

111TH CONGRESS  
1ST SESSION

# S. 1355

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.

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## IN THE SENATE OF THE UNITED STATES

JUNE 25, 2009

Mr. BARRASSO (for himself and Mr. WYDEN) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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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.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Rural Health Clinic Patient Access and Improvement Act  
6 of 2009”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Rural health clinic reimbursement.

- Sec. 3. Rural health clinic quality reporting initiative.  
 Sec. 4. Rural health clinic and community health center collaborative access expansion.  
 Sec. 5. GAO report on diabetes education and medical nutrition therapy services.  
 Sec. 6. Rural health clinic provider retention demonstration project.  
 Sec. 7. Definition of rural health clinic.  
 Sec. 8. Medicare Advantage plan payments.  
 Sec. 9. Sense of the Senate regarding adequacy of network-based health plans.

1 **SEC. 2. RURAL HEALTH CLINIC REIMBURSEMENT.**

2 Section 1833(f) of the Social Security Act (42 U.S.C.  
 3 1395l(f)) is amended—

4 (1) in paragraph (1), by striking “, and” at the  
 5 end and inserting a semicolon;

6 (2) in paragraph (2)—

7 (A) by striking “in a subsequent year” and  
 8 inserting “after 1988 and before 2010”; and

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

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

13 “(3) in 2010, at \$92 per visit; and

14 “(4) in a subsequent year, at the limit estab-  
 15 lished under this subsection for the previous year in-  
 16 creased by the percentage increase in the MEI (as  
 17 defined in section 1842(i)(3)) applicable to primary  
 18 care services (as defined in section 1842(i)(4)) fur-  
 19 nished as of the first day of that year.”.

1 **SEC. 3. RURAL HEALTH CLINIC QUALITY REPORTING INI-**  
2 **TIATIVE.**

3 Section 1833 of the Social Security Act (42 U.S.C.  
4 1395l) is amended by adding at the end the following new  
5 subsection:

6 “(x) INCENTIVE PAYMENTS FOR RURAL HEALTH  
7 CLINIC QUALITY REPORTING.—

8 “(1) IN GENERAL.—The Secretary shall imple-  
9 ment a system to provide incentive payments for the  
10 satisfactory reporting of data on quality measures by  
11 eligible professionals, as defined in subsection  
12 (k)(3)(B) of section 1848, who are employed by a  
13 rural health clinic or provide services in a rural  
14 health clinic through a contractual arrangement,  
15 similar to the reporting system for covered profes-  
16 sional services as established under subsections (k)  
17 and (m) of such section.

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

24 “(3) PAYMENT FROM TRUST FUND.—The in-  
25 centive payments provided under this subsection  
26 shall be made available from the Federal Supple-

1       mentary Medical Insurance Trust Fund under sec-  
2       tion 1841.

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

6               “(5) SINGLE FORM.—The Secretary shall pro-  
7       vide rural health clinics that participate in the qual-  
8       ity reporting system under this subsection with a  
9       single form for submission of data on quality meas-  
10      ures and reimbursement claim information.

11              “(6) REPORTING.—Not later than December  
12      31, 2012, the Secretary shall prepare and submit a  
13      report to Congress on the quality reporting system  
14      established under this subsection, including—

15                      “(A) the number and types of services in-  
16      volved in the system;

17                      “(B) the number of rural health clinics  
18      participating in the system;

19                      “(C) the overall quality of care that was  
20      delivered by the rural health clinics during this  
21      period;

22                      “(D) the patient outcomes under the sys-  
23      tem;

24                      “(E) recommendations for improving the  
25      system; and

1                   “(F) any additional related matters that  
2                   the Secretary determines appropriate.”.

