

106TH CONGRESS
2D SESSION

S. 2826

To amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services under the medicare program.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2000

Mr. SANTORUM (for himself and Mr. ROCKEFELLER) 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 coverage of substitute adult day care 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 “Medicare Adult Day
5 Services Alternative Act of 2000”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) adult day care offers services, including
9 medical care, rehabilitation therapies, dignified as-
10 sistance with activities of daily living, social inter-

1 action, and stimulating activities, to seniors who are
2 frail, physically challenged, or cognitively impaired;

3 (2) access to adult day care services provides
4 seniors and their familial caregivers support that is
5 critical to keeping the senior in the family home;

6 (3) more than 22,000,000 families in the
7 United States serve as caregivers for aging or ailing
8 seniors, nearly 1 in 4 American families, providing
9 close to 80 percent of the care to individuals requir-
10 ing long-term care;

11 (4) nearly 75 percent of those actively providing
12 such care are women who also maintain other re-
13 sponsibilities, such as working outside of the home
14 and raising young children;

15 (5) the average loss of income to these care-
16 givers has been shown to be \$659,130 in wages, pen-
17 sion, and Social Security benefits;

18 (6) the loss in productivity in United States
19 businesses ranges from \$11,000,000,000 to
20 \$29,000,000,000 annually;

21 (7) the services offered in adult day care facili-
22 ties provide continuity of care and an important
23 sense of community for both the senior and the care-
24 giver;

1 (8) there are adult day care centers in every
2 State in the United States and the District of Co-
3 lumbia;

4 (9) these centers generally offer transportation,
5 meals, personal care, and counseling in addition to
6 the medical services and socialization benefits of-
7 fered; and

8 (10) with the need for quality options in how to
9 best care for our senior population about to dramati-
10 cally increase with the aging of the baby boomer
11 generation, the time to address these issues is now.

12 **SEC. 3. COVERAGE OF SUBSTITUTE ADULT DAY CARE SERV-**
13 **ICES UNDER MEDICARE.**

14 (a) **SUBSTITUTE ADULT DAY CARE SERVICES BEN-**
15 **EFIT.—**

16 (1) **IN GENERAL.—**Section 1861(m) of the So-
17 cial Security Act (42 U.S.C. 1395x(m)) is
18 amended—

19 (A) in the matter preceding paragraph (1),
20 by inserting “or (8)” after “paragraph (7)”;

21 (B) in paragraph (6), by striking “and” at
22 the end;

23 (C) in paragraph (7), by adding “and” at
24 the end; and

1 (D) by inserting after paragraph (7), the
2 following new paragraph:

3 “(8) substitute adult day care services (as de-
4 fined in subsection (uu));”.

5 (2) SUBSTITUTE ADULT DAY CARE SERVICES
6 DEFINED.—Section 1861 of the Social Security Act
7 (42 U.S.C. 1395x) is amended by adding at the end
8 the following new subsection:

9 “Substitute Adult Day Care Services; Adult Day Care
10 Facility

11 “(uu)(1)(A) The term ‘substitute adult day care serv-
12 ices’ means the items and services described in subpara-
13 graph (B) that are furnished to an individual by an adult
14 day care facility as a part of a plan under subsection (m)
15 that substitutes such services for a portion of the items
16 and services described in subparagraph (B)(i) furnished
17 by a home health agency under the plan, as determined
18 by the physician establishing the plan.

19 “(B) The items and services described in this sub-
20 paragraph are the following items and services:

21 “(i) Items and services described in paragraphs
22 (1) through (7) of subsection (m).

23 “(ii) Transportation of the individual to and
24 from the adult day care facility in connection with
25 any such item or service.

1 “(iii) Meals.

2 “(iv) A program of supervised activities de-
3 signed to promote physical and mental health and
4 furnished to the individual by the adult day care fa-
5 cility in a group setting for a period of not fewer
6 than 4 and not greater than 12 hours per day.

7 “(v) A medication management program (as de-
8 fined in subparagraph (C)).

9 “(C) For purposes of subparagraph (B)(v), the term
10 ‘medication management program’ means a program of
11 services, including medicine screening and patient and
12 health care provider education programs, that provides
13 services to minimize—

14 “(i) unnecessary or inappropriate use of pre-
15 scription drugs; and

16 “(ii) adverse events due to unintended prescrip-
17 tion drug-to-drug interactions.

