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112TH CONGRESS
2D SESSION

H. R. 5624

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, to amend title III of the Public Health Service Act to extend discounts under the 340B program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2012

Mrs. MCMORRIS RODGERS introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, to amend title III of the Public Health Service Act to extend discounts under the 340B 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 "Rural Hospital and Provider Equity and 340B Improve-
4 ment Act of 2012".

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

Sec. 1. Short title; table of contents.

TITLE I—RURAL HOSPITAL AND PROVIDER EQUITY

Sec. 101. Sense of the Congress.
Sec. 102. Fairness in the Medicare disproportionate share hospital (DSH) adjustment for rural hospitals.
Sec. 103. Extension and expansion of the Medicare hold harmless provision under the prospective payment system for hospital outpatient department (HOPD) services for certain hospitals.
Sec. 104. Temporary improvements to the Medicare inpatient hospital payment adjustment for low-volume hospitals.
Sec. 105. Extension of Medicare wage index reclassifications for certain hospitals.
Sec. 106. Extension of Medicare reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
Sec. 107. Elimination of isolation test for cost-based ambulance reimbursement for critical access hospitals.
Sec. 108. Extension of Medicare incentive payment program for physician scarcity areas.
Sec. 109. Extension of floor on Medicare work geographic adjustment.
Sec. 110. Improving care planning for Medicare home health services.
Sec. 111. Rural health clinic improvements.
Sec. 112. Temporary Medicare payment increase for home health services furnished in a rural area.
Sec. 113. Extension of increased Medicare payments for rural ground ambulance services.
Sec. 114. Extension of payment for technical component of certain physician pathology services.
Sec. 115. Facilitating the provision of telehealth services across State lines.
Sec. 116. Medicare Part A payment for anesthesiologist services in certain rural hospitals based on CRNA pass-through rules.
Sec. 117. Temporary floor on the practice expense geographic index for services furnished in rural areas outside of frontier States under the Medicare physician fee schedule.
Sec. 118. Revisions to standard for designation of sole community hospitals.
Sec. 119. State offices of rural health.
Sec. 120. Ensuring proportional representation of interests of rural areas on MEDPAC.

TITLE II—340B PROGRAM IMPROVEMENT

Sec. 201. Extension of discounts to inpatient drugs.
Sec. 202. Prohibition against duplicate discounts for physician administered drugs.
Sec. 203. Continued inclusion of orphan drugs in definition of covered outpatient drugs; technical amendment.
Sec. 204. Application of rules for determining provider-based status for certain entities.

TITLE I—RURAL HOSPITAL AND PROVIDER EQUITY

SEC. 101. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) residents of rural and frontier communities should have access to affordable, quality health care;

(2) rural and frontier communities face unique challenges in health care delivery and financing;

(3) Federal health policy must reflect the unique needs of residents of rural and frontier communities and such communities in an equitable and sustainable manner; and

(4) stakeholders should work collectively to identify innovative policies that address the availability, delivery, and affordability of health care services in rural and frontier communities.

SEC. 102. FAIRNESS IN THE MEDICARE DISPROPORTIONATE SHARE HOSPITAL (DSH) ADJUSTMENT FOR RURAL HOSPITALS.

Section 1886(d)(5)(F)(xiv)(II) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended by adding at the end the following new sentence: ''The pre-

ceding sentence shall not apply to any hospital with respect to discharges occurring on or after October 1, 2011, and before October 1, 2012.''.

SEC. 103. EXTENSION AND EXPANSION OF THE MEDICARE HOLD HARMLESS PROVISION UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT (HOPD) SERVICES FOR CERTAIN HOSPITALS.

