

107TH CONGRESS  
1ST SESSION

# S. 1619

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

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 1, 2001

Mr. SANTORUM (for himself, Mr. ROCKEFELLER, Mrs. LINCOLN, and Mr. McCONNELL) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services 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 Adult Day  
5 Services Alternative Act of 2001”.

### 6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) adult day care offers services, including  
9 medical care, rehabilitation therapies, dignified as-

1       sistance with activities of daily living, social inter-  
2       action, and stimulating activities, to seniors who are  
3       frail, physically challenged, or cognitively impaired;

4           (2) access to adult day care services provides  
5       seniors and their familial caregivers support that is  
6       critical to keeping the senior in the family home;

7           (3) more than 22,000,000 families in the  
8       United States serve as caregivers for aging or ailing  
9       seniors, nearly 1 in 4 American families, providing  
10      close to 80 percent of the care to individuals requir-  
11      ing long-term care;

12          (4) nearly 75 percent of those actively providing  
13      such care are women who also maintain other re-  
14      sponsibilities, such as working outside of the home  
15      and raising young children;

16          (5) the average loss of income to these care-  
17      givers has been shown to be \$659,130 in wages, pen-  
18      sion, and Social Security benefits;

19          (6) the loss in productivity in United States  
20      businesses ranges from \$11,000,000,000 to  
21      \$29,000,000,000 annually;

22          (7) the services offered in adult day care facili-  
23      ties provide continuity of care and an important  
24      sense of community for both the senior and the care-  
25      giver;

1           (8) there are adult day care centers in every  
 2       State in the United States and the District of Co-  
 3       lumbia;

4           (9) these centers generally offer transportation,  
 5       meals, personal care, and counseling in addition to  
 6       the medical services and socialization benefits of-  
 7       fered; and

8           (10) with the need for quality options in how to  
 9       best care for our senior population about to dramati-  
 10      cally increase with the aging of the baby boomer  
 11      generation, the time to address these issues is now.

12 **SEC. 3. COVERAGE OF SUBSTITUTE ADULT DAY CARE SERV-**  
 13 **ICES UNDER MEDICARE.**

14       (a) SUBSTITUTE ADULT DAY CARE SERVICES BEN-  
 15      EFIT.—

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

19           (A) in the matter preceding paragraph (1),  
 20      by inserting “or (8)” after “paragraph (7)”;

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

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

1 (D) by inserting after paragraph (7), the  
 2 following new paragraph:

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

5 (2) SUBSTITUTE ADULT DAY CARE SERVICES  
 6 DEFINED.—Section 1861 of the Social Security Act  
 7 (42 U.S.C. 1395x) is amended by adding at the end  
 8 the following new subsection:

9 “Substitute Adult Day Care Services; Adult Day Care  
 10 Facility

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

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

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

23 “(ii) Meals.

24 “(iii) A program of supervised activities de-  
 25 signed to promote physical and mental health and

1 furnished to the individual by the adult day care fa-  
2 cility in a group setting for a period of not fewer  
3 than 4 and not greater than 12 hours per day.

4 “(iv) A medication management program (as  
5 defined in subparagraph (C)).

6 “(C) For purposes of subparagraph (B)(iv), the term  
7 ‘medication management program’ means a program of  
8 services, including medicine screening and patient and  
9 health care provider education programs, that provides  
10 services to minimize—

11 “(i) unnecessary or inappropriate use of pre-  
12 scription drugs; and

13 “(ii) adverse events due to unintended prescrip-  
14 tion drug-to-drug interactions.

15 “(2)(A) Except as provided in subparagraphs (B)  
16 and (C), the term ‘adult day care facility’ means a public  
17 agency or private organization, or a subdivision of such  
18 an agency or organization, that—

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

22 “(ii) meets such standards established by the  
23 Secretary to ensure quality of care and such other  
24 requirements as the Secretary finds necessary in the

1 interest of the health and safety of individuals who  
2 are furnished services in the facility;

3 “(iii) provides the items and services described  
4 in paragraph (1)(B); and

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

7 “(B) Notwithstanding subparagraph (A), the term  
8 ‘adult day care facility’ shall include a home health agency  
9 in which the items and services described in clauses (ii)  
10 through (iv) of paragraph (1)(B) are provided—

11 “(i) by an adult day-care program that is li-  
12 censed or certified by a State, or accredited, to fur-  
13 nish such items and services in the State; and

14 “(ii) under arrangements with that program  
15 made by such agency.

16 “(C) The Secretary may waive the requirement of a  
17 surety bond under paragraph (7) of subsection (o) in the  
18 case of an agency or organization that provides a com-  
19 parable surety bond under State law.

20 “(D) For purposes of payment for home health serv-  
21 ices consisting of substitute adult day care services fur-  
22 nished under this title, any reference to a home health  
23 agency is deemed to be a reference to an adult day care  
24 facility.”.

1 (b) PAYMENT FOR SUBSTITUTE ADULT DAY CARE  
 2 SERVICES.—Section 1895 of the Social Security Act (42  
 3 U.S.C. 1395fff) is amended by adding at the end the fol-  
 4 lowing new subsection:

5 “(f) PAYMENT RATE FOR SUBSTITUTE ADULT DAY  
 6 CARE SERVICES.—In the case of home health services con-  
 7 sisting of substitute adult day care services (as defined  
 8 in section 1861(ww)), the following rules apply:

9 “(1) The Secretary shall estimate the amount  
 10 that would otherwise be payable under this section  
 11 for all home health services under that plan of care  
 12 other than substitute adult day care services for a  
 13 period specified by the Secretary.

14 “(2) The total amount payable for home health  
 15 services consisting of substitute adult day care serv-  
 16 ices under such plan may not exceed 95 percent of  
 17 the amount estimated to be payable under para-  
 18 graph (1) furnished under the plan by a home health  
 19 agency.”.

20 (c) ADJUSTMENT IN CASE OF OVERUTILIZATION OF  
 21 SUBSTITUTE ADULT DAY CARE SERVICES.—

22 (1) MONITORING EXPENDITURES.—Beginning  
 23 with fiscal year 2003, the Secretary of Health and  
 24 Human Services shall monitor the expenditures  
 25 made under the Medicare Program under title XVIII

1 of the Social Security Act (42 U.S.C. 1395 et seq.)  
2 for home health services (as defined in section  
3 1861(m) of such Act (42 U.S.C. 1395x(m))) for the  
4 fiscal year, including substitute adult day care serv-  
5 ices under paragraph (8) of such section (as added  
6 by subsection (a)), and shall compare such expendi-  
7 tures to expenditures that the Secretary estimates  
8 would have been made for home health services for  
9 that fiscal year if subsection (a) had not been en-  
10 acted.

11 (2) REQUIRED REDUCTION IN PAYMENT  
12 RATE.—If the Secretary determines, after making  
13 the comparison under paragraph (1) and making  
14 such adjustments for changes in demographics and  
15 age of the Medicare beneficiary population as the  
16 Secretary determines appropriate, that expenditures  
17 for home health services under the Medicare Pro-  
18 gram, including such substitute adult day care serv-  
19 ices, exceed expenditures that would have been made  
20 under such program for home health services for a  
21 year if subsection (a) had not been enacted, then the  
22 Secretary shall adjust the rate of payment to adult  
23 day care facilities so that total expenditures for  
24 home health services under such program in a fiscal  
25 year does not exceed the Secretary's estimate of



1       such expenditures if subsection (a) had not been en-  
2       acted.

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

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