

106TH CONGRESS
1ST SESSION

H. R. 2628

To amend title XVIII of the Social Security Act to provide greater equity to Medicare-certified home health agencies, and to ensure access of Medicare beneficiaries to medically necessary home health services furnished in an efficient manner under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1999

Mr. WATTS of Oklahoma (for himself, Mr. LUCAS of Oklahoma, and Mr. WATKINS) 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 provide greater equity to Medicare-certified home health agencies, and to ensure access of Medicare beneficiaries to medically necessary home health services furnished in an efficient manner 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 Home Health
5 Services Equity Act of 1999”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that the payment system for home
3 health services covered under Medicare as enacted by the
4 Balanced Budget Act of 1997 is having the following unin-
5 tended consequences:

6 (1) Many of the sickest, most frail Medicare
7 beneficiaries are being deprived of access to medi-
8 cally necessary home health services which are cov-
9 ered under the Medicare Program.

10 (2) The amount of reductions in reimbursement
11 for home health services furnished under the Medi-
12 care Program significantly exceeds the amount of re-
13 duction in reimbursement for any other service fur-
14 nished under the Medicare Program at a time when
15 the need for home health services by the Nation's el-
16 derly citizens is growing.

17 (3) The per beneficiary limits imposed on home
18 health agencies do not, for a majority of such agen-
19 cies, accurately reflect the costs necessarily incurred
20 in the efficient delivery of needed home health serv-
21 ices to the individuals treated by those agencies, as
22 required under section 1861(v)(1)(A) of the Social
23 Security Act (42 U.S.C. 1395x(v)(1)(A)).

24 (4) Residents of certain States and regions of
25 the country are being afforded access to far fewer
26 home health services under the Medicare Program

1 than residents of other States or regions who have
2 similar medical conditions.

3 (5) The prospective payment system scheduled
4 for implementation by October 1, 2000, is in danger
5 of being based on data which excludes many of the
6 costs of providing covered services to the sickest,
7 most frail Medicare beneficiaries.

8 (6) The additional 15 percent reduction in re-
9 imbursement currently scheduled for October 1,
10 2000, will result in reductions in Medicare spending
11 for home health services that are far in excess of
12 those intended by Congress when it passed the Bal-
13 anced Budget Act of 1997 and are unrelated to
14 needs of the patients.

15 (7) The home health interim payment system
16 enacted as part of the Balanced Budget Act of 1997
17 is not providing for a smooth transition from reason-
18 able cost reimbursement to prospective payment.

19 **SEC. 3. INTERIM PAYMENT SYSTEM OVERPAYMENT**
20 **RECOUPMENT.**

21 (a) IN GENERAL.—Section 1861(v)(1)(L) of the So-
22 cial Security Act (42 U.S.C. 1395x(v)(1)(L)), as amended
23 by section 5101(a) of the Tax and Trade Relief Extension
24 Act of 1998 (Public Law 105–277), is amended by adding
25 at the end the following new clause:

1 “(x)(I) Notwithstanding any other provision of this
 2 subparagraph, there shall be no recovery of any payments
 3 for reasonable costs made before the cost reporting period
 4 describe in subclause (II) to a home health agency in ex-
 5 cess of the per beneficiary limitation applicable to that
 6 agency.

7 “(II) The cost reporting period referred to in sub-
 8 clause (I) with respect to a home health agency is the cost
 9 reporting period beginning during the fiscal year following
 10 the fiscal year in which the home health agency received
 11 written notice from the Secretary of its agency-specific per
 12 beneficiary limitation.”.

13 (b) EFFECTIVE DATE.—The amendment made by
 14 subsection (a) shall apply as if included in the enactment
 15 of the Balanced Budget Act of 1997.

16 **SEC. 4. ELIMINATION OF AUTOMATIC 15 PERCENT REDUC-**
 17 **TION IN PAYMENT LIMITS.**

18 (a) PROSPECTIVE PAYMENT SYSTEM.—

19 (1) ELIMINATION OF REDUCTION.—Section
 20 1895(b)(3) of the Social Security Act (42 U.S.C.
 21 1395fff(b)(3)(A)) is amended—

22 (A) in clause (i)—

23 (i) by striking “but if the reduction in
 24 limits described in clause (ii) had been in
 25 effect”; and

1 (ii) by striking “(i) IN GENERAL.—”
 2 and adjusting the margin accordingly; and
 3 (B) by striking clause (ii).