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking ''March 1, 2012'' and inserting ''January 1, 2013''; and

(B) in the second sentence—

(i) by striking ''and 85'' and inserting ''85''; and

(ii) by inserting the following before the period at the end: '', and 100 percent with respect to such services furnished in the last 10 months of 2012''; and

(2) in subclause (III)—

(A) in the first sentence—

(i) by striking ''2009, and before March 1, 2012, for which'' and inserting

"2009, and before January 1, 2013, for which"; and

(ii) by striking "85 percent" and inserting "the applicable percentage (as determined under the second sentence of subclause (II) for the year)"; and

(B) in the second sentence, by striking "2010, and before March 1, 2012, the preceding" and inserting "2010, and before January 1, 2013, the preceding".

SEC. 104. TEMPORARY IMPROVEMENTS TO THE MEDICARE INPATIENT HOSPITAL PAYMENT ADJUSTMENT FOR LOW-VOLUME HOSPITALS.

Section 1886(d)(12) of the Social Security Act (42 U.S.C. 1395ww(d)(12)) is amended—

(1) in subparagraph (C)(i), by inserting "and 2,000 discharges, respectively," after "1,600 discharges"; and

(2) in subparagraph (D)—

(A) by striking "1,600" and inserting "the applicable number of"; and

(B) by adding at the end the following new sentence: "For purposes of the preceding sentence, the term 'applicable number of discharges' means 1,600 discharges with respect to

discharges occurring in fiscal year 2011 and 2,000 discharges with respect to discharges occurring in fiscal year 2012''.

SEC. 105. EXTENSION OF MEDICARE WAGE INDEX RECLASSIFICATIONS FOR CERTAIN HOSPITALS.

(a) EXTENSION OF CORRECTION OF MID-YEAR RECLASSIFICATION EXPIRATION FOR CERTAIN HOSPITALS.—

(1) IN GENERAL.—In the case of a hospital described in paragraph (2), the Secretary of Health and Human Services shall apply subsection (a) of section 106 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395ww note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), sections 3137(a) and 10317 of the Patient Protection and Affordable Care Act (Public Law 111–148), and section 102 of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309), by substituting ''September 30, 2012'' for ''November 30, 2011''.

(2) HOSPITAL DESCRIBED.—A hospital described in this paragraph is—

(A) a hospital—

(i) that is described in subsection (a) of such section 106; and

(ii)(I) that is located in a rural area; and

(II) for which the Secretary of Health and Human Services has determined the extension under this subsection to be appropriate; or

(B) a sole community hospital located in a State with less than 10 people per square mile that was provided with a special exception reclassification extension under section 117(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173).

(b) NOT BUDGET NEUTRAL.—The provisions of this section shall not be effected in a budget-neutral manner.

SEC. 106. EXTENSION OF MEDICARE REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Section 416(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395l–4), as amended by section 105 of division B of the

Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395l note), section 107 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C. 1395l note), section 3122 of the Patient Protection and Affordable Care Act (Public Law 111–148), and section 109 of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309), is amended by striking ''the 2-year period beginning on July 1, 2010'' and inserting ''the 30-month period beginning on July 1, 2010''.

SEC. 107. ELIMINATION OF ISOLATION TEST FOR COST-BASED AMBULANCE REIMBURSEMENT FOR CRITICAL ACCESS HOSPITALS.

(a) IN GENERAL.—Section 1834(l)(8) of the Social Security Act (42 U.S.C. 1395m(l)(8)) is amended—

(1) in subparagraph (B)—

(A) by striking ''owned and''; and

(B) by inserting ''(including when such services are provided by the entity under an arrangement with the hospital)'' after ''hospital''; and

(2) by striking the comma at the end of subparagraph (B) and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2012.

SEC. 108. EXTENSION OF MEDICARE INCENTIVE PAYMENT PROGRAM FOR PHYSICIAN SCARCITY AREAS.

Section 1833(u)(1) of the Social Security Act (42 U.S.C. 1395l(u)(1)) is amended by inserting ", and such services furnished on or after January 1, 2012, and before January 1, 2013" after "2008".

SEC. 109. EXTENSION OF FLOOR ON MEDICARE WORK GEOGRAPHIC ADJUSTMENT.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)) is amended by striking "before March 1, 2012" and inserting "before January 1, 2013".

