

107TH CONGRESS
2D SESSION

S. 2490

To amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2002

Mr. TORRICELLI (for himself and Mr. SMITH of Oregon) 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 ensure the quality of, and access to, skilled nursing facility 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 Skilled Nurs-
5 ing Beneficiary Protection Act of 2002”.

1 **SEC. 2. ADJUSTMENTS TO THE RULES FOR DETERMINING**
 2 **UPDATES UNDER THE PROSPECTIVE PAY-**
 3 **MENT SYSTEM FOR SKILLED NURSING FACIL-**
 4 **ITY SERVICES.**

5 (a) IN GENERAL.—Section 1888(e)(4)(E) of the So-
 6 cial Security Act (42 U.S.C. 1395yy(e)(4)(E)) is
 7 amended—

8 (1) in clause (ii)—

9 (A) in the heading, by striking “SUBSE-
 10 QUENT FISCAL YEARS” and inserting
 11 “THROUGH FISCAL YEAR 2002”;

12 (B) in the matter preceding subclause (I),
 13 by inserting “unadjusted” after “equal to the”;

14 (C) in subclause (III)—

15 (i) by striking “each of fiscal years
 16 2002 and 2003” and inserting “fiscal year
 17 2002”; and

18 (ii) by striking “; and” and inserting
 19 a period; and

20 (D) by striking subclause (IV); and

21 (2) by adding at the end the following new
 22 clauses:

23 “(iii) FISCAL YEAR 2003.—For fiscal
 24 year 2003, the Secretary shall compute an
 25 unadjusted Federal per diem rate equal to
 26 the unadjusted Federal per diem rate com-

1 puted under this subparagraph for fiscal
2 year 2002—

3 “(I) as increased for such fiscal
4 year by an amount equal to the total
5 spending in such fiscal year, as esti-
6 mated by the Secretary, under section
7 101(d)(1) of the Medicare, Medicaid,
8 and SCHIP Balanced Budget Refine-
9 ment Act of 1999, section 101(a) of
10 such Act (as amended by section
11 314(b) of the Medicare, Medicaid, and
12 SCHIP Benefits Improvement and
13 Protection Act of 2000), and sections
14 312(a) and 314(a) of the Medicare,
15 Medicaid, and SCHIP Benefits Im-
16 provement and Protection Act of
17 2000; and

18 “(II) further increased by the
19 skilled nursing facility market basket
20 percentage change for fiscal year
21 2003.

22 “(iv) FISCAL YEAR 2004 AND SUBSE-
23 QUENT FISCAL YEARS.—For fiscal year
24 2004 and each subsequent fiscal year, the
25 Secretary shall compute an unadjusted

1 Federal per diem rate equal to the
2 unadjusted Federal per diem rate com-
3 puted under this subparagraph for the pre-
4 vious fiscal year increased by the skilled
5 nursing facility market basket percentage
6 change for the fiscal year involved.”.

7 (b) CONFORMING AMENDMENT.—Section 101(d)(2)
8 of the Medicare, Medicaid, and SCHIP Balanced Budget
9 Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–
10 325), as enacted into law by section 1000(a)(6) of Public
11 Law 106–113, is amended by striking “The Secretary”
12 and inserting “Subject to the amendments made by sec-
13 tion 2(a) of the Medicare Skilled Nursing Beneficiary Pro-
14 tection Act of 2002, the Secretary”.

15 (c) RULE OF CONSTRUCTION.—Nothing in this Act
16 shall be construed as permitting the Secretary of Health
17 and Human Services to reduce the unadjusted Federal per
18 diem rate for any fiscal year (as computed under subpara-
19 graph (E) of section 1888(e)(4) of the Social Security Act
20 (42 U.S.C. 1395yy(e)(4))) after the date the Secretary im-
21 plements a refined case mix classification system under
22 subparagraph (G)(i) of such section in order to take out
23 the portion of such rate in the fiscal year that is attrib-

- 1 utable to the increase under subparagraph (E)(iii)(I) of
- 2 such section (as added by subsection (a)).

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