

106TH CONGRESS
1ST SESSION

S. 406

To amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of medicare, medicaid, and other third party payors, and to expand the eligibility under such program to other tribes and tribal organizations.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 1999

Mr. MURKOWSKI (for himself, Mr. LOTT, Mr. BAUCUS, Mr. INHOFE, Mr. COCHRAN, Mr. CAMPBELL, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of medicare, medicaid, and other third party payors, and to expand the eligibility under such program to other tribes and tribal organizations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Alaska Native and
5 American Indian Direct Reimbursement Act of 1999”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) In 1988, Congress enacted section 405 of
4 the Indian Health Care Improvement Act (25 U.S.C.
5 1645) that established a demonstration program to
6 authorize 4 tribally-operated Indian Health Service
7 hospitals or clinics to test methods for direct billing
8 and receipt of payment for health services provided
9 to patients eligible for reimbursement under the
10 medicare or medicaid programs under titles XVIII
11 and XIX of the Social Security Act (42 U.S.C. 1395
12 et seq.; 1396 et seq.), and other third-party payors.

13 (2) The 4 participants selected by the Indian
14 Health Service for the demonstration program began
15 the direct billing and collection program in fiscal
16 year 1989 and unanimously expressed success and
17 satisfaction with the program. Benefits of the pro-
18 gram include dramatically increased collections for
19 services provided under the medicare and medicaid
20 programs, a significant reduction in the turn-around
21 time between billing and receipt of payments for
22 services provided to eligible patients, and increased
23 efficiency of participants being able to track their
24 own billings and collections.

25 (3) The success of the demonstration program
26 confirms that the direct involvement of tribes and

1 tribal organizations in the direct billing of, and col-
2 lection of payments from, the medicare and medicaid
3 programs, and other third payor reimbursements, is
4 more beneficial to Indian tribes than the current
5 system of Indian Health Service-managed collec-
6 tions.

7 (4) Allowing tribes and tribal organizations to
8 directly manage their medicare and medicaid billings
9 and collections, rather than channeling all activities
10 through the Indian Health Service, will enable the
11 Indian Health Service to reduce its administrative
12 costs, is consistent with the provisions of the Indian
13 Self-Determination Act, and furthers the commit-
14 ment of the Secretary to enable tribes and tribal or-
15 ganizations to manage and operate their health care
16 programs.

17 (5) The demonstration program was originally
18 to expire on September 30, 1996, but was extended
19 by Congress, so that the current participants would
20 not experience an interruption in the program while
21 Congress awaited a recommendation from the Sec-
22 retary of Health and Human Services on whether to
23 make the program permanent.

24 (6) It would be beneficial to the Indian Health
25 Service and to Indian tribes, tribal organizations,

1 and Alaska Native organizations to provide perma-
 2 nent status to the demonstration program and to ex-
 3 tend participation in the program to other Indian
 4 tribes, tribal organizations, and Alaska Native
 5 health organizations who operate a facility of the In-
 6 dian Health Service.

7 **SEC. 3. DIRECT BILLING OF MEDICARE, MEDICAID, AND**
 8 **OTHER THIRD PARTY PAYORS.**

9 (a) PERMANENT AUTHORIZATION.—Section 405 of
 10 the Indian Health Care Improvement Act (25 U.S.C.
 11 1645) is amended to read as follows:

12 “(a) ESTABLISHMENT OF DIRECT BILLING PRO-
 13 GRAM.—

14 “(1) IN GENERAL.—The Secretary shall estab-
 15 lish a program under which Indian tribes, tribal or-
 16 ganizations, and Alaska Native health organizations
 17 that contract or compact for the operation of a hos-
 18 pital or clinic of the Service under the Indian Self-
 19 Determination and Education Assistance Act may
 20 elect to directly bill for, and receive payment for,
 21 health care services provided by such hospital or
 22 clinic for which payment is made under title XVIII
 23 of the Social Security Act (42 U.S.C. 1395 et seq.)
 24 (in this section referred to as the ‘medicare pro-
 25 gram’), under a State plan for medical assistance

1 approved under title XIX of the Social Security Act
 2 (42 U.S.C. 1396 et seq.) (in this section referred
 3 to as the ‘medicaid program’), or from any other
 4 third party payor.

