improving Access to Mental Health Act (S. 838/H.R. 1638)**, introduced in the Senate by Senators Debbie Stabenow (D-MI) and John Barrasso (R-WY) and in the House by Representatives Barbara Lee (D-CA-12) and Brian Fitzpatrick (R-PA-01) amends the Social Security Act to improve Medicare beneficiaries' access to health and mental health services provided by clinical social workers (CSWs). The legislation includes three sections:

- » enabling beneficiaries who are in Skilled Nursing Facilities (SNFs) to obtain services from independent CSWs
- » expanding the definition of “clinical social worker services” to include Health and Behavior Assessment and Intervention (HBAI) Services
- » increasing the Medicare reimbursement rate for independent CSWs.

The National Academies of Sciences, Engineering, and Medicine in its September 2019 Consensus Study, *Integrating Social Care Into the Delivery of Health Care*, underscores the value of social workers in improving health outcomes. The study recommends that federal agencies expand the scopes of practice of social workers and for adequate payment for the provision of social care.¹

SKILLED NURSING FACILITY SERVICES

Q: What is the difference between a SNF and a nursing home?

A: SNF services include physical therapy, occupational therapy, and speech–language pathology and care that can only be provided by a registered nurse or physician (such as caring for someone on a ventilator). Nursing home services, which are often provided on a long-term basis, include activities of daily living (such as bathing and dressing).

SNF services are reimbursed by Medicare Part A. However, Part A does not cover nursing home services unless the beneficiary simultaneously receives SNF services. Thus, nursing home services tend to be paid out of pocket, through Medicaid, or through commercial long-term care insurance.

Q: How many Medicare beneficiaries do SNFs serve?

A: In 2021, about 14,700 SNFs furnished about 1.7 million Medicare-covered stays to 1.2 million fee-for-service (FFS) beneficiaries.²

¹ National Academies of Science, Engineering and Medicine. (2019, September). *Integrating Social Care into the Delivery of Health Care: Moving Upstream to Improve the Nation's Health*. Retrieved from <http://nationalacademies.org/hmd/Reports/2019/integrating-social-care-into-the-delivery-of-health-care>

² Medicare Payment Advisory Commission. Report to the Congress: Medicare Payment Policy. Chapter 7. Skilled nursing facilities services. (2023, March). Retrieved from www.medpac.gov/document/march-2023-report-to-the-congress-medicare-payment-policy/

Q: What types of services do CSWs perform in a nursing home?

A: Some nursing homes employ salaried CSWs to provide medically related social services to nursing home residents. CSWs who are Medicare providers and who are not employed by the nursing home to provide medically related social services can seek independent reimbursement from Medicare Part B for psychotherapy services provided to nursing home residents. CSWs who are Medicare providers and who are not employed by the nursing home to provide medically-related social services can seek independent reimbursement from Medicare Part B for psychotherapy services provided to nursing home residents.

Q: What types of services do CSWs perform in a SNF?

A: Similar to nursing homes, some SNFs employ CSWs to provide medically-related social services to SNF residents. However, CSWs who are not employed by the SNF to provide these services cannot seek independent reimbursement from Medicare Part B for any mental health services provided to SNF residents.

Q: Why do SNF residents need mental health services from independent CSWs?

A: Some Medicare beneficiaries enter SNFs with mental health conditions, such as depression or anxiety. Others develop such conditions during their stay.

Q: Can CSWs who provide Medicare Part B–reimbursed psychotherapy services to a nursing home resident continue to seek independent reimbursement from Medicare Part B when the resident is transferred to a SNF?

A: No. CSWs are not able to receive independent reimbursement from Medicare when a nursing home resident is transferred to any SNF, whether the SNF is within the same building as or geographically distinct from the nursing home.

Q: Why can't independent CSWs receive Medicare Part B reimbursement for mental health services provided to SNF residents?

A: The Balanced Budget Act of 1997 mandated that payment for almost all services provided to Medicare beneficiaries during a SNF stay be included in a bundled prospective payment made through Medicare Part A. Thus, each SNF must bill the bundled services to the Part A Medicare Administrative Contractor in a consolidated bill. When the Balanced Budget Act of 1997 was implemented, services provided by psychiatrists and psychologists were excluded from consolidated billing. However, CMS did not distinguish medically related social services provided by CSWs, and discretionary

psychotherapeutic services provided to residents with specialized needs. Thus, CSW services were not excluded from consolidated billing. Consequently, independent CSWs cannot seek reimbursement from Medicare Part B for psychotherapy services provided in a SNF.

Q: How does this reimbursement restriction affect Medicare beneficiaries' access to CSW services in SNFs?

A: Beneficiaries can obtain Medicare coverage for psychotherapy services provided by a CSW in many settings, such as nursing homes, assisted living residences, or outpatient offices. However, beneficiaries cannot receive this same Medicare-covered therapy by a CSW in a SNF.

Q: Can CSWs who are salaried employees of a SNF seek independent reimbursement from Medicare for psychotherapy services provided to SNF residents?

A: No. CSWs who are salaried employees of a SNF cannot seek independent reimbursement from Medicare for psychotherapy services because all services provided by CSWs are included in the SNF bundled service requiring consolidated billing.

Q: How does the use of independent mental health providers fit with SNFs' responsibility to address residents' mental health needs?

A: Although SNFs are responsible for addressing residents' mental health needs, they may either provide mental health services directly or arrange for the provision of such services.

