

110TH CONGRESS
2^D SESSION

S. 3116

To amend title XVIII of the Social Security Act to stabilize and modernize the provision of partial hospitalization services under the Medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2008

Mr. VITTER 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 stabilize and modernize the provision of partial hospitalization services under the Medicare program, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Outpatient Mental
5 Health Modernization Act of 2008”.

1 **SEC. 2. TRANSITIONAL FREEZE ON CERTAIN MEDICARE**
 2 **HOSPITAL OUTPATIENT FEE SCHEDULE**
 3 **AMOUNTS.**

4 Notwithstanding any other provision of law, effective
 5 for episodes and visits beginning on or after January 1,
 6 2009, and before January 1, 2010, in the case of partial
 7 hospital services (as defined in section 1861(ff)(1) of the
 8 Social Security Act (42 U.S.C. 1395x(ff)(1)), the OPD fee
 9 schedule increase factor under section 1833(t)(3)(C)(iv) of
 10 the Social Security Act (42 U.S.C. 1395l(t)(3)(C)(iv)) for
 11 the medicare OPD fee schedule amount established for
 12 such services (as published in the Federal Register on No-
 13 vember 27, 2007 (72 Fed. Reg. 66670)) shall be zero.

14 **SEC. 3. ACCREDITATION PROGRAM FOR COMMUNITY MEN-**
 15 **TAL HEALTH CENTERS PROVIDING PARTIAL**
 16 **HOSPITALIZATION SERVICES.**

17 Section 1833(t) of the Social Security Act (42 U.S.C.
 18 1395l(t)) is amended by adding at the end the following
 19 new paragraph:

20 “(18) ACCREDITATION PROGRAM FOR COMMU-
 21 NITY MENTAL HEALTH CENTERS PROVIDING PAR-
 22 TIAL HOSPITALIZATION SERVICES.—

23 “(A) DEFINITIONS.—In this section:

24 “(i) ACCREDITATION ORGANIZA-
 25 TION.—The term ‘accreditation organiza-
 26 tion’ means an organization designated by

1 the Secretary under subparagraph
2 (C)(i)(II) to accredit community mental
3 health centers providing partial hospitaliza-
4 tion services.

5 “(ii) PARTIAL HOSPITALIZATION
6 SERVICES.—The term ‘partial hospitaliza-
7 tion services’ has the meaning given such
8 term in section 1861(ff)(1).

9 “(iii) PHYSICIAN.—Except as other-
10 wise provided by the Secretary, the term
11 ‘physician’ means any individual who fur-
12 nishes services for which payment may be
13 made under the physician fee schedule
14 under section 1848.

15 “(iv) PHYSICIAN SPECIALTY ORGANI-
16 ZATION.—The term ‘physician specialty or-
17 ganization’ means a United States medical
18 specialty society that represents diplomats
19 certified by a board recognized by the
20 American Board of Medical Specialties.

21 “(B) ESTABLISHMENT.—Not later than
22 January 1, 2010, subject to the succeeding pro-
23 visions of this paragraph, the Secretary shall,
24 by regulation, establish an accreditation pro-
25 gram which requires the accreditation of com-

1 munity mental health centers providing partial
2 hospitalization services.

3 “(C) DESIGN OF ACCREDITATION PRO-
4 GRAM.—

5 “(i) IN GENERAL.—Each community
6 mental health center providing partial hos-
7 pitalization services for which payment is
8 made under the prospective payment sys-
9 tem established under this subsection must
10 be accredited for each program under
11 which such services are furnished by the
12 community mental health center by an ac-
13 crediting organization designated by the
14 Secretary under clause (ii).

15 “(ii) ACCREDITATION ORGANIZA-
16 TIONS.—

17 “(I) IN GENERAL.—The Sec-
18 retary shall, by regulation, designate
19 entities to accredit community mental
20 health centers providing partial hos-
21 pitalization services. The entities des-
22 ignated under the preceding sentence
23 shall include the Joint Commission on
24 Accreditation of Hospitals and the

1 Commission on Accreditation of Reha-
2 bilitation Facilities.

3 “(II) CONSULTATION.—In desig-
4 nating entities under subclause (I),
5 the Secretary shall consult with aca-
6 demic medical centers, community
7 mental health centers, hospitals, and
8 other appropriate medical personnel
9 (such as psychologists, social workers,
10 and nurse specialists).

