

111TH CONGRESS
2D SESSION

H. R. 5417

To amend titles XIX and XVIII of the Social Security Act, as amended by the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, with respect to payment of disproportionate share hospitals (DSH) under the Medicare and Medicaid programs.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2010

Ms. EDDIE BERNICE JOHNSON of Texas 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 titles XIX and XVIII of the Social Security Act, as amended by the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, with respect to payment of disproportionate share hospitals (DSH) under the Medicare and Medicaid programs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. MEDICARE DSH REPORT AND PAYMENT AD-**
2 **JUSTMENTS IN RESPONSE TO COVERAGE EX-**
3 **PANSION INSTEAD OF PPACA AND HCERA RE-**
4 **VISIONS.**

5 (a) DSH REPORT.—Not later than January 1, 2016,
6 the Secretary of Health and Human Services shall submit
7 to Congress a report on Medicare DSH taking into ac-
8 count the impact of the health care reforms carried out
9 under the Patient Protection and Affordable Care Act, as
10 amended by the Health Care and Education Reconciliation
11 Act of 2010, in reducing the number of uninsured individ-
12 uals. The report shall include recommendations relating
13 to the following:

14 (1) The appropriate amount, targeting, and dis-
15 tribution of Medicare DSH to compensate for higher
16 Medicare costs, Medicaid reimbursement shortfalls,
17 and uncompensated care associated with serving low-
18 income beneficiaries (taking into account variations
19 in the empirical justification for Medicare DSH at-
20 tributable to hospital characteristics, including bed
21 size), consistent with the original intent of Medicare
22 DSH.

23 (2) The appropriate amount, targeting, and dis-
24 tribution of Medicare DSH to hospitals given their
25 continued uncompensated care costs, to the extent
26 such costs remain.

1 (b) PAYMENT ADJUSTMENTS IN RESPONSE TO COV-
2 ERAGE EXPANSION.—

3 (1) IN GENERAL.—If there is a significant de-
4 crease in the national rate of uninsurance as a result
5 of corrected PPACA (as determined under para-
6 graph (2)(A)), then the Secretary of Health and
7 Human Services shall, beginning no earlier than fis-
8 cal year 2018, implement the following adjustments
9 to Medicare DSH:

10 (A) In lieu of the amount of Medicare
11 DSH payment that would otherwise be made
12 under section 1886(d)(5)(F) of the Social Secu-
13 rity Act, the amount of Medicare DSH payment
14 shall be an amount based on the recommenda-
15 tions of the report under subsection (a)(1) and
16 shall take into account variations in the empir-
17 ical justification for Medicare DSH attributable
18 to hospital characteristics, including bed size.

19 (B) Subject to paragraph (3), make an ad-
20 ditional payment to a hospital by an amount
21 that is estimated based on the amount of un-
22 compensated care provided by the hospital
23 based on criteria for uncompensated care as de-
24 termined by the Secretary, which shall exclude
25 bad debt.

1 (2) SIGNIFICANT DECREASE IN NATIONAL RATE
2 OF UNINSURANCE AS A RESULT OF THIS ACT.—For
3 purposes of this subsection—

4 (A) IN GENERAL.—There is a “significant
5 decrease in the national rate of uninsurance as
6 a result of corrected PPACA” if there is a de-
7 crease in the national rate of uninsurance (as
8 defined in subparagraph (B)) from 2012 to
9 2014 that exceeds 8 percentage points.

10 (B) NATIONAL RATE OF UNINSURANCE
11 DEFINED.—The term “national rate of
12 uninsurance” means, for a year, such rate for
13 the under-65 population for the year as deter-
14 mined and published by the Bureau of the Cen-
15 sus in its Current Population Survey in or
16 about September of the succeeding year.

17 (3) UNCOMPENSATED CARE INCREASE.—

18 (A) COMPUTATION OF DSH SAVINGS.—For
19 each fiscal year (beginning with fiscal year
20 2018), the Secretary shall estimate the aggre-
21 gate reduction in the amount of Medicare DSH
22 payment that would be expected to result from
23 the adjustment under paragraph (1)(A).

24 (B) STRUCTURE OF PAYMENT IN-
25 CREASE.—The Secretary shall compute the ad-

ditional payment to a hospital as described in paragraph (1)(B) for a fiscal year in accordance with a formula established by the Secretary that provides that—

(i) the estimated aggregate amount of such increase for the fiscal year does not exceed 50 percent of the aggregate reduction in Medicare DSH estimated by the Secretary for such fiscal year; and

(ii) hospitals with higher levels of uncompensated care receive a greater increase.

(c) DEFINITIONS.—In this section:

(1) The term “Medicare DSH” means adjustments in payments under section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) for inpatient hospital services furnished by disproportionate share hospitals.

(2) The term “corrected PPACA” means the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010.

(d) ELIMINATION OF HCERA PROVISION.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww), as amended by sections 3133 and 10316 of the Patient Pro-

1 tection and Affordable Care Act and section 1104 of the
 2 Health Care and Education Reconciliation Act of 2010,
 3 is amended—

4 (1) in subsection (d)(5)(F)(i), by striking “Sub-
 5 ject to subsection (r), for” and inserting “For”; and

6 (2) by striking subsection (r).

7 **SEC. 2. MEDICAID DSH REVISIONS.**

8 Section 1923(f)(7)(A) of the Social Security Act (42
 9 U.S.C. 1396r–4(f)(7)(A)), as amended by sections
 10 2551(a)(4) and 10201(e)(1) of the Patient Protection and
 11 Affordable Care Act and section 1203(a) of the Health
 12 Care and Education Reconciliation Act of 2010, is amend-
 13 ed—

14 (1) clause (i), by striking “2014 through 2020”
 15 and inserting “2018 through 2024”; and

16 (2) in subclauses (I) through (VII) of clause
 17 (ii), by striking “2014”, “2015”, “2016”, “2017”,
 18 “2018”, “2019”, and “2020” and inserting “2018”,
 19 “2019”, “2020”, “2021”, “2022”, “2023”, and
 20 “2024”, respectively.

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