

106TH CONGRESS
1ST SESSION

S. 1414

To amend title XVIII of the Social Security Act to restore access to home health services covered under the medicare program, and to protect the medicare program from financial loss while preserving the due process rights of home health agencies.

IN THE SENATE OF THE UNITED STATES

JULY 22, 1999

Mr. MACK 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 restore access to home health services covered under the medicare program, and to protect the medicare program from financial loss while preserving the due process rights of home health agencies.

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 Beneficiary Equity and Payment Simplification Act of
6 1999”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Research has shown that medicare bene-
4 ficiaries who are in need of home health services
5 that are covered under the medicare program gen-
6 erally fall into 1 of the 4 following categories:

7 (A) Post-hospital, short-stay beneficiaries.

8 (B) Medically stable, long-stay bene-
9 ficiaries.

10 (C) Medically complex, long-stay bene-
11 ficiaries.

12 (D) Medically unstable and complex, ex-
13 tremely high-use beneficiaries.

14 (2) The interim payment system for home
15 health services under the medicare program, enacted
16 as part of the Balanced Budget Act of 1997 and
17 amended by title V of the Tax and Trade Relief Ex-
18 tension Act of 1998 (contained in Division J of Pub-
19 lic Law 105–277), is having the following unin-
20 tended consequences:

21 (A) The sickest, most frail medicare bene-
22 ficiaries are losing access to medically necessary
23 home health services that are otherwise covered
24 under the medicare program.

25 (B) Many high quality, cost-effective home
26 health agencies have had per beneficiary limits

1 under the interim payment system set so low
2 that such agencies are finding it impossible to
3 continue to provide home health services under
4 the medicare program.

5 (C) Many home health agencies are being
6 subjected to aggregate per beneficiary limits
7 under the interim payment system that do not
8 accurately reflect the current patient mix of
9 such agencies, thereby making it impossible for
10 such agencies to compete with similarly situated
11 home health agencies.

12 (D) Medicare beneficiaries that reside in
13 certain States and regions of the country have
14 far less access to home health services under
15 the medicare program than individuals who
16 have identical medical conditions but reside in
17 other States or regions of the country.

18 (E) The health status of home health bene-
19 ficiaries varies significantly in different regions
20 of the country, creating differing needs for
21 home health services.

22 **SEC. 3. PAYMENTS TO HOME HEALTH AGENCIES UNDER**
23 **MEDICARE.**

24 (a) REVISION OF PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) (as amended by section 5101 of the Tax and Trade Relief Extension Act of 1998 (contained in Division J of Public Law 105–277)) is amended—

(A) in subsection (a), by striking “for portions of cost reporting periods occurring on or after October 1, 2000” and inserting “for cost reporting periods beginning on or after October 1, 1999”; and

(B) in subsection (b), by striking the last sentence of paragraph (1) and all that follows and inserting the following:

“(2) PAYMENT BASIS.—

“(A) IN GENERAL.—The prospective payment amount to be paid to a home health agency under this section for all of the home health services (including medical supplies) provided to a beneficiary under this title during the 12-month period beginning on the date that such services are first provided by such agency to such beneficiary pursuant to a plan for furnishing such services (and for each subsequent 12-month period that services are provided under such plan) shall be an amount equal to

the applicable amount specified in subparagraph (B) for the fiscal year in which the 12-month period begins.

“(B) APPLICABLE AMOUNT.—Subject to subparagraphs (C), (D), and (E) and paragraph (5), for purposes of this subsection, the applicable amount is equal to—

“(i) \$2,603 for a beneficiary described in subparagraphs (A) and (E) of paragraph (3);

“(ii) \$3,335 for a beneficiary described in paragraph (3)(B);

“(iii) \$4,228 for a beneficiary described in paragraph (3)(C); and

“(iv) \$21,864 for a beneficiary described in paragraph (3)(D).

“(C) ANNUAL UPDATE.—

“(i) IN GENERAL.—The applicable amount specified in subparagraph (B) shall be adjusted for each fiscal year (beginning with fiscal year 2001) in a prospective manner specified by the Secretary by the home health market basket percentage increase applicable to the fiscal year involved.

