

106TH CONGRESS
2D SESSION

S. 2835

To provide an appropriate transition from the interim payment system for home health services to the prospective payment system for such services under the medicare program.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 2000

Mr. GRASSLEY (for himself and Mr. FEINGOLD.) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To provide an appropriate transition from the interim payment system for home health services to the prospective payment system for such 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Medicare Home Health Refinement Act of 2000”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—EMERGENCY CASH-FLOW ASSISTANCE FOR HOME
HEALTH AGENCIES

- Sec. 101. Home Health Transitional Loan Program.
 Sec. 102. Establishment of split-payment percentages under the PPS for home health services.
 Sec. 103. Prompt payment from medicare trust funds under the IPS and the PPS for home health services.

TITLE II—REIMBURSEMENT OF HOME HEALTH AGENCIES FOR
UNFUNDED PPS RELATED COSTS

- Sec. 201. Adjustment to reflect administrative costs not included in the PPS for home health services.

TITLE III—REIMBURSEMENT OF HOME HEALTH AGENCIES FOR
OASIS LABOR COSTS

- Sec. 301. Reimbursement for OASIS labor costs under the IPS and PPS for home health services.

TITLE IV—NONROUTINE MEDICAL SUPPLIES FURNISHED BY
HOME HEALTH AGENCIES

- Sec. 401. Exclusion of nonroutine medical supplies under the PPS for home health services.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

3 (1) Home health care is a vital component of
 4 the medicare program under title XVIII of the So-
 5 cial Security Act.

6 (2) Home health services provided under the
 7 medicare program enable medicare beneficiaries who
 8 are homebound and greatly risk costly institutional-
 9 ized care to continue to live in their own homes and
 10 communities.

11 (3) The Balanced Budget Act of 1997 reformed
 12 Medicare home health care spending by instructing
 13 the Health Care Financing Administration (in this

1 section referred to as “HCFA”) to implement a pro-
 2 spective payment system.

3 (4) A number of HCFA’s regulations to imple-
 4 ment the prospective payment system are adminis-
 5 tratively burdensome and divert funds away from
 6 needed beneficiary care.

7 (5) The vast majority of home health agencies
 8 are small businesses or nonprofit institutions that
 9 cannot operate with significant cash flow problems.

10 (6) The prospective payment system should not
 11 penalize home health agencies that treat medicare
 12 beneficiaries with higher-than-average medical needs.

13 **TITLE I—EMERGENCY CASH-**
 14 **FLOW ASSISTANCE FOR**
 15 **HOME HEALTH AGENCIES**

16 **SEC. 101. HOME HEALTH TRANSITIONAL LOAN PROGRAM.**

17 (a) ESTABLISHMENT OF HOME HEALTH TRANSI-
 18 TIONAL LOAN PROGRAM.—There is established a Home
 19 Health Transitional Loan Program under which the Sec-
 20 retary of Health and Human Services (in this section re-
 21 ferred to as the “Secretary”) shall make loans from the
 22 Federal Hospital Insurance Trust Fund to any qualified
 23 home health agency (as defined in subsection (c)) in ac-
 24 cordance with the terms and conditions described in sub-

1 section (b) before the termination of the authority of the
2 Secretary to make such loans under subsection (d).

3 (b) TERMS AND CONDITIONS.—

4 (1) IN GENERAL.—Subject to paragraph (2),
5 the Secretary shall make loans on such terms and
6 conditions as the Secretary may specify.

7 (2) SPECIFIC TERMS AND CONDITIONS.—The
8 terms and conditions of each loan shall include the
9 following:

10 (A) APPLICATION.—The Secretary shall
11 approve each application for a loan under this
12 section submitted by a qualified home health
13 agency not later than 10 days after the Sec-
14 retary receives such application.

15 (B) AMOUNT.—The total amount of a loan
16 made to a qualified home health agency under
17 this section may not exceed the average total
18 costs incurred by such a home health agency
19 during a 3-month period as reported on such
20 home health agency's most recently settled
21 medicare cost report.

22 (C) INTEREST RATE.—The interest rate of
23 the loans made under this section shall be zero
24 percent.

1 (D) DURATION.—The home health agency
2 shall repay any loan made under this section
3 not later than 12 months after the date on
4 which such loan is made.

