

108TH CONGRESS
1ST SESSION

H. R. 937

To amend title XVIII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2003

Mr. MORAN of Kansas (for himself, Mr. TURNER of Texas, Mr. BERRY, Mr. OTTER, Ms. BALDWIN, Mr. PICKERING, Mr. OSBORNE, Mr. HASTINGS of Washington, Mr. PAUL, Mr. MCINTYRE, Mr. SANDLIN, Mr. KIND, Mr. TIAHRT, Mr. MURTHA, Mr. WHITFIELD, Mr. STENHOLM, and Mr. FROST) 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 provide for improvements in access to services in rural hospitals and critical access hospitals.

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; AMENDMENTS TO SOCIAL SECU-**
4 **RITY ACT.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Rural Community Hospital Assistance Act of 2003”.

1 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
 2 cept as otherwise specifically provided, whenever in this
 3 Act an amendment is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered a reference to that section or other
 6 provision of the Social Security Act.

7 **SEC. 2. ESTABLISHMENT OF RURAL COMMUNITY HOSPITAL**
 8 **(RCH) PROGRAM.**

9 (a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x)
 10 is amended by adding at the end of the following new sub-
 11 section:

12 “Rural Community Hospital; Rural Community Hospital
 13 Services

14 “(ww)(1) The term ‘rural community hospital’ means
 15 a hospital (as defined in subsection (e)) that—

16 “(A) is located in a rural area (as defined in
 17 section 1886(d)(2)(D)) or treated as being so lo-
 18 cated pursuant to section 1886(d)(8)(E);

19 “(B) subject to paragraph (2), has less than 51
 20 acute care inpatient beds, as reported in its most re-
 21 cent cost report;

22 “(C) makes available 24-hour emergency care
 23 services;

1 “(D) subject to paragraph (3), has a provider
2 agreement in effect with the Secretary and is open
3 to the public as of January 1, 2003; and

4 “(E) applies to the Secretary for such designa-
5 tion.

6 “(2) For purposes of paragraph (1)(B), beds in a
7 psychiatric or rehabilitation unit of the hospital which is
8 a distinct part of the hospital shall not be counted.

9 “(3) Subparagraph (1)(D) shall not be construed to
10 prohibit any of the following from qualifying as a rural
11 community hospital:

12 “(A) A replacement facility (as defined by the
13 Secretary in regulations in effect on January 1,
14 2003) with the same service area (as defined by the
15 Secretary in regulations in effect on such date).

16 “(B) A facility obtaining a new provider num-
17 ber pursuant to a change of ownership.

18 “(C) A facility which has a binding written
19 agreement with an outside, unrelated party for the
20 construction, reconstruction, lease, rental, or financ-
21 ing of a building as of January 1, 2003.

22 “(4) Nothing in this subsection shall be construed as
23 prohibiting a critical access hospital from qualifying as a
24 rural community hospital if the critical access hospital

1 meets the conditions otherwise applicable to hospitals
 2 under subsection (e) and section 1866.”.

3 (b) PAYMENT.—

4 (1) INPATIENT SERVICES.—Section 1814 (42
 5 U.S.C. 1395f) is amended by adding at the end the
 6 following new subsection:

7 “Payment for Inpatient Services Furnished in Rural
 8 Community Hospitals

9 “(m) The amount of payment under this part for in-
 10 patient hospital services furnished in a rural community
 11 hospital, other than such services furnished in a psy-
 12 chiatric or rehabilitation unit of the hospital which is a
 13 distinct part, is, at the election of the hospital in the appli-
 14 cation referred to in section 1861(ww)(1)(E)—

15 “(1) the reasonable costs of providing such
 16 services, without regard to the amount of the cus-
 17 tomary or other charge, or

18 “(2) the amount of payment provided for under
 19 the prospective payment system for inpatient hos-
 20 pital services under section 1886(d).”.

21 (2) OUTPATIENT SERVICES.—Section 1834 (42
 22 U.S.C. 1395m) is amended by adding at the end the
 23 following new subsection:

24 “(n) PAYMENT FOR OUTPATIENT SERVICES FUR-
 25 NISHED IN RURAL COMMUNITY HOSPITALS.—The

1 amount of payment under this part for outpatient services
 2 furnished in a rural community hospital is, at the election
 3 of the hospital in the application referred to in section
 4 1861(w)(1)(E)—

5 “(1) the reasonable costs of providing such
 6 services, without regard to the amount of the cus-
 7 tomary or other charge and any limitation under
 8 section 1861(v)(1)(U), or

9 “(2) the amount of payment provided for under
 10 the prospective payment system for covered OPD
 11 services under section 1833(t).”.

