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111TH CONGRESS
1ST SESSION

H. R. 3896

To amend title XVIII of the Social Security Act to improve access to health care for individuals residing in underserved rural areas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 2009

Mrs. EMERSON introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 improve access to health care for individuals residing in underserved rural areas, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Rural Health Clinic Patient Access and Improvement Act of 2009''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. RURAL HEALTH CLINIC REIMBURSEMENT.

Section 1833(f) of the Social Security Act (42 U.S.C. 1395l(f)) is amended—

(1) in paragraph (1), by striking ", and" at the end and inserting a semicolon;

(2) in paragraph (2)—

(A) by striking "in a subsequent year" and inserting "after 1988 and before 2010"; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(3) in 2010, at $92 per visit; and

"(4) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the MEI (as defined in section 1842(i)(3)) applicable to primary care services (as defined in section 1842(i)(4)) furnished as of the first day of that year.".

SEC. 3. RURAL HEALTH CLINIC QUALITY REPORTING INITIATIVE.

Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

''(x) INCENTIVE PAYMENTS FOR RURAL HEALTH CLINIC QUALITY REPORTING.—

''(1) IN GENERAL.—The Secretary shall implement a system to provide incentive payments for the satisfactory reporting of data on quality measures by eligible professionals, as defined in subsection (k)(3)(B) of section 1848, who are employed by a rural health clinic or provide services in a rural health clinic through a contractual arrangement, similar to the reporting system for covered professional services as established under subsections (k) and (m) of such section.

''(2) AMOUNT; DURATION.—Incentive payments in the amount of $2 per visit shall be made to rural health clinics with respect to eligible professionals who furnish rural health clinic services during the period beginning on January 1, 2010, and ending on December 31, 2013.

''(3) PAYMENT FROM TRUST FUND.—The incentive payments provided under this subsection shall be made available from the Federal Supple-

mentary Medical Insurance Trust Fund under section 1841.

''(4) PAYMENT LIMITS.—Incentive payments made under this subsection shall not be subject to the payment limits established under subsection (f).

''(5) SINGLE FORM.—The Secretary shall provide rural health clinics that participate in the quality reporting system under this subsection with a single form for submission of data on quality measures and reimbursement claim information.

''(6) REPORTING.—Not later than December 31, 2012, the Secretary shall prepare and submit a report to Congress on the quality reporting system established under this subsection, including—

''(A) the number and types of services involved in the system;

''(B) the number of rural health clinics participating in the system;

''(C) the overall quality of care that was delivered by the rural health clinics during this period;

''(D) the patient outcomes under the system;

''(E) recommendations for improving the system; and

''(F) any additional related matters that the Secretary determines appropriate.''.

SEC. 4. RURAL HEALTH CLINIC AND COMMUNITY HEALTH CENTER COLLABORATIVE ACCESS EXPANSION.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended by adding at the end the following:

''(s) RULE OF CONSTRUCTION WITH RESPECT TO RURAL HEALTH CLINICS.—

''(1) IN GENERAL.—Nothing in this section shall be construed to prevent a community health center from contracting with a federally certified rural health clinic (as defined by section 1861(aa)(2) of the Social Security Act) for the delivery of primary health care services that are available at the rural health clinic to individuals who would otherwise be eligible for free or reduced cost care if that individual were able to obtain that care at the community health center. Such services may be limited in scope to those primary health care services available in that rural health clinic.

''(2) ASSURANCES.—In order for a rural health clinic to receive funds under this section through a contract with a community health center under

paragraph (1), such rural health clinic shall establish policies to ensure—

"(A) nondiscrimination based upon the ability of a patient to pay; and

"(B) the establishment of a sliding fee scale for low-income patients.".

SEC. 5. GAO REPORT ON DIABETES EDUCATION AND MEDICAL NUTRITION THERAPY SERVICES.

Not later than July 1, 2012, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning the medical nutrition therapy counseling services provided by federally qualified health clinics. Such report shall specifically examine—

(1) the availability, health provider cost, reimbursement amount, and barriers to diabetes education and medical nutrition therapy services in federally qualified health clinics;

(2) the availability, health provider cost, reimbursement amount, and quality outcomes of diabetes education and medical nutrition therapy services in rural and frontier areas;

(3) the feasibility of implementing diabetes education and medical nutrition therapy services in rural health clinics; and

(4) to the extent practical, analyze existing health outcomes and cost savings attributed to diabetes education and medical nutrition therapy services provided by federally qualified health centers and the potential health outcomes and cost savings if those services are offered in rural health clinics.