SEC. 110. IMPROVING CARE PLANNING FOR MEDICARE HOME HEALTH SERVICES.

(a) PART A PROVISIONS.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ", a nurse practitioner or clinical nurse specialist who is working in collaboration with a physician in accordance with State law, a certified nurse-midwife (as defined in section 1861(gg)) as authorized by State law,

or a physician assistant (as defined in section 1861(aa)(5)) under the supervision of a physician'' after ''1866(j)''; and

(B) in subparagraph (C)—

(i) by inserting '', a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant (as the case may be)'' after ''physician'' the first 2 times it appears; and

(ii) by striking '', and, in the case of a certification made by a physician'' and all that follows through ''face-to-face encounter'' and inserting '', and, in the case of a certification made by a physician after January 1, 2010, or by a nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be) after January 1, 2012, prior to making such certification the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant must document that the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physi-

cian assistant has had a face-to-face encounter''; (2) in the second sentence, by inserting ''certified nurse-midwife,'' after ''clinical nurse specialist,''; (3) in the third sentence—

(A) by striking ''physician certification'' and inserting ''certification''; (B) by inserting ''(or on January 1, 2012, in the case of regulations to implement the amendments made by section 11 of the Rural Hospital and Provider Equity and 340B Improvement Act of 2012)'' after ''1981''; and

(C) by striking ''a physician who'' and inserting ''a physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant who''; and

(4) in the fourth sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant'' after ''physician''.

(b) PART B PROVISIONS.—Section 1835(a) of the Social Security Act (42 U.S.C. 1395n(a)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting '', a nurse practitioner or clin-

ical nurse specialist (as those terms are defined in section 1861(aa)(5)) who is working in collaboration with a physician in accordance with State law, a certified nurse-midwife (as defined in section 1861(gg)) as authorized by State law, or a physician assistant (as defined in section 1861(aa)(5)) under the supervision of a physician'' after ''1866(j)''; and

(B) in subparagraph (A)—

(i) in each of clauses (ii) and (iii) of subparagraph (A) by inserting '', a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant (as the case may be)'' after ''physician''; and

(ii) in clause (iv), by striking ''after January 1, 2010'' and all that follows through ''face-to-face encounter'' and inserting ''made by a physician after January 1, 2010, or by a nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be) after January 1, 2012, prior to making such certification the physician, nurse practitioner, clinical nurse specialist,

certified nurse-midwife, or physician assistant must document that the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant has had a face-to-face encounter''; (2) in the third sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be)'' after ''physician''; (3) in the fourth sentence—

(A) by striking ''physician certification'' and inserting ''certification''; (B) by inserting ''(or on January 1, 2012, in the case of regulations to implement the amendments made by section 11 of the Rural Hospital and Provider Equity and 340B Improvement Act of 2012)'' after ''1981''; and

(C) by striking ''a physician who'' and inserting ''a physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant who''; and

(4) in the fifth sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant'' after ''physician''.

(c) DEFINITION PROVISIONS.—

(1) HOME HEALTH SERVICES.—Section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by inserting ", a nurse practitioner or a clinical nurse specialist (as those terms are defined in subsection (aa)(5)), a certified nurse-midwife (as defined in section 1861(gg)), or a physician assistant (as defined in subsection (aa)(5))" after "physician" the first place it appears; and

(ii) by inserting ", a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant" after "physician" the second place it appears; and

(B) in paragraph (3), by inserting ", a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant" after "physician".

(2) HOME HEALTH AGENCY.—Section 1861(o)(2) of the Social Security Act (42 U.S.C. 1395x(o)(2)) is amended—

(A) by inserting ", nurse practitioners or clinical nurse specialists (as those terms are defined in subsection (aa)(5)), certified nurse-midwives (as defined in section 1861(gg)), or physician assistants (as defined in subsection (aa)(5))" after "physicians"; and

(B) by inserting ", nurse practitioner, clinical nurse specialist, certified nurse-midwife, physician assistant," after "physician".

