

107TH CONGRESS
1ST SESSION

H. R. 3585

To amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of substitute adult day care services.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2001

Mr. KLECZKA (for himself and Mr. STARK) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and 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 for coverage under the Medicare Program of substitute adult day care 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 “Medicare Substitute
5 Adult Day Care Services Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Adult day care offers services, including
2 medical care, rehabilitation therapies, dignified as-
3 sistance with activities of daily living, nutrition ther-
4 apy, health monitoring, social interaction, stimu-
5 lating activities, and transportation, to seniors who
6 are frail, physically challenged, or cognitively im-
7 paired at no extra cost to the medicare program.

8 (2) The care given at adult day care centers
9 provides seniors and their familial caregivers support
10 that is critical to keeping the senior in the family
11 home.

12 (3) More than 22,000,000 families in the
13 United States serve as caregivers for aging or ailing
14 seniors, and nearly 1 in 4 American families provide
15 close to 80 percent of the care to individuals requir-
16 ing long-term care.

17 (4) Nearly 75 percent of those actively pro-
18 viding such care are women who also maintain other
19 responsibilities, such as working outside of the home
20 and raising young children.

21 (5) The average loss of income to these care-
22 givers has been shown to be \$659,130 in wages, pen-
23 sion, and Social Security benefits.

24 (6) The loss in productivity in United States
25 businesses attributable to caregivers for aging or ail-

1 ing seniors ranges from \$11,000,000,000 to
2 \$29,000,000,000 annually.

3 (7) Adult day care centers, located in every
4 State in the United States and the District of Co-
5 lumbia, serve as quality health options to treat our
6 Nation’s elderly population, which is about to dra-
7 matically increase with the aging of the baby boomer
8 generation.

9 **SEC. 3. MEDICARE COVERAGE OF SUBSTITUTE ADULT DAY**
10 **CARE SERVICES.**

11 (a) SUBSTITUTE ADULT DAY CARE SERVICES BEN-
12 EFIT.—

13 (1) IN GENERAL.—Section 1861(m) of the So-
14 cial Security Act (42 U.S.C. 1395x(m)) is
15 amended—

16 (A) in the matter preceding paragraph (1),
17 by inserting “or paragraph (8)” after “para-
18 graph (7)”;

19 (B) in paragraph (6), by striking “and” at
20 the end;

21 (C) in paragraph (7), by adding “and” at
22 the end; and

23 (D) by inserting after paragraph (7), the
24 following new paragraph:

1 “(8) substitute adult day care services (as de-
2 fined in subsection (ww));”.

3 (2) SUBSTITUTE ADULT DAY CARE SERVICES
4 DEFINED.—Section 1861 of the Social Security Act
5 (42 U.S.C. 1395x) is amended by adding at the end
6 the following new subsection:

7 “Substitute Adult Day Care Services; Adult Day Care
8 Facility

9 “(ww)(1)(A) The term ‘substitute adult day care
10 services’ means the items and services described in sub-
11 paragraph (B) that are furnished to an individual by an
12 adult day care facility as a part of a plan under subsection
13 (m) that substitutes such services for a portion of the
14 items and services described in subparagraph (B)(i) fur-
15 nished by a home health agency under the plan, as deter-
16 mined by the physician establishing the plan.

17 “(B) The items and services described in this sub-
18 paragraph are the following items and services:

19 “(i) Items and services described in paragraphs
20 (1) through (7) of subsection (m).

21 “(ii) Transportation of the individual to and
22 from the adult day care facility in connection with
23 any such item or service.

24 “(iii) Meals.

1 “(iv) A program of supervised activities (that
2 meets such criteria as the Secretary determines ap-
3 propriate) designed to promote physical and mental
4 health that are furnished to the individual by the
5 adult day care facility in a group setting for a period
6 of not fewer than 4 and not greater than 12 hours
7 per day.

8 “(v) A medication management program (as de-
9 fined in subparagraph (C)).

10 “(C) For purposes of subparagraph (B)(v), the term
11 ‘medication management program’ means a program of
12 education and services (that meets such criteria as the
13 Secretary determines appropriate) to minimize—

14 “(i) unnecessary or inappropriate use of pre-
15 scription drugs; and

16 “(ii) adverse events due to unintended prescrip-
17 tion drug-to-drug interactions.

18 “(2)(A) Except as provided in subparagraph (B), the
19 term ‘adult day care facility’ means a public agency or
20 private organization, or a subdivision of such an agency
21 or organization, that—

22 “(i) is engaged in providing skilled nursing
23 services and other therapeutic services directly or
24 under arrangement with a home health agency;

1 “(ii) meets such standards established by the
2 Secretary to assure quality of care and such other
3 requirements as the Secretary finds necessary in the
4 interest of the health and safety of individuals who
5 are furnished services in the facility;

6 “(iii) provides the items and services described
7 in paragraph (1)(B); and

8 “(iv) meets the requirements of paragraphs (2)
9 through (8) of subsection (o).

