114TH CONGRESS  2D SESSION

H. R. 5713

IN THE SENATE OF THE UNITED STATES
SEPTEMBER 22, 2016
Received; read twice and referred to the Committee on Finance

AN ACT
To provide for the extension of certain long-term care hospital Medicare payment rules, clarify the application of rules on the calculation of hospital length of stay to certain moratorium-excepted long-term care hospitals, and for other purposes.

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; TABLE OF CONTENTS.
2
3 (a) Short Title.—This Act may be cited as the “Sustaining Healthcare Integrity and Fair Treatment Act of 2016”.
4
5 (b) Table of Contents.—This table of contents of this Act is as follows:
6
7 Sec. 1. Short title; table of contents.
8
9 TITLE I—MEDICARE PART A PROVISIONS

10 Sec. 101. Extension of certain LTCH Medicare payment rules.
11 Sec. 102. Application of rules on the calculation of hospital length of stay to all LTCHs.
12 Sec. 103. Change in Medicare classification for certain hospitals.
13 Sec. 104. Temporary exception to the application of the Medicare LTCH site neutral provisions for certain spinal cord specialty hospitals.
14 Sec. 105. Temporary extension to the application of the Medicare LTCH site neutral provisions for certain discharges with severe wounds.

15 TITLE II—OTHER PROVISIONS

16 Sec. 201. No payment for items and services furnished by newly enrolled providers or suppliers within a temporary moratorium area.

17 TITLE I—MEDICARE PART A PROVISIONS

18 SEC. 101. EXTENSION OF CERTAIN LTCH MEDICARE PAYMENT RULES.

19 (a) 25–Percent Patient Threshold Payment Adjustment.—Section 114(e)(1)(A) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C. 1395ww note), as amended by section 4302(a) of division B of the American Recovery and Reinvestment Act (Public Law 111–5), sections 3106(a) and 10312(a) of Public Law 111–148, and section 1206(b)(1)(B) of the Pathway for SGR Reform Act of 2013 (division B of Public Law
HR 5713 RFS

113–67), is amended by striking “for a 9-year period” and
inserting “through June 30, 2016, and for discharges oc-
curring on or after October 1, 2016, and before July 1,
2017”.

(b) PAYMENT FOR HOSPITALS-WITHIN-HOS-
PITALS.—Section 114(c)(2) of the Medicare, Medicaid,
and SCHIP Extension Act of 2007 (42 U.S.C. 1395ww
note), as amended by section 4302(a) of division B of the
American Recovery and Reinvestment Act (Public Law
111–5), sections 3106(a) and 10312(a) of Public Law
111–148, and section 1206(b)(1)(A) of the Pathway for
SGR Reform Act of 2013 (division B of Public Law 113–
67), is amended—

(1) in subparagraph (A), by inserting “or any
similar provision,” after “Regulations,”;

(2) in subparagraph (B)—

(A) in clause (i), by inserting “or any simi-
lar provision,” after “Regulations,”; and

(B) in clause (ii), by inserting “, or any
similar provision,” after “Regulations”; and

(3) in subparagraph (C), by striking “for a 9-
year period” and inserting “through June 30, 2016,
and for discharges occurring on or after October 1,
2016, and before July 1, 2017”.
SEC. 102. APPLICATION OF RULES ON THE CALCULATION
OF HOSPITAL LENGTH OF STAY TO ALL
LTCHS.

(a) In General.—Section 1206(a)(3) of the Pathway for SGR Reform Act of 2013 (division B of Public Law 113–67; 42 U.S.C. 1395ww note) is amended—

(1) by striking subparagraph (B);

(2) by striking “SITE NEUTRAL BASIS.—” and all that follows through “For discharges occurring” and inserting “SITE NEUTRAL BASIS.—For discharges occurring”;

(3) by striking “subject to subparagraph (B),”;

and

(4) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and moving each of such subparagraphs (as so redesignated) 2 ems to the left.

(b) Effective Date.—The amendments made by subsection (a) shall be effective as if included in the enactment of section 1206(a)(3) of the Pathway for SGR Reform Act of 2013 (division B of Public Law 113–67; 42 U.S.C. 1395ww note).
SEC. 103. CHANGE IN MEDICARE CLASSIFICATION FOR CERTAIN HOSPITALS.

