

104TH CONGRESS
2D SESSION

H. R. 3856

To amend title XVIII of the Social Security Act to provide for prospective payment under the Medicare program for inpatient services of rehabilitation hospitals and units based on discharges classified by functional-related groups.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 1996

Mr. LOBIONDO (for himself, Mr. ZIMMER, Mr. SAXTON, and Mrs. ROUKEMA) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title XVIII of the Social Security Act to provide for prospective payment under the Medicare program for inpatient services of rehabilitation hospitals and units based on discharges classified by functional-related groups.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. PROSPECTIVE PAYMENT FOR INPATIENT RE-**
2 **HABILITATION HOSPITAL SERVICES BASED**
3 **ON DISCHARGES CLASSIFIED BY FUNC-**
4 **TIONAL-RELATED GROUPS.**

5 (a) IN GENERAL.—Section 1886 of the Social Secu-
6 rity Act (42 U.S.C. 1395ww) is amended by adding at the
7 end the following new subsection:

8 “(j) PROSPECTIVE PAYMENT FOR INPATIENT REHA-
9 BILITATION SERVICES.—

10 “(1) IN GENERAL.—Notwithstanding section
11 1814(b), but subject to the provisions of section
12 1813, the amount of the payment with respect to the
13 operating and capital costs of inpatient hospital
14 services of a rehabilitation hospital or a rehabilita-
15 tion unit (in this subsection referred to as a ‘reha-
16 bilitation facility’) for a discharge is equal to the per
17 discharge payment rate established under this sub-
18 section.

19 “(2) FUNCTIONAL-RELATED GROUPS.—

20 “(A) ESTABLISHMENT.—The Secretary
21 shall establish—

22 “(i) classes of discharges of rehabilita-
23 tion facilities by functional-related groups
24 (each in this subsection referred to as a
25 ‘functional-related group’ or ‘FRG’), based
26 on impairment, age, and functional capa-

1 bility of the discharged individual and such
2 other factors as the Secretary deems ap-
3 propriate, and

4 “(ii) a method of classifying specific
5 discharges from rehabilitation facilities
6 within these groups.

7 “(B) WEIGHTING FACTORS.—For each
8 functional-related group the Secretary shall as-
9 sign an appropriate weighting which reflects the
10 relative facility resources used with respect to
11 discharges classified within that group com-
12 pared to discharges classified within other
13 groups.

14 “(C) ADJUSTMENTS.—The Secretary shall
15 from time to time adjust the classifications and
16 weighting factors established under this para-
17 graph as appropriate to correct for forecast er-
18 rors and to reflect changes in treatment pat-
19 terns, technology, and other factors which may
20 affect the relative use of resources.

21 “(3) PAYMENT RATE.—

22 “(A) IN GENERAL.—The Secretary shall
23 determine a prospective payment rate for each
24 rehabilitation facility discharge for which such
25 rehabilitation facility is entitled to receive pay-

1 ment under this title. Subject to subparagraph
2 (B), such rate for discharges during a fiscal
3 year shall be based on the average payment per
4 discharge under this title for inpatient operat-
5 ing and capital costs of rehabilitation facilities
6 in fiscal year 1995 (as estimated by the Sec-
7 retary) adjusted—

8 “(i) by updating such per-discharge
9 amount to the fiscal year involved by the
10 applicable percentage increases provided
11 under subsection (b)(3)(B)(i) for each year
12 after fiscal year 1995 and up to the fiscal
13 year involved;

14 “(ii) by reducing such rates by a fac-
15 tor equal to the proportion of payments
16 under this subsection (as estimated by the
17 Secretary) based on FRG prospective pay-
18 ment amounts which are additional pay-
19 ments described in paragraph (4) (relating
20 to outlier and related payments) or para-
21 graph (7);

22 “(iii) for variations among rehabilita-
23 tion facilities by area under paragraph (6);

24 “(iv) by the weighting factors estab-
25 lished under paragraph (2)(B); and

1 “(v) by such other factors as the Sec-
2 retary determines are necessary to properly
3 reflect variations in necessary costs of
4 treatment among rehabilitation facilities.

5 “(B) BUDGET NEUTRAL RATES.—The Sec-
6 retary shall establish the prospective payment
7 amounts under this subsection for discharges
8 during each of fiscal years 1998 through 2002
9 at levels such that, in the Secretary’s esti-
10 mation, the amount of total payments under
11 this subsection for each such fiscal year (includ-
12 ing any payment adjustments pursuant to para-
13 graph (7)) shall not exceed the amount of pay-
14 ments that would have been made under this
15 title during the fiscal year for operating and
16 capital costs of rehabilitation facilities had this
17 subsection not been enacted.

