

107TH CONGRESS
2D SESSION

S. 2854

To amend title XVIII of the Social Security Act to improve disproportionate share medicare payments to hospitals serving vulnerable populations.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2002

Mr. BINGAMAN (for himself, Mr. ROBERTS, and Mr. ENZI) 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 improve disproportionate share medicare payments to hospitals serving vulnerable populations.

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 Safety Net
5 Hospital Improvement Act of 2002”.

1 **SEC. 2. COLLECTION OF DATA AND MODIFICATION OF DIS-**
2 **PROPORTIONATE SHARE MEDICARE PAY-**
3 **MENTS TO HOSPITALS SERVING VULNER-**
4 **ABLE POPULATIONS.**

5 (a) COLLECTION OF DATA.—Section 1886(d)(5)(F)
6 of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F))
7 is amended by adding at the end the following new clause:
8 “(xiv) The Secretary shall collect from each sub-
9 section (d) hospital annual data on inpatient and out-
10 patient charges, including all such charges for each of the
11 following categories:

12 “(I) All patients.

13 “(II) Patients who are entitled to benefits
14 under part A and are entitled to benefits (excluding
15 any State supplementation) under the supplemental
16 security income program under title XVI.

17 “(III) Patients who are entitled to (or, if they
18 applied, would be eligible for) medical assistance
19 under title XIX or child health assistance under title
20 XXI.

21 “(IV) Patients who are beneficiaries of indigent
22 care programs sponsored by State or local govern-
23 ments (including general assistance programs) which
24 are funded solely by local or State funds or by a
25 combination of local, State, or Federal funding.

1 “(V) The amount of charity care charges and
2 bad debt.”.

3 (b) MODIFICATION.—Section 1886(d)(5)(F) of the
4 Social Security Act (42 U.S.C. 1395ww(d)(5)(F)), as
5 amended by subsection (a), is amended—

6 (1) by striking all the matter preceding clause
7 (xiv) and inserting the following:

8 “(F)(i) The Secretary shall provide, in accordance
9 with this subparagraph, for an additional payment amount
10 for each subsection (d) hospital which serves a signifi-
11 cantly disproportionate number of low-income patients (as
12 defined in clause (iv)).

13 “(ii) The amount of the payment described in clause
14 (i) for each discharge shall be determined by
15 multiplying—

16 “(I) the sum of the amount determined under
17 paragraph (1)(A)(ii)(II) (or, if applicable, the
18 amount determined under paragraph (1)(A)(iii))
19 and, for cases qualifying for additional payment
20 under subparagraph (A)(i), the amount paid to the
21 hospital under subparagraph (A) for that discharge,
22 by

23 “(II) the disproportionate share adjustment
24 percentage established under clause (iii) for the cost
25 reporting period in which the discharge occurs.

1 “(iii) The disproportionate share adjustment percent-
 2 age for a cost reporting period for a hospital is equal to
 3 $(P-T)(C)$, where—

4 “(I) ‘P’ is equal to the hospital’s dispropor-
 5 tionate patient percentage (as defined in clause (v))
 6 for the period;

7 “(II) ‘T’ is equal to the threshold percentage
 8 established by the Secretary under clause (iv); and

9 “(III) ‘C’ is equal to a conversion factor estab-
 10 lished by the Secretary in a manner so that, in ap-
 11 plying such conversion factor for cost reporting peri-
 12 ods beginning in fiscal year 2002—

13 “(aa) the total of the additional payments
 14 that would have been made under this subpara-
 15 graph for cost reporting periods beginning in
 16 fiscal year 2002 if the amendment made by sec-
 17 tion 2(b) of the Medicare Safety Net Hospital
 18 Improvement Act of 2002 had been in effect;
 19 are equal to

20 “(bb) the total of the additional payments
 21 that would have been made under this subpara-
 22 graph for cost reporting periods beginning in
 23 fiscal year 2002 if such amendment was not in
 24 effect but if the disproportionate share adjust-
 25 ment percentage (as defined in clause (iv)) (as

1 in effect during such cost reporting periods))
2 for all hospitals was equal to the percent deter-
3 mined in accordance with the applicable for-
4 mulae described in clause (vii) (as so in effect).

5 The Secretary shall establish the conversion factor under
6 subclause (III) based upon the data described in clause
7 (iv) that is collected by the Secretary.

