

108TH CONGRESS
1ST SESSION

S. 1227

To amend title XVIII of the Social Security Act to provide for coverage of substitute adult day services under the medicare program.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 2003

Mr. SANTORUM (for himself and Mrs. LINCOLN) 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 provide for coverage of substitute adult day 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 Adult Day
5 Services Alternative Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) adult day services offers services, including
9 medical care, rehabilitation therapies, dignified as-
10 sistance with activities of daily living, social inter-

1 action, and stimulating activities, to seniors who are
2 frail, physically challenged, or cognitively impaired;

3 (2) access to adult day services provides seniors
4 and their familial caregivers support that is critical
5 to keeping the senior in the family home;

6 (3) more than 22,000,000 families in the
7 United States serve as caregivers for aging or ailing
8 seniors, nearly 1 in 4 American families, providing
9 close to 80 percent of the care to individuals requir-
10 ing long-term care;

11 (4) nearly 75 percent of those actively providing
12 such care are women who also maintain other re-
13 sponsibilities, such as working outside of the home
14 and raising young children;

15 (5) the average loss of income to these care-
16 givers has been shown to be \$659,130 in wages, pen-
17 sion, and Social Security benefits;

18 (6) the loss in productivity in United States
19 businesses ranges from \$11,000,000,000 to
20 \$29,000,000,000 annually;

21 (7) the services offered in adult day services fa-
22 cilities provide continuity of care and an important
23 sense of community for both the senior and the care-
24 giver;

1 (8) there are adult day services facilities in
2 every State in the United States and the District of
3 Columbia;

4 (9) these centers generally offer transportation,
5 meals, personal care, and counseling in addition to
6 the medical services and socialization benefits of-
7 fered; and

8 (10) with the need for quality options in how to
9 best care for our senior population about to dramati-
10 cally increase with the aging of the baby boomer
11 generation, the time to address these issues is now.

12 **SEC. 3. MEDICARE COVERAGE OF SUBSTITUTE ADULT DAY**
13 **SERVICES.**

14 (a) **SUBSTITUTE ADULT DAY SERVICES BENEFIT.—**

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

18 (A) in the matter preceding paragraph (1),
19 by inserting “or (8)” after “paragraph (7)”;

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

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

24 (D) by inserting after paragraph (7), the
25 following new paragraph:

1 “(8) substitute adult day services (as defined in
2 subsection (ww));”.

3 (2) SUBSTITUTE ADULT DAY SERVICES DE-
4 FINED.—Section 1861 of the Social Security Act (42
5 U.S.C. 1395x) is amended by adding at the end the
6 following new subsection:

7 “Substitute Adult Day Services; Adult Day Services
8 Facility

9 “(ww)(1)(A) The term ‘substitute adult day services’
10 means the items and services described in subparagraph
11 (B) that are furnished to an individual by an adult day
12 services facility as a part of a plan under subsection (m)
13 that substitutes such services for some or all of the items
14 and services described in subparagraph (B)(i) furnished
15 by a home health agency under the plan, as determined
16 by the physician establishing the plan.

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

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

21 “(ii) Meals.

22 “(iii) A program of supervised activities de-
23 signed to promote physical and mental health and
24 furnished to the individual by the adult day services

1 facility in a group setting for a period of not fewer
2 than 4 and not greater than 12 hours per day.

3 “(iv) A medication management program (as
4 defined in subparagraph (C)).

5 “(C) For purposes of subparagraph (B)(iv), the term
6 ‘medication management program’ means a program of
7 services, including medicine screening and patient and
8 health care provider education programs, that provides
9 services to minimize—

10 “(i) unnecessary or inappropriate use of pre-
11 scription drugs; and

12 “(ii) adverse events due to unintended prescrip-
13 tion drug-to-drug interactions.