(a) In General.—Subsection (d)(1)(B) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended—

(1) in clause (iv)—

(A) in subclause (I), by striking “or” at the end;

(B) in subclause (II)—

(i) by striking “, or” at the end and inserting a semicolon;

(ii) by redesignating such subclause as clause (vi) and by moving it to immediately follow clause (v); and

(iii) in clause (v), by striking the semicolon at the end and inserting “, or”;

and

(C) by striking “(iv)(I) a hospital” and inserting “(iv) a hospital”.

(b) Conforming Payment References.—The second sentence of subsection (d)(1)(B) of such section is amended—

(1) by inserting “(as in effect as of such date)” after “clause (iv)”;

and

(2) by inserting “(or, in the case of a hospital described in clause (iv)(II), as so in effect, shall be
classified under clause (vi) on and after the effective date of such clause (vi) and for cost reporting periods beginning on or after January 1, 2015, shall not be subject to subsection (m) as of the date of such classification)” after “so classified”.

(c) APPLICATION.—

(1) IN GENERAL.—For cost reporting periods beginning on or after January 1, 2015, in the case of an applicable hospital (as defined in paragraph (3)), the following shall apply:

(A) Payment for inpatient operating costs shall be made on a reasonable cost basis in the manner provided in section 412.526(c)(3) of title 42, Code of Federal Regulations (as in effect on January 1, 2015) and in any subsequent modifications.

(B) Payment for capital costs shall be made in the manner provided by section 412.526(c)(4) of title 42, Code of Federal Regulations (as in effect on such date).

(C) Claims for payment for Medicare beneficiaries who are discharged on or after January 1, 2017, shall be processed as claims which are paid on a reasonable cost basis as described in
section 412.526(c) of title 42, Code of Federal Regulations (as in effect on such date).

(2) APPLICABLE HOSPITAL DEFINED.—In this subsection, the term “applicable hospital” means a hospital that is classified under clause (iv)(II) of section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)) on the day before the date of the enactment of this Act and which is classified under clause (vi) of such section, as redesignated and moved by subsection (a), on or after such date of enactment.

(d) CONFORMING TECHNICAL AMENDMENTS.—


(2) Section 1886(m)(5)(F) of such Act (42 U.S.C. 1395ww(m)(5)(F)) is amended in each of clauses (i) and (ii) by striking “(d)(1)(B)(iv)(II)” and inserting “(d)(1)(B)(vi)”.

HR 5713 RFS
SEC. 104. TEMPORARY EXCEPTION TO THE APPLICATION OF THE MEDICARE LTCH SITE NEUTRAL PROVISIONS FOR CERTAIN SPINAL CORD SPECIALTY HOSPITALS.

(a) Exception.—Section 1886(m)(6) of the Social Security Act (42 U.S.C. 1395ww(m)(6)) is amended—

(1) in subparagraph (A)(i), by striking “and (E)” and inserting “, (E), and (F)”;

(2) by adding at the end the following new subparagraph:

“(F) TEMPORARY EXCEPTION FOR CERTAIN SPINAL CORD SPECIALTY HOSPITALS.—For discharges in cost reporting periods beginning during fiscal years 2018 and 2019, subparagraph (A)(i) shall not apply (and payment shall be made to a long-term care hospital without regard to this paragraph) if such discharge is from a long-term care hospital that meets each of the following requirements:

“(i) NOT-FOR-PROFIT.—The long-term care hospital was a not-for-profit long-term care hospital on June 1, 2014, as determined by cost report data.

“(ii) PRIMARILY PROVIDING TREATMENT FOR CATASTROPHIC SPINAL CORD OR ACQUIRED BRAIN INJURIES OR OTHER
PARALYZING NEUROMUSCULAR CONDITIONS.—Of the discharges in calendar year 2013 from the long-term care hospital for which payment was made under this section, at least 50 percent were classified under MS–LTCH–DRGs 28, 29, 52, 57, 551, 573, and 963.

“(iii) Significant out-of-state admissions.—

“(I) In general.—The long-term care hospital discharged inpatients (including both individuals entitled to, or enrolled for, benefits under this title and individuals not so entitled or enrolled) during fiscal year 2014 who had been admitted from at least 20 of the 50 States, determined by the States of residency of such inpatients and based on such data submitted by the hospital to the Secretary as the Secretary may require.

“(II) Implementation.—Notwithstanding any other provision of law, the Secretary may implement
subclause (I) by program instruction or otherwise.

“(III) NON-APPLICATION OF PAPERWORK REDUCTION ACT.—Chapter 35 of title 44, United States Code, shall not apply to data collected under this clause.”.