“(ii) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of clause (i), the term ‘home health market basket percentage increase’ means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the mix of goods and services included in home health services in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to the mix of goods and services comprising inpatient hospital services for the fiscal year.

“(D) AREA WAGE ADJUSTMENT.—

“(i) IN GENERAL.—The portion of the applicable amount specified in subparagraph (B) (as updated under subparagraph (C)) that the Secretary estimates to be attributable to wages and wage-related costs shall be adjusted for geographic differences in such costs by an area wage adjustment factor for the area in which the home health agency is located.

1 “(ii) ESTABLISHMENT OF AREA WAGE
 2 ADJUSTMENT FACTORS.—The Secretary
 3 shall establish area wage adjustment fac-
 4 tors that reflect the relative level of wages
 5 and wage-related costs applicable to the
 6 furnishing of home health services in a ge-
 7 ographic area compared to the national av-
 8 erage applicable level. Such factors may be
 9 the factors used by the Secretary for pur-
 10 poses of section 1886(d)(3)(E).

11 “(E) MEDICAL SUPPLIES.—The applicable
 12 amount specified in subparagraph (B) shall be
 13 adjusted for each fiscal year (beginning with
 14 fiscal year 2001) in a prospective manner speci-
 15 fied by the Secretary by the percentage increase
 16 (as determined by the Secretary) in the average
 17 costs of medical supplies (as described in sec-
 18 tion 1861(m)(5)) for the fiscal year involved.

19 “(3) DESCRIPTION OF BENEFICIARIES.—

20 “(A) POST-HOSPITAL, SHORT-STAY BENE-
 21 FICIARY.—A beneficiary described in this sub-
 22 paragraph is a beneficiary under this title
 23 who—

24 “(i) has experienced at least one 24-
 25 hour hospitalization within the 14-day pe-

riod immediately preceding the date that
the beneficiary is first provided services by
the home health agency;

“(ii) suffers from 1 or more illnesses
or injuries which are post-operative or
post-trauma; and

“(iii) has a prognosis of a prompt and
substantial recovery.

“(B) MEDICALLY STABLE, LONG-STAY
BENEFICIARY.—A beneficiary described in this
subparagraph is a beneficiary under this title
who—

“(i) has not been admitted to a hos-
pital within the 6-month period imme-
diately preceding the date that the bene-
ficiary is first provided services by the
home health agency;

“(ii) suffers from 1 or more illnesses
or injuries requiring acute medical treat-
ment or management in the home; and

“(iii) is experiencing 1 or more im-
pairments in activities of daily living.

“(C) MEDICALLY COMPLEX, LONG-STAY
BENEFICIARY.—A beneficiary described in this

1 subparagraph is a beneficiary under this title
2 who—

3 “(i) has experienced 2 or more hos-
4 pitalizations or admissions to skilled nurs-
5 ing facilities within the 12-month period
6 immediately preceding the date that the
7 beneficiary is first provided services by the
8 home health agency;

9 “(ii) suffers from 1 or more illnesses
10 or injuries requiring acute medical treat-
11 ment or management in the home; and

12 “(iii) is experiencing 1 or more im-
13 pairments in activities of daily living.

14 “(D) MEDICALLY UNSTABLE AND COM-
15 PLEX, EXTREMELY HIGH-USE BENE-
16 FICIARIES.—A beneficiary described in this sub-
17 paragraph is a beneficiary under this title
18 who—

19 “(i) has experienced 2 or more hos-
20 pitalizations or admissions to skilled nurs-
21 ing facilities within the 6-month period im-
22 mediately preceding the date that the bene-
23 ficiary is first provided services by the
24 home health agency;

1 “(ii) suffers from 1 or more illnesses
2 or injuries requiring acute medical treat-
3 ment or management in the home; and

4 “(iii) is experiencing 2 or more im-
5 pairments in activities of daily living.

6 “(E) OTHER BENEFICIARIES.—A bene-
7 ficiary described in this subparagraph is a bene-
8 ficiary under this title who is not otherwise de-
9 scribed in subparagraphs (A) through (D).