14 “(2)(A) Except as provided in subparagraphs (B)
15 and (C), the term ‘adult day services facility’ means a pub-
16 lic agency or private organization, or a subdivision of such
17 an agency or organization, that—

18 “(i) is engaged in providing skilled nursing
19 services and other therapeutic services directly or
20 under arrangement with a home health agency;

21 “(ii) provides the items and services described
22 in paragraph (1)(B); and

23 “(iii) meets the requirements of paragraphs (2)
24 through (8) of subsection (o).

1 “(B) Notwithstanding subparagraph (A), the term
 2 ‘adult day services facility’ shall include a home health
 3 agency in which the items and services described in clauses
 4 (ii) through (iv) of paragraph (1)(B) are provided—

5 “(i) by an adult day services program that is li-
 6 censed or certified by a State, or accredited, to fur-
 7 nish such items and services in the State; and

8 “(ii) under arrangements with that program
 9 made by such agency.

10 “(C) The Secretary may waive the requirement of a
 11 surety bond under paragraph (7) of subsection (o) in the
 12 case of an agency or organization that provides a com-
 13 parable surety bond under State law.”.

14 (b) PAYMENT FOR SUBSTITUTE ADULT DAY SERV-
 15 ICES.—Section 1895 of the Social Security Act (42 U.S.C.
 16 1395fff) is amended by adding at the end the following
 17 new subsection:

18 “(f) PAYMENT RATE FOR SUBSTITUTE ADULT DAY
 19 SERVICES.—

20 “(1) PAYMENT RATE.—For purposes of making
 21 payments to an adult day services facility for sub-
 22 stitute adult day services (as defined in section
 23 1861(wv)), the following rules shall apply:

24 “(A) ESTIMATION OF PAYMENT
 25 AMOUNT.—The Secretary shall estimate the

1 amount that would otherwise be payable to a
2 home health agency under this section for all
3 home health services described in paragraph
4 (1)(B)(i) of such section under the plan of care.

5 “(B) AMOUNT OF PAYMENT.—Subject to
6 paragraph (3)(B), the total amount payable for
7 substitute adult day services under the plan of
8 care is equal to 95 percent of the amount esti-
9 mated to be payable under subparagraph (A).

10 “(2) LIMITATION ON BALANCE BILLING.—An
11 adult day services facility shall accept as payment in
12 full for substitute adult day services (including those
13 services described in clauses (ii) through (iv) of sec-
14 tion 1861(w)(1)(B)) furnished by the facility to an
15 individual entitled to benefits under this title the
16 amount of payment provided under this subsection
17 for home health services consisting of substitute
18 adult day services.

19 “(3) ADJUSTMENT IN CASE OF OVERUTILIZA-
20 TION OF SUBSTITUTE ADULT DAY SERVICES.—

21 “(A) MONITORING EXPENDITURES.—Be-
22 ginning with fiscal year 2005, the Secretary
23 shall monitor the expenditures made under this
24 title for home health services, including such
25 services consisting of substitute adult day serv-

1 ices, for the fiscal year and shall compare such
2 expenditures to expenditures that the Secretary
3 estimates would have been made under this title
4 for home health services for the fiscal year if
5 the Medicare Adult Day Services Alternative
6 Act of 2003 had not been enacted.

7 “(B) REQUIRED REDUCTION IN PAYMENT
8 RATE.—If the Secretary determines, after mak-
9 ing the comparison under subparagraph (A)
10 and making such adjustments for changes in
11 demographics and age of the medicare bene-
12 ficiary population as the Secretary determines
13 appropriate, that expenditures for home health
14 services under the this title, including such
15 services consisting of substitute adult day serv-
16 ices, for the fiscal year exceed expenditures that
17 would have been made under this title for home
18 health services for the fiscal year if the Medi-
19 care Adult Day Services Alternative Act of
20 2003 not been enacted, then the Secretary shall
21 adjust the rate of payment to adult day services
22 facilities under paragraph (1)(B) for home
23 health services consisting of substitute adult
24 day services furnished in the fiscal year in order
25 to eliminate such excess.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to items and services furnished on
3 or after January 1, 2004.

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