5 “(2) APPLICATION OF 100 PERCENT FMAP.—

6 The third sentence of section 1905(b) of the Social
 7 Security Act (42 U.S.C. 1396d(b)) shall apply for
 8 purposes of reimbursement under the medicaid pro-
 9 gram for health care services directly billed under
 10 the program established under this section.

11 “(b) DIRECT REIMBURSEMENT.—

12 “(1) USE OF FUNDS.—Each hospital or clinic
 13 participating in the program described in subsection
 14 (a) of this section shall be reimbursed directly under
 15 the medicare and medicaid programs for services
 16 furnished, without regard to the provisions of section
 17 1880(c) of the Social Security Act (42 U.S.C.
 18 1395qq(c)) and sections 402(a) and 813(b)(2)(A),
 19 but all funds so reimbursed shall first be used by the
 20 hospital or clinic for the purpose of making any im-
 21 provements in the hospital or clinic that may be nec-
 22 essary to achieve or maintain compliance with the
 23 conditions and requirements applicable generally to
 24 facilities of such type under the medicare or medic-
 25 aid programs. Any funds so reimbursed which are in

1 excess of the amount necessary to achieve or main-
2 tain such conditions shall be used—

3 “(A) solely for improving the health re-
4 sources deficiency level of the Indian tribe; and

5 “(B) in accordance with the regulations of
6 the Service applicable to funds provided by the
7 Service under any contract entered into under
8 the Indian Self-Determination Act (25 U.S.C.
9 450f et seq.).

10 “(2) AUDITS.—The amounts paid to the hos-
11 pitals and clinics participating in the program estab-
12 lished under this section shall be subject to all audit-
13 ing requirements applicable to programs adminis-
14 tered directly by the Service and to facilities partici-
15 pating in the medicare and medicaid programs.

16 “(3) SECRETARIAL OVERSIGHT.—

17 “(A) QUARTERLY REPORTS.—Subject to
18 subparagraph (B), the Secretary shall monitor
19 the performance of hospitals and clinics partici-
20 pating in the program established under this
21 section, and shall require such hospitals and
22 clinics to submit reports on the program to the
23 Secretary on a quarterly basis during the first
24 2 years of participation in the program and an-
25 nually thereafter.

1 “(B) ANNUAL REPORTS.—Any participant
 2 in the demonstration program authorized under
 3 this section as in effect on the day before the
 4 date of enactment of the Alaska Native and
 5 American Indian Direct Reimbursement Act of
 6 1999 shall only be required to submit annual
 7 reports under this paragraph.

8 “(4) NO PAYMENTS FROM SPECIAL FUNDS.—
 9 Notwithstanding section 1880(c) of the Social Secu-
 10 rity Act (42 U.S.C. 1395qq(c)) or section 402(a), no
 11 payment may be made out of the special funds de-
 12 scribed in such sections for the benefit of any hos-
 13 pital or clinic during the period that the hospital or
 14 clinic participates in the program established under
 15 this section.

16 “(c) REQUIREMENTS FOR PARTICIPATION.—

17 “(1) APPLICATION.—Except as provided in
 18 paragraph (2)(B), in order to be eligible for partici-
 19 pation in the program established under this section,
 20 an Indian tribe, tribal organization, or Alaska Na-
 21 tive health organization shall submit an application
 22 to the Secretary that establishes to the satisfaction
 23 of the Secretary that—

24 “(A) the Indian tribe, tribal organization,
 25 or Alaska Native health organization contracts

1 or compacts for the operation of a facility of the
2 Service;

3 “(B) the facility is eligible to participate in
4 the medicare or medicaid programs under sec-
5 tion 1880 or 1911 of the Social Security Act
6 (42 U.S.C. 1395qq; 1396j);

7 “(C) the facility meets the requirements
8 that apply to programs operated directly by the
9 Service; and

10 “(D) the facility is accredited by an ac-
11 crediting body designated by the Secretary or
12 has submitted a plan, which has been approved
13 by the Secretary, for achieving such accredita-
14 tion.