5 (c) QUALIFIED HOME HEALTH AGENCY DEFINED.—
6 The term “qualified home health agency” means a home
7 health agency (as defined in section 1861(o) of the Social
8 Security Act (42 U.S.C. 1395x(o))) that the Secretary de-
9 termines does not have sufficient cash reserves to transi-
10 tion from the interim payment system for home health
11 services under section 1861(v)(1)(L) of such Act (42
12 U.S.C. 1395x(v)(1)(L)) (in this section referred to as the
13 “IPS” to the prospective payment system for such services
14 under section 1895 of such Act (42 U.S.C. 1395fff) (in
15 this section referred to as the “PPS”)) because of—

16 (1) the repayment by the home health agency of
17 overpayments made under the IPS;

18 (2) the discontinuation of the periodic interim
19 payment for home health agencies by section
20 4603(b) of the Balanced Budget Act of 1997 (Public
21 Law 105–133; 111 Stat. 470); or

22 (3) the payment amounts under the PPS being
23 less than the payment amounts under the IPS.

1 (d) TERMINATION OF AUTHORITY.—The Secretary
 2 may not make any loan under this section after the date
 3 that is 6 months after the date of enactment of this Act.

4 (e) EFFECTIVE DATE.—This section shall take effect
 5 on the later of—

6 (1) the date of enactment of this Act; or

7 (2) the date on which the Secretary implements
 8 the prospective payment system under section 1895
 9 of the Social Security Act (42 U.S.C. 1395fff).

10 **SEC. 102. ESTABLISHMENT OF SPLIT-PAYMENT PERCENT-**
 11 **AGES UNDER THE PPS FOR HOME HEALTH**
 12 **SERVICES.**

13 (a) ESTABLISHMENT.—Section 1895(b) of the Social
 14 Security Act (42 U.S.C. 1395fff) is amended by adding
 15 at the end the following new paragraph:

16 “(7) ESTABLISHMENT OF SPLIT-PAYMENT PER-
 17 CENTAGES.—In making payments under this sec-
 18 tion, the Secretary shall pay to the agency 80 per-
 19 cent of the prospective payment amount upon the
 20 transmittal of the notice of patient admission and 20
 21 percent of such amount upon transmittal of the final
 22 episode claim.”.

23 (b) EFFECTIVE DATE.—The amendment made by
 24 subsection (a) shall take effect on the date of enactment
 25 of this Act.

1 **SEC. 103. PROMPT PAYMENT FROM MEDICARE TRUST**
2 **FUNDS UNDER THE IPS AND THE PPS FOR**
3 **HOME HEALTH SERVICES.**

4 (a) UNDER THE IPS.—Section 1861(v)(1)(L) of the
5 Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amend-
6 ed by adding at the end the following new clause:

7 “(xi) To ensure that payment of claims of home
8 health agencies are not delayed because the Secretary
9 must determine from which trust fund to pay a claim
10 under this subparagraph, the Secretary shall pay the full
11 amount of each claim for an episode of care from the Fed-
12 eral Supplementary Medical Insurance Trust Fund, and,
13 in the case that any amount paid from such Trust Fund
14 should have been paid from the Federal Hospital Insur-
15 ance Trust Fund, the Secretary shall transfer such
16 amount from the Federal Hospital Insurance Trust Fund
17 to the Federal Supplementary Medical Insurance Trust
18 Fund.”.

19 (b) UNDER THE PPS.—Section 1895(b) of the Social
20 Security Act (42 U.S.C. 1395fff) (as amended by section
21 102) is amended by adding at the end the following new
22 paragraph:

23 “(8) PROMPT PAYMENTS FROM TRUST
24 FUNDS.—To ensure that payment of claims of home
25 health agencies are not delayed because the Sec-
26 retary must determine from which trust fund to pay

1 a claim under this section, the Secretary shall pay
 2 the full amount of each claim for an episode of care
 3 from the Federal Supplementary Medical Insurance
 4 Trust Fund, and, in the case that any amount paid
 5 from such Trust Fund should have been paid from
 6 the Federal Hospital Insurance Trust Fund, the
 7 Secretary shall transfer such amount from the Fed-
 8 eral Hospital Insurance Trust Fund to the Federal
 9 Supplementary Medical Insurance Trust Fund.”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall take effect on the date of enactment of
 12 this Act.

