

111TH CONGRESS  
1ST SESSION

# H. R. 902

To amend title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in rural areas.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2009

Mr. SMITH of Washington (for himself, Mr. DICKS, Mr. McDERMOTT, Mr. INSLEE, Mr. BAIRD, and Mr. LARSEN of Washington) 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

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## 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 rural areas.

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 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

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

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

9           (3) Comparatively, in 2003, per capita spending  
10          under traditional Medicare was \$5,661 for bene-  
11          ficiaries in Seattle, \$9,752 for those in Los Angeles,  
12          and \$11,340 for those in Miami.

13          (4) Over a lifetime, regional inequities can  
14          mean as much as a \$125,000 difference in the cost  
15          of care provided per beneficiary.

16          (5) Regional inequities have resulted in creating  
17          very different Medicare programs and amount of  
18          care received for seniors and the disabled based on  
19          where they live.

20          (6) Because the Medicare Advantage rate is  
21          based on the fee-for-service reimbursement rate, re-  
22          gional inequities have allowed some Medicare bene-  
23          ficiaries access to Medicare Advantage plans with  
24          significantly more benefits and reduced cost sharing.  
25          Beneficiaries in States with lower Medicare Advan-

1       tage reimbursement rates have not benefitted to the  
2       same degree as beneficiaries in other parts of the  
3       country.

4           (7) Regional inequities in medicare reimburse-  
5       ment have created an unfair competitive advantage  
6       for hospitals and other health care providers in  
7       States that receive above average payments. Higher  
8       payments mean that those providers can pay higher  
9       salaries in a tight, competitive market.

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

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

17       Title XVIII of the Social Security Act (42 U.S.C.  
18 1395 et seq.) is amended by adding at the end the fol-  
19 lowing new section:

20       “IMPROVING PAYMENT EQUITY UNDER THE ORIGINAL  
21           MEDICARE FEE-FOR-SERVICE PROGRAM

22       “SEC. 1899. (a) IN GENERAL.—Notwithstanding any  
23 other provision of law, the Secretary shall establish a sys-  
24 tem for making adjustments to the amount of payment  
25 made to entities and individuals for items and services

1 provided under the original medicare fee-for-service pro-  
2 gram under parts A and B.

3 “(b) SYSTEM REQUIREMENTS.—

4 “(1) INCREASE FOR STATES BELOW THE NA-  
5 TIONAL AVERAGE.—Under the system established  
6 under subsection (a), if a State average per bene-  
7 ficiary amount for a year is less than the national  
8 average per beneficiary amount for such year, then  
9 the Secretary (beginning in 2010) shall increase the  
10 amount of applicable payments in such a manner as  
11 will result (as estimated by the Secretary) in the  
12 State average per beneficiary amount for the subse-  
13 quent year being equal to the national average per  
14 beneficiary amount for such subsequent year.

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

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

1 amount of applicable payments in each State  
2 that the Secretary determines has—

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

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

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

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

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

25 “(3) DETERMINATION OF AVERAGES.—

1           “(A) STATE AVERAGE PER BENEFICIARY  
2 AMOUNT.—Each year (beginning in 2009), the  
3 Secretary shall determine a State average per  
4 beneficiary amount for each State which shall  
5 be equal to the Secretary’s estimate of the aver-  
6 age amount of expenditures under the original  
7 medicare fee-for-service program under parts A  
8 and B for the year for a beneficiary enrolled  
9 under such parts that resides in the State.

10           “(B) NATIONAL AVERAGE PER BENE-  
11 FICIARY AMOUNT.—Each year (beginning in  
12 2009), the Secretary shall determine the na-  
13 tional average per beneficiary amount which  
14 shall be equal to the average of the State aver-  
15 age per beneficiary amount determined under  
16 subparagraph (A) for the year.

17           “(4) DEFINITIONS.—In this section:

18           “(A) APPLICABLE PAYMENTS.—The term  
19 ‘applicable payments’ means payments made to  
20 entities and individuals for items and services  
21 provided under the original medicare fee-for-  
22 service program under parts A and B to bene-  
23 ficiaries enrolled under such parts that reside in  
24 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 1899(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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