

104TH CONGRESS  
2D SESSION

# H. R. 3856

To amend title XVIII of the Social Security Act to provide for prospective payment under the Medicare program for inpatient services of rehabilitation hospitals and units based on discharges classified by functional-related groups.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 18, 1996

Mr. LOBIONDO (for himself, Mr. ZIMMER, Mr. SAXTON, and Mrs. ROUKEMA) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend title XVIII of the Social Security Act to provide for prospective payment under the Medicare program for inpatient services of rehabilitation hospitals and units based on discharges classified by functional-related groups.

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. PROSPECTIVE PAYMENT FOR INPATIENT RE-**  
2 **HABILITATION HOSPITAL SERVICES BASED**  
3 **ON DISCHARGES CLASSIFIED BY FUNC-**  
4 **TIONAL-RELATED GROUPS.**

5 (a) IN GENERAL.—Section 1886 of the Social Secu-  
6 rity Act (42 U.S.C. 1395ww) is amended by adding at the  
7 end the following new subsection:

8 “(j) PROSPECTIVE PAYMENT FOR INPATIENT REHA-  
9 BILITATION SERVICES.—

10 “(1) IN GENERAL.—Notwithstanding section  
11 1814(b), but subject to the provisions of section  
12 1813, the amount of the payment with respect to the  
13 operating and capital costs of inpatient hospital  
14 services of a rehabilitation hospital or a rehabilita-  
15 tion unit (in this subsection referred to as a ‘reha-  
16 bilitation facility’) for a discharge is equal to the per  
17 discharge payment rate established under this sub-  
18 section.

19 “(2) FUNCTIONAL-RELATED GROUPS.—

20 “(A) ESTABLISHMENT.—The Secretary  
21 shall establish—

22 “(i) classes of discharges of rehabilita-  
23 tion facilities by functional-related groups  
24 (each in this subsection referred to as a  
25 ‘functional-related group’ or ‘FRG’), based  
26 on impairment, age, and functional capa-

1            bility of the discharged individual and such  
2            other factors as the Secretary deems ap-  
3            propriate, and

4            “(ii) a method of classifying specific  
5            discharges from rehabilitation facilities  
6            within these groups.

7            “(B) WEIGHTING FACTORS.—For each  
8            functional-related group the Secretary shall as-  
9            sign an appropriate weighting which reflects the  
10           relative facility resources used with respect to  
11           discharges classified within that group com-  
12           pared to discharges classified within other  
13           groups.

14           “(C) ADJUSTMENTS.—The Secretary shall  
15           from time to time adjust the classifications and  
16           weighting factors established under this para-  
17           graph as appropriate to correct for forecast er-  
18           rors and to reflect changes in treatment pat-  
19           terns, technology, and other factors which may  
20           affect the relative use of resources.

21           “(3) PAYMENT RATE.—

22           “(A) IN GENERAL.—The Secretary shall  
23           determine a prospective payment rate for each  
24           rehabilitation facility discharge for which such  
25           rehabilitation facility is entitled to receive pay-

1           ment under this title. Subject to subparagraph  
2           (B), such rate for discharges during a fiscal  
3           year shall be based on the average payment per  
4           discharge under this title for inpatient operat-  
5           ing and capital costs of rehabilitation facilities  
6           in fiscal year 1995 (as estimated by the Sec-  
7           retary) adjusted—

8                   “(i) by updating such per-discharge  
9                   amount to the fiscal year involved by the  
10                  applicable percentage increases provided  
11                  under subsection (b)(3)(B)(i) for each year  
12                  after fiscal year 1995 and up to the fiscal  
13                  year involved;

14                  “(ii) by reducing such rates by a fac-  
15                  tor equal to the proportion of payments  
16                  under this subsection (as estimated by the  
17                  Secretary) based on FRG prospective pay-  
18                  ment amounts which are additional pay-  
19                  ments described in paragraph (4) (relating  
20                  to outlier and related payments) or para-  
21                  graph (7);

22                  “(iii) for variations among rehabilita-  
23                  tion facilities by area under paragraph (6);

24                  “(iv) by the weighting factors estab-  
25                  lished under paragraph (2)(B); and

1           “(v) by such other factors as the Sec-  
2           retary determines are necessary to properly  
3           reflect variations in necessary costs of  
4           treatment among rehabilitation facilities.

5           “(B) BUDGET NEUTRAL RATES.—The Sec-  
6           retary shall establish the prospective payment  
7           amounts under this subsection for discharges  
8           during each of fiscal years 1998 through 2002  
9           at levels such that, in the Secretary’s esti-  
10          mation, the amount of total payments under  
11          this subsection for each such fiscal year (includ-  
12          ing any payment adjustments pursuant to para-  
13          graph (7)) shall not exceed the amount of pay-  
14          ments that would have been made under this  
15          title during the fiscal year for operating and  
16          capital costs of rehabilitation facilities had this  
17          subsection not been enacted.

