

106TH CONGRESS
1ST SESSION

H. R. 1543

To amend title XVIII of the Social Security Act to combat fraud and abuse under the Medicare Program with respect to partial hospitalization services.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 1999

Mr. STARK (for himself, Mrs. THURMAN, Mr. SHAYS, Mr. WEYGAND, Mr. LEWIS of Georgia, Ms. DEGETTE, Mr. BROWN of Ohio, Mr. CROWLEY, Mr. CLEMENT, Mr. LAMPSON, Mr. RODRIGUEZ, Mr. GREEN of Texas, and Mr. PAUL) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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

A BILL

To amend title XVIII of the Social Security Act to combat fraud and abuse under the Medicare Program with respect to partial hospitalization services.

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 “Partial Hospitalization
5 Services Integrity Act of 1999”.

1 **SEC. 2. LIMITATION ON LOCATION OF PROVISION OF SERV-**
2 **ICES.**

3 (a) IN GENERAL.—Section 1861(ff)(2) of the Social
4 Security Act (42 U.S.C. 1395x(ff)(2)) is amended in the
5 matter following subparagraph (I)—

6 (1) by striking “and furnished” and inserting
7 “furnished”; and

8 (2) by inserting before the period the following:
9 “, and furnished other than in a skilled nursing fa-
10 cility, residential treatment facility or other residen-
11 tial setting (as determined by the Secretary)”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 subsection (a) apply with respect to partial hospitalization
14 services furnished on or after the first day of the third
15 month beginning after the date of the enactment of this
16 Act.

17 **SEC. 3. QUALIFICATIONS FOR COMMUNITY MENTAL**
18 **HEALTH CENTERS.**

19 (a) IN GENERAL.—Section 1861(ff)(3)(B) of the So-
20 cial Security Act (42 U.S.C. 1395x(ff)(3)(B)) is amended
21 by striking “entity” and all that follows and inserting the
22 following: “entity that—

23 “(i)(I) provides the mental health services de-
24 scribed in section 1913(c)(1) of the Public Health
25 Service Act; or

1 “(II) in the case of an entity operating in a
 2 State that by law precludes the entity from pro-
 3 viding a service described in such section itself, pro-
 4 vides for such service by contract with an approved
 5 organization or entity (as determined by the Sec-
 6 retary);

7 “(ii) meets applicable licensing or certification
 8 requirements for community mental health centers
 9 in the State in which it is located; and

10 “(iii) meets such additional conditions as the
 11 Secretary shall specify to ensure (I) the health and
 12 safety of individuals being furnished such services,
 13 (II) the effective and efficient furnishing of such
 14 services, and (III) the compliance of such entity with
 15 the criteria described in such section.”.

16 (b) CLARIFICATION OF CRITERIA FOR COMMUNITY
 17 MENTAL HEALTH CENTERS.—Section 1913(c)(1)(E) of
 18 the Public Health Service Act (42 U.S.C. 300x-
 19 3(c)(1)(E)) is amended to read as follows:

20 “(E) Determining the clinical appropriate-
 21 ness of admissions to any inpatient psychiatric
 22 hospitals by engaging a full-time mental health
 23 professional who is licensed or certified to make
 24 such a determination by the State involved.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section apply with respect to community mental
3 health centers furnishing services under the medicare pro-
4 gram on or after the first day of the third month begin-
5 ning after the date of the enactment of this Act.

6 **SEC. 4. GUIDELINES FOR ITEMS AND SERVICES COM-**
7 **PRISING PARTIAL HOSPITALIZATION SERV-**
8 **ICES.**

9 Not later than 180 days after the date of the enact-
10 ment of this Act, the Secretary shall first adopt national
11 coverage and administrative policies for partial hos-
12 pitalization services furnished under title XVIII of the So-
13 cial Security Act, using a negotiated rulemaking process
14 under subchapter III of chapter 5 of title 5, United States
15 Code.

16 **SEC. 5. REFINEMENT OF PERIODICITY OF REVIEW OF PLAN**
17 **FOR PARTIAL HOSPITALIZATION SERVICES.**

18 (a) IN GENERAL.—Section 1835(a)(2)(F)(ii) of the
19 Social Security Act (42 U.S.C. 1395n(a)(2)(F)(ii)) is
20 amended by inserting “at a reasonable rate (as determined
21 by the Secretary)” after “is reviewed periodically”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) applies with respect to plans for furnishing
24 partial hospitalization services established on or after the

1 first day of the third month beginning after the date of
2 the enactment of this Act.

3 **SEC. 6. RECERTIFICATION OF PROVIDERS OF PARTIAL**
4 **HOSPITALIZATION SERVICES.**

5 (a) IN GENERAL.—With respect to each community
6 mental health center that furnishes partial hospitalization
7 services for which payment is made under title XVIII of
8 the Social Security Act, the Secretary of Health and
9 Human Services shall provide for periodic recertification
10 to ensure that the provision of such services complies with
11 applicable requirements of such title.

