

111TH CONGRESS  
1ST SESSION

# S. 935

To extend subsections (c) and (d) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) to provide for regulatory stability during the development of facility and patient criteria for long-term care hospitals under the Medicare program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 30, 2009

Mr. CONRAD (for himself, Mr. HATCH, Mr. CRAPO, Mr. ROBERTS, Mr. WICKER, Mr. VITTER, Mr. VOINOVICH, Mr. CHAMBLISS, Mr. ISAKSON, Mr. COCHRAN, Mr. BUNNING, Mr. KERRY, Ms. STABENOW, Mr. HARKIN, Mr. WYDEN, Mr. SPECTER, and Mr. ALEXANDER) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To extend subsections (c) and (d) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) to provide for regulatory stability during the development of facility and patient criteria for long-term care hospitals under the Medicare program, 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Medicare Long-Term  
3 Care Hospital Improvement Act of 2009”.

4 **SEC. 2. FINDINGS.**

5       Congress finds the following:

6           (1) Long-term care hospitals (in this section re-  
7 ferred to as “LTCHs”) serve a valuable role in the  
8 post-acute care continuum by providing care to  
9 medically complex patients needing long hospital  
10 stays.

11          (2) The Medicare program should ensure that  
12 patients receive post-acute care in the most appro-  
13 priate setting. The use of additional certification cri-  
14 teria for LTCHs, including facility and patient cri-  
15 teria, will promote the appropriate placement of  
16 medically complex patients into LTCHs.

17          (3) Subsections (c) and (d) of section 114 of  
18 the Medicare, Medicaid, and SCHIP Extension Act  
19 of 2007 (Public Law 110–173) provide necessary  
20 regulatory stability and temporary limits on the  
21 growth of new hospitals during the development of  
22 facility and patient criteria for LTCHs. An exten-  
23 sion of section 114 is warranted to allow for addi-  
24 tional time to develop facility and patient criteria for  
25 LTCHs.

1 **SEC. 3. EXTENSION OF CERTAIN PROVISIONS UNDER SEC-**  
 2 **TION 114 OF THE MEDICARE, MEDICAID, AND**  
 3 **SCHIP EXTENSION ACT OF 2007.**

4 Subsections (c) and (d) of section 114 of the Medi-  
 5 care, Medicaid, and SCHIP Extension Act of 2007 (Public  
 6 Law 110–173), as amended by section 4302 of division  
 7 B of the American Recovery and Reinvestment Act of  
 8 2009 (Public Law 111–5), are amended by striking “3-  
 9 year period” and inserting “5-year period” each place it  
 10 appears.

11 **SEC. 4. LONG-TERM CARE HOSPITAL BUDGET NEUTRALITY**  
 12 **OFFSET.**

13 Section 1886(m) of the Social Security Act (42  
 14 U.S.C. 1395ww(m)) is amended by adding at the end the  
 15 following new paragraph:

16 “(3) BUDGET NEUTRALITY OFFSET FOR RATE  
 17 YEARS 2011 THROUGH 2015.—In implementing the  
 18 system described in paragraph (1) for discharges oc-  
 19 ccurring during each of the rate years ending in 2011  
 20 through 2015 for a hospital, the base rate shall be  
 21 adjusted annually by the market basket update  
 22 amount allowed by the Secretary less an amount de-  
 23 termined by the Secretary, in advance of each rate  
 24 year, to implement a budget neutrality offset of the  
 25 cost of implementation of section 3 of the Medicare  
 26 Long-Term Care Hospital Improvement Act of 2009

1       for such year, not to exceed a maximum percentage  
2       reduction of 1.5 percent per rate year. Each such  
3       budget neutrality offset shall apply only with respect  
4       to the single rate year involved. The Secretary shall  
5       not reflect, or take into account, any such budget  
6       neutrality offset in computing and establishing the  
7       applicable market basket update percentage increase  
8       to the base rate for a subsequent rate year.”.

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