

104TH CONGRESS  
2D SESSION

# S. 2034

To amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare program.

---

## IN THE SENATE OF THE UNITED STATES

AUGUST 2, 1996

Mr. BREAUx (for himself, Mr. MACK, Mr. GRAHAM, and Mr. COHEN) 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 certain changes to hospice care 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 Hospice Ben-  
5 efit Amendments of 1996”.

6 **SEC. 2. HOSPICE CARE BENEFIT PERIODS.**

7 (a) RESTRUCTURING OF BENEFIT PERIOD.—Section  
8 1812 of the Social Security Act (42 U.S.C. 1395d) is  
9 amended in subsections (a)(4) and (d)(1), by striking “,  
10 a subsequent period of 30 days, and a subsequent exten-

1 sion period” and inserting “and an unlimited number of  
2 subsequent periods of 60 days each”.

3 (b) CONFORMING AMENDMENTS.—(1) Section  
4 1812(d)(2)(B) of such Act (42 U.S.C. 1395d(d)(2)(B)) is  
5 amended by striking “90- or 30-day period or a subse-  
6 quent extension period” and inserting “90-day period or  
7 a subsequent 60-day period”.

8 (2) Section 1814(a)(7)(A) of such Act (42 U.S.C.  
9 1395f(a)(7)(A)) is amended—

10 (A) in clause (i), by inserting “and” at the end;

11 (B) in clause (ii)—

12 (i) by striking “30-day” and inserting “60-  
13 day”; and

14 (ii) by striking “and” at the end and in-  
15 serting a period; and

16 (C) by striking clause (iii).

17 **SEC. 3. AMBULANCE SERVICES, DIAGNOSTIC TESTS, CHEM-**

18 **OTHERAPY SERVICES, AND RADIATION THER-**

19 **APY SERVICES INCLUDED IN HOSPICE CARE.**

20 Section 1861(dd)(1) of the Social Security Act (42  
21 U.S.C. 1395x(dd)(1)) is amended—

22 (1) in subparagraph (E), by inserting  
23 “anticancer chemotherapeutic agents and other” be-  
24 fore “drugs”;

1           (2) in subparagraph (G), by striking “and” at  
2 the end;

3           (3) in subparagraph (H), by striking the period  
4 at the end and inserting a comma; and

5           (4) by inserting after subparagraph (H) the fol-  
6 lowing:

7           “(I) ambulance services,

8           “(J) diagnostic tests, and

9           “(K) radiation therapy services.”.

10 **SEC. 4. CONTRACTING WITH INDEPENDENT PHYSICIANS**

11                           **OR PHYSICIAN GROUPS FOR HOSPICE CARE**

12                           **SERVICES PERMITTED.**

13           Section 1861(dd)(2) of the Social Security Act (42  
14 U.S.C. 1395x(dd)(2)) is amended—

15           (1) in subparagraph (A)(ii)(I), by striking  
16 “(F),”; and

17           (2) in subparagraph (B)(i), by inserting “or  
18 under contract with” after “employed by”.

19 **SEC. 5. WAIVER OF CERTAIN STAFFING REQUIREMENTS**

20                           **FOR HOSPICE CARE PROGRAMS IN NON-UR-**

21                           **BANIZED AREAS.**

22           Section 1861(dd)(5) of the Social Security Act (42  
23 U.S.C. 1395x(dd)(5)) is amended—

24           (1) in subparagraph (B), by inserting “or (C)”  
25 after “subparagraph (A)” each place it appears; and

1 (2) by adding at the end the following:

2 “(C) The Secretary may waive the requirements of  
3 paragraphs (2)(A)(i) and (2)(A)(ii) for an agency or orga-  
4 nization with respect to the services described in para-  
5 graph (1)(B) and, with respect to dietary counseling,  
6 paragraph (1)(H), if such agency or organization—

7 “(i) is located in an area which is not an urban-  
8 ized area (as defined by the Bureau of Census), and

9 “(ii) demonstrates to the satisfaction of the  
10 Secretary that the agency or organization has been  
11 unable, despite diligent efforts, to recruit appro-  
12 priate personnel.”.

13 **SEC. 6. LIMITATION ON LIABILITY OF BENEFICIARIES AND**  
14 **PROVIDERS FOR CERTAIN HOSPICE COV-**  
15 **ERAGE DENIALS.**

16 (a) IN GENERAL.—Section 1879(g) of the Social Se-  
17 curity Act (42 U.S.C. 1395pp(g)) is amended—

18 (1) by redesignating paragraphs (1) and (2) as  
19 subparagraphs (A) and (B), respectively, and mov-  
20 ing such subparagraphs 2 ems to the right;

21 (2) by striking “is,” and inserting “is—”;

22 (3) by making the remaining text of subsection  
23 (g), as amended, that follows “is—” a new para-  
24 graph (1) and indenting such paragraph 2 ems to  
25 the right;

1           (4) by striking the period at the end and insert-  
2           ing “; and”; and

3           (5) by adding at the end the following new  
4           paragraph:

5           “(2) with respect to the provision of hospice  
6           care to an individual, a determination that the indi-  
7           vidual is not terminally ill.”.

8           (b)    WAIVER    PERIOD    EXTENDED.—Section  
9    9305(f)(2) of the Omnibus Budget Reconciliation Act of  
10   1986 is amended by striking “and before December 31,  
11   1995.”.

12          (c)    EFFECTIVE DATE.—The amendments made by  
13   this section shall take effect on December 31, 1995.

14   **SEC. 7. EXTENDING THE PERIOD FOR PHYSICIAN CERTIFI-**  
15                   **CATION OF AN INDIVIDUAL’S TERMINAL ILL-**  
16                   **NESS.**

17          Section 1814(a)(7)(A)(i)(II) of the Social Security  
18   Act (42 U.S.C. 1395f(a)(7)(A)(i)(II)) is amended by strik-  
19   ing “, not later than 2 days after hospice care is initiated  
20   (or, if each certify verbally not later than 2 days after  
21   hospice care is initiated, not later than 8 days after such  
22   care is initiated),” and inserting “at the beginning of the  
23   period”.

1 **SEC. 8. EFFECTIVE DATE.**

2       Except as provided in section 6(c), the amendments  
3 made by this Act shall apply to benefits provided on or  
4 after the date of the enactment of this Act, regardless of  
5 whether or not an individual has made an election under  
6 section 1812(d) of the Social Security Act before such  
7 date.

○