18 “(2)(A) Except as provided in subparagraphs (B)
19 and (C), the term ‘adult day care facility’ means a public
20 agency or private organization, or a subdivision of such
21 an agency or organization, that—

22 “(i) is engaged in providing skilled nursing
23 services and other therapeutic services directly or
24 under arrangement with a home health agency;

1 “(ii) meets such standards established by the
2 Secretary to ensure quality of care and such other
3 requirements as the Secretary finds necessary in the
4 interest of the health and safety of individuals who
5 are furnished services in the facility;

6 “(iii) provides the items and services described
7 in paragraph (1)(B); and

8 “(iv) meets the requirements of paragraphs (2)
9 through (8) of subsection (o).

10 “(B) Notwithstanding subparagraph (A), the term
11 ‘adult day care facility’ shall include a home health agency
12 in which the items and services described in clauses (ii)
13 through (v) of paragraph (1)(B) are provided by others
14 under arrangements with them made by such agency.

15 “(C) The Secretary may waive the requirement of a
16 surety bond under paragraph (7) of subsection (o) in the
17 case of an agency or organization that provides a com-
18 parable surety bond under State law.

19 “(D) For purposes of payment for home health serv-
20 ices consisting of substitute adult day care services fur-
21 nished under this title, any reference to a home health
22 agency is deemed to be a reference to an adult day care
23 facility.”.

24 (3) CONFORMING AMENDMENTS.—Sections
25 1814(a)(2)(C) and 1835(a)(2)(A)(i) of the Social

1 Security Act (42 U.S.C. 1395f(a)(2)(C);
2 1395n(a)(2)(A)(i)) are each amended by striking
3 “section 1861(m)(7)” and inserting “paragraph (7)
4 or (8) of section 1861(m)”.

5 (b) PAYMENT FOR SUBSTITUTE ADULT DAY CARE
6 SERVICES.—Section 1895 of the Social Security Act (42
7 U.S.C. 1395fff) is amended by adding at the end the fol-
8 lowing new subsection:

9 “(e) PAYMENT RATE FOR SUBSTITUTE ADULT DAY
10 CARE SERVICES.—In the case of home health services con-
11 sisting of substitute adult day care services (as defined
12 in section 1861(uu)), the following rules apply:

13 “(1) The Secretary shall determine each compo-
14 nent (as defined by the Secretary) of substitute
15 adult day care services (under section
16 1861(uu)(1)(B)(i)) furnished to an individual under
17 the plan of care established under section 1861(m)
18 with respect to such services.

19 “(2) The Secretary shall estimate the amount
20 that would otherwise be payable under this section
21 for all home health services under that plan of care
22 other than substitute adult day care services for a
23 week or other period specified by the Secretary.

24 “(3) The total amount payable for home health
25 services consisting of substitute adult day care serv-

1 ices under such plan may not exceed 95 percent of
2 the amount estimated to be payable under para-
3 graph (2) furnished under the plan by a home health
4 agency.

5 “(4) No payment may be made under this title
6 for home health services consisting of substitute
7 adult day care services described in clauses (ii)
8 through (v) of section 1861(uu)(1)(B).”.

9 (c) ADJUSTMENT IN CASE OF OVERUTILIZATION OF
10 SUBSTITUTE ADULT DAY CARE SERVICES.—

11 (1) MONITORING EXPENDITURES.—Beginning
12 with fiscal year 2002, the Secretary of Health and
13 Human Services shall monitor the expenditures
14 made under the medicare program under title XVIII
15 of the Social Security Act (42 U.S.C. 1395 et seq.)
16 for home health services (as defined in section
17 1861(m) of such Act (42 U.S.C. 1395x(m))) for the
18 fiscal year, including substitute adult day care serv-
19 ices under paragraph (8) of such section (as added
20 by subsection (a)), and shall compare such expendi-
21 tures to expenditures that the Secretary estimates
22 would have been made for home health services for
23 that fiscal year if subsection (a) had not been en-
24 acted.

1 (2) REQUIRED REDUCTION IN PAYMENT
2 RATE.—If the Secretary determines, after making
3 the comparison under paragraph (1) and making
4 such adjustments for changes in demographics and
5 age of the medicare beneficiary population as the
6 Secretary determines appropriate, that expenditures
7 for home health services under the medicare pro-
8 gram, including such substitute adult day care serv-
9 ices, exceed expenditures that would have been made
10 under such program for home health services for a
11 year if subsection (a) had not been enacted, then the
12 Secretary shall adjust the rate of payment to adult
13 day care facilities so that total expenditures for
14 home health services under such program in a fiscal
15 year does not exceed the Secretary's estimate of
16 such expenditures if subsection (a) had not been en-
17 acted.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to items and services furnished on
20 or after the date on which the prospective payment system
21 for home health services furnished under the medicare
22 program under section 1895 of the Social Security Act (42
23 U.S.C. 1395fff) is established and implemented.

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