

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2446
OFFERED BY MR. GUTHRIE OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Verifying Electroni-
3 cally the Receipt of In-Home Care For Individuals Act”
4 or the “VERIFI Act”.

**5 SEC. 2. ELECTRONIC VISIT VERIFICATION SYSTEM RE-
6 QUIRED FOR PERSONAL CARE SERVICES AND
7 HOME HEALTH CARE SERVICES UNDER MED-
8 ICAID.**

9 (a) IN GENERAL.—Section 1903 of the Social Secu-
10 rity Act (42 U.S.C. 1396b) is amended by inserting after
11 subsection (k) the following new subsection:

12 “(l)(1) Subject to paragraph (3), with respect to any
13 amount expended for medical assistance for personal care
14 services or home health care services provided under a
15 State plan under this title (or under a waiver of the plan)
16 furnished in a calendar quarter beginning on or after Jan-
17 uary 1, 2019, unless a State requires the use of an elec-
18 tronic visit verification system for both personal care serv-

1 ices and home health care services furnished in such quar-
2 ter under the plan or such waiver, the Federal medical
3 assistance percentage shall be reduced—

4 “(A) for calendar quarters in 2019 and 2020,
5 by .25 percentage points;

6 “(B) for calendar quarters in 2021, by .5 per-
7 centage points;

8 “(C) for calendar quarters in 2022, by .75 per-
9 centage points; and

10 “(D) for calendar quarters in 2023 and each
11 year thereafter, by 1 percentage point.

12 “(2) Subject to paragraph (3), in implementing the
13 requirement for the use of an electronic visit verification
14 system under paragraph (1), a State shall consult with
15 agencies and entities that provide personal care services,
16 home health care services, or both under the State plan
17 (or under a waiver of the plan) to ensure that such sys-
18 tem—

19 “(A) is minimally burdensome;

20 “(B) takes into account existing best practices
21 and electronic visit verification systems in use in the
22 State; and

23 “(C) is conducted in accordance with the re-
24 quirements of HIPAA privacy and security law (as

1 defined in section 3009 of the Public Health Service
2 Act).

3 “(3) Paragraphs (1) and (2) shall not apply in the
4 case of a State that, as of the date of the enactment of
5 this subsection, requires the use of any system for the elec-
6 tronic verification of visits conducted as part of both per-
7 sonal care services or home health care services.

8 “(4) In this subsection:

9 “(A) The term ‘electronic visit verification sys-
10 tem’ means, with respect to personal care services or
11 home health care services, a system under which vis-
12 its conducted as part of such services are electroni-
13 cally verified with respect to—

14 “(i) the type of service performed;

15 “(ii) the individual receiving the service;

16 “(iii) the date of the service;

17 “(iv) the location of service delivery;

18 “(v) the individual providing the service;

19 and

20 “(vi) the time the service begins and ends.

21 “(B) The term ‘home health care services’
22 means services described in section 1905(a)(7) pro-
23 vided under a State plan under this title (or under
24 a waiver of the plan).

1 “(C) The term ‘personal care services’ means
2 personal care services provided under a State plan
3 under this title (or under a waiver of the plan), in-
4 cluding services provided under section 1905(a)(24),
5 1915(e), 1915(i), 1915(j), or 1915(k) or under a
6 wavier under section 1115.”.

7 (b) RULES OF CONSTRUCTION.—

8 (1) NO EMPLOYER-EMPLOYEE RELATIONSHIP
9 ESTABLISHED.—Nothing in the amendment made by
10 this section may be construed as establishing an em-
11 ployer-employee relationship between the agency or
12 entity that provides for personal care services or
13 home health care services and the individuals who,
14 under a contract with such an agency or entity, fur-
15 nish such services for purposes of part 552 of title
16 29, Code of Federal Regulations (or any successor
17 regulations).

18 (2) NO PARTICULAR OR UNIFORM ELECTRONIC
19 VISIT VERIFICATION SYSTEM REQUIRED.—Nothing
20 in the amendment made by this section shall be con-
21 strued to require the use of a particular or uniform
22 electronic visit verification system (as defined in sub-
23 section (l)(4) of section 1903 of the Social Security
24 Act (42 U.S.C. 1396b), as inserted by subsection
25 (a)) by all agencies or entities that provide personal

1 care services or home health care services under a
2 State plan under title XIX of the Social Security Act
3 (or under a waiver of the plan).

4 (3) NO LIMITS ON PROVISION OF CARE.—Noth-
5 ing in the amendment made by this section may be
6 construed to limit, with respect to personal care
7 services or home health care services provided under
8 a State plan under title XIX of the Social Security
9 Act (or under a waiver of the plan), provider selec-
10 tion, constrain beneficiaries' selection of a caregiver,
11 or impede the manner in which care is delivered.

