

109TH CONGRESS
2^D SESSION

S. 3606

To amend title XVIII of the Social Security Act to provide fair payments for care provided in a hospital emergency department.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2006

Mr. BINGAMAN 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 fair payments for care provided in a hospital emergency department.

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 “Save Our Safety Net Act of 2005”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Ensuring adequate physician payment for emergency department visits.

Sec. 3. Ensuring adequate hospital outpatient fee schedule amounts for clinic and emergency department visits.

Sec. 4. Permanent extension of adjustment to limit decline in payments for certain hospitals under hospital outpatient PPS.

Sec. 5. Fairness in the Medicare disproportionate share hospital (DSH) adjustment for rural hospitals.

1 **SEC. 2. ENSURING ADEQUATE PHYSICIAN PAYMENT FOR**
 2 **EMERGENCY DEPARTMENT VISITS.**

3 Section 1833 of the Social Security Act (42 U.S.C.
 4 1395l) is amended by adding at the end the following new
 5 subsection:

6 “(v) SAVE OUR SAFETY NET PAYMENTS FOR PHYSI-
 7 CIANS’ SERVICES PROVIDED IN AN EMERGENCY DEPART-
 8 MENT.—In the case of physicians’ services furnished to
 9 an individual covered under the insurance program estab-
 10 lished by this part in an emergency department on or after
 11 January 1, 2006, in addition to the amount of payment
 12 that would otherwise be made for such services under this
 13 part, there also shall be paid to the physician or other
 14 person (or to an employer or entity in the cases described
 15 in clause (A) of section 1842(b)(6)) from the Federal Sup-
 16 plementary Insurance Trust Fund an amount equal to 10
 17 percent of the payment amount for the service under this
 18 part.”.

19 **SEC. 3. ENSURING ADEQUATE HOSPITAL OUTPATIENT FEE**
 20 **SCHEDULE AMOUNTS FOR CLINIC AND EMER-**
 21 **GENCY DEPARTMENT VISITS.**

22 (a) IN GENERAL.—Section 1833(t) of the Social Se-
 23 curity Act (42 U.S.C. 1395l(t)) is amended—

1 (1) in paragraph (3)(C)(ii), by striking “para-
2 graph (8)(B)” and inserting “paragraphs (8)(B),
3 (11)(B), and (13)(A)(i)”;

4 (2) in paragraph (3)(C)(iii), by inserting “(but
5 not the conversion factor computed under paragraph
6 (13)(B))” after “this subparagraph”;

7 (3) in paragraph (3)(D)—

8 (A) in clause (i), by striking “conversion
9 factor computed under subparagraph (C) for
10 the year” and inserting “applicable conversion
11 factor computed under subparagraph (C), para-
12 graph (11)(B), or paragraph (13)(B) for the
13 year”; and

14 (B) in clause (ii), by inserting “, para-
15 graph (9)(A), or paragraph (13)(C)” after
16 “paragraph (2)(C)”;

17 (4) in paragraph (9), by amending subpara-
18 graph (B) to read as follows:

19 “(B) BUDGET NEUTRALITY ADJUST-
20 MENT.—

21 “(i) IN GENERAL.—If the Secretary
22 makes revisions under subparagraph (A),
23 then the revisions for a year may not cause
24 the estimated amount of expenditures
25 under this part for the year to increase or

1 decrease from the estimated amount of ex-
2 penditures under this part (including ex-
3 penditures attributable to the special rules
4 specified in paragraph (13)) that would
5 have been made if the revisions had not
6 been made.

7 “(ii) EXEMPTION FROM REDUC-
8 TION.—The relative payment weights de-
9 termined under paragraph (13)(C) and the
10 conversion factor computed under para-
11 graph (13)(B) shall not be reduced by any
12 budget neutrality adjustment made pursu-
13 ant to this subparagraph.”; and

14 (5) by redesignating paragraphs (13) through
15 (16) as paragraphs (14) through (17), respectively,
16 and by inserting after paragraph (12) the following
17 new paragraph:

18 “(13) SPECIAL RULES FOR CALCULATING MEDI-
19 CARE OPD FEE SCHEDULE AMOUNT FOR CLINIC AND
20 EMERGENCY VISITS.—

21 “(A) IN GENERAL.—In computing the
22 medicare OPD fee schedule amount under para-
23 graph (3)(D) for covered OPD services that are
24 furnished on or after January 1, 2006, and
25 classified within a group established or revised

1 under paragraph (2)(B) or (9)(A), respectively,
2 for clinic and emergency visits (as described in
3 subparagraph (D)), the Secretary shall—

4 “(i) substitute for the conversion fac-
5 tor calculated under paragraph (3)(C) the
6 conversion factor calculated under sub-
7 paragraph (B); and

8 “(ii) substitute for the relative pay-
9 ment weight established or revised under
10 paragraph (2)(C) or (9)(A), respectively,
11 the relative payment weight determined
12 under subparagraph (C) for such group.