13 **TITLE II—REIMBURSEMENT OF**
 14 **HOME HEALTH AGENCIES**
 15 **FOR UNFUNDED PPS RE-**
 16 **LATED COSTS**

17 **SEC. 201. ADJUSTMENT TO REFLECT ADMINISTRATIVE**
 18 **COSTS NOT INCLUDED IN THE PPS FOR**
 19 **HOME HEALTH SERVICES.**

20 (a) ADJUSTMENT TO REFLECT ADMINISTRATIVE
 21 COSTS.—In the case of a home health agency that fur-
 22 nishes home health services to a medicare beneficiary, for
 23 each such beneficiary to whom the agency furnished such
 24 services during the agency’s cost reporting period begin-
 25 ning in fiscal year 2000, the Secretary of Health and

1 Human Services shall pay the agency, in addition to any
2 amount of payment made under section 1861(v)(1)(L) of
3 the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) for the
4 beneficiary and only for such cost reporting period, an ag-
5 gregate amount of \$10 to defray costs incurred by the
6 agency attributable to technology costs required for com-
7 pliance with the prospective payment system for home
8 health services under section 1895 of the Social Security
9 Act (42 U.S.C. 1395fff), including the acquisition of com-
10 puter hardware and software necessary for classification
11 of patients, and accounting, billing, and transmitting data
12 in the manner required under such payment system.

13 (b) PAYMENT 30 DAYS AFTER SETTLED COST RE-
14 PORT.—The Secretary shall pay the amounts payable to
15 an agency under this section no later than 30 days after
16 the later of—

17 (1) the date of enactment of this Act; or

18 (2) the date on which the cost report submitted
19 by the agency for the cost reporting period begin-
20 ning in fiscal year 2000 is settled.

21 (c) PAYMENT FROM MEDICARE TRUST FUNDS.—
22 Payments under this section shall be made, in appropriate
23 part as specified by the Secretary, from the Federal Hos-
24 pital Insurance Trust Fund and from the Federal Supple-
25 mentary Medical Insurance Trust Fund.

1 (d) DEFINITIONS.—In this section:

2 (1) HOME HEALTH AGENCY.—The term “home
3 health agency” has the meaning given that term
4 under section 1861(o) of the Social Security Act (42
5 U.S.C. 1395x(o)).

6 (2) HOME HEALTH SERVICES.—The term
7 “home health services” has the meaning given that
8 term under section 1861(m) of such Act (42 U.S.C.
9 1395x(m)).

10 (3) MEDICARE BENEFICIARY.—The term
11 “medicare beneficiary” means a beneficiary de-
12 scribed in section 1861(v)(1)(L)(vi)(II) of the Social
13 Security Act (42 U.S.C. 1395x(v)(1)(L)(vi)(II)).

14 **TITLE III—REIMBURSEMENT OF**
15 **HOME HEALTH AGENCIES**
16 **FOR OASIS LABOR COSTS**

17 **SEC. 301. REIMBURSEMENT FOR OASIS LABOR COSTS**

18 **UNDER THE IPS AND PPS FOR HOME HEALTH**

19 **SERVICES.**

20 (a) ADJUSTMENT TO REFLECT ADMINISTRATIVE
21 COSTS.—

22 (1) UNDER THE INTERIM PAYMENT SYSTEM.—
23 Section 301(a) of the Medicare, Medicaid, and
24 SCHIP Balanced Budget Refinement Act of 1999
25 (42 U.S.C. 1395fff note) is amended—

1 (A) in paragraph (1)—

2 (i) by inserting “and each subsequent
3 fiscal year before the implementation of
4 the prospective payment system under sec-
5 tion 1895 of the Social Security Act (42
6 U.S.C. 1395fff)” after “beginning in fiscal
7 year 2000”; and

8 (ii) by striking “\$10” and inserting
9 “\$30”;

10 (B) in paragraph (2)—

11 (i) by redesignating subparagraphs
12 (A) and (B) as clauses (i) and (ii), respec-
13 tively;

14 (ii) by inserting after the heading the
15 following:

16 “(A) FOR FISCAL YEAR 2000.—”; and

17 (iii) by adding at the end the fol-
18 lowing new subparagraph:

19 “(B) FOR SUBSEQUENT FISCAL YEARS.—

20 For each cost reporting period beginning after
21 fiscal year 2000 and before the implementation
22 of the prospective payment system under sec-
23 tion 1895 of the Social Security Act (42 U.S.C.
24 1395fff), the Secretary shall pay the amounts
25 payable to an agency under this subsection no

1 later than 30 days after the date on which the
2 cost report submitted by the agency for the cost
3 reporting period beginning in such fiscal year is
4 settled.”.

