

106TH CONGRESS
2D SESSION

H. R. 5449

To amend title XVIII of the Social Security Act to combat fraud and abuse under the Medicare Program with respect to partial hospitalization services.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 2000

Mr. STARK 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 combat fraud and abuse under the Medicare Program with respect to partial hospitalization services.

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 Partial Hos-
5 pitalization Services Restoration and Integrity Act of
6 2000”.

1 **SEC. 2. MENTAL HEALTH PARTIAL HOSPITALIZATION SERV-**
2 **ICES.**

3 (a) IMPROVEMENT OF MENTAL HEALTH PARTIAL
4 HOSPITALIZATION SERVICES PROGRAM.—Section
5 1861(ff) of the Social Security Act (42 U.S.C. 1395x(ff))
6 is amended to read as follows:

7 “Partial Hospitalization Services

8 “(ff)(1) The term “partial hospitalization services”
9 means the items and services described in paragraph (2)
10 prescribed by a physician after a direct patient-physician
11 encounter and provided under a distinct and organized in-
12 tensive treatment program of mental health services offer-
13 ing less than 24-hour-daily care and furnished by a facility
14 described in paragraph (3) under the supervision of a phy-
15 sician pursuant to an individual written plan of care estab-
16 lished and periodically reviewed by a physician (in con-
17 sultation with appropriate staff participating in such pro-
18 gram), which plan sets forth the physician’s diagnosis, the
19 type, amount, frequency, and duration of the items and
20 services provided under the plan, and the goals for treat-
21 ment under the plan.

22 “(2) The items and services described in this para-
23 graph are the following items and services that are reason-
24 able and necessary for the diagnosis or treatment of the
25 individual’s condition (which may be acute or chronic),
26 reasonably expected to improve or maintain the individ-

1 ual’s condition and functional level and to prevent relapse
2 or hospitalization, and furnished pursuant to standards
3 relating to frequency and duration of services and quality
4 of care as the Secretary establishes by regulation under
5 paragraph (5) (taking into account accepted norms of
6 medical practice):

7 “(A) Individual and group therapy with physi-
8 cians or psychologists (or other mental health pro-
9 fessionals to the extent authorized under State law).

10 “(B) Occupational therapy requiring the skills
11 of a qualified occupational therapist.

12 “(C) Services of social workers, trained psy-
13 chiatric nurses, and other staff trained to work with
14 psychiatric patients.

15 “(D) Drugs and biologicals furnished for thera-
16 peutic purposes (which cannot, as determined in ac-
17 cordance with regulations, be self-administered).

18 “(E) Individual activity therapies to the extent
19 that such therapies are closely and clearly related to
20 the individual’s care and treatment, and are not pri-
21 marily recreational or diversionary.

22 “(F) Family counseling (the primary purpose of
23 which is treatment of the individual’s condition).

24 “(G) Patient training and education to the ex-
25 tent that such training and educational activities are

1 closely and clearly related to the individual’s care
2 and treatment.

3 “(H) Diagnostic services.

4 “(I) Individual case management services.

5 “(J) Such other items and services as the Sec-
6 retary may provide (but in no event to include meals
7 and transportation).

8 “(3)(A)(i) Subject to clause (ii), a facility described
9 in this paragraph is a hospital or a community mental
10 health center (as defined in subparagraph (B)) that fur-
11 nishes partial hospitalization services and that provides
12 the Secretary with such information on the sites at which
13 the services described in paragraph (2) are furnished as
14 the Secretary may require to monitor and survey services
15 furnished at such sites for compliance with applicable re-
16 quirements.

17 “(ii) In no case may a facility described in this para-
18 graph furnish partial hospitalization services in a skilled
19 nursing facility, residential treatment facility or other resi-
20 dential setting (as determined by the Secretary).

