

116TH CONGRESS
2D SESSION

S. 3631

To provide relief for rural providers during the national emergency with respect to the Coronavirus Disease 2019 (COVID–19).

IN THE SENATE OF THE UNITED STATES

MAY 6, 2020

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

A BILL

To provide relief for rural providers during the national emergency with respect to the Coronavirus Disease 2019 (COVID–19).

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 “Relief for Rural Pro-
5 viders During Emergencies Act”.

6 **SEC. 2. PAUSING ELIGIBILITY DETERMINATIONS UNDER**
7 **THE 340B DRUG PRICING PROGRAM.**

8 (a) IN GENERAL.—The Secretary of Health and
9 Human Services shall, for any cost reporting period end-
10 ing in 2020 or 2021, for any other cost reporting period

1 in which the COVID–19 public health emergency is in ef-
 2 fect during all or part of such period, and for any extended
 3 period under subsection (b)—

4 (1) pause the process of making any determina-
 5 tion as to whether an entity, that was a covered en-
 6 tity for the most recent cost reporting period prior
 7 to the first date on which the COVID–19 public
 8 health emergency went into effect, continues to be
 9 such a covered entity; and

10 (2) deem any entity, that was a covered entity
 11 for the most recent cost reporting period prior to the
 12 first date on which the COVID–19 public health
 13 emergency went into effect, as continuing to meet all
 14 requirements for being such a covered entity.

15 (b) EXTENSION.—The Secretary shall extend the ap-
 16 plication of paragraphs (1) and (2) of subsection (a) to
 17 any cost reporting period that is not described in such sub-
 18 section if necessary to ensure that no entity loses eligibility
 19 status as a covered entity for any reason related to the
 20 COVID–19 public health emergency.

21 (c) DEFINITIONS.—In this section:

22 (1) COVERED ENTITY.—The term “covered en-
 23 tity” has the meaning given such term in section
 24 340B(a)(4) of the Public Health Service Act (42
 25 U.S.C. 256b(a)(4)).

1 (2) COVID–19 PUBLIC HEALTH EMERGENCY.—

2 The term “COVID–19 public health emergency”
3 means the public health emergency declared by the
4 Secretary of Health and Human Services under sec-
5 tion 319 of the Public Health Service Act (42
6 U.S.C. 247d) on January 31, 2020, with respect to
7 COVID–19.

8 **SEC. 3. WAIVER OF CERTAIN REQUIREMENTS DURING NA-**
9 **TIONAL EMERGENCY.**

10 Notwithstanding any other provision of law, during
11 any portion of the national emergency declared by the
12 President under the National Emergencies Act (50 U.S.C.
13 1601 et seq.) with respect to the Coronavirus Disease
14 2019 (COVID–19) beginning on or after the date of the
15 enactment of this Act and ending on the earlier of the
16 date on which such emergency declaration terminates or
17 the date that is 180 days after such date of enactment,
18 the Secretary shall—

19 (1) waive any prior authorization requirements
20 otherwise applicable under titles XVIII and XIX of
21 the Social Security Act (42 U.S.C. 1395 et seq.,
22 1396 et seq.) with respect to treatment and testing
23 for COVID–19;

1 (2) with respect to inpatient hospital services
2 (as defined in section 1861(b) of such Act (42
3 U.S.C. 1395x(b))—

4 (A) waive any requirements otherwise ap-
5 plicable under title XVIII that would otherwise
6 prevent the Secretary from providing reim-
7 bursement for inpatient hospital services that
8 are furnished off-site at an unlicensed facility;
9 and

10 (B) provide reimbursement for such serv-
11 ices furnished at such facility at an amount
12 equal to the payment amount determined under
13 the hospital inpatient prospective payment sys-
14 tem under section 1886(d) of such Act (42
15 U.S.C. 1395ww(d)) if the facility were a sub-
16 section (d) hospital (as defined in paragraph
17 (1)(B) of such section); and

18 (3) waive the provisions of section 1867(d) of
19 the Social Security Act (42 U.S.C. 1395dd(d)), re-
20 lating to enforcement of requirements with respect
21 to examination and treatment for emergency medical
22 conditions and women in labor, for transfers or redi-
23 rections of patients away from hospital emergency
24 departments.