12 (3) HOME HEALTH SERVICES.—

13 (A) EXCLUSION FROM HOME HEALTH
 14 PPS.—

15 (i) IN GENERAL.—Section 1895 (42
 16 U.S.C. 1395fff) is amended by adding at
 17 the end the following:

18 “(f) EXCLUSION.—

19 “(1) IN GENERAL.—In determining payments
 20 under this title for home health services furnished on
 21 or after October 1, 2003, by a qualified RCH-based
 22 home health agency (as defined in paragraph (2))—

23 “(A) the agency may make a one-time elec-
 24 tion to waive application of the prospective pay-
 25 ment system established under this section to

1 such services furnished by the agency shall not
2 apply; and

3 “(B) in the case of such an election, pay-
4 ment shall be made on the basis of the reason-
5 able costs incurred in furnishing such services
6 as determined under section 1861(v), but with-
7 out regard to the amount of the customary or
8 other charges with respect to such services or
9 the limitations established under paragraph
10 (1)(L) of such section.

11 “(2) QUALIFIED RCH-BASED HOME HEALTH
12 AGENCY DEFINED.—For purposes of paragraph (1),
13 a ‘qualified RCH-based home health agency’ is a
14 home health agency that is a provider-based entity
15 (as defined in section 404 of the Medicare, Medicaid,
16 and SCHIP Benefits Improvement and Protection
17 Act of 2000 (Public Law 106–554; Appendix F, 114
18 Stat. 2763A–506) of a rural community hospital
19 that is located—

20 “(A) in a county in which no main or
21 branch office of another home health agency is
22 located; or

23 “(B) at least 35 miles from any main or
24 branch office of another home health agency.”.

25 (ii) CONFORMING CHANGES.—

1 (I) PAYMENTS UNDER PART A.—
 2 Section 1814(b) (42 U.S.C. 1395f(b))
 3 is amended by inserting “or with re-
 4 spect to services to which section
 5 1895(f) applies” after “equipment” in
 6 the matter preceding paragraph (1).

7 (II) PAYMENTS UNDER PART
 8 B.—Section 1833(a)(2)(A) (42 U.S.C.
 9 1395l(a)(2)(A)) is amended by strik-
 10 ing “the prospective payment system
 11 under”.

12 (III) PER VISIT LIMITS.—Section
 13 1861(v)(1)(L)(i) (42 U.S.C.
 14 1395x(v)(1)(L)(i)) is amended by in-
 15 serting “(other than by a qualified
 16 RCH-based home health agency (as
 17 defined in section 1895(f)(2))” after
 18 “with respect to services furnished by
 19 home health agencies”.

20 (iii) CONSOLIDATED BILLING.—

21 (I) RECIPIENT OF PAYMENT.—
 22 Section 1842(b)(6)(F) (42 U.S.C.
 23 1395u(b)(6)(F)) is amended by in-
 24 serting “and excluding home health
 25 services to which section to which sec-

1 tion 1895(f) applies” after “provided
2 for in such section”.

3 (II) EXCEPTION TO EXCLUSION
4 FROM COVERAGE.—Section 1862(a)
5 (42 U.S.C. 1395y(a)) is amended by
6 inserting before the period at the end
7 of the second sentence the following:
8 “and paragraph (21) shall not apply
9 to home health services to which sec-
10 tion 1895(f) applies”.

11 (4) RETURN ON EQUITY.—Section
12 1861(v)(1)(P) (42 U.S.C. 1395x(v)(1)(P)) is amend-
13 ed—

14 (A) by inserting “(i)” after “(P)”; and

15 (B) by adding at the end the following:

16 “(ii)(I) Notwithstanding clause (i), subparagraph
17 (S)(i), and section 1886(g)(2), such regulations shall pro-
18 vide, in determining the reasonable costs of the services
19 described in subclause (II) furnished by a rural commu-
20 nity hospital on or after October 1, 2003, for payment
21 of a return on equity capital at a rate of return equal to
22 150 percent of the average specified in clause (i):

23 “(II) The services referred to in subclause (I) are in-
24 patient hospital services, outpatient hospital services,
25 home health services furnished by an RCH-based home

1 health agency (as defined in section 1895(f)(2)), and am-
 2 bulance services.

3 “(III) Payment under this clause shall be made with-
 4 out regard to whether a provider is a proprietary pro-
 5 vider.”.