18 “(4) OUTLIER AND SPECIAL PAYMENTS.—

19 “(A) OUTLIERS.—

20 “(i) DAY OUTLIERS.—The Secretary
21 shall provide for an additional payment to
22 a rehabilitation facility for discharges in a
23 functional-related group, the lengths of
24 stay of which exceeded the mean length of
25 stay for discharges within that group by a

1 fixed number of days or exceeds such mean
2 length of stay by some fixed number of de-
3 viations, whichever is the fewer number of
4 days.

5 “(ii) REQUESTING ADDITIONAL PAY-
6 MENTS.—For cases not included in clause
7 (i), a rehabilitation facility may request ad-
8 ditional payments in any case in which
9 charges, adjusted to cost, exceed a fixed
10 multiple of the applicable prospective pay-
11 ment rate, or exceed such other fixed dol-
12 lar amount, whichever is greater, or exceed
13 the prospective payment rate plus a fixed
14 dollar amount determined by the Sec-
15 retary.

16 “(iii) PAYMENT BASED ON MARGINAL
17 COST OF CARE.—The amount of such addi-
18 tional payment under clauses (i) and (ii)
19 shall be determined by the Secretary and
20 shall approximate the marginal cost of care
21 beyond the cutoff point applicable under
22 clause (i) or (ii).

23 “(iv) TOTAL PAYMENTS.—The total
24 amount of the additional payments made
25 under this subparagraph for discharges in

1 a fiscal year may not be less than 5 per-
2 cent nor more than 6 percent of the total
3 payments projected or estimated to be
4 made based on FRG prospective payment
5 rates for discharges in that year.

6 “(B) ADJUSTMENT.—The Secretary may
7 provide for such adjustments to the payment
8 amounts under this subsection as the Secretary
9 deems appropriate to take into account the
10 unique circumstances of rehabilitation facilities
11 located in Alaska and Hawaii.

12 “(5) PUBLICATION.—The Secretary shall pro-
13 vide for publication in the Federal Register, on or
14 before September 1 before each fiscal year (begin-
15 ning with fiscal year 1998), of the classification and
16 weighting factors for FRGs under paragraph (2) for
17 such fiscal year and a description of the methodol-
18 ogy and data used in computing the prospective pay-
19 ment rates under this subsection for that fiscal year.

20 “(6) AREA WAGE ADJUSTMENT.—The Secretary
21 shall adjust the proportion (as estimated by the Sec-
22 retary from time to time) of rehabilitation facilities’
23 costs which are attributable to wages and wage-re-
24 lated costs, of the prospective payment rates com-
25 puted under paragraph (3) for area differences in

1 wage levels by a factor (established by the Sec-
2 retary) reflecting the relative hospital wage level in
3 the geographic area of the rehabilitation facility
4 compared to the national average wage level for such
5 facilities. Not later than October 1, 1998 (and at
6 least every 12 months thereafter), the Secretary
7 shall update the factor under the preceding sentence
8 on the basis of a survey conducted by the Secretary
9 (and updated as appropriate) of the wages and
10 wage-related costs incurred in furnishing rehabilita-
11 tion services. Any adjustments or updates made
12 under this paragraph for a fiscal year shall be made
13 in a manner that assures that the aggregated pay-
14 ments under this subsection in the fiscal year are
15 not greater or less than those that would have been
16 made in the year without such adjustment.

17 “(7) ADDITIONAL ADJUSTMENTS.—The Sec-
18 retary shall provide by regulation for—

19 “(A) an additional payment to take into
20 account indirect costs of medical education and
21 the special circumstances of hospitals that serve
22 a significantly disproportionate number of low-
23 income patients in a manner similar to that
24 provided under subparagraphs (B) and (F), re-
25 spectively, of subsection (d)(5); and

1 “(B) such other exceptions and adjust-
2 ments to payment amounts under this sub-
3 section in a manner similar to that provided
4 under subsection (d)(5)(I) in relation to pay-
5 ments under subsection (d).

6 “(8) LIMITATION ON REVIEW.—There shall be
7 no administrative or judicial review under section
8 1878 or otherwise of—

9 “(A) the establishment of FRGs, of the
10 methodology for the classification of discharges
11 within such groups, and of the appropriate
12 weighting factors thereof under paragraph (2),
13 and

14 (B) the establishment of the prospective
15 payment rates under paragraph (3).”.

16 (b) CONFORMING AMENDMENTS.—Section 1886(b)
17 of such Act (42 U.S.C. 1395ww(b)) is amended—

18 (1) in paragraph (1), by inserting “and other
19 than a rehabilitation facility described in subsection
20 (j)(1)” after “subsection (d)(1)(B)”, and

21 (2) in paragraph (3)(B)(i), by inserting “and
22 subsection (j)” after “For purposes of subsection
23 (d)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to cost reporting periods beginning
3 on or after October 1, 1997.

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