Q: How does the Improving Access to Mental Health Act assist Medicare beneficiaries in obtaining access to psychotherapy services provided by CSWs in SNFs?

A: S. 838/H.R. 1638 excludes CSW services from SNF consolidated billing, just as psychiatrist services and psychologist services are excluded. This change enables independent CSWs to seek Medicare Part B reimbursement for psychotherapy services provided to SNF residents.

Q: What would the impact of the Improving Access to Mental Health Act be on CSWs who are employed by SNFs to provide medically related social services as part of the SNF conditions of participation?

A: S. 838/H.R. 1638 would not remove the requirement that SNFs provide medically related social services to their residents. Moreover, the section of the bill that redefines "clinical social worker services" applies only to Medicare providers seeking independent reimbursement under Medicare Part B, not to services provided by CSWs in SNFs or other settings with consolidated billing. Thus, passage of S. 838/H.R. 1638 would not affect provision of or payment for medically related social services by CSWs who are employed by SNFs for that purpose.

HEALTH AND BEHAVIOR ASSESSMENT AND INTERVENTION (HBAI) SERVICES

Q: What are HBAI services?

A: HBAI services are cognitive, behavioral, social, and psychophysiological procedures designed to improve a beneficiary's physical health and well-being. The services are provided to beneficiaries who present with an established

physical illness or symptoms (such as a diagnosis of cancer or an exacerbation of multiple sclerosis) and do not have a diagnosed mental illness.

Q: Social workers have been providing HBAI services in health care settings for several decades. Why does the Improving Access to Mental Health Act focus on these services?

A: In 2002, HBAI codes were introduced and added to the Medicare physician fee schedule, which delineates reimbursement to independent CSWs for mental health services provided to Medicare beneficiaries. Although HBAI services are within the scope of practice for CSWs, Medicare does not currently reimburse independent CSWs for these services.

Q: Given that HBAI services fall within the scope of practice for CSWs, why is Medicare payment not allowed?

A: Section 1861(hh)(2) of the Social Security Act defines clinical social worker services as the "diagnosis and treatment of mental illnesses." Thus, Medicare only reimburses CSWs for those services. The HBAI codes are unrelated to mental illness and focus only on the beneficiary's physical health.

Q: Why should CSWs be able to receive Medicare reimbursement for the HBAI services?

A: The Centers for Medicare & Medicaid Services (CMS) has acknowledged that HBAI services are within CSWs' scope of practice. Enabling independent CSWs to receive Medicare reimbursement for the HBAI services will enhance beneficiaries' access to these services, thereby enhancing beneficiaries' health and well-being.

Q: How does the Improving Access to Mental Health Act address the lack of reimbursement for HBAI services performed by independent CSWs?

A: S. 838/H.R. 1638 broadens the definition of "clinical social worker services" by amending section 1861(hh)(2) of the Social Security Act. This change will enable independent CSWs to receive Medicare reimbursement for HBAI services provided to beneficiaries.

Q: How do the HBAI and SNF parts of S. 838/H.R. 1638 intersect?

A: Medicare beneficiaries in SNFs could access either Part B–reimbursed HBAI services or psychological therapy. The choice of service would depend on the CSW's biopsychosocial assessment, which includes the beneficiary's goals.

REIMBURSEMENT RATES

Q: What is the current Medicare reimbursement rate for CSW services?

A: Medicare reimburses independent CSWs at 75% of the Medicare physician fee schedule rate.

Q: How does the Improving Access to Mental Health Act improve the reimbursement rate for CSWs who are Medicare providers?

A: S. 838/H.R. 1638 increases the reimbursement rate for CSW services to 85% of the Medicare physician fee schedule rate, which is equivalent to the rate paid to speech–language pathologists and occupational therapists. Psychologists and psychiatrists are paid at 100% of the fee schedule rate.

Q: Given that CSWs provide mental health services, why doesn't the Improving Access to Mental Act advocate for CSWs to be reimbursed at 100% of the physician fee schedule?

A: Most CSWs have a Master of Social Work, which is a terminal degree not comparable with either the PhD-level psychologist or the Medical Doctorate of a psychiatrist. Thus, S. 838/H.R. 1638 establishes equity between CSWs and comparable non-physician practitioners.

SPECIFIC POPULATIONS

Q: How does S. 838/H.R. 1638 help Medicare beneficiaries living with Alzheimer's Disease or related dementias (ADRD)?

A: Medicare coverage of psychotherapy (in any setting, including SNFs) is based on the beneficiary's cognitive ability to engage in therapy. Psychotherapy could be indicated for adjustment disorder for a new diagnosis of Alzheimer's Disease, for example, or for depression, anxiety, or other mental health conditions that co-occur with ADRD. Depending on the

CSW's assessment (which includes the beneficiary's goals), HBAI codes could be used for adjustment to a new diagnosis of dementia or to an unrelated medical condition, such as congestive heart failure. Thus, S. 838/H.R. 1638 will increase access to psychotherapy services in SNFs and to HBAI services for beneficiaries living with ADRD.

Q: How does S. 870/H.R. 2035 help Medicare beneficiaries who live with substance use disorders or substance misuse?

A: CSWs play an integral role in assessment and treatment of substance use disorders and substance misuse, and many have the state-specific credentials required to obtain third-party reimbursement for these services. Thus, S. 870/H.R. 2035 will enhance Medicare beneficiaries' access to treatment for substance misuse or substance use disorders.

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