15 “(2) APPROVAL.—

16 “(A) IN GENERAL.—The Secretary shall
17 review and approve a qualified application not
18 later than 90 days after the date the applica-
19 tion is submitted to the Secretary unless the
20 Secretary determines that any of the criteria set
21 forth in paragraph (1) are not met.

22 “(B) GRANDFATHER OF DEMONSTRATION
23 PROGRAM PARTICIPANTS.—Any participant in
24 the demonstration program authorized under
25 this section as in effect on the day before the

1 date of enactment of the Alaska Native and
2 American Indian Direct Reimbursement Act of
3 1999 shall be deemed approved for participa-
4 tion in the program established under this sec-
5 tion and shall not be required to submit an ap-
6 plication in order to participate in the program.

7 “(C) DURATION.—An approval by the Sec-
8 retary of a qualified application under subpara-
9 graph (A), or a deemed approval of a dem-
10 onstration program under subparagraph (B),
11 shall continue in effect as long as the approved
12 applicant or the deemed approved demonstra-
13 tion program meets the requirements of this
14 section.

15 “(d) EXAMINATION AND IMPLEMENTATION OF
16 CHANGES.—

17 “(1) IN GENERAL.—The Secretary, acting
18 through the Service, and with the assistance of the
19 Administrator of the Health Care Financing Admin-
20 istration, shall examine on an ongoing basis and
21 implement—

22 “(A) any administrative changes that may
23 be necessary to facilitate direct billing and re-
24 imbursement under the program established
25 under this section, including any agreements

1 with States that may be necessary to provide
2 for direct billing under the medicaid program;
3 and

4 “(B) any changes that may be necessary to
5 enable participants in the program established
6 under this section to provide to the Service
7 medical records information on patients served
8 under the program that is consistent with the
9 medical records information system of the Serv-
10 ice.

11 “(2) ACCOUNTING INFORMATION.—The ac-
12 counting information that a participant in the pro-
13 gram established under this section shall be required
14 to report shall be the same as the information re-
15 quired to be reported by participants in the dem-
16 onstration program authorized under this section as
17 in effect on the day before the date of enactment of
18 the Alaska Native and American Indian Direct Re-
19 imbursement Act of 1999. The Secretary may from
20 time to time, after consultation with the program
21 participants, change the accounting information sub-
22 mission requirements.

23 “(e) WITHDRAWAL FROM PROGRAM.—A participant
24 in the program established under this section may with-
25 draw from participation in the same manner and under

1 the same conditions that a tribe or tribal organization may
 2 retrocede a contracted program to the Secretary under au-
 3 thority of the Indian Self-Determination Act (25 U.S.C.
 4 450 et seq.). All cost accounting and billing authority
 5 under the program established under this section shall be
 6 returned to the Secretary upon the Secretary's acceptance
 7 of the withdrawal of participation in this program.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 1880 of the Social Security Act (42
 10 U.S.C. 1395qq) is amended by adding at the end the
 11 following:

12 “(e) For provisions relating to the authority of cer-
 13 tain Indian tribes, tribal organizations, and Alaska Native
 14 health organizations to elect to directly bill for, and receive
 15 payment for, health care services provided by a hospital
 16 or clinic of such tribes or organizations and for which pay-
 17 ment may be made under this title, see section 405 of the
 18 Indian Health Care Improvement Act (25 U.S.C. 1645).”.

19 (2) Section 1911 of the Social Security Act (42
 20 U.S.C. 1396j) is amended by adding at the end the
 21 following:

22 “(d) For provisions relating to the authority of cer-
 23 tain Indian tribes, tribal organizations, and Alaska Native
 24 health organizations to elect to directly bill for, and receive
 25 payment for, health care services provided by a hospital

1 or clinic of such tribes or organizations and for which pay-
2 ment may be made under this title, see section 405 of the
3 Indian Health Care Improvement Act (25 U.S.C. 1645).”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on October 1, 2000.

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