

109TH CONGRESS  
1ST SESSION

# H. R. 2350

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2005

Mr. MORAN of Kansas (for himself, Mr. HINOJOSA, Mr. McHUGH, Mr. BERRY, Mr. BISHOP of Georgia, Mr. SHIMKUS, Mr. SANDERS, Mr. Ross, Mr. KIND, Mr. OTTER, Mr. PICKERING, Mr. PAUL, Mr. OSBORNE, Mr. McINTYRE, Mr. OBERSTAR, Mr. DICKS, and Mr. RENZI) 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

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## 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 2005”.

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        “(bbb)(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, 2005; 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       2005) 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, 2005.

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       “(5) Nothing in this subsection shall be construed as  
4 prohibiting a rural community hospital participating in  
5 the demonstration program under Section 410A of the  
6 Medicare Prescription Drug, Improvement, and Mod-  
7 ernization Act of 2003 (Public Law 108–173; 117 Stat.  
8 2313) from qualifying as a rural community hospital if  
9 the rural community hospital meets the conditions other-  
10 wise applicable to hospitals under subsection (e) and sec-  
11 tion 1866.”.

12 (b) PAYMENT.—

18        "(m) The amount of payment under this part for in-  
19 patient hospital services furnished in a rural community  
20 hospital, other than such services furnished in a psy-  
21 chiatric or rehabilitation unit of the hospital which is a  
22 distinct part, is, at the election of the hospital in the appli-  
23 cation referred to in section 1861(bbb)(1)(E)—

1           “(1) 101 percent of the reasonable costs of pro-  
2       viding such services, without regard to the amount  
3       of the customary or other charge, or

4           “(2) the amount of payment provided for under  
5       the prospective payment system for inpatient hos-  
6       pital services under section 1886(d).”.

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

10          “(n) PAYMENT FOR OUTPATIENT SERVICES FUR-  
11       NISHED IN RURAL COMMUNITY HOSPITALS.—The  
12       amount of payment under this part for outpatient services  
13       furnished in a rural community hospital is, at the election  
14       of the hospital in the application referred to in section  
15       1861(bbb)(1)(E)—

16           “(1) 101 percent of the reasonable costs of pro-  
17       viding such services, without regard to the amount  
18       of the customary or other charge and any limitation  
19       under section 1861(v)(1)(U), or

20           “(2) the amount of payment provided for under  
21       the prospective payment system for covered OPD  
22       services under section 1833(t).”.

23           (3) HOME HEALTH SERVICES.—

24           (A) EXCLUSION FROM HOME HEALTH  
25       PPS.—

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

#### 4        “(f) EXCLUSION.—

5                   “(1) IN GENERAL.—In determining payments  
6                   under this title for home health services furnished on  
7                   or after October 1, 2005, by a qualified RCH-based  
8                   home health agency (as defined in paragraph (2))—

9                     “(A) the agency may make a one-time elec-  
10                     tion to waive application of the prospective pay-  
11                     ment system established under this section to  
12                     such services furnished by the agency; and

21                   “(2) QUALIFIED RCH-BASED HOME HEALTH  
22                   AGENCY DEFINED.—For purposes of paragraph (1),  
23                   a ‘qualified RCH-based home health agency’ is a  
24                   home health agency that is a provider-based entity  
25                   (as defined in section 404 of the Medicare, Medicaid,

1 and SCHIP Benefits Improvement and Protection  
2 Act of 2000 (Appendix F, 114 Stat. 2763A–506), as  
3 enacted into law by section 1(a)(6) of Public Law  
4 106–554) of a rural community hospital that is lo-  
5 cated—

6                 “(A) in a county in which no main or  
7 branch office of another home health agency is  
8 located; or

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

11                 (ii) CONFORMING CHANGES.—

12                 (I) PAYMENT UNDER PART A.—  
13                 Section 1814(b) (42 U.S.C. 1395f(b))  
14                 is amended by inserting “or with re-  
15                 spect to services to which section  
16                 1895(f) applies” after “equipment” in  
17                 the matter preceding paragraph (1).

18                 (II) PAYMENTS UNDER PART  
19                 B.—Section 1833(a)(2)(A) (42 U.S.C.  
20                 1395l(a)(2)(A)) is amended by strik-  
21                 ing “the prospective payment system  
22                 under”.

23                 (III) PER VISIT LIMITS.—Section  
24                 1861(v)(1)(L)(i) (42 U.S.C.  
25                 1395x(v)(1)(L)(i)) is amended by in-

6 (iii) CONSOLIDATED BILLING.—

14 (II) EXCEPTION TO EXCLUSION  
15 FROM COVERAGE.—Section 1862(a)  
16 (42 U.S.C. 1395y(a)) is amended by  
17 inserting before the period at the end  
18 of the second sentence the following:  
19 “and paragraph (21) shall not apply  
20 to home health services to which sec-  
21 tion 1895(f) applies”.

