

108TH CONGRESS
2D SESSION

H. R. 4967

To amend titles XVIII and XIX of the Social Security Act to require automatic fire sprinkler systems in all nursing facilities participating in the Medicare or Medicaid Programs.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2004

Mr. LARSON of Connecticut 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 titles XVIII and XIX of the Social Security Act to require automatic fire sprinkler systems in all nursing facilities participating in the Medicare or Medicaid Programs.

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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Nursing Home Fire Safety Act of 2004”.

6 (b) FINDINGS.—Congress finds the following:

1 (1) On February 26, 2003, a fire at a Hart-
2 ford, Connecticut, nursing facility without an auto-
3 matic fire sprinkler system claimed the lives of 16
4 patients.

5 (2) On September 27, 2003, a fire at a Nash-
6 ville, Tennessee, nursing facility without an auto-
7 matic fire sprinkler system claimed the lives of 15
8 patients.

9 (3) The National Fire Protection Association
10 finds no record of a multiple death fire in a nursing
11 facility equipped with an automatic fire sprinkler
12 system.

13 (4) An estimated 1.5 million of the nation's el-
14 derly population reside in nursing facilities.

15 (5) The Centers for Medicare and Medicaid
16 Services estimates that of the approximate 17,000
17 nursing facilities nationwide, about 25 percent do
18 not have an automatic fire sprinkler system.

19 (6) Many State governments lack requirements
20 for their nursing facilities that were not originally
21 equipped with automatic fire sprinkler systems to be
22 retrofitted with such systems.

23 (7) Automatic fire sprinkler systems greatly im-
24 prove the chances of survival for older adults in the
25 event of a fire.

1 **SEC. 2. REQUIRING AUTOMATIC FIRE SPRINKLER SYSTEMS**
2 **IN MEDICARE AND MEDICAID FUNDED NURS-**
3 **ING FACILITIES.**

4 (a) REQUIREMENT FOR MEDICARE SKILLED NURS-
5 ING FACILITIES.—

6 (1) IN GENERAL.—Section 1819(d)(2) of the
7 Social Security Act (42 U.S.C. 1395i–3(d)(2)) is
8 amended—

9 (A) in subparagraph (B), by inserting “,
10 subject to subparagraph (C)” after “except
11 that”; and

12 (B) by adding at the end the following new
13 subparagraph:

14 “(C) AUTOMATIC FIRE SPRINKLER SYS-
15 TEM.—

16 “(i) IN GENERAL.—A skilled nursing
17 facility shall be equipped with an oper-
18 ational automatic fire sprinkler system
19 that meets the requirements for such a
20 system under the National Fire Protection
21 Association’s Standard for the Installation
22 of Sprinkler Systems (1999 edition), or, at
23 the option of a facility, such later edition
24 of standard as the Secretary may recog-
25 nize.

1 “(ii) PERIOD FOR COMPLIANCE AND
2 DISCLOSURE OF COMPLIANCE FOR CUR-
3 RENT FACILITIES.—In the case of a skilled
4 nursing facility that is providing extended
5 care services for which payment is made
6 under this title as of the date of the enact-
7 ment of this subparagraph and that was
8 not in compliance with the requirement of
9 clause (i) as of such date—

10 “(I) the requirement of clause (i)
11 shall not apply until such date, not
12 earlier than 3 years and not later
13 than 5 years after the date of the en-
14 actment of this subparagraph, as the
15 Secretary shall specify; and

16 “(II) the facility shall provide for
17 public disclosure, in a form and man-
18 ner specified by the Secretary, of
19 whether the facility is in compliance
20 with the standard described in clause
21 (i).

22 “(iii) TREATMENT OF EARLIER STATE
23 DEADLINE.—Nothing in clause (ii)(I) shall
24 be construed to prevent a State from es-
25 tablishing a deadline for the installation of

1 automatic fire sprinkler systems for skilled
2 nursing facilities that is earlier than the
3 deadline specified by the Secretary under
4 such clause.”.

5 (2) REIMBURSEMENT OF ADDITIONAL COSTS.—
6 Section 1888(e) of such Act (42 U.S.C. 1395yy(e))
7 is amended—

8 (A) in paragraph (1) by striking “and
9 (12)” and inserting “(12), and (13)”; and

10 (B) by adding at the end the following new
11 paragraph:

12 “(13) ADDITIONAL AMOUNT TO AMORTIZE FOR
13 COSTS OF INSTALLING AUTOMATIC FIRE SPRINKLER
14 SYSTEM.—

15 “(A) IN GENERAL.—In the case of a
16 skilled nursing facility that, as of a date that is
17 on or after September 11, 2003, is participating
18 in the program under this title, is not partici-
19 pating in the program under title XIX, and
20 does not have installed an automatic fire sprin-
21 kler system that met the requirements de-
22 scribed in section 1819(d)(2)(C), and which
23 subsequently incurs expenses in order to meet
24 such requirements, in addition to any other
25 payments made to the facility under this sub-

1 section, there shall be paid, in an amortized
2 manner over a five year period, an amount
3 equal to the reasonable amount incurred by the
4 facility in meeting such requirements, less the
5 amount of any payment made before October 1,
6 2004, under this title or title XIX that is di-
7 rectly attributable (such as through deprecia-
8 tion) to such expenses. Such payments shall be
9 made by the Secretary in such form and man-
10 ner as the Secretary shall specify and based
11 upon the presentation of such information as
12 the Secretary requires.

