

107TH CONGRESS
2D SESSION

H. R. 4962

To amend title XVIII of the Social Security Act to make rural health care improvements under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2002

Mr. TAUZIN 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 make rural health care improvements 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 **TITLE III—RURAL HEALTH CARE**
4 **IMPROVEMENTS**

5 **SEC. 301. REFERENCE TO FULL MARKET BASKET INCREASE**
6 **FOR SOLE COMMUNITY HOSPITALS.**

7 For provision eliminating any reduction from full
8 market basket in the update for inpatient hospital services
9 for sole community hospitals, see section 401.

1 **SEC. 302. ENHANCED DISPROPORTIONATE SHARE HOS-**
 2 **PITAL (DSH) TREATMENT FOR RURAL HOS-**
 3 **PITALS AND URBAN HOSPITALS WITH FEWER**
 4 **THAN 100 BEDS.**

5 (a) BLENDING OF PAYMENT AMOUNTS.—

6 (1) IN GENERAL.—Section 1886(d)(5)(F) (42
 7 U.S.C. 1395ww(d)(5)(F)) is amended by adding at
 8 the end the following new clause:

9 “(xiv)(I) In the case of discharges in a fiscal year
 10 beginning on or after October 1, 2002, subject to sub-
 11 clause (II), there shall be substituted for the dispro-
 12 portionate share adjustment percentage otherwise determined
 13 under clause (iv) (other than subclause (I)) or under
 14 clause (viii), (x), (xi), (xii), or (xiii), the old blend propor-
 15 tion (specified under subclause (III)) of the dispro-
 16 portionate share adjustment percentage otherwise determined
 17 under the respective clause and 100 percent minus such
 18 old blend proportion of the disproportionate share adjust-
 19 ment percentage determined under clause (vii) (relating
 20 to large, urban hospitals).

21 “(II) Under subclause (I), the disproportionate share
 22 adjustment percentage shall not exceed 10 percent for a
 23 hospital that is not classified as a rural referral center
 24 under subparagraph (C).

25 “(III) For purposes of subclause (I), the old blend
 26 proportion for fiscal year 2003 is 80 percent, for each sub-

1 sequent year (through 2006) is the old blend proportion
 2 under this subclause for the previous year minus 20 per-
 3 centage points, and for each year beginning with 2007 is
 4 0 percent.”.

5 (2) CONFORMING AMENDMENTS.—Section
 6 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is
 7 amended—

8 (A) in each of subclauses (II), (III), (IV),
 9 (V), and (VI) of clause (iv), by inserting “sub-
 10 ject to clause (xiv) and” before “for discharges
 11 occurring”;

12 (B) in clause (viii), by striking “The for-
 13 mula” and inserting “Subject to clause (xiv),
 14 the formula”; and

15 (C) in each of clauses (x), (xi), (xii), and
 16 (xiii), by striking “For purposes” and inserting
 17 “Subject to clause (xiv), for purposes”.

18 (b) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply with respect to discharges occur-
 20 ring on or after October 1, 2002.

1 **SEC. 303. 2-YEAR PHASED-IN INCREASE IN THE STANDARD-**
 2 **IZED AMOUNT IN RURAL AND SMALL URBAN**
 3 **AREAS TO ACHIEVE A SINGLE, UNIFORM**
 4 **STANDARDIZED AMOUNT.**

5 Section 1886(d)(3)(A)(iv) (42 U.S.C.
 6 1395ww(d)(3)(A)(iv)) is amended—

7 (1) by striking “(iv) For discharges” and in-
 8 serting “(iv)(I) Subject to the succeeding provisions
 9 of this clause, for discharges”; and

10 (2) by adding at the end the following new sub-
 11 clauses:

12 “(II) For discharges occurring during fiscal
 13 year 2003, the average standardized amount for hos-
 14 pitals located other than in a large urban area shall
 15 be increased by $\frac{1}{2}$ of the difference between the av-
 16 erage standardized amount determined under sub-
 17 clause (I) for hospitals located in large urban areas
 18 for such fiscal year and such amount determined
 19 (without regard to this subclause) for other hospitals
 20 for such fiscal year.

21 “(III) For discharges occurring in a fiscal year
 22 beginning with fiscal year 2004, the Secretary shall
 23 compute an average standardized amount for hos-
 24 pitals located in any area within the United States
 25 and within each region equal to the average stand-
 26 ardized amount computed for the previous fiscal

1 year under this subparagraph for hospitals located
 2 in a large urban area (or, beginning with fiscal year
 3 2005, for hospitals located in any area) increased by
 4 the applicable percentage increase under subsection
 5 (b)(3)(B)(i).”.

6 **SEC. 304. MORE FREQUENT UPDATE IN WEIGHTS USED IN**
 7 **HOSPITAL MARKET BASKET.**

8 (a) MORE FREQUENT UPDATES IN WEIGHTS.—After
 9 revising the weights used in the hospital market basket
 10 under section 1886(b)(3)(B)(iii) of the Social Security Act
 11 (42 U.S.C. 1395ww(b)(3)(B)(iii)) to reflect the most cur-
 12 rent data available, the Secretary shall establish a fre-
 13 quency for revising such weights in such market basket
 14 to reflect the most current data available more frequently
 15 than once every 5 years.

