

106TH CONGRESS
1ST SESSION

S. 1783

To amend title XVIII of the Social Security Act to provide for a prospective payment system for inpatient long-stay hospital services under the medicare program.

IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 1999

Mr. COCHRAN 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 provide for a prospective payment system for inpatient long-stay hospital 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.**

4 This Act may be cited as the “Long-Stay Hospital
5 Payment Improvement Act of 1999”.

1 **SEC. 2. ESTABLISHMENT OF MEDICARE PROSPECTIVE PAY-**
2 **MENT RATE SYSTEM FOR LONG-STAY HOS-**
3 **PITALS.**

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

7 “(1) PROSPECTIVE PAYMENT FOR INPATIENT LONG-
8 STAY HOSPITAL SERVICES.—

9 “(1) PAYMENT.—

10 “(A) IN GENERAL.—Notwithstanding sec-
11 tions 1814(b), subsection (b), and section
12 1861(v), but subject to the provisions of section
13 1813, the amount of the payment with respect
14 to the operating costs and capital costs of inpa-
15 tient hospital services for inpatient hospital dis-
16 charges in a cost reporting period—

17 “(i) beginning on or after October 1,
18 2001, and before October 1, 2005, is equal
19 to the sum of the blended operating cost
20 component (described in paragraph (2)(A))
21 and the blended, capital-related cost com-
22 ponent (described in paragraph (2)(B)) for
23 the cost reporting period and discharges
24 occurring during the period; and

25 “(ii) beginning on or after October 1,
26 2005, is equal to the prospective payment

1 rate established under paragraph (4) for
2 the discharge.

3 “(B) LONG-STAY HOSPITAL DEFINED.—
4 For purposes of this subsection, the term ‘long-
5 stay hospital’ means a hospital described in
6 subsection (d)(1)(B)(iv).

7 “(C) OPERATING AND CAPITAL COSTS DE-
8 FINED.—For purposes of this subsection—

9 “(i) the term ‘operating costs of inpa-
10 tient hospital services’ has the meaning
11 given such term in subsection (a)(4), and

12 “(ii) the term ‘capital-related costs of
13 inpatient hospital services’ has the mean-
14 ing given such term by the Secretary under
15 subsection (a)(4) as of September 30,
16 1987, and does not include return on eq-
17 uity capital.

18 “(2) TRANSITIONAL PAYMENTS.—

19 “(A) BLENDED OPERATING COST COMPO-
20 NENT.—

21 “(i) IN GENERAL.—The amount of
22 the blended operating cost component
23 under this subparagraph for a cost report-
24 ing period is equal to the sum of—

1 “(I) the TEFRA operating cost
2 component percentage (as defined in
3 clause (ii)) of the amount that would
4 have been paid under part A with re-
5 spect to such costs if this subsection
6 did not apply for the period; and

7 “(II) the DRG operating cost
8 component percentage (as defined in
9 clause (ii)) of the applicable DRG per
10 discharge prospective operating cost
11 payment rate determined under clause
12 (iii) for discharges occurring during
13 such period.

14 “(ii) TEFRA AND DRG OPERATING
15 COST COMPONENT PERCENTAGES.—For
16 purposes of clause (i), for a cost reporting
17 period beginning—

18 “(I) on or after October 1, 2001,
19 and before October 1, 2002, the
20 TEFRA operating cost component
21 percentage is $66\frac{2}{3}$ percent and the
22 DRG operating cost component per-
23 centage is $33\frac{1}{3}$ percent;

24 “(II) on or after October 1,
25 2002, and before October 1, 2003, the

1 TEFRA operating cost component
2 percentage is $33\frac{1}{3}$ percent and DRG
3 operating cost component percentage
4 is $66\frac{2}{3}$ percent; and

5 “(III) on or after October 1,
6 2003, and before October 1, 2005, the
7 TEFRA operating cost component
8 percentage is 0 percent and the DRG
9 operating cost component percentage
10 is 100 percent.

11 “(iii) APPLICABLE DRG PER DIS-
12 CHARGE PROSPECTIVE OPERATING COST
13 PAYMENT RATE.—For purposes of clause
14 (i)(II), the applicable DRG per discharge
15 prospective operating cost payment rate for
16 a discharge is equal to the DRG prospec-
17 tive payment rate established under para-
18 graph (4) for that discharge multiplied by
19 the operating cost ratio determined under
20 paragraph (4)(B)(i).

