

118TH CONGRESS
1ST SESSION

H. R. 1694

To amend titles XVIII and XIX of the Social Security Act to provide for coverage of services furnished by freestanding emergency centers.

IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 2023

Mr. ARRINGTON (for himself, Mr. VICENTE GONZALEZ of Texas, Mr. CLOUD, Mr. BURGESS, and Mr. SESSIONS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 titles XVIII and XIX of the Social Security Act to provide for coverage of services furnished by freestanding emergency centers.

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 “Emergency Care Im-
5 provement Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) To expand provider capacity to respond to
2 the COVID–19 pandemic, in April of 2020 the Cen-
3 ters for Medicare & Medicaid Services issued a waiv-
4 er allowing freestanding emergency centers (FECs)
5 to enroll as Medicare-certified hospitals and receive
6 Medicare reimbursement for the duration of the
7 COVID–19 public health emergency.

8 (2) FECs are fully licensed emergency depart-
9 ments that are staffed by both Emergency Medicine
10 trained physicians and registered nurses who are on-
11 site 24 hours a day, seven days a week, and possess
12 licensed pharmacies, clinical laboratories, and ad-
13 vanced imaging services. FECs are State-licensed,
14 and adhere to the same standards and provide the
15 same level of care as Hospital Based Emergency
16 Rooms, including State EMTALA regulations on
17 treating all patients.

18 (3) Over 110 FECs, mostly located in Texas,
19 have enrolled and provided high-quality emergency
20 services for all kinds of emergency conditions at sig-
21 nificant savings to the Medicare program and to
22 thousands of Medicare beneficiaries.

23 (4) An actuarial study of Medicare claims data
24 found that FECs did not increase overall utilization
25 of emergency care services and saved the Medicare

1 program 21.8 percent in lower emergency care pay-
2 ments for patients of similar acuity.

3 **SEC. 3. COVERAGE OF FREESTANDING EMERGENCY CEN-**
4 **TERS UNDER MEDICARE AND MEDICAID.**

5 (a) COVERAGE UNDER MEDICARE PART B.—Section
6 1832(a)(2) of the Social Security Act (42 U.S.C.
7 1395k(a)) is amended—

8 (1) in subparagraph (I