21 “(B) For purposes of subparagraph (A), the term
22 “community mental health center” means an entity that—

23 “(i)(I) provides the mental health services de-
24 scribed in subparagraphs (A) through (D) of section
25 1913(e)(1) of the Public Health Service Act and also

1 determines the clinical appropriateness of admissions
2 to inpatient psychiatric hospitals by engaging a full-
3 time mental health professional who is licensed or
4 certified to make such a determination by the State
5 involved; or

6 “(II) in the case of an entity operating in a
7 State that by law precludes the entity from pro-
8 viding a service described in such section itself, pro-
9 vides for such service by contract with an approved
10 organization or entity (as determined by the Sec-
11 retary);

12 “(ii) meets applicable licensing or certification
13 requirements for community mental health centers
14 in the State in which it is located or, in the case of
15 a center which is located in a State that does not
16 have any applicable licensing or certification require-
17 ments, meets certification requirements established
18 by the Secretary; and

19 “(iii) meets such additional conditions as the
20 Secretary shall specify to ensure (I) the health and
21 safety of individuals being furnished such services,
22 (II) the effective and efficient furnishing of such
23 services, (III) the quality of such services, and (IV)
24 the compliance of such entity with the criteria estab-
25 lishes by regulation under paragraph (5)(E).

1 With respect to each community mental health center that
2 furnishes partial hospitalization services for which pay-
3 ment is made under this title, the Secretary shall provide
4 for periodic recertification to ensure that the provision of
5 such services complies with applicable requirements of this
6 title. The first recertification under this subparagraph
7 shall be completed not later than one year after the date
8 of the enactment of this subparagraph.

9 “(4) The Secretary shall provide, through peer review
10 organizations under section 1154(a)(12) and otherwise,
11 for the monitoring of the quality of partial hospitalization
12 services furnished using an appropriate patient assess-
13 ment instrument established by the Secretary.

14 “(5) Not later than one year after the date of the
15 enactment of this paragraph, the Secretary shall promul-
16 gate revised regulations to carry out this subsection and
17 section 1835(a)(2)(F) using a negotiated rulemaking proc-
18 ess under subchapter III of chapter 5 of title 5, United
19 States Code. Such regulations shall take into account the
20 following matters:

21 “(A) Eligibility for benefits for partial hos-
22 pitalization services, including certification and re-
23 certification of the need for such services under sec-
24 tion 1835(a)(2)(F).

1 “(B) The type and level of partial hospitaliza-
2 tion services covered under this title, including the
3 frequency and duration of services based on an indi-
4 vidual’s condition and functional level.

5 “(C) Quality of care standards to be applied
6 under this paragraph.

7 “(D) Review standards to be applied by carriers
8 (including through manual instructions) in making
9 payment for partial hospitalization services.

10 “(E) Certification and recertification require-
11 ments referred to in paragraph (3)(B).”.

12 (b) DESIGNATION OF CARRIERS FOR PARTIAL HOS-
13 PITALIZATION SERVICES.—Section 1842(b)(2) of the So-
14 cial Security Act (42 U.S.C. 1395u(b)(2)) is amended by
15 adding at the end the following new subparagraph:

16 “(F) The Secretary shall designate under this section
17 not more than 5 carriers to process all claims for partial
18 hospitalization services under this part.”.

19 (c) CONFORMING AMENDMENTS.—

20 (1) ROLE OF PEER REVIEW ORGANIZATIONS.—
21 Section 1154(a) of the Social Security Act (42
22 U.S.C. 1320c–3(a)) is amended by inserting after
23 paragraph (11) the following new paragraph:

24 “(12) The organization shall review data on the
25 quality of partial hospitalization services furnished

1 under title XVIII, using patient assessment instru-
2 ments described in section 1861(ff)(4) applied with
3 respect to such services.”.

4 (2) CONFORMING STANDARD FOR PHYSICIAN
5 CERTIFICATION FOR COVERAGE.—Section
6 1835(a)(2)(F)(i) of such Act (42 U.S.C.
7 1395n(a)(2)(F)(i)) is amended by striking “the indi-
8 vidual would require inpatient psychiatric care in the
9 absence of such services” and all that follows and in-
10 sserting “that those services are reasonably expected
11 to improve or maintain the individual’s condition
12 and functional level and to prevent relapse or hos-
13 pitalization.”.

14 (d) EFFECTIVE DATE.—Except as otherwise pro-
15 vided in this section, the amendments made by this section
16 apply with respect to partial hospitalization services fur-
17 nished on or after the first day of the third month begin-
18 ning after the date of the enactment of this Act.

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