

105TH CONGRESS  
2D SESSION

# S. 2354

To amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 24, 1998

Mr. BOND (for himself, Mr. HOLLINGS, Mr. FAIRCLOTH, Mr. COCHRAN, and Mr. BENNETT) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Medicare Home Health  
3 Beneficiary Protection Act of 1998”.

4 **SEC. 2. MODIFICATION OF HOME HEALTH SERVICES COST**  
5 **LIMITS.**

6 (a) ESTABLISHMENT OF A MORATORIUM ON IMPLE-  
7 MENTATION OF PER BENEFICIARY LIMITS UNDER IN-  
8 TERIM PAYMENT SYSTEM.—Section 1861(v)(1)(L) of the  
9 Social Security Act (42 U.S.C. 1395x(v)(1)(L)) (as  
10 amended by section 4602(c) of the Balanced Budget Act  
11 of 1997) is amended by striking clauses (v), (vi), and (vii).

12 (b) PER VISIT COST LIMITS.—

13 (1) BASIS FOR LIMITS.—Section  
14 1861(v)(1)(L)(i) of the Social Security Act (42  
15 U.S.C. 1395x(v)(1)(L)(i)) (as amended by section  
16 4602(a) of the Balanced Budget Act of 1997) is  
17 amended—

18 (A) in subclause (III)—

19 (i) by striking “October 1, 1997” and  
20 inserting “July 1, 1997”; and

21 (ii) by striking “or” at the end;

22 (B) by amending subclause (IV) to read as  
23 follows:

24 “(IV) July 1, 1997, and before July 1, 2000,  
25 112 percent of such mean applicable for cost report-

1 ing periods beginning on or after July 1, 1996, and  
 2 before July 1, 1997, and”; and

3 (C) by adding at the end the following:

4 “(V) July 1, 2000, 112 percent of the mean of  
 5 the labor-related and nonlabor per visit costs for  
 6 freestanding home health agencies.”.

7 (2) ESTABLISHING A 3-YEAR FREEZE ON COST  
 8 LIMITS.—Section 1861(v)(1)(L)(iii) of such Act (42  
 9 U.S.C. 1395x(v)(1)(L)(iii)) (as amended by section  
 10 4602 of the Balanced Budget Act of 1997) is  
 11 amended by striking “October 1, 1997” and insert-  
 12 ing “July 1, 2000”.

13 **SEC. 3. STRENGTHENING MEDICARE OVERSIGHT OF HOME**  
 14 **HEALTH SERVICES EXPENDITURES.**

15 (a) IN GENERAL.—Section 4614 of the Balanced  
 16 Budget Act of 1997 is amended by redesignating sub-  
 17 section (c) as subsection (d) and inserting after subsection  
 18 (b) the following:

19 “(c) PROCEDURES TO ELIMINATE INAPPROPRIATE  
 20 UTILIZATION OF HOME HEALTH SERVICES.—

21 “(1) IN GENERAL.—The Secretary of Health  
 22 and Human Services shall establish a process for  
 23 eliminating inappropriate utilization of home health  
 24 services by reviewing claims for reimbursement of  
 25 such services furnished under the medicare program

1 under title XVIII of the Social Security Act (42  
 2 U.S.C. 1395 et seq.) in which the number of home  
 3 health visits provided to a beneficiary in a year ex-  
 4 ceeds the regional average of per beneficiary annual  
 5 visits.

6 “(2) REFERRAL TO IG.—If the Secretary of  
 7 Health and Human Services determines appropriate,  
 8 the Secretary shall—

9 “(A) issue a determination denying pay-  
 10 ment for a claim described in paragraph (1);  
 11 and

12 “(B) refer the name of the provider that  
 13 submitted such claim to the Office of Inspector  
 14 General of the Department of Health and  
 15 Human Services for investigation.

16 “(3) APPLICATION.—This subsection shall  
 17 apply to claims for reimbursement submitted after  
 18 the process described in paragraph (1) is estab-  
 19 lished.”.

