

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3500

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 13, 2006

Mr. THOMAS (for himself, Mr. CONRAD, Mr. HARKIN, Mr. ROBERTS, Ms. COLLINS, Mr. DAYTON, Mr. SALAZAR, Mr. DOMENICI, Mr. BURNS, Mr. DORGAN, Mr. THUNE, Mr. JOHNSON, Mr. NELSON of Nebraska, Ms. MURKOWSKI, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Rural Hospital and Provider Equity (HoPE) Act of  
6 2006”.

1 (b) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Fairness in the Medicare disproportionate share hospital (DSH) adjustment for rural hospitals.
- Sec. 3. Extension and Expansion of Medicare hold harmless provision under the prospective payment system for hospital outpatient department (HOPD) services.
- Sec. 4. Improvement of definition of low-volume hospital for purposes of the Medicare inpatient hospital payment adjustment.
- Sec. 5. Extension of Medicare wage index reclassifications for certain hospitals.
- Sec. 6. Extension of Medicare reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
- Sec. 7. Critical access hospital improvements.
- Sec. 8. Capital infrastructure revolving loan program.
- Sec. 9. Extension of Medicare incentive payment program for physician scarcity areas.
- Sec. 10. Extension of floor on medicare work geographic adjustment.
- Sec. 11. Medicare home health care planning improvements.
- Sec. 12. Rural health clinic improvements.
- Sec. 13. Community health center collaborative access expansion.
- Sec. 14. Applying add-on policy for home health services furnished in a rural area for 2007.
- Sec. 15. Use of medical conditions for coding ambulance services.
- Sec. 16. Extension of increased Medicare payments for ground ambulance services in rural areas.
- Sec. 17. Improvement in payments to retain emergency and other capacity for ambulances in rural areas.
- Sec. 18. Coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program.
- Sec. 19. Medicare remote monitoring pilot projects.
- Sec. 20. Facilitating the provision of telehealth services across State lines.

3 **SEC. 2. FAIRNESS IN THE MEDICARE DISPROPORTIONATE**  
 4 **SHARE HOSPITAL (DSH) ADJUSTMENT FOR**  
 5 **RURAL HOSPITALS.**

6 Section 1886(d)(5)(F)(xiv)(II) of the Social Security  
 7 Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended—  
 8 (1) by striking “or, in the case” and all that  
 9 follows through “subparagraph (G)(iv)”; and  
 10 (2) by inserting at the end the following new  
 11 sentence: “The preceding sentence shall not apply to

1 any hospital with respect to discharges occurring on  
2 or after October 1, 2006.”.

3 **SEC. 3. EXTENSION AND EXPANSION OF MEDICARE HOLD**  
4 **HARMLESS PROVISION UNDER THE PRO-**  
5 **SPECTIVE PAYMENT SYSTEM FOR HOSPITAL**  
6 **OUTPATIENT DEPARTMENT (HOPD) SERV-**  
7 **ICES.**

8 (a) EXTENSION.—

9 (1) IN GENERAL.—Section 1833(t)(7)(D)(i) of  
10 the Social Security Act (42 U.S.C.  
11 1395l(t)(7)(D)(i)), as amended by section 5105 of  
12 the Deficit Reduction Act of 2005 (Public Law 109–  
13 171), is amended—

14 (A) in subclause (I)—

15 (i) by striking “(I)”;

16 (ii) by striking “(iii) located in a  
17 rural area” and inserting “(iii)”;

18 (iii) by striking “before January 1,  
19 2006” and inserting “before January 1,  
20 2009”; and

21 (B) by striking subclause (II).

22 (2) EFFECTIVE DATE.—The amendments made  
23 by paragraph (1) shall apply to covered OPD serv-  
24 ices furnished on or after January 1, 2006.

25 (b) STUDY AND REPORT.—

1           (1) STUDY.—The Secretary of Health and  
2           Human Services shall conduct a study to determine  
3           if, under the prospective payment system for hos-  
4           pital outpatient department services under section  
5           1833(t) of the Social Security Act (42 U.S.C.  
6           1395l(t)), costs incurred by sole community hos-  
7           pitals (as defined in section 1886(d)(5)(D)(iii) of  
8           such Act (42 U.S.C. 1395ww(d)(5)(D)(iii))) located  
9           in urban areas by ambulatory payment classification  
10          groups (APCs) exceed those costs incurred by other  
11          hospitals located in urban areas.

12          (2) REPORT.—Not later than January 1, 2008,  
13          the Secretary of Health and Human Services shall  
14          submit to Congress a report on the study conducted  
15          under paragraph (1) together with recommendations  
16          for such legislation and administrative action as the  
17          Secretary determines to be appropriate.

18 **SEC. 4. IMPROVEMENT OF DEFINITION OF LOW-VOLUME**  
19                                   **HOSPITAL FOR PURPOSES OF THE MEDICARE**  
20                                   **INPATIENT HOSPITAL PAYMENT ADJUST-**  
21                                   **MENT.**

22          Section 1886(d)(12)(C)(i) of the Social Security Act  
23          (42 U.S.C. 1395ww(d)(12)(C)(i)) is amended by inserting  
24          “(or, beginning with fiscal year 2007, 2,000 discharges)”  
25          after “800 discharges”.

1 **SEC. 5. EXTENSION OF MEDICARE WAGE INDEX RECLASSI-**  
2 **FICATIONS FOR CERTAIN HOSPITALS.**

3 (a) MMA PROVISION.—Section 508 of the Medicare  
4 Prescription Drug, Improvement, and Modernization Act  
5 of 2003 (42 U.S.C. 1395ww note) is amended by adding  
6 at the end the following new subsection:

7 “(g) THREE-YEAR EXTENSION FOR CERTAIN HOS-  
8 PITALS.—

9 “(1) IN GENERAL.—In the case of a hospital  
10 described in paragraph (2)—

11 “(A) subsections (a)(3) and (b) shall be  
12 applied by substituting ‘6-year period’ for ‘3-  
13 year period’; and

14 “(B) the limitation under subsection (e)  
15 shall not apply after March 31, 2007.

