

117TH CONGRESS
1ST SESSION

S. 2094

To provide for a new building period with respect to the cap on full-time equivalent residents for purposes of payment for graduate medical education costs under the Medicare program for certain hospitals that have established a shortage specialty program.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2021

Mr. BARRASSO (for himself and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for a new building period with respect to the cap on full-time equivalent residents for purposes of payment for graduate medical education costs under the Medicare program for certain hospitals that have established a shortage specialty 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 “Physician Shortage
5 GME Cap Flex Act of 2021”.

1 **SEC. 2. PROVIDING FOR A NEW BUILDING PERIOD WITH**
2 **RESPECT TO THE CAP ON FULL-TIME EQUIV-**
3 **ALENT RESIDENTS FOR CERTAIN HOSPITALS**
4 **THAT HAVE ESTABLISHED A SHORTAGE SPE-**
5 **CIALTY PROGRAM.**

6 Section 1886(h)(4) of the Social Security Act (42
7 U.S.C. 1395ww(h)(4)) is amended by adding at the end
8 the following new subparagraph:

9 “(L) TREATMENT OF CERTAIN QUALI-
10 FYING HOSPITALS.—

11 “(i) IN GENERAL.—For purposes of
12 applying this paragraph and section
13 413.79 of title 42, Code of Federal Regula-
14 tions (or a successor regulation), the Sec-
15 retary shall treat, subject to clause (ii), a
16 qualifying hospital (as defined in clause
17 (iii)) with an approved medical residency
18 training program as if such hospital—

19 “(I) had no allopathic or osteo-
20 pathic residents in its most recent
21 cost reporting period ending on or be-
22 fore December 31, 1996; and

23 “(II) began training residents for
24 the first time in a new medical resi-
25 dency training program (as defined in
26 paragraph (l) of such section) begin-

1 ning on the date on which such hos-
2 pital became a qualifying hospital.

3 “(ii) SPECIAL RULE FOR QUALIFYING
4 HOSPITALS IN CAP-BUILDING PERIOD.—In
5 the case of a qualifying hospital with an
6 approved medical residency training pro-
7 gram that, excluding the treatment de-
8 scribed in clause (i), is a hospital that had
9 no allopathic or osteopathic residents in its
10 most recent cost reporting period ending
11 on or before December 31, 1996, and
12 began training residents for the first time
13 in a new medical residency training pro-
14 gram (as defined in paragraph (l) of such
15 section) during the 5-year period ending on
16 the date described in clause (i)(II) with re-
17 spect to such hospital, in lieu of applying
18 such clause, the Secretary shall provide
19 that the provisions of subsection (e) of sec-
20 tion 413.79 of title 42, Code of Federal
21 Regulations (or a successor regulation),
22 shall apply with respect to such hospital
23 for an additional 5 years beyond the period
24 during which such provisions would other-
25 wise have applied to such hospital.

1 “(iii) DEFINITION.—In this subpara-
2 graph:

3 “(I) QUALIFYING HOSPITAL.—
4 The term ‘qualifying hospital’ means
5 a hospital that—

6 “(aa) establishes a shortage
7 specialty program (as defined in
8 subclause (II)) during the 5-year
9 period beginning on the date of
10 the enactment of this subpara-
11 graph; and

12 “(bb) submits an application
13 to the Secretary during such pe-
14 riod containing such information
15 as the Secretary may specify.

16 “(II) SHORTAGE SPECIALTY PRO-
17 GRAM.—The term ‘shortage specialty
18 program’ means, with respect to a
19 hospital located in a geographic area
20 (as defined by the Secretary), any ap-
21 proved residency training program in
22 a specialty for which the Secretary de-
23 termines that there is a shortage of
24 physicians practicing such specialty in
25 such area at the time such program is

1 established. In making such a deter-
2 mination, the Secretary shall take into
3 account whether such hospital is lo-
4 cated in an area—

5 “(aa) without adequate
6 health care resources (such as in
7 a rural area or a medically un-
8 derserved area (as defined by the
9 Administrator of the Health Re-
10 sources and Services Administra-
11 tion));

12 “(bb) experiencing primary
13 care or specialty physician short-
14 ages (such as in a health profes-
15 sional shortage area (as defined
16 in section 332(a) of the Public
17 Health Service Act (42 U.S.C.
18 254e(a))));

19 “(cc) without an adequate
20 number of approved residency
21 training programs;

22 “(dd) struggling to expand
23 or keep approved residency train-
24 ing programs operational;

1 “(ee) lacking existing med-
2 ical training infrastructure or in
3 the process of building such in-
4 frastructure;

5 “(ff) with a low resident-to-
6 population ratio;

7 “(gg) with few full-time
8 equivalent resident positions; or

9 “(hh) with a low physician-
10 to-population ratio for physicians
11 practicing in the same specialty
12 as the shortage specialty program
13 concerned.”.

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