

109TH CONGRESS  
2D SESSION

# H. R. 5976

To provide for a hardship waiver for recoupment of certain Medicare payments.

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IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2006

Mr. BAKER introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To provide for a hardship waiver for recoupment of certain Medicare payments.

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. HARDSHIP WAIVER FOR RECOUPMENT OF**  
4 **MEDICARE PAYMENTS.**

5 (a) IN GENERAL.—Notwithstanding any other provi-  
6 sion of law, in the case of a facility described in subsection  
7 (b), the Secretary of Health and Human Services—

8 (1) shall waive any recoupment or recovery of  
9 alleged medicare overpayments described in sub-  
10 section (c) in order to permit the facility's continued

1 provision of critical services to its medicare and un-  
2 derserved populations; and

3 (2) shall not impose any sanction (including  
4 any civil monetary penalty or exclusion from partici-  
5 pation in any Federal health care program) against  
6 the facility in connection with any cost report filing  
7 made by the facility relating to such alleged medi-  
8 care overpayments.

9 (b) FACILITY DESCRIBED.—A facility described in  
10 this subsection is a critical access hospital (as defined in  
11 section 1861(mm)(1) of the Social Security Act, 42 U.S.C.  
12 1395x(mm)(1)) that meets the following requirements  
13 (and includes any skilled nursing facility that is contained  
14 within the same facility as such critical access hospital):

15 (1) SOLE ACUTE CARE HOSPITAL FACILITY  
16 SERVING RURAL, UNDERSERVED AREA.—

17 (A) The facility is located in a rural area  
18 (as defined for purposes of such section) that is  
19 designated under section 330(b)(3)(A) of the  
20 Public Health Service Act (42 U.S.C.  
21 254b(b)(3)(A)) as an area with a shortage of  
22 personal health services.

23 (B) There is no other acute general hos-  
24 pital or critical access hospital that provides in-  
25 patient or outpatient hospital services in the

1 county (or equivalent area) in which the facility  
2 is located.

3 (2) PUBLIC FACILITY.—The facility is operated  
4 by a political subdivision of a State.

5 (3) IMPROVED FISCAL MANAGEMENT.—The fa-  
6 cility has made changes in its management so that  
7 tax payments described in subsection (c) are being  
8 made in a proper and timely manner.

9 (4) HURRICANE KATRINA DISASTER AREA.—  
10 The county (or equivalent area) in which the facility  
11 is located is an area that—

12 (A) has been declared in accordance with  
13 section 401 of the Robert T. Stafford Disaster  
14 Relief and Emergency Assistance Act (42  
15 U.S.C. 5170) as a result of Hurricane Katrina;  
16 and

17 (B) the President has determined, as of  
18 September 14, 2005, warrants individual or  
19 public assistance from the Federal Government  
20 under such Act.

21 (c) MEDICARE OVERPAYMENTS DESCRIBED.—

22 (1) IN GENERAL.—The medicare overpayments  
23 described in this subsection for a facility are pay-  
24 ments made to the facility under title XVIII of the  
25 Social Security Act before the date of the enactment

1 of this Act that were attributable to alleged payment  
2 of compromised payroll taxes (as defined in para-  
3 graph (2)).

4 (2) COMPROMISED PAYROLL TAXES.—For pur-  
5 poses of paragraph (1), the term “compromised pay-  
6 roll taxes” means, with respect to a facility, amounts  
7 incurred before the date of the enactment of this  
8 Act—

9 (A) that were originally owed by the facil-  
10 ity for its share of the Federal Insurance Con-  
11 tributions Act (FICA) and other payroll taxes;

12 (B) that were not paid; and

13 (C) for which the facility is no longer liable  
14 under a tax compromise permitted under sec-  
15 tion 7122 of the Internal Revenue Code of  
16 1986.

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