11 “(iii) CONSIDERATIONS.—In desig-
12 nating entities under clause (ii), the Sec-
13 retary shall consider the following:

14 “(I) The ability of the entity to
15 conduct timely reviews of accredita-
16 tion applications.

17 “(II) Whether the entity has es-
18 tablished a process for the timely inte-
19 gration of new services and clinical
20 interventions for individuals who are
21 furnished partial hospitalization serv-
22 ices.

23 “(III) Any other factors the Sec-
24 retary determines appropriate.

1 “(iv) USE OF CRITERIA FOR ACCREDI-
2 TATION.—Accreditation organizations shall
3 use appropriate criteria for evaluating
4 community mental health centers providing
5 partial hospitalization services for purposes
6 of the accreditation of such community
7 mental health centers, including criteria
8 with respect to—

9 “(I) the qualifications of non-
10 physician medical personnel;

11 “(II) the qualifications and re-
12 sponsibilities of physicians, including
13 supervising physicians;

14 “(III) the establishment of proce-
15 dures for ensuring patient safety; and

16 “(IV) quality assurance report-
17 ing.

18 “(v) INCORPORATION OF QUALITY
19 MEASURES.—Not later than January 1,
20 2012, the Secretary shall provide for the
21 incorporation of measures selected for pur-
22 poses of quality reporting under paragraph
23 (19) into the accreditation program estab-
24 lished under this paragraph, including the

1 use of such measures in the criteria for ac-
2 creditation under clause (iv).

3 “(vi) REVIEW OF ACCREDITATION OR-
4 GANIZATIONS.—The Secretary, in consulta-
5 tion with the entities and individuals de-
6 scribed in clause (ii)(II)—

7 “(I) shall conduct an annual re-
8 view of accreditation organizations
9 designated under clause (ii); and

10 “(II) may, by regulation, expand
11 the original list of accreditation orga-
12 nizations so designated.

13 “(D) EVALUATION AND REPORT.—

14 “(i) EVALUATION.—The Secretary
15 shall contract with an independent, private
16 organization or entity to evaluate the effect
17 of the accreditation program established
18 under this paragraph and other relevant
19 questions involving access to and value of
20 partial hospitalization services furnished to
21 individuals under this part. Such evalua-
22 tion shall examine the following:

23 “(I) The impact of accreditation
24 requirements on the number, type,
25 and quality of partial hospitalization

1 services furnished to individuals under
2 this part.

3 “(II) The cost of meeting such
4 accreditation requirements, including
5 an examination of compliance costs to
6 community mental health centers pro-
7 viding partial hospitalization services
8 and administrative costs to the Sec-
9 retary.

10 “(III) The access of individuals
11 under this part to partial hospitaliza-
12 tion services, especially in rural areas,
13 before and after implementation of
14 the accreditation program.

15 “(IV) Any other matters the Sec-
16 retary determines appropriate.

17 “(ii) REPORT.—Not later than De-
18 cember 31, 2012, the Secretary shall sub-
19 mit a report to Congress on the evaluation
20 conducted under clause (i).

21 “(E) WAIVER AUTHORITY.—The Secretary
22 shall waive compliance with the requirements of
23 this title to such extent and for such period as
24 the Secretary determines is necessary to carry
25 out this paragraph.”.

1 **SEC. 4. QUALITY IMPROVEMENT FOR PARTIAL HOS-**
 2 **PITALIZATION SERVICES PROVIDED BY COM-**
 3 **MUNITY MENTAL HEALTH CENTERS.**

4 Section 1833(t) of the Social Security Act (42 U.S.C.
 5 1395l(t)), as amended by section 3, is amended by adding
 6 at the end the following new paragraph:

7 “(19) QUALITY REPORTING FOR PARTIAL HOS-
 8 PITALIZATION SERVICES PROVIDED BY COMMUNITY
 9 MENTAL HEALTH CENTERS.—

10 “(A) REDUCTION IN UPDATE FOR FAILURE
 11 TO REPORT.—For purposes of paragraph
 12 (3)(C)(iv) for 2009 and each subsequent year,
 13 in the case of a community mental health cen-
 14 ter providing partial hospitalization services (as
 15 defined in section 1861(ff)(1)) that does not
 16 submit, to the Secretary in accordance with this
 17 paragraph, data required to be submitted on
 18 measures selected under this paragraph with re-
 19 spect to such a calendar year, the OPD fee
 20 schedule increase factor under paragraph
 21 (3)(C)(iv) for such year shall be reduced by 1.0
 22 percentage point. A reduction under the pre-
 23 ceding sentence shall apply only with respect to
 24 the year involved and the Secretary shall not
 25 take into account such reduction in computing

1 the OPD fee schedule increase factor for a sub-
2 sequent calendar year.

