

105TH CONGRESS
1ST SESSION

S. 734

To amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare program.

IN THE SENATE OF THE UNITED STATES

MAY 12, 1997

Mr. BREAU (for himself, Mr. MACK, Mr. GRAHAM, and Mr. DORGAN) 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 make certain changes to hospice care under the Medicare program.

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 “Medicare Hospice Ben-
5 efit Amendments of 1997”.

6 **SEC. 2. HOSPICE CARE BENEFIT PERIODS.**

7 (a) RESTRUCTURING OF BENEFIT PERIOD.—Section
8 1812 of the Social Security Act (42 U.S.C. 1395d) is
9 amended in subsections (a)(4) and (d)(1), by striking “,
10 a subsequent period of 30 days, and a subsequent exten-

1 sion period” and inserting “and an unlimited number of
2 subsequent periods of 60 days each”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 1812 of the Social Security Act (42
5 U.S.C. 1395d) is amended in subsection (d)(2)(B)
6 by striking “90- or 30-day period or a subsequent
7 extension period” and inserting “90-day period or a
8 subsequent 60-day period”.

9 (2) Section 1814(a)(7)(A) of the Social Security
10 Act (42 U.S.C. 1395f(a)(7)(A)) is amended—

11 (A) in clause (i), by inserting “and” at the
12 end;

13 (B) in clause (ii)—

14 (i) by striking “30-day” and inserting
15 “60-day”; and

16 (ii) by striking “, and” at the end and
17 inserting a period; and

18 (C) by striking clause (iii).

19 **SEC. 3. OTHER ITEMS AND SERVICES INCLUDED IN HOS-**
20 **PICE CARE.**

21 Section 1861(dd)(1) of the Social Security Act (42
22 U.S.C. 1395x(dd)(1)) is amended—

23 (1) in subparagraph (G), by striking “and” at
24 the end;

1 (2) in subparagraph (H), by striking the period
 2 at the end and inserting “, and”; and

3 (3) by inserting after subparagraph (H) the fol-
 4 lowing:

5 “(I) any other item or service which is specified
 6 in the plan and for which payment may otherwise be
 7 made under this title.”.

8 **SEC. 4. CONTRACTING WITH INDEPENDENT PHYSICIANS**
 9 **OR PHYSICIAN GROUPS FOR HOSPICE CARE**
 10 **SERVICES PERMITTED.**

11 Section 1861(dd)(2) of the Social Security Act (42
 12 U.S.C. 1395x(dd)(2)) is amended—

13 (1) in subparagraph (A)(ii)(I), by striking
 14 “(F),”; and

15 (2) in subparagraph (B)(i), by inserting “or
 16 under contract with” after “employed by”.

17 **SEC. 5. WAIVER OF CERTAIN STAFFING REQUIREMENTS**
 18 **FOR HOSPICE CARE PROGRAMS IN NON-**
 19 **URBANIZED AREAS.**

20 Section 1861(dd)(5) of the Social Security Act (42
 21 U.S.C. 1395x(dd)(5)) is amended—

22 (1) in subparagraph (B), by inserting “or (C)”
 23 after “subparagraph (A)” each place it appears; and

24 (2) by adding at the end the following:

1 “(C) The Secretary may waive the requirements of
 2 clauses (i) and (ii) of paragraph (2)(A) for an agency or
 3 organization with respect to the services described in para-
 4 graph (1)(B) and, with respect to dietary counseling,
 5 paragraph (1)(H), if such agency or organization—

6 “(i) is located in an area which is not an urban-
 7 ized area (as defined by the Bureau of Census); and

8 “(ii) demonstrates to the satisfaction of the
 9 Secretary that the agency or organization has been
 10 unable, despite diligent efforts, to recruit appro-
 11 priate personnel.”.

12 **SEC. 6. LIMITATION ON LIABILITY OF BENEFICIARIES AND**
 13 **PROVIDERS FOR CERTAIN HOSPICE COV-**
 14 **ERAGE DENIALS.**

15 Section 1879(g) of the Social Security Act (42 U.S.C.
 16 1395pp(g)) is amended—

17 (1) by redesignating paragraphs (1) and (2) as
 18 subparagraphs (A) and (B), respectively, and mov-
 19 ing those subparagraphs 2 ems to the right;

20 (2) by striking “is,” and inserting “is—”;

21 (3) by making the remaining text of subsection
 22 (g) (as amended) that follows “is—” a new para-
 23 graph (1) and indenting that paragraph 2 ems to
 24 the right;

1 (4) by striking the period at the end and insert-
 2 ing “; and”; and

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

4 “(2) with respect to the provision of hospice
 5 care to an individual, a determination that the indi-
 6 vidual is not terminally ill.”.

7 **SEC. 7. EXTENDING THE PERIOD FOR PHYSICIAN CERTIFI-**
 8 **CATION OF AN INDIVIDUAL’S TERMINAL ILL-**
 9 **NESS.**

10 Section 1814(a)(7)(A)(i)(II) of the Social Security
 11 Act (42 U.S.C. 1395f(a)(7)(A)(i)(II)) is amended by strik-
 12 ing “, not later than 2 days after hospice care is initiated
 13 (or, if each certify verbally not later than 2 days after
 14 hospice care is initiated, not later than 8 days after such
 15 care is initiated),” and inserting “at the beginning of the
 16 period”.

17 **SEC. 8. EFFECTIVE DATE.**

18 The amendments made by this Act apply to benefits
 19 provided on or after the date of enactment of this Act,
 20 regardless of whether or not an individual has made an
 21 election under section 1812(d) of the Social Security Act
 22 (42 U.S.C. 1395d(d)) before that date.

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