

111TH CONGRESS
1ST SESSION

S. 947

To amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare program.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2009

Mrs. LINCOLN (for herself and Mr. ROBERTS) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare program.

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 “Physician Pathology
5 Services Continuity Act of 2009”.

6 **SEC. 2. PERMANENT TREATMENT OF CERTAIN PHYSICIAN**
7 **PATHOLOGY SERVICES UNDER MEDICARE.**

8 Section 1848(i) of the Social Security Act (42 U.S.C.
9 1395w–4(i)) is amended by adding at the end the fol-
10 lowing new paragraph:

1 “(4) TREATMENT OF CERTAIN PHYSICIAN PA-
2 THOLOGY SERVICES.—

3 “(A) IN GENERAL.—With respect to serv-
4 ices furnished on or after January 1, 2010, if
5 an independent laboratory furnishes the tech-
6 nical component of a physician pathology serv-
7 ice to a fee-for-service medicare beneficiary who
8 is an inpatient or outpatient of a covered hos-
9 pital, the Secretary shall treat such component
10 as a service for which payment shall be made
11 to the laboratory under this section and not as
12 an inpatient hospital service for which payment
13 is made to the hospital under section 1886(d)
14 or as a hospital outpatient service for which
15 payment is made to the hospital under section
16 1833(t).

17 “(B) DEFINITIONS.—In this paragraph:

18 “(i) COVERED HOSPITAL.—

19 “(I) IN GENERAL.—The term
20 ‘covered hospital’ means, with respect
21 to an inpatient or outpatient, a hos-
22 pital that had an arrangement with
23 an independent laboratory that was in
24 effect as of July 22, 1999, under
25 which a laboratory furnished the tech-

1 nical component of physician pathol-
 2 ogy services to fee-for-service medi-
 3 care beneficiaries who were hospital
 4 inpatients or outpatients, respectively,
 5 and submitted claims for payment for
 6 such component to a carrier with a
 7 contract under section 1842 and not
 8 to the hospital.

9 “(II) CHANGE IN OWNERSHIP
 10 DOES NOT AFFECT DETERMINA-
 11 TION.—A change in ownership with
 12 respect to a hospital on or after the
 13 date referred to in subclause (I) shall
 14 not affect the determination of wheth-
 15 er such hospital is a covered hospital
 16 for purposes of such subclause.

17 “(ii) FEE-FOR-SERVICE MEDICARE
 18 BENEFICIARY.—The term ‘fee-for-service
 19 medicare beneficiary’ means an individual
 20 who is entitled to (or enrolled for) benefits
 21 under part A, or enrolled under this part,
 22 or both, but who is not enrolled in any of
 23 the following:

24 “(I) A Medicare Advantage plan
 25 under part C.

1 “(II) A plan offered by an eligi-
2 ble organization under section 1876.

3 “(III) A program of all-inclusive
4 care for the elderly (PACE) under
5 section 1894.

6 “(IV) A social health mainte-
7 nance organization (SHMO) dem-
8 onstration project established under
9 section 4018(b) of the Omnibus
10 Budget Reconciliation Act of 1987
11 (Public Law 100–203).

12 “(C) REFERENCE.—For the treatment of
13 certain physician pathology services furnished
14 prior to January 1, 2010, see section 542 of the
15 Medicare, Medicaid, and SCHIP Benefits Im-
16 provement and Protection Act of 2000, as ex-
17 tended by—

18 “(i) Centers for Medicare & Medicaid
19 Services (CMS) Program Memorandum for
20 Carriers (transmittal B–03–001), issued
21 January 17, 2003;

22 “(ii) CMS Manual System, Publica-
23 tion 100–20 One-Time Notification (trans-
24 mittal 34), issued December 24, 2003;

1 “(iii) section 732 of the Medicare Pre-
2 scription Drug, Improvement, and Mod-
3 ernization Act of 2003;

4 “(iv) section 104 of division B of the
5 Tax Relief and Health Care Act of 2006;

6 “(v) section 104 of the Medicare,
7 Medicaid, and SCHIP Extension Act of
8 2007; and

9 “(vi) section 136 of the Medicare Im-
10 provements for Patients and Providers Act
11 of 2008.”.

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