3 “(B) FORM AND MANNER OF SUBMIS-
4 SION.—

5 “(i) IN GENERAL.—Subject to clause
6 (ii), each community mental health center
7 providing partial hospitalization services
8 shall submit to the Secretary data on
9 measures selected under this paragraph in
10 a form and manner, and at a time, speci-
11 fied by the Secretary for purposes of this
12 paragraph.

13 “(ii) GRACE PERIOD FOR SUBMISSION
14 IN 2011.—In the case of such data sub-
15 mitted with respect to 2011, the Secretary
16 shall provide for a 30-day grace period for
17 the submission of such data by a commu-
18 nity mental health center providing partial
19 hospitalization services.

20 “(C) DEVELOPMENT OF MEASURES.—

21 “(i) IN GENERAL.—The Secretary
22 shall select measures that the Secretary
23 determines appropriate for the measure-
24 ment of the quality of care provided by
25 community mental health centers providing

1 partial hospitalization services, including,
2 beginning with 2011, measures for a set of
3 5 indicators established by the Secretary.

4 “(ii) ADDITIONAL MEASURES.—The
5 Secretary shall expand, beyond the meas-
6 ures selected under clause (i) and con-
7 sistent with the succeeding provisions of
8 this paragraph, the set of measures that
9 the Secretary determines appropriate for
10 the measurement of the quality of care
11 provided by community mental health cen-
12 ters providing partial hospitalization serv-
13 ices.

14 “(iii) CONSENSUS MEASURES.—Begin-
15 ning with 2009, the Secretary shall add
16 additional measures that reflect consensus
17 among affected parties and, to the extent
18 feasible and practicable, shall include
19 measures set forth by 1 or more national
20 consensus building entities.

21 “(D) REPLACEMENT OF MEASURES.—For
22 purposes of this paragraph, the Secretary may
23 replace any measures or indicators in appro-
24 priate cases, such as where all community men-
25 tal health centers providing partial hospitaliza-

1 tion services are effectively in compliance or the
2 measures or indicators have been subsequently
3 shown not to represent the best clinical prac-
4 tice.

5 “(E) AVAILABILITY OF DATA.—The Sec-
6 retary shall establish procedures for making
7 data submitted under this paragraph available
8 to the public. Such procedures shall ensure that
9 a community mental health center providing
10 partial hospitalization services has the oppor-
11 tunity to review the data that are to be made
12 public with respect to the community mental
13 health center prior to such data being made
14 public. The Secretary shall report quality meas-
15 ures of process, structure, outcome, patients’
16 perspectives on care, efficiency, and costs of
17 care that relate to partial hospitalization serv-
18 ices on the Internet website of the Centers for
19 Medicare & Medicaid Services.”.

20 **SEC. 5. ESTABLISHING MINIMUM NUMBER OF SERVICE**
21 **UNITS.**

22 (a) IN GENERAL.—Section 1861(ff)(3)(A) of the So-
23 cial Security Act (42 U.S.C. 1395x(ff)(3)(A)) is amend-
24 ed—

1 (1) by striking “, and” and inserting a comma;
2 and

3 (2) by inserting before the period at the end “,
4 and which provides a minimum of 4 units of items
5 and services described in paragraph (2)”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on January 1, 2011.

8 **SEC. 6. COST-REPORTS OF PROVIDERS OF PARTIAL HOS-**
9 **PITALIZATION SERVICES.**

10 (a) IN GENERAL.—The Secretary shall require fiscal
11 intermediaries under the Medicare program under title
12 XVIII of the Social Security Act to file the cost reports
13 of providers of partial hospitalization services (as defined
14 in section 1861(ff)(1) of the Social Security Act (42
15 U.S.C. 1395x(ff)(1)) into the Healthcare Provider Cost
16 Reporting Information System (HCRIS) maintained by
17 the Centers for Medicare & Medicaid Services.

18 (b) FUNDING.—Out of any funds in the Treasury not
19 otherwise appropriated, there are appropriated
20 \$1,000,000 to the Secretary of Health and Human Serv-
21 ices for calendar year 2009 to carry out this section.

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