20 (b) REPORTS TO CONGRESS.—Section 4616(b) of the  
 21 Balanced Budget Act of 1997 (42 U.S.C 1395y note) is  
 22 amended by adding at the end the following: “The Sec-  
 23 retary shall include in each of the reports for fiscal years  
 24 1999 through 2002 recommendations regarding changes  
 25 to the method of payment, claims review, and scope of

1 benefits that the Secretary determines is necessary to  
 2 achieve actual outlays under such parts for such services  
 3 during the following fiscal year that are equal to the esti-  
 4 mated outlays under subsection (a) for such year.”.

5 **SEC. 4. MODIFICATION OF CALCULATION OF PAYMENT**  
 6 **AMOUNT FOR HOME HEALTH SERVICES**  
 7 **UNDER THE PROSPECTIVE PAYMENT SYS-**  
 8 **TEM.**

9 (a) ESTABLISHMENT OF EQUITABLE LIMITS FOR  
 10 CALCULATING PROSPECTIVE PAYMENT RATES.—

11 (1) IN GENERAL.—Section 1895(b)(3)(A)(i) of  
 12 the Social Security Act (42 U.S.C.  
 13 1395fff(b)(3)(A)(i)) (as added by section 4603 of  
 14 the Balanced Budget Act of 1997) is amended by in-  
 15 serting “the greater of \$21,200,000,000 or” after  
 16 “equal to”.

17 (2) CONTINGENCY.—Section 4603(e) of the  
 18 Balanced Budget Act of 1997 (42 U.S.C. 1395fff  
 19 note) is amended—

20 (A) by striking “If” and inserting the fol-  
 21 lowing:

22 “(1) IN GENERAL.—If”;

23 (B) in paragraph (1) (as redesignated by  
 24 subparagraph (A)), by striking “provide for a

1 reduction by 15 percent” and all that follows  
 2 and inserting the following: “provide—

3 “(A) for such cost reporting periods that  
 4 begin before October 1, 2002, for an adjust-  
 5 ment to the cost limits described in section  
 6 1861(v)(1)(L) of such Act so that the total  
 7 amounts payable for such services in a fiscal  
 8 year is equal to the greater of—

9 “(i) the applicable amount (as defined  
 10 in paragraph (2); or

11 “(ii) the total amount of payments for  
 12 such services that would have been made  
 13 in such fiscal year if such cost limits (as  
 14 those limits would otherwise be in effect on  
 15 September 30, 1999) had been reduced by  
 16 15 percent; and

17 “(B) for such cost reporting periods that  
 18 begin on or after October 1, 2002, for a reduc-  
 19 tion by 15 percent in such cost limits (as so in  
 20 effect).”; and

21 (C) by adding at the end the following:

22 “(2) APPLICABLE AMOUNT DEFINED.—In para-  
 23 graph (1), the term ‘applicable amount’ means the  
 24 following amount:

1                   “(A)     For     fiscal     year     2000,  
2                   \$21,200,000,000.

3                   “(B)     For     fiscal     year     2001,  
4                   \$23,300,000,000.

5                   “(C)     For     fiscal     year     2002,  
6                   \$25,200,000,000.”.

7           (b) TEMPORARY RESTORATION OF PERIODIC IN-  
8   TERIM PAYMENT FOR HOME HEALTH SERVICES.—Sec-  
9   tion 1815(e)(2) of the Social Security Act (42 U.S.C.  
10 1395g(e)(2)) (as amended by section 4603(b) of the Bal-  
11   anced Budget Act of 1997) is amended—

12               (1) in subparagraph (C), by striking “and” at  
13               the end;

14               (2) by redesignating subparagraph (D) as sub-  
15               paragraph (E); and

16               (3) by inserting after subparagraph (C) the fol-  
17               lowing:

18               “(D) home health services until the end of the  
19               12-month period following the date that the prospec-  
20               tive payment system for such services is imple-  
21               mented pursuant to section 1895; and”.

1 **SEC. 5. EFFECTIVE DATE.**

2       The amendments made by this Act shall take effect  
3 as if included in the provisions of the Balanced Budget  
4 Act of 1997 to which they apply.

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