

105TH CONGRESS  
2D SESSION

# H. R. 4403

To amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services under the Medicare Program.

---

## IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1998

Mr. STARK (for himself, Mr. CARDIN, Mr. KLECZKA, and Mr. LEWIS of Georgia) 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 provide for coverage of substitute adult day care 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 “Medicare Substitute  
5 Adult Day Care Services Act of 1998”.

1 **SEC. 2. COVERAGE OF SUBSTITUTE ADULT DAY CARE SERV-**  
 2 **ICES UNDER MEDICARE.**

3 (a) **SUBSTITUTE ADULT DAY CARE SERVICES BENE-**  
 4 **FIT.—**

5 (1) **IN GENERAL.**—Section 1861(m) of the So-  
 6 cial Security Act (42 U.S.C. 1395x(m)) is amend-  
 7 ed—

8 (A) in the matter preceding paragraph (1),  
 9 by inserting “or paragraph (8)” after “para-  
 10 graph (7)”;

11 (B) in paragraph (6), by striking “and” at  
 12 the end;

13 (C) in paragraph (7), by adding “and” at  
 14 the end; and

15 (D) by inserting after paragraph (7), the  
 16 following new paragraph:

17 “(8) substitute adult day care services (as de-  
 18 fined in subsection (uu));”.

19 (2) **SUBSTITUTE ADULT DAY CARE SERVICES**  
 20 **DEFINED.**—Section 1861 of such Act (42 U.S.C.  
 21 1395x) is amended by adding at the end the follow-  
 22 ing new subsection:

23 “Substitute Adult Day Care Services; Adult Day Care  
 24 Facility

25 “(uu)(1)(A) The term ‘substitute adult day care serv-  
 26 ices’ means the items and services described in subpara-

1 graph (B) furnished to an individual by an adult day care  
2 facility as a part of a plan under subsection (m) substitut-  
3 ing such services for a portion of the items and services  
4 described in subparagraph (B)(i) furnished by a home  
5 health agency under the plan, as determined by the physi-  
6 cian establishing the plan.

7 “(B) The items and services described in this sub-  
8 paragraph are the following items and services:

9 “(i) Items and services described in paragraphs  
10 (1) through (7) of subsection (m).

11 “(ii) Transportation of the individual to and  
12 from the adult day care facility in connection with  
13 any such item or service.

14 “(iii) Meals.

15 “(iv) A program of supervised activities de-  
16 signed to promote physical and mental health and  
17 furnished to the individual by the adult day care fa-  
18 cility in a group setting for a period of not fewer  
19 than four and not greater than twelve hours per day.

20 “(2)(A) Except as provided in subparagraph (B), the  
21 term ‘adult day care facility’ means a public agency or  
22 private organization, or a subdivision of such an agency  
23 or organization, that—

24 “(i) is engaged in providing skilled nursing  
25 services and other therapeutic services; and

1           “(ii) meets the requirements of paragraphs (2)  
2           through (8) of subsection (o).

3           “(B) The Secretary may waive the requirement of a  
4           surety bond under paragraph (7) of subsection (o) in the  
5           case of an agency or organization that provides a com-  
6           parable surety bond under State law.

7           “(C) For purposes of payment for home health serv-  
8           ices consisting of substitute adult day care services fur-  
9           nished under this title, any reference to a home health  
10          agency is deemed to be a reference to an adult day care  
11          facility.”.

12           (3) CONFORMING AMENDMENTS.—Sections  
13          1814(a)(2)(C) and 1835(a)(2)(A)(i) of such Act (42  
14          U.S.C. 1395f(a)(2)(C) and 42 U.S.C.  
15          1395f(a)(2)(C)) are each amended by striking “sec-  
16          tion 1861(m)(7)” and inserting “paragraph (7) or  
17          (8) of section 1861(m)”.