16 (b) REPORT.—Not later than October 1, 2003, the
 17 Secretary shall submit a report to Congress on the fre-
 18 quency established under subsection (a), including an ex-
 19 planation of the reasons for, and options considered, in
 20 determining such frequency.

21 **SEC. 305. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL**
 22 **PROGRAM.**

23 (a) REINSTATEMENT OF PERIODIC INTERIM PAY-
 24 MENT (PIP).—Section 1815(e)(2) (42 U.S.C.
 25 1395g(e)(2)) is amended—

1 (1) by striking “and” at the end of subpara-
2 graph (C);

3 (2) by adding “and” at the end of subpara-
4 graph (D); and

5 (3) by inserting after subparagraph (D) the fol-
6 lowing new subparagraph:

7 “(E) inpatient critical access hospital services;”.

8 (b) CONDITION FOR APPLICATION OF SPECIAL PHY-
9 SICIAN PAYMENT ADJUSTMENT.—Section 1834(g)(2) (42
10 U.S.C. 1395m(g)(2)) is amended by adding after and
11 below subparagraph (B) the following:

12 “The Secretary may not require, as a condition for
13 applying subparagraph (B) with respect to a critical
14 access hospital, that each physician providing profes-
15 sional services in the hospital must assign billing
16 rights with respect to such services, except that such
17 subparagraph shall not apply to those physicians
18 who have not assigned such billing rights.”.

19 (c) FLEXIBILITY IN BED LIMITATION FOR HOS-
20 PITALS WITH STRONG SEASONAL CENSUS FLUCTUA-
21 TIONS.—Section 1820 (42 U.S.C. 1395i–4) is amended—

22 (1) in subsection (c)(2)(B)(iii), by inserting
23 “subject to paragraph (3)” after “(iii) provides”;

24 (2) by adding at the end of subsection (c) the
25 following new paragraph:

1 “(3) INCREASE IN MAXIMUM NUMBER OF BEDS
2 FOR HOSPITALS WITH STRONG SEASONAL CENSUS
3 FLUCTUATIONS.—

4 “(A) IN GENERAL.—In the case of a hos-
5 pital that demonstrates that it meets the stand-
6 ards established under subparagraph (B), the
7 bed limitations otherwise applicable under para-
8 graph (2)(B)(iii) and subsection (f) shall be in-
9 creased by 5 beds.

10 “(B) STANDARDS.—The Secretary shall
11 specify standards for determining whether a
12 critical access hospital has sufficiently strong
13 seasonal variations in patient admissions to jus-
14 tify the increase in bed limitation provided
15 under subparagraph (A).”; and

16 (3) in subsection (f), by adding at the end the
17 following new sentence: “The limitations in numbers
18 of beds under the first sentence are subject to ad-
19 justment under subsection (c)(3).”.

20 (d) 5-YEAR EXTENSION OF THE AUTHORIZATION
21 FOR APPROPRIATIONS FOR GRANT PROGRAM.—Section
22 1820(j) (42 U.S.C. 1395i–4(j)) is amended by striking
23 “through 2002” and inserting “through 2007”.

24 (e) EFFECTIVE DATES.—

1 (1) REINSTATEMENT OF PIP.—The amend-
 2 ments made by subsection (a) shall apply to pay-
 3 ments made on or after January 1, 2003.

4 (2) PHYSICIAN PAYMENT ADJUSTMENT CONDI-
 5 TION.—The amendment made by subsection (b)
 6 shall be effective as if included in the enactment of
 7 section 403(d) of the Medicare, Medicaid, and
 8 SCHIP Balanced Budget Refinement Act of 1999
 9 (113 Stat. 1501A–371).

10 (3) FLEXIBILITY IN BED LIMITATION.—The
 11 amendments made by subsection (c) shall apply to
 12 designations made on or after January 1, 2003, but
 13 shall not apply to critical access hospitals that were
 14 designated as of such date.

15 **SEC. 306. EXTENSION OF TEMPORARY INCREASE FOR**
 16 **HOME HEALTH SERVICES FURNISHED IN A**
 17 **RURAL AREA.**

18 (a) IN GENERAL.—Section 508(a) BIPA (114 Stat.
 19 2763A–533) is amended—

20 (1) by striking “24-MONTH INCREASE BEGIN-
 21 NING APRIL 1, 2001” and inserting “IN GENERAL”;
 22 and

23 (2) by striking “April 1, 2003” and inserting
 24 “January 1, 2005”.

1 (b) CONFORMING AMENDMENT.—Section 547(c)(2)
2 of BIPA (114 Stat. 2763A–553) is amended by striking
3 “the period beginning on April 1, 2001, and ending on
4 September 30, 2002,” and inserting “a period under such
5 section”.

