

116TH CONGRESS
1ST SESSION

S. 3103

To amend title XVIII of the Social Security Act to restore State authority to waive for certain facilities the 35-mile rule for designating critical access hospitals under the Medicare program.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2019

Mr. DURBIN (for himself and Mr. LANKFORD) 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 restore State authority to waive for certain facilities the 35-mile rule for designating critical access hospitals 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 “Rural Hospital Closure
5 Relief Act of 2019”.

1 **SEC. 2. RESTORING STATE AUTHORITY TO WAIVE THE 35-**
 2 **MILE RULE FOR CERTAIN MEDICARE CRIT-**
 3 **ICAL ACCESS HOSPITAL DESIGNATIONS.**

4 Section 1820 of the Social Security Act (42 U.S.C.
 5 1395i-4) is amended—

6 (1) in subsection (c)(2)—

7 (A) in subparagraph (B)(i)—

8 (i) in subclause (I), by striking at the
 9 end “or”;

10 (ii) in subclause (II), by inserting at
 11 the end “or”; and

12 (iii) by adding at the end the fol-
 13 lowing new subclause:

14 “(III) subject to subparagraph
 15 (G), is a hospital described in sub-
 16 paragraph (F) and is certified on or
 17 after the date of the enactment of the
 18 Rural Hospital Closure Relief Act of
 19 2019 by the State as being a nec-
 20 essary provider of health care services
 21 to residents in the area;” and

22 (B) by adding at the end the following new
 23 subparagraphs:

24 “(F) HOSPITAL DESCRIBED.—For pur-
 25 poses of subparagraph (B)(i)(III), a hospital

1 described in this subparagraph is a hospital
2 that—

3 “(i) is a sole community hospital (as
4 defined in section 1886(d)(5)(D)(iii)), a
5 medicare dependent, small rural hospital
6 (as defined in section 1886(d)(5)(G)(iv)), a
7 low-volume hospital that in 2019 receives a
8 payment adjustment under section
9 1886(d)(12), or a subsection (d) hospital
10 (as defined in section 1886(d)(1)(B)) that
11 has fewer than 50 beds;

12 “(ii) is located in a rural area, as de-
13 fined by the Secretary, based on the most
14 recent rural urban commuting area code
15 (or its successor criteria) as set forth by
16 the Office of Management and Budget;

17 “(iii) as determined by the Secretary,
18 serves a patient population—

19 “(I) with a high percentage, rel-
20 ative to the national or statewide av-
21 erage, of individuals with income that
22 is below 150 percent of the poverty
23 line;

24 “(II) in a health professional
25 shortage area (as defined in section

1 332(a)(1)(A) of the Public Health
2 Service Act); or

3 “(III) that represents a high pro-
4 portion, relative to the national or
5 statewide average, of individuals enti-
6 tled to part A or enrolled under part
7 B of this title or enrolled under a
8 State plan under title XIX;

9 “(iv) has demonstrated to the Sec-
10 retary, at such time and in such manner as
11 the Secretary determines appropriate, two
12 consecutive years of financial losses pre-
13 ceding the date of certification described in
14 subparagraph (B)(i)(III); and

15 “(v) submits to the Secretary, at such
16 time and in such manner as the Secretary
17 may require, an attestation that the Sec-
18 retary determines to be satisfactory, out-
19 lining the good governance qualifications
20 and strategic plan for multi-year financial
21 solvency of the hospital.

22 “(G) LIMITATION ON CERTAIN DESIGNA-
23 TIONS.—

24 “(i) IN GENERAL.—The Secretary
25 may not under subsection (e) certify pur-

1 suant to a certification by a State under
2 subsection (c)(2)(B)(i)(III)—

3 “(I) more than a total of 200 fa-
4 cilities as critical access hospitals; and

5 “(II) subject to clause (ii), within
6 any one State, more than 15 facilities
7 as critical access hospitals.

8 “(ii) STATE PETITION.—The Sec-
9 retary may apply, with respect to a State,
10 the limitation under clause (i)(II) by sub-
11 stituting a number that is greater than the
12 number specified in such clause if the
13 State petitions the Secretary, in accord-
14 ance with a process established by the Sec-
15 retary, to increase such number.”; and

16 (2) in subsection (e), by inserting “, subject to
17 subsection (c)(2)(G),” after “The Secretary shall”.

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