(d) HOME HEALTH PROSPECTIVE PAYMENT SYSTEM PROVISIONS.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended—

(1) in subsection (c)(1), by inserting ", the nurse practitioner or clinical nurse specialist (as those terms are defined in section 1861(aa)(5)), the certified nurse-midwife (as defined in section 1861(gg)), or the physician assistant (as defined in section 1861(aa)(5))," after "physician"; and

(2) in subsection (e)—

(A) in paragraph (1)(A), by inserting ", a nurse practitioner or clinical nurse specialist (as those terms are defined in section 1861(aa)(5)), a certified nurse-midwife (as defined in section 1861(gg)), or a physician assistant (as defined in section 1861(aa)(5))" after "physician"; and

(B) in paragraph (2)—

(i) in the heading, by striking ''PHYSICIAN CERTIFICATION'' and inserting ''RULE OF CONSTRUCTION REGARDING REQUIREMENT FOR CERTIFICATION''; and

(ii) by striking ''physician''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2012.

SEC. 111. RURAL HEALTH CLINIC IMPROVEMENTS.

Section 1833(f) of the Social Security Act (42 U.S.C. 1395l(f)) is amended—

(1) in paragraph (1), by striking '', and'' at the end and inserting a semicolon;

(2) in paragraph (2)—

(A) by inserting ''(before 2012)'' after ''in a subsequent year''; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(3) in 2012, at $101 per visit; and

''(4) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the MEI (as

so defined) applicable to primary care services (as so defined) furnished as of the first day of that year.''.

SEC. 112. TEMPORARY MEDICARE PAYMENT INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

Section 421(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2283), as amended by section 5201(b) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 46) and section 3131(c) of the Patient Protection and Affordable Care Act (Public Law 111–148; 124 Stat. 428), is amended by striking ''2016, 3 percent'' and inserting ''2011, and episodes and visits ending on or after January 1, 2013, and before January 1, 2016, 3 percent''.

SEC. 113. EXTENSION OF INCREASED MEDICARE PAYMENTS FOR RURAL GROUND AMBULANCE SERVICES.

(a) IN GENERAL.—Section 1834(l)(13)(A) of the Social Security Act (42 U.S.C. 1395m(l)(13)(A)) is amended—

(1) in the matter preceding clause (i)—

(A) by striking ''2007, and for'' and inserting ''2007, for''; and

(B) by inserting '', and for such services described in clause (i) furnished on or after

March 1, 2012, and before January 1, 2013'' after ''2012''; and

(2) in clause (i), by inserting '', or 5 percent if such service is furnished on or after March 1, 2012, and before January 1, 2013'' after ''2012''.

(b) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)) is amended by striking ''March 1, 2012'' and inserting ''January 1, 2013''.

SEC. 114. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), section 3104 of the Patient Protection and Affordable Care Act (Public Law 111–148), section 105 of the Medi-

care and Medicaid Extenders Act of 2010 (Public Law 111–309), and section 305 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78) is amended by striking ''the first two months of''.

SEC. 115. FACILITATING THE PROVISION OF TELEHEALTH SERVICES ACROSS STATE LINES.

(a) IN GENERAL.—For purposes of expediting the provision of telehealth services, for which payment is made under the Medicare program, across State lines, the Secretary of Health and Human Services shall, in consultation with representatives of States, physicians, health care practitioners, and patient advocates, encourage and facilitate the adoption of provisions allowing for multistate practitioner practice across State lines.

(b) DEFINITIONS.—In subsection (a):

(1) TELEHEALTH SERVICE.—The term ''telehealth service'' has the meaning given that term in subparagraph (F) of section 1834(m)(4) of the Social Security Act (42 U.S.C. 1395m(m)(4)).