6 (5) EXEMPTION FROM 30 PERCENT REDUCTION
 7 IN REIMBURSEMENT FOR BAD DEBT.—Section
 8 1861(v)(1)(T) (42 U.S.C. 1395x(v)(1)(T)) is amend-
 9 ed by inserting “(other than a rural community hos-
 10 pital)” after “In determining such reasonable costs
 11 for hospitals”.

12 (c) BENEFICIARY COST-SHARING FOR OUTPATIENT
 13 SERVICES.—Section 1834(n) (as added by subsection
 14 (b)(2)) is amended—

15 (1) by inserting “(1)” after “(n)”; and

16 (2) adding at the end the following:

17 “(2) The amounts of beneficiary cost sharing for out-
 18 patient services furnished in a rural community hospital
 19 under this part shall be as follows:

20 “(A) For items and services that would have
 21 been paid under section 1833(t) if provided by a
 22 hospital, the amount of cost sharing determined
 23 under paragraph (8) of such section.

1 “(B) For items and services that would have
2 been paid under section 1833(h) if furnished by a
3 provider or supplier, no cost sharing shall apply.

4 “(C) For all other items and services, the
5 amount of cost sharing that would apply to the item
6 or service under the methodology that would be used
7 to determine payment for such item or service if pro-
8 vided by a physician, provider, or supplier, as the
9 case may be.”.

10 (d) CONFORMING AMENDMENTS.—

11 (1) PART A PAYMENT.—Section 1814(b) (42
12 U.S.C. 1395f(b)) is amended by inserting “other
13 than inpatient hospital services furnished by a rural
14 community hospital,” after “critical access hospital
15 services,”.

16 (2) PART B PAYMENT.—

17 (A) IN GENERAL.—Section 1833(a) (42
18 U.S.C. 1395l(a)) is amended—

19 (i) in paragraph (2), in the matter be-
20 fore subparagraph (A), by striking “and
21 (I)” and inserting “(I), and (K)”;

22 (ii) by striking “and” at the end of
23 paragraph (8);

1 (iii) by striking the period at the end
2 of paragraph (9) and inserting “; and”;
3 and

4 (iv) by adding at the end the fol-
5 lowing:

6 “(10) in the case of outpatient services fur-
7 nished by a rural community hospital, the amounts
8 described in section 1834(n).”.

9 (B) AMBULANCE SERVICES.—Section
10 1834(l)(8) (42 U.S.C. 1395m(l)(8)), as added
11 by section 205(a) of the Medicare, Medicaid,
12 and SCHIP Benefits Improvement and Protec-
13 tion Act of 2000 (Appendix F, 114 Stat.
14 2763A–463), as enacted into law by section
15 1(a)(6) of Public Law 106–554, is amended—

16 (i) in the heading, by striking “CRIT-
17 ICAL ACCESS HOSPITALS” and inserting
18 “CERTAIN FACILITIES”;

19 (ii) by striking “or” at the end of sub-
20 paragraph (A);

21 (iii) by redesignating subparagraph
22 (B) as subparagraph (C);

23 (iv) by inserting after subparagraph
24 (A) the following new subparagraph:

“(B) by a rural community hospital (as defined in section 1861(ww)(1)), or”; and

(v) in subparagraph (C), as so redesignated, by inserting “or a rural community hospital” after “critical access hospital”.

(3) TECHNICAL AMENDMENTS.—

(A) CONSULTATION WITH STATE AGENCIES.—Section 1863 (42 U.S.C. 1395z) is amended by striking “and (dd)(2)” and inserting “(dd)(2), (mm)(1), and (ww)(1)”.

(B) PROVIDER AGREEMENTS.—Section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting “section 1834(n)(2),” after “section 1833(b),”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after October 1, 2003.

SEC. 3. REMOVING BARRIERS TO ESTABLISHMENT OF DISTINCT PART UNITS BY RCH AND CAH FACILITIES.

(a) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by striking “a distinct part of the hospital (as defined by the Secretary)” in the matter following cause (v) and inserting “a distinct part (as

1 defined by the Secretary) of the hospital or of a critical
 2 access hospital or a rural community hospital”.

3 (b) EFFECTIVE DATE.—The amendment made by
 4 subsection (a) shall apply to determinations with respect
 5 to distinct part unit status that are made on or after Octo-
 6 ber 1, 2003.