16 “(2) HOSPITAL DESCRIBED.—A hospital de-  
17 scribed in this paragraph is a hospital—

18 “(A) that is reclassified to an area under  
19 this section as of the day before the date of en-  
20 actment of this subsection; and

21 “(B)(i) that is located in a State with less  
22 than 10 people per square mile; or

23 “(ii)(I) that is located in a rural area; and

24 “(II) for which the Secretary has deter-  
25 mined the extension under this subsection to be  
26 appropriate.”.

1 (b) ADDITIONAL PROVISION.—The Secretary of  
 2 Health and Human Services shall extend the special ex-  
 3 ception reclassification of a sole community hospital lo-  
 4 cated in a State with less than 10 people per square mile  
 5 (made under the authority of section 1886(d)(5)(I)(i) of  
 6 the Social Security Act (42 U.S.C. 1395ww(d)(5)(I)(i))  
 7 and contained in the final rule promulgated by the Sec-  
 8 retary in the Federal Register on August 11, 2004 (69  
 9 Fed. Reg. 49107)) for 3 years through fiscal year 2010.

10 **SEC. 6. EXTENSION OF MEDICARE REASONABLE COSTS**  
 11 **PAYMENTS FOR CERTAIN CLINICAL DIAG-**  
 12 **NOSTIC LABORATORY TESTS FURNISHED TO**  
 13 **HOSPITAL PATIENTS IN CERTAIN RURAL**  
 14 **AREAS.**

15 Section 416(b) of the Medicare Prescription Drug,  
 16 Improvement, and Modernization Act of 2003 (Public Law  
 17 108–173; 117 Stat. 2282; 42 U.S.C. 1395l–4(b)) is  
 18 amended by striking “2-year” and inserting “4-year”.

19 **SEC. 7. CRITICAL ACCESS HOSPITAL IMPROVEMENTS.**

20 (a) CLARIFICATION OF PAYMENT FOR CLINICAL  
 21 LABORATORY TESTS FURNISHED BY CRITICAL ACCESS  
 22 HOSPITALS.—

23 (1) IN GENERAL.—Section 1834(g)(4) of the  
 24 Social Security Act (42 U.S.C. 1395m(g)(4)) is  
 25 amended—

1 (A) in the heading, by striking “NO BENE-  
2 FICIARY COST-SHARING” and inserting “TREAT-  
3 MENT OF”; and

4 (B) by adding at the end the following new  
5 sentence: “For purposes of the preceding sen-  
6 tence and section 1861(mm)(3), clinical diag-  
7 nostic laboratory services furnished by a critical  
8 access hospital shall be treated as being fur-  
9 nished as part of outpatient critical access serv-  
10 ices without regard to whether—

11 “(A) the individual with respect to whom  
12 such services are furnished is physically present  
13 in the critical access hospital at the time the  
14 specimen is collected;

15 “(B) such individual is registered as an  
16 outpatient on the records of, and receives such  
17 services directly from, the critical access hos-  
18 pital; or

19 “(C) payment is (or, but for this sub-  
20 section, would be) available for such services  
21 under the fee schedule established under section  
22 1833(h).”.

23 (2) EFFECTIVE DATE.—The amendments made  
24 by paragraph (1) shall apply to cost reporting peri-  
25 ods beginning on or after October 1, 2003.

1 (b) ELIMINATION OF ISOLATION TEST FOR COST-  
2 BASED AMBULANCE REIMBURSEMENT.—

3 (1) IN GENERAL.—Section 1834(l)(8) of the  
4 Social Security Act (42 U.S.C. 1395m(l)(8)) is  
5 amended—

6 (A) in subparagraph (B)—

7 (i) by striking “owned and”; and

8 (ii) by inserting “(including when  
9 such services are provided by the entity  
10 under an arrangement with the hospital)”  
11 after “hospital”; and

12 (B) by striking the comma at the end of  
13 subparagraph (B) and all that follows and in-  
14 serting a period.

15 (2) EFFECTIVE DATE.—The amendments made  
16 by this subsection shall apply to services furnished  
17 on or after January 1, 2007.

18 **SEC. 8. CAPITAL INFRASTRUCTURE REVOLVING LOAN PRO-**  
19 **GRAM.**

20 (a) IN GENERAL.—Part A of title XVI of the Public  
21 Health Service Act (42 U.S.C. 300q et seq.) is amended  
22 by adding at the end the following new section:

23 “CAPITAL INFRASTRUCTURE REVOLVING LOAN PROGRAM  
24 “SEC. 1603. (a) AUTHORITY TO MAKE AND GUAR-  
25 ANTEE LOANS.—

1           “(1) AUTHORITY TO MAKE LOANS.—The Sec-  
2           retary may make loans from the fund established  
3           under section 1602(d) to any rural entity for  
4           projects for capital improvements, including—

5                   “(A) the acquisition of land necessary for  
6                   the capital improvements;

7                   “(B) the renovation or modernization of  
8                   any building;

9                   “(C) the acquisition or repair of fixed or  
10                  major movable equipment; and

11                  “(D) such other project expenses as the  
12                  Secretary determines appropriate.

13           “(2) AUTHORITY TO GUARANTEE LOANS.—

14                   “(A) IN GENERAL.—The Secretary may  
15                   guarantee the payment of principal and interest  
16                   for loans made to rural entities for projects for  
17                   any capital improvement described in paragraph  
18                   (1) to any non-Federal lender.

