

105TH CONGRESS
2D SESSION

H. R. 4370

To amend title XVIII of the Social Security Act to preserve access to home health services under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1998

Mr. COBURN (for himself, Mr. MCGOVERN, Mr. WEYGAND, Mr. CARDIN, Mr. BARTON of Texas, Mr. FRANK of Massachusetts, Mr. TIERNEY, Mr. HALL of Texas, Mr. KILPATRICK, Mr. WAMP, Mr. OLVER, Mr. DELAHUNT, Mr. NORWOOD, Mr. ACKERMAN, Mr. JEFFERSON, Ms. STABENOW, Mr. BERRY, Mr. MOAKLEY, Mr. SANDLIN, Mr. NEAL of Massachusetts, Mr. KENNEDY of Massachusetts, Mrs. MCCARTHY of New York, Mr. SUNUNU, Mr. BURR of North Carolina, Mr. MARKEY, and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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

A BILL

To amend title XVIII of the Social Security Act to preserve access to home 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 “Home Health Access
5 Preservation Act of 1998”.

1 **SEC. 2. REVISION OF INTERIM PAYMENT SYSTEM FOR**
2 **HOME HEALTH SERVICES.**

3 (a) REVISION OF PER BENEFICIARY LIMIT.—Section
4 1861(v)(1)(L) of the Social Security Act (42 U.S.C.
5 1395x(v)(1)(L)) is amended—

6 (1) in clause (v)(I)—

7 (A) by inserting “for a cost reporting pe-
8 riod beginning during fiscal year 1998,” after
9 “(I)”, and

10 (B) by inserting before the semicolon the
11 following: “, and for a cost reporting period be-
12 ginning after fiscal year 1998, the per bene-
13 ficiary annual limitation as determined under
14 clause (viii)(II) for such period”; and

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

16 “(viii)(I) For purposes of this clause, for home health
17 agencies in a census division, the base regional limit is
18 equal to the sum of the labor and nonlabor components
19 of the standardized per-beneficiary limitation by census re-
20 gion division (as specified in the table entitled ‘Standard-
21 ized Per-Beneficiary Limitations by Census Region Divi-
22 sion, Labor/Nonlabor’, prepared by the Health Care Fi-
23 nancing Administration, and published in the Federal
24 Register on July 31, 1998, or during August 1998) for
25 the census division, and the base national limit is equal
26 to the mean of such base regional limits.

1 “(II) For home health services furnished during a
2 cost reporting period that begins after fiscal year 1998
3 and that is not subject to the prospective payment system
4 under section 1895, the per beneficiary annual limitation
5 for a home health agency in a census division is equal to
6 the sum of 50 percent of the base regional limit (specified
7 under subclause (I)) for agencies in such division and 50
8 percent of the base national limit (as specified under such
9 subclause), updated by the home health market basket
10 index for each fiscal year (after fiscal year 1998 and
11 through the fiscal year involved), and adjusted as provided
12 under subclause (III).

13 “(III) The Secretary shall adjust the labor-related
14 portion of the updated sum calculated under subclause
15 (II) by the area wage index applicable under section
16 1886(d)(3)(E) and determined in the manner described in
17 clause (iii) for cost reporting periods beginning during the
18 fiscal year involved. In applying this subclause for services
19 furnished during cost reporting periods beginning during
20 fiscal year 1999, the Secretary shall use the area wage
21 index specified in the tables entitled ‘Wage Index for
22 Urban Areas’ and ‘Wage Index for Rural Areas’, prepared
23 by the Health Care Financing Administration, and pub-
24 lished in the Federal Register on July 31, 1998, or during
25 August 1998.”.

1 (b) ELIMINATION OF SPECIAL RULE FOR NEW
2 AGENCIES.—Section 1861(v)(1)(L)(vi) of such Act (42
3 U.S.C. 1395x(v)(1)(L)(vi)) is amended by striking “the
4 following rules apply” and all that follows through “For
5 beneficiaries” and inserting “in the case of beneficiaries”,
6 and correcting the indentation of the matter that follows
7 accordingly.

8 (c) INCREASE IN PER VISIT COST LIMITS.—Section
9 1861(v)(1)(L)(i) of such Act (42 U.S.C.
10 1395x(v)(1)(L)(i)) is amended—

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

12 (2) in subclause (IV)—

13 (A) by inserting “and before October 1,
14 1998,” after “October 1, 1997,”; and

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

17 (3) by adding at the end the following new sub-
18 clause:

19 “(V) October 1, 1998, 108 percent of such me-
20 dian.”.