7 **SEC. 4. IMPROVEMENTS TO MEDICARE CRITICAL ACCESS**
 8 **HOSPITAL (CAH) PROGRAM.**

9 (a) EXCLUSION OF CERTAIN BEDS FROM BED
 10 COUNT.—Section 1820(c)(2) (42 U.S.C. 1395i–4(c)(2)) is
 11 amended by adding at the end the following:

12 “(E) EXCLUSION OF CERTAIN BEDS FROM
 13 BED COUNT.—In determining the number of
 14 beds of a facility for purposes of applying the
 15 bed limitations referred to in subparagraph
 16 (B)(iii) and subsection (f), the Secretary shall
 17 not take into account any bed of a distinct part
 18 psychiatric or rehabilitation unit (described in
 19 the matter following clause (v) of section
 20 1886(d)(1)(B)) of the facility, except that the
 21 total number of beds that are not taken into ac-
 22 count pursuant to this subparagraph with re-
 23 spect to a facility shall not exceed 10.”.

24 (b) PAYMENTS TO HOME HEALTH AGENCIES OWNED
 25 AND OPERATED BY A CAH.—Section 1895(f) (42 U.S.C.

1 1395fff(f)), as added by section 2(b)(3), is further amend-
 2 ed by inserting “or by a home health agency that is owned
 3 and operated by a critical access hospital (as defined in
 4 section 1861(mm)(1))” after “as defined in paragraph
 5 (2))”.

6 (c) PAYMENTS TO CAH-OWNED SNFs.—

7 (1) IN GENERAL.—Section 1888(e) (42 U.S.C.
 8 1395yy(e)) is amended—

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

11 (B) by adding at the end thereof the fol-
 12 lowing:

13 “(13) EXEMPTION OF CAH FACILITIES FROM
 14 PPS.—In determining payments under this part for
 15 covered skilled nursing facility services furnished on
 16 or after October 1, 2003, by a skilled nursing facil-
 17 ity that is a distinct part unit of a critical access
 18 hospital (as defined in section 1861(mm)(1)) or is
 19 owned and operated by a critical access hospital—

20 “(A) the prospective payment system es-
 21 tablished under this subsection shall not apply;
 22 and

23 “(B) payment shall be made on the basis
 24 of the reasonable costs incurred in furnishing
 25 such services as determined under section

1861(v), but without regard to the amount of the customary or other charges with respect to such services or the limitations established under subsection (a).”.

(2) CONFORMING CHANGES.—

(A) IN GENERAL.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by subsection (b)(2)(A), is further amended in the matter preceding paragraph (1)—

(i) by inserting “other than a skilled nursing facility providing covered skilled nursing facility services (as defined in section 1888(e)(2)) or posthospital extended care services to which section 1888(e)(13) applies,” after “inpatient critical access hospital services”; and

(ii) by striking “1813 1886,” and inserting “1813, 1886, 1888,”.

(B) CONSOLIDATED BILLING.—

(i) RECIPIENT OF PAYMENT.—Section 1842(b)(6)(E) (42 U.S.C. 1395u(b)(6)(E)) is amended by inserting “services to which paragraph (7)(C) or (13) of section 1888(e) applies and” after “other than”.

1 (ii) EXCEPTION TO EXCLUSION FROM
 2 COVERAGE.—Section 1862(a)(18) (42
 3 U.S.C. 1395y(a)(18)) is amended by in-
 4 serting “(other than services to which
 5 paragraph (7)(C) or (13) of section
 6 1888(e) applies)” after “section
 7 1888(e)(2)(A)(i)”.

8 (d) PAYMENTS TO DISTINCT PART PSYCHIATRIC OR
 9 REHABILITATION UNITS OF CAHS.—Section 1886(b) (42
 10 U.S.C. 1395ww(b)) is amended—

11 (1) in paragraph (1), by inserting “, other than
 12 a distinct part psychiatric or rehabilitation unit to
 13 which paragraph (8) applies,” after “subsection
 14 (d)(1)(B)”;

15 (2) by adding at the end the following:

16 “(8) EXEMPTION OF CERTAIN DISTINCT PART PSY-
 17 CHIATRIC OR REHABILITATION UNITS FROM COST LIM-
 18 ITS.—In determining payments under this part for inpa-
 19 tient hospital services furnished on or after October 1,
 20 2003, by a distinct part psychiatric or rehabilitation unit
 21 (described in the matter following clause (v) of subsection
 22 (d)(1)(B)) of a critical access hospital (as defined in sec-
 23 tion 1861(mm)(1))—

24 “(A) the limits imposed under the preceding
 25 paragraphs of this subsection shall not apply; and

1 “(B) payment shall be made on the basis of the
 2 reasonable costs incurred in furnishing such services
 3 as determined under section 1861(v), but without re-
 4 gard to the amount of the customary or other
 5 charges with respect to such services.”.

