

103^D CONGRESS
2^D SESSION

H. R. 4378

To amend the Social Security Act to require the Secretary of Health and Human Services to equalize the labor and non-labor portions of the standardized amounts used to determine the amount of payment made to rural and urban hospitals under part A of the medicare program for the operating costs of inpatient hospital services, to amend the Public Health Service Act to improve the capacity of rural hospitals to provide health services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 1994

Mr. CLINGER (for himself, Mr. McHUGH, Mr. PARKER and Mr. OBERSTAR) introduced the following bill; which was referred jointly to the Committees on Ways and Means, Energy and Commerce, the Judiciary, and Government Operations

A BILL

To amend the Social Security Act to require the Secretary of Health and Human Services to equalize the labor and non-labor portions of the standardized amounts used to determine the amount of payment made to rural and urban hospitals under part A of the medicare program for the operating costs of inpatient hospital services, to amend the Public Health Service Act to improve the capacity of rural hospitals to provide health services, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Rural Hospital Survival Act of 1994”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

**TITLE I—PROGRAMS OF HEALTH CARE FINANCING
ADMINISTRATION**

Subtitle A—Medicare Program

Sec. 101. Equalization of labor and non-labor portions of standardized amounts
for hospitals in rural and other urban areas.

Sec. 102. Sense of Congress regarding disproportionate impact of reductions in
medicare reimbursements on rural providers.

Subtitle B—Other Programs

Sec. 111. Extension of authorization of appropriations for rural health transi-
tion grants.

TITLE II—PROGRAMS OF PUBLIC HEALTH SERVICE

Sec. 201. Demonstration grants for telecommunications to improve health care
in rural areas.

Sec. 202. Rural health outreach grant program.

TITLE III—ANTITRUST PROVISIONS

Sec. 301. Antitrust exemption applicable to hospitals.

**TITLE IV—COMMISSION ON REDUCING THE BURDEN OF
REGULATIONS AND PAPERWORK ON SMALL RURAL
HOSPITALS.**

Sec. 401. Establishment.

Sec. 402. Duties of commission.

Sec. 403. Membership.

Sec. 404. Director and staff of commission; experts and consultants.

Sec. 405. Powers of commission.

Sec. 406. Termination.

Sec. 407. Authorization of appropriations.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1 (1) For the 27 percent of Americans living in
2 rural areas, certain geographic, demographic, and
3 epidemiologic characteristics can reduce the avail-
4 ability and quality of medical care.

5 (2) Rough terrain, bad weather conditions, de-
6 teriorating transportation infrastructure, long dis-
7 tances between medical facilities, and the lack of
8 public transportation systems all serve as geographic
9 barriers to adequate health care.

10 (3) Rural populations tend to be older and have
11 lower average per capita incomes, resulting in higher
12 concentrations of medicare, medicaid, and uninsured
13 patients.

14 (4) In rural regions, hospitals are the primary
15 sources of medical care and serve as hubs of the
16 local health care delivery systems.

17 (5) Rural hospitals generally have fewer beds,
18 fewer admissions, lower occupancy rates, and higher
19 per patient, per day expenses than urban hospitals.

20 (6) The medicare program continues to reim-
21 burse rural hospitals at lower rates than urban hos-
22 pitals.

23 (7) Because of the high proportion of medicare,
24 medicaid, and uninsured individuals in rural areas,
25 rural hospitals rely heavily on Federal funds in the

1 form of medicare and medicaid reimbursements for
2 their survival.

3 (8) When the Congress cuts or freezes medicare
4 reimbursement, it reduces the primary source of rev-
5 enues for rural hospitals.

6 (9) The volume of uncompensated care that
7 rural hospitals provide continues to rise and places
8 serious financial burdens on the hospitals.

9 (10) Almost one third of all rural hospitals have
10 negative operating expenses.

11 (11) Almost 400 rural hospitals have been
12 closed since 1980.

13 (12) Besides providing medical care, rural hos-
14 pitals are integral parts of local economies because
15 they are usually one of the largest employers in the
16 area and play an important role in attracting new
17 businesses and residents to the area.

18 (13) Any health care reform package adopted
19 by the Congress must include provisions that im-
20 prove the financial condition and ensure the survival
21 of our small, rural hospitals.

