

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.

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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

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## 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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