

108TH CONGRESS
2D SESSION

H. R. 5403

To amend title XVIII of the Social Security Act to improve the quality of care in skilled nursing facilities under the Medicare Program through development of quality measures and changes in reimbursement.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2004

Ms. KAPTUR introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and 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 improve the quality of care in skilled nursing facilities under the Medicare Program through development of quality measures and changes in reimbursement.

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 “Long Term Care Qual-
5 ity Improvement Act of 2004”.

1 **SEC. 2. IMPROVEMENT IN QUALITY OF LONG TERM CARE**
2 **IN SKILLED NURSING FACILITIES UNDER**
3 **MEDICARE.**

4 (a) DETAILED REPORTING OF NURSING EXPENDI-
5 TURES.—Section 1888 of the Social Security Act (42
6 U.S.C. 1395yy) is amended by adding at the end the fol-
7 lowing new subsection:

8 “(f) DETAILED REPORTING OF NURSING EXPENDI-
9 TURES.—

10 “(1) IN GENERAL.—For cost reports submitted
11 for cost reporting periods beginning on or after four
12 months after the date of the enactment of this sub-
13 section, skilled nursing facilities shall separately re-
14 port expenditures for wages and benefits for nursing
15 staff (by staff level, breaking out at a minimum reg-
16 istered nurses, licensed professional nurses, and cer-
17 tified nurse assistants).

18 “(2) MODIFICATION OF FORM.—The Secretary,
19 in consultation with private sector accountants expe-
20 rienced with medicare and medicaid nursing facility
21 home cost reports, shall redesign such reports to
22 meet the requirement of paragraph (1).”.

23 (b) DEVELOPMENT AND REPORTING OF NEW QUAL-
24 ITY MEASURES.—Such section is further amended by add-
25 ing at the end the following new subsection:

26 “(g) REPORTING ON QUALITY.—

1 “(1) IN GENERAL.—The Secretary shall iden-
2 tify and develop in accordance with this subsection
3 quality measures appropriate for use with a payment
4 system under this subsection. Such measures shall
5 be developed in consultation with measurement ex-
6 perts, the Medicare Payment Advisory Commission,
7 the Institute of Medicine, and representatives of pro-
8 viders and consumers.

9 “(2) CONTENTS.—The quality measures under
10 this subsection—

11 “(A) shall include process measures;

12 “(B) may include structural measures,
13 such as spending on direct care staffing or im-
14 plementation of new technologies;

15 “(C) may include outcome measures that
16 are risk adjusted with sufficient precision to be
17 used in a payment system;

18 “(D) shall be valid and reliable;

19 “(E) shall be structured so that data col-
20 lection systems involving new technologies can
21 be used in a manner that minimizes provider
22 burden and increases accuracy, particularly
23 with respect to process measures;

1 “(F) shall include at least one quality
2 measure that addresses nursing home staffing
3 level and mix; and

4 “(G) shall make special provision for small
5 skilled nursing facilities by establishing criteria
6 for determining whether a nursing facility is
7 large enough to yield meaningful data on each
8 measure.

9 “(3) POSTING.—The Secretary shall post on
10 the Secretary’s website relating to the medicare pro-
11 gram a description of the new quality performance
12 measures that are developed under this subsection
13 when they are implemented.”.

14 (c) LINKING PAYMENTS TO QUALITY PERFORM-
15 ANCE.—Such section is further amended by adding at the
16 end the following new subsection:

17 “(h) BASE PAYMENTS; ADJUSTMENT IN PAYMENT
18 FOR QUALITY PERFORMANCE.—

19 “(1) MAINTENANCE OF FISCAL YEAR 2005 PAY-
20 MENT RATES AS A FLOOR.—Except as provided
21 under this subsection, and notwithstanding any
22 other provision of law, the payment rates established
23 under subsection (e) shall in no case be less than the
24 RUG rates that are effective as of October 1, 2004,
25 as adjusted annually under subsection (e)(4)(E).

1 “(2) DEVELOPMENT OF PAYMENT ADJUSTMENT
2 METHODS.—

3 “(A) IN GENERAL.—The Secretary shall
4 develop and test one or more methods for link-
5 ing payment rates under this section to quality.
6 Such methods shall be identified in consultation
7 with the Institute of Medicine, the Medicare
8 Payment Advisory Commission, measurement
9 experts, and representatives of consumers and
10 providers.

11 “(B) LINK TO QUALITY.—Such methods
12 shall make a portion of a provider’s payment
13 under this title dependent on performance on
14 one or more appropriate indicators of quality,
15 as measured under subsection (f). At least one
16 of the methods tested shall involve special pay-
17 ments for facilities that enhance quality by pro-
18 viding more direct care staffing than others,
19 controlling for case mix. The Secretary may
20 test such methods through pilot studies, dem-
21 onstration projects, and other appropriate
22 methods.

23 “(C) DEADLINE.— Development and test-
24 ing of appropriate quality measures and new
25 payment methods for skilled nursing facilities

1 under this subsection shall be completed, to the
2 extent feasible, in conformance with timelines
3 that may be recommended by the Institute of
4 Medicine in its report on linking payments
5 under this section to performance, but in no
6 case later than 54 months after the date of the
7 enactment of this subsection.”.

8 (d) ANALYSIS OF THE ADEQUACY OF PUBLIC PAY-
9 MENTS AND FUTURE FINANCING OPTIONS.—The Sec-
10 retary of Health and Human Services shall conduct a
11 study of current and future financing of quality nursing
12 facility care. Such study shall include an examination of
13 the following:

14 (1) The adequacy of Medicaid financing to pay
15 for the quality of care required by State and Federal
16 law and regulations.

17 (2) Medicare’s cross-subsidization of care for
18 Medicaid patients.

19 (3) Total industry margins for skilled nursing
20 facilities.

21 (4) The impact of current trends, including liti-
22 gation and staffing shortages, on nursing facility
23 costs.

24 (5) The impact of demographic changes in rela-
25 tion to provision of long-term care services.

1 (6) Options for redressing any current problems
2 with payment for nursing facility services.

3 (7) Options for financing quality long term
4 care, including nursing home care, over the next five
5 decades.

6 (e) REPORTS ON ACTIVITIES.—

7 (1) ANNUAL REPORTS.—The Secretary shall
8 submit annually to Congress a report on the amend-
9 ments made by subsections (a) through (c) until the
10 submission of the final report under paragraph (2).

11 (2) FINAL REPORT.—The Secretary shall sub-
12 mit to Congress a final report on such activities not
13 later than 5 years after the date of the enactment
14 of this Act. The final report shall include the fol-
15 lowing:

16 (A) The results of the study performed
17 under subsection (d) and the impact of such
18 amendments on the quality of care in skilled
19 nursing facilities.

20 (B) Recommendations for changes to the
21 medicare payment system for extended care
22 services in order to enhance quality in skilled
23 nursing facilities.

- 1 (C) An analysis of the pros and cons of al-
- 2 ternative approaches to addressing other issues
- 3 identified in such study.

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