1 **TITLE I—PROGRAMS OF HEALTH**
2 **CARE FINANCING ADMINIS-**
3 **TRATION**

4 **Subtitle A—Medicare Program**

5 **SEC. 101. EQUALIZATION OF LABOR AND NON-LABOR POR-**
6 **TIONS OF STANDARDIZED AMOUNTS FOR**
7 **HOSPITALS IN RURAL AND OTHER URBAN**
8 **AREAS.**

9 (a) IN GENERAL.—Section 1886(d)(3)(A)(iii) of the
10 Social Security Act (42 U.S.C. 1395ww(d)(3)(A)(iii)) is
11 amended by striking “average standardized amount” the
12 first place it appears and all that follows and inserting
13 the following: “portion of the average standardized
14 amount attributable to wages and wage-related costs and
15 the portion of such amount not attributable to wages and
16 wage-related costs for hospitals located in a rural area
17 shall be equal to such portions of such amount for hos-
18 pitals located in an other urban area.”.

19 (b) LIMITATION ON SCOPE OF COSTS CONSIDERED
20 ATTRIBUTABLE TO WAGES AND WAGE-RELATED
21 COSTS.—The first sentence of section 1886(d)(3)(E) of
22 such Act (42 U.S.C. 1395ww(d)(3)(E)) by striking
23 “costs,” and inserting “costs (taking into account only
24 costs attributable to wages and salaries, employee benefits,
25 and professional fees),”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to discharges occurring on or after
3 October 1, 1994.

4 **SEC. 102. SENSE OF CONGRESS REGARDING DISPROPOR-**
5 **TIONATE IMPACT OF REDUCTIONS IN MEDI-**
6 **CARE REIMBURSEMENTS ON RURAL PROVID-**
7 **ERS.**

8 (a) FINDING.—Congress finds the following:

9 (1) The proportion of the revenues of rural hos-
10 pitals, physicians, and other providers of health care
11 services providers that is attributable to payments
12 under the medicare program is significantly higher
13 than the proportion of the revenues of urban hos-
14 pitals, physicians, and other providers that is attrib-
15 utable to such payments, because a higher propor-
16 tion of the residents of rural areas are age 65 or
17 older.

18 (2) As a result, any reductions in the payments
19 made to hospitals, physicians, and other providers
20 under the medicare program disproportionately af-
21 fects providers in rural areas.

22 (b) SENSE OF CONGRESS.—It is the sense of Con-
23 gress that any reductions in payments made to providers
24 under the medicare program should be adjusted so as to

1 reduce the disproportionate impact such reductions have
2 on providers in rural areas.

3 **Subtitle B—Other Programs**

4 **SEC. 111. EXTENSION OF AUTHORIZATION OF APPROPRIA-** 5 **TIONS FOR RURAL HEALTH TRANSITION** 6 **GRANTS.**

7 Section 4005(e)(9) of the Omnibus Budget Reconcili-
8 ation Act of 1987 is amended—

9 (1) by striking “1989 and” and inserting
10 “1989,”; and

11 (2) by striking “1992” and inserting “1992
12 and \$50,000,000 for each of fiscal years 1993
13 through 1997”.

14 **TITLE II—PROGRAMS OF PUBLIC** 15 **HEALTH SERVICE**

16 **SEC. 201. DEMONSTRATION GRANTS FOR TELECOMMUNI-** 17 **CATIONS TO IMPROVE HEALTH CARE IN** 18 **RURAL AREAS.**

19 Part D of title III of the Public Health Service Act
20 (42 U.S.C. 254b et seq.) is amended by adding at the end
21 the following section:

22 “USE OF TELECOMMUNICATIONS FOR IMPROVING
23 HEALTH OF RURAL POPULATIONS

24 “SEC. 340D. (a) IN GENERAL.—The Secretary may
25 make grants to public and nonprofit private entities to
26 carry out demonstration projects for the purpose of im-

1 proving health services in rural areas through using tele-
2 communications to make available to the health profes-
3 sionals of such areas medical advice and knowledge, and
4 the use of medical technologies, that otherwise are not sig-
5 nificantly available to the professionals.

