

115TH CONGRESS
2D SESSION

S. 3531

To amend titles XVIII and XIX of the Social Security Act to provide coverage under Medicare and Medicaid of services furnished by freestanding emergency centers.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2018

Mr. CASSIDY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend titles XVIII and XIX of the Social Security Act to provide coverage under Medicare and Medicaid of services furnished by freestanding emergency centers.

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 “Emergency Care Im-
5 provement Act”.

1 **SEC. 2. COVERAGE UNDER MEDICARE AND MEDICAID OF**
 2 **SERVICES FURNISHED BY FREESTANDING**
 3 **EMERGENCY CENTERS.**

4 (a) COVERAGE UNDER MEDICARE PART B.—Section
 5 1832(a)(2) of the Social Security Act (42 U.S.C.
 6 1395k(a)) is amended—

7 (1) in subparagraph (I), by striking “and” at
 8 the end;

9 (2) in subparagraph (J), by striking the period
 10 at the end and inserting “; and”; and

11 (3) by adding at the end the following new sub-
 12 paragraph:

13 “(K) services of a freestanding emergency
 14 center, as defined in section 1861(jjj).”.

15 (b) DEFINITION OF FREESTANDING EMERGENCY
 16 CENTER.—Section 1861 of the Social Security Act (42
 17 U.S.C. 1395x) is amended by adding at the end the fol-
 18 lowing new subsection:

19 “Freestanding Emergency Center

20 “(jjj) The term ‘freestanding emergency center’
 21 means a facility not owned by a hospital which—

22 “(1) meets all State requirements applicable to
 23 facilities which furnish emergency medical services
 24 to individuals but does not generally provide for
 25 stays in excess of 24 hours, and meets such other
 26 requirements as the Secretary may prescribe not in

1 excess of the conditions of participation under this
2 title that are specifically applicable to off campus
3 dedicated emergency departments of hospitals as de-
4 scribed in section 482.55 of title 42, Code of Federal
5 Regulations (or any successor regulations), and not
6 the conditions of participation under this title that
7 are applicable to hospitals generally other than with
8 respect to compliance with section 1867 (commonly
9 known as ‘EMTALA’);

10 “(2) is operational 24 hours a day, 7 days a
11 week, and 365 days a year with onsite access to phy-
12 sicians at all times;

13 “(3) has in place mechanisms to allow for ap-
14 propriate transfers and referrals;

15 “(4) develops, implements, and maintains an
16 ongoing, data-driven quality assessment and per-
17 formance improvement (QAPI) program;

18 “(5) establishes a governing body that assumes
19 full legal responsibility for determining, imple-
20 menting, and monitoring policies governing the total
21 operation of the facility and has oversight and ac-
22 countability for the quality assessment and perform-
23 ance improvement program, ensuring that facility
24 policies and the program are administered so as to

1 provide quality health care in a safe environment;
 2 and

3 “(6) has a written agreement with the Sec-
 4 retary to provide emergency medical services to
 5 beneficiaries.”.

6 (c) MEDICARE PAYMENT AND CERTAIN REPORT-
 7 ING.—Section 1833(t)(21) of the Social Security Act (42
 8 U.S.C. 1395l(t)(21)) is amended by adding at the end the
 9 following new subparagraphs:

10 “(F) TREATMENT OF FREESTANDING
 11 EMERGENCY CENTERS.—The facility payment
 12 rate for services of a freestanding emergency
 13 center (as defined in section 1861(jjj)) for high-
 14 er acuity evaluation or management level serv-
 15 ices (represented by HCPCS codes 99283–
 16 99285) shall be an amount equal to—

17 “(i) in the case of services furnished
 18 by such a center in an urban area, 75 per-
 19 cent of the amount of payment that would
 20 otherwise apply under this subsection, in-
 21 cluding application of the geographic ad-
 22 justment under paragraph (2)(D) and the
 23 OPD fee schedule increase factor under
 24 paragraph (3)(C)(iv); and

1 “(ii) in the case of services furnished
2 by such a center located in a rural area, 95
3 percent of the amount of payment that
4 would otherwise apply under this sub-
5 section, including application of the geo-
6 graphic adjustment under paragraph
7 (2)(D) and the OPD fee schedule increase
8 factor under paragraph (3)(C)(iv).

9 “(G) USE OF CLAIMS MODIFIER.—A hos-
10 pital-owned off-campus emergency department
11 shall be required to add a claims modifier to
12 claims for payment under this part in order to
13 enable tracking of items and services furnished
14 by those departments under this part.”.

15 (d) MEDICAID COVERAGE.—Section 1905(a)(2)(A) of
16 the Social Security Act (42 U.S.C. 1396d(a)(2)(A)) is
17 amended by inserting the following after “outpatient hos-
18 pital services”: “, which shall include the services of free-
19 standing emergency centers, as defined in section
20 1861(jjj), and provided that hospital-owned off-campus
21 emergency departments shall be required to add a claims
22 modifier to enable tracking of off campus emergency serv-
23 ices furnished by these departments”.

24 (e) RULE OF CONSTRUCTION.—Nothing in the provi-
25 sions of, or amendments made by, this Act shall be con-

1 strued as reducing or otherwise affecting the amount of
2 payment for any physicians' professional services under
3 the physician fee schedule under section 1848 of the Social
4 Security Act (42 U.S.C. 1395w-4).

5 (f) EFFECTIVE DATE.—The amendments made by
6 this Act shall apply to items and services furnished on or
7 after January 1, 2019.

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