

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.

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

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.—

13 (1) INPATIENT HOSPITAL SERVICES.—Section
 14 1814 (42 U.S.C. 1395f) is amended by adding at
 15 the end the following new subsection:

16 “Payment for Inpatient Services Furnished in Rural
 17 Community Hospitals

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

13 “(B) in the case of such an election, pay-
14 ment shall be made on the basis of 101 percent
15 of the reasonable costs incurred in furnishing
16 such services as determined under section
17 1861(v), but without regard to the amount of
18 the customary or other charges with respect to
19 such services or the limitations established
20 under paragraph (1)(L) of such section.

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-

serting “(other than by a qualified RCH-based home health agency (as defined in section 1895(f)(2))” after “with respect to services furnished by home health agencies”.

(iii) CONSOLIDATED BILLING.—

(I) RECIPIENT OF PAYMENT.—

Section 1842(b)(6)(F) (42 U.S.C. 1395u(b)(6)(F)) is amended by inserting “and excluding home health services to which section 1895(f) applies” after “provided for in such section”.

(II) EXCEPTION TO EXCLUSION

FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended by inserting before the period at the end of the second sentence the following: “and paragraph (21) shall not apply to home health services to which section 1895(f) applies”.

(4) EXEMPTION FROM 30-PERCENT REDUCTION

IN REIMBURSEMENT FOR BAD DEBT.—Section 1861(v)(1)(T) (42 U.S.C. 1395x(v)(1)(T)) is amended 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 “CRIT-
5 ICAL ACCESS HOSPITALS” and inserting
6 “CERTAIN FACILITIES”;

7 (ii) in the matter preceding subpara-
8 graph (A), by striking “the reasonable
9 costs” and inserting “101 percent of the
10 reasonable costs”;

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

1 amended by striking “and (dd)(2)” and insert-
 2 ing “(dd)(2), (mm)(1), and (bbb)(1)”.

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(c)(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 1395fff(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—

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

23 (B) by adding at the end thereof the fol-
24 lowing:

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-

tion 1888(e)(2)) or posthospital extended care services to which section 1888(e)(13) applies,” after “inpatient hospital services furnished by a rural community hospital,”; 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”.

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

(c) PAYMENTS TO DISTINCT PART PSYCHIATRIC OR REHABILITATION UNITS OF CAHS.—

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

1 (A) in paragraph (1), by inserting “, other
 2 than a distinct part psychiatric or rehabilitation
 3 unit to which paragraph (8) applies,” after
 4 “subsection (d)(1)(B)”; and

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.—

1 (A) BBRA.—The amendment made by
2 subsection (e)(1) shall be effective as if included
3 in the enactment of section 403(b) of the Medi-
4 care, Medicaid, and SCHIP Balanced Budget
5 Refinement Act of 1999 (Appendix F, 113 Stat.
6 1501A–321), as enacted into law by section
7 1000(a)(6) of Public Law 106–113.

8 (B) BIPA.—The amendments made by
9 subsection (e)(2) shall be effective as if included
10 in the enactment of section 203(b) of the Medi-
11 care, Medicaid, and SCHIP Benefits Improve-
12 ment and Protection Act of 2000 (Appendix F,
13 114 Stat. 2763A–463), as enacted into law by
14 section 1(a)(6) of Public Law 106–554.

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