6 “(b) PREFERENCES IN MAKING GRANTS.—In mak-
7 ing grants under subsection (a), the Secretary shall give
8 preference to an otherwise qualified applicant if, in the
9 demonstration project under such subsection, the number
10 of health facilities and health professionals with respect
11 to which the purpose described in such subsection is to
12 be carried out constitutes a significant number of the
13 health facilities and health professionals of the rural area
14 involved.

15 “(c) AGREEMENTS AMONG PARTICIPATING HEALTH
16 PROFESSIONALS.—The Secretary may make a grant
17 under subsection (a) only if the health professionals with
18 respect to which the purpose described in such subsection
19 is to be carried out have entered into an agreement gov-
20 erning the use by the professionals of the telecommuni-
21 cations involved.

22 “(d) APPLICATION FOR GRANT.—The Secretary may
23 make a grant under subsection (a) only if an application
24 for the grant is submitted to the Secretary and the appli-
25 cation is in such form, is made in such manner, and con-

1 tains such agreements, assurances, and information as the
2 Secretary determines to be necessary to carry out this sec-
3 tion.

4 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the
5 purpose of carrying out this section, there are authorized
6 to be appropriated such sums as may be necessary for
7 each of the fiscal years 1995 through 1997.”.

8 **SEC. 202. RURAL HEALTH OUTREACH GRANT PROGRAM.**

9 Part D of title III of the Public Health Service Act,
10 as amended by section 201 of this Act, is amended by add-
11 ing at the end the following section:

12 “ACCESS OF RURAL POPULATIONS TO PRIMARY HEALTH
13 SERVICES

14 “SEC. 340E. (a) IN GENERAL.—The Secretary, act-
15 ing through the Director of the Office of Rural Health
16 Policy, may make grants to public and nonprofit private
17 health care entities to carry out demonstration projects
18 for the purposes of—

19 “(1) increasing the capacity of the residents of
20 rural areas to utilize primary health services (and
21 related health and social services) available under
22 Federal, State, and local programs through—

23 “(A) informing the residents of the exist-
24 ence of such programs;

25 “(B) assisting the residents in establishing
26 eligibility under the programs;

1 “(C) providing transportation services for
2 the residents; and

3 “(D) such other services as the Secretary
4 determines to be appropriate; and

5 “(2) providing primary health services to such
6 residents, with priority given to the provision of pre-
7 ventive health services.

8 “(b) PREFERENCES IN MAKING GRANTS.—In mak-
9 ing grants under subsection (a), the Secretary shall give
10 preference to an otherwise qualified applicant if the appli-
11 cant has, with 2 or more other health care entities, entered
12 into an agreement under which—

13 “(1) the participants in the agreement collabo-
14 rate to carry out the demonstration project involved;
15 and

16 “(2) the participants will make significant ef-
17 forts to coordinate the delivery of primary health
18 services in the rural area involved, and to coordinate
19 the provision of such services with related health and
20 social services in the area.

21 “(c) IDENTIFICATION OF NEED FOR SERVICES.—The
22 Secretary may make a grant under subsection (a) only if
23 the applicant for the grant has identified the need in the
24 rural area involved for the services to be provided under
25 the grant.

1 “(d) APPLICATION FOR GRANT.—The Secretary may
2 make a grant under subsection (a) only if an application
3 for the grant is submitted to the Secretary and the appli-
4 cation is in such form, is made in such manner, and con-
5 tains such agreements, assurances, and information as the
6 Secretary determines to be necessary to carry out this sec-
7 tion.

8 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the
9 purpose of carrying out this section, there is authorized
10 to be appropriated \$50,000,000 for each of the fiscal years
11 1995 through 1997.”.

12 **TITLE III—ANTITRUST** 13 **PROVISIONS**

14 **SEC. 301. ANTITRUST EXEMPTION APPLICABLE TO HOS-** 15 **PITALS.**

16 (a) EXEMPTION.—The antitrust laws shall not apply
17 with respect to—

18 (1) the combination of, or the attempt to com-
19 bine, 2 or more hospitals,

20 (2) a contract entered into solely by 2 or more
21 hospitals to allocate hospital services, or

22 (3) the attempt by only 2 or more hospitals to
23 enter into a contract to allocate hospital services,

24 if each of such hospitals satisfies all of the requirements
25 of subsection (b) at the time such hospitals engage in the

1 conduct described in paragraph (1), (2), or (3), as the case
2 may be.

