

110TH CONGRESS
1ST SESSION

H. R. 3453

To amend title XVIII of the Social Security Act to repeal the Medicare competitive bidding demonstration project for clinical laboratory services.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 2007

Ms. VELÁZQUEZ introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Judiciary, and Small Business, 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 repeal the Medicare competitive bidding demonstration project for clinical laboratory services.

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 “Community Clinical
5 Laboratory Fairness in Competition Act of 2007”.

6 **SEC. 2. FINDINGS; POLICY.**

7 (a) FINDINGS.—The Congress finds the following:

1 (1) The Centers for Medicare & Medicaid Serv-
2 ices of the Department of Health and Human Serv-
3 ices (HHS) estimated that there are approximately
4 5,200 independent clinical laboratories in the United
5 States.

6 (2) Independent clinical laboratories provide
7 \$16.3 billion in Medicare services to many of the 40
8 million-plus Medicare beneficiaries in the United
9 States.

10 (3) The laboratory results allow health care
11 professionals to make important diagnosis of their
12 patients. While the tests performed by clinical lab-
13 oratories account for less than 2 percent of Medicare
14 expenditures, they influence as much as 70 percent
15 of medical decision-making.

16 (4) Small labs often operate 24 hours a day, 7
17 days a week to respond to hospital, nursing home,
18 physician practices, and urgent emergency care situ-
19 ations.

20 (5) Nearly 5,000 independent clinical labora-
21 tories are classified as small business concerns by
22 the Small Business Administration.

23 (6) A wide variety of independent clinical labs
24 exist in the marketplace and serve the important

1 function of providing prompt access to diagnostic in-
2 formation that is crucial to decision-making.

3 (7) Most small independent clinical laboratories
4 receive 40 percent of their revenue from Medicare.

5 (8) The fee schedule and the formula for deter-
6 mining payment amounts for Medicare services were
7 established in 1984. Although payment rates have
8 changed over the past 20 years, the basic method-
9 ology has not, and, according to many experts inside
10 and outside of the laboratory community, the meth-
11 odology is considered outdated. In deciding a pay-
12 ment formula, it must consider the potential im-
13 pact on small laboratories as well as access to serv-
14 ices for health care professionals and the Medicare
15 beneficiaries.

16 (9) Competitive bidding would reduce the num-
17 ber of lab service providers in the market, lessening
18 the diversity of labs currently competing by forcing
19 smaller labs out of business, and ultimately creating
20 monopolies. The current diversity among clinical lab-
21 oratories has fostered price competition and ensured
22 patient access to lab services. Allowing the market-
23 place, rather than the Federal government, to drive
24 competition will spur innovation and safeguard pa-
25 tient access to lab services.

1 (b) POLICY.—It is the policy of the United States
2 to—

3 (1) promote and encourage competition in the
4 market;

5 (2) preserve the vibrant and competitive free
6 market that presently exist among independent clin-
7 ical laboratories; and

8 (3) encourage the continuation of industry best
9 practices that guarantee patient access to quality
10 laboratory services.

11 **SEC. 3. REPEAL OF MEDICARE COMPETITIVE BIDDING**
12 **DEMONSTRATION PROJECT FOR CLINICAL**
13 **LABORATORY SERVICES.**

14 (a) IN GENERAL.—Section 1847 of the Social Secu-
15 rity Act (42 U.S.C. 1395w-3) is amended by striking sub-
16 section (e).

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall take effect on the date of the enact-
19 ment of this Act.

20 (c) REPORT.—The Administrator of the Centers for
21 Medicare & Medicaid Services shall submit to issue a re-
22 port to the Committee on Small Business of the House
23 of Representatives and the Committee on Small Business
24 and Entrepreneurship of the Senate providing an analysis

1 of the impact of competitive bidding on small clinical lab-
2 oratories.

3 **SEC. 4. SMALL BUSINESS ADVOCACY REVIEW PANELS.**

4 Section 609(d) of title 5, United States Code, is
5 amended by striking “and the Occupational Safety and
6 Health Administration of the Department of Labor” and
7 inserting “, the Occupational Safety and Health Adminis-
8 tration of the Department of Labor, and the Centers for
9 Medicare & Medicaid Services of the Department of
10 Health and Human Services (solely with respect to its ca-
11 pacity to issue rules governing the Medicare part B fee
12 schedule for clinical laboratory services)”.

○