1 **SEC. 4. RELIEF FOR CRITICAL ACCESS HOSPITALS.**

2 Notwithstanding any other provision of law, during
3 the 60-day period beginning on the date of the enactment
4 of this Act, the Secretary shall waive the following provi-
5 sions of title XVIII of the Social Security Act:

6 (1) With respect to certification of critical ac-
7 cess hospitals (as defined in section 1861(mm)(1))
8 of such Act (42 U.S.C. 1395x(mm)(1)), the limita-
9 tion on the number of acute care inpatient beds oth-
10 erwise applicable under section 1820(c)(2)(B)(iii) of
11 such Act (42 U.S.C. 1395i–4(c)(2)(B)(iii)).

12 (2) With respect to inpatient critical access hos-
13 pital services (as defined in section 1861(mm)(2)) of
14 such Act (42 U.S.C. 1395x(mm)(2)), the physician
15 certification requirement under section 1814(a)(8) of
16 such Act (42 U.S.C. 1395f(a)(8)).

17 **SEC. 5. RELIEF FOR SKILLED NURSING FACILITIES.**

18 (a) TEMPORARY WAIVER OF 3-DAY HOSPITALIZA-
19 TION REQUIREMENT FOR COVERAGE OF POST-HOSPITAL
20 EXTENDED CARE SERVICES.—Notwithstanding any other
21 provision of law, with respect to post-hospital extended
22 care services (as defined in section 1861(i)) of the Social
23 Security Act (42 U.S.C. 1395x(i)) furnished during any
24 portion of the national emergency declared by the Presi-
25 dent under the National Emergencies Act (50 U.S.C.
26 1601 et seq.) with respect to the Coronavirus Disease

1 2019 (COVID–19) beginning on or after the date of the
 2 enactment of this Act and ending on the earlier of the
 3 date on which such emergency declaration terminates or
 4 the date that is 180 days after such date of enactment,
 5 the Secretary shall waive the 3-day hospitalization require-
 6 ment for coverage of such services under such section
 7 1861(i).

8 (b) MEDICARE SKILLED NURSING FACILITY PRO-
 9 SPECTIVE PAYMENT SYSTEM ADJUSTMENT FOR COVID-
 10 19 RESIDENTS DURING NATIONAL EMERGENCY.—

11 (1) IN GENERAL.—Section 1888(e) of the So-
 12 cial Security Act (42 U.S.C. 1395yy(e)) is amend-
 13 ed—

14 (A) in paragraph (1), by striking “and
 15 (12)” and inserting “(12), and (13)”; and

16 (B) by inserting after paragraph (12) the
 17 following new paragraph:

18 “(13) ADJUSTMENT FOR RESIDENTS WITH
 19 COVID–19.—During any portion of the national
 20 emergency declared by the President under the Na-
 21 tional Emergencies Act (50 U.S.C. 1601 et seq.)
 22 with respect to the Coronavirus Disease 2019
 23 (COVID–19) beginning on or after the date of the
 24 enactment of this paragraph and ending on the ear-
 25 lier of the date on which such emergency declaration

1 terminates or the date that is 180 days after such
 2 date of enactment, in the case of a resident who has
 3 a principal or secondary diagnosis of COVID–19,
 4 the per diem amount of payment otherwise applica-
 5 ble shall be increased by 15 percent to reflect in-
 6 creased costs associated with such residents.”.

7 (2) IMPLEMENTATION.—Notwithstanding any
 8 other provision of law, the Secretary may implement
 9 the amendments made by this subsection by pro-
 10 gram instruction or otherwise.

11 **SEC. 6. ENSURING RURAL PROVIDERS ARE INCLUDED IN**
 12 **CARES.**

13 (a) IN GENERAL.—The third paragraph in the mat-
 14 ter under the heading “PUBLIC HEALTH AND SOCIAL
 15 SERVICES EMERGENCY FUND (INCLUDING TRANSFER OF
 16 FUNDS)” under the heading OFFICE OF THE SECRETARY
 17 under the heading “DEPARTMENT OF HEALTH AND
 18 HUMAN SERVICES” of division B of the CARES Act
 19 (Public Law 116–136) is amended—

20 (1) in the third proviso, by inserting “, and in-
 21 cludes skilled nursing facilities, nursing facilities, as-
 22 sisted living residences, and other types of facilities
 23 that provide housing and care for seniors” after “as
 24 the Secretary may specify”; and

1 (2) by inserting after the second proviso the fol-
2 lowing: “*Provided further*, That the Secretary shall
3 use at least 20 percent of the funds appropriated
4 under this paragraph in this Act to make payments
5 under this paragraph to eligible health care pro-
6 viders located in rural areas, as defined by the Sec-
7 retary:”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect as if included in the enact-
10 ment of the CARES Act (Public Law 116–136).

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