I

105TH CONGRESS
2D SESSION

H. R. 4088

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 HOUSE OF REPRESENTATIVES

JUNE 18, 1998

Mr. YOUNG of Alaska (for himself and Mr. KILDEE) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Alaska Native and American Indian Direct Reimbursement Act of 1998''.

SEC. 2. FINDINGS.

Congress finds the following:

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

(2) The 4 participants selected by the Indian Health Service for the demonstration program began the direct billing and collection program in fiscal year 1989 and unanimously expressed success and satisfaction with the program. Benefits of the program include dramatically increased collections for services provided under the medicare and medicaid programs, a significant reduction in the turnaround time between billing and receipt of payments for services provided to eligible patients, and increased efficiency of participants being able to track their own billings and collections.

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

tribal organizations in the direct billing of, and collection of payments from, the medicare and medicaid programs, and other third-party payor reimbursements, is more beneficial to Indian tribes than the current system of Indian Health Service-managed collections.

(4) Allowing tribes and tribal organizations to directly manage their medicare and medicaid billings and collections, rather than channeling all activities through the Indian Health Service, will enable the Indian Health Service to reduce its administrative costs.

(5) The demonstration program was originally to expire on September 30, 1996, but was extended by Congress to September 30, 1998, so that the current participants would not experience an interruption in the program while Congress awaited a recommendation from the Secretary of Health and Human Services on whether to make the program permanent.

(6) It would be beneficial to the Indian Health Service and to Indian tribes, tribal organizations, and Alaska Native organizations to provide permanent authorization for direct billing and collection and to extend participation in direct billing and col-

lection to other Indian tribes, tribal organizations, and Alaska Native health organizations who operate a facility of the Indian Health Service.

SEC. 3. DIRECT BILLING OF MEDICARE, MEDICAID, AND OTHER THIRD-PARTY PAYORS.

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

"SEC. 405. DIRECT BILLING OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYORS.

''(a) ESTABLISHMENT OF DIRECT BILLING PROGRAM.—

''(1) IN GENERAL.—Indian tribes, tribal organizations, and Alaska Native health organizations that contract or compact for the operation of any health program of the Service under the Indian Self-Determination and Education Assistance Act may elect to directly bill for, and receive payment for, health care services provided by such health programs for which payment is made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) (in this section referred to as the 'medicare program'), under a State plan for medical assistance approved under title XIX of the Social Security Act (42 U.S.C. 1396

et seq.) (in this section referred to as the 'medicaid program'), or from any other third-party payor.

''(2) APPLICATION OF 100 PERCENT FMAP.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) shall apply for purposes of reimbursement under the medicaid program for health care services directly billed under the program established under this section.

''(b) DIRECT REIMBURSEMENT.—

''(1) USE OF FUNDS.—Each health program participating in the program described in subsection (a) of this section shall be reimbursed directly under the medicare and medicaid programs for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) and sections 402(a) and 813(b)(2)(A), but all funds so reimbursed shall first be used by the health program for the purpose of making any improvements in the health facilities or programs that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities or health programs of such type under the medicare or medicaid programs. Any funds so reimbursed which are in excess of the

amount necessary to achieve or maintain such conditions shall be used—

"(A) solely for improving the health resources deficiency level of the Indian tribe; and

"(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract or compact entered into under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(2) AUDITS.—The amounts paid to the health programs participating in the program established under this section shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs.

"(3) NO PAYMENTS FROM SPECIAL FUNDS.—Notwithstanding section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) or section 402(a), no payment may be made out of the special funds described in such sections for the benefit of any health program during the period that the health program participates in the program established under this section.

"(c) REQUIREMENTS FOR PARTICIPATION.—

''(1) CERTIFICATION.—Except as provided in paragraph (2)(B), in order to be eligible for participation in the program established under this section, an Indian tribe, tribal organization, or Alaska Native health organization shall submit a certification to the Secretary that—

''(A) the Indian tribe, tribal organization, or Alaska Native health organization contracts or compacts for any part of the operation of a health program of the Service; and

''(B) the health program is eligible to participate in the medicare or medicaid programs under section 1880 or 1911 of the Social Security Act (42 U.S.C. 1395qq; 1396);

''(2) GRANDFATHER OF DEMONSTRATION PROGRAM PARTICIPANTS.—Any participant in the program authorized under this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 1998 shall be deemed to have elected to participate in the program established under this section and shall not be required to submit a certification in order to participate in the program.

''(3) DURATION.—A certification to the Secretary of a qualified application under paragraph

(1), or a deemed certification of a demonstration program under paragraph (2), shall continue in effect as long as the participant meets the requirements of this section.

''(d) EXAMINATION AND IMPLEMENTATION OF CHANGES.—The Secretary, acting through the Service and with the assistance of the Administrator of the Health Care Financing Administration, shall examine on an ongoing basis and implement any administrative changes that may be necessary to facilitate direct billing and reimbursement under the program established under this section, including any agreements with States that may be necessary to provide for direct billing under the medicaid program.

''(e) WITHDRAWAL FROM PROGRAM.—A participant in the program established under this section may withdraw from participation in the same manner and under the same conditions that a tribe or tribal organization may retrocede a contracted program to the Secretary under authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). All cost accounting and billing authority under the program established under this section shall be returned to the Secretary upon the Secretary's acceptance of the withdrawal of participation in this program.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1990 of the Social Security Act (42 U.S.C. 1395qq) is amended by adding at the end the following:

''(e) Section 405 of the Indian Health Care Improvement Act (25 U.S.C. 1645) containing provisions relating to the authority of certain Indian tribes, tribal organizations, and Alaska Native health organizations to elect to directly bill for, and receive payment for, health care services provided by a health program of such tribes or organizations and for which payment may be made under this title shall apply.''; and

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

''(d) Section 405 of the Indian Health Care Improvement Act (25 U.S.C. 1645) containing provisions relating to the authority of certain Indian tribes, tribal organizations, and Alaska Native health organizations to elect to directly bill for, and receive payment for, health care services provided by a health program of such tribes or organizations and for which payment may be made under this title shall apply.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

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