19                   “(B) INTEREST SUBSIDIES.—In the case  
20                   of a guarantee of any loan made to a rural enti-  
21                   ty under subparagraph (A), the Secretary may  
22                   pay to the holder of such loan, for and on be-  
23                   half of the project for which the loan was made,  
24                   amounts sufficient to reduce (by not more than

1           3 percent) the net effective interest rate other-  
2           wise payable on such loan.

3           “(b) AMOUNT OF LOAN.—The principal amount of  
4 a loan directly made or guaranteed under subsection (a)  
5 for a project for capital improvement may not exceed  
6 \$5,000,000.

7           “(c) FUNDING LIMITATIONS.—

8           “(1) GOVERNMENT CREDIT SUBSIDY EXPO-  
9           SURE.—The total of the Government credit subsidy  
10           exposure under the Credit Reform Act of 1990 scor-  
11           ing protocol with respect to the loans outstanding at  
12           any time with respect to which guarantees have been  
13           issued, or which have been directly made, under sub-  
14           section (a) may not exceed \$50,000,000 per year.

15           “(2) TOTAL AMOUNTS.—Subject to paragraph  
16           (1), the total of the principal amount of all loans di-  
17           rectly made or guaranteed under subsection (a) may  
18           not exceed \$250,000,000 per year.

19           “(d) CAPITAL ASSESSMENT AND PLANNING  
20 GRANTS.—

21           “(1) NONREPAYABLE GRANTS.—Subject to  
22           paragraph (2), the Secretary may make a grant to  
23           a rural entity, in an amount not to exceed \$50,000,  
24           for purposes of capital assessment and business  
25           planning.

1           “(2) LIMITATION.—The cumulative total of  
2           grants awarded under this subsection may not ex-  
3           ceed \$2,500,000 per year.

4           “(e) TERMINATION OF AUTHORITY.—The Secretary  
5           may not directly make or guarantee any loan under sub-  
6           section (a) or make a grant under subsection (d) after  
7           September 30, 2010.”.

8           (b) RURAL ENTITY DEFINED.—Section 1624 of the  
9           Public Health Service Act (42 U.S.C. 300s–3) is amended  
10          by adding at the end the following new paragraph:

11           “(15)(A) The term ‘rural entity’ includes—

12                   “(i) a rural health clinic, as defined in sec-  
13                   tion 1861(aa)(2) of the Social Security Act;

14                   “(ii) any medical facility with at least 1  
15                   bed, but with less than 50 beds, that is located  
16                   in—

17                           “(I) a county that is not part of a  
18                           metropolitan statistical area; or

19                           “(II) a rural census tract of a metro-  
20                           politan statistical area (as determined  
21                           under the most recent modification of the  
22                           Goldsmith Modification, originally pub-  
23                           lished in the Federal Register on February  
24                           27, 1992 (57 Fed. Reg. 6725));

1           “(iii) a hospital that is classified as a  
2           rural, regional, or national referral center under  
3           section 1886(d)(5)(C) of the Social Security  
4           Act; and

5           “(iv) a hospital that is a sole community  
6           hospital (as defined in section  
7           1886(d)(5)(D)(iii) of the Social Security Act).

8           “(B) For purposes of subparagraph (A), the  
9           fact that a clinic, facility, or hospital has been geo-  
10          graphically reclassified under the Medicare program  
11          under title XVIII of the Social Security Act shall not  
12          preclude a hospital from being considered a rural en-  
13          tity under clause (i) or (ii) of subparagraph (A).”.

14          (c) CONFORMING AMENDMENTS.—Section 1602 of  
15          the Public Health Service Act (42 U.S.C. 300q–2) is  
16          amended—

17                 (1) in subsection (b)(2)(D), by inserting “or  
18                 1603(a)(2)(B)” after “1601(a)(2)(B)”; and

19                 (2) in subsection (d)—

20                         (A) in paragraph (1)(C), by striking “sec-  
21                         tion 1601(a)(2)(B)” and inserting “sections  
22                         1601(a)(2)(B) and 1603(a)(2)(B)”; and

23                         (B) in paragraph (2)(A), by inserting “or  
24                         1603(a)(2)(B)” after “1601(a)(2)(B)”.

1 **SEC. 9. EXTENSION OF MEDICARE INCENTIVE PAYMENT**  
2 **PROGRAM FOR PHYSICIAN SCARCITY AREAS.**

3 Section 1833(u)(1) of the Social Security Act (42  
4 U.S.C. 1395l(u)(1)) is amended by striking “before Janu-  
5 ary 1, 2008” and inserting “before January 1, 2009”.

6 **SEC. 10. EXTENSION OF FLOOR ON MEDICARE WORK GEO-**  
7 **GRAPHIC ADJUSTMENT.**

8 Section 1848(e)(1)(E) of the Social Security Act (42  
9 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “before  
10 January 1, 2007” and inserting “before January 1,  
11 2009”.

12 **SEC. 11. MEDICARE HOME HEALTH CARE PLANNING IM-**  
13 **PROVEMENTS.**

14 (a) IN GENERAL.—Section 1814(a)(2) of the Social  
15 Security Act (42 U.S.C. 1395f(a)(2)), in the matter pre-  
16 ceding subparagraph (A), is amended—

17 (1) by striking “subparagraph (B)” and insert-  
18 ing “subparagraphs (B) and (C)”;

19 (2) by inserting “(as those terms are defined in  
20 section 1861(aa)(5))” after “clinical nurse spe-  
21 cialist”;

22 (3) by inserting “or home health agency (as the  
23 case may be)” after “facility”; and

24 (4) by inserting “(or in the case of services de-  
25 scribed in subparagraph (C), a physician assistant

1 (as defined in 1861(aa)(5)) under the supervision of  
2 a physician)” after “collaboration with a physician”.

