

110TH CONGRESS
1ST SESSION

H. R. 4248

To ensure access to recreational therapy in inpatient rehabilitation facilities, inpatient psychiatric facilities, and skilled nursing facilities under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2007

Mrs. TAUSCHER (for herself and Mr. ENGLISH of Pennsylvania) 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 ensure access to recreational therapy in inpatient rehabilitation facilities, inpatient psychiatric facilities, and skilled nursing facilities under the Medicare Program.

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 “Ensuring Medicare Ac-
5 cess to Recreational Therapy Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Recreational therapy is a critical health care
2 service that—

3 (A) restores, remediates, and rehabilitates
4 functional capacity for persons with injuries,
5 chronic illnesses, and disabilities;

6 (B) is provided by a qualified recreational
7 therapist and is prescribed and supervised by a
8 physician as part of a treatment plan; and

9 (C) has been demonstrated by evidence-
10 based research to improve the physical, cog-
11 nitive, social, and emotional functioning of indi-
12 viduals who receive the service.

13 (2) The Centers for Medicare & Medicaid Serv-
14 ices (in this Act referred to as “CMS”) has explicitly
15 stated in preamble language to Federal regulations
16 and in correspondence with Members of Congress
17 that recreational therapy provided in inpatient reha-
18 bilitation facilities (each in this Act referred to as an
19 “IRF”), inpatient psychiatric facilities (each in this
20 Act referred to as an “IPF”), and skilled nursing
21 facilities (each in this Act referred to as a
22 “SNF”)—

23 (A) is a covered service under title XVIII
24 of the Social Security Act;

1 (B) is an important service in supporting
2 improved outcomes for Medicare beneficiaries;
3 and

4 (C) is a skilled rehabilitative modality in-
5 cluded in the bundle of services as part of the
6 payment rate for IRFs, IPFs, and SNFs under
7 the respective Medicare prospective payment
8 systems for these settings.

9 (3) Out of concern for potential liability for
10 fraud and abuse, many IRF, IPF, and SNF facility
11 administrators are declining to offer recreational
12 therapy services because they lack clear regulatory
13 guidance on the inclusion of recreational therapy
14 services in the mix of services built into the prospec-
15 tive payment systems for these settings.

16 (4) In order to ensure that Medicare bene-
17 ficiaries have access to this critical service, there is
18 a compelling need for CMS to inform IRF, IPF, and
19 SNF administrators, as well as the fiscal inter-
20 mediaries who process claims for payment, through
21 the issuance of regulations or through publication in
22 the Medicare Benefits Policy Manual, that rec-
23 reational therapy provided in IRFs, IPFs, and SNFs
24 is covered by the respective Medicare part A pro-
25 spective payment system when required by the pa-

1 tient’s condition and prescribed by a physician as a
2 part of the facility’s plan of care for the patient.

3 (5) Policy clarifications issued by CMS will not
4 impose an additional burden on the Medicare Hos-
5 pital Insurance (HI) Trust Fund, as the costs of
6 providing recreational therapy services to patients
7 are already built into the prospective payment sys-
8 tems for the respective settings.

9 **SEC. 3. ENSURING ACCESS TO PRESCRIBED REC-**
10 **REATIONAL THERAPY IN CERTAIN SETTINGS.**

11 (a) IN GENERAL.—Not later than 180 days after the
12 date of the enactment of this Act, the Secretary of Health
13 and Human Services, acting through the Administrator of
14 CMS, shall issue a notice of proposed rulemaking, or issue
15 a transmittal amending the Medicare Benefits Policy Man-
16 ual, or both, specifying that—

17 (1) recreational therapy is a covered service
18 under title XVIII of the Social Security Act in IRFs,
19 IPFs, and SNFs;

20 (2) recreational therapy is a skilled rehabilita-
21 tive modality included in the bundle of services as
22 part of the payment rates for IRFs, IPFs, and
23 SNFs under Medicare’s respective prospective pay-
24 ment systems for these inpatient settings; and

1 (3) any recreational therapy that is provided to
2 a Medicare beneficiary in an IRF, IPF, or SNF pre-
3 scribed by a physician as part of the facility's plan
4 care for the patient must be provided by a qualified
5 recreational therapist.

6 (b) CONSTRUCTION.—Nothing in subsection (a) shall
7 be construed as affecting the payment rates otherwise es-
8 tablished for IRF's, IPF's, or SNF's under the Medicare
9 program.

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