

105TH CONGRESS
2D SESSION

S. 2616

To amend title XVIII of the Social Security Act to make revisions in the per beneficiary and per visit payment limits on payment for health services under the medicare program.

IN THE SENATE OF THE UNITED STATES

OCTOBER 9 (legislative day, OCTOBER 2), 1998

Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. BREAUX, Mr. JEFFORDS, Mr. DOMENICI, Ms. COLLINS, Mr. BAUCUS, Mr. D'AMATO, Mr. BRYAN, Mr. KERREY, Mr. ROCKEFELLER, Mr. NICKLES, Ms. MOSELEY-BRAUN, and Mr. MURKOWSKI) 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 make revisions in the per beneficiary and per visit payment limits on payment for health services under the medicare program.

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 “Medicare Home Health
5 Fair Payment Act of 1998”.

1 **SEC. 2. REVISION OF PER BENEFICIARY LIMITS AND PER**
2 **VISIT PAYMENT LIMITS FOR PAYMENT FOR**
3 **HOME HEALTH SERVICES UNDER THE MEDI-**
4 **CARE PROGRAM.**

5 (a) REVISION OF PER BENEFICIARY LIMITS.—

6 (1) IN GENERAL.—Section 1861(v)(1)(L)(v) of
7 the Social Security Act (42 U.S.C.
8 1395x(v)(1)(L)(v)) is amended to read as follows:

9 “(v)(I) For services furnished by home health agen-
10 cies for cost reporting periods beginning on or after Octo-
11 ber 1, 1997, the Secretary shall provide for an interim
12 system of limits. Payment shall not exceed the costs deter-
13 mined under the preceding provisions of this subpara-
14 graph or, if lower, the product of—

15 “(aa) the applicable limit determined under
16 subclause (II) or (III) for the cost reporting period
17 involved; and

18 “(bb) the agency’s unduplicated census count of
19 patients (entitled to benefits under this title) for the
20 cost reporting period subject to the limitation.

21 “(II) The applicable limit for cost reporting periods
22 beginning in fiscal year 1998 is an agency-specific per
23 beneficiary annual limitation calculated based 75 percent
24 on 98 percent of the reasonable costs (including nonrou-
25 tine medical supplies) for the agency’s 12-month cost re-
26 porting period ending during fiscal year 1994, and based

1 25 percent on 98 percent of the standardized regional av-
2 erage of such costs for the agency's census division, as
3 applied to such agency, for cost reporting periods ending
4 during fiscal year 1994, such costs updated by the home
5 health market basket index.

6 “(III) The applicable limit for cost reporting periods
7 beginning on or after October 1, 1998, and that are not
8 subject to the prospective payment system under section
9 1895, is an agency-specific per beneficiary annual limita-
10 tion calculated—

11 “(aa) based 50 percent on the per beneficiary
12 annual limitation determined under subclause (II)
13 for the agency;

14 “(bb) based 25 percent on the standardized na-
15 tional mean equal to \$3,708.25 for fiscal year 1999
16 (of which \$2,880.12 is the labor component, and
17 \$828.13 is the non-labor component); and

18 “(cc) based 25 percent on the standardized re-
19 gional average of the limits for the agency's census
20 division (as specified in tables 3B and 3D published
21 in the Federal Register on August 11, 1998 (63
22 Fed. Reg. 42926));

23 such limits updated by the home health market basket
24 index for each subsequent fiscal year (if any) through the
25 fiscal year involved.”.

1 (2) NEW AGENCIES.—Section 1861(v)(1)(L)(vi)
2 of the Social Security Act (42 U.S.C.
3 1395x(v)(1)(L)(vi)) is amended—

4 (A) in subclause (I), by striking “For new”
5 and inserting “Subject to subclause (II), for
6 new”;

7 (B) by redesignating subclause (II) as sub-
8 clause (III); and

9 (C) by inserting after subclause (I) the fol-
10 lowing:

11 “(II) In the case of cost reporting periods be-
12 ginning on or after October 1, 1998, the limits in
13 subclause (I) shall be determined as if any reference
14 in clause (v)(II) to ‘98 percent’ were a reference to
15 ‘100 percent’.”.

16 (3) CONFORMING AMENDMENT.—Section
17 1861(v)(1)(L)(vii)(I) of the Social Security Act (42
18 U.S.C. 1395x(v)(1)(L)(vii)(I)) is amended by strik-
19 ing “clause (v)(I)” and inserting “clause (v)(II)”.