(2) PHYSICIAN, PRACTITIONER.—The terms ''physician'' and ''practitioner'' have the meaning given those terms in subparagraphs (D) and (E), respectively, of such section.

(3) MEDICARE PROGRAM.—The term ''Medicare program'' means the program of health insurance

administered by the Secretary of Health and Human Services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

SEC. 116. MEDICARE PART A PAYMENT FOR ANESTHESIOLOGIST SERVICES IN CERTAIN RURAL HOSPITALS BASED ON CRNA PASS-THROUGH RULES.

(a) IN GENERAL.—Section 1814 of the Social Security Act (42 U.S.C. 1395f) is amended by adding at the end the following new subsection:

"Anesthesiologist Services Provided in Certain Rural Hospitals

"(m)(1) Notwithstanding any other provision of this title, coverage and payment shall be provided under this part for physicians' services that are anesthesia services furnished by a physician who is an anesthesiologist in a rural hospital described in paragraph (3) in the same manner as payment is made under the exception provided in section 9320(k) of the Omnibus Budget Reconciliation Act of 1986, as added by section 608(c)(2) of the Family Support Act of 1988 and amended by section 6132 of the Omnibus Budget Reconciliation Act of 1989, (relating to payment on a reasonable cost, pass-through basis) for certified registered nurse anesthetist services furnished by a

1 certified registered nurse anesthetist in a hospital de-
2 scribed in such section 9320(k).

3 ''(2) No payment shall be made under any other pro-
4 vision of this title for physicians' services for which pay-
5 ment is made under this subsection.

6 ''(3) A rural hospital described in this paragraph is
7 a hospital described in section 9320(k) of the Omnibus
8 Budget Reconciliation Act of 1986, as so added and
9 amended, except that—

10 ''(A) any reference in such section to a 'cer-
11 tified registered nurse anesthetist' or an 'anesthetist'
12 is deemed a reference to a 'physician who is an anes-
13 thesiologist' or an 'anesthesiologist', respectively;
14 and

15 ''(B) any reference to 'January 1, 1988' or
16 '1987' is deemed a reference to such date and year
17 as the Secretary shall specify.''.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to services furnished during cost
20 reporting periods beginning on or after the date of the
21 enactment of this Act.

SEC. 117. TEMPORARY FLOOR ON THE PRACTICE EXPENSE GEOGRAPHIC INDEX FOR SERVICES FURNISHED IN RURAL AREAS OUTSIDE OF FRONTIER STATES UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.

Section 1848(e)(1) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)) is amended—

(1) in subparagraph (A), by striking ''and (I)'' and inserting ''(I), and (J)''; and

(2) by adding at the end the following new subparagraph:

''(J) FLOOR AT 1.0 ON PRACTICE EXPENSE GEOGRAPHIC INDEX FOR SERVICES FURNISHED IN RURAL AREAS OUTSIDE OF FRONTIER STATES.—For purposes of payment for services furnished in a rural area (other than a rural area located in a State to which subparagraph (I) applies) on or after January 1, 2012, and before January 1, 2013, after calculating the practice expense index under subparagraph (A)(i), the Secretary shall increase any such index to 1.0 if such index would otherwise be less than 1.0. The preceding sentence shall not be applied in a budget neutral manner.''.

SEC. 118. REVISIONS TO STANDARD FOR DESIGNATION OF SOLE COMMUNITY HOSPITALS.

Section 1886(d)(5)(D)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(D)(iv)) is amended by adding at the end the following new sentence: ''Under such standard, the time required for an individual to travel to the nearest alternative source of care shall be measured over improved roads maintained by a local, State, or Federal Government entity for use by the general public which is the most expeditious and accessible route as designated by law enforcement for emergency vehicle travel.''.

SEC. 119. STATE OFFICES OF RURAL HEALTH.

Section 338J(j)(1) of the Public Health Service Act (42 U.S.C. 254r(j)(1)) is amended by inserting ''and 2012 through 2013'' before the period.