8 “(iv) For purposes of this subparagraph, a hospital
9 ‘serves a significantly disproportionate number of low-in-
10 come patients’ for a cost reporting period if the hospital
11 has a disproportionate patient percentage (as defined in
12 clause (v)) for that period which equals or exceeds a
13 threshold percentage, as established by the Secretary in
14 a manner so that, if the amendment made by section 2(b)
15 of the Medicare Safety Net Hospital Improvement Act of
16 2002 had been in effect for cost reporting periods begin-
17 ning in fiscal year 2002 and if the disproportionate share
18 adjustment percentage (as defined in clause (iv) (as in ef-
19 fect during such periods)) for all hospitals was equal to
20 the percent determined in accordance with the applicable
21 formulae described in clause (vii) (as so in effect), 60 per-
22 cent of subsection (d) hospitals would have been eligible
23 for an additional payment under this subparagraph for
24 such periods. The Secretary shall establish such threshold

1 percentage based upon the data described in clause (iv)
 2 that is collected by the Secretary.

3 “(v) In this subparagraph, the term ‘disproportionate
 4 patient percentage’ means, with respect to a cost reporting
 5 period of a hospital (expressed as a percentage)—

6 “(I) the charges described in subclauses (II)
 7 through (V) of clause (vi) for such period; divided by

8 “(II) the charges described in subclause (I) of
 9 such clause for such period.”; and

10 (2) by redesignating clause (xiv) as clause (vi).

11 (c) CONFORMING AMENDMENTS.—

12 (1) MEDICARE.—

13 (A) QUALIFIED LONG-TERM CARE HOS-
 14 PITAL.—Section 1886(b)(3)(G)(ii)(II) of the
 15 Social Security Act (42 U.S.C.
 16 1395ww(b)(3)(G)(ii)(II)) is amended by strik-
 17 ing “of at least 70 percent (as determined by
 18 the Secretary under subsection (d)(5)(F)(vi))”
 19 and inserting “under subsection (d)(5)(F)(v)
 20 equal to or greater than an appropriate percent-
 21 age (as determined by the Secretary)”.

22 (B) PROVIDER-BASED STATUS.—Section
 23 404(b)(2)(B) of the Medicare, Medicaid, and
 24 SCHIP Benefits Improvement and Protection
 25 Act of 2000 (114 Stat. 2763A–507), as enacted

into law by section 1(a)(6) of Public Law 106–554, is amended by striking “greater than 11.75 percent or is described in clause (i)(II) of such section” and inserting “greater than an appropriate percent (as determined by the Secretary)”.

(2) MEDICAID.—Section 1923(c) of the Social Security Act (42 U.S.C. 1396r–4(c)) is amended—

(A) in paragraph (1), by striking “section 1886(d)(5)(F)(iv)” and inserting “section 1886(d)(5)(F)(iii)”; and

(B) by striking the second sentence.

(3) PUBLIC HEALTH SERVICE ACT.—Section 340B(a)(4)(L)(ii) of the Public Health Service Act (42 U.S.C. 256b(a)(4)(L)(ii)) is amended to read as follows:

“(ii) for the most recent cost reporting period that ended before the calendar quarter involved—

“(I) in the case of a calendar quarter involved that begins prior to April 1, 2004, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act) greater

than 11.75 percent or was described
in section 1886(d)(5)(F)(i)(II) of such
Act; and

“(II) in the case of a calendar
quarter involved that begins on or
after April 1, 2004, had a dispropor-
tionate share adjustment percentage
(as so determined) that is greater
than an appropriate percent, as estab-
lished by the Secretary in a manner
so that, with respect to the 12-month
period beginning on such date, the
number of hospitals that are described
in this subparagraph is the same as,
or greater than, the number of hos-
pitals that would have been described
in this subparagraph if the Medicare
Safety Net Hospital Improvement Act
of 2002 had not been enacted; and”.

(d) TECHNICAL AMENDMENTS.—Section

1815(e)(1)(B) of the Social Security Act (42 U.S.C.
1395g(e)(1)(B)) is amended—

(1) in the matter preceding clause (i), by insert-
ing “a” before “hospital”; and

(2) in clause (i), by striking “(as established in clause (iv) of such section)” and inserting “(as established in section 1886(d)(5)(F)(iv), as in effect during fiscal year 1987)”.

(e) EFFECTIVE DATES.—

(1) COLLECTION.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

(2) MODIFICATION AND CONFORMING AMENDMENTS.—The amendments made by subsections (b) and (c) shall apply to payments for discharges occurring on or after April 1, 2004.

(3) TECHNICAL AMENDMENTS.—The amendments made by subsection (d) shall take effect as if included in the enactment of section 9311(a) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509; 100 Stat. 1996).

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