3 (b) CONFORMING AMENDMENTS.—(1) Section  
4 1814(a) of the Social Security Act (42 U.S.C. 1395f(a))  
5 is amended—

6 (A) in paragraph (2)(C), by inserting “a nurse  
7 practitioner, a clinical nurse specialist, or a physi-  
8 cian assistant (as the case may be)” after “physi-  
9 cian” each place it appears;

10 (B) in the second sentence, by striking “or clin-  
11 ical nurse specialist” and inserting “clinical nurse  
12 specialist, or physician assistant”;

13 (C) in the third sentence—

14 (i) by striking “physician certification”  
15 and inserting “certification”;

16 (ii) by inserting “(or on January 1, 2007,  
17 in the case of regulations to implement the  
18 amendments made by section 11 of the Rural  
19 Hospital and Provider Equity (HoPE) Act of  
20 2006)” after “1981”; and

21 (iii) by striking “a physician who” and in-  
22 serting “a physician, nurse practitioner, clinical  
23 nurse specialist, or physician assistant who”;  
24 and

1 (D) in the fourth sentence, by inserting “,  
2 nurse practitioner, clinical nurse specialist, or physi-  
3 cian assistant” after “physician”.

4 (2) Section 1835(a) of the Social Security Act (42  
5 U.S.C. 1395n(a)) is amended—

6 (A) in paragraph (2)—

7 (i) in the matter preceding subparagraph  
8 (A), by inserting “or, in the case of services de-  
9 scribed in subparagraph (A), a physician, or a  
10 nurse practitioner or clinical nurse specialist (as  
11 those terms are defined in 1861(aa)(5)), who  
12 does not have a direct or indirect employment  
13 relationship with the home health agency but is  
14 working in collaboration with a physician (or a  
15 physician assistant (as defined in 1861(aa)(5))  
16 under the supervision of a physician)” after “a  
17 physician”; and

18 (ii) in subparagraph (A) by inserting “a  
19 nurse practitioner, a clinical nurse specialist, or  
20 a physician assistant (as the case may be)”  
21 after “physician” each place it appears;

22 (B) in the third sentence, by inserting “, nurse  
23 practitioner, clinical nurse specialist, or physician as-  
24 sistant (as the case may be)” after physician;

25 (C) in the fourth sentence—

1 (i) by striking “physician certification”  
2 and inserting “certification”;

3 (ii) by inserting “(or on January 1, 2007,  
4 in the case of regulations to implement the  
5 amendments made by section 11 of the Rural  
6 Hospital and Provider Equity (HoPE) Act of  
7 2006)” after “1981”; and

8 (iii) by striking “a physician who” and in-  
9 serting “a physician, nurse practitioner, clinical  
10 nurse specialist, or physician assistant who”;  
11 and

12 (D) in the fifth sentence, by inserting “, nurse  
13 practitioner, clinical nurse specialist, or physician as-  
14 sistant” after “physician”.

15 (3) Section 1861 of the Social Security Act (42  
16 U.S.C. 1395x) is amended—

17 (A) in subsection (m)—

18 (i) in the matter preceding paragraph

19 (1)—

20 (I) by inserting “, or a nurse practi-  
21 tioner, clinical nurse specialist, or physi-  
22 cian assistant (as those terms are defined  
23 in subsection (aa)(5))” after “physician”  
24 the first place it appears; and

1 (II) by inserting “or a nurse practi-  
2 tioner, clinical nurse specialist, or physi-  
3 cian assistant” after “physician” the sec-  
4 ond place it appears; and

5 (ii) in paragraph (3), by inserting “or a  
6 nurse practitioner, clinical nurse specialist, or  
7 physician assistant” after “physician”; and

8 (B) in subsection (o)(2)—

9 (i) by inserting “, nurse practitioners, clin-  
10 ical nurse specialists, or physician assistants (as  
11 those terms are defined in subsection (aa)(5))”  
12 after “physicians”; and

13 (ii) by inserting “, nurse practitioner, clin-  
14 ical nurse specialist, physician assistant,” after  
15 “physician”

16 (4) Section 1895 of the Social Security Act (42  
17 U.S.C. 1395fff) is amended—

18 (A) in subsection (c)(1), by inserting “, or the  
19 nurse practitioner, clinical nurse specialist, or physi-  
20 cian assistant (as those terms are defined in section  
21 1861(aa)(5)),” after “physician”; and

22 (B) in subsection (e)—

23 (i) in paragraph (1)(A), by inserting “, or  
24 a nurse practitioner, clinical nurse specialist, or

1 physician assistant (as those terms are defined  
2 in section 1861(aa)(5)),” after “physician”; and

3 (ii) in paragraph (2)—

4 (I) in the heading, by striking “PHY-  
5 SICIAN CERTIFICATION” and inserting  
6 “RULE OF CONSTRUCTION REGARDING RE-  
7 QUIREMENT FOR CERTIFICATION”; and

8 (II) by striking “physician”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to items and services furnished on  
11 or after January 1, 2007.

12 **SEC. 12. RURAL HEALTH CLINIC IMPROVEMENTS.**

13 Section 1833(f) of the Social Security Act (42 U.S.C.  
14 1395l(f)) is amended—

15 (1) in paragraph (1), by striking “, and” at the  
16 end and inserting a semicolon;

17 (2) in paragraph (2)—

18 (A) by inserting “(before 2007)” after “in  
19 a subsequent year”; and

20 (B) by striking the period at the end and  
21 inserting a semicolon; and

22 (3) by adding at the end the following new  
23 paragraphs:

24 “(3) in 2007, at \$82 per visit; and

1           “(4) in a subsequent year, at the limit estab-  
 2           lished under this subsection for the previous year in-  
 3           creased by the percentage increase in the MEI (as  
 4           so defined) applicable to primary care services (as so  
 5           defined) furnished as of the first day of that year.”

