

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 721

To amend the Social Security Act to extend the ban on physician self-referrals to all payors and to radiology and diagnostic imaging services, radiation therapy services, physical therapy services, and durable medical equipment.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1992

Mr. KASICH (for himself and Mr. SANTORUM) introduced the following bill; which was referred jointly to the Committee on Ways and Means and Energy and Commerce

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## A BILL

To amend the Social Security Act to extend the ban on physician self-referrals to all payors and to radiology and diagnostic imaging services, radiation therapy services, physical therapy services, and durable medical equipment.

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 “Physician Self-Referral  
5 Amendments of 1993”.

1 **SEC. 2. EXTENSION OF PHYSICIAN SELF-REFERRAL LIMITA-**  
2 **TIONS TO ALL PAYORS.**

3 Section 1877 of the Social Security Act (42 U.S.C.  
4 1395nn) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1)(A), by striking “for  
7 which payment otherwise may be made under  
8 this title” and inserting “for which a charge is  
9 imposed”, and

10 (B) in paragraph (1)(B), by striking  
11 “under this title”;

12 (2) by amending paragraph (1) of subsection  
13 (g) to read as follows:

14 “(1) DENIAL OF PAYMENT.—No payment may  
15 be made under this title, under another Federal  
16 health care program, or under a State health care  
17 program (as defined in section 1128(h)) for a des-  
18 ignated health service for which a claim is presented  
19 in violation of subsection (a)(1)(B). No individual,  
20 third party payor, or other entity is liable for pay-  
21 ment for designated health services for which a  
22 claim is presented in violation of such subsection.”;  
23 and

24 (3) in subsection (g)(3), by striking “for which  
25 payment may not be made under paragraph (1)”

1 and inserting “for which such a claim may not be  
2 presented under subsection (a)(1)”.

3 **SEC. 3. EXTENSION OF PHYSICIAN SELF-REFERRAL LIMITA-**  
4 **TIONS TO CERTAIN ADDITIONAL SERVICES.**

5 (a) IN GENERAL.—Section 1877 of the Social Secu-  
6 rity Act is further amended—

7 (1) by striking “clinical laboratory services”  
8 and “CLINICAL LABORATORY SERVICES” and insert-  
9 ing “designated health services” and “DESIGNATED  
10 HEALTH SERVICES”, respectively, each place either  
11 appears in subsections (a)(1), (b)(2)(A)(ii)(I),  
12 (b)(4), (d)(1), (d)(2), and (d)(3), and

13 (2) by adding at the end the following new sub-  
14 section:

15 “(i) DESIGNATED HEALTH SERVICES DEFINED.—In  
16 this section, the term ‘designated health services’ means—

17 “(1) clinical laboratory services,

18 “(2) physical therapy services,

19 “(3) radiology and diagnostic imaging services,

20 “(4) radiation therapy services, and

21 “(5) the furnishing of durable medical equip-  
22 ment.”.

23 (b) CONFORMING AMENDMENTS.—Section 1877 of  
24 such Act is further amended—

1 (1) in subsection (d)(2), by striking “labora-  
2 tory” and inserting “entity”,

3 (2) in subsection (g)(1), by striking “clinical  
4 laboratory service” and inserting “designated health  
5 service”, and

6 (3) in subsection (h)(7)(B), by striking “clinical  
7 laboratory service” and inserting “designated health  
8 service”, and

9 **SEC. 4. CHANGES IN EXCEPTIONS.**

10 (a) HEALTH MAINTENANCE ORGANIZATIONS AND  
11 MANAGED CARE PLANS.—Paragraph (3) of section  
12 1877(b) of the Social Security Act is amended to read as  
13 follows:

14 “(3) HEALTH MAINTENANCE ORGANIZATIONS  
15 AND MANAGED CARE PLANS.—

16 “(A) HEALTH MAINTENANCE ORGANIZA-  
17 TIONS.—In the case of services furnished by a  
18 health maintenance organization to an individ-  
19 ual enrolled with the health maintenance orga-  
20 nization, including services furnished by—

21 “(i) an eligible organization (as de-  
22 fined in section 1876(b));

23 “(ii) an organization described in sec-  
24 tion 1833(a)(1)(A);

1 “(iii) an organization receiving pay-  
2 ments on a prepaid basis under a dem-  
3 onstration project under section 402(a) of  
4 the Social Security Amendments of 1967  
5 or under section 222(a) of the Social Secu-  
6 rity Amendments of 1972; and

7 “(iv) any other entity designated by  
8 the Secretary as a health maintenance or-  
9 ganization for purposes of this subpara-  
10 graph.

11 “(B) CERTAIN MANAGED CARE PLANS.—In  
12 the case of services furnished by a managed  
13 care plan (as defined by the Secretary) to an  
14 individual enrolled under the plan if—

15 “(i) the plan selectively contracts with  
16 physicians and with providers of des-  
17 ignated health services; and

18 “(ii) under the plan physicians bear a  
19 significant financial risk for the cost of  
20 designated health services furnished upon  
21 referral.”.

22 (b) WAIVER FOR VALUABLE COMMUNITY SERV-  
23 ICES.—Subsection (b)(5) of such section is amended by  
24 adding at the end the following: “In making such deter-  
25 minations, the Secretary shall specifically consider wheth-

1 er the provision of necessary, valuable community services  
2 will be jeopardized without such an exception.”.

3 (c) EXCEPTION FOR HOSPITALS.—Subparagraph (A)  
4 of subsection (d)(3) of such section is amended to read  
5 as follows:

6 “(A) at the time the services are furnished,  
7 the hospital has a participation agreement in  
8 effect under section 1866, and”.

9 **SEC. 5. EFFECTIVE DATES.**

10 The amendments made by this Act shall apply with  
11 respect to a referral by a physician for designated health  
12 services (as described in section 1877(i) of the Social Se-  
13 curity Act)—

14 (1) made on or after the first day of the first  
15 month beginning at least 2 years after the date of  
16 the enactment of this Act, in the case of a referral  
17 with respect to which a financial relationship (speci-  
18 fied in section 1877(a)(2) of the Social Security Act)  
19 existed as of the date of the enactment of this Act;  
20 or

21 (2) made on or after the first day of the first  
22 month beginning at least 6 months after the date of  
23 the enactment of this Act, with respect to which  
24 such a financial relationship did not exist as of the  
25 date of the enactment of this Act.

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