18          “(4) OUTLIER AND SPECIAL PAYMENTS.—

19                 “(A) OUTLIERS.—

20                         “(i) DAY OUTLIERS.—The Secretary  
21                         shall provide for an additional payment to  
22                         a rehabilitation facility for discharges in a  
23                         functional-related group, the lengths of  
24                         stay of which exceeded the mean length of  
25                         stay for discharges within that group by a

1 fixed number of days or exceeds such mean  
2 length of stay by some fixed number of de-  
3 viations, whichever is the fewer number of  
4 days.

5 “(ii) REQUESTING ADDITIONAL PAY-  
6 MENTS.—For cases not included in clause  
7 (i), a rehabilitation facility may request ad-  
8 ditional payments in any case in which  
9 charges, adjusted to cost, exceed a fixed  
10 multiple of the applicable prospective pay-  
11 ment rate, or exceed such other fixed dol-  
12 lar amount, whichever is greater, or exceed  
13 the prospective payment rate plus a fixed  
14 dollar amount determined by the Sec-  
15 retary.

16 “(iii) PAYMENT BASED ON MARGINAL  
17 COST OF CARE.—The amount of such addi-  
18 tional payment under clauses (i) and (ii)  
19 shall be determined by the Secretary and  
20 shall approximate the marginal cost of care  
21 beyond the cutoff point applicable under  
22 clause (i) or (ii).

23 “(iv) TOTAL PAYMENTS.—The total  
24 amount of the additional payments made  
25 under this subparagraph for discharges in

1 a fiscal year may not be less than 5 per-  
2 cent nor more than 6 percent of the total  
3 payments projected or estimated to be  
4 made based on FRG prospective payment  
5 rates for discharges in that year.

6 “(B) ADJUSTMENT.—The Secretary may  
7 provide for such adjustments to the payment  
8 amounts under this subsection as the Secretary  
9 deems appropriate to take into account the  
10 unique circumstances of rehabilitation facilities  
11 located in Alaska and Hawaii.

12 “(5) PUBLICATION.—The Secretary shall pro-  
13 vide for publication in the Federal Register, on or  
14 before September 1 before each fiscal year (begin-  
15 ning with fiscal year 1998), of the classification and  
16 weighting factors for FRGs under paragraph (2) for  
17 such fiscal year and a description of the methodol-  
18 ogy and data used in computing the prospective pay-  
19 ment rates under this subsection for that fiscal year.

20 “(6) AREA WAGE ADJUSTMENT.—The Secretary  
21 shall adjust the proportion (as estimated by the Sec-  
22 retary from time to time) of rehabilitation facilities’  
23 costs which are attributable to wages and wage-re-  
24 lated costs, of the prospective payment rates com-  
25 puted under paragraph (3) for area differences in

1 wage levels by a factor (established by the Sec-  
2 retary) reflecting the relative hospital wage level in  
3 the geographic area of the rehabilitation facility  
4 compared to the national average wage level for such  
5 facilities. Not later than October 1, 1998 (and at  
6 least every 12 months thereafter), the Secretary  
7 shall update the factor under the preceding sentence  
8 on the basis of a survey conducted by the Secretary  
9 (and updated as appropriate) of the wages and  
10 wage-related costs incurred in furnishing rehabilita-  
11 tion services. Any adjustments or updates made  
12 under this paragraph for a fiscal year shall be made  
13 in a manner that assures that the aggregated pay-  
14 ments under this subsection in the fiscal year are  
15 not greater or less than those that would have been  
16 made in the year without such adjustment.

17 “(7) ADDITIONAL ADJUSTMENTS.—The Sec-  
18 retary shall provide by regulation for—

19 “(A) an additional payment to take into  
20 account indirect costs of medical education and  
21 the special circumstances of hospitals that serve  
22 a significantly disproportionate number of low-  
23 income patients in a manner similar to that  
24 provided under subparagraphs (B) and (F), re-  
25 spectively, of subsection (d)(5); and

1           “(B) such other exceptions and adjust-  
2           ments to payment amounts under this sub-  
3           section in a manner similar to that provided  
4           under subsection (d)(5)(I) in relation to pay-  
5           ments under subsection (d).

6           “(8) LIMITATION ON REVIEW.—There shall be  
7           no administrative or judicial review under section  
8           1878 or otherwise of—

9           “(A) the establishment of FRGs, of the  
10           methodology for the classification of discharges  
11           within such groups, and of the appropriate  
12           weighting factors thereof under paragraph (2),  
13           and

14           (B) the establishment of the prospective  
15           payment rates under paragraph (3).”.

16           (b) CONFORMING AMENDMENTS.—Section 1886(b)  
17           of such Act (42 U.S.C. 1395ww(b)) is amended—

18           (1) in paragraph (1), by inserting “and other  
19           than a rehabilitation facility described in subsection  
20           (j)(1)” after “subsection (d)(1)(B)”, and

21           (2) in paragraph (3)(B)(i), by inserting “and  
22           subsection (j)” after “For purposes of subsection  
23           (d)”.

1           (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to cost reporting periods beginning  
3 on or after October 1, 1997.

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