SEC. 120. ENSURING PROPORTIONAL REPRESENTATION OF INTERESTS OF RURAL AREAS ON MEDPAC.

(a) IN GENERAL.—Section 1805(c)(2) of the Social Security Act (42 U.S.C. 1395b–6(c)(2)) is amended—

(1) in subparagraph (A), by inserting ''(consistent with the requirements of subparagraph (E))'' after ''rural representatives''; and

(2) by adding at the end the following new subparagraph:

''(E) PROPORTIONAL REPRESENTATION OF INTERESTS OF RURAL AREAS.—In order to pro-

vide a balance between urban and rural representatives under subparagraph (A), the proportion of members who represent the interests of health care providers and Medicare beneficiaries located in rural areas shall be no less than the proportion of the total number of Medicare beneficiaries who reside in rural areas.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to appointments made to the Medicare Payment Advisory Commission after the date of the enactment of this Act.

TITLE II—340B PROGRAM IMPROVEMENT

SEC. 201. EXTENSION OF DISCOUNTS TO INPATIENT DRUGS.

(a) IN GENERAL.—Section 340B of the Public Health Service Act (42 U.S.C. 256b) is amended—

(1) in subsection (a)—

(A) in paragraphs (1), (2), and (5), by striking ''covered outpatient drug'' each place such term appears and inserting ''covered drug''; and

(B) in paragraphs (1), (7), and (9), by striking ''covered outpatient drugs'' each place

1 such term appears and inserting ''covered
2 drugs'';
3 (2) in subsection (b)(2)(B) by striking ''para-
4 graph (3)(A)'' and inserting ''paragraph (3)''; and
5 (3) in subsection (d), by striking ''covered out-
6 patient drugs'' each place such term appears and in-
7 serting ''covered drugs''.
8 (b) MEDICAID CREDITS ON INPATIENT DRUGS.—
9 Section 340B of the Public Health Service Act (42 U.S.C.
10 256b) is amended by inserting after subsection (b) the fol-
11 lowing new subsection:
12 ''(c) MEDICAID CREDITS ON INPATIENT DRUGS.—
13 ''(1) IN GENERAL.—For each cost reporting pe-
14 riod, based on the most recently filed Medicare cost
15 report under title XVIII of the Social Security Act
16 and subject to paragraph (5), a hospital described in
17 subparagraph (L), (M), (N), or (O) of subsection
18 (a)(4) and enrolled to participate in the drug dis-
19 count program under this section shall provide to
20 each State that has a plan for medical assistance
21 under title XIX of such Act and that makes pay-
22 ment to such hospital for covered drugs provided to
23 Medicaid recipients for inpatient use, a credit on the
24 estimated annual purchases by such hospital of such
25 covered drugs provided to such Medicaid recipients.

1 "(2) AMOUNT OF CREDIT.—

2 "(A) IN GENERAL.—The credit described
3 in paragraph (1), with respect to a hospital and
4 cost reporting period described in such para-
5 graph shall be equal to—

6 "(i) the product of—

7 "(I) the sum of the annual credit
8 amounts (described in subparagraph
9 (B)) calculated under subparagraph
10 (B)(i) for each dosage form and
11 strength of each covered drug pur-
12 chased by the hospital during the cost
13 reporting period; and

14 "(II) the estimated percentage of
15 the purchases of covered drugs by the
16 hospital during such period attrib-
17 utable to Medicaid recipients for inpa-
18 tient use, as determined in accordance
19 with subparagraph (D); and

20 "(ii) subject to paragraph (3)(D), re-
21 duced by the amount by which the Med-
22 icaid inpatient reimbursement (as defined
23 in subparagraph (E)(ii)) of the hospital for
24 such period was reduced as a result of par-
25 ticipation in the drug discount program

under this section during such period by the hospital, as determined in accordance with subparagraph (E).

