

104TH CONGRESS
1ST SESSION

H. R. 1456

To amend title XVIII of the Social Security Act to provide expanded coverage of mental health and substance abuse treatment services under the medicare program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 1995

Mr. STARK (for himself, Mr. WAXMAN, and Mr. McDERMOTT) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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 provide expanded coverage of mental health and substance abuse treatment services under the medicare program.

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; REFERENCES IN ACT.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Mental Health Improvement Act”.

6 (b) REFERENCES TO SOCIAL SECURITY ACT.—
7 Whenever in this Act an amendment is expressed in terms
8 of an amendment to or repeal of a section or other provi-

1 sion, the reference shall be considered to be made to that
2 section or other provision of the Social Security Act.

3 **SEC. 2. INPATIENT PSYCHIATRIC HOSPITAL SERVICES.**

4 (a) SERVICES COVERED.—Section 1812(a) (42
5 U.S.C. 1395d(a)) is amended—

6 (1) by striking “and” at the end of paragraph
7 (3);

8 (2) by striking the period at the end of para-
9 graph (4) and inserting “; and”; and

10 (3) by adding at the end the following new
11 paragraph:

12 “(5) inpatient hospital services furnished pri-
13 marily for the diagnosis or treatment of mental ill-
14 ness or substance abuse for up to 60 days during a
15 year.”.

16 (b) LIMITATION ON COVERAGE.—Section 1812(b)(3)
17 (42 U.S.C. 1395d(b)) is amended to read as follows:

18 “(3) inpatient hospital services furnished pri-
19 marily for the diagnosis or treatment of mental ill-
20 ness or substance abuse that are furnished to the in-
21 dividual during a year after such services have been
22 furnished to the individual for a total of 60 days
23 during the year.”.

24 (c) CONFORMING AMENDMENTS.—(1) Section
25 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by insert-

1 ing “(other than services described in paragraph (5))”
2 after “inpatient hospital services” the first place it ap-
3 pears.

4 (2) Section 1812(b)(1) (42 U.S.C. 1395d(b)(1)) is
5 amended by inserting “(other than services described in
6 paragraph (3))” after “inpatient hospital services” the
7 first place it appears.

8 (3) Section 1812 (42 U.S.C. 1395d) is amended by
9 striking subsection (c).

10 (4) Section 1814(a) (42 U.S.C. 1395f(a)) is amend-
11 ed—

12 (A) in paragraph (2), by striking subparagraph

13 (A);

14 (B) in paragraph (3), by striking “(other than
15 inpatient psychiatric hospital services)”; and

16 (C) by striking paragraph (4).

17 (5) Section 1861 (42 U.S.C. 1395x) is amended by
18 striking subsection (c).

19 (d) EFFECTIVE DATE; TRANSITION.—The amend-
20 ments made by this section shall take effect January 1,
21 1996, except that—

22 (1) an individual who at any time prior to such
23 date has been furnished inpatient psychiatric hos-
24 pital services (as defined for purposes of title XVIII
25 of the Social Security Act as of the date of the en-

1 actment of this Act) for 190 consecutive days is not
2 entitled to any services under section 1812(a)(5) (as
3 added by subsection (a)(3)); and

4 (2) in the case of an individual who is not de-
5 scribed in paragraph (1) and is receiving inpatient
6 psychiatric hospital services (as defined for purposes
7 of title XVIII of the Social Security Act as of the
8 date of the enactment of this Act) on December 31,
9 1995, for which payment may be made under section
10 1812 of such Act, the number of days of services for
11 which the individual is entitled under section
12 1812(a)(5) (and the number of days applicable
13 under section 1812(b)(3)) shall be equal to the
14 greater of 60 or the difference between 190 days
15 and the number of days of such inpatient psychiatric
16 hospital services furnished to the individual prior to
17 January 1, 1996.

18 **SEC. 3. INTENSIVE RESIDENTIAL SERVICES.**

19 (a) COVERAGE UNDER PART A.—Section 1812(a)
20 (42 U.S.C. 1395d(a)), as amended by section 2(a), is
21 amended—

22 (1) by striking “and” at the end of paragraph
23 (4);

24 (2) by striking the period at the end of para-
25 graph (5) and inserting “; and”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(6) intensive residential services (as described
4 in section 1861(qq)) furnished to an individual for
5 up to 120 days during any calendar year, except
6 that such services may be furnished to the individual
7 for additional days during the year if necessary for
8 the individual to complete a course of treatment to
9 the extent that the number of days of inpatient hos-
10 pital services described in paragraph (5) that may be
11 furnished to the individual during the year (as re-
12 duced under such paragraph) is not less than 15.”.