SEC. 6. RURAL HEALTH CLINIC PROVIDER RETENTION DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary shall establish a demonstration project under which States are awarded grants to examine whether health care professionals can be recruited or retained to work in underserved rural areas by providing such professionals with medical malpractice subsidies.

(b) DURATION; SCOPE.—The demonstration project shall be conducted—

(1) for a 3-year period, beginning not later than January 1, 2011; and

(2) in not more than 5 States.

(c) STATE APPLICATION.—A State that desires to receive a grant under the demonstration project shall submit to the Secretary an application at such time, in such man-

ner, and containing such information as the Secretary may require, including adequate assurances that the State—

(1) promotes the establishment and continued maintenance of rural health clinics within the State; and

(2) is working to improve access to primary care and other health care services for rural residents of the State.

(d) STATE SELECTION.—In awarding grants to States under this section, the Secretary shall—

(1) ensure the participation of States with a diverse selection of rural health clinics, including clinics with 3 or less full-time equivalent physicians, physician assistants, and nurse practitioners;

(2) ensure the participation of States that maintain both provider-based and independent rural health clinics;

(3) give preference to States with existing State-funded medical malpractice subsidy programs; and

(4) give preference to States with 15 or more rural health clinics.

(e) DISTRIBUTION OF GRANT FUNDS BY STATES TO RURAL HEALTH CLINICS.—

(1) IN GENERAL.—A State awarded a grant under the demonstration project shall, acting through the State Office of Rural Health, select not less than 5 rural health clinics to receive grant funds for the purpose of subsidizing medical malpractice insurance costs for health care professionals employed by such clinics.

(2) RURAL HEALTH CLINIC APPLICATION.—A rural health clinic that desires to receive a grant from the State under the demonstration project shall submit to the State Office of Rural Health an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the clinic shall—

(A) provide access to health care services for all individuals, regardless of ability to pay;

(B) establish a sliding fee scale for low-income patients;

(C) make health care services available to individuals for not less than 20 hours per week; and

(D) meet any other requirements established by the Secretary to ensure proper and efficient use of grant funds.

(3) REQUIRED CLINIC PARTICIPATION.—A State awarded a grant under the demonstration project shall provide grant funds to at least 1 provider-based rural health clinic and at least 1 independent rural health clinic.

(4) DISTRIBUTION OF GRANT FUNDS.—

(A) IN GENERAL.—Subject to paragraph (B), a State shall provide each rural health clinic participating in the demonstration project with the lesser of—

(i) $5,000; or

(ii) 50 percent of the aggregate cost of malpractice insurance purchased by each physician, physician assistant, nurse practitioner, and certified nurse midwife (or purchased by the rural health clinic on behalf of each physician, physician assistant, nurse practitioner, and certified nurse midwife) who, on a weekly basis, provides patient care services at the rural health clinic for an average of not less than—

(I) 20 hours per week; or

(II) 80 percent of the operational hours of the clinic.

(B) SPECIAL RULE FOR OBSTETRICS AND GYNECOLOGY.—Subject to subparagraph (C), in the case of a rural health clinic participating in the demonstration project that provides obstetrical services, a State shall provide such clinic with the lesser of—

(i) $10,000; or

(ii) 50 percent of the aggregate cost of malpractice insurance purchased by each physician, physician assistant, nurse practitioner, and certified nurse midwife (or purchased by the rural health clinic on behalf of each physician, physician assistant, nurse practitioner, and certified nurse midwife) who provides obstetrical services at the rural health clinic.

(C) AMOUNT OF OBSTETRICAL CARE.—The Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration shall develop standards for the amount of obstetrical care that a rural health clinic would have to provide in order to qualify for a grant under subparagraph (B).

(f) REPORTING.—

(1) ANNUAL EVALUATIONS AND REPORTS.—The Secretary, acting through the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration, shall provide for an annual evaluation of the demonstration project and submit to Congress a report on the status of the project.