18          (b) PAYMENT FOR SUBSTITUTE ADULT DAY CARE  
19          SERVICES.—

20           (1) REASONABLE COST.—Section 1861(v)(1)(L)  
21          of such Act (42 U.S.C. 1395x(v)(1)(L)) is amended  
22          by adding at the end the following new clause:

23          “(viii) In the case home health services consisting of  
24          substitute adult day care services, the following rules  
25          apply:

1           “(I) The Secretary shall determine each compo-  
2           nent (as defined by the Secretary) of substitute  
3           adult day care services (under subsection  
4           (uu)(1)(B)(i)) furnished to an individual under the  
5           plan of care established under subsection (m) with  
6           respect to such services.

7           “(II) The Secretary shall estimate the amount  
8           that would otherwise be payable under this subpara-  
9           graph for all home health services under that plan  
10          of care other than substitute adult day care services  
11          for a week or other period specified by the Sec-  
12          retary.

13          “(III) The total amount payable for home  
14          health services consisting of substitute adult day  
15          care services may not exceed 95 percent of the  
16          amount estimated to be payable under subclause (II)  
17          furnished under the plan by a home health agency.

18          “(IV) No payment may be made under this title  
19          for home health services consisting of substitute  
20          adult day care services described in clauses (ii), (iii),  
21          and (iv) of subsection (uu)(1)(B).”.

22               (2) PROSPECTIVE PAYMENT SYSTEM.—Section  
23               1895 of such Act (42 U.S.C. 1395fff) is amended by  
24               adding at the end the following new subsection:

1       “(e) PAYMENT RATE FOR SUBSTITUTE ADULT DAY  
2 CARE SERVICES.—In the case home health services con-  
3 sisting of substitute adult day care services, the following  
4 rules apply:

5           “(1) The Secretary shall determine each compo-  
6 nent (as defined by the Secretary) of substitute  
7 adult day care services (under section  
8 1861(uu)(1)(B)(i)) furnished to an individual under  
9 the plan of care established under section 1861(m)  
10 with respect to such services.

11           “(2) The Secretary shall estimate the amount  
12 that would otherwise be payable under this section  
13 for all home health services under that plan of care  
14 other than substitute adult day care services for a  
15 week or other period specified by the Secretary.

16           “(3) The total amount payable for home health  
17 services consisting of substitute adult day care serv-  
18 ices may not exceed 95 percent of the amount esti-  
19 mated to be payable under paragraph (2) furnished  
20 under the plan by a home health agency.

21           “(4) No payment may be made under this title  
22 for home health services consisting of substitute  
23 adult day care services described in clauses (ii), (iii),  
24 and (iv) of section 1861(uu)(1)(B).”.

1 (c) ADJUSTMENT IN CASE OF OVERUTILIZATION OF  
2 SUBSTITUTE ADULT DAY CARE SERVICES.—

3 (1) MONITORING EXPENDITURES.—The Sec-  
4 retary of Health and Human Services shall monitor  
5 the expenditures made under the Medicare Program  
6 under title XVIII of the Social Security Act for  
7 home health services furnished under section  
8 1861(m) of such Act for a fiscal year beginning with  
9 fiscal year 2000, including substitute adult day care  
10 services under paragraph (8) of such section (as  
11 added by subsection (a)), and compare such expendi-  
12 tures to expenditures that the Secretary estimates  
13 would have been made for home health services for  
14 that fiscal year if subsection (a) had not been en-  
15 acted.

16 (2) REQUIRED REDUCTION IN PAYMENT  
17 RATE.—If the Secretary determines, after making  
18 the comparison under paragraph (1) and making  
19 such adjustments for changes in demographics and  
20 age of the Medicare beneficiary population as the  
21 Secretary determines appropriate, that expenditures  
22 for home health services including such substitute  
23 adult day care services exceed expenditures that  
24 would have been made for home health services fur-  
25 nished under section 1861(m) of such Act for a year

1 if subsection (a) had not been enacted, then the Sec-  
2 retary shall adjust the rate of payment so that total  
3 expenditures for home health services furnished  
4 under such section in a fiscal year does not exceed  
5 the Secretary's estimate of such expenditures if sub-  
6 section (a) had not been enacted.

7 (d) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to items and services furnished on  
9 or after January 1, 1999.

○