6 **SEC. 13. COMMUNITY HEALTH CENTER COLLABORATIVE**  
 7                                   **ACCESS EXPANSION.**

8           Section 330 of the Public Health Service Act (42  
 9 U.S.C. 254b) is amended by adding at the end the fol-  
 10 lowing:

11           “(s) MISCELLANEOUS PROVISIONS.—

12                           “(1) RULE OF CONSTRUCTION WITH RESPECT  
 13           TO RURAL HEALTH CLINICS.—

14                           “(A) IN GENERAL.—Nothing in this sec-  
 15           tion shall be construed to prevent a community  
 16           health center from contracting with a federally  
 17           certified rural health clinic (as defined by sec-  
 18           tion 1861(aa)(2) of the Social Security Act) for  
 19           the delivery of primary health care services that  
 20           are available at the rural health clinic to indi-  
 21           viduals who would otherwise be eligible for free  
 22           or reduced cost care if that individual were able  
 23           to obtain that care at the community health  
 24           center. Such services may be limited in scope to

1 those primary health care services available in  
2 that rural health clinic.

3 “(B) ASSURANCES.—In order for a rural  
4 health clinic to receive funds under this section  
5 through a contract with a community health  
6 center under paragraph (1), such rural health  
7 clinic shall establish policies to ensure—

8 “(i) nondiscrimination based upon the  
9 ability of a patient to pay; and

10 “(ii) the establishment of a sliding fee  
11 scale for low-income patients.”.

12 **SEC. 14. APPLYING ADD-ON POLICY FOR HOME HEALTH**  
13 **SERVICES FURNISHED IN A RURAL AREA FOR**  
14 **2007.**

15 Section 421 of Medicare Prescription Drug, Improve-  
16 ment, and Modernization Act of 2003 (Public Law 108–  
17 173; 117 Stat. 2283), as amended by section 5201(b) of  
18 the Deficit Reduction Act of 2005 (Public Law 109–171),  
19 is amended—

20 (1) in the heading, by striking “**ONE-YEAR**”  
21 and inserting “**TEMPORARY**”; and

22 (2) in subsection (a), by striking “before Janu-  
23 ary 1, 2007” and inserting “before January 1,  
24 2008”.

1 **SEC. 15. USE OF MEDICAL CONDITIONS FOR CODING AMBU-**  
2 **LANCE SERVICES.**

3 Section 1834(l)(7) of the Social Security Act (42  
4 U.S.C. 1395m(l)(7)) is amended to read as follows:

5 “(7) CODING SYSTEM.—

6 “(A) IN GENERAL.—The Secretary shall,  
7 in accordance with section 1173(c)(1)(B) and  
8 not later than January 1, 2007, establish a  
9 mandatory system or systems for the coding of  
10 claims for ambulance services for which pay-  
11 ment is made under this subsection, including a  
12 code set specifying the medical condition of the  
13 individual who is transported and the level of  
14 service that is appropriate for the transpor-  
15 tation of an individual with that medical condi-  
16 tion.

17 “(B) MEDICAL CONDITIONS.—The code set  
18 established under subparagraph (A) shall take  
19 into account the list of medical conditions devel-  
20 oped in the course of the negotiated rulemaking  
21 process conducted under paragraph (1).”.

22 **SEC. 16. EXTENSION OF INCREASED MEDICARE PAYMENTS**  
23 **FOR GROUND AMBULANCE SERVICES IN**  
24 **RURAL AREAS.**

25 Section 1834(l)(13) of the Social Security Act (42  
26 U.S.C. 1395m(l)(13)) is amended—

1           (1) in subparagraph (A), in the matter pre-  
 2           ceding clause (i), by striking “before January 1,  
 3           2007” and inserting “before January 1, 2008”;

4           (2) in subparagraph (B), in the heading, by  
 5           striking “AFTER 2006” and inserting “AFTER 2007”.

6 **SEC. 17. IMPROVEMENT IN PAYMENTS TO RETAIN EMER-**  
 7                                   **GENCY AND OTHER CAPACITY FOR AMBU-**  
 8                                   **LANCES IN RURAL AREAS.**

9           (a) IN GENERAL.—Section 1834(l) of the Social Se-  
 10          curity Act (42 U.S.C. 1395m(l)) is amended by adding  
 11          at the end the following new paragraph:

12                               “(15) ADDITIONAL PAYMENTS FOR PROVIDERS  
 13          FURNISHING AMBULANCE SERVICES IN RURAL  
 14          AREAS.—

15                               “(A) IN GENERAL.—In the case of ground  
 16          ambulance services furnished on or after Janu-  
 17          ary 1, 2007, for which the transportation origi-  
 18          nates in a rural area (as determined under sub-  
 19          paragraph (B)), the Secretary shall provide for  
 20          a percent increase in the base rate of the fee  
 21          schedule for a trip identified under this sub-  
 22          section.

23                               “(B) IDENTIFICATION OF RURAL AREAS.—  
 24          The Secretary, in consultation with the Office  
 25          of Rural Health Policy, shall use the Rural-

1 Urban Commuting Areas (RUCA) coding sys-  
2 tem, adopted by that Office, to designate rural  
3 areas for the purposes of this paragraph. A  
4 rural area is any area in RUCA levels 2  
5 through 10 and any unclassified area.