5 (2) UNDER THE PROSPECTIVE PAYMENT SYS-
6 TEM.—Section 1895(b) of the Social Security Act
7 (42 U.S.C. 1395fff) (as amended by section 103) is
8 amended by adding at the end the following new
9 paragraph:

10 “(9) ADJUSTMENT TO REFLECT OASIS ADMINIS-
11 TRATIVE COSTS.—In the case of a home health
12 agency that furnishes home health services to a
13 medicare beneficiary, for each such beneficiary to
14 whom the agency furnished such services during the
15 agency’s cost reporting period for which payment is
16 made to such agency under this section, the Sec-
17 retary shall include in such payment an aggregate
18 amount of \$30 to defray costs incurred by the agen-
19 cy attributable to data collection and reporting re-
20 quirements under the Outcome and Assessment In-
21 formation Set (OASIS) required by reason of section
22 4602(e) of BBA (42 U.S.C. 1395fff note).

23 (b) WAIVING BUDGET NEUTRALITY.—Section
24 1895(b)(3) of such Act (42 U.S.C. 1395fff(b)(3)) is

1 amended by adding at the end the following new subpara-
2 graph:

3 “(D) NO ADJUSTMENT FOR ADDITIONAL
4 PAYMENTS FOR OASIS ADMINISTRATIVE
5 COSTS.—The Secretary shall not reduce the
6 standard prospective payment amount (or
7 amounts) under this paragraph applicable to
8 home health services furnished during a period
9 to offset the increase in payments resulting
10 from the application of paragraph (9).”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 subsection (a) shall take effect as if included in the enact-
13 ment of the Medicare, Medicaid, and SCHIP Balanced
14 Budget Refinement Act of 1999 (113 Stat. 1501A–358),
15 as enacted into law by section 1000(a)(6) of Public Law
16 (106–113).

17 **TITLE IV—NONROUTINE MED-**
18 **ICAL SUPPLIES FURNISHED**
19 **BY HOME HEALTH AGENCIES**

20 **SEC. 401. EXCLUSION OF NONROUTINE MEDICAL SUPPLIES**
21 **UNDER THE PPS FOR HOME HEALTH SERV-**
22 **ICES.**

23 (a) IN GENERAL.—Section 1895 of the Social Secu-
24 rity Act (42 U.S.C. 1395fff) is amended by adding at the
25 end the following new subsection:

1 “(e) EXCLUSION OF NONROUTINE MEDICAL SUP-
2 PLIES.—

3 “(1) IN GENERAL.—Notwithstanding the pre-
4 ceding provisions of this section, in the case of all
5 nonroutine medical supplies (as defined by the Sec-
6 retary) furnished by a home health agency during a
7 year (beginning with 2001) for which payment is
8 otherwise made on the basis of the prospective pay-
9 ment amount under this section, payment under this
10 section shall instead be based on the lesser of—

11 “(A) the actual charge for the nonroutine
12 medical supply, or

13 “(B) the amount determined under the fee
14 schedule established by the Secretary for pur-
15 poses of making payment under this subsection
16 for nonroutine medical supplies furnished dur-
17 ing that year.

18 “(2) BUDGET NEUTRALITY ADJUSTMENT.—The
19 Secretary shall provide for an appropriate propor-
20 tional reduction in payments under this section so
21 that beginning with fiscal year 2001, the aggregate
22 amount of such reductions is equal to the aggregate
23 increase in payments attributable to the exclusion ef-
24 fected under paragraph (1).”.

1 (b) CONFORMING AMENDMENT.—Section 1895(b)(1)
2 of the Social Security Act (42 U.S.C. 1395fff(b)(1)) is
3 amended by striking “The Secretary” and inserting “Sub-
4 ject to subsection (e), the Secretary”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on the date of enactment of
7 this Act.

○