"(B) ANNUAL CREDIT AMOUNTS.—For purposes of subparagraph (A)(i)(I), an annual credit amount, with respect to a covered drug purchased by a hospital described in paragraph (1) during a cost reporting period of the hospital—

"(i) is equal to the sum of the quarterly credit amounts calculated under subparagraph (C)(i), for each of the 4 quarters of the cost reporting period for such covered drug; and

"(ii) shall be calculated for each dosage form and strength of such covered drug.

"(C) QUARTERLY CREDIT AMOUNTS.—For purposes of subparagraph (B)(ii), a quarterly credit amount, with respect to a covered drug purchased by a hospital described in paragraph (1) during a quarter of the cost reporting period of the hospital—

"(i) is equal to the product of—

1 "(I) the total number of units of
2 each dosage form and strength of
3 such covered drug purchased by the
4 hospital during such quarter;
5 "(II) the average manufacturer
6 price of the covered drug (for the unit
7 of the dosage form and strength in-
8 volved) during such quarter; and
9 "(III) half of the rebate percent-
10 age for the covered drug, as defined in
11 subsection (a)(2); and
12 "(ii) shall be calculated for—
13 "(I) each dosage form and
14 strength of the covered drug pur-
15 chased by the hospital; and
16 "(II) each of the 4 quarters of
17 such cost reporting period.
18 "(D) PERCENTAGE OF DRUG PURCHASES
19 ATTRIBUTABLE TO MEDICAID RECIPIENTS FOR
20 IMPATIENT USE.—For purposes of subpara-
21 graph (A)(i)(II), the estimated percentage of
22 the drug purchases of the hospital attributable
23 to Medicaid recipients for inpatient use shall be
24 equal to the Medicaid inpatient drug charges as
25 reported on the most recently filed Medicare

1 cost report of the hospital, divided by the total
2 drug charges reported on the cost report.
3 "(E) CREDIT OFFSET.—
4 "(i) IN GENERAL.—For purposes of
5 subparagraph (A)(ii), the amount by which
6 the Medicaid inpatient reimbursement of a
7 hospital, with respect to a cost reporting
8 period, is reduced as a result of the partici-
9 pation in the drug discount program under
10 this section by the hospital shall be com-
11 puted as the difference between—
12 "(I) the Medicaid inpatient reim-
13 bursement that would have otherwise
14 been payable to the hospital for the
15 cost reporting period if the hospital
16 did not participate in such drug dis-
17 count program; and
18 "(II) the actual Medicaid inpa-
19 tient reimbursement payable to the
20 hospital for the cost reporting period.
21 "(ii) MEDICAID INPATIENT REIM-
22 BURSEMENT DEFINED.—For purposes of
23 this subsection, the term 'Medicaid inpa-
24 tient reimbursement' means the total pay-
25 ments received by the hospital under the

State plan under title XIX of the Social Security Act for providing inpatient services to Medicaid recipients.

"(3) REQUIREMENTS.—

"(A) IN GENERAL.—A hospital shall not be required to provide a credit under paragraph (1) to a State unless, not later than 30 days after receiving the information described in subparagraph (B), the State calculates in accordance with paragraph (2) the amount of the credit owed by the hospital under paragraph (1) and provides the hospital with both the amount of such credit so owed and an explanation of how the State calculated such credit.

"(B) HOSPITAL PROVISION OF INFORMATION.—Not later than 30 days after the date of the filing of the most recently filed Medicare cost report of a hospital described in paragraph (1), the hospital shall provide the State involved with the information described in subparagraphs (C)(i)(I) and (D) of paragraph (2). With respect to each covered drug purchased during the cost reporting period, the hospital shall provide the National Drug Code, date of purchase, and the number of units purchased.