3 (b) REQUIREMENTS.—The requirements referred to
4 in subsection (a) are as follows:

5 (1) The hospital is located outside of a city, or
6 in a city that has less than 25,000 inhabitants, as
7 determined in accordance with the most recent data
8 available from the Bureau of the Census.

9 (2) In the most recently concluded calendar
10 year, the hospital received more than 40 percent of
11 its gross revenue from payments made under Fed-
12 eral programs.

13 (3) There is in effect with respect to the hos-
14 pital a certificate issued by the Health Care Financ-
15 ing Administration specifying that such Administra-
16 tion has determined that Federal expenditures would
17 be reduced, and consumer costs would not increase,
18 if the 2 or more hospitals that request such certifi-
19 cate merge, or allocate the hospital services specified
20 in such request, as the case may be.

21 (c) DEFINITION.—For purposes of this section, the
22 term “antitrust laws” has the meaning given such term
23 in subsection (a) of the first section of the Clayton Act
24 (15 U.S.C. 12), except that such term includes section 5
25 of the Federal Trade Commission Act (15 U.S.C. 45) to

1 the extent that such section 5 applies with respect to un-
2 fair methods of competition.

3 **TITLE IV—COMMISSION ON RE-**
4 **DUCING THE BURDEN OF**
5 **REGULATIONS AND PAPER-**
6 **WORK ON SMALL RURAL HOS-**
7 **PITALS.**

8 **SEC. 401. ESTABLISHMENT.**

9 There is hereby established the Advisory Commission
10 on Reducing the Burden of Regulations and Paperwork
11 on Small Rural Hospitals (hereafter referred to as the
12 “Commission”).

13 **SEC. 402. DUTIES OF COMMISSION.**

14 (a) ANALYSIS OF IMPACT OF REGULATIONS AND
15 PAPERWORK.—The Commission shall analyze the impact
16 of Federal, State, and local government regulations and
17 paperwork requirements on small rural hospitals.

18 (b) REPORTS AND RECOMMENDATIONS.—

19 (1) INTERIM REPORTS.—During the first 2
20 years after the initial appointment of its members,
21 the Commission shall—

22 (A) submit reports to the Secretary of
23 Health and Human Services (hereafter referred
24 to as the “Secretary”) on its activities under

1 subsection (a) at such times as the Secretary
2 may require; and

3 (B) submit to the Secretary and Congress
4 recommendations for regulatory and legislative
5 proposals to reduce the burden of government
6 regulations and paperwork requirements on
7 small rural hospitals.

8 (2) FINAL REPORT.—Not later than January 1,
9 1998, the Commission shall submit a final report to
10 the Secretary and Congress on its activities under
11 this title, and shall include in the report its final rec-
12 ommendations for proposals described in paragraph
13 (1)(B).

14 **SEC. 403. MEMBERSHIP.**

15 (a) NUMBER AND APPOINTMENT.—

16 (1) IN GENERAL.—The Commission shall be
17 composed of 8 members appointed by the Secretary
18 from individuals who possess extensive leadership ex-
19 perience in and knowledge of State and local govern-
20 ment, intergovernmental relations, and the adminis-
21 tration and operation of small rural hospitals.

22 (2) LIMITATION.—An individual who is a Mem-
23 ber or employee of the Congress may not be ap-
24 pointed or serve as a member of the Commission.

1 (b) WAIVER OF LIMITATION ON EXECUTIVE SCHED-
2 ULE POSITIONS.—Appointments may be made under this
3 section without regard to section 5311(b) of title 5, United
4 States Code.

5 (c) POLITICAL AFFILIATION.—Not more than 4
6 members of the Commission may be of the same political
7 party.

8 (d) TERMS.—

9 (1) IN GENERAL.—Each member of the Com-
10 mission shall be appointed for the life of the Com-
11 mission.

12 (2) VACANCIES.—A vacancy in the Commission
13 shall be filled in the manner in which the original
14 appointment was made.

15 (e) BASIC PAY.—

16 (1) RATES OF PAY.—Members of the Commis-
17 sion shall serve without pay.