21 “(B) BLENDED CAPITAL-RELATED COST
22 COMPONENT.—

23 “(i) IN GENERAL.—The amount of
24 the blended capital-related cost component

1 under this subparagraph for a cost report-
2 ing period is equal to the sum of—

3 “(I) the TEFRA capital-related
4 cost component percentage (as defined
5 in clause (ii)) of the amount that
6 would have been paid under part A
7 with respect to such costs if this sub-
8 section did not apply for the period;
9 and

10 “(II) the DRG capital-related
11 cost component percentage (as defined
12 in clause (ii)) of the applicable DRG
13 prospective capital payment rate de-
14 termined under clause (iii) for dis-
15 charges occurring during such period.

16 “(ii) TEFRA AND DRG CAPITAL-RE-
17 LATED COST COMPONENT PERCENTAGES
18 SPECIFIED.—For purposes of clause (i),
19 for a cost reporting period beginning—

20 “(I) on or after October 1, 2001,
21 and before October 1, 2002, the
22 TEFRA capital-related cost compo-
23 nent percentage is 80 percent and the
24 DRG capital-related cost component
25 percentage is 20 percent;

1 “(II) on or after October 1,
2 2002, and before October 1, 2003, the
3 TEFRA capital-related cost compo-
4 nent percentage is 60 percent and the
5 DRG capital-related cost component
6 percentage is 40 percent;

7 “(III) on or after October 1,
8 2003, and before October 1, 2004, the
9 TEFRA capital-related cost compo-
10 nent percentage is 40 percent and the
11 DRG capital-related cost component
12 percentage is 60 percent; and

13 “(IV) on or after October 1,
14 2004, and before October 1, 2005, the
15 TEFRA capital-related cost compo-
16 nent percentage is 20 percent and the
17 DRG capital-related cost component
18 percentage is 80 percent.

19 “(iii) APPLICABLE DRG PER DIS-
20 CHARGE PROSPECTIVE CAPITAL COST PAY-
21 MENT RATE.—For purposes of clause
22 (i)(II), the applicable DRG per discharge
23 prospective capital cost payment rate for a
24 discharge is equal to the DRG prospective
25 payment rate established under paragraph

1 (4) for that discharge multiplied by the
2 capital cost ratio determined under para-
3 graph (4)(B)(ii).

4 “(3) DIAGNOSIS-RELATED GROUPS; WEIGHTING
5 FACTORS.—

6 “(A) ESTABLISHMENT.—The Secretary
7 shall establish classes of inpatient discharges by
8 long-stay hospitals by using the diagnosis-re-
9 lated groups established pursuant to subsection
10 (d)(4)(A), except that for those diagnosis-re-
11 lated groups for which there are fewer than 25
12 inpatient discharges in any fiscal year used to
13 establish weighting factors under subparagraph
14 (B), the Secretary may combine such diagnosis-
15 related groups into one or more groups in a
16 manner which the Secretary deems to be appro-
17 priate.

18 “(B) WEIGHTING FACTORS.—For each
19 such diagnosis-related group, the Secretary
20 shall assign an appropriate weighting factor
21 which shall be derived from the relative hospital
22 operating and capital costs and resources used
23 with respect to patients classified within all
24 groups based on data from the 2 most recent

1 fiscal years for which data are available to the
2 Secretary for long-stay hospitals.

3 “(C) ADJUSTMENTS.—The Secretary shall
4 annually adjust the classifications and
5 weighting factors established under this para-
6 graph as appropriate to reflect changes in treat-
7 ment patterns, technology, case mix, and other
8 factors which may affect the relative use of
9 long-stay hospital resources.

10 “(D) DATA COLLECTION.—The Secretary
11 may require long-stay hospitals to submit data
12 required to classify inpatient discharges accord-
13 ing to diagnosis-related groups and such other
14 patient assessment factors as the Secretary
15 deems necessary to establish and administer the
16 prospective payment system under this sub-
17 section.

18 “(4) DRG PROSPECTIVE PAYMENT RATE.—

19 “(A) IN GENERAL.—Subject to the suc-
20 ceeding provisions of this subsection, the pro-
21 spective payment rate described in this para-
22 graph for a hospital discharge classified within
23 a diagnosis-related group under paragraph (3)
24 is equal to the product of—

1 “(i) the applicable single national
2 DRG prospective payment rate determined
3 under paragraph (5); and

4 “(ii) the weighting factor established
5 under paragraph (3)(B) for the diagnosis-
6 related group.