(b) Study and Report on the Status and Viability of Certain Spinal Cord Specialty Long-Term Care Hospitals.—

(1) Study.—The Comptroller General of the United States shall conduct a study on long-term care hospitals described in section 1886(m)(6)(F) of the Social Security Act, as added by subsection (a). Such report shall include an analysis of the following:

   (A) The impact on such hospitals of the classification and facility licensure by State agencies of such hospitals.

   (B) The Medicare payment rates for such hospitals.

   (C) Data on the number and health care needs of Medicare beneficiaries who have been diagnosed with catastrophic spinal cord or acquired brain injuries or other paralyzing neuro-
muscular conditions (as described within the discharge classifications specified in clause (ii) of such section) who are receiving services from such hospitals.

(2) REPORT.—Not later than October 1, 2018, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1), including recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

SEC. 105. TEMPORARY EXTENSION TO THE APPLICATION OF THE MEDICARE LTCH SITE NEUTRAL PROVISIONS FOR CERTAIN DISCHARGES WITH SEVERE WOUNDS.

(a) IN GENERAL.—Section 1886(m)(6) of the Social Security Act (42 U.S.C. 1395ww(m)(6)), as amended by section 104, is further amended—

(1) in subparagraph (A)(i) by striking “and (F)” and inserting “(F), and (G)”;

(2) in subparagraph (E)(i)(I)(aa), by striking “the amendment made” and all that follows before the semicolon and inserting “the last sentence of subsection (d)(1)(B)”; and

(3) by adding at the end the following new sub-paragraph:
“(G) ADDITIONAL TEMPORARY EXCEPTION
FOR CERTAIN SEVERE WOUND DISCHARGES
FROM CERTAIN LONG-TERM CARE HOSPITALS.—

“(i) IN GENERAL.—For a discharge occurring in a cost reporting period beginning during fiscal year 2018, subparagraph (A)(i) shall not apply (and payment shall be made to a long-term care hospital without regard to this paragraph) if such discharge—

“(I) is from a long-term care hospital identified by the last sentence of subsection (d)(1)(B);

“(II) is classified under MS–LTCH–DRG 602, 603, 539, or 540; and

“(III) is with respect to an individual treated by a long-term care hospital for a severe wound.

“(ii) SEVERE WOUND DEFINED.—In this subparagraph, the term ‘severe wound’ means a wound which is a stage 3 wound, stage 4 wound, unstageable wound, non-healing surgical wound, or fistula as identi-
(c) **Study and Report to Congress.**—

(1) **Study.**—The Comptroller General of the United States shall, in consultation with relevant stakeholders, conduct a study on the treatment needs of individuals entitled to benefits under part A of title XVIII of the Social Security Act or enrolled under part B of such title who require specialized wound care, and the cost, for such individuals and the Medicare program under such title, of treating severe wounds in rural and urban areas. Such study shall include an assessment of—

(A) access of such individuals to appropriate levels of care for such cases;

(B) the potential impact that section 1886(m)(6)(A)(i) of such Act (42 U.S.C. 1395ww(m)(6)(A)(i)) will have on the access,
quality, and cost of care for such individuals; 
and

(C) how to appropriately pay for such care 
under the Medicare program under such title.

(2) REPORT.—Not later than October 1, 2020, 
the Comptroller General shall submit to Congress a 
report on the study conducted under paragraph (1), 
including recommendations for such legislation and 
administrative action as the Comptroller General de-
determines appropriate.

TITLE II—OTHER PROVISIONS

SEC. 201. NO PAYMENT FOR ITEMS AND SERVICES FUR-
NISHED BY NEWLY ENROLLED PROVIDERS 
OR SUPPLIERS WITHIN A TEMPORARY MORA-
TORIUM AREA.

(a) MEDICARE.—Section 1866(j)(7) of the Social Se-
curity Act (42 U.S.C. 1395cc(j)(7)) is amended—

(1) in the paragraph heading, by inserting “;
NONPAYMENT” before the period; and

(2) by adding at the end the following new sub-
paragraph:

“(C) NONPAYMENT.—

“(i) IN GENERAL.—No payment may 
be made under this title or under a pro-
gram described in subparagraph (A) with
respect to an item or service described in clause (ii) furnished on or after October 1, 2017.

“(ii) ITEM OR SERVICE DESCRIBED.—An item or service described in this clause is an item or service furnished—

“(I) within a geographic area with respect to which a temporary moratorium imposed under subparagraph (A) is in effect; and

“(II) by a provider of services or supplier that meets the requirements of clause (iii).