10 “(B) The Secretary may waive the requirement of a
11 surety bond under paragraph (7) of subsection (o) in the
12 case of an agency or organization that provides a com-
13 parable surety bond under State law.

14 “(C) For purposes of payment for home health serv-
15 ices consisting of substitute adult day care services fur-
16 nished under this title, any reference to a home health
17 agency is deemed to be a reference to an adult day care
18 facility.

19 “(D) Nothing in this paragraph shall be construed
20 as prohibiting a home health agency from—

21 “(i) establishing a substitute adult day care fa-
22 cility; or

23 “(ii) providing services under arrangements
24 with a substitute adult day care facility.”.

1 (3) CONFORMING AMENDMENTS.—Sections
 2 1814(a)(2)(C) and 1835(a)(2)(A)(i) of the Social
 3 Security Act (42 U.S.C.1395f(a)(2)(C) and
 4 1395n(a)(2)(A)(i)) are each amended by striking
 5 “section 1861(m)(7)” and inserting “paragraph (7)
 6 or (8) of section 1861(m)”.

7 (b) PAYMENT FOR SUBSTITUTE ADULT DAY CARE
 8 SERVICES UNDER THE HOME HEALTH PROSPECTIVE
 9 PAYMENT SYSTEM.—Section 1895 of the Social Security
 10 Act (42 U.S.C. 1395fff) is amended—

11 (1) in the first sentence of paragraph (b)(1), by
 12 inserting after “home health services” the following:
 13 “or home health services consisting of substitute
 14 adult day care services.”; and

15 (2) by adding at the end the following new sub-
 16 section:

17 “(f) PAYMENT RATE AND LIMITATION ON PAYMENT
 18 FOR SUBSTITUTE ADULT DAY CARE SERVICES.—

19 “(1) PAYMENT RATE.—

20 “(A) IN GENERAL.—The Secretary shall
 21 determine each component (as defined by the
 22 Secretary) of substitute adult day care services
 23 (under section 1861(w)(1)(B)(i)) furnished to
 24 an individual under the plan of care established

1 under section 1861(m) with respect to such
2 services.

3 “(B) ESTIMATION OF PAYMENT
4 AMOUNT.—The Secretary shall estimate the
5 amount that would otherwise be payable under
6 this section for all home health services under
7 that plan of care other than substitute adult
8 day care services for a week or other period
9 specified by the Secretary.

10 “(C) AMOUNT OF PAYMENT.—The total
11 amount payable for home health services con-
12 sisting of substitute adult day care services
13 under such plan of care is equal to the amount
14 estimated to be payable under subparagraph
15 (B) furnished under the plan by a home health
16 agency.

17 “(2) LIMITATIONS.—

18 “(A) IN GENERAL.—With respect to home
19 health services consisting of substitute adult
20 day care services, no payment may be made
21 under this section for home health services con-
22 sisting of substitute adult day care services de-
23 scribed in clauses (ii) through (v) of section
24 1861(ww)(1)(B).

1 “(B) LIMITATION ON BALANCE BILLING.—

2 An adult day care facility shall accept as pay-
3 ment in full for substitute adult day care serv-
4 ices (including those services described in
5 clauses (ii) through (v) of section
6 1861(w)(1)(B)) furnished by the facility to an
7 individual entitled to benefits under this title
8 the amount of payment provided under this sec-
9 tion for home health services consisting of sub-
10 stitute adult day care services.”.

11 (c) CONSOLIDATED BILLING.—Section 1862(a) of
12 such Act (42 U.S.C. 1395y(a)), is amended—

13 (1) by striking “or” at the end of paragraph
14 (20),

15 (2) by striking the period at the end of para-
16 graph (21) and inserting “; or”, and

17 (3) by inserting after paragraph (21) the fol-
18 lowing new paragraph:

19 “(22) which are substitute adult day care serv-
20 ices for which payment may be made under section
21 1895(f) and which are furnished to an individual by
22 a substitute adult day care facility pursuant to a
23 plan of care established under section 1861(m) with
24 respect to such services, by an entity other than the
25 substitute adult day care facility, unless the services

1 are furnished under arrangements (as defined in sec-
2 tion 1861(w)(1)) with the entity made by the sub-
3 stitute adult day care facility.”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to items and services furnished on
6 or after January 1, 2002.

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