13 “(B) CALCULATION OF CONVERSION FAC-
14 TOR.—For purposes of subparagraph (A)(i), the
15 conversion factor calculated under this subpara-
16 graph is—

17 “(i) for services furnished during
18 2006, an amount equal to the product of—

19 “(I) the conversion factor speci-
20 fied for such year in the final rule
21 published on November 10, 2005, in-
22 creased by the percentage by which
23 such conversion factor is reduced for
24 such year pursuant to paragraph
25 (2)(E), and not taking into account

1 any subsequent amendments to such
2 final rule; and

3 “(II) 1.10; and

4 “(ii) for services furnished in a year
5 beginning on or after January 1, 2007, the
6 conversion factor computed under this sub-
7 paragraph for the previous year increased
8 by the OPD fee schedule increase factor
9 specified under paragraph (3)(C)(iv) for
10 the year involved.

11 “(C) DETERMINATION OF RELATIVE PAY-
12 MENT WEIGHTS.—For purposes of subpara-
13 graph (A)(ii), the relative payment weight de-
14 termined under this subparagraph for a covered
15 OPD service that is classified within such a
16 group is—

17 “(i) for services furnished during
18 2006, the relative payment weight specified
19 for such group for such period in the final
20 rule published November 10, 2005, and
21 not taking into account any subsequent
22 amendments to such final rule; and

23 “(ii) for services furnished in a year
24 beginning on or after January 1, 2007—

1 “(I) for ambulatory patient clas-
2 sification group 0601 (relating to mid-
3 level clinic visits), or a successor to
4 such group, the relative payment
5 weight specified for such group in the
6 final rule referred to in clause (i); and

7 “(II) for other ambulatory pa-
8 tient classification groups described in
9 subparagraph (D), the relative pay-
10 ment weight established or revised
11 under paragraph (2)(C) or (9)(A), re-
12 spectively, for such group for such
13 year (but without regard to any budg-
14 et neutrality adjustment under para-
15 graph (9)(B)).

16 “(D) GROUPS FOR CLINIC AND EMER-
17 GENCY VISITS.—For purposes of this para-
18 graph, the groups established or revised under
19 paragraph (2)(B) or (9)(A), respectively, for
20 clinic and emergency visits are ambulatory pa-
21 tient classification groups 0600, 0601, 0602,
22 0610, 0611, 0612, and 0620 as defined for pur-
23 poses of the final rule referred to in subpara-
24 graph (C)(i) (and any successors to such
25 groups).”.

1 (b) LIMITATION ON SECRETARIAL AUTHORITY.—
2 Notwithstanding section 1833(t) of the Social Security
3 Act (42 U.S.C. 1395l(t)), as amended by subsection (a),
4 the Secretary of Health and Human Services may not
5 make any adjustment under—

6 (1) paragraph (2)(F), (3)(C)(iii), (9)(B), or
7 (9)(C) of section 1833(t) of the Social Security Act
8 (42 U.S.C. 1395l(t)); or

9 (2) any other provision of such section;
10 to ensure that the amendments made by subsection (a)
11 do not cause the estimated amount of expenditures under
12 part B of title XVIII of such Act (42 U.S.C. 1395j et
13 seq.) to exceed the estimated amount of expenditures that
14 would have been made under such part but for such
15 amendments.

16 **SEC. 4. PERMANENT EXTENSION OF ADJUSTMENT TO**
17 **LIMIT DECLINE IN PAYMENTS FOR CERTAIN**
18 **HOSPITALS UNDER HOSPITAL OUTPATIENT**
19 **PPS.**

20 (a) IN GENERAL.—Section 1833(t)(7)(D)(i) of the
21 Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)), as
22 amended by section 5105 of the Deficit Reduction Act of
23 2005 (Public Law 109–171), is amended—

24 (1) in the clause heading—

1 (A) by striking “TEMPORARY” and insert-
2 ing “PERMANENT”; and

3 (B) by striking “RURAL”

4 (2) by striking subclause (II);

5 (3) by striking “(I) In the case” and inserting
6 “In the case”;

7 (4) by striking “located in a rural area, for”
8 and inserting “, for”; and

9 (5) by striking “furnished before January 1,
10 2006”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 subsection (a) shall apply to covered OPD services fur-
13 nished on or after January 1, 2006.

14 **SEC. 5. FAIRNESS IN THE MEDICARE DISPROPORTIONATE**
15 **SHARE HOSPITAL (DSH) ADJUSTMENT FOR**
16 **RURAL HOSPITALS.**

17 Section 1886(d)(5)(F)(xiv)(II) of the Social Security
18 Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended—

19 (1) by striking “or, in the case” and all that
20 follows through “subparagraph (G)(iv)”; and

21 (2) by inserting at the end the following new
22 sentence: “The preceding sentence shall not apply to
23 any hospital with respect to discharges occurring on
24 or after October 1, 2006.”.

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