6 “(C) TIERING OF RURAL AREAS.—The  
7 Secretary shall designate 4 tiers of rural areas,  
8 using a ZIP Code population-based method-  
9 ology generated by the RUCA coding system, as  
10 follows:

11 “(i) TIER 1.—A rural area that is a  
12 high metropolitan commuting area, in  
13 which 30 percent or more of the com-  
14 muting flow is to an urban area, as des-  
15 ignated by the Bureau of the Census  
16 (RUCA level 2).

17 “(ii) TIER 2.—A rural area that is a  
18 low metropolitan commuting area, in which  
19 less than 30 percent of the commuting flow  
20 is to an urban area or to a large town, as  
21 designated by the Bureau of the Census  
22 (RUCA levels 3–6).

23 “(iii) TIER 3.—A rural area that is a  
24 small town core, as designated by the Bu-  
25 reau of the Census, in which no significant

1           portion of the commuting flow is to an  
2           area of population greater than 10,000  
3           people (RUCA levels 7–9).

4           “(iv) TIER 4.—A rural area in which  
5           there is no dominant commuting flow  
6           (RUCA level 10) and any unclassified area.

7           The Secretary shall consult with the Office of  
8           Rural Health Policy not less often than every 2  
9           years to update the designation of rural areas  
10          in accordance with any changes that are made  
11          to the RUCA system.

12          “(D) PAYMENT ADJUSTMENTS FOR TRIPS  
13          IN RURAL AREAS.—The Secretary shall adjust  
14          the payment rate under this section for ambu-  
15          lance trips that originate in each of the tiers es-  
16          tablished in subparagraph (C) according to the  
17          national average cost of full-cost providers for  
18          providing ambulance services in each such  
19          tier.”.

20          (b) REVIEW OF PAYMENTS FOR RURAL AMBULANCE  
21          SERVICES AND REPORT TO CONGRESS.—

22               (1) REVIEW.—Not later than July 1, 2009, the  
23               Secretary of Health and Human Services shall re-  
24               view the system for adjusting payments for rural  
25               ambulance services under section 1834(l)(15) of the

1 Social Security Act, as added by subsection (a), to  
2 determine the adequacy and appropriateness of such  
3 adjustments. In conducting such review, the Sec-  
4 retary shall consult with providers and suppliers af-  
5 fected by such adjustments and with representatives  
6 of the ambulance industry generally to determine—

7 (A) whether such adjustments adequately  
8 cover the additional costs incurred in serving  
9 areas of low population density; and

10 (B) whether the tiered structure for mak-  
11 ing such adjustments appropriately reflects the  
12 difference in costs of providing services in dif-  
13 ferent types of rural areas.

14 (2) REPORT.—Not later than January 1, 2010,  
15 the Secretary shall submit to Congress a report on  
16 the review conducted under paragraph (1) together  
17 with any recommendations for revision to the sys-  
18 tems for adjusting payments for ambulance services  
19 in rural areas that the Secretary of Health and  
20 Human Services determines appropriate.

21 (c) CONFORMING AMENDMENTS.—(1) Section  
22 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)),  
23 as amended by subsection (a), is amended by adding at  
24 the end the following new paragraph:

1           “(16) DESIGNATION OF RURAL AREAS FOR  
 2 MILEAGE PAYMENT PURPOSES.—In establishing any  
 3 differential in the amount of payment for mileage  
 4 between rural and urban areas in the fee schedule  
 5 established under paragraph (1), the Secretary shall,  
 6 in the case of ambulance services furnished on or  
 7 after January 1, 2007, identify rural areas in the  
 8 same manner as provided in paragraph (15)(B).”.

9           (2) Section 1834(l)(12)(A) of the Social Security Act  
 10 (42 U.S.C. 1395m(l)(12)(A)) is amended by striking  
 11 “January 1, 2010” and inserting “January 1, 2007”.

12           (3) Section 1834(l)(13)(A)(i) of the Social Security  
 13 Act (42 U.S.C. 1395m(l)(13)(A)(i)) is amended—

14           (A) by inserting “(or in the case of such serv-  
 15 ices furnished in 2007, in a rural area identified by  
 16 the Secretary under paragraph (15)(B))” after  
 17 “such paragraph”; and

18           (B) by striking “paragraphs (11) and (12)”  
 19 and inserting “paragraphs (11), (12), and (15)”.

20 **SEC. 18. COVERAGE OF MARRIAGE AND FAMILY THERAPIST**  
 21 **SERVICES AND MENTAL HEALTH COUNSELOR**  
 22 **SERVICES UNDER PART B OF THE MEDICARE**  
 23 **PROGRAM.**

24           (a) COVERAGE OF SERVICES.—

1           (1) IN GENERAL.—Section 1861(s)(2) of the  
 2           Social Security Act (42 U.S.C. 1395x(s)(2)), as  
 3           amended by section 5112 of the Deficit Reduction  
 4           Act of 2005 (Public Law 109–171), is amended—

5                   (A) in subparagraph (Z), by striking  
 6           “and” at the end;

7                   (B) in subparagraph (AA), by inserting  
 8           “and” at the end; and

9                   (C) by adding at the end the following new  
 10          subparagraph:

11           “(BB) marriage and family therapist services  
 12          (as defined in subsection (ccc)(1)) and mental health  
 13          counselor services (as defined in subsection  
 14          (ccc)(3));”.