20 (b) REVISION OF PER VISIT LIMITS.—Section
21 1861(v)(1)(L)(i) of the Social Security Act (42 U.S.C.
22 1395x(v)(1)(L)(i)) is amended—

23 (1) in subclause (III), by striking “or”;

24 (2) in subclause (IV)—

1 (A) by inserting “and before October 1,
2 1998,” after “October 1, 1997,”; and

3 (B) by striking the period at the end and
4 inserting “, or”; and

5 (3) by adding at the end the following:

6 “(V) October 1, 1998, 110 percent of such me-
7 dian.

8 For fiscal year 1999, the limits determined under this
9 clause shall be equal to the per visit limits as specified
10 in table 3A published in the Federal Register on August
11 11, 1998 (63 Fed. Reg. 42925) and as subsequently cor-
12 rected, increased by 4.76 percent (which is equal to 110
13 divided by 105).”.

14 (c) ONE-YEAR DELAY IN IMPLEMENTATION OF PRO-
15 SPECTIVE PAYMENT SYSTEM FOR HOME HEALTH SERV-
16 ICES AND CONTINGENCY REDUCTION IN PAYMENT LIM-
17 ITS.—

18 (1) PROSPECTIVE PAYMENT SYSTEM.—Section
19 1895 of the Social Security Act (42 U.S.C. 1395fff)
20 is amended—

21 (A) in subsection (a), by striking “October
22 1, 1999” and inserting “October 1, 2000”;

23 (B) in subsection (b)(3)—

1 (i) in subparagraph (A)(i), by striking
2 “fiscal year 2000” and inserting “fiscal
3 year 2001”;

4 (ii) in subparagraph (A)(ii), by strik-
5 ing “September 30, 1999” and inserting
6 “September 30, 2000”; and

7 (iii) in subparagraph (B)(i), by strik-
8 ing “fiscal year 2001” and inserting “fis-
9 cal year 2002”; and

10 (C) in subsection (c), in the matter preced-
11 ing paragraph (1), by striking “October 1,
12 1998” and inserting “October 1, 1999”.

13 (2) CHANGE IN EFFECTIVE DATE.—Section
14 4603(d) of the Balanced Budget Act of 1997 (42
15 U.S.C. 1395fff note) is amended by striking “Octo-
16 ber 1, 1999” and inserting “October 1, 2000”.

17 (3) CONTINGENCY REDUCTION.—Section
18 4603(e) of the Balanced Budget Act of 1997 (42
19 U.S.C. 1395fff note) is amended by striking “Sep-
20 tember 30, 1999” and inserting “September 30,
21 2000”.

22 (d) CHANGE IN HOME HEALTH MARKET BASKET IN-
23 CREASE FOR HOME HEALTH SERVICES.—

24 (1) INTERIM PAYMENT SYSTEM.—Section
25 1861(v)(1)(L) of the Social Security Act (42 U.S.C.

1 1395x(v)(1)(L)) is amended by adding at the end
2 the following:

3 “(viii) Notwithstanding any other provision of this
4 subparagraph, any home health market basket update to
5 any limit under this subparagraph shall—

6 “(I) be reduced by 0.5 percentage point for any
7 cost reporting period beginning in fiscal year 2000
8 or 2001; and

9 “(I) be increased by 1 percentage point for any
10 cost reporting period beginning in fiscal year
11 2004.”.

12 (2) PROSPECTIVE PAYMENT SYSTEM.—Section
13 1895(b)(3)(B)(ii) of the Social Security Act (42
14 U.S.C. 1395fff(b)(3)(B)(ii)) is amended by adding
15 at the end the following: “Such increase shall be re-
16 duced by 0.5 percentage point for any cost reporting
17 period beginning in fiscal year 2001 and shall be in-
18 creased by 1 percentage point for any cost reporting
19 period beginning in fiscal year 2004.”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 subsections (a) and (b) shall apply to cost reporting peri-
22 ods beginning on or after October 1, 1998.

1 **SEC. 3. CLARIFICATION AND EXPANSION OF MATHEMATI-**
2 **CAL ERROR ASSESSMENT PROCEDURES.**

3 (a) TIN DEEMED INCORRECT IF INFORMATION ON
4 RETURN DIFFERS WITH AGENCY RECORDS.—Section
5 6213(g)(2) of the Internal Revenue Code of 1986 (defin-
6 ing mathematical or clerical error) is amended by adding
7 at the end the following flush sentence:

8 “A taxpayer shall be treated as having omitted a
9 correct TIN for purposes of the preceding sentence
10 if information provided by the taxpayer on the re-
11 turn with respect to the individual whose TIN was
12 provided differs from the information the Secretary
13 obtains from the person issuing the TIN.”