22 (4) EXEMPTION FROM 30-PERCENT REDUCTION  
23 IN REIMBURSEMENT FOR BAD DEBT.—Section  
24 1861(v)(1)(T) (42 U.S.C. 1395x(v)(1)(T)) is amend-  
25 ed by inserting “(other than for a rural community,

1        hospital)” after “In determining such reasonable  
2        costs for hospitals”.

3        (c) BENEFICIARY COST-SHARING FOR OUTPATIENT  
4 SERVICES.—Section 1834(n) (as added by subsection  
5 (b)(2)) is amended—

6                (1) by redesignating paragraphs (1) and (2) as  
7        subparagraphs (A) and (B), respectively;

8                (2) by inserting “(1)” after “(n)”; and

9                (3) by adding at the end the following:

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

13                “(A) For items and services that would have  
14        been paid under section 1833(t) if provided by a  
15        hospital, the amount of cost-sharing determined  
16        under paragraph (8) of such section.

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

20                “(C) For all other items and services, the  
21        amount of cost-sharing that would apply to the item  
22        or service under the methodology that would be used  
23        to determine payment for such item or service if pro-  
24        vided by a physician, provider, or supplier, as the  
25        case may be.”.

## 1 (d) CONFORMING AMENDMENTS.—

2 (1) PART A PAYMENT.—Section 1814(b) (42  
3 U.S.C. 1395f(b)) is amended in the matter pre-  
4 ceding paragraph (1) by inserting “other than inpa-  
5 tient hospital services furnished by a rural commu-  
6 nity hospital,” after “critical access hospital serv-  
7 ices.”.

## 8 (2) PART B PAYMENT.—

9 (A) IN GENERAL.—Section 1833(a) (42  
10 U.S.C. 1395l(a)) is amended—  
11 (i) in paragraph (2), in the matter be-  
12 fore subparagraph (A), by striking “and  
13 (I)” and inserting “(I), and (K)”;  
14 (ii) by striking “and” at the end of  
15 paragraph (8);  
16 (iii) by striking the period at the end  
17 of paragraph (9) and inserting “; and”;  
18 and  
19 (iv) by adding at the end the fol-  
20 lowing:  
21 “(10) in the case of outpatient services fur-  
22 nished by a rural community hospital, the amounts  
23 described in section 1834(n).”.

1 (B) AMBULANCE SERVICES.—Section  
2 1834(l)(8) (42 U.S.C. 1395m(l)(8)) is amend-  
3 ed—

4 (i) in the heading, by striking “CRITICAL ACCESS HOSPITALS” and inserting  
5  
6 “CERTAIN FACILITIES”;

11 (iii) by striking “or” at the end of  
12 subparagraph (A);

13 (iv) by redesignating subparagraph  
14 (B) as subparagraph (C);

15 (v) by inserting after subparagraph  
16 (A) the following new subparagraph:  
17 “(B) by a rural community hospital (as de-  
18 fined in section 1861(bbb)(1)), or”; and

19 (vi) in subparagraph (C), as so redes-  
20 ignated, by inserting “or a rural commu-  
21 nity hospital” after “critical access hos-  
22 pital”.

23 (3) TECHNICAL AMENDMENTS.—

24 (A) CONSULTATION WITH STATE AGEN-  
25 CIES.—Section 1863 (42 U.S.C. 1395z) is

3 (B) PROVIDER AGREEMENTS.—Section  
4 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is  
5 amended by inserting “section 1834(n)(2),”  
6 after “section 1833(b),”.

7 (e) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to items and services furnished on  
9 or after October 1, 2005.

10 SEC. 3. REMOVING BARRIERS TO ESTABLISHMENT OF DIS-  
11 TINCT PART UNITS BY RCH AND CAH FACILI-  
12 TIES.

13 (a) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C.  
14 1395(d)(1)(B)) is amended by striking “a distinct part of  
15 the hospital (as defined by the Secretary)” in the matter  
16 following clause (v) and inserting “a distinct part (as de-  
17 fined by the Secretary) of the hospital or of a critical ac-  
18 cess hospital or a rural community hospital”.

19 (b) REVISION OF LIMITS ON AUTHORITY FOR CAHS  
20 TO ESTABLISH PSYCHIATRIC AND REHABILITATION DIS-  
21 TINCT PART UNITS.—Section 1820(c)(2)(E)(iv) (42  
22 U.S.C. 1395i-4(e)(2)(E)(iv)) is amended—

23 (1) by striking "If" and inserting "If the Sec-  
24 retary finds that";

1 (2) by striking “with respect to a cost reporting  
2 period”; and

3 (3) by striking “during such period” and insert-  
4 ing “after such finding is made”.

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to determinations with respect to  
7 distinct part unit status that are made on or after October  
8 1, 2005.

## 9 SEC. 4. IMPROVEMENTS TO MEDICARE CRITICAL ACCESS

## 10 HOSPITAL (CAH) PROGRAM.

11 (a) PAYMENTS TO HOME HEALTH AGENCIES OWNED  
12 AND OPERATED BY A CAH.—Section 1895(f) (42 U.S.C.  
13 1395ffff(f)), as added by section 2(b)(3), is further amend-  
14 ed by inserting “or by a home health agency that is owned  
15 and operated by a critical access hospital (as defined in  
16 section 1861(mm)(1))” after “as defined in paragraph  
17 (2)”).

