

116TH CONGRESS
1ST SESSION

H. R. 506

To amend title XVIII of the Social Security Act to increase hospital competition, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 2019

Mr. BANKS (for himself and Mr. WESTERMAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, 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 title XVIII of the Social Security Act to increase hospital competition, 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.**

4 This Act may be cited as the “Hospital Competition
5 Act of 2019”.

6 **SEC. 2. HOSPITAL CONSOLIDATION.**

7 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There is
8 authorized to be appropriated \$160,000,000 to the Fed-

1 eral Trade Commission to hire staff to investigate, as con-
 2 sistent with the Sherman Antitrust Act and other relevant
 3 Federal laws, anti-competitive mergers and practices
 4 under such laws to the extent such mergers and practices
 5 relate to providers of inpatient and outpatient health care
 6 services, as defined by the Secretary of Health and
 7 Human Services.

8 (b) MEDICARE RATES APPLIED TO CERTAIN HHI
 9 HOSPITALS.—

10 (1) IN GENERAL.—Section 1866(a) of the So-
 11 cial Security Act (42 U.S.C. 1395cc(a)) is amend-
 12 ed—

13 (A) in paragraph (1)—

14 (i) in subparagraph (X), by striking
 15 “and” at the end;

16 (ii) in subparagraph (Y), by striking
 17 the period at the end and inserting “;
 18 and”; and

19 (iii) by inserting after subparagraph
 20 (Y) the following new subparagraph:

21 “(Z) subject to paragraph (4), in the case of a
 22 hospital in an urban area and with respect to which
 23 there is a Herfindahl-Hirschman Index (HHI) of
 24 greater than 4,000 and in the case of a hospital in
 25 a rural area and with respect to which there is

1 Herfindahl-Hirschman Index (HHI) of greater than
2 5,000, to apply the reimbursement rate with respect
3 to individuals (regardless of whether such an indi-
4 vidual is entitled to or eligible for benefits under this
5 title, but excluding individuals eligible for medical
6 assistance under a State plan under title XIX) fur-
7 nished items and services at such hospital that
8 would be billable under this title for such items and
9 services if furnished by such hospital to an indi-
10 vidual entitled to or enrolled for benefits under this
11 title.”; and

12 (B) by adding at the end the following new
13 paragraph:

14 “(4)(A) The requirement under paragraph (1)(Z)
15 shall not apply in the case of a hospital in a hospital refer-
16 ral region if the HRR market share of such hospital (as
17 determined under subparagraph (B)) is less than 0.15.

18 “(B) For purposes of subparagraph (A), the HRR
19 market share of a hospital in a hospital referral region
20 is equal to—

21 “(i) the total revenue of the hospital, divided by

22 “(ii) the total revenue of all hospital in the hos-
23 pital referral region.”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply with respect to items
3 and services furnished on or after January 1, 2021.

4 (c) GRANTS FOR HOSPITAL INFRASTRUCTURE IM-
5 PROVEMENT.—

6 (1) IN GENERAL.—The Secretary of Health and
7 Human Services shall carry out a grant program
8 under which the Secretary shall provide grants to el-
9 igible States, in accordance with this subsection.

10 (2) USES.—An eligible State receiving a grant
11 under this subsection may use such grant to improve
12 the State hospital infrastructure and to supplement
13 any other funds provided for a purpose authorized
14 under a State or local hospital grant programs
15 under State law.

16 (3) ELIGIBILITY.—

17 (A) IN GENERAL.—An eligible State may
18 receive not more than one grant under this sub-
19 section with respect to each qualifying criterion
20 described in subparagraph (B) that is met by
21 the State.

22 (B) ELIGIBLE STATE.—For purposes of
23 this subsection, the term “eligible State” means
24 a State that meets any one or more of the fol-
25 lowing qualifying criteria:

1 (i) The State does not have in effect
2 any State certificate of need law that re-
3 quires a health care provider to provide to
4 a regulatory body a certification that the
5 community needs the services provided by
6 the health care provider.

7 (ii) The State has in effect State
8 scope of practice laws that—

9 (I) allow advanced practice pro-
10 viders (such as nurse practitioners,
11 advanced practice registered nurses,
12 clinical nurse specialists, and physi-
13 cian assistants) to evaluate patients;
14 diagnose, order, and interpret diag-
15 nostic tests; and initiate and manage
16 treatments; or

17 (II) provide that the only jus-
18 tification for limiting the scope of
19 practice of a health care provider is
20 safety to the public.

21 (iii) The State does not have in effect
22 any State laws that require managed care
23 plans to accept into the network of such
24 plan any qualified provider who is willing

1 to accept the terms and conditions of the
2 managed care plan.

3 (iv) The State does not have in effect
4 a law that prohibits health insurers from
5 directing policy-holders to lower-cost op-
6 tions through unsolicited recommendations.

7 (4) FUNDING.—There is authorized to be ap-
8 propriated to carry out this subsection
9 \$1,000,000,000 for each of the fiscal years 2019
10 through 2028. Funds appropriated under this para-
11 graph shall remain available until expended.