13 (2) SERVICES DESCRIBED.—Section 1861 (42
14 U.S.C. 1395x), as amended by section 146(a) of the
15 Social Security Act Amendments of 1994, is amend-
16 ed by adding at the end the following new sub-
17 section:

18 “Intensive Residential Services

19 “(mm)(1) Subject to paragraph (2), the term ‘inten-
20 sive residential services’ means inpatient services provided
21 in any of the following facilities:

22 “(A) Residential detoxification centers.

23 “(B) Crisis residential programs or mental ill-
24 ness residential treatment programs.

1 “(C) Therapeutic family or group treatment
2 homes.

3 “(D) Residential centers for substance abuse
4 treatment.

5 “(2) No service may be treated as an intensive resi-
6 dential service under paragraph (1) unless the facility at
7 which the service is provided—

8 “(A) is legally authorized to provide such serv-
9 ice under the law of the State (or under a State reg-
10 ulatory mechanism provided by State law) in which
11 the facility is located or is certified to provide such
12 service by an appropriate accreditation entity ap-
13 proved by the State in consultation with the Sec-
14 retary; and

15 “(B) meets such other requirements as the Sec-
16 retary may impose to assure the quality of the inten-
17 sive residential services provided.

18 “(3) No service may be treated as an intensive resi-
19 dential service under paragraph (1) unless the service is
20 furnished in accordance with standards established by the
21 Secretary for the management of such services.”.

22 (3) REDUCTION IN DAYS OF COVERAGE FOR IN-
23 PATIENT SERVICES.—Section 1812(a)(5) and section
24 1812(b)(3), as amended by section 2, are each
25 amended by striking the period at the end and in-

1 serting the following: “, reduced by a number of
2 days determined by the Secretary so that the actuar-
3 ial value of providing such number of days of serv-
4 ices under this paragraph to the individual is equal
5 to the actuarial value of the days of inpatient resi-
6 dential services furnished to the individual under
7 paragraph (6) during the year after such services
8 have been furnished to the individual for 120 days
9 during the year (rounded to the nearest day).”.

10 (4) AMOUNT OF PAYMENT.—Section 1814 (42
11 U.S.C. 1395f) is amended—

12 (A) in subsection (b) in the matter preced-
13 ing paragraph (1), by inserting “other than in-
14 tensive residential services,” after “hospice
15 care,”; and

16 (B) by adding at the end the following new
17 subsection:

18 “Payment for Intensive Residential Services

19 “(m) The amount of payment under this part for in-
20 tensive residential services under section 1812(a)(6) shall
21 be equal to—

22 “(1) the lesser of—

23 “(A) the reasonable cost of such services,
24 as determined under section 1861(v), or

1 “(B) the customary charges with respect to
2 such services,
3 less the amount a provider may charge as described
4 in clause (ii) of section 1866(a)(2)(A):

5 “(2) if such services are furnished by a public
6 provider of services or by another provider which
7 demonstrates to the satisfaction of the Secretary
8 that a significant portion of its patients are low-in-
9 come (and requests that payment be made under
10 this clause), free of charge or at nominal charges to
11 the public, the amount determined in accordance
12 with subsection (b)(2); and

13 “(3) if (and for so long as) the conditions de-
14 scribed in subsection (b)(3) are met, the amounts
15 determined under the reimbursement system de-
16 scribed in such section.”.

17 **SEC. 4. LOWERING COINSURANCE FOR CERTAIN OUT-**
18 **PATIENT MENTAL HEALTH AND SUBSTANCE**
19 **ABUSE SERVICES.**

20 (a) IN GENERAL.—Section 1833(c) (42 U.S.C.
21 1395l(c)) is amended by striking “mental, psychoneurotic,
22 and personality disorders” and all that follows through
23 “are incurred” and inserting the following: “mental illness
24 or substance abuse of an individual who, at the time such
25 expenses are incurred, is over 18 years of age, is not an

1 inpatient of a hospital, and has received 5 or more sessions
2 of such treatment during the calendar year.”.