6 **SEC. 307. REFERENCE TO 10 PERCENT INCREASE IN PAY-**
7 **MENT FOR HOSPICE CARE FURNISHED IN A**
8 **FRONTIER AREA AND RURAL HOSPICE DEM-**
9 **ONSTRATION PROJECT.**

10 For—

11 (1) provision of 10 percent increase in payment
12 for hospice care furnished in a frontier area, see sec-
13 tion 422; and

14 (2) provision of a rural hospice demonstration
15 project, see section 423.

16 **SEC. 308. REFERENCE TO PRIORITY FOR HOSPITALS LO-**
17 **CATED IN RURAL OR SMALL URBAN AREAS IN**
18 **REDISTRIBUTION OF UNUSED GRADUATE**
19 **MEDICAL EDUCATION RESIDENCIES.**

20 For provision providing priority for hospitals located
21 in rural or small urban areas in redistribution of unused
22 graduate medical education residencies, see section 612.

1 **SEC. 309. GAO STUDY OF GEOGRAPHIC DIFFERENCES IN**
2 **PAYMENTS FOR PHYSICIANS' SERVICES.**

3 (a) STUDY.—The Comptroller General of the United
4 States shall conduct a study of differences in payment
5 amounts under the physician fee schedule under section
6 1848 of the Social Security Act (42 U.S.C. 1395w–4) for
7 physicians' services in different geographic areas. Such
8 study shall include—

9 (1) an assessment of the validity of the geo-
10 graphic adjustment factors used for each component
11 of the fee schedule;

12 (2) an evaluation of the measures used for such
13 adjustment, including the frequency of revisions; and

14 (3) an evaluation of the methods used to deter-
15 mine professional liability insurance costs used in
16 computing the malpractice component, including a
17 review of increases in professional liability insurance
18 premiums and variation in such increases by State
19 and physician specialty and methods used to update
20 the geographic cost of practice index and relative
21 weights for the malpractice component.

22 (b) REPORT.—Not later than 1 year after the date
23 of the enactment of this Act, the Comptroller General shall
24 submit to Congress a report on the study conducted under
25 subsection (a). The report shall include recommendations
26 regarding the use of more current data in computing geo-

1 graphic cost of practice indices as well as the use of data
 2 directly representative of physicians’ costs (rather than
 3 proxy measures of such costs).

4 **SEC. 310. PROVIDING SAFE HARBOR FOR CERTAIN COL-**
 5 **LABORATIVE EFFORTS THAT BENEFIT MEDI-**
 6 **CALLY UNDERSERVED POPULATIONS.**

7 (a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C.
 8 1320a–7(b)(3)) is amended—

9 (1) in subparagraph (E), by striking “and”
 10 after the semicolon at the end;

11 (2) in subparagraph (F), by striking the period
 12 at the end and inserting “; and”; and

13 (3) by adding at the end the following new sub-
 14 paragraph:

15 “(G) any remuneration between a public or
 16 nonprofit private health center entity described
 17 under clause (i) or (ii) of section 1905(l)(2)(B)
 18 and any individual or entity providing goods,
 19 items, services, donations or loans, or a com-
 20 bination thereof, to such health center entity
 21 pursuant to a contract, lease, grant, loan, or
 22 other agreement, if such agreement contributes
 23 to the ability of the health center entity to
 24 maintain or increase the availability, or enhance
 25 the quality, of services provided to a medically

1 underserved population served by the health
2 center entity.”.

3 (b) RULEMAKING FOR EXCEPTION FOR HEALTH
4 CENTER ENTITY ARRANGEMENTS.—

5 (1) ESTABLISHMENT.—

6 (A) IN GENERAL.—The Secretary of
7 Health and Human Services (in this subsection
8 referred to as the “Secretary”) shall establish,
9 on an expedited basis, standards relating to the
10 exception described in section 1128B(b)(3)(G)
11 of the Social Security Act, as added by sub-
12 section (a), for health center entity arrange-
13 ments to the antikickback penalties.

14 (B) FACTORS TO CONSIDER.—The Sec-
15 retary shall consider the following factors,
16 among others, in establishing standards relating
17 to the exception for health center entity ar-
18 rangements under subparagraph (A):

19 (i) Whether the arrangement between
20 the health center entity and the other
21 party results in savings of Federal grant
22 funds or increased revenues to the health
23 center entity.

24 (ii) Whether the arrangement between
25 the health center entity and the other

1 party expands or enhances a patient's free-
2 dom of choice.

3 (iii) Whether the arrangement be-
4 tween the health center entity and the
5 other party protects a health care profes-
6 sional's independent medical judgment re-
7 garding medically appropriate treatment.

8 The Secretary may also include other standards
9 and criteria that are consistent with the intent
10 of Congress in enacting the exception estab-
11 lished under this section.

12 (2) INTERIM FINAL EFFECT.—No later than
13 180 days after the date of enactment of this Act, the
14 Secretary shall publish a rule in the Federal Reg-
15 ister consistent with the factors under paragraph
16 (1)(B). Such rule shall be effective and final imme-
17 diately on an interim basis, subject to such change
18 and revision, after public notice and opportunity (for
19 a period of not more than 60 days) for public com-
20 ment, as is consistent with this subsection.

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