

109TH CONGRESS
1ST SESSION

S. 411

To amend title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in States with more cost-effective health care delivery systems.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2005

Mrs. MURRAY (for herself and Ms. CANTWELL) 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 the provision of items and services provided to Medicare beneficiaries residing in States with more cost-effective health care delivery systems.

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 “MediFair Act of
5 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Regional inequities in medicare reimburse-
2 ment has created barriers to care for seniors and the
3 disabled.

4 (2) The regional inequities in medicare reim-
5 bursement penalize States that have cost-effective
6 health care delivery systems and rewards those
7 States with high utilization rates and that provide
8 inefficient care.

9 (3) Over a lifetime, those inequities can mean
10 as much as a \$50,000 difference in the cost of care
11 provided per beneficiary.

12 (4) Regional inequities have resulted in creating
13 very different medicare programs for seniors and the
14 disabled based on where they live.

15 (5) Because the Medicare+Choice rate is based
16 on the fee-for-service reimbursement rate, regional
17 inequities have allowed some medicare beneficiaries
18 access to plans with significantly more benefits in-
19 cluding prescription drugs. Beneficiaries in States
20 with lower reimbursement rates have not benefitted
21 to the same degree as beneficiaries in other parts of
22 the country.

23 (6) Regional inequities in medicare reimburse-
24 ment have created an unfair competitive advantage
25 for hospitals and other health care providers in

1 States that receive above average payments. Higher
 2 payments mean that those providers can pay higher
 3 salaries in a tight, competitive market.

4 (7) Regional inequities in medicare reimburse-
 5 ment can limit timely access to new technology for
 6 beneficiaries in States with lower reimbursement
 7 rates.

8 (8) Regional inequities in medicare reimburse-
 9 ment, if left unchecked, will reduce access to medi-
 10 care services and impact healthy outcomes for bene-
 11 ficiaries.

12 (9) Regional inequities in medicare reimburse-
 13 ment are not just a rural versus urban problem.
 14 Many States with large urban centers are at the bot-
 15 tom of the national average for per beneficiary costs.

16 **SEC. 3. IMPROVING FAIRNESS OF PAYMENTS TO PRO-**
 17 **VIDERS UNDER THE MEDICARE FEE-FOR-**
 18 **SERVICE PROGRAM.**

19 Title XVIII of the Social Security Act (42 U.S.C.
 20 1395 et seq.) is amended by adding at the end the fol-
 21 lowing new section:

22 “IMPROVING PAYMENT EQUITY UNDER THE ORIGINAL
 23 MEDICARE FEE-FOR-SERVICE PROGRAM

24 “SEC. 1898. (a) ESTABLISHMENT OF SYSTEM.—Not-
 25 withstanding any other provision of law, the Secretary
 26 shall establish a system for making adjustments to the

1 amount of payment made to entities and individuals for
2 items and services provided under the original medicare
3 fee-for-service program under parts A and B.

4 “(b) SYSTEM REQUIREMENTS.—

5 “(1) INCREASE FOR STATES BELOW THE NA-
6 TIONAL AVERAGE.—Under the system established
7 under subsection (a), if a State average per bene-
8 ficiary amount for a year is less than the national
9 average per beneficiary amount for such year, then
10 the Secretary (beginning in 2006) shall increase the
11 amount of applicable payments in such a manner as
12 will result (as estimated by the Secretary) in the
13 State average per beneficiary amount for the subse-
14 quent year being equal to the national average per
15 beneficiary amount for such subsequent year.

16 “(2) REDUCTION FOR CERTAIN STATES ABOVE
17 THE NATIONAL AVERAGE TO ENHANCE QUALITY
18 CARE AND MAINTAIN BUDGET NEUTRALITY.—

19 “(A) IN GENERAL.—The Secretary shall
20 ensure that the increase in payments under
21 paragraph (1) does not cause the estimated
22 amount of expenditures under this title for a
23 year to increase or decrease from the estimated
24 amount of expenditures under this title that
25 would have been made in such year if this sec-

1 tion had not been enacted by reducing the
2 amount of applicable payments in each State
3 that the Secretary determines has—

4 “(i) a State average per beneficiary
5 amount for a year that is greater than the
6 national average per beneficiary amount
7 for such year; and

8 “(ii) healthy outcome measurements
9 or quality care measurements that indicate
10 that a reduction in applicable payments
11 would encourage more efficient use of, and
12 reduce overuse of, items and services for
13 which payment is made under this title.

14 “(B) LIMITATION.—The Secretary shall
15 not reduce applicable payments under subpara-
16 graph (A) to a State that—

17 “(i) has a State average per bene-
18 fiary amount for a year that is greater
19 than the national average per beneficiary
20 amount for such year; and

21 “(ii) has healthy outcome measure-
22 ments or quality care measurements that
23 indicate that the applicable payments are
24 being used to improve the access of bene-
25 ficiaries to quality care.

1 “(3) DETERMINATION OF AVERAGES.—

2 “(A) STATE AVERAGE PER BENEFICIARY
3 AMOUNT.—Each year (beginning in 2005), the
4 Secretary shall determine a State average per
5 beneficiary amount for each State which shall
6 be equal to the Secretary’s estimate of the aver-
7 age amount of expenditures under the original
8 medicare fee-for-service program under parts A
9 and B for the year for a beneficiary enrolled
10 under such parts that resides in the State.

11 “(B) NATIONAL AVERAGE PER BENE-
12 FICIARY AMOUNT.—Each year (beginning in
13 2005), the Secretary shall determine the na-
14 tional average per beneficiary amount which
15 shall be equal to the average of the State aver-
16 age per beneficiary amount determined under
17 subparagraph (A) for the year.

18 “(4) DEFINITIONS.—In this section:

19 “(A) APPLICABLE PAYMENTS.—The term
20 ‘applicable payments’ means payments made to
21 entities and individuals for items and services
22 provided under the original medicare fee-for-
23 service program under parts A and B to bene-
24 ficiaries enrolled under such parts that reside in
25 the State.

1 “(B) STATE.—The term ‘State’ has the
2 meaning given such term in section 210(h).

3 “(c) BENEFICIARIES HELD HARMLESS.—The provi-
4 sions of this section shall not affect—

5 “(1) the entitlement to items and services of a
6 beneficiary under this title, including the scope of
7 such items and services; or

8 “(2) any liability of the beneficiary with respect
9 to such items and services.

10 “(d) REGULATIONS.—

11 “(1) IN GENERAL.—The Secretary, in consulta-
12 tion with the Medicare Payment Advisory Commis-
13 sion, shall promulgate regulations to carry out this
14 section.

15 “(2) PROTECTING RURAL COMMUNITIES.—In
16 promulgating the regulations pursuant to paragraph
17 (1), the Secretary shall give special consideration to
18 rural areas.”.

19 **SEC. 4. MEDPAC RECOMMENDATIONS ON HEALTHY OUT-**
20 **COMES AND QUALITY CARE.**

21 (a) RECOMMENDATIONS.—The Medicare Payment
22 Advisory Commission established under section 1805 of
23 the Social Security Act (42 U.S.C. 1395b–6) shall develop
24 recommendations on policies and practices that, if imple-
25 mented, would encourage—

1 (1) healthy outcomes and quality care under the
2 medicare program in States with respect to which
3 payments are reduced under section 1898(b)(2) of
4 such Act (as added by section 3); and

5 (2) the efficient use of payments made under
6 the medicare program in such States.

7 (b) SUBMISSION.—Not later than the date that is 9
8 months after the date of enactment of this Act, the Com-
9 mission shall submit to Congress the recommendations de-
10 veloped under subsection (a).

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