

MEDICARE MODERNIZATION AND PRESCRIPTION DRUG
ACT OF 2002 (SECTION 903: MEDICAID DISPROPOR-
TIONATE SHARE HOSPITAL (DSH) PAYMENTS)

JUNE 26, 2002.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. TAUZIN, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 4991]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4991) to amend title XIX of the Social Security Act to revise disproportionate share hospital payments under the medicaid program, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 4991 increases Medicaid disproportionate share (DSH) allotments for States for fiscal year 2003 and beyond.

BACKGROUND AND NEED FOR LEGISLATION

Congress established the Medicaid DSH program in 1981 to ensure that Medicaid programs provide adequate payments to hospitals whose patient populations are disproportionately composed of low income Medicaid and uninsured patients. Recent analysis demonstrates that despite DSH funding, Medicaid payments may still fall short of costs incurred by health facilities in caring for the uninsured and low-income patients.

Due to explosive growth in the Medicaid DSH program, Congress reduced the federal share of Medicaid DSH spending in the Balanced Budget Act of 1997 (BBA 97). States were provided some relief from those cuts in 2000. The Benefits Improvement and Protection Act (BIPA) provided temporary relief from the BBA's scheduled reductions for the Medicaid DSH program for the years 2001 and 2002. However, beginning in fiscal year 2003, many states would revert back to payment levels consistent with the 1997 cuts, which would impose a significant reduction in federal Medicaid DSH allotments. These reductions in DSH funding could place many safety-net hospitals in severe fiscal jeopardy and negatively impact the ability to provide care to indigent and under-served populations.

HEARINGS

The Committee on Energy and Commerce has not held hearings on the legislation.

COMMITTEE CONSIDERATION

On Friday, June 21, 2002, the Full Committee met in open markup session and favorably ordered reported a Committee Print on Disproportionate Share Hospital (DSH) Payments by voice vote, without amendment, a quorum being present. Chairman Tauzin then introduced H.R. 4991 to reflect the Committee's action.

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following is the record vote taken on an amendment offered on the measure, including the names of those members voting for and against. A motion by Mr. Tauzin to order H.R. 4991 reported to the House, without amendment, was agreed to by a voice vote.

**COMMITTEE ON ENERGY AND COMMERCE -- 107TH CONGRESS
ROLL CALL VOTE # 61**

BILL: H.R. 4991, Payments to Medicaid Disproportionate Share Hospitals.

AMENDMENT: An amendment offered by Ms. DeGette, No. 1, on Medicaid DSH provisions.

DISPOSITION: NOT AGREED TO, by a roll call vote of 21 yeas to 25 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Tauzin		X		Mr. Dingell	X		
Mr. Bilirakis		X		Mr. Waxman	X		
Mr. Barton		X		Mr. Markey	X		
Mr. Upton		X		Mr. Hall			
Mr. Stearns		X		Mr. Boucher			
Mr. Gillmor				Mr. Towns	X		
Mr. Greenwood		X		Mr. Pallone	X		
Mr. Cox		X		Mr. Brown	X		
Mr. Deal		X		Mr. Gordon			
Mr. Burr		X		Mr. Deutsch	X		
Mr. Whitfield		X		Mr. Rush	X		
Mr. Ganske		X		Ms. Eshoo			
Mr. Norwood		X		Mr. Stupak	X		
Mrs. Cubin		X		Mr. Engel	X		
Mr. Shimkus		X		Mr. Sawyer	X		
Mrs. Wilson	X			Mr. Wynn			
Mr. Shadegg		X		Mr. Green			
Mr. Pickering		X		Ms. McCarthy	X		
Mr. Fossella		X		Mr. Strickland	X		
Mr. Blunt				Ms. DeGette	X		
Mr. Davis				Mr. Barrett	X		
Mr. Bryant				Mr. Luther	X		
Mr. Ehrlich		X		Ms. Capps	X		
Mr. Buyer		X		Mr. Doyle	X		
Mr. Radanovich		X		Mr. John			
Mr. Bass		X		Ms. Harman	X		
Mr. Pitts		X					
Ms. Bono	X						
Mr. Walden		X					
Mr. Terry		X					
Mr. Fletcher		X					

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has not held oversight or legislative hearings on this legislation.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

H.R. 4991 would ensure that states and hospitals receive increased Medicaid DSH allotments in fiscal year 2003 and beyond. The legislation would help to lessen the burden that many state Medicaid budgets are facing with respect to growing Medicaid costs and impending BBA 97 reductions in DSH allotments.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4991, to amend title XIX of the Social Security Act to revise disproportionate share hospital payments under the Medicaid Program, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974, which is included in the report to accompany H.R. 4984.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 is included in the report to accompany H.R. 4984.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. The estimate is included in the report to accompany H.R. 4984.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 903. Disproportionate Share Hospital (DSH) Payments

Section 903 would increase DSH allotments for FY 2003 by setting those amounts at the specified levels in 1923(f)(2) for FY 2001, increased by the percentage change in the CPI-U for FY 2001. Allotments for FY 2004 and thereafter would be equal to the allotment for the previous year as calculated by the committee's provision, increased by 1.7 percent unless the Secretary determines that the allotment under this provision will equal (or no longer exceed) the allotment for that state that would have been in effect under prior law. For those states, beginning in the first fiscal year that their allotment would equal or no longer exceed the prior law levels, their allotment would be equal to the allotment for the previous year increased by the percentage change in the CPI-U for the previous year.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * *

TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

* * * * *

ADJUSTMENT IN PAYMENT FOR INPATIENT HOSPITAL SERVICES
FURNISHED BY DISPROPORTIONATE SHARE HOSPITALS

SEC. 1923. (a) * * *

* * * * *

(f) LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—

(1) * * *

* * * * *

(3) STATE DSH ALLOTMENTS FOR FISCAL YEAR 2003 AND THEREAFTER.—

[(A) IN GENERAL.—The DSH allotment for any State for fiscal year 2003 and each succeeding fiscal year is equal to the DSH allotment for the State for the preceding fiscal year under paragraph (2) or this paragraph, increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the consumer price index for all urban

consumers (all items; U.S. city average), for the previous fiscal year.】

(A) *IN GENERAL.—The DSH allotment for any State—*

(i) for fiscal year 2003 is equal to the DSH allotment for the State for fiscal year 2001 under the table in paragraph (2), without regard to paragraph (4), increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for fiscal year 2001; and

(ii) for each succeeding fiscal year is equal to the DSH allotment for the State for the previous fiscal year under this subparagraph increased, subject to subparagraph (B) and paragraph (5), by 1.7 percent or, in the case of fiscal years beginning with the fiscal year specified in subparagraph (C) for that State, the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for the previous fiscal year.

* * * * *

(C) *FISCAL YEAR SPECIFIED.—For purposes of subparagraph (A)(ii), the fiscal year specified in this subparagraph for a State is the first fiscal year for which the Secretary estimates that the DSH allotment for that State will equal (or no longer exceed) the DSH allotment for that State under the law as in effect before the date of the enactment of this subparagraph.*

* * * * *

ADDITIONAL VIEWS

In the Balanced Budget Act of 1997, Congress established limits on payments to the states for Disproportionate Share Hospitals (DSH). In the case of many states, there was a precipitous decline in dollars available over the five-year period. Institutions that are critical to providing services to low-income Medicaid beneficiaries and uninsured persons have already absorbed reductions in funding. Public hospitals, children's hospitals, and private hospitals serving large numbers of Medicaid and uninsured people cannot weather additional reductions that are slated to take effect.

This Committee recognized in legislation that passed two years ago that this decline in available dollars had to be stopped. We passed legislation that stopped the decline at the level established for FY 2000, and applied inflationary factors for the next two fiscal years and beyond. Unfortunately, when the final legislation was enacted, we ended up with only a two-year fix, and an intention to resolve the problem before the original precipitous decline otherwise scheduled for FY 2003 could occur.

We are at the point now where we must act. The situation is even more dire than we might have anticipated. States are struggling with budget shortfalls. The effect of unemployment, loss of revenue because of Federal tax changes, and increasing health care costs have all put tremendous pressure on state budgets.

This legislation is a first step, but the relief it provides is not enough.

We believe that the Committee should continue to build on the level of funds we established in the legislation of 2000. To do anything less would have a devastating effect on these critical DSH institutions and on all the people who depend on them.

We also believe we should address the issue of "low-DSH" states to enable them to provide adequate funding to their facilities that serve as a critical safety net for poor and uninsured individuals.

Finally, while we are pleased that the Committee has decided to take a first step toward addressing the reductions in DSH payments, we are concerned that the Committee has neglected other important matters with respect to Medicaid. In particular, there is bipartisan support in the House for giving states the option to cover legal immigrant children and pregnant women under Medicaid and the Children's Health Insurance Program as well as permanently extending the transitional medical assistance program (TMA) which provides health insurance coverage as families transition to the workforce from welfare. Assistance for low-income Medicare beneficiaries with incomes between 120% and 135% of poverty is set to expire this year and should be reinstated as well. Nearly a million children risk losing health insurance coverage unless issues within the Children's Health Insurance Program are addressed this year. This program was passed out of this Committee

with bipartisan support in 1997 and has a funding shortfall of \$3 billion over three years, as well as a formula for redistributing state allotments which expires at the end of 2002. The Committee should act to preserve the gains in coverage made under this program.

Due to the offering of Committee Prints on separate subjects amendments offered by Members were ruled out of order as being nongermane. This is something, however, that we believe the Committee and Congress as a whole should take up this year.

JOHN D. DINGELL.
SHERROD BROWN.
HENRY A. WAXMAN.
RICK BOUCHER.
EDOLPHUS TOWNS.
GENE GREEN.
FRANK PALLONE, Jr.
MICHAEL F. DOYLE.
KAREN MCCARTHY.
THOMAS M. BARRETT.
CHRISTOPHER JOHN.
BOBBY L. RUSH.
TED STRICKLAND.
ANNA G. ESHOO.
LOIS CAPPS.
PETER DEUTSCH.
ELIOT L. ENGEL.
BART STUPAK.
RALPH M. HALL.
JANE HARMAN.
TOM SAWYER.
DIANA DEGETTE.
BART GORDON.