

113TH CONGRESS
2^D SESSION

H. R. 4843

To amend title XVIII of the Social Security Act to provide for a limitation under the Medicare program on charges for contract health services provided to Indians by Medicare providers of services and suppliers.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2014

Ms. MCCOLLUM (for herself, Mr. COLE, Mr. BEN RAY LUJÁN of New Mexico, Mr. ISSA, Mr. GRIJALVA, Mr. KLINE, Mr. PALLONE, Mr. YOUNG of Alaska, Mr. HUFFMAN, and Mr. KIND) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Natural Resources, 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 provide for a limitation under the Medicare program on charges for contract health services provided to Indians by Medicare providers of services and suppliers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Native Contract and
3 Rate Expenditure Act of 2014” or the “Native CARE Act
4 of 2014”.

5 **SEC. 2. FINDINGS.**

6 Congress makes the following findings:

7 (1) Federal health services to maintain and im-
8 prove the health of American Indians and Alaska
9 Natives are consonant with and required by the Fed-
10 eral Government’s historical and unique legal rela-
11 tionship with, and resulting trust responsibility to,
12 the American Indian and Alaska Native people.

13 (2) The unmet health needs of American Indi-
14 ans and Alaska Natives are severe and the health
15 status of American Indians and Alaska Natives is
16 far below that of the general population of the
17 United States, resulting in an average life expect-
18 ancy for American Indians and Alaska Natives 4.2
19 years less than that for the all races population of
20 the United States.

21 (3) The Indian Health Service and tribal Pur-
22 chased/Referred Care programs purchase primary
23 and specialty care services from private health care
24 providers when those services are not available at In-
25 dian Health Service or Tribal health facilities.

1 (4) Available Purchased/Referred Care funds
2 have been insufficient to ensure access to care for
3 American Indians and Alaska Natives, resulting in
4 rationed care and diagnosis and treatment delays
5 that lead to the need for more intensive and expen-
6 sive treatment, further reducing already scarce Pur-
7 chased/Referred Care funds.

8 (5) In 2003, Congress amended title XVIII of
9 the Social Security Act to require Medicare-partici-
10 pating hospitals to accept patients referred from the
11 Indian Health Service and Tribal Purchased/Re-
12 ferred Care programs and to accept payment at no
13 more than Medicare rates—the Medicare-like rate
14 cap—for the services provided.

15 (6) The Medicare-like rate cap only applies to
16 hospital services, and does not apply to other types
17 of Medicare-participating providers and suppliers.

18 (7) Unlike other Federal health care programs,
19 the Indian Health Service and Tribal Purchased/Re-
20 ferred Care programs continue to pay full billed
21 charges for non-hospital services.

22 (8) Because Purchased/Referred programs con-
23 tinue to pay full billed charges for non-hospital serv-
24 ices, in many cases the Indian Health Service may
25 only treat the most desperate “Life” or “Limb”

1 cases, leading to many undesirable health outcomes
2 for American Indians and Alaska Natives, and ulti-
3 mately increasing costs to the Purchased/Referred
4 Care programs.

5 (9) On April 11, 2013, the Government Ac-
6 countability Office released a report finding that
7 capping Purchased/Referred Care reimbursement at
8 Medicare-like rates for nonhospital services would
9 enable the Indian Health Service to double the num-
10 ber of physician services provided by adding an addi-
11 tional 253,000 patient visits annually.

12 **SEC. 3. LIMITATION ON CHARGES FOR CERTAIN CONTRACT**
13 **HEALTH SERVICES PROVIDED TO INDIANS BY**
14 **MEDICARE PROVIDERS OF SERVICES AND**
15 **SUPPLIERS.**

16 (a) APPLICATION TO ALL PROVIDERS OF SERV-
17 ICES.—

18 (1) IN GENERAL.—Section 1866(a)(1)(U) of
19 the Social Security Act (42 U.S.C. 1395cc(a)(1)(U))
20 is amended, in the matter preceding clause (i), by
21 striking “in the case of hospitals which furnish inpa-
22 tient hospital services for which payment may be
23 made under this title,”.

1 (2) REGULATIONS.—The Secretary of Health
2 and Human Services shall promulgate regulations to
3 account for the amendment made by paragraph (1).

4 (3) EFFECTIVE DATE.—The amendment made
5 by paragraph (1) shall apply to Medicare participa-
6 tion agreements in effect (or entered into) on or
7 after the date that is 90 days after the date of en-
8 actment of this Act.

9 (b) APPLICATION TO ALL SUPPLIERS.—

10 (1) IN GENERAL.—Section 1834 of the Social
11 Security Act (42 U.S.C. 1395m) is amended by add-
12 ing at the end the following new subsection:

13 “(r) LIMITATION ON CHARGES FOR CERTAIN CON-
14 TRACT HEALTH SERVICES PROVIDED TO INDIANS BY
15 SUPPLIERS.—No payment may be made under this title
16 for an item or service furnished by a supplier (as defined
17 in section 1861(d)) unless the supplier agrees (pursuant
18 to a process established by the Secretary) to be a partici-
19 pating provider of medical and other health services
20 both—

21 “(1) under the Purchased/Referred Care pro-
22 gram (formerly referred to as the ‘contract health
23 services program’) funded by the Indian Health
24 Service and operated by the Indian Health Service,
25 an Indian tribe, or tribal organization (as those

1 terms are defined in section 4 of the Indian Health
2 Care Improvement Act), with respect to items and
3 services that are covered under such program and
4 furnished to an individual eligible for such items and
5 services under such program; and

6 “(2) under any program funded by the Indian
7 Health Service and operated by an urban Indian or-
8 ganization with respect to the purchase of items and
9 services for an eligible urban Indian (as those terms
10 are defined in such section 4),

11 in accordance with regulations promulgated by the Sec-
12 retary regarding payment methodology and rates of pay-
13 ment (including the acceptance of no more than such pay-
14 ment rate as payment in full for such items and serv-
15 ices).”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by paragraph (1) shall apply to items and services
18 furnished on or after the date that is 90 days after
19 the date of enactment of this Act.

20 (c) LIMITATION.—There shall be no reduction, offset,
21 or limitation to any appropriations made to the Indian
22 Health Service under the Indian Health Care Improve-
23 ment Act (25 U.S.C. 1621 et seq.), the Act of November
24 2, 1921 (25 U.S.C. 13) (commonly known as the “Snyder

1 Act”), or any other provision of law as a result of the
2 provisions of, including amendments made by, this Act.

3 (d) STUDIES AND REPORTS.—

4 (1) STUDY.—The Secretary of Health and
5 Human Services (in this subsection referred to as
6 the “Secretary”), acting through the Director of the
7 Indian Health Service, shall conduct a study on the
8 impact of the amendments made by this section on
9 access to care under the Purchased/Referred Care
10 program of the Indian Health Service.

11 (2) REPORT.—Not later than 2 years after the
12 date of enactment of this Act, the Secretary shall
13 submit to Congress a report containing the results
14 of the study conducted under paragraph (1), includ-
15 ing recommendations for such legislation and admin-
16 istrative action as the Secretary determines appro-
17 priate.

18 (3) SECTION 219(c) STUDY AND REPORT.—Sec-
19 tion 219(c) of the Indian Health Care Improvement
20 Act (25 U.S.C. 1621r(c)) is amended by striking
21 “12 months after the date of the enactment of this
22 section” and inserting “12 months after the date of
23 the enactment of the Native Contract and Rate Ex-

1 penditure Act of 2014, and biennially thereafter
2 through 2020”.

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