3 **SEC. 4. RURAL HEALTH CLINIC AND COMMUNITY HEALTH**  
4                   **CENTER COLLABORATIVE ACCESS EXPAN-**  
5                   **SION.**

6                   Section 330 of the Public Health Service Act (42  
7 U.S.C. 254b) is amended by adding at the end the fol-  
8 lowing:

9                   “(s) **RULE OF CONSTRUCTION WITH RESPECT TO**  
10 **RURAL HEALTH CLINICS.—**

11                   “(1) **IN GENERAL.—**Nothing in this section  
12 shall be construed to prevent a community health  
13 center from contracting with a federally certified  
14 rural health clinic (as defined by section 1861(aa)(2)  
15 of the Social Security Act) for the delivery of pri-  
16 mary health care services that are available at the  
17 rural health clinic to individuals who would other-  
18 wise be eligible for free or reduced cost care if that  
19 individual were able to obtain that care at the com-  
20 munity health center. Such services may be limited  
21 in scope to those primary health care services avail-  
22 able in that rural health clinic.

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

1 paragraph (1), such rural health clinic shall estab-  
2 lish policies to ensure—

3 “(A) nondiscrimination based upon the  
4 ability of a patient to pay; and

5 “(B) the establishment of a sliding fee  
6 scale for low-income patients.”.

7 **SEC. 5. GAO REPORT ON DIABETES EDUCATION AND MED-**  
8 **ICAL NUTRITION THERAPY SERVICES.**

9 Not later than July 1, 2012, the Comptroller General  
10 of the United States shall submit to the Committee on  
11 Health, Education, Labor, and Pensions of the Senate and  
12 the Committee on Energy and Commerce of the House  
13 of Representatives a report concerning the medical nutri-  
14 tion therapy counseling services provided by federally  
15 qualified health clinics. Such report shall specifically ex-  
16 amine—

17 (1) the availability, health provider cost, reim-  
18 bursement amount, and barriers to diabetes edu-  
19 cation and medical nutrition therapy services in fed-  
20 erally qualified health clinics;

21 (2) the availability, health provider cost, reim-  
22 bursement amount, and quality outcomes of diabetes  
23 education and medical nutrition therapy services in  
24 rural and frontier areas;

1           (3) the feasibility of implementing diabetes edu-  
2           cation and medical nutrition therapy services in  
3           rural health clinics; and

4           (4) to the extent practical, analyze existing  
5           health outcomes and cost savings attributed to dia-  
6           betes education and medical nutrition therapy serv-  
7           ices provided by federally qualified health centers  
8           and the potential health outcomes and cost savings  
9           if those services are offered in rural health clinics.

10 **SEC. 6. RURAL HEALTH CLINIC PROVIDER RETENTION**  
11 **DEMONSTRATION PROJECT.**

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

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

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

22                 (2) in not more than 5 States.

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

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

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

6 (2) is working to improve access to primary  
7 care and other health care services for rural resi-  
8 dents of the State.

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

11 (1) ensure the participation of States with a di-  
12 verse selection of rural health clinics, including clin-  
13 ics with 3 or less full-time equivalent physicians,  
14 physician assistants, and nurse practitioners;

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

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

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

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

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

8           (2) RURAL HEALTH CLINIC APPLICATION.—A  
9 rural health clinic that desires to receive a grant  
10 from the State under the demonstration project shall  
11 submit to the State Office of Rural Health an appli-  
12 cation at such time, in such manner, and containing  
13 such information as the Secretary may require, in-  
14 cluding assurances that the clinic shall—

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

17           (B) establish a sliding fee scale for low-in-  
18 come patients;

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

22           (D) meet any other requirements estab-  
23 lished by the Secretary to ensure proper and ef-  
24 ficient use of grant funds.

1           (3) REQUIRED CLINIC PARTICIPATION.—A  
2 State awarded a grant under the demonstration  
3 project shall provide grant funds to at least 1 pro-  
4 vider-based rural health clinic and at least 1 inde-  
5 pendent rural health clinic.

6           (4) DISTRIBUTION OF GRANT FUNDS.—

7           (A) IN GENERAL.—Subject to paragraph  
8 (B), a State shall provide each rural health clin-  
9 ic participating in the demonstration project  
10 with the lesser of—

11                   (i) \$5,000; or

12                   (ii) 50 percent of the aggregate cost  
13 of malpractice insurance purchased by  
14 each physician, physician assistant, nurse  
15 practitioner, and certified nurse midwife  
16 (or purchased by the rural health clinic on  
17 behalf of each physician, physician assist-  
18 ant, nurse practitioner, and certified nurse  
19 midwife) who, on a weekly basis, provides  
20 patient care services at the rural health  
21 clinic for an average of not less than—

22                           (I) 20 hours per week; or

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

1 (B) SPECIAL RULE FOR OBSTETRICS AND  
2 GYNECOLOGY.—Subject to subparagraph (C), in  
3 the case of a rural health clinic participating in  
4 the demonstration project that provides obstet-  
5 rical services, a State shall provide such clinic  
6 with the lesser of—

7 (i) \$10,000; or

8 (ii) 50 percent of the aggregate cost  
9 of malpractice insurance purchased by  
10 each physician, physician assistant, nurse  
11 practitioner, and certified nurse midwife  
12 (or purchased by the rural health clinic on  
13 behalf of each physician, physician assist-  
14 ant, nurse practitioner, and certified nurse  
15 midwife) who provides obstetrical services  
16 at the rural health clinic.

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

24 (f) REPORTING.—

1           (1) ANNUAL EVALUATIONS AND REPORTS.—

2           The Secretary, acting through the Administrator of  
3           the Office of Rural Health Policy of the Health Re-  
4           sources and Services Administration, shall provide  
5           for an annual evaluation of the demonstration  
6           project and submit to Congress a report on the sta-  
7           tus of the project.

8           (2) FINAL EVALUATION AND REPORT.—Not

9           later than 12 months after completion of the dem-  
10          onstration project, the Secretary, acting through the  
11          Administrator of the Office of Rural Health Policy  
12          of the Health Resources and Services Administra-  
13          tion, shall prepare and submit to Congress a final  
14          report and evaluation of the project. The report shall  
15          include—

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

19                (B) an assessment of the feasibility and ef-  
20                ficacy of an expansion of the project to all  
21                States; and

22                (C) an evaluation of the project in com-  
23                parison with an expansion of coverage under  
24                chapter 171 of title 28, United States Code  
25                (commonly referred to as the “Federal Tort

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

4 (g) DEFINITIONS.—In this section:

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

9 (2) DEMONSTRATION PROJECT.—The term  
10 “demonstration project” means the demonstration  
11 project conducted under this section.

12 (3) NURSE PRACTITIONER; PHYSICIAN ASSIST-  
13 ANT; RURAL HEALTH CLINIC.—The terms “nurse  
14 practitioner”, “physician assistant”, and “rural  
15 health clinic” have the same meaning given such  
16 terms in section 1861(aa) of the Social Security Act  
17 (42 U.S.C. 1395x(aa)).

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

21 (5) SECRETARY.—The term “Secretary” means  
22 the Secretary of Health and Human Services.

23 **SEC. 7. DEFINITION OF RURAL HEALTH CLINIC.**

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

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

12 **SEC. 8. MEDICARE ADVANTAGE PLAN PAYMENTS.**

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

16 “(4) MINIMUM PAYMENT RATE FOR SERVICES  
17 FURNISHED BY A RURAL HEALTH CLINIC.—A con-  
18 tract under this section between a Medicare Advan-  
19 tage organization and the Secretary for the offering  
20 of a Medicare Advantage plan shall require the orga-  
21 nization to provide for a payment rate under the  
22 plan for rural health clinic services furnished to en-  
23 rollees of the plan (whether or nor the services are  
24 furnished pursuant to an agreement between the or-

1 organization and a rural health clinic) that is not less  
2 than—

3 “(A) the applicable payment rate estab-  
4 lished under part A or part B (which includes  
5 the payment of an interim rate and a subse-  
6 quent cost reconciliation) with respect to the  
7 rural health clinic for such rural health clinic  
8 services; or

9 “(B) if the rural health clinic determines  
10 appropriate, 103 percent of the applicable in-  
11 terim payment rate established under part A or  
12 part B with respect to the rural health clinic for  
13 such rural health clinic services.”.

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

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

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

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

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

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

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

10 (4) recognize that reliance on a physician-only  
11 network, or forcing enrollees to travel for more than  
12 30 minutes to receive primary care or mental health  
13 services from a network provider, does not constitute  
14 an “adequate” network. The following distances  
15 should be used as guidelines in determining dis-  
16 tances that correspond to a 30-minute travel time:

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

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

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

○