

111TH CONGRESS
1ST SESSION

H. R. 2301

To amend title XVIII of the Social Security Act with respect to treatment of didactic and scholarly activities and training in outpatient settings for purposes of payment for graduate medical education under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2009

Mr. YARMUTH (for himself, Mr. BOUSTANY, Mr. CROWLEY, Ms. SCHWARTZ, and Mr. KING of New York) 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 with respect to treatment of didactic and scholarly activities and training in outpatient settings for purposes of payment for graduate medical education 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 “Graduate Medical Edu-
5 cation Advancement Act of 2009”.

1 **SEC. 2. RULES FOR COUNTING RESIDENT TIME FOR DIDAC-**
2 **TIC AND SCHOLARLY ACTIVITIES AND OTHER**
3 **ACTIVITIES.**

4 (a) DIRECT GME.—Section 1886(h) of the Social Se-
5 curity Act (42 U.S.C. 1395ww(h)) is amended—

6 (1) in paragraph (4)(E)—

7 (A) by designating the first sentence as a
8 clause (i) with the heading “IN GENERAL” and
9 appropriate indentation and by striking “Such
10 rules” and inserting “Subject to clause (ii),
11 such rules”; and

12 (B) by adding at the end the following new
13 clause:

14 “(ii) TREATMENT OF CERTAIN NON-
15 HOSPITAL AND DIDACTIC ACTIVITIES.—
16 Such rules shall provide that all time spent
17 by an intern or resident in an approved
18 medical residency training program in a
19 nonhospital setting that is primarily en-
20 gaged in furnishing patient care (as de-
21 fined in paragraph (5)(K)) in non-patient
22 care activities, such as didactic conferences
23 and seminars, but not including research
24 not associated with the treatment or diag-
25 nosis of a particular patient, as such time
26 and activities are defined by the Secretary,

1 shall be counted toward the determination
2 of full-time equivalency.”;

3 (2) in paragraph (4), by adding at the end the
4 following new subparagraph:

5 “(I) TREATMENT OF CERTAIN LEAVE
6 TIME.—In determining the hospital’s number of
7 full-time equivalent residents for purposes of
8 this subsection, all the time that is spent by an
9 intern or resident in an approved medical resi-
10 dency training program on vacation, sick leave,
11 or other approved leave, as such time is defined
12 by the Secretary, and that does not prolong the
13 total time the resident is participating in the
14 approved program beyond the normal duration
15 of the program shall be counted toward the de-
16 termination of full-time equivalency.”; and

17 (3) in paragraph (5), by adding at the end the
18 following new subparagraph:

19 “(K) NONHOSPITAL SETTING THAT IS PRI-
20 MARILY ENGAGED IN FURNISHING PATIENT
21 CARE.—The term ‘nonhospital setting that is
22 primarily engaged in furnishing patient care’
23 means a nonhospital setting in which the pri-
24 mary activity is the care and treatment of pa-
25 tients, as defined by the Secretary.”.

1 (b) IME DETERMINATIONS.—Section 1886(d)(5)(B)
2 of such Act (42 U.S.C. 1395ww(d)(5)(B)) is amended by
3 adding at the end the following new clause:

4 “(x)(I) The provisions of subparagraph (I) of
5 subsection (h)(4) shall apply under this subpara-
6 graph in the same manner as they apply under such
7 subsection.

8 “(II) In determining the hospital’s number of
9 full-time equivalent residents for purposes of this
10 subparagraph, all the time spent by an intern or
11 resident in an approved medical residency training
12 program in non-patient care activities, such as di-
13 dactic conferences and seminars, as such time and
14 activities are defined by the Secretary, that occurs in
15 the hospital shall be counted toward the determina-
16 tion of full-time equivalency if the hospital—

17 “(aa) is recognized as a subsection (d) hos-
18 pital;

19 “(bb) is recognized as a subsection (d)
20 Puerto Rico hospital;

21 “(cc) is reimbursed under a reimbursement
22 system authorized under section 1814(b)(3); or

23 “(dd) is a provider-based hospital out-
24 patient department.

1 “(III) In determining the hospital’s number of
2 full-time equivalent residents for purposes of this
3 subparagraph, all the time spent by an intern or
4 resident in an approved medical residency training
5 program in research activities that are not associ-
6 ated with the treatment or diagnosis of a particular
7 patient, as such time and activities are defined by
8 the Secretary, shall not be counted toward the deter-
9 mination of full-time equivalency.”.

10 (c) EFFECTIVE DATES; APPLICATION.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided, the Secretary of Health and Human Services
13 shall implement the amendments made by this sec-
14 tion in a manner so as to apply to cost reporting pe-
15 riods beginning on or after January 1, 1983.

16 (2) DIRECT GME.—Section 1886(h)(4)(E)(ii) of
17 the Social Security Act, as added by subsection
18 (a)(1)(B), shall apply to cost reporting periods be-
19 ginning on or after July 1, 2009.

20 (3) IME.—Section 1886(d)(5)(B)(x)(III) of the
21 Social Security Act, as added by subsection (b), shall
22 apply to cost reporting periods beginning on or after
23 October 1, 2001. Such section, as so added, shall
24 not give rise to any inference on how the law in ef-
25 fect prior to such date should be interpreted.

1 (4) APPLICATION.—The amendments made by
2 this section shall not be applied in a manner that re-
3 quires reopening of any settled hospital cost reports
4 as to which there is not a jurisdictionally proper ap-
5 peal pending as of the date of the enactment of this
6 Act on the issue of payment for indirect costs of
7 medical education under section 1886(d)(5)(B) of
8 the Social Security Act or for direct graduate med-
9 ical education costs under section 1886(h) of such
10 Act.

11 **SEC. 3. RULES FOR COUNTING RESIDENT TIME IN OUT-**
12 **PATIENT SETTINGS.**

13 (a) DIRECT GME.—Section 1886(h)(4)(E) of the So-
14 cial Security Act (42 U.S.C. 1395ww(h)(4)(E)) is amend-
15 ed—

16 (1) by striking “under an approved medical
17 residency program”; and

18 (2) by striking “if the hospital incurs all, or
19 substantially all, of the costs for the training pro-
20 gram in that setting” and inserting “if the hospital
21 or hospitals continue to incur the costs of the resi-
22 dents’ stipends and fringe benefits during the time
23 the residents spend in that setting.”

1 (b) IME DETERMINATIONS.—Section
2 1886(d)(5)(B)(iv) of such Act (42 U.S.C.
3 1395ww(d)(5)(B)(iv)) is amended—

4 (1) by striking “under an approved medical
5 residency training program”; and

6 (2) by striking “if the hospital incurs all, or
7 substantially all, of the costs for the training pro-
8 gram in that setting” and inserting “if the hospital
9 or hospitals continue to incur the costs of the resi-
10 dents’ stipends and fringe benefits during the time
11 the residents spend in that setting.”

12 (c) EFFECTIVE DATES; APPLICATION.—

13 (1) IN GENERAL.—Except as otherwise pro-
14 vided, the Secretary of Health and Human Services
15 shall implement the amendments made by this sec-
16 tion in a manner so as to apply to cost reporting pe-
17 riods beginning on or after July 1, 2009.

18 (2) APPLICATION.—The amendments made by
19 this section shall not be applied in a manner that re-
20 quires reopening of any settled hospital cost reports
21 as to which there is not a jurisdictionally proper ap-
22 peal pending as of the date of the enactment of this
23 Act on the issue of payment for indirect costs of
24 medical education under section 1886(d)(5)(B) of
25 the Social Security Act or for direct graduate med-

1 ical education costs under section 1886(h) of such
2 Act.

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