18 (b) PAYMENTS TO CAH-OWNED SNFs.—

19 (1) IN GENERAL.—Section 1888(e) (42 U.S.C.  
20 1395yy(e)) is amended—

1                 “(13) EXEMPTION OF CAH FACILITIES FROM  
2 PPS.—In determining payments under this part for  
3 covered skilled nursing facility services furnished on  
4 or after October 1, 2005, by a skilled nursing facil-  
5 ity that is a distinct part unit of a critical access  
6 hospital (as defined in section 1861(mm)(1)) or is  
7 owned and operated by a critical access hospital—

8                 “(A) the prospective payment system es-  
9 tablished under this subsection shall not apply;  
10 and

11                 “(B) payment shall be made on the basis  
12 of 101 percent of the reasonable costs incurred  
13 in furnishing such services as determined under  
14 section 1861(v), but without regard to the  
15 amount of the customary or other charges with  
16 respect to such services or the limitations estab-  
17 lished under subsection (a)”.

18                 (2) CONFORMING CHANGES.—

19                 (A) IN GENERAL.—Section 1814(b) (42  
20 U.S.C. 1395f(b)), as amended by section  
21 2(d)(1), is amended in the matter preceding  
22 paragraph (1)—

23                 (i) by inserting “other than a skilled  
24 nursing facility providing covered skilled  
25 nursing facility services (as defined in sec-

6 (ii) by striking “1813, 1886,” and in-  
7 serting “1813, 1886, 1888.”

8 (B) CONSOLIDATED BILLING.—

9 (i) RECIPIENT OF PAYMENT.—Section  
10 1842(b)(6)(E) (42 U.S.C. 1395u(b)(6)(E))  
11 is amended by inserting “services to which  
12 paragraph (7)(C) or (13) of section  
13 1888(e) applies and” after “other than”.

14 (ii) EXCEPTION TO EXCLUSION FROM  
15 COVERAGE.—Section 1862(a)(18) (42  
16 U.S.C. 1395y(a)(18)) is amended by in-  
17 serting “(other than services to which  
18 paragraph (7)(C) or (13) of section  
19 1888(e) applies)” after “section  
20 1888(e)(2)(A)(i)”,

21 (c) PAYMENTS TO DISTINCT PART PSYCHIATRIC OR  
22 REHABILITATION UNITS OF CAHs.—

23 (1) IN GENERAL.—Section 1886(b) (42 U.S.C.  
24 1395(b)) is amended—

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

6                     “(8) EXEMPTION OF CERTAIN DISTINCT PART  
7                     PSYCHIATRIC OR REHABILITATION UNITS FROM  
8                     COST LIMITS.—In determining payments under this  
9                     part for inpatient hospital services furnished on or  
10                    after October 1, 2005, by a distinct part psychiatric  
11                    or rehabilitation unit (described in the matter fol-  
12                    lowing clause (v) of subsection (d)(1)(B)) of a crit-  
13                    ical access hospital (as defined in section  
14                    1861(mm)(1))—

15                             “(A) the limits imposed under the pre-  
16                             ceding paragraphs of this subsection shall not  
17                             apply; and

18                   “(B) payment shall be made on the basis  
19                   of 101 percent of the reasonable costs incurred  
20                   in furnishing such services as determined under  
21                   section 1861(v), but without regard to the  
22                   amount of the customary or other charges with  
23                   respect to such services.”.

24 (2) CONFORMING AMENDMENT.—Section  
25 1814(l) (42 U.S.C. 1395f(l)) is amended by insert-

1       ing “furnished during fiscal year 2005” after “such  
2       unit”.

3       (d) ELIMINATION OF ISOLATION TEST FOR COST-  
4       BASED CAH AMBULANCE SERVICES.—Paragraph (8) of  
5       section 1834(l) (42 U.S.C. 1395m(l)) is amended by strik-  
6       ing the comma at the end of subparagraph (B) and all  
7       that follows and inserting a period.

8       (e) TECHNICAL CORRECTIONS.—

9               (1) SECTION 403(b) OF BBRA 1999.—Section  
10       1820(b)(2) (42 U.S.C. 1395i-4(b)(2)) is amended by  
11       striking “nonprofit or public hospitals” and insert-  
12       ing “hospitals”.

13               (2) SECTION 203(b) OF BIPA 2000.—Section  
14       1883(a)(3) (42 U.S.C. 1395tt(a)(3)) is amended—

15                       (A) by inserting “section 1861(v)(1)(G)  
16       or” after “Notwithstanding”; and  
17                       (B) by striking “covered skilled nursing fa-  
18       cility”.

19       (f) EFFECTIVE DATES.—

20               (1) ELIMINATION OF REQUIREMENTS.—The  
21       amendments made by subsections (a) and (c) shall  
22       apply to services furnished on or after October 1,  
23       2005.

24       (2) TECHNICAL CORRECTIONS.—

○