3 (b) REQUIRING SERVICES TO BE FURNISHED IN AC-
4 CORDANCE WITH MANAGEMENT STANDARDS.—Section
5 1862(a) (42 U.S.C. 1395y(a)), as amended by section
6 156(a)(2)(D) of the Social Security Act Amendments of
7 1994, is amended—

8 (1) by striking “or” at the end of paragraph
9 (14);

10 (2) by striking the period at the end of para-
11 graph (15) and inserting “; or”; and

12 (3) by inserting after paragraph (15) the fol-
13 lowing new paragraph:

14 “(16) in the case of any items or services fur-
15 nished under part B for the treatment of mental ill-
16 ness or emotional disturbance (including substance
17 abuse), if the services are not furnished in accord-
18 ance with standards established by the Secretary for
19 the management of such services.”.

20 **SEC. 5. INTENSIVE COMMUNITY-BASED SERVICES.**

21 (a) COVERAGE.—

22 (1) IN GENERAL.—Section 1832(a)(2)(J) (42
23 U.S.C. 1395k(a)(2)(J)) is amended to read as fol-
24 lows:

1 “(J) intensive community-based services
2 (as described in section 1861(ff))—

3 “(i) for an unlimited number of days
4 during any calendar year, in the case of
5 services described in section 1861(ff)(2)(E)
6 that are furnished to an individual who is
7 a seriously mentally ill adult, a seriously
8 emotionally disturbed child, or an adult or
9 child with serious substance abuse disorder
10 (as determined in accordance with criteria
11 established by the Secretary),

12 “(ii) in the case of day treatment
13 services for an individual under 19 years of
14 age described in section 1861(ff)(2)(C), for
15 up to 180 days during any calendar year,
16 except that such services may be furnished
17 to the individual for a number of addi-
18 tional days during the year equal to the
19 difference between the total number of
20 days of intensive residential services which
21 the individual may receive during the year
22 under part A (as determined under section
23 1812(a)(6)) and the number of days of
24 such services which the individual has re-
25 ceived during the year, or

1 “(iii) in the case of any other such
2 services, for up to 90 days during any cal-
3 endar year, except that such services may
4 be furnished to the individual for the num-
5 ber of additional days during the year de-
6 scribed in clause (ii).”.

7 (2) REDUCTION IN NUMBER OF DAYS OF IN-
8 TENSIVE RESIDENTIAL SERVICES.—Section
9 1812(a)(6) (42 U.S.C. 1395d(a)(6)), as added by
10 section 3(a), is amended—

11 (A) by inserting “(A)” before “such serv-
12 ices”; and

13 (B) by striking the period at the end and
14 inserting the following: “, and (B) reduced by
15 a number of days determined by the Secretary
16 so that the actuarial value of providing such
17 number of days of services under this para-
18 graph to the individual is equal to the actuarial
19 value of the days of intensive community-based
20 services furnished to the individual under sec-
21 tion 1832(a)(2)(J) during the year after such
22 services have been furnished to the individual
23 for 90 days (or, in the case of services described
24 in section 1832(a)(2)(J)(ii), for 180 days) dur-
25 ing the year (rounded to the nearest day).”.

1 (b) SERVICES DESCRIBED.—Section 1861(ff)(2) (42
2 U.S.C. 1395x(ff)(2)) is amended—

3 (1) in the matter preceding subparagraph (A),
4 by striking “are—” and inserting “are as follows:”;

5 (2) in subparagraph (C)—

6 (A) by inserting “behavioral aide services,”
7 after “nurses”, and

8 (B) by adding at the end the following:
9 “(to the extent authorized under State law)”;

10 (3) by adding “and” at the end of subpara-
11 graph (G);

12 (4) in subparagraph (H), by striking “, and”
13 and inserting a period;

14 (5) by redesignating subparagraphs (A) through
15 (H) as clauses (i) through (viii) and moving such
16 subparagraphs 2 ems to the right;

17 (6) by inserting before clause (i) (as so redesign-
18 nated) the following:

19 “(A) Partial hospitalization services con-
20 sisting of—”;

21 (7) by inserting after clause (viii) (as so redesi-
22 gnated) the following new subparagraphs:

23 “(B) Psychiatric rehabilitation services.