13 “(B) NO EFFECT ON OTHER PAYMENTS.—

14 The additional payment under subparagraph
15 (A) shall not affect the amount of any other
16 payment made under this subsection and the in-
17 curred expenses described in subparagraph (A)
18 shall not be taken into account in making any
19 other payments to a facility under this title.”.

20 (b) REQUIREMENT FOR MEDICAID NURSING FACILI-
21 TIES.—

22 (1) IN GENERAL.—Section 1919(d)(2) of the
23 Social Security Act (42 U.S.C. 1396r(d)(2)) is
24 amended—

1 (A) in subparagraph (B), by inserting “,
2 subject to subparagraph (C)” after “except
3 that”; and

4 (B) by adding at the end the following new
5 subparagraph:

6 “(C) AUTOMATIC FIRE SPRINKLER SYS-
7 TEM.—

8 “(i) IN GENERAL.—A nursing facility
9 shall be equipped with an operational auto-
10 matic fire sprinkler system that meets the
11 requirements for such a system under the
12 National Fire Protection Association’s
13 Standard for the Installation of Sprinkler
14 Systems (1999 edition), or, at the option
15 of a facility, such later edition of standard
16 as the Secretary may recognize.

17 “(ii) PERIOD FOR COMPLIANCE AND
18 DISCLOSURE OF COMPLIANCE FOR CUR-
19 RENT FACILITIES.—In the case of a nurs-
20 ing facility that is providing nursing facil-
21 ity services for which payment is made
22 under this title as of the date of the enact-
23 ment of this subparagraph and that was
24 not in compliance with the requirement of
25 clause (i) as of such date—

1 “(I) the requirement of clause (i)
 2 shall not apply until such date, not
 3 earlier than 3 years and not later
 4 than 5 years after the date of the en-
 5 actment of this subparagraph, as the
 6 Secretary shall specify; and

7 “(II) the facility shall provide for
 8 public disclosure, in a form and man-
 9 ner specified by the Secretary, of
 10 whether the facility is in compliance
 11 with the standard described in clause
 12 (i).

13 “(iii) TREATMENT OF EARLIER STATE
 14 DEADLINE.—Nothing in clause (ii)(I) shall
 15 be construed to prevent a State from es-
 16 tablishing a deadline for the installation of
 17 automatic fire sprinkler systems for nurs-
 18 ing facilities that is earlier than the dead-
 19 line specified by the Secretary under such
 20 clause.”.

21 (2) REIMBURSEMENT OF ADDITIONAL COSTS.—
 22 Section 1902(a)(13)(A) of such Act (42 U.S.C.
 23 1396a(a)(13)(A)) is amended—

24 (A) by striking “and” at the end of clause
 25 (iii);

1 (B) by striking “; and” at the end of
2 clause (iv) and inserting “, and”; and

3 (C) by adding at the end the following new
4 clause:

5 “(v) in the case of nursing facility
6 services furnished by a nursing facility
7 that, as of a date that is on or after Sep-
8 tember 11, 2003, is participating in the
9 program under this title but does not have
10 installed an automatic fire sprinkler sys-
11 tem that met the requirements described in
12 section 1919(d)(2)(C), and that subse-
13 quently incurs expenses in order to meet
14 such requirements, such rates shall provide
15 for the payment, in an amortized manner
16 over a five year period and in addition to
17 the payment amounts otherwise provided,
18 of an amount equal to the reasonable
19 amount incurred by the facility in meeting
20 such requirements, less the payment
21 amounts under this title or title XVIII
22 made before October 1, 2004, that are di-
23 rectly attributable (such as through depre-
24 ciation) to such expenses, and the payment
25 rates otherwise provided shall not take into

1 account such costs incurred in meeting
2 such requirements; and”.

3 (3) FULL FEDERAL PAYMENT.—

4 (A) IN GENERAL.—The third sentence of
5 section 1905 of such Act (42 U.S.C. 1396d) is
6 amended by inserting before the period at the
7 end the following: “and with respect to amounts
8 expended as medical assistance in providing the
9 payment amounts required under section
10 1902(a)(13)(A)(v)”.

11 (B) CONFORMING AMENDMENT TO APPLY
12 TO TERRITORIES.—Section 1108 of such Act
13 (42 U.S.C. 1308) is amended—

14 (i) in subsection (f), by striking “sub-
15 section (g)” and inserting “subsections (g)
16 and (h)”;

17 (ii) by adding at the end the following
18 new subsection:

19 “(h) EXCEPTION FOR PAYMENT FOR AUTOMATIC
20 FIRE SPRINKLER SYSTEMS.—The limitations on pay-
21 ments under subsection (f) shall not apply to payments
22 that are attributable to payments for medical assistance
23 for expenditures made under section 1902(a)(13)(A)(v).”.

24 (c) REDUCTION IN TAX BASIS.—Section 1016(a) of
25 the Internal Revenue Code of 1986 is amended by striking

1 “and” at the end of paragraph (27), by striking the period
2 at the end of paragraph (28) and inserting “, and”, and
3 by adding at the end the following new paragraph:

4 “(29) in the case of property with respect to
5 which any payment is made under section
6 1888(e)(13) or 1902(a)(13)(A)(v) of the Social Se-
7 curity Act, by reducing the basis of such property by
8 the amount of such payment.”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect on the date of the enactment
11 of this Act, except that the amendments made by sub-
12 sections (a)(2) and (b)(2) shall apply to payments to facili-
13 ties for periods beginning on or after October 1, 2004,
14 regardless of whether the payments are for expenses in-
15 curred before, on, or after such date.

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