21 (d) PROMPT PUBLICATION OF NEW LIMITS.—Sec-
22 tion 1861(v)(1)(L)(vii) of such Act (42 U.S.C.
23 1395x(v)(1)(L)(vii)) is amended—

1 (1) in subclause (II), by redesignating such
2 subclause as subclause (III) and by striking “1998”
3 and inserting “1999”; and

4 (2) by inserting after subclause (I) the follow-
5 ing:

6 “(II) The Secretary shall establish the per beneficiary
7 annual limitation under clause (viii)(II) and the per visit
8 limits applicable under clause (i)(V) for cost reporting pe-
9 riods beginning during fiscal year 1999 as soon as prac-
10 ticable after the date of the enactment of such clauses.”.

11 (e) EFFECTIVE DATES.—(1) Except as provided in
12 paragraph (2), the amendments made by this section take
13 effect on the date of the enactment of this Act.

14 (2) The amendment made by subsection (b) applies
15 to services furnished in cost reporting periods beginning
16 after fiscal year 1998.

17 (3) There shall be no administrative or judicial review
18 under section 1869 or 1878 of the Social Security Act,
19 or under any other provision of law, of any action taken
20 by the Secretary of Health and Human Services to imple-
21 ment the amendments made by this section.

1 **SEC. 3. GRANT PROGRAM TO PROVIDE FOR ADJUSTMENT**
2 **FOR OUTLIERS TO ASSIST TRANSITION TO**
3 **PROSPECTIVE PAYMENT SYSTEM.**

4 Section 1895 of the Social Security Act (42 U.S.C.
5 1395fff) is amended by adding at the end the following
6 new subsection:

7 “(e) GRANT PROGRAM TO PROVIDE FOR ADJUST-
8 MENT FOR OUTLIERS TO ASSIST TRANSITION TO PRO-
9 SPECTIVE PAYMENT SYSTEM.—

10 “(1) APPROPRIATIONS; TOTAL ALLOTMENT.—

11 For the purpose of making payments to States
12 under allotments under paragraph (2), there is ap-
13 propriated, out of any money in the Treasury not
14 otherwise appropriated—

15 “(A) for fiscal year 1999, \$250,000,000;

16 “(B) for fiscal year 2000, \$250,000,000;

17 “(C) for fiscal year 2001, \$250,000,000;

18 and

19 “(D) for fiscal year 2002, \$250,000,000.

20 Such amounts shall be available for allotment under
21 paragraph (2) for the respective fiscal years.

22 “(2) ALLOTMENTS TO STATES.—

23 “(A) IN GENERAL.—Of the amount avail-
24 able for allotment under paragraph (1) for a
25 fiscal year, the Secretary shall allot to each
26 State the same proportion as the sum of the

1 following (as determined by the Secretary based
2 upon data for the most recent fiscal year ending
3 before the fiscal year involved) for the State
4 bears to the total of all such sums for all the
5 States:

6 “(i) 40 PERCENT BASED ON NUMBER
7 OF MEDICARE BENEFICIARIES.—40 per-
8 cent multiplied by a fraction (expressed as
9 a percentage)—

10 “(I) the numerator of which is
11 the number of individuals entitled to
12 benefits under part A or enrolled
13 under part B, or both, residing in the
14 State; and

15 “(II) the denominator of which is
16 the total of the numbers computed
17 under subclause (I) for all the States.

18 “(ii) 60 PERCENT BASED ON NUMBER
19 OF MEDICARE BENEFICIARIES RECEIVING
20 HOME HEALTH SERVICES.—60 percent
21 multiplied by a fraction (expressed as a
22 percentage)—

23 “(I) the numerator of which is
24 the number of individuals described in
25 clause (i)(I) in the State with respect

1 to whom a claim for benefits for home
2 health services under this title has
3 been received; and

4 “(II) the denominator of which is
5 the total of the numbers computed
6 under subclause (I) for all the States.

7 “(B) 1-YEAR AVAILABILITY OF AMOUNTS
8 ALLOTTED.—Amounts allotted to a State pur-
9 suant to this paragraph for a fiscal year shall
10 remain available for obligation by the State
11 through the end of the fiscal year (or, in the
12 case of an allotment for fiscal year 1999
13 through the end of fiscal year 2000). Amounts
14 reallocated to a State under subparagraph (C)
15 shall be available for obligation by the State
16 through the end of the fiscal year in which they
17 are reallocated.

