

114TH CONGRESS
1ST SESSION

S. 1349

To amend title XVIII of the Social Security Act to require hospitals to provide certain notifications to individuals classified by such hospitals under observation status rather than admitted as inpatients of such hospitals.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2015

Mr. CARDIN (for himself and Mr. ENZI) 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 require hospitals to provide certain notifications to individuals classified by such hospitals under observation status rather than admitted as inpatients of such hospitals.

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 “Notice of Observation
5 Treatment and Implication for Care Eligibility Act” or the
6 “NOTICE Act”.

1 **SEC. 2. MEDICARE REQUIREMENT FOR HOSPITAL NOTIFI-**
2 **CATIONS OF OBSERVATION STATUS.**

3 Section 1866(a)(1) of the Social Security Act (42
4 U.S.C. 1395cc(a)(1)) is amended—

5 (1) in subparagraph (V), by striking at the end
6 “and”;

7 (2) in the first subparagraph (W), by striking
8 at the end the period and inserting a comma;

9 (3) in the second subparagraph (W)—

10 (A) by redesignating such subparagraph as
11 subparagraph (X); and

12 (B) by striking at the end the period and
13 inserting “, and”; and

14 (4) by inserting after such subparagraph (X)
15 the following new subparagraph:

16 “(Y) beginning 12 months after the date of the
17 enactment of this subparagraph, in the case of a
18 hospital or critical access hospital, with respect to
19 each individual who receives observation services as
20 an outpatient at such hospital or critical access hos-
21 pital for more than 24 hours, to provide to such in-
22 dividual not later than 36 hours after the time such
23 individual begins receiving such services (or, if soon-
24 er, upon release)—

25 “(i) such oral explanation of the written
26 notification described in clause (ii), and such

1 documentation of the provision of such expla-
2 nation, as the Secretary determines to be ap-
3 propriate;

4 “(ii) a written notification (as specified by
5 the Secretary pursuant to rulemaking and con-
6 taining such language as the Secretary pre-
7 scribes consistent with this paragraph) which—

8 “(I) explains the status of the indi-
9 vidual as an outpatient receiving observa-
10 tion services and not as an inpatient of the
11 hospital or critical access hospital and the
12 reasons for such status of such individual;

13 “(II) explains the implications of such
14 status on services furnished by the hospital
15 or critical access hospital (including serv-
16 ices furnished on an inpatient basis), such
17 as implications for cost-sharing require-
18 ments under this title and for subsequent
19 eligibility for coverage under this title for
20 services furnished by a skilled nursing fa-
21 cility;

22 “(III) includes such additional infor-
23 mation as the Secretary determines appro-
24 priate;

25 “(IV) either—

1 “(aa) is signed by such individual
2 or a person acting on such individ-
3 ual’s behalf to acknowledge receipt of
4 such notification; or

5 “(bb) if such individual or person
6 refuses to provide the signature de-
7 scribed in item (aa), is signed by the
8 staff member of the hospital or crit-
9 ical access hospital who presented the
10 written notification and includes the
11 name and title of such staff member,
12 a certification that the notification
13 was presented, and the date and time
14 the notification was presented; and

15 “(V) is written and formatted using
16 plain language and is made available in ap-
17 propriate languages as determined by the
18 Secretary.”.

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