

105TH CONGRESS
2D SESSION

S. 2508

To amend title XVIII of the Social Security Act to impose conditions on the implementation of the interim payment system for home health services furnished by home health agencies under the Medicare program and to modify the standards for calculating the per beneficiary payment limits under such payment system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 1998

Mr. COCHRAN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to impose conditions on the implementation of the interim payment system for home health services furnished by home health agencies under the Medicare program and to modify the standards for calculating the per beneficiary payment limits under such payment system, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Homebound Elderly
5 Relief Opportunity Act of 1998”.

1 **SEC. 2. MODIFICATION OF HOME HEALTH SERVICES PAY-**
 2 **MENT LIMITS.**

3 (a) CONDITIONS ON IMPLEMENTATION OF PER BEN-
 4 EFICIARY LIMITS UNDER INTERIM PAYMENT SYSTEM.—

5 (1) IN GENERAL.—Section 1861(v)(1)(L) of the
 6 Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is
 7 amended—

8 (A) in the first sentence of clause (v), by
 9 striking “For” and inserting “Subject to clause
 10 (iv), for”; and

11 (B) in clause (iv), to read as follows:

12 “(iv)(I) Clause (v) shall not apply for a cost reporting
 13 period beginning during fiscal year 1999, 2000, 2001, or
 14 2002, unless the Secretary determines that the amount
 15 of the aggregate expenditures under this title for home
 16 health services in the fiscal year (as estimated by the Sec-
 17 retary) exceeds the applicable amount described in sub-
 18 clause (II).

19 “(II) For purposes of subclause (I), the applicable
 20 amount for fiscal year 1999 is \$19,300,000,000, for fiscal
 21 year 2000 is \$19,000,000,000, for fiscal year 2001 is
 22 \$21,400,000,000, and for fiscal year 2002 is
 23 \$23,100,000,000.

24 “(III) In determining under subclause (I) for a fiscal
 25 year whether estimated aggregate expenditures exceed the
 26 applicable amount, the Secretary shall compute, if applica-

ble, the amount by which estimated aggregate expenditures were less than or greater than the applicable amount for previous fiscal years (beginning with fiscal year 1999), and apply such amount in the determination of the estimated aggregate expenditures for such fiscal year involved. In making computations pursuant to the previous sentence, the Secretary shall use information from fiscal years in which settled cost reports of all home health agencies are available.

“(IV) Not later than May 31 of each of fiscal years 1999 through 2002, the Secretary shall determine the estimated aggregate expenditures for home health services to be made during the fiscal year.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1998.

(b) ESTABLISHMENT OF REGIONALLY UNIFORM PER BENEFICIARY LIMITS UNDER INTERIM PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 1861(v)(1)(L) of such Act (42 U.S.C. 1395x(v)(1)(L)) is amended—

(A) by amending subclause (I) of clause (v) to read as follows:

“(I) the per beneficiary annual limitation specified in clause (viii); and”; and

1 (B) by adding at the end the following new
2 clause:

3 “(viii) For purposes of clause (v)(I), the per bene-
4 ficiary annual limitation is the following amount:

5 “(I) For an agency located in the New England
6 census division (Connecticut, Maine, Massachusetts,
7 New Hampshire, Rhode Island, and Vermont),
8 \$4,026.91.

9 “(II) For an agency located in the Middle At-
10 lantic census division (New Jersey, New York, and
11 Pennsylvania), \$3,796.19.

12 “(III) For an agency located in the East North
13 Central census division (Illinois, Indiana, Michigan,
14 Ohio, and Wisconsin), \$3,943.56.

15 “(IV) For an agency located in the West North
16 Central census division (Iowa, Kansas, Minnesota,
17 Montana, Nebraska, North Dakota, and South Da-
18 kota), \$3,911.64.

19 “(V) For an agency located in the South Atlan-
20 tic census division (Delaware, the District of Colum-
21 bia, Florida, Georgia, Maryland, North Carolina,
22 South Carolina, Virginia, and West Virginia),
23 \$4,132.02.

1 “(VI) For an agency located in the East South
2 Central census division (Alabama, Kentucky, Mis-
3 sissippi, and Tennessee), \$5,641.41.

4 “(VII) For an agency located in the West
5 South Central census division (Arkansas, Louisiana,
6 Oklahoma, and Texas), \$5,507.11.

7 “(VIII) For an agency located in the Mountain
8 census division (Arizona, Colorado, Idaho, Montana,
9 Nevada, New Mexico, Utah, and Wyoming),
10 \$4,115.74.

11 “(IX) For an agency located in the Pacific cen-
12 sus division (Alaska, California, Hawaii, Oregon,
13 and Washington), \$3,894.87.

14 “(X) For an agency located in the Common-
15 wealth of Puerto Rico, \$3,783.11.

16 “(XI) For an agency located in the Territory of
17 Guam, \$3,760.93.”.

18 (2) EFFECTIVE DATE.—The amendments made
19 by paragraph (1) shall apply to cost reporting peri-
20 ods beginning on or after October 1, 1998.

21 (c) ELIMINATION OF SPECIAL PER BENEFICIARY
22 PAYMENT RULE FOR NEW AGENCIES.—

23 (1) IN GENERAL.—Section 1861(v)(1)(L)(vi) of
24 such Act (42 U.S.C. 1395x(v)(1)(L)(vi)) (as added

1 by section 4602(c) of the Balanced Budget Act of
 2 1997) is amended—

3 (A) by striking “For services” and insert-
 4 ing “In the case of services”; and

5 (B) by striking “the following rules apply”
 6 and all that follows through “For beneficiaries”
 7 and inserting “for beneficiaries”.