24 “(C) Day treatment services for substance
25 abuse treatment for individuals of any age and for

1 other mental health services for individuals under 19
2 years of age.

3 “(D) In-home services.

4 “(E) Case management services, including col-
5 lateral services designated as such case management
6 services by the Secretary.

7 “(F) Ambulatory detoxification services.”; and

8 (8) in subparagraph (I)—

9 (A) by striking “such” and inserting
10 “Such”, and

11 (B) by redesignating such subparagraph as
12 subparagraph (G).

13 (c) PERMITTING NON-PHYSICIAN PROVIDERS TO SU-
14 PERVISE INDIVIDUAL PROGRAM OF TREATMENT.—Sec-
15 tion 1861(ff)(1) (42 U.S.C. 1395x(ff)(1)) is amended by
16 inserting after “supervision of a physician” the following:
17 “(or, to the extent permitted under the law of the State
18 in which the services are furnished, a non-physician men-
19 tal health or substance abuse treatment professional)”.

20 (d) REQUIRING SERVICES TO MEET MANAGEMENT
21 STANDARDS.—Section 1861(ff)(1) (42 U.S.C.
22 1395x(ff)(1)) is amended by striking the period at the end
23 and inserting the following: “, but does not include any
24 item or service that is not furnished in accordance with

1 standards established by the Secretary for the manage-
2 ment of such services.”.

3 (e) PROGRAMS ELIGIBLE TO PROVIDE SERVICES.—
4 Section 1861(ff)(3) (42 U.S.C. 1395x(ff)(3)) is amended
5 to read as follows:

6 “(3) A program described in this paragraph is a pro-
7 gram (whether facility-based or freestanding) which is fur-
8 nished by an entity—

9 “(A) legally authorized to furnish such a pro-
10 gram under State law (or the State regulatory mech-
11 anism provided by State law) or certified to furnish
12 such a program by an appropriate accreditation en-
13 tity approved by the State in consultation with the
14 Secretary; and

15 “(B) meeting such other requirements as the
16 Secretary may impose to assure the quality of the
17 intensive community-based services provided.”.

18 (f) WAIVER OF COPAYMENT FOR CASE MANAGE-
19 MENT SERVICES FURNISHED TO CERTAIN INDIVID-
20 UALS.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)), as
21 amended by section 147(f)(6)(C) of the Social Security
22 Act Amendments of 1994, is amended—

23 (1) in subparagraph (B), by striking “or (E)”
24 and inserting “(E), or (F)”;

1 (2) by striking “and” at the end of subpara-
2 graph (E);

3 (3) by adding “and” at the end of subpara-
4 graph (F); and

5 (4) by adding at the end the following new sub-
6 paragraph:

7 “(G) with respect to services described in
8 section 1832(a)(2)(J)(i), the amount deter-
9 mined under subparagraph (B), except that
10 ‘100 percent’ shall be substituted for any ref-
11 erence in such subparagraph to ‘80 percent’;”.

12 (g) CONFORMING AMENDMENTS.—(1) Section
13 1835(a)(2)(F) (42 U.S.C. 1395n(a)(2)(F)) is amended—

14 (A) by striking “partial hospitalization” and in-
15 sserting “intensive community-based”; and

16 (B) in clause (ii), by striking “physician” and
17 inserting “physician (or, to the extent permitted
18 under the law of the State in which the services are
19 furnished, a non-physician mental health profes-
20 sional)”.

21 (2) Section 1861(s)(2)(B) (42 U.S.C.
22 1395x(s)(2)(B)) is amended by striking “partial hos-
23 pitalization” and inserting “intensive community-based”.

24 (3) Section 1861(ff) (42 U.S.C. 1395x(ff)) is amend-
25 ed—

1 (A) in the heading, by striking “Partial Hos-
2 pitalization” and inserting “Intensive Community-
3 Based”; and

4 (B) in paragraph (1), by striking “partial hos-
5 pitalization” and inserting “intensive community-
6 based”.

7 (4) Section 1866(e)(2) (42 U.S.C. 1395cc(e)(2)) is
8 amended by striking “partial hospitalization” and insert-
9 ing “intensive community-based”.

10 **SEC. 6. EFFECTIVE DATE.**

11 The amendments made by this Act shall apply to
12 items and services furnished on or after January 1, 1996.

○