1 Submission of such information shall not be re-
2 quired if a covered drug has not been assigned
3 a National Drug Code at the time of purchase.
4 "(C) ACCESS TO AMP AND REBATE
5 DATA.—The Secretary shall establish a system
6 for giving States access to the information nec-
7 essary for them to calculate credits under para-
8 graph (2), with respect to covered drugs, in-
9 cluding the average manufacturer price and re-
10 bate percentage for such covered drugs.
11 "(D) CREDIT OFFSET.—Paragraph
12 (2)(A)(ii) shall be applied, with respect to a
13 credit owed by a hospital under paragraph (1),
14 only if, not later than 30 days after filing the
15 most recent Medicare cost report, the hospital
16 submits to the State involved—
17 "(i) a request for the State to apply
18 such paragraph and to calculate the
19 amount described in such paragraph in ac-
20 cordance with paragraph (2)(E); and
21 "(ii) the data needed by the State to
22 determine the amount of the Medicaid in-
23 patient reimbursement described in para-
24 graph (2)(E)(i)(I) for such hospital.

"(E) DISPUTES.—A State and hospital described in paragraph (1) shall have access to the same State dispute resolution procedures and system applicable to Medicaid reimbursement matters under title XIX of the Social Security Act.

"(4) PAYMENT DEADLINE.—A hospital shall provide to a State the credits owed by such hospital under paragraph (1) not later than 60 days after the hospital receives the information described in paragraph (3)(A).

"(5) OPT OUT.—A hospital shall not be required to provide a credit under paragraph (1) to a State if the hospital and State agree to an alternative arrangement.

"(6) OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State under this subsection shall be considered to be a reduction in the amount expended under the State plan for medical assistance for purposes of section 1903(a)(1) of the Social Security Act.

"(7) MEDICAID RECIPIENT DEFINED.—For purposes of this subsection, the term 'Medicaid recipient' means, with respect to a State, an individual

who receives benefits under the State plan under title XIX of the Social Security Act.''.

(c) CONFORMING AMENDMENTS.—Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (a)(5)—

(A) in subparagraph (A), by striking ''covered outpatient drugs'' and inserting ''covered drugs (as defined in section 340B(b)(2) of the Public Health Service Act)''; and

(B) by striking subparagraphs (D) and (E); and

(2) in subsection (c)(1)(C)(i)—

(A) by redesignating subclauses (II) through (VI) as subclauses (III) through (VII), respectively; and

(B) by inserting after subclause (I) the following:

''(II) any prices charged for a covered drug, as defined in section 340B(b)(2) of the Public Health Service Act;''.

SEC. 202. PROHIBITION AGAINST DUPLICATE DISCOUNTS FOR PHYSICIAN ADMINISTERED DRUGS.

Section 340B(a)(5)(A) of the Public Health Service Act (42 U.S.C. 256b) is amended by adding at the end the following:

"(iii) PHYSICIAN ADMINISTERED DRUGS.—A hospital described in subparagraph (L), (M), (N), or (O) of paragraph (4) shall not be required under section 1927(a)(7) of the Social Security Act to report National Drug Code numbers for drugs administered by a physician (or under a physician's supervision) if the State is precluded from seeking a rebate on such drugs because such drugs were purchased at a discount under this section. Nothing in this clause shall relieve a hospital of its obligation to submit National Drug Codes in accordance with subsection (c)(3)(B).".

SEC. 203. CONTINUED INCLUSION OF ORPHAN DRUGS IN DEFINITION OF COVERED OUTPATIENT DRUGS; TECHNICAL AMENDMENT.

(a) IN GENERAL.—Section 340B of the Public Health Service Act (42 U.S.C. 256b) is amended by striking subsection (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs purchased on or after March 30, 2010.

SEC. 204. APPLICATION OF RULES FOR DETERMINING PROVIDER-BASED STATUS FOR CERTAIN ENTITIES.

Notwithstanding any other provision of law, in making determinations of provider-based status under title XVIII of the Social Security Act, the facility or organization shall be treated as satisfying any requirements and standards for geographic location in relation to a hospital or a critical access hospital if the facility or organization is described in subparagraph (L), (M), (N), or (O) of section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)).

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