6 (e) ELIMINATION OF ISOLATION TEST FOR COST-
 7 BASED CAH AMBULANCE SERVICES.—Paragraph (8) of
 8 section 1834(l) (42 U.S.C. 1395m(l)), as added by section
 9 205(a) of BIPA, is amended by striking the comma at
 10 the end of the last subparagraph and all that follows and
 11 inserting a period.

12 (f) RETURN ON EQUITY.—Section 1861(v)(1)(P) (42
 13 U.S.C. 1395x(v)(1)(P)), as amended by section 2(b)(4),
 14 is further amended by adding at the end the following:

15 “(iii)(I) Notwithstanding clause (i), subparagraph
 16 (S)(i), and section 1886(g)(2), such regulations shall pro-
 17 vide, in determining the reasonable costs of the services
 18 described in subclause (II) furnished by a critical access
 19 hospital on or after October 1, 2003, for payment of a
 20 return on equity capital at a rate of return equal to 150
 21 percent of the average specified in clause (i).

22 “(II) The services referred to in subclause (I) are in-
 23 patient critical access hospital services (as defined in sec-
 24 tion 1861(mm)(2)), outpatient critical access hospital
 25 services (as defined in section 1861(mm)(3)), extended

1 care services provided pursuant to an agreement under
 2 section 1883, posthospital extended care services to which
 3 section 1888(e)(13) applies, home health services to which
 4 section 1895(f) applies, ambulance services to which sec-
 5 tion 1834(l) applies, and inpatient hospital services to
 6 which section 1886(b)(8) applies.

7 “(III) Payment under this clause shall be made with-
 8 out regard to whether a provider is a proprietary pro-
 9 vider.”.

10 (g) COVERAGE OF COSTS FOR EMERGENCY ROOM
 11 ON-CALL PHYSICIAN ASSISTANTS AND NURSE PRACTI-
 12 TIONERS.—Section 1834(g) (42 U.S.C. 1395m(g)) is
 13 amended by adding at the end the following new para-
 14 graph:

15 “(6) COVERAGE OF COSTS FOR EMERGENCY
 16 ROOM ON-CALL PHYSICIAN ASSISTANTS AND NURSE
 17 PRACTITIONERS.—In determining the reasonable
 18 costs of outpatient critical access hospital services
 19 under paragraphs (1) and (2)(A), the Secretary shall
 20 recognize as allowable costs, amounts (as defined by
 21 the Secretary) for reasonable compensation and re-
 22 lated costs for emergency room physician assistants
 23 and nurse practitioners who are on-call (as defined
 24 by the Secretary for purposes of paragraph (5)) but
 25 who are not present on the premises of the critical

1 access hospital involved, and are not otherwise fur-
 2 nishing services which would be physicians' services
 3 if furnished by a physician and are not on-call at
 4 any other provider or facility.”.

5 (h) TECHNICAL CORRECTIONS.—

6 (1) SECTION 403(b) OF BBRA 1999.—Section
 7 1820(b)(2) (42 U.S.C. 1395i–4(b)(2)) is amended
 8 by striking “nonprofit or public hospitals” and in-
 9 serting “hospitals”.

10 (2) SECTION 203(b) OF BIPA 2000.—Section
 11 1883(a)(3) (42 U.S.C. 1395tt(a)(3)) is amended—

12 (A) by inserting “section 1861(v)(1)(G)
 13 or” after “Notwithstanding”; and

14 (B) by striking “covered skilled nursing fa-
 15 cility”.

16 (i) EFFECTIVE DATES.—

17 (1) ELIMINATION OF REQUIREMENTS.—The
 18 amendment made by subsections (a) and (b) shall
 19 apply to services furnished on or after October 1,
 20 2003.

21 (2) TECHNICAL CORRECTIONS.—

22 (A) BBRA.—The amendment made by
 23 subsection (h)(1) shall be effective as if in-
 24 cluded in the enactment of section 403(b) of the
 25 Medicare, Medicaid, and SCHIP Balanced

1 Budget Refinement Act of 1999 (Appendix F,
2 113 Stat. 1501A–321), as enacted into law by
3 section 1000(a)(6) of Public Law 106–113.

4 (B) BIPA.—The amendment made by sub-
5 section (h)(2) shall be effective as if included in
6 the enactment of section 203(b) of the Medi-
7 care, Medicaid, and SCHIP Benefits Improve-
8 ment and Protection Act of 2000 (Appendix F,
9 114 Stat. 2763A–463), as enacted into law by
10 section 1(a)(6) of Public Law 106–554.

○