18 (2) PROHIBITION OF COMPENSATION OF FED-
19 ERAL EMPLOYEES.—Members of the Commission
20 who are full-time officers or employees of the United
21 States may not receive additional pay, allowances, or
22 benefits by reason of their service on the Commis-
23 sion.

24 (f) TRAVEL EXPENSES.—Each member of the Com-
25 mission shall receive travel expenses, including per diem

1 in lieu of subsistence, in accordance with sections 5702
2 and 5703 of title 5, United States Code.

3 (g) CHAIRPERSON.—The President shall designate a
4 member of the Commission as Chairperson at the time of
5 the appointment of that member.

6 (h) MEETINGS.—

7 (1) IN GENERAL.—Subject to paragraph (2),
8 the Commission shall meet at the call of the Chair-
9 person or a majority of its members.

10 (2) FIRST MEETING.—The Commission shall
11 convene its first meeting by not later than 45 days
12 after the date of the completion of appointment of
13 the member of the Commission.

14 (3) QUORUM.—A majority of members of the
15 Commission shall constitute a quorum but a lesser
16 number may hold hearings.

17 **SEC. 404. DIRECTOR AND STAFF OF COMMISSION; EXPERTS**
18 **AND CONSULTANTS.**

19 (a) DIRECTOR.—The Commission shall, without re-
20 gard to section 5311(b) of title 5, United States Code,
21 have a Director who shall be appointed by the Commis-
22 sion. The Director shall be paid at the rate of basic pay
23 payable for level IV of the Executive Schedule.

24 (b) STAFF.—With the approval of the Commission,
25 and without regard to section 5311(b) of title 5, United

1 States Code, the Director may appoint and fix the pay
2 of such staff as is sufficient to enable the Commission to
3 carry out its duties.

4 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE
5 LAWS.—The Director and staff of the Commission may
6 be appointed without regard to the provisions of title 5,
7 United States Code, governing appointments in the com-
8 petitive service, and may be paid without regard to the
9 provisions of chapter 51 and subchapter III of chapter 53
10 of that title relating to classification and General Schedule
11 pay rates, except that an individual so appointed may not
12 receive pay in excess of the annual rate of basic pay pay-
13 able for GS-18 of the General Schedule.

14 (d) EXPERTS AND CONSULTANTS.—The Commission
15 may procure temporary and intermittent services of ex-
16 perts or consultants under section 3109(b) of title 5,
17 United States Code.

18 (e) STAFF OF FEDERAL AGENCIES.—Upon request
19 of the Director, the head of any Federal department or
20 agency may detail, on a reimbursable basis, any of the
21 personnel of that department or agency to the Commission
22 to assist it in carrying out its duties under this title.

23 **SEC. 405. POWERS OF COMMISSION.**

24 (a) HEARINGS AND SESSIONS.—The Commission
25 may, for the purpose of carrying out this title, hold hear-

1 ings, sit and act at times and places, take testimony, and
2 receive evidence as the Commission considers appropriate.

3 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
4 ber or agent of the Commission may, if authorized by the
5 Commission, take any action which the Commission is au-
6 thorized to take by this section.

7 (c) OBTAINING OFFICIAL DATA.—The Commission
8 may secure directly from any department or agency of the
9 United States information necessary to enable it to carry
10 out this title. Upon request of the Chairperson of the Com-
11 mission, the head of that department or agency shall fur-
12 nish that information to the Commission.

13 (d) MAILS.—The Commission may use the United
14 States mails in the same manner and under the same con-
15 ditions as other departments and agencies of the United
16 States.

17 (e) ADMINISTRATIVE SUPPORT SERVICES.—Upon
18 the request of the Commission, the Administrator of Gen-
19 eral Services shall provide to the Commission, on a reim-
20 bursable basis, the administrative support services nec-
21 essary for the Commission to carry out its duties under
22 this title.

23 (f) CONTRACT AUTHORITY.—The Commission may,
24 subject to appropriations, contract with and compensate

1 government and private agencies or persons for property
2 and services used to carry out its duties under this title.

3 **SEC. 406. TERMINATION.**

4 The Commission shall terminate 90 days after sub-
5 mitting its final report pursuant to section 402(b)(2).

6 **SEC. 407. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated to the Com-
8 mission such sums as may be necessary for the Commis-
9 sion to carry out its duties under this title.

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