10 “(4) DETERMINATION.—

11 “(A) IN GENERAL.—The determination of
12 which of the subparagraphs under paragraph
13 (3) applies to a beneficiary under this title shall
14 be based on the diagnosis and assessment of a
15 physician who shall have no financial relation-
16 ship with the home health agency that is receiv-
17 ing payments under this title for the provision
18 of home health services to such beneficiary. For
19 purposes of the preceding sentence, any finan-
20 cial relationship shall be determined under rules
21 similar to the rules with respect to referrals
22 under section 1877.

23 “(B) REGULATIONS.—The Secretary shall
24 issues regulations to assist physicians in mak-

1 ing the determination described in subpara-
2 graph (A).

3 “(5) ADDITIONAL PAYMENT AMOUNT.—The
4 Secretary may increase the applicable amount speci-
5 fied in paragraph (2)(B) to be paid to a home health
6 agency if the Secretary determines that such agency
7 is—

8 “(A) experiencing higher than average
9 costs for providing home health services as com-
10 pared to other similarly situated home health
11 agencies; or

12 “(B) providing home health services that
13 are not reflected in the determination of the ap-
14 plicable amount.

15 “(6) NOTICE OF PROSPECTIVE PAYMENT
16 RATE.—Not later than July 1 of each year (begin-
17 ning in 2000), the Secretary shall publish in the
18 Federal Register the applicable amount to be paid to
19 home health agencies for home health services pro-
20 vided to a beneficiary under this title during the fis-
21 cal year beginning October 1 of the year.

22 “(7) PRORATION OF PROSPECTIVE PAYMENT
23 AMOUNTS.—If a beneficiary elects to transfer to, or
24 receive services from, another home health agency
25 within the period covered by the prospective payment

1 amount, the payment shall be prorated between the
 2 home health agencies involved.”.

3 (2) CONFORMING AMENDMENTS.—Section 1895
 4 of the Social Security Act (42 U.S.C. 1395fff) (as
 5 amended by section 5101 of the Tax and Trade Re-
 6 lief Extension Act of 1998 (contained in Division J
 7 of Public Law 105–277)) is amended—

8 (A) by amending subsection (c) to read as
 9 follows:

10 “(c) REQUIREMENT FOR PAYMENT INFORMATION.—
 11 With respect to home health services furnished on or after
 12 October 1, 1998, no claim for such a service may be paid
 13 under this title unless the claim has the unique identifier
 14 (provided under section 1842(r)) for the physician who
 15 prescribed the services or made the certification described
 16 in section 1814(a)(2) or 1835(a)(2)(A).”; and

17 (B) by striking subsection (d).

18 (3) CHANGE IN EFFECTIVE DATE.—Section
 19 4603(d) of the Balanced Budget Act of 1997 (42
 20 U.S.C. 1395fff note) (as amended by section
 21 5101(c)(2) of the Tax and Trade Relief Extension
 22 Act of 1998 (contained in Division J of Public Law
 23 105–277)) is amended by striking “October 1,
 24 2000” and inserting “October 1, 1999”.

1 (4) ELIMINATION OF CONTINGENCY 15 PER-
 2 CENT REDUCTION.—Subsection (e) of section 4603
 3 of the Balanced Budget Act of 1997 (42 U.S.C.
 4 1395fff note) is repealed.

5 (5) EFFECTIVE DATE.—The amendments made
 6 by this subsection shall take effect on the date of en-
 7 actment of this Act.

8 (b) PAYMENT RATES BASED ON LOCATION OF HOME
 9 HEALTH AGENCY RATHER THAN PATIENT.—

10 (1) CONDITIONS OF PARTICIPATION.—Section
 11 1891 of the Social Security Act (42 U.S.C.
 12 1395bbb) is amended by striking subsection (g).

13 (2) WAGE ADJUSTMENT.—Section
 14 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is
 15 amended by striking “service is furnished” and in-
 16 serting “agency is located”.

17 (3) EFFECTIVE DATE.—The amendments made
 18 by this subsection shall apply to services provided on
 19 or after October 1, 1999.

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