8 (2) EFFECTIVE DATE.—The amendments made
 9 by paragraph (1) shall apply to cost reporting peri-
 10 ods beginning on or after October 1, 1998.

11 (d) PER VISIT COST LIMITS.—Section
 12 1861(v)(1)(L)(i) of such Act (42 U.S.C.
 13 1395x(v)(1)(L)(i)) is amended—

14 (1) in subclause (III), by striking “or”; and

15 (2) in subclause (IV)—

16 (A) by inserting “and before October 1,
 17 1998,” after “October 1, 1997,”;

18 (B) by striking the period at the end and
 19 inserting “, or”; and

20 (C) by adding at the end the following new
 21 subclause:

22 “(V) October 1, 1998, 108 percent of the mean
 23 of the labor-related and nonlabor per visit costs for
 24 freestanding home health agencies.”.

1 (e) JUDICIAL REVIEW.—Section 1861(v)(1)(L) of
 2 such Act (42 U.S.C. 1395x(v)(1)(L)), as amended by sub-
 3 section (b), is further amended by adding at the end the
 4 following new clause:

5 “(ix) There shall be no administrative or judicial re-
 6 view under section 1869, 1878, or under any other provi-
 7 sion of law of any action by the Secretary under clause
 8 (i), (iv), or (viii), as amended by the Homebound Elderly
 9 Relief Opportunity Act of 1998, with respect to payment
 10 limits for cost reporting periods beginning on or after Oc-
 11 tober 1, 1998.”.

12 (f) PUBLICATION OF NEW LIMITS.—Section
 13 1861(v)(1)(L)(vii) of such Act (42 U.S.C.
 14 1395x(v)(1)(L)(vii)) is amended by adding at the end the
 15 following new subclause:

16 “(III) Notwithstanding subclause (II), in the case of
 17 per visit or per beneficiary limits for fiscal year 1999 es-
 18 tablished by reason of the Homebound Elderly Relief Op-
 19 portunity Act of 1998, the Secretary shall establish such
 20 limits by not later than 90 days after the date of the en-
 21 actment of such Act.”.

22 (g) ELIMINATION OF MANDATORY REDUCTION IN
 23 PAYMENT LIMITS.—Section 4603(e) of the Balanced
 24 Budget Act of 1997 (42 U.S.C. 1395fff note) is amended

1 by striking “provide for a reduction by 15 percent in” and
2 inserting “apply”.

3 **SEC. 3. REPORTS ON INTERIM PAYMENT SYSTEM.**

4 (a) SUMMARY OF RESEARCH.—By not later than
5 January 1, 1999, the Secretary of Health and Human
6 Services shall submit to Congress a report on the following
7 matters:

8 (1) DESCRIPTION OF RESEARCH.—A descrip-
9 tion of any research paid for by the Secretary on the
10 development of a prospective payment system for
11 home health services furnished under the Medicare
12 program under title XVIII of the Social Security
13 Act, and a summary of the results of such research.

14 (2) SCHEDULE FOR IMPLEMENTATION OF SYS-
15 TEM.—The Secretary’s schedule for the implementa-
16 tion of the prospective payment system for home
17 health services under section 1895 of the Social Se-
18 curity Act (42 U.S.C. 1395fff).

19 (b) MEDPAC REPORTS.—

20 (1) REVIEW OF SECRETARY’S REPORT.—Not
21 later than 60 days after the date the Secretary of
22 Health and Human Services submits to Congress
23 the report under subsection (a), the Medicare Pay-
24 ment Advisory Commission (established under sec-
25 tion 1805 of the Social Security Act (42 U.S.C.

1 1395b–6) shall submit to Congress a report describ-
2 ing the Commission’s analysis of the Secretary’s re-
3 port, and shall include the Commission’s rec-
4 ommendations with respect to the matters contained
5 in such report.

6 (2) ANNUAL REPORT.—The Commission shall
7 include in its annual report to Congress for June
8 1999 an analysis of whether changes in law made by
9 the Balanced Budget Act of 1997, as modified by
10 the amendments made by this Act, with respect to
11 payments for home health services furnished under
12 the Medicare program under title XVIII of the So-
13 cial Security Act impede access to such services by
14 individuals entitled to benefits under such program.

15 (c) GAO AUDITS.—

16 (1) RESEARCH EXPENDITURES.—The Comp-
17 troller General of the United States shall conduct an
18 audit of sums obligated or expended by the Health
19 Care Financing Administration for the research de-
20 scribed in subsection (a)(1), and of the data, re-
21 ports, proposals, or other information provided by
22 such research.

23 (2) ESTIMATES OF AGGREGATE SPENDING FOR
24 MEDICARE HOME HEALTH SERVICES.—The Comp-
25 troller General shall conduct an audit of the esti-

1 mated aggregate expenditures for home health serv-
2 ices furnished under the Medicare program, as de-
3 termined by the Secretary of Health and Human
4 Services under section 1861(v)(1)(L)(iv)(IV) of the
5 Social Security Act (42 U.S.C.
6 1395x(v)(1)(L)(iv)(IV)), as added by section 2(b),
7 for each of fiscal years 1999 through 2002.

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