

109TH CONGRESS
1ST SESSION

S. 1335

To amend title XVIII of the Social Security Act to preserve access to appeals before administrative law judges under the medicare program.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2005

Mr. DODD (for himself, Mr. KENNEDY, Mr. KERRY, and Mr. BINGAMAN) 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 preserve access to appeals before administrative law judges 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 “Justice for Medicare
5 Beneficiaries Act of 2005”.

6 **SEC. 2. PRESERVING ACCESS TO ADMINISTRATIVE LAW**
7 **JUDGES UNDER THE MEDICARE PROGRAM.**

8 (a) REQUIREMENTS FOR THE IMPLEMENTATION OF
9 THE TRANSFER OF ADJUDICATION AUTHORITY.—Section

1 931(b) of the Medicare Prescription Drug, Improvement,
2 and Modernization Act of 2003 (Public Law 108–173; 117
3 Stat. 2398) is amended—

4 (1) in paragraph (2), by adding at the end the
5 following new sentence: “Such judges shall be bound
6 only by applicable statutes, regulations, and rulings
7 issued in accordance with subchapter II of chapter
8 5, and chapter 7, of title 5, United States Code
9 (commonly known as the ‘Administrative Procedures
10 Act’) and shall not be required to give substantial
11 deference to local coverage determinations, local
12 medical review policies, or Centers for Medicare &
13 Medicaid Services program guidance.”;

14 (2) in paragraph (3), by adding at the end the
15 following new sentence: “In providing for the dis-
16 tribution of administrative law judges under the pre-
17 ceding sentence, the Secretary shall ensure that—

18 “(A) there is at least 1 site in each State,
19 the District of Columbia, and each territory for
20 in-person hearings before an administrative law
21 judge; and

22 “(B) there are at least 2 such sites in the
23 5 States with the largest populations, such sites
24 being geographically distributed within the
25 State.”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(7) HEARINGS BEFORE ADMINISTRATIVE LAW
4 JUDGES FOR MEDICARE BENEFICIARIES.—The Sec-
5 retary shall ensure that if an individual entitled to
6 benefits under part A of title XVIII of the Social Se-
7 curity Act or enrolled under part B of such title re-
8 quests a hearing before an administrative law judge,
9 such hearing shall be in-person unless such indi-
10 vidual requests that the hearing be conducted using
11 tele- or video conference technologies. The Secretary
12 shall also ensure that the time frame for an adminis-
13 trative law judge to decide an appeal is not different
14 for hearings conducted in-person and hearings using
15 tele- or video conference technologies.”.

16 (b) DELAY IN THE TRANSFER OF ADJUDICATION AU-
17 THORITY IN ORDER TO COMPLY WITH AMENDMENTS.—
18 Section 931(b)(1) of the Medicare Prescription Drug, Im-
19 provement, and Modernization Act of 2003 (Public Law
20 108–173; 117 Stat. 2398) is amended by striking “Octo-
21 ber 1, 2005” and inserting “October 1, 2006”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect as if included in the enact-
24 ment of section 931(b) of the Medicare Prescription Drug,

- 1 Improvement, and Modernization Act of 2003 (Public Law
- 2 108–173; 117 Stat. 2398).