12 (b) DEADLINE FOR FIRST RECERTIFICATION.—The
13 first recertification under subsection (a) shall be com-
14 pleted not later than one year after the date of the enact-
15 ment of this Act.

16 **SEC. 7. CIVIL MONETARY PENALTIES FOR FALSE CERTIFI-**
17 **CATION OF ELIGIBILITY FOR HOSPICE CARE**
18 **OR PARTIAL HOSPITALIZATION SERVICES.**

19 (a) IN GENERAL.—Section 1128A(b)(3) of the Social
20 Security Act (42 U.S.C. 1320a–7a(b)(3)) is amended—

21 (1) in subparagraph (A)(ii), by inserting “, hos-
22 pice care, or partial hospitalization services” after
23 “home health services”; and

24 (2) in subparagraph (B), by inserting “, section
25 1814(a)(7) in the case of hospice care, or section

1 1835(a)(2)(F) in the case of partial hospitalization
2 services” after “in the case of home health services”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 subsection (a) apply with respect to certifications of eligi-
5 bility for hospice care or partial hospitalization services
6 under the medicare program made on or after the first
7 day of the third month beginning after the date of the
8 enactment of this Act.

9 **SEC. 8. DEMONSTRATION FOR COST EFFECTIVE WRAP**
10 **AROUND MENTAL HEALTH SERVICES.**

11 (a) ESTABLISHMENT.—

12 (1) IN GENERAL.—The Secretary of Health and
13 Human Services shall implement a demonstration
14 project (in this section referred to as the “project”)
15 under part B of title XVIII of the Social Security
16 Act under which community mental health centers
17 may offer wrap around mental health services (as
18 defined in paragraph (2)(A)) for purposes of pro-
19 viding for a full continuum of ambulatory behavioral
20 health care services.

21 (2) DEFINITIONS.—

22 (A) WRAP AROUND MENTAL HEALTH
23 SERVICES DEFINED.—The term “wrap around
24 mental health services” means comprehensive
25 outpatient mental health services furnished to

an individual pursuant to an individualized treatment plan developed by a mental health professional, in consultation with the family of the individual (if available). Such services are furnished to the individual through a comprehensive, multidisciplinary health and social services delivery system that provides coordinated therapeutic interventions, including medical services, psychotherapy services, occupational therapy services, and social work services.

(B) LICENSED MENTAL HEALTH PROFESSIONAL.—The term “mental health professional” means any of the following individuals who are licensed by the State in which the individual furnishes services (as that term is defined in paragraphs (1), (2)(M), and (2)(N) of section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s))) to design and execute treatment plans described in subparagraph (A) without the supervision of another health care practitioner:

(i) A physician, as defined in section 1861(r)(1) of such Act (42 U.S.C. 1395x(r)(1)).

1 (ii) A clinical psychologist, as defined
2 by the Secretary pursuant to section
3 1861(ii) of such Act (42 U.S.C. 1395x(ii)).

4 (iii) A clinical social worker, as de-
5 fined in section 1861(hh) of such Act (42
6 U.S.C. 1395x(hh)).

7 (b) SELECTION OF CENTERS.—For purposes of im-
8 plementing such project, the Secretary shall select for par-
9 ticipation in the project community mental health centers
10 that serve populations in three different States, one of
11 which predominantly serves rural populations.

12 (c) CAPITATED PAYMENT.—The Secretary shall es-
13 tablish and make prospective monthly payments of a capi-
14 tation amount for individuals receiving wrap around men-
15 tal health services under this project.

16 (d) EVALUATION AND REPORT.—

17 (1) EVALUATION.—The Secretary shall evaluate
18 the project. Such evaluation shall include an exam-
19 ination of—

20 (A) the project's effect on the health, well-
21 being, condition, and functional level of bene-
22 ficiaries receiving wrap around mental health
23 services;

24 (B) any savings to the medicare program
25 by reason of capitated payments for wrap

1 around medical services consisting of partial
2 hospitalization services (as that term is defined
3 in section 1861(ff) of the Social Security Act
4 (42 U.S.C. 1395x(ff));

5 (C) the impact of basing payment for such
6 services on a capitated basis; and

7 (D) the project's effect on utilization of in-
8 patient services (including inpatient mental
9 health services) and associated costs.

10 (2) REPORT.—Not later than four years after
11 the date of the enactment of this Act, the Secretary
12 shall submit to Congress a report containing a state-
13 ment of the findings and conclusions of the Sec-
14 retary pursuant to the evaluation conducted under
15 paragraph (1), together with any recommendations
16 for legislation the Secretary considers appropriate
17 with respect to—

18 (A) the provision of additional mental
19 health services by community mental health
20 centers under partial hospitalization services;
21 and

22 (B) payment for such services on a
23 capitated basis.

24 (e) DURATION.—The project shall be conducted for
25 a three year period.

1 (f) FUNDING.—The Secretary shall provide for the
2 transfer from the Federal Hospital Insurance Trust Fund,
3 established under section 1817 of the Social Security Act
4 (42 U.S.C. 1395i), of such funds as are necessary for the
5 costs of carrying out the demonstration project under this
6 section.

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