(2) FINAL EVALUATION AND REPORT.—Not later than 12 months after completion of the demonstration project, the Secretary, acting through the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration, shall prepare and submit to Congress a final report and evaluation of the project. The report shall include—

(A) an assessment of the effectiveness of the project at recruiting and retaining health care professionals in underserved rural areas;

(B) an assessment of the feasibility and efficacy of an expansion of the project to all States; and

(C) an evaluation of the project in comparison with an expansion of coverage under chapter 171 of title 28, United States Code (commonly referred to as the ''Federal Tort

Claims Act'') to include rural health clinics as a means of recruiting and retaining health care professionals in underserved rural areas.

(g) DEFINITIONS.—In this section:

(1) CERTIFIED NURSE MIDWIFE.—The term ''certified nurse midwife'' has the same meaning given such term in section 1861(gg)(2) of the Social Security Act (42 U.S.C. 1395x(gg)(2)).

(2) DEMONSTRATION PROJECT.—The term ''demonstration project'' means the demonstration project conducted under this section.

(3) NURSE PRACTITIONER; PHYSICIAN ASSISTANT; RURAL HEALTH CLINIC.—The terms ''nurse practitioner'', ''physician assistant'', and ''rural health clinic'' have the same meaning given such terms in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)).

(4) PHYSICIAN.—The term ''physician'' has the same meaning given such term in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 7. DEFINITION OF RURAL HEALTH CLINIC.

Section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)) is amended in the flush text by in-

serting before the last sentence the following: ''A facility that is in operation, that qualifies as a rural health clinic under this title or title XIX and that subsequently fails to satisfy the requirement in clause (i) that the clinic is not located in an urbanized area, shall, with respect to services furnished on or after the date of enactment of the Rural Health Clinic Patient Access and Improvement Act of 2009, be considered, for purposes of this title and title XIX, as still satisfying such requirement if it is determined that the clinic is located in an area defined by the State and certified by the Secretary as rural.''.

SEC. 8. MEDICARE ADVANTAGE PLAN PAYMENTS.

(a) IN GENERAL.—Section 1857(e) of the Social Security Act (42 U.S.C. 1395w–27(e)) is amended by adding at the end the following:

''(4) MINIMUM PAYMENT RATE FOR SERVICES FURNISHED BY A RURAL HEALTH CLINIC.—A contract under this section between a Medicare Advantage organization and the Secretary for the offering of a Medicare Advantage plan shall require the organization to provide for a payment rate under the plan for rural health clinic services furnished to enrollees of the plan (whether or not the services are furnished pursuant to an agreement between the or-

ganization and a rural health clinic) that is not less than—

"(A) the applicable payment rate established under part A or part B (which includes the payment of an interim rate and a subsequent cost reconciliation) with respect to the rural health clinic for such rural health clinic services; or

"(B) if the rural health clinic determines appropriate, 103 percent of the applicable interim payment rate established under part A or part B with respect to the rural health clinic for such rural health clinic services.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to Medicare Advantage contract years beginning on or after January 1, 2010.

SEC. 9. SENSE OF THE SENATE REGARDING ADEQUACY OF NETWORK-BASED HEALTH PLANS.

It is the sense of the Senate that network-based health plans shall—

(1) be expected to provide a pool of health care professionals that is adequate to meet the needs of enrollees residing in rural and frontier areas;

(2) ensure that enrollees residing in rural and frontier areas that have been designated by the Fed-

eral Government or a State government as lacking an adequate number of health care professionals are provided with reasonable access to an in-network provider;

(3) make every effort to include as part of their provider network any State-licensed or certified health care professionals (particularly primary care and mental health professionals) that are available in many underserved rural and frontier areas; and

(4) recognize that reliance on a physician-only network, or forcing enrollees to travel for more than 30 minutes to receive primary care or mental health services from a network provider, does not constitute an ''adequate'' network. The following distances should be used as guidelines in determining distances that correspond to a 30-minute travel time:

(A) Under normal conditions with primary roads available: 20 miles.

(B) In mountainous terrain or in areas with only secondary roads available: 15 miles.

(C) In flat terrain or in areas connected by interstate highways: 25 miles.

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