

105TH CONGRESS
2D SESSION

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To amend title XVIII of the Social Security Act to adjust the formula used to determine cost limits for home health agencies under the Medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 28, 1998

Ms. COLLINS (for herself, Mr. CHAFEE, Mr. LEAHY, Mr. JEFFORDS, Mr. FEINGOLD, Mr. DURBIN, Mr. HARKIN, Ms. SNOWE, Mr. REED, Mr. SANTORUM, Mr. TORRICELLI, Mr. LEVIN, Mr. DASCHLE, and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to adjust the formula used to determine cost limits for home health agencies under the Medicare program, 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 “Medicare Home Health
5 Equity Act of 1998”.

1 **SEC. 2. REVISION OF HOME HEALTH INTERIM PAYMENT**
2 **FORMULA.**

3 (a) RESTORATION OF COST LIMITS.—Section
4 1861(v)(1)(L)(i)(IV) of the Social Security Act (42 U.S.C.
5 1395x(v)(1)(L)(i)(IV)) (as added by section 4602 of the
6 Balanced Budget Act of 1997) is amended—

7 (1) by striking “105 percent” and inserting
8 “112 percent”; and

9 (2) by striking “median” and inserting “mean”.

10 (b) CHANGE IN ADDITIONS TO COST LIMITS.—Sec-
11 tion 1861(v)(1)(L)(v) of the Social Security Act (42
12 U.S.C. 1395x(v)(1)(L)(v)) (as added by section 4602 of
13 the Balanced Budget Act of 1997) is amended to read
14 as follows:

15 “(v)(I) For services furnished by home health agen-
16 cies for cost reporting periods beginning on or after Octo-
17 ber 1, 1997, the Secretary shall provide for an interim
18 system of limits. Payment shall not exceed the costs deter-
19 mined under the preceding provisions of this subpara-
20 graph or, if lower, the product of—

21 “(aa) an agency-specific per beneficiary annual
22 limitation calculated based 75 percent on the reason-
23 able costs (including nonroutine medical supplies) of
24 the standardized national average cost per patient in
25 calendar year 1994, or best estimate thereof, (as
26 published in the Health Care Financing Review

1 Medicare and Medicaid 1997 Statistical Supplement)
2 and based 25 percent on the reasonable costs (in-
3 cluding nonroutine medical supplies) of the stand-
4 ardized regional average cost per patient for the
5 agency's census division in calendar year 1995 (as
6 so published), such national and regional costs up-
7 dated by the home health market basket index and
8 adjusted pursuant to clause (II); and

9 “(bb) the agency's unduplicated census count of
10 patients (entitled to benefits under this title) for the
11 cost reporting period subject to the limitation.

12 “(II) The labor-related portion of the updated na-
13 tional and regional costs described in subclause (I)(aa)
14 shall be adjusted by the area wage index applicable under
15 section 1886(d)(3)(E) for the area in which the agency
16 is located (as determined without regard to any reclassi-
17 fication of the area under section 1886(d)(8)(B) or a deci-
18 sion of the Medicare Geographic Classification Review
19 Board or the Secretary under section 1886(d)(10) for cost
20 reporting periods beginning after October 1, 1995).”.

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 1861(v)(1)(L)(vi) of the Social Se-
23 curity Act (42 U.S.C. 1395x(v)(1)(L)(vi)) (as added
24 by section 4602 of the Balanced Budget Act of
25 1997) is amended to read as follows:

1 “(vi) In any case in which the Secretary determines
2 that beneficiaries use services furnished by more than 1
3 home health agency for purposes of circumventing the per
4 beneficiary annual limitation in clause (v), the per bene-
5 ficiary limitations shall be prorated among the agencies.”.

6 (2) Section 1861(v)(1)(L)(vii)(I) of the Social
7 Security Act (42 U.S.C. 1395x(v)(1)(L)(vii)(I)) (as
8 added by section 4602 of the Balanced Budget Act
9 of 1997) is amended by striking “clause (v)(I)” and
10 inserting “clause (v)(I)(aa)”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply as if included in the enactment
13 of the Balanced Budget Act of 1997.

14 **SEC. 3. CBO ESTIMATE OF HOME HEALTH PAYMENT SAV-**
15 **INGS.**

16 (a) ESTIMATE.—Not later than 60 days after the
17 date of enactment of this Act, and annually thereafter
18 until the prospective payment system for home health
19 agencies established by section 1895 of the Social Security
20 Act (42 U.S.C. 1395fff) is in effect, the Director of the
21 Congressional Budget Office (referred to in this section
22 as the “Director”) shall estimate the amount of savings
23 to the Medicare program under title XVIII of such Act
24 (42 U.S.C. 1395 et seq.) resulting from the interim pay-
25 ment system for home health services established by the

1 amendments to section 1861 of such Act (42 U.S.C.
2 1395x) made by section 4602 of the Balanced Budget Act
3 of 1997.

4 (b) CERTIFICATION.—If the Director determines that
5 the amount estimated under subsection (a) exceeds the
6 amount of savings to the Medicare program that the Di-
7 rector estimated immediately prior to the enactment of the
8 Balanced Budget Act of 1997 by reason of such interim
9 payment system, then the Director shall certify such ex-
10 cess to the Secretary of Health and Human Services (re-
11 ferred to in this subsection as the “Secretary”).

12 (c) ADJUSTMENT.—

13 (1) IN GENERAL.—If the Director certifies an
14 amount to the Secretary pursuant to subsection (b),
15 the Secretary shall prescribe rules under which ap-
16 propriate adjustments are made to the amount of
17 payments to home health agencies otherwise made
18 under subparagraph (L) of section 1861(v)(1) of the
19 Social Security Act (42 U.S.C. 1395x(v)(1)(L)) (as
20 amended by section 4602 of the Balanced Budget
21 Act of 1997) in the case of outliers—

22 (A) where events beyond the home health
23 agency’s control or extraordinary cir-
24 cumstances, including the case mix of such
25 agency, create reasonable costs for a payment

1 year which exceed the applicable payment lim-
2 its; or

3 (B) in any case not described in subpara-
4 graph (A) where the Secretary deems such an
5 adjustment appropriate.

6 (2) AMOUNT.—The total amount of adjust-
7 ments made under paragraph (2) for a year may not
8 exceed the amount certified to the Secretary pursu-
9 ant to subsection (b) for such year. To the extent
10 that such adjustments in a year would otherwise ex-
11 ceed the amount certified to the Secretary pursuant
12 to subsection (b) for such year, the Secretary shall
13 reduce the payments to home health agencies in a
14 pro rata manner so that the adjustments do not ex-
15 ceed such amount.

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