18 “(C) PROCEDURE FOR REDISTRIBUTION
19 OF UNUSED ALLOTMENTS.—The Secretary shall
20 determine an appropriate procedure for redis-
21 tribution of allotments from States that were
22 provided allotments under this paragraph for a
23 fiscal year but that do not obligate all of the
24 amount of such allotments during the period in
25 which such allotments are available for obliga-

1 tion under subparagraph (B), to States that
2 have fully obligated the amount of their allot-
3 ments under this paragraph.

4 “(3) USE AND PAYMENT OF FUNDS.—

5 “(A) IN GENERAL.—From the allotments
6 made under paragraph (2) to a State for a fis-
7 cal year, the Secretary shall pay to each State
8 amounts the State demonstrates were paid by
9 the State in the fiscal year—

10 “(i) for qualifying payments to quali-
11 fied home health agencies; and

12 “(ii) subject to subparagraph (D), for
13 administrative expenses incurred by the
14 State in carrying out this subsection.

15 In no case shall the payments to a State under
16 this paragraph in a fiscal year exceed the
17 amount of the allotments made available for ob-
18 ligation to the State under paragraph (2) for
19 the fiscal year.

20 “(B) QUALIFYING PAYMENT DEFINED.—

21 For purposes of this paragraph, a ‘qualifying
22 payment’ to a qualified home health agency is
23 the amount by which—

24 “(i) the amount of the reasonable
25 costs of the agency of furnishing home

1 health services under this title in the State,
2 incurred for cost reporting periods begin-
3 ning on or after October 1, 1997, and be-
4 fore the first cost reporting period for
5 which payment under this title to the agen-
6 cy is made under subsection (a), exceeds

7 “(ii) the amount of the reimbursement
8 for such services under this title.

9 The amount of the reasonable costs under
10 clause (i) may be determined using estimates of
11 such costs based on non-settled cost reports or
12 other reliable information.

13 “(C) QUALIFIED HOME HEALTH AGENCY
14 DEFINED.—For purposes of this paragraph, the
15 term ‘qualified home health agency’ means a
16 home health agency that—

17 “(i) has a participation agreement in
18 effect under section 1866(a);

19 “(ii) demonstrates to the State a se-
20 vere adverse impact of the payment limita-
21 tion amendments under section 4602 of
22 the Balanced Budget Act of 1997 because
23 of a more costly-than-average type or
24 amount of services; and

1 “(iii) demonstrates to the State effi-
2 cient management of the agency.

3 “(D) LIMITATION ON PAYMENT FOR AD-
4 MINISTRATIVE EXPENSES.—Not more than 5
5 percent of the amount paid to a State under
6 subparagraph (A) for expenditures in a fiscal
7 year may be paid under subparagraph (A)(ii).

8 “(E) LIMITATION ON USE TO SATISFY
9 MATCHING REQUIREMENT.—Amounts paid to a
10 State under subparagraph (A) may not be used
11 to satisfy any requirement for the expenditure
12 of non-Federal funds as a condition for the re-
13 ceipt of Federal funds.

14 “(F) CONSTRUCTION.—Nothing in this
15 paragraph shall be construed as requiring a
16 State to provide payment under this paragraph
17 to all qualified home health agencies in the
18 State or in the full amount of qualifying pay-
19 ments for any qualified home health agency re-
20 ceiving such a payment.

21 “(G) ADVANCE PAYMENT; RETROSPECTIVE
22 ADJUSTMENT.—The Secretary may make pay-
23 ments under this subsection for a fiscal year on
24 the basis of advance estimates of expenditures
25 submitted by the State and such other inves-

1 tigation as the Secretary may find necessary,
2 and may reduce or increase the payments as
3 necessary to adjust for any overpayment or un-
4 derpayment for a prior fiscal year.

5 “(4) STATE ENTITLEMENT.—This subsection
6 constitutes budget authority in advance of appro-
7 priations Acts and represents the obligation of the
8 Federal Government to provide for the payment to
9 States of amounts provided under this subsection.”.

10 **SEC. 4. UPDATE ON IMPLEMENTATION OF PROSPECTIVE**
11 **PAYMENT SYSTEM FOR HOME HEALTH AGEN-**
12 **CIES.**

13 Not later than 90 days after the date of enactment
14 of this Act, and every 90 days thereafter until the prospec-
15 tive payment system for home health agencies (established
16 by section 1895 of the Social Security Act (42 U.S.C.
17 1395fff)) is implemented, the Secretary of Health and
18 Human Services shall meet with the staff of the appro-
19 priate committees of Congress to provide an informal up-
20 date regarding the progress of the Secretary in implement-
21 ing such payment system.

○