14 (b) EXPANSION OF MATHEMATICAL ERROR PROCE-
15 DURES TO CASES WHERE TIN ESTABLISHES INDIVIDUAL
16 NOT ELIGIBLE FOR TAX CREDIT.—Section 6213(g)(2) of
17 the Internal Revenue Code of 1986 is amended by striking
18 “and” at the end of subparagraph (I), by striking the pe-
19 riod at the end of the first subparagraph (J) (relating to
20 higher education credit) and inserting a comma, by redesh-
21 ignating the second subparagraph (J) (relating to earned
22 income credit) as subparagraph (K) and by striking the
23 period at the end and inserting “, and”, and by adding
24 at the end the following new subparagraph:

1 “(L) the inclusion on a return of a TIN re-
2 quired to be included on the return under sec-
3 tion 21, 24, or 32 if—

4 “(i) such TIN is of an individual
5 whose age affects the amount of the credit
6 under such section, and

7 “(ii) the computation of the credit on
8 the return reflects the treatment of such
9 individual as being of an age different
10 from the individual’s age based on such
11 TIN.”

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years ending after the
14 date of the enactment of this Act.

15 **SEC. 4. INCLUSION OF ROTAVIRUS GASTROENTERITIS TO**
16 **LIST OF TAXABLE VACCINES.**

17 (a) IN GENERAL.—Section 4132(1) of the Internal
18 Revenue Code of 1986 (defining taxable vaccine) is
19 amended by adding at the end the following new subpara-
20 graph:

21 “(K) Any vaccine against rotavirus
22 gastroenteritis.”

23 (b) EFFECTIVE DATE.—

1 (1) SALES.—The amendment made by this sec-
2 tion shall apply to sales after the date of enactment
3 of this Act.

4 (2) DELIVERIES.—For purposes of paragraph
5 (1), in the case of sales on or before the date of en-
6 actment of this Act for which delivery is made after
7 such date, the delivery date shall be considered the
8 sale date.

9 **SEC. 5. CLARIFICATION OF DEFINITION OF SPECIFIED LI-**
10 **ABILITY LOSS.**

11 (a) IN GENERAL.—Subparagraph (B) of section
12 172(f)(1) of the Internal Revenue Code of 1986 (defining
13 specified liability loss) is amended to read as follows:

14 “(B) Any amount (not described in sub-
15 paragraph (A)) allowable as a deduction under
16 this chapter which is attributable to a liabil-
17 ity—

18 “(i) under a Federal or State law re-
19 quiring the reclamation of land, decommis-
20 sioning of a nuclear power plant (or any
21 unit thereof), dismantlement of an offshore
22 drilling platform, remediation of environ-
23 mental contamination, or payment of work-
24 men’s compensation, and

1 “(ii) with respect to which the act (or
2 failure to act) giving rise to such liability
3 occurs at least 3 years before the begin-
4 ning of the taxable year.”

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to net operating losses for taxable
7 years ending after the date of the enactment of this Act.

8 **SEC. 6. LIMITATION ON REQUIRED ACCRUAL OF AMOUNTS**
9 **RECEIVED FOR PERFORMANCE OF CERTAIN**
10 **PERSONAL SERVICES.**

11 (a) IN GENERAL.—Paragraph (5) of section 448(d)
12 of the Internal Revenue Code of 1986 (relating to special
13 rule for services) is amended by inserting “in fields re-
14 ferred to in paragraph (2)(A)” after “services by such per-
15 son”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to taxable years beginning after
18 December 31, 1998.

19 (c) COORDINATION WITH SECTION 481.—In the case
20 of any taxpayer required by this section to change its
21 method of accounting for any taxable year—

22 (1) such change shall be treated as initiated by
23 the taxpayer;

24 (2) such change shall be treated as made with
25 the consent of the Secretary of the Treasury; and

1 (3) the period for taking into account the ad-
2 justments under section 481 by reason of such
3 change shall be 3 years.

4 **SEC. 7. RETURNS RELATING TO CANCELLATIONS OF IN-**
5 **DEBTEDNESS BY ORGANIZATIONS LENDING**
6 **MONEY.**

7 (a) IN GENERAL.—Paragraph (2) of section
8 6050P(e) of the Internal Revenue Code of 1986 (relating
9 to definitions and special rules) is amended by striking
10 “and” at the end of subparagraph (B), by striking the
11 period at the end of subparagraph (C) and inserting “;
12 and”, and by inserting after subparagraph (C) the follow-
13 ing new subparagraph:

14 “(D) any organization a significant trade
15 or business of which is the lending of money.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to discharges of indebtedness
18 after December 31, 1998.

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