7 “(B) COMPUTATION OF OPERATING COST
8 AND CAPITAL RATIOS.—For purposes of para-
9 graph (2)(A)(iii) and (2)(B)(iii)—

10 “(i) the operating cost ratio is equal
11 to the proportion of the single national
12 DRG prospective payment rate under para-
13 graph (5)(A) that is attributable to oper-
14 ating costs of inpatient hospital services;
15 and

16 “(ii) the capital cost ratio is equal to
17 1 minus the operating cost ratio deter-
18 mined under clause (i).

19 “(C) AREA WAGE ADJUSTMENT.—The Sec-
20 retary shall adjust the proportion (as estimated
21 by the Secretary from time to time) of long-stay
22 hospitals’ costs which are attributable to wages
23 and wage-related costs of the DRG prospective
24 payment rate computed under subparagraph
25 (A) for area differences in wage levels by a fac-

1 tor (established by the Secretary) reflecting the
2 relative hospital wage level in the geographic
3 area of the long-stay hospital compared to the
4 national average wage level for such long-stay
5 hospitals. The Secretary may use the area wage
6 adjustments applicable to a subsection (d) hos-
7 pital or may develop a distinct adjustment for
8 long-stay hospitals. Not later than October 1,
9 2001 (and at least every 12 months thereafter),
10 the Secretary shall update the factor under this
11 subparagraph on the basis of information avail-
12 able to the Secretary (and updated as appro-
13 priate) of the wages and wage-related costs in-
14 curred in furnishing long-stay hospital services.
15 Any adjustments or updates made under this
16 paragraph for a fiscal year shall be made in a
17 manner that assures that the aggregate pay-
18 ments under this subsection in the fiscal year
19 are not greater or less than those that would
20 have been made in the year without such ad-
21 justment.

22 “(D) OUTLIER PAYMENTS.—

23 “(i) IN GENERAL.—The Secretary
24 shall provide for an additional payment to
25 a long-stay hospital for patients in a diag-

1 nosis-related group, based upon the patient
2 being classified as an outlier based on un-
3 usual costs or other factors specified by
4 the Secretary beyond cut off points estab-
5 lished by the Secretary.

6 “(ii) PAYMENTS BASED ON COST OF
7 CARE.—The amount of such additional
8 payment under clause (i) shall be deter-
9 mined by the Secretary and shall equal 80
10 percent of the cost of care beyond the cut
11 off points established pursuant to clause
12 (i).

13 “(iii) TOTAL PAYMENTS.—The total
14 amount of the additional payments made
15 under this subparagraph in a fiscal year
16 shall be projected by the Secretary to be
17 10 percent of the total payments projected
18 or estimated by the Secretary to be made
19 to long-stay hospitals based on the per dis-
20 charge prospective payment system under
21 this paragraph in that year.

22 “(E) DISPROPORTIONATE SHARE.—The
23 Secretary shall provide by regulation for an ad-
24 ditional payment under this paragraph to take
25 into account the special circumstances of long-

1 stay hospitals that serve a significantly dis-
2 proportionate number of low-income patients in
3 a manner similar to that provided under sub-
4 section (d)(5)(F) except that a long-stay hos-
5 pital shall be considered to ‘serve a significantly
6 disproportionate number of low income patients’
7 for a cost reporting period if the hospital has
8 a disproportionate patient percentage (as de-
9 fined in clause (vi) of such subsection) for that
10 period which equals, or exceeds, 15 percent, re-
11 gardless of location or number of beds of the
12 hospital. The total amount of payments made
13 under this subparagraph in a fiscal year may
14 not exceed, stated as a percentage of the total
15 payments projected or estimated by the Sec-
16 retary to be made to long-stay hospitals based
17 on the per discharge prospective payment sys-
18 tem under this paragraph in that year, the per-
19 centage that payments made to subsection (d)
20 hospitals pursuant to subsection (d)(5)(F) rep-
21 resents of the total prospective payment rate
22 payments made to subsection (d) hospitals in
23 the most recent fiscal year for which the Sec-
24 retary has data.

1 “(F) TRANSFERS.—The Secretary shall
2 provide by regulation for such other exceptions
3 and adjustments to payment amounts under
4 this paragraph for transfers in a manner simi-
5 lar to that provided under subparagraphs (I)
6 and (J) of subsection (d)(5) in relation to pay-
7 ments under subsection (d), except that the
8 provisions of subsection (d)(5)(J) shall apply to
9 all qualified discharges from a long-stay hos-
10 pital (as defined in clause (ii) of such sub-
11 section) without regard to whether the dis-
12 charge is classified as a diagnosis-related group
13 described in clause (iii) of such subsection and
14 only where, upon discharge, the individual re-
15 ceives the services expressed in such clause (ii),
16 for which payment is made under this title.