12 **SEC. 3. OFF-CAMPUS PROVIDER-BASED DEPARTMENT**
13 **MEDICARE SITE NEUTRAL PAYMENT.**

14 (a) IN GENERAL.—Section 1834 of the Social Secu-
15 rity Act (42 U.S.C. 1395m) is amended by adding at the
16 end the following new subsection:

17 “(x) OFF-CAMPUS PROVIDER-BASED DEPARTMENT
18 SITE NEUTRAL PAYMENT.—

19 “(1) IN GENERAL.—With respect to items and
20 services furnished in an off-campus provider-based
21 department, payment under this section for such
22 items and services shall be the amount determined
23 under the fee schedule under section 1848 for such
24 items and services furnished if furnished in a physi-
25 cian office setting.

1 “(2) OFF-CAMPUS PROVIDER-BASED DEPART-
 2 MENT.—For purposes of this subsection, the term
 3 ‘off-campus provider-based department’ has such
 4 meaning as specified by the Secretary.”.

5 (b) EFFECTIVE DATE.—The amendment made by
 6 subsection (a) shall apply with respect to items and serv-
 7 ices furnished on or after January 1, 2021.

8 **SEC. 4. REPEALING SHARED SAVINGS INCENTIVES FROM**
 9 **MEDICARE SHARED SAVINGS PROGRAM.**

10 (a) IN GENERAL.—Section 1899 of the Social Secu-
 11 rity Act (42 U.S.C. 1395jjj) is amended—

12 (1) in subsection (a)(1)—

13 (A) by striking subparagraph (B); and

14 (B) by striking “such program—

15 “(A) groups of providers” and inserting

16 “such program, groups of providers”;

17 (2) in subsection (b)(2)—

18 (A) in subparagraph (C), by striking “that

19 would allow the organization to receive and dis-

20 tribute payments for shared savings under sub-

21 section (d)(2) to participating providers of serv-

22 ices and suppliers”; and

23 (B) in subparagraph (E)—

1 (i) by striking “the implementation”
 2 and inserting “and the implementation”;
 3 and

4 (ii) by striking “, and the determina-
 5 tion of payments for shared savings under
 6 subsection (d)(2)”;

7 (3) in subsection (d)—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by striking
 10 “except” and all that follows through the
 11 period at the end; and

12 (ii) by striking subparagraph (B); and

13 (B) by striking paragraph (2); and

14 (4) in subsection (g), by striking paragraph (4)
 15 and redesignating paragraphs (5) and (6) as para-
 16 graphs (4) and (5), respectively.

17 (b) EFFECTIVE DATE.—The amendments made by
 18 subsection (a) shall take effect on January 1, 2021.

19 **SEC. 5. PRICE TRANSPARENCY.**

20 Section 1866 of the Social Security Act (42 U.S.C.
 21 1395cc), as amended by section 2, is further amended—

22 (1) in subsection (a)(1)—

23 (A) in subparagraph (Y), by striking
 24 “and” at the end;

1 (B) in subparagraph (Z), by striking the
2 period at the end and inserting “; and”; and

3 (C) by inserting after subparagraph (Z)
4 the following new subparagraph:

5 “(AA) in the case of a hospital, to comply with
6 the requirement under subsection (l).”; and

7 (2) by adding at the end the following new sub-
8 section:

9 “(l) REQUIREMENT RELATING TO PUBLISHING CER-
10 TAIN HOSPITAL PRICES.—

11 “(1) IN GENERAL.—For purposes of subsection
12 (a)(1)(AA), the requirement described in this sub-
13 section is, with respect to a hospital and year (begin-
14 ning with 2021), for the hospital to publicly post,
15 through the system established under paragraph (3),
16 for each service included in the list published under
17 paragraph (2) for such year, the volume-weighted
18 average price charged by the hospital to—

19 “(A) individuals enrolled during such year
20 in group health plans or health insurance cov-
21 erage offered in the individual or group market
22 (as such terms are defined in section 2791 of
23 the Public Health Service Act); and

24 “(B) individuals who are not enrolled in
25 any health insurance coverage or health benefits

1 plan and individuals who are enrolled in such
 2 coverage or plan but such coverage or plan does
 3 not provide benefits for the service.

4 “(2) SERVICES.—For purposes of subsection
 5 (a)(1)(AA) and this subsection, the Secretary shall,
 6 for 2021 and each subsequent year, publish a list of
 7 the 100 services that are the most highly utilized in
 8 a hospital-based setting.

9 “(3) STANDARDIZED DIGITAL REPORTING SYS-
 10 TEM.—Not later than January 1, 2021, the Sec-
 11 retary shall establish a standardized digital system
 12 for purposes of paragraph (1).”.

13 **SEC. 6. REPEAL OF HEALTH CARE REFORM PROVISIONS**
 14 **LIMITING MEDICARE EXCEPTION TO THE**
 15 **PROHIBITION ON CERTAIN PHYSICIAN RE-**
 16 **FERRALS FOR HOSPITALS.**

17 Sections 6001 and 10601 of the Patient Protection
 18 and Affordable Care Act (Public Law 111–148; 124 Stat.
 19 684, 1005) and section 1106 of the Health Care and Edu-
 20 cation Reconciliation Act of 2010 (Public Law 111–152;
 21 124 Stat. 1049) are repealed and the provisions of law
 22 amended by such sections are restored as if such sections
 23 had never been enacted.

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