15           (2) DEFINITIONS.—Section 1861 of the Social  
 16          Security Act (42 U.S.C. 1395x), as amended by sec-  
 17          tion 5112 of the Deficit Reduction Act of 2005  
 18          (Public Law 109–171), is amended by adding at the  
 19          end the following new subsection:

20          “Marriage and Family Therapist Services; Marriage and  
 21          Family Therapist; Mental Health Counselor Serv-  
 22          ices; Mental Health Counselor

23          “(ccc)(1) The term ‘marriage and family therapist  
 24          services’ means services performed by a marriage and  
 25          family therapist (as defined in paragraph (2)) for the diag-

1 nosis and treatment of mental illnesses, which the mar-  
2 riage and family therapist is legally authorized to perform  
3 under State law (or the State regulatory mechanism pro-  
4 vided by State law) of the State in which such services  
5 are performed, as would otherwise be covered if furnished  
6 by a physician or as an incident to a physician’s profes-  
7 sional service, but only if no facility or other provider  
8 charges or is paid any amounts with respect to the fur-  
9 nishing of such services.

10 “(2) The term ‘marriage and family therapist’ means  
11 an individual who—

12 “(A) possesses a master’s or doctoral degree  
13 which qualifies for licensure or certification as a  
14 marriage and family therapist pursuant to State  
15 law;

16 “(B) after obtaining such degree has performed  
17 at least 2 years of clinical supervised experience in  
18 marriage and family therapy; and

19 “(C) in the case of an individual performing  
20 services in a State that provides for licensure or cer-  
21 tification of marriage and family therapists, is li-  
22 censed or certified as a marriage and family thera-  
23 pist in such State.

24 “(3) The term ‘mental health counselor services’  
25 means services performed by a mental health counselor (as

1 defined in paragraph (4)) for the diagnosis and treatment  
2 of mental illnesses which the mental health counselor is  
3 legally authorized to perform under State law (or the  
4 State regulatory mechanism provided by the State law) of  
5 the State in which such services are performed, as would  
6 otherwise be covered if furnished by a physician or as inci-  
7 dent to a physician's professional service, but only if no  
8 facility or other provider charges or is paid any amounts  
9 with respect to the furnishing of such services.

10       “(4) The term ‘mental health counselor’ means an  
11 individual who—

12               “(A) possesses a master's or doctor's degree in  
13 mental health counseling or a related field;

14               “(B) after obtaining such a degree has per-  
15 formed at least 2 years of supervised mental health  
16 counselor practice; and

17               “(C) in the case of an individual performing  
18 services in a State that provides for licensure or cer-  
19 tification of mental health counselors or professional  
20 counselors, is licensed or certified as a mental health  
21 counselor or professional counselor in such State.”.

22               (3) PROVISION FOR PAYMENT UNDER PART  
23 B.—Section 1832(a)(2)(B) of the Social Security  
24 Act (42 U.S.C. 1395k(a)(2)(B)) is amended by add-  
25 ing at the end the following new clause:

1                   “(v) marriage and family therapist  
2                   services and mental health counselor serv-  
3                   ices;”.

4                   (4) AMOUNT OF PAYMENT.—Section 1833(a)(1)  
5                   of the Social Security Act (42 U.S.C. 1395l(a)(1))  
6                   is amended—

7                   (A) by striking “and (V)” and inserting  
8                   “(V)”; and

9                   (B) by inserting before the semicolon at  
10                  the end the following: “, and (W) with respect  
11                  to marriage and family therapist services and  
12                  mental health counselor services under section  
13                  1861(s)(2)(BB), the amounts paid shall be 80  
14                  percent of the lesser of the actual charge for  
15                  the services or 75 percent of the amount deter-  
16                  mined for payment of a psychologist under sub-  
17                  paragraph (L)”.

18                  (5) EXCLUSION OF MARRIAGE AND FAMILY  
19                  THERAPIST SERVICES AND MENTAL HEALTH COUN-  
20                  SELOR SERVICES FROM SKILLED NURSING FACILITY  
21                  PROSPECTIVE PAYMENT SYSTEM.—Section  
22                  1888(e)(2)(A)(ii) of the Social Security Act (42  
23                  U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting  
24                  “marriage and family therapist services (as defined  
25                  in section 1861(ccc)(1)), mental health counselor

1 services (as defined in section 1861(ccc)(3)),” after  
2 “qualified psychologist services,”.

3 (6) INCLUSION OF MARRIAGE AND FAMILY  
4 THERAPISTS AND MENTAL HEALTH COUNSELORS AS  
5 PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Sec-  
6 tion 1842(b)(18)(C) of the Social Security Act (42  
7 U.S.C. 1395u(b)(18)(C)) is amended by adding at  
8 the end the following new clauses:

9 “(vii) A marriage and family therapist (as de-  
10 fined in section 1861(ccc)(2)).

11 “(viii) A mental health counselor (as defined in  
12 section 1861(ccc)(4)).”.

13 (b) COVERAGE OF CERTAIN MENTAL HEALTH SERV-  
14 ICES PROVIDED IN CERTAIN SETTINGS.—

15 (1) RURAL HEALTH CLINICS AND FEDERALLY  
16 QUALIFIED HEALTH CENTERS.—Section  
17 1861(aa)(1)(B) of the Social Security Act (42  
18 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or  
19 by a clinical social worker (as defined in subsection  
20 (hh)(1)),” and inserting “, by a clinical social worker  
21 (as defined in subsection (hh)(1)), by a marriage  
22 and family therapist (as defined in subsection  
23 (ccc)(2)), or by a mental health counselor (as de-  
24 fined in subsection (ccc)(4)),”.



1 home health agencies to utilize home monitoring and  
2 communications technologies that—

3 (A) enhance health outcomes for Medicare  
4 beneficiaries; and

5 (B) reduce expenditures under such title.

6 (2) SITE REQUIREMENTS.—

7 (A) URBAN AND RURAL.—The Secretary  
8 shall conduct the pilot projects under this sec-  
9 tion in both urban and rural areas.

