

107TH CONGRESS
2D SESSION

S. 2795

To amend title XVIII of the Social Security Act to provide for payment under the prospective payment system for hospital outpatient department services under the medicare program for new drugs administered in such departments as soon as the drug is approved for marketing by the Commissioner of Food and Drugs.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2002

Mr. KERRY 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 provide for payment under the prospective payment system for hospital outpatient department services under the medicare program for new drugs administered in such departments as soon as the drug is approved for marketing by the Commissioner of Food and Drugs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. MEDICARE PASS-THROUGH PAYMENT UNDER**
 2 **OPD PPS FOR NEW DRUGS AS OF DATE OF AP-**
 3 **PROVAL FOR MARKETING.**

4 (a) IN GENERAL.—Section 1833(t)(6)(C)(i) of the
 5 Social Security Act (42 U.S.C. 1395l(t)(6)(C)(i)) is
 6 amended—

7 (1) in subclause (II), by striking “on the first
 8 date” and all that follows, and inserting the fol-
 9 lowing: “on the first date on which the drug or bio-
 10 logical is furnished as an outpatient hospital service
 11 after its approval by the Secretary under section 505
 12 of the Federal Food, Drug, and Cosmetic Act or sec-
 13 tion 351 of the Public Health Service Act.”; and

14 (2) by adding at the end the following flush
 15 sentence:

16 “The Secretary shall implement subclause
 17 (II) by allowing the submission of claims
 18 after issuance of a billing code for services
 19 furnished prior to such issuance, or by
 20 other appropriate means.”.

21 (b) EFFECTIVE DATE.—The amendments made by
 22 subsection (a) shall apply to drugs and biologicals ap-
 23 proved by the Secretary of Health and Human Services
 24 on or after January 1, 2003.

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