

105TH CONGRESS
2^D SESSION

H. R. 4404

To amend title XVIII of the Social Security Act to modify the standards for calculating the per beneficiary payment limits under the interim payment system for home health services furnished by home health agencies under the Medicare Program and the standards for setting payments rates under the prospective payment system for such services to achieve fair reimbursement payment rates.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1998

Mr. HILLEARY (for himself, Mr. RAHALL, Mr. ADERHOLT, Mr. COOK, Mr. HALL of Texas, Mr. MCINTOSH, Mr. SANDERS, and Ms. STABENOW) 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 modify the standards for calculating the per beneficiary payment limits under the interim payment system for home health services furnished by home health agencies under the Medicare Program and the standards for setting payments rates under the prospective payment system for such services to achieve fair reimbursement payment rates.

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 “Homebound Elderly
5 Relief Opportunity Act of 1998”.

6 **SEC. 2. MODIFICATION OF HOME HEALTH SERVICES PAY-**
7 **MENT LIMITS.**

8 (a) MORATORIUM ON IMPLEMENTATION OF PER
9 BENEFICIARY LIMITS UNDER INTERIM PAYMENT SYS-
10 TEM.—Section 1861(v)(1)(L)(iv) of the Social Security
11 Act (42 U.S.C. 1395x(v)(1)(L)(iv)) is amended to read as
12 follows:

13 “(iv)(I) The interim system of payments under clause
14 (v) shall apply only if aggregate expenditures for home
15 health services in a fiscal year exceed the applicable
16 amount described in subclause (II).

17 “(II) For purposes of subclause (I), the applicable
18 amount for fiscal year 1998 is \$18,200,000,000 and for
19 fiscal year 1999 is \$19,300,000,000.

20 “(III) In the case of an excess under subclause (I),
21 the Secretary shall implement such system beginning Jan-
22 uary 1 of the year following the fiscal year in which such
23 aggregate expenditures exceed the applicable amount. The
24 Secretary shall adjust payments under such system so that
25 aggregate expenditures for home health services for fiscal

1 years 1998 through 2002 do not exceed
2 \$101,000,000,000.

3 “(IV) Not later than the October 31 that precedes
4 a year in which such system is implemented, the Secretary
5 shall publish in the Federal Register proposed per bene-
6 ficiary limits for the subsequent year, along with the
7 standards and methods utilized in calculating and apply-
8 ing the limits in compliance with the rulemaking provi-
9 sions under section 553 of the Administrative Procedures
10 Act (5 U.S.C. 553). Not later than the December 31 that
11 precedes such year, the Secretary shall publish in the Fed-
12 eral Register the per beneficiary limits for home health
13 services furnished during cost reporting periods beginning
14 in that year.”.

15 (b) ESTABLISHMENT OF UNIFORM PER BENE-
16 FICIARY LIMITS UNDER INTERIM PAYMENT SYSTEM.—
17 Section 1861(v)(1)(L)(v) of such Act (42 U.S.C.
18 1395x(v)(1)(L)(v)), is amended—

19 (1) in the first sentence, by striking “For” and
20 inserting “Subject to clause (iv), for”; and

21 (2) in subclause (I), by striking “calculated
22 based 75 percent on 98 percent” through “periods
23 ending during fiscal year 1994, such costs” and in-
24 serting “equal to the greater of 75 percent of the
25 standardized regional average of reasonable costs

1 (including nonroutine medical supplies) for cost re-
2 porting periods ending during fiscal year 1994 for
3 the agency's census division and 25 percent of the
4 standardized national average of such costs or 25
5 percent of the standardized regional average of such
6 costs for the agency's census division and 75 percent
7 of the standardized national average of such costs,
8 such costs determined separately for agencies in
9 rural and nonrural areas and”.

10 (c) ADJUSTMENT FOR OUTLIERS.—Section
11 1861(v)(1)(L) of such Act (42 U.S.C. 1395x(v)(1)(L)) is
12 amended by adding at the end the following new clause:

13 “(viii)(I) Subject to subclause (II), in the case of a
14 home health agency that exceeds the per beneficiary limit
15 under clause (v), the Secretary shall provide for an addi-
16 tional payment where the reasonable cost for home health
17 services provided to an individual exceeds such limit by
18 a fixed number of standard deviations. Such additional
19 payment amount shall be determined prior to the fiscal
20 year in which subsection (iv) is applicable.

21 “(II) The aggregate amount of such additional pay-
22 ments in a fiscal year may not exceed 5 percent of the
23 aggregate payments projected or estimated by the Sec-
24 retary to be made under clause (v) in that year.”.

