

105TH CONGRESS
1ST SESSION

H. R. 585

To amend title XVIII of the Social Security Act to provide for prospective payment under the Medicare program for inpatient services of rehabilitation hospitals and units based on discharges classified by functional-related groups.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1997

Mr. LOBIONDO (for himself, Mr. CONDIT, Mrs. ROUKEMA, Mr. SAXTON, Mr. STARK, Mr. STUPAK, and Mr. TRAFICANT) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title XVIII of the Social Security Act to provide for prospective payment under the Medicare program for inpatient services of rehabilitation hospitals and units based on discharges classified by functional-related groups.

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 “Rehabilitation Hos-
5 pitals and Units Medicare Payment Equity Act of 1997”.

1 **SEC. 2. PROSPECTIVE PAYMENT FOR INPATIENT REHABILI-**
 2 **TATION HOSPITAL SERVICES BASED ON DIS-**
 3 **CHARGES CLASSIFIED BY FUNCTIONAL-RE-**
 4 **LATED GROUPS.**

5 (a) IN GENERAL.—Section 1886 of the Social Secu-
 6 rity Act (42 U.S.C. 1395ww) is amended by adding at the
 7 end the following new subsection:

8 “(j) PROSPECTIVE PAYMENT FOR INPATIENT REHA-
 9 BILITATION SERVICES.—

10 “(1) IN GENERAL.—Notwithstanding section
 11 1814(b), but subject to the provisions of section
 12 1813, the amount of the payment with respect to the
 13 operating and capital costs of inpatient hospital
 14 services of a rehabilitation hospital or a rehabilita-
 15 tion unit (in this subsection referred to as a ‘reha-
 16 bilitation facility’) for a discharge is equal to the per
 17 discharge payment rate established under this sub-
 18 section.

19 “(2) FUNCTIONAL-RELATED GROUPS.—

20 “(A) ESTABLISHMENT.—The Secretary
 21 shall establish—

22 “(i) classes of discharges of rehabilita-
 23 tion facilities by functional-related groups
 24 (each in this subsection referred to as a
 25 ‘functional-related group’ or ‘FRG’), based

on impairment, age, and functional capability of the discharged individual and such other factors as the Secretary deems appropriate, and

“(ii) a method of classifying specific discharges from rehabilitation facilities within these groups.

“(B) WEIGHTING FACTORS.—For each functional-related group the Secretary shall assign an appropriate weighting which reflects the relative facility resources used with respect to discharges classified within that group compared to discharges classified within other groups.

“(C) ADJUSTMENTS.—The Secretary shall from time to time adjust the classifications and weighting factors established under this paragraph as appropriate to correct for forecast errors and to reflect changes in treatment patterns, technology, case mix, number of discharges for which payment is made under this title, and other factors which may affect the relative use of resources.

“(D) DATA COLLECTION.—The Secretary is authorized to require rehabilitation facilities

1 that provide inpatient hospital services to sub-
2 mit data on discharges classified according to
3 functional related group or other rehabilitation
4 impairment groups, measurement of functional
5 disability, and such other patient assessment
6 factors as the Secretary deems necessary to es-
7 tablish and administer the prospective payment
8 system under this subsection.

9 “(3) PAYMENT RATE.—

10 “(A) IN GENERAL.—The Secretary shall
11 determine a prospective payment rate for each
12 rehabilitation facility discharge for which such
13 rehabilitation facility is entitled to receive pay-
14 ment under this title. Subject to subparagraph
15 (B), such rate for discharges during a fiscal
16 year shall be based on the average payment per
17 discharge under this title for inpatient operat-
18 ing and capital costs of rehabilitation facilities
19 in fiscal year 1996 (as estimated by the Sec-
20 retary) adjusted—

21 “(i) by updating such per-discharge
22 amount to the fiscal year involved by the
23 applicable percentage increases provided
24 under subsection (b)(3)(B)(i) for each year

1 after fiscal year 1996 and up to the fiscal
2 year involved;

3 “(ii) by reducing such rates by a fac-
4 tor equal to the proportion of payments
5 under this subsection (as estimated by the
6 Secretary) based on FRG prospective pay-
7 ment amounts which are additional pay-
8 ments described in paragraph (4) (relating
9 to outlier and related payments) or para-
10 graph (7);

11 “(iii) for variations among rehabilita-
12 tion facilities by area under paragraph (6);

13 “(iv) by the weighting factors estab-
14 lished under paragraph (2)(B); and

15 “(v) by such other factors as the Sec-
16 retary determines are necessary to properly
17 reflect variations in necessary costs of
18 treatment among rehabilitation facilities.

19 “(B) BUDGET NEUTRAL RATES.—The Sec-
20 retary shall establish the prospective payment
21 amounts under this subsection for discharges
22 during each of fiscal years 1999 through 2003
23 at levels such that, in the Secretary’s esti-
24 mation, the amount of total payments under

1 this subsection for each such fiscal year (includ-
2 ing any payment adjustments pursuant to para-
3 graph (7)) shall not exceed the amount of pay-
4 ments that would have been made under this
5 title during the fiscal year for operating and
6 capital costs of rehabilitation facilities had this
7 subsection not been enacted. In establishing
8 such payment amounts, the Secretary shall con-
9 sider the effects of the prospective payment sys-
10 tem established under this subsection on the
11 total number of discharges from rehabilitation
12 facilities and any previous errors in determining
13 weighting factors under paragraph (2)(B) and
14 other factors described in subparagraph (A).