10 (B) SITE IN A SMALL STATE.—The Sec-  
11 retary shall conduct at least 3 of the pilot  
12 projects in a State with a population of less  
13 than 1,000,000.

14 (3) DEFINITION OF HOME HEALTH AGENCY.—

15 In this section, the term “home health agency” has  
16 the meaning given that term in section 1861(o) of  
17 the Social Security Act (42 U.S.C. 1395x(o)).

18 (b) MEDICARE BENEFICIARIES WITHIN THE SCOPE  
19 OF PROJECTS.—The Secretary shall specify the criteria  
20 for identifying those Medicare beneficiaries who shall be  
21 considered within the scope of the pilot projects under this  
22 section for purposes of the application of subsection (c)  
23 and for the assessment of the effectiveness of the home  
24 health agency in achieving the objectives of this section.  
25 Such criteria may provide for the inclusion in the projects

1 of Medicare beneficiaries who begin receiving home health  
2 services under title XVIII of the Social Security Act after  
3 the date of the implementation of the projects.

4 (c) INCENTIVES.—

5 (1) PERFORMANCE TARGETS.—The Secretary  
6 shall establish for each home health agency partici-  
7 pating in a pilot project under this section a per-  
8 formance target using one of the following meth-  
9 odologies, as determined appropriate by the Sec-  
10 retary:

11 (A) ADJUSTED HISTORICAL PERFORMANCE  
12 TARGET.—The Secretary shall establish for the  
13 agency—

14 (i) a base expenditure amount equal  
15 to the average total payments made to the  
16 agency under parts A and B of title XVIII  
17 of the Social Security Act for Medicare  
18 beneficiaries determined to be within the  
19 scope of the pilot project in a base period  
20 determined by the Secretary; and

21 (ii) an annual per capita expenditure  
22 target for such beneficiaries, reflecting the  
23 base expenditure amount adjusted for risk  
24 and adjusted growth rates.

1                   (B) COMPARATIVE PERFORMANCE TAR-  
2                   GET.—The Secretary shall establish for the  
3                   agency a comparative performance target equal  
4                   to the average total payments under such parts  
5                   A and B during the pilot project for comparable  
6                   individuals in the same geographic area that  
7                   are not determined to be within the scope of the  
8                   pilot project.

9                   (2) INCENTIVE.—Subject to paragraph (3), the  
10                  Secretary shall pay to each participating home care  
11                  agency an incentive payment for each year under the  
12                  pilot project equal to a portion of the Medicare sav-  
13                  ings realized for such year relative to the perform-  
14                  ance target under paragraph (1).

15                  (3) LIMITATION ON EXPENDITURES.—The Sec-  
16                  retary shall limit incentive payments under this sec-  
17                  tion in order to ensure that the aggregate expendi-  
18                  tures under title XVIII of the Social Security Act  
19                  (including incentive payments under this subsection)  
20                  do not exceed the amount that the Secretary esti-  
21                  mates would have been expended if the pilot projects  
22                  under this section had not been implemented.

23                  (d) WAIVER AUTHORITY.—The Secretary may waive  
24                  such provisions of titles XI and XVIII of the Social Secu-

1 rity Act as the Secretary determines to be appropriate for  
2 the conduct of the pilot projects under this section.

3 (e) REPORT TO CONGRESS.—Not later than 5 years  
4 after the date that the first pilot project under this section  
5 is implemented, the Secretary shall submit to Congress a  
6 report on the pilot projects. Such report shall contain a  
7 detailed description of issues related to the expansion of  
8 the projects under subsection (f) and recommendations for  
9 such legislation and administrative actions as the Sec-  
10 retary considers appropriate.

11 (f) EXPANSION.—If the Secretary determines that  
12 any of the pilot projects under this section enhance health  
13 outcomes for Medicare beneficiaries and reduce expendi-  
14 tures under title XVIII of the Social Security Act, the Sec-  
15 retary may initiate comparable projects in additional  
16 areas.

17 (g) INCENTIVE PAYMENTS HAVE NO EFFECT ON  
18 OTHER MEDICARE PAYMENTS TO AGENCIES.—An incen-  
19 tive payment under this section—

20 (1) shall be in addition to the payments that a  
21 home health agency would otherwise receive under  
22 title XVIII of the Social Security Act for the provi-  
23 sion of home health services; and

24 (2) shall have no effect on the amount of such  
25 payments.

1 **SEC. 20. FACILITATING THE PROVISION OF TELEHEALTH**  
2 **SERVICES ACROSS STATE LINES.**

3 (a) **IN GENERAL.**—For purposes of expediting the  
4 provision of telehealth services, for which payment is made  
5 under the Medicare program, across State lines, the Sec-  
6 retary of Health and Human Services shall, in consulta-  
7 tion with representatives of States, physicians, health care  
8 practitioners, and patient advocates, encourage and facili-  
9 tate the adoption of provisions allowing for multistate  
10 practitioner practice across State lines.

11 (b) **DEFINITIONS.**—In subsection (a):

12 (1) **TELEHEALTH SERVICE.**—The term “tele-  
13 health service” has the meaning given that term in  
14 subparagraph (F) of section 1834(m)(4) of the So-  
15 cial Security Act (42 U.S.C. 1395m(m)(4)).

16 (2) **PHYSICIAN, PRACTITIONER.**—The terms  
17 “physician” and “practitioner” have the meaning  
18 given those terms in subparagraphs (D) and (E), re-  
19 spectively, of such section.

20 (3) **MEDICARE PROGRAM.**—The term “Medicare  
21 program” means the program of health insurance  
22 administered by the Secretary of Health and Human  
23 Services under title XVIII of the Social Security Act  
24 (42 U.S.C. 1395 et seq.).

○