1 (d) PER VISIT COST LIMITS.—Section
2 1861(v)(1)(L)(i)(IV) of such Act (42 U.S.C.
3 1395x(v)(1)(L)(i)(IV)) is amended to read as follows:

4 “(IV) October 1, 1997, 110 percent of such
5 mean.”.

6 (e) ELIMINATION OF SPECIAL PER BENEFICIARY
7 PAYMENT RULE FOR NEW AGENCIES.—Section
8 1861(v)(1)(L)(vi) of such Act (42 U.S.C.
9 1395x(v)(1)(L)(vi)) is amended to read as follows:

10 “(vi) Where the Secretary establishes that bene-
11 ficiaries use services furnished by more than one home
12 health agency for purposes of circumventing the per bene-
13 ficiary annual limitation under clause (v), the per bene-
14 ficiary limitation shall be prorated among the agencies.”.

15 (f) PUBLICATION OF NEW LIMITS.—Section
16 1861(v)(1)(L)(vii) of such Act (42 U.S.C.
17 1395x(v)(1)(L)(vii)) is amended by adding at the end the
18 following new subclause:

19 “(III) Notwithstanding subclause (II), in the case of
20 per visit or per beneficiary limits for fiscal year 1999 es-
21 tablished by reason of the Homebound Elderly Relief Op-
22 portunity Act of 1998, the Secretary shall establish such
23 limits by not later than 90 days after the date of the en-
24 actment of such Act.”.

1 **SEC. 3. MODIFICATION OF CALCULATION OF PAYMENT**
2 **AMOUNT FOR HOME HEALTH SERVICES**
3 **UNDER THE PROSPECTIVE PAYMENT SYS-**
4 **TEM.**

5 (a) ESTABLISHMENT OF EQUITABLE LIMITS FOR
6 CALCULATING PROSPECTIVE PAYMENT RATES.—

7 (1) IN GENERAL.—Section 1895(b)(3)(A)(i) of
8 the Social Security Act (42 U.S.C.
9 1395fff(b)(3)(A)(i)) is amended by inserting “the
10 greater of \$19,000,000,000 or” after “equal to”.

11 (2) CONTINGENCY.—Section 4603(e) of the
12 Balanced Budget Act of 1997 (42 U.S.C. 1395fff
13 note) is amended to read as follows:

14 “(e) CONTINGENCY.—

15 “(1) IN GENERAL.—If the Secretary of Health
16 and Human Services for any reason does not estab-
17 lish and implement the prospective payment system
18 for home health services described in section 1895(b)
19 of the Social Security Act (as added by subsection
20 (a)) for cost reporting periods described in sub-
21 section (d), the Secretary shall provide—

22 “(A) for such cost reporting periods that
23 begin before October 1, 2002, an adjustment to
24 the cost limits described in section
25 1861(v)(1)(L) of such Act (42 U.S.C.
26 1395x(v)(1)(L)) so that the aggregate amounts

1 payable for such services in a fiscal year do not
2 exceed the greater of—

3 “(i) the applicable amount (as defined
4 in paragraph (2)); or

5 “(ii) the aggregate amount of pay-
6 ments for such services that would have
7 been made in such fiscal year if such cost
8 limits (as those limits would otherwise be
9 in effect on September 30, 1999) had been
10 reduced by 15 percent; and

11 “(B) for such cost reporting periods that
12 begin on or after October 1, 2002, a reduction
13 by 15 percent in such cost limits (as so in ef-
14 fect).

15 “(2) APPLICABLE AMOUNT DEFINED.—In para-
16 graph (1) the term ‘applicable amount’ means, with
17 respect to a fiscal year, the following amount:

18 “(A) For fiscal year 2000, \$19,000,000,000.

19 “(B) For fiscal year 2001, \$21,400,000,000.

20 “(C) For fiscal year 2002, \$23,100,000,000.”.

21 (b) TEMPORARY RESTORATION OF PERIODIC IN-
22 TERIM PAYMENT FOR HOME HEALTH SERVICES.—Sec-
23 tion 1815(e)(2) of the Social Security Act (42 U.S.C.
24 1395g(e)(2)) is amended—

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

3 (2) by redesignating subparagraph (D) as sub-
4 paragraph (E); and

5 (3) by inserting after subparagraph (C) the fol-
6 lowing:

7 “(D) home health services until the end of the
8 12-month period following the date that the prospec-
9 tive payment system for such services is imple-
10 mented under section 1895; and”.

11 **SEC. 4. EFFECTIVE DATE.**

12 The amendments made by this Act shall take effect
13 as if included in the enactment of the Balanced Budget
14 Act of 1997.

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