15 “(4) OUTLIER AND SPECIAL PAYMENTS.—

16 “(A) OUTLIERS.—

17 “(i) DAY OUTLIERS.—The Secretary
18 shall provide for an additional payment to
19 a rehabilitation facility for discharges in a
20 functional-related group, the lengths of
21 stay of which exceeded the mean length of
22 stay for discharges within that group by a
23 fixed number of days or exceeds such mean

length of stay by some fixed number of deviations, whichever is the fewer number of days.

“(ii) REQUESTING ADDITIONAL PAYMENTS.—For cases not included in clause (i), a rehabilitation facility may request additional payments in any case in which charges, adjusted to cost, exceed a fixed multiple of the applicable prospective payment rate, or exceed such other fixed dollar amount, whichever is greater, or exceed the prospective payment rate plus a fixed dollar amount determined by the Secretary.

“(iii) PAYMENT BASED ON MARGINAL COST OF CARE.—The amount of such additional payment under clauses (i) and (ii) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i) or (ii).

“(iv) TOTAL PAYMENTS.—The total amount of the additional payments made under this subparagraph for discharges in

1 a fiscal year may not be less than 5 per-
2 cent nor more than 6 percent of the total
3 payments projected or estimated to be
4 made based on FRG prospective payment
5 rates for discharges in that year.

6 “(B) ADJUSTMENT.—The Secretary may
7 provide for such adjustments to the payment
8 amounts under this subsection as the Secretary
9 deems appropriate to take into account the
10 unique circumstances of rehabilitation facilities
11 located in Alaska and Hawaii.

12 “(5) PUBLICATION.—The Secretary shall pro-
13 vide for publication in the Federal Register, on or
14 before September 1 before each fiscal year (begin-
15 ning with fiscal year 2000), of the classification and
16 weighting factors for FRGs under paragraph (2) for
17 such fiscal year and a description of the methodol-
18 ogy and data used in computing the prospective pay-
19 ment rates under this subsection for that fiscal year.

20 “(6) AREA WAGE ADJUSTMENT.—The Secretary
21 shall adjust the proportion (as estimated by the Sec-
22 retary from time to time) of rehabilitation facilities’
23 costs which are attributable to wages and wage-re-
24 lated costs, of the prospective payment rates com-
25 puted under paragraph (3) for area differences in

1 wage levels by a factor (established by the Sec-
2 retary) reflecting the relative hospital wage level in
3 the geographic area of the rehabilitation facility
4 compared to the national average wage level for such
5 facilities. Not later than October 1, 1999 (and at
6 least every 12 months thereafter), the Secretary
7 shall update the factor under the preceding sentence
8 on the basis of a survey conducted by the Secretary
9 (and updated as appropriate) of the wages and
10 wage-related costs incurred in furnishing rehabilita-
11 tion services. Any adjustments or updates made
12 under this paragraph for a fiscal year shall be made
13 in a manner that assures that the aggregated pay-
14 ments under this subsection in the fiscal year are
15 not greater or less than those that would have been
16 made in the year without such adjustment.

17 “(7) ADDITIONAL ADJUSTMENTS.—The Sec-
18 retary shall provide by regulation for—

19 “(A) an additional payment to take into
20 account indirect costs of medical education and
21 the special circumstances of hospitals that serve
22 a significantly disproportionate number of low-
23 income patients in a manner similar to that
24 provided under subparagraphs (B) and (F), re-
25 spectively, of subsection (d)(5); and

1 “(B) such other exceptions and adjust-
2 ments to payment amounts under this sub-
3 section in a manner similar to that provided
4 under subsection (d)(5)(I) in relation to pay-
5 ments under subsection (d).

6 “(8) LIMITATION ON REVIEW.—There shall be
7 no administrative or judicial review under section
8 1878 or otherwise of—

9 “(A) the establishment of FRGs, of the
10 methodology for the classification of discharges
11 within such groups, and of the appropriate
12 weighting factors thereof under paragraph (2),
13 and

14 “(B) the establishment of the prospective
15 payment rates under paragraph (3).”.

16 (b) CONFORMING AMENDMENTS.—Section 1886(b)
17 of such Act (42 U.S.C. 1395ww(b)) is amended—

18 (1) in paragraph (1), by inserting “and other
19 than a rehabilitation facility described in subsection
20 (j)(1)” after “subsection (d)(1)(B)”, and

21 (2) in paragraph (3)(B)(i), by inserting “and
22 subsection (j)” after “For purposes of subsection
23 (d)”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to cost reporting periods beginning

1 on or after October 1, 1998, except that the Secretary of
2 Health and Human Services may require the submission
3 of data under section 1886(j)(2)(D) of the Social Security
4 Act (as added by subsection (a)) on and after the date
5 of the enactment of this Act.