4 (2) CONFORMING AMENDMENT.—Section
 5 1895(d)(3) of such Act (42 U.S.C. 1395fff(d)(3)) is
 6 amended by striking “(including the reduction de-
 7 scribed in clause (ii) of such subsection)”.

8 (b) INTERIM PAYMENT SYSTEM.—Section 4603 of
 9 the Balanced Budget Act of 1997 (Public Law 105–33),
 10 as amended by section 5101(c)(3) of the Tax and Trade
 11 Relief Extension Act of 1998 (Public Law 105–277), is
 12 amended by striking subsection (e).

13 **SEC. 5. REVISION OF PER VISIT LIMITS.**

14 Section 1861(v)(1)(L)(i) of the Social Security Act
 15 (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

16 (1) in subclause (IV), by striking “or”;

17 (2) in subclause (V)—

18 (A) by inserting “and before October 1,
 19 1999” after “October 1, 1998,”; and

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

22 (3) by adding at the end the following new sub-
 23 clause:

24 “(VI) October 1, 1999, 108 percent of
 25 such median.”.

1 **SEC. 6. ENSURING BENEFICIARY CHOICE OF PROVIDER**
 2 **WITH PRORATED LIMITS.**

3 (a) IN GENERAL.—Section 1861(v)(1)(L)(vi)(II) of
 4 the Social Security Act (42 U.S.C. 1395x(v)
 5 (1)(L)(vi)(II)) is amended by inserting “only if the Sec-
 6 retary determines that the agency knew or should have
 7 known that the individual, to whom home health services
 8 were furnished, used home health services furnished by
 9 more than one home health agency” before the period.

10 (b) EFFECTIVE DATE.—The amendment made by
 11 subsection (a) shall apply to cost reporting periods begin-
 12 ning on or after October 1, 1999.

13 **SEC. 7. EXCEPTIONS AND EXEMPTIONS; OUTLIERS.**

14 (a) EXCEPTIONS AND EXEMPTIONS.—

15 (1) IN GENERAL.—Section 1861(v)(1)(L)(ii) of
 16 the Social Security Act (42 U.S.C.
 17 1395x(v)(1)(L)(ii)) is amended by adding at the end
 18 the following: “With respect to the limits under
 19 clauses (v) through (ix), the Secretary shall provide
 20 for the following exceptions and exemptions:

21 “(I) Home health agencies furnishing home
 22 health services exclusively in medically underserved
 23 areas shall be exempt from such limits.

24 “(II) The Secretary shall provide for a payment
 25 amount (in an amount determined by the Secretary)
 26 in addition to the amounts applicable under such

1 limits for a home health agency that demonstrates
2 to the Secretary that it incurred costs above such
3 limits due to costs attributable to additional Federal
4 regulatory requirements imposed after fiscal year
5 1994.”.

6 (2) EXPENDITURE LIMITS ON EXCEPTIONS.—

7 The aggregate amount of additional payments or
8 payment adjustments made under section
9 1861(v)(1)(L)(ii)(II), as added by paragraph (1),
10 with respect to a fiscal year may not exceed 5 per-
11 cent of the aggregate payments projected or esti-
12 mated by the Secretary to be made under section
13 1861(v)(1)(L) for such fiscal year.

14 (b) ADDITIONAL PAYMENTS FOR OUTLIERS.—Sec-
15 tion 1861(v)(1)(L) of such Act (42 U.S.C.
16 1395x(v)(1)(L)), as amended by section 3(a), is further
17 amended by adding at the end the following new clause:

18 “(xi) Notwithstanding clauses (v) through (ix), the
19 Secretary shall provide for an additional payment amount
20 to a provider equal to the difference between the reason-
21 able cost incurred by the provider and the limit under such
22 clauses applicable to the provider if the provider dem-
23 onstrates to the Secretary that—

1 “(I) the provider incurred costs in excess of the
2 limits applicable under such clauses with respect to
3 an individual described in subclause (II);

4 “(II) with respect to an individual to whom the
5 provider furnished home health services under this
6 title, the individual requires the most expensive
7 home health services (case outliers) or requires such
8 services for a far longer than average period of time
9 (case and duration outliers), such outliers deter-
10 mined by the Secretary; and

11 “(III) such incurred costs are reasonable.

12 No payment shall be made under this clause to a provider
13 that, as of October 1, 1999, has ceased furnishing home
14 health services for which payment may be made under this
15 title.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply as if included in the enactment
18 of the Balanced Budget Act of 1997.

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