17 “(5) DETERMINATION OF SINGLE NATIONAL
18 DRG PROSPECTIVE PAYMENT RATE.—The Secretary
19 shall determine a single national DRG prospective
20 payment rate for each inpatient hospital discharge in
21 a fiscal year (beginning with fiscal year 2002) in-
22 volving inpatient hospital services of a long-stay hos-
23 pital in the United States for which payment may be
24 made under part A of this title. Such rate shall be
25 determined as follows:

1 “(A) DETERMINATION OF BASE RATE AND
2 OPERATING COMPONENTS.—The Secretary shall
3 determine the average payments per discharge
4 under this title for operating costs and capital
5 costs of inpatient hospital services of long-stay
6 hospitals. The Secretary shall determine such
7 average using data from the most recent fiscal
8 year for which data are available to the Sec-
9 retary as of the date of the enactment of this
10 subsection. In applying this subparagraph, the
11 Secretary alternatively may use the standard-
12 ized payment amount described in subsection
13 (d)(1)(C), with appropriate compensating in-
14 creases to the weighting factors described in
15 paragraph (3)(B) and other appropriate adjust-
16 ments to effect budget neutrality under sub-
17 paragraph (C).

18 “(B) UPDATING COMPONENTS.—Subject to
19 subparagraph (C), the Secretary shall update
20 such rate to the year involved by an appropriate
21 increase factor, which is based on an appro-
22 priate percentage increase in a market basket
23 of goods and services comprising services for
24 which payment is made under this subsection,

1 which may be the market basket percentage in-
2 crease described in subsection (b)(3)(B)(iii).

3 “(C) BUDGET NEUTRAL RATES.—For each
4 fiscal year, the Secretary shall provide for such
5 adjustment in such rate otherwise computed for
6 that fiscal year as may be necessary to assure
7 that—

8 “(i) the aggregate payment amounts
9 otherwise provided under this subsection
10 for that fiscal year for operating and cap-
11 ital costs of inpatient hospital services of
12 long-stay hospitals, taking into account
13 payment adjustments and additions made
14 under paragraph (4) and under subsequent
15 provisions of this subsection,

16 are not greater or less than—

17 “(ii) the payment amounts which
18 would have been payable for such services
19 for those same hospitals for that fiscal
20 year under part A had this subsection not
21 been enacted.

22 “(6) ADJUSTMENT.—The Secretary may pro-
23 vide such adjustments to the payment amounts
24 under this subsection as the Secretary deems appro-

1 appropriate to take into account the unique circumstances
2 of long-stay hospitals located in Alaska and Hawaii.

3 “(7) PUBLICATION.—The Secretary shall pro-
4 vide for publication in the Federal Register, on or
5 before August 1 before each fiscal year (beginning
6 with fiscal year 2002), of the classification and
7 weighting factors for the diagnosis-related groups
8 under paragraph (3) for such fiscal year and a de-
9 scription of the methodology and data used in com-
10 putting the prospective payment rates under this sub-
11 section for that fiscal year.

12 “(8) LIMITATION ON REVIEW.—There shall be
13 no administrative or judicial review under section
14 1878 or otherwise of—

15 “(A) the establishment of diagnosis-related
16 groups, of the methodology for the classification
17 of discharges within such groups, and of the ap-
18 propriate weighting factors thereof under para-
19 graph (3); and

20 “(B) the establishment of the prospective
21 payment rates under paragraphs (4) and (5).”.

22 (b) CONFORMING AMENDMENT.—Section 1886(b)(1)
23 of such Act (42 U.S.C. 1395ww(b)(1)) is amended in
24 paragraph (1), by striking “and other than a rehabilita-
25 tion facility described in subsection (j)(1)” and inserting

1 “, a rehabilitation facility described in subsection (j)(1),
2 and a long-stay hospital described in subsection
3 (d)(1)(B)(iv),”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section apply to cost reporting periods beginning on
6 or after October 1, 2001, except that the Secretary of
7 Health and Human Services may require the submission
8 of data under section 1886(l)(3)(D) of the Social Security
9 Act (as added by subsection (a)) on and after the date
10 of the enactment of this Act.

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