

112TH CONGRESS
2D SESSION

H. R. 5709

To amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital and ambulatory surgical center treatment episodes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2012

Mr. LIPINSKI introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital and ambulatory surgical center treatment episodes.

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 “Hospital Price Trans-
5 parency and Disclosure Act of 2011”.

6 **SEC. 2. PUBLIC DISCLOSURE OF HOSPITAL DATA.**

7 Part B of title II of the Public Health Service Act
8 (42 U.S.C. 238 et seq.) is amended by adding at the end
9 the following new section:

1 “DATA REPORTING BY HOSPITALS AND AMBULATORY
2 SURGICAL CENTERS AND PUBLIC POSTING

3 “SEC. 249. (a) SEMIANNUAL REPORTING REQUIRE-
4 MENT.—Not later than 80 days after the end of each semi-
5 annual period beginning January 1 or July 1 (beginning
6 more than one year after the date of the enactment of
7 this section), a hospital and an ambulatory surgical center
8 shall report to the Secretary the following data:

9 “(1) In the case of a hospital—

10 “(A) the frequency of occurrence for such
11 hospital during such period of each treatment
12 episode identified under subsection (c)(1) for a
13 condition or disease selected under subpara-
14 graph (A) or (B) of such subsection (or up-
15 dated under subsection (c)(3)), furnished in an
16 inpatient or outpatient setting, respectively; and

17 “(B) if care was furnished for such a
18 treatment episode by such hospital during such
19 period—

20 “(i) the total number of such treat-
21 ment episodes for which care was so fur-
22 nished by the hospital during such period;

23 “(ii) the insured individual average
24 charge (as computed under subsection

1 (e)(3)) by the hospital for such treatment
2 episode during such period; and

3 “(iii) the uninsured individual average
4 charge (as computed under subsection
5 (e)(4)) by the hospital for such treatment
6 episode during such period.

7 “(2) In the case of an ambulatory surgical cen-
8 ter—

9 “(A) the frequency of occurrence for such
10 center during such period of each treatment
11 episode identified under subsection (c)(1) for a
12 condition or disease selected under subpara-
13 graph (C) of such subsection (or updated under
14 subsection (c)(3)); and

15 “(B) if care was furnished for such a
16 treatment episode by such center during such
17 period—

18 “(i) the total number of such treat-
19 ment episodes for which care was so fur-
20 nished by the center during such period;

21 “(ii) the insured individual average
22 charge (as computed under subsection
23 (e)(3)) by the center for such episode dur-
24 ing such period; and

1 “(iii) the uninsured individual average
2 charge (as computed under subsection
3 (e)(4)) by the center for such episode dur-
4 ing such period.

5 “(b) PUBLIC AVAILABILITY OF DATA.—

6 “(1) PUBLIC POSTING OF DATA.—The Sec-
7 retary shall promptly post, on the official public
8 Internet site of the Department of Health and
9 Human Services, the data reported under subsection
10 (a). Such data shall be set forth in a manner that
11 promotes charge comparison among hospitals and
12 among ambulatory surgical centers.

13 “(2) NOTICE OF AVAILABILITY.—A hospital
14 and an ambulatory surgical center shall prominently
15 post at each admission site of the hospital or center
16 a notice of the availability of the data reported
17 under subsection (a) on the official public Internet
18 site under paragraph (1).

19 “(c) SPECIFICATION OF TREATMENT EPISODES.—
20 For purposes of this section:

21 “(1) IN GENERAL.—The Secretary shall iden-
22 tify treatment episodes for each of the following:

23 “(A) The 25 conditions and diseases se-
24 lected by the Secretary as being the most fre-

1 quently treated conditions and diseases in a
2 hospital inpatient setting.

3 “(B) The 25 conditions and diseases se-
4 lected by the Secretary as being the most fre-
5 quently treated conditions and diseases in a
6 hospital outpatient setting.

7 “(C) The 25 conditions and diseases se-
8 lected by the Secretary as being the most fre-
9 quently treated conditions and diseases in an
10 ambulatory surgical center setting.

11 “(2) AGREEMENT WITH IOM.—In carrying out
12 paragraph (1), the Secretary may enter into an
13 agreement with the Institute of Medicine to define a
14 treatment episode for any condition or disease se-
15 lected by the Secretary under this subsection.

16 “(3) UPDATING SELECTION.—The Secretary
17 shall periodically update the conditions and diseases
18 selected under paragraph (1).

19 “(d) CIVIL MONEY PENALTY.—The Secretary may
20 impose a civil money penalty of not more than \$10,000
21 for each knowing violation of subsection (a) or (b)(2) by
22 a hospital or an ambulatory surgical center. The provi-
23 sions of subsection (i)(2) of section 351A shall apply with
24 respect to civil money penalties under this subsection in

1 the same manner as such provisions apply to civil money
2 penalties under subsection (i)(1) of such section.

3 “(e) ADMINISTRATIVE PROVISIONS.—

4 “(1) IN GENERAL.—The Secretary shall pre-
5 scribe such regulations and issue such guidelines as
6 may be required to carry out this section.

7 “(2) CLASSIFICATION OF SERVICES.—The regu-
8 lations and guidelines under paragraph (1) shall in-
9 clude rules on the classification of different treat-
10 ment episodes and the assignment of items and pro-
11 cedures to those episodes.

12 “(3) COMPUTATION OF INSURED INDIVIDUAL
13 AVERAGE CHARGES.—

14 “(A) IN GENERAL.—For purposes of sub-
15 sections (a)(1)(B)(ii) and (a)(2)(B)(ii), an in-
16 sured individual average charge for a treatment
17 episode, with respect to a hospital or ambula-
18 tory surgical center during a period, shall be
19 computed as the average of the rates (including
20 any applicable copayment, coinsurance, or other
21 costsharing) for such episode that have been ne-
22 gotiated by the hospital or ambulatory surgical
23 center, respectively, with the 3 most used health
24 insurance providers for such hospital or center
25 during such period.

“(B) 3 MOST USED HEALTH INSURANCE
PROVIDERS.—For purposes of subparagraph
(A), the 3 most used health insurance pro-
viders, with respect to a hospital or ambulatory
surgical center during a period, are the 3 group
health plans or insurance issuers offering health
insurance coverage—

“(i) that have negotiated with the hos-
pital or center a rate for the treatment epi-
sode involved; and

“(ii) the enrollees of which represent
the highest number of patients of the hos-
pital or center, respectively.

“(4) COMPUTATION OF UNINSURED INDIVIDUAL
AVERAGE CHARGES.—

“(A) IN GENERAL.—For purposes of sub-
sections (a)(1)(B)(iii) and (a)(2)(B)(iii), an un-
insured individual average charge for a treat-
ment episode, with respect to a hospital or am-
bulatory surgical center during a period, shall
be computed as the average of the total
amounts charged for such an episode for which
care was furnished to an uninsured individual
by such hospital or ambulatory surgical center
during such period.

1 “(B) UNINSURED INDIVIDUAL DEFINED.—

2 For purposes of subparagraph (A), the term
3 ‘uninsured individual’ means, with respect to
4 care furnished to the individual by a hospital or
5 ambulatory surgical center, an individual who
6 does not have insurance or other third-party
7 contractual benefits that provides payment for
8 costs incurred for such care.

9 “(5) FORM OF REPORT AND NOTICE.—The reg-
10 ulations and guidelines under paragraph (1) shall
11 specify the electronic form and manner by which a
12 hospital or an ambulatory surgical center shall re-
13 port data under subsection (a) and the form for
14 posting of notices under subsection (b)(2).

15 “(f) RULES OF CONSTRUCTION.—

16 “(1) NON-PREEMPTION OF STATE LAWS.—
17 Nothing in this section shall be construed as pre-
18 empting or otherwise affecting any provision of
19 State law relating to the disclosure of charges or
20 other information for a hospital or an ambulatory
21 surgical center.

22 “(2) CHARGES.—Nothing in this section shall
23 be construed to regulate or set hospital or ambula-
24 tory surgical center charges.

1 “(g) HOSPITAL AND AMBULATORY SURGICAL CEN-
2 TER DEFINED.—For purposes of this section, the terms
3 ‘hospital’ and ‘ambulatory surgical center’ have the mean-
4 ing given such terms by the Secretary.”.

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