“(iii) REQUIREMENTS.—For purposes of clause (ii), the requirements of this clause are that a provider of services or supplier—

“(I) enrolls under this title on or after the effective date of such temporary moratorium; and

“(II) is within a category of providers of services and suppliers (as described in subparagraph (A)) subject to such temporary moratorium.
“(iv) Prohibition on charges for specified items or services.—In no case shall a provider of services or supplier described in clause (ii)(II) charge an individual or other person for an item or service described in clause (ii) furnished on or after October 1, 2017, to an individual entitled to benefits under part A or enrolled under part B or an individual under a program specified in subparagraph (A).”.

(b) Conforming Amendments.—

(1) Medicaid.—

(A) In general.—Section 1903(i)(2) of the Social Security Act (42 U.S.C. 1396b(i)(2)) is amended—

(i) in subparagraph (A), by striking the comma at the end and inserting a semicolon;

(ii) in subparagraph (B), by striking “or” at the end; and

(iii) by adding at the end the following new subparagraph:

“(D) with respect to any amount expended for such an item or service furnished during calendar quarters beginning on or after October
17

1, 2017, subject to section 1902(kk)(4)(A)(ii)(II), within a geographic area that is subject to a moratorium imposed under section 1866(j)(7) by a provider or supplier that meets the requirements specified in subparagraph (C)(iii) of such section, during the period of such moratorium; or”.

(B) EXCEPTION WITH RESPECT TO ACCESS.—Section 1902(kk)(4)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(kk)(4)(A)(ii)) is amended to read as follows:

“(ii) EXCEPTIONS.—

“(I) COMPLIANCE WITH MORATORIUM.—A State shall not be required to comply with a temporary moratorium described in clause (i) if the State determines that the imposition of such temporary moratorium would adversely impact beneficiaries’ access to medical assistance.

“(II) FFP AVAILABLE.—Notwithstanding section 1903(i)(2)(D), payment may be made to a State under this title with respect to amounts expended for items and serv-
ices described in such section if the Secretary, in consultation with the State agency administering the State plan under this title (or a waiver of the plan), determines that denying payment to the State pursuant to such section would adversely impact beneficiaries’ access to medical assistance. ’’.

(C) STATE PLAN REQUIREMENT WITH RESPECT TO LIMITATION ON CHARGES TO BENEFICIARIES.—Section 1902(kk)(4)(A) of the Social Security Act (42 U.S.C. 1396a(kk)(4)(A)) is amended by adding at the end the following new clause:

“(iii) LIMITATION ON CHARGES TO BENEFICIARIES.—With respect to any amount expended for items or services furnished during calendar quarters beginning on or after October 1, 2017, the State prohibits, during the period of a temporary moratorium described in clause (i), a provider meeting the requirements specified in subparagraph (C)(iii) of section 1866(j)(7) from charging an individual or other per-
son eligible to receive medical assistance under the State plan under this title (or a waiver of the plan) for an item or service described in section 1903(i)(2)(D) furnished to such an individual.”.

(2) Correcting amendments to related provisions.—

(A) Section 1866(j).—Section 1866(j) of the Social Security Act (42 U.S.C. 1395cc(j)) is amended—

(i) in paragraph (1)(A)—

(I) by striking “paragraph (4)” and inserting “paragraph (5)”;

(II) by striking “moratoria in accordance with paragraph (5)” and inserting “moratoria in accordance with paragraph (7)”;

and

(III) by striking “paragraph (6)” and inserting “paragraph (9)”;

(ii) by redesignating the second paragraph (8) (added by section 1304(1) of Public Law 111–152) as paragraph (9).

(B) Section 1902(kk).—Section 1902(kk) of such Act (42 U.S.C. 1396a(kk)) is amended—
(i) in paragraph (1), by striking “section 1886(j)(2)” and inserting “section 1866(j)(2)”; 

(ii) in paragraph (2), by striking “section 1886(j)(3)” and inserting “section 1866(j)(3)”; 

(iii) in paragraph (3), by striking “section 1886(j)(4)” and inserting “section 1866(j)(5)”; and 

(iv) in paragraph (4)(A), by striking “section 1886(j)(6)” and inserting “section 1866(j)(7)”. 

Passed the House of Representatives September 21, 2016.

Attest: KAREN L. HAAS, Clerk.