111TH CONGRESS
1ST SESSION

S. 2838

To give critical access hospitals priority in receiving grants to implement health information technology, to expand participation in the drug pricing agreement program under section 340B of the Public Health Service Act, to provide for a study and report on pharmacy dispensing fees under Medicaid, to provide for continuing funding for operation of State offices of rural health, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2009

Mr. BENNET introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To give critical access hospitals priority in receiving grants to implement health information technology, to expand participation in the drug pricing agreement program under section 340B of the Public Health Service Act, to provide for a study and report on pharmacy dispensing fees under Medicaid, to provide for continuing funding for operation of State offices of rural health, 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.

This Act may be cited as the ''Rural Health Access and Improvement Act of 2009''.

SEC. 2. GRANTS TO PROMOTE HOSPITAL HEALTH INFORMATION TECHNOLOGY.

Section 3013 of the Public Health Service Act (42 U.S.C. 300jj–33) is amended by adding at the end the following:

''(j) PRIORITY.—In awarding a grant under this section, the Secretary shall give priority to qualified State-designated entities that are critical access hospitals, as defined in section 1861(mm) of the Social Security Act.''.

SEC. 3. EXPANDED PARTICIPATION IN SECTION 340B PROGRAM.

Section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)) is amended by adding at the end the following:

''(M) A children's hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(iii) of the Social Security Act, or a free-standing cancer hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(v) of the Social Security Act, that would meet the requirements of subparagraph (L), including the disproportionate share

adjustment percentage requirement under clause (ii) of such subparagraph, if the hospital were a subsection (d) hospital as defined by section 1886(d)(1)(B) of the Social Security Act.

''(N) An entity that is a critical access hospital (as determined under section 1820(c)(2) of the Social Security Act), and that meets the requirements of subparagraph (L)(i).

''(O) An entity that is a rural referral center, as defined in section 1886(d)(5)(C)(i) of the Social Security Act, or a sole community hospital, as defined by section 1886(d)(5)(C)(iii) of such Act, and that both meets the requirements of subparagraph (L)(i) and has a disproportionate share adjustment percentage equal to or greater than 8 percent.

''(P) An entity that is a rural health clinic, as defined in section 1861(aa)(2) of the Social Security Act.''.

SEC. 4. GAO STUDY AND REPORT ON DISPENSING FEES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the cost in each State of dispensing prescription drugs under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.), which shall consider—

(1) any reasonable costs associated with pharmacists—

(A) checking for information regarding Medicaid coverage of individuals; and

(B) performing necessary clinical review and quality assurance activities, such as—

(i) activities to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, and inappropriate or medically unnecessary care among physicians, pharmacists, and patients;

(ii) activities associated with specific drugs or groups of drugs, including potential and actual severe adverse reactions to drugs, including education on therapeutic appropriateness, over-utilization and under-utilization of drugs, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse or misuse; and

(iii) any other clinical review and quality assurance activities required under Federal or State law;

(2) the costs incurred by a pharmacy that are associated with—

(A) the measurement or mixing of a drug covered by Medicaid;

(B) filling the container for such a drug;

(C) physically transferring the prescription to the patient, including any costs of delivering the medication to the home of such patient;

(D) special packaging of drugs;

(E) overhead costs of the pharmacy, or the section of the facility that is devoted to a pharmacy, and maintenance of the pharmacy or section of the facility (including the equipment necessary to operate such pharmacy or such section and the salaries of pharmacists and other pharmacy workers);

(F) geographic factors that impact operational costs;

(G) compounding such prescription if necessary; and

(H) uncollectability of Medicaid prescription copayments;

(3) the variation in costs described in paragraph (2) based on—

(A) whether a product dispensed is a rural or urban pharmacy;

(B) whether the product dispensed is a specialty pharmacy product; and

(C) whether the pharmacy is located in, or contracts with, a long-term care facility; and

(4) the increase in dispensing fees, including the costs described in paragraphs (1), (2), and (3), that would be sufficient to create an incentive for a pharmacist to promote the substitution of covered general alternative therapies.

(b) REPORT.—Not later than December 1, 2010, the Comptroller General of the United States shall submit to the Secretary of Health and Human Services and to each State a report describing the study conducted under subsection (a). The report shall include—

(1) the average cost in each State of dispensing a prescription drug under Medicaid;

(2) the findings of the study conducted under subsection (a) with respect to—

(A) the variation in costs studied under subparagraphs (A) and (B) of paragraph (3) of such subsection; and

(B) the increase in dispensing fees described in paragraph (4) of such subsection.

(c) USE OF STUDY.—Each State shall use the report described in subsection (b) to assess the adequacy of Medicaid pharmacy dispensing fees. The Secretary of Health and Human Services shall use such report to approve State plan amendments for States that submit such amendments for the purposes of increasing Medicaid pharmacy dispensing fees.

SEC. 5. STATE OFFICES OF RURAL HEALTH.

Section 338J of the Public Health Service Act (42 U.S.C. 254r) is amended by striking subsection (k).

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