

113TH CONGRESS
1ST SESSION

H. R. 2027

To amend section 1877 of the Social Security Act to modify the requirements for hospitals to qualify for the rural provider and hospital exception to physician ownership or investment prohibition in order to take into account hospitals that were under construction or development at the time of imposing such requirements, hospital expansions, and hospitals in financial distress, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2013

Mr. SAM JOHNSON of Texas (for himself, Mr. HINOJOSA, Mr. CARSON of Indiana, Ms. JACKSON LEE, Ms. JENKINS, Mr. MARCHANT, Mr. YOUNG of Indiana, Mr. BURGESS, and Mr. YODER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend section 1877 of the Social Security Act to modify the requirements for hospitals to qualify for the rural provider and hospital exception to physician ownership or investment prohibition in order to take into account hospitals that were under construction or development at the time of imposing such requirements, hospital expansions, and hospitals in financial distress, 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 “Expanding Patients’ Access to Quality Care Act of
 6 2013”.

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. Modification of Stark requirements for certain hospitals that were under
 construction or development as of December 30, 2010.

Sec. 3. Modifying Stark requirements for applicable hospitals to qualify for ex-
 pansion of facility capacity.

Sec. 4. Additional exception for physician ownership and investment for hos-
 pitals in financial distress.

9 **SEC. 2. MODIFICATION OF STARK REQUIREMENTS FOR**
 10 **CERTAIN HOSPITALS THAT WERE UNDER**
 11 **CONSTRUCTION OR DEVELOPMENT AS OF**
 12 **DECEMBER 30, 2010.**

13 Section 1877(i) of the Social Security Act (42 U.S.C.
 14 1395nn(i)) is amended—

15 (1) in paragraph (1)(A)—

16 (A) in the matter preceding clause (i), by
 17 striking “had”;

18 (B) in clause (i), by striking “; and” and
 19 inserting the following: “, and had a provider
 20 agreement under section 1866 in effect on such
 21 date or was under construction or was under

1 development (as defined in paragraph (7)(A))
2 on such date; or”; and

3 (C) by striking clause (ii);

4 (2) in paragraph (1)(B), by inserting before the
5 period at the end the following: “or if the hospital
6 was under construction or under development on De-
7 cember 31, 2010, no greater than the number of op-
8 erating rooms, procedure rooms, and beds for which
9 the hospital is licensed as of the date the hospital
10 had a provider agreement in effect under section
11 1866”;

12 (3) in paragraph (1)(D)(i), by inserting before
13 the period at the end the following: “or if the hos-
14 pital was under construction or under development
15 on December 31, 2010, as of the date the hospital
16 had a provider agreement in effect under section
17 1866”;

18 (4) in paragraph (3)(C)(iii), by inserting after
19 “December 31, 2010,” the following: “or in the case
20 of a hospital that did not have a provider agreement
21 in effect as of such date but was under construction
22 or under development on such date,”; and

23 (5) by adding at the end the following new
24 paragraph:

1 “(7) DEFINITIONS.—For purposes of this sub-
2 section:

3 “(A) UNDER DEVELOPMENT.—A hospital
4 shall be treated as being ‘under development’
5 on December 31, 2010, if on or before such
6 date the hospital—

7 “(i) submitted its enrollment applica-
8 tion for a Medicare provider agreement;

9 “(ii) had a binding written agreement
10 with an outside, unrelated party for the ac-
11 tual design, construction, renovation, lease,
12 or demolition for a hospital, and has ex-
13 pended at least 10 percent of the estimated
14 cost of the project (or, if less, \$1,000,000);
15 or

16 “(iii) obtained a certificate of need in
17 a State where one is required.”.

18 **SEC. 3. MODIFYING STARK REQUIREMENTS FOR APPLICA-**
19 **BLE HOSPITALS TO QUALIFY FOR EXPANSION**
20 **OF FACILITY CAPACITY.**

21 Section 1877(i)(3) of the Social Security Act (42
22 U.S.C. 1395nn(i)(3)) is amended—

23 (1) by striking subparagraphs (A), (E), (F),
24 (H), and (I);

1 (2) by amending subparagraph (B) to read as
2 follows:

3 “(B) LIMITATION ON FREQUENCY OF IN-
4 CREASES.—A hospital may not effect an in-
5 crease described in subparagraph (C) more
6 often than once every 2 years.”;

7 (3) in subparagraphs (C) and (D), by striking
8 “an applicable hospital” and “the applicable hos-
9 pital” and inserting “a hospital” and “the hospital”,
10 respectively, each place it appears;

11 (4) in subparagraph (C)(i)—

12 (A) by striking “granted an exception
13 under the process described in subparagraph
14 (A)”;

15 (B) by striking “has been granted a pre-
16 vious exception under this paragraph” and in-
17 serting “has had a previous increase under this
18 subsection”; and

19 (C) by striking “such an exception” and
20 inserting “this paragraph”; and

21 (5) in subparagraph (C)(ii), by striking “The
22 Secretary shall not permit an increase in” and in-
23 serting “A hospital may not increase”.

1 **SEC. 4. ADDITIONAL EXCEPTION FOR PHYSICIAN OWNER-**
 2 **SHIP AND INVESTMENT FOR HOSPITALS IN**
 3 **FINANCIAL DISTRESS.**

4 Section 1877(i) of the Social Security Act (42 U.S.C.
 5 1395nn(i)) is amended—

6 (1) in paragraph (1)(A), as amended by section
 7 2(1), by inserting after clause (i) the following new
 8 clause:

9 “(ii) had a provider agreement under
 10 section 1866 in effect December 31, 2010,
 11 as of such date did not have physician
 12 ownership or investment, but after such
 13 date is determined to be in financial dis-
 14 tress (as defined in paragraph (7)(B)).”;

15 (2) in paragraph (1)(D)(i), by inserting before
 16 the period at the end the following: “, except that
 17 such percentage limitation shall not apply to a hos-
 18 pital determined to be in financial distress (as de-
 19 fined in paragraph (7)(B))”; and

20 (3) in paragraph (7), as added by section 2(5),
 21 by adding at the end the following new paragraph:

22 “(B) FINANCIAL DISTRESS.—A hospital
 23 shall be treated as being ‘in financial distress’
 24 for a cost reporting period if the Secretary de-
 25 termines that the hospital has had an overall
 26 negative combined Medicare inpatient prospec-

1 tive payment system and outpatient prospective
2 payment system operating margin for the most
3 recent 3 consecutive cost reporting periods for
4 which data are available. Once the Secretary
5 makes a determination that a hospital has such
6 a negative operating margin for a cost reporting
7 period, the Secretary may not reverse such de-
8 termination for such period. A hospital that is
9 treated as being in financial distress under this
10 subparagraph for a cost reporting period shall
11 continue to be so treated for all subsequent cost
12 reporting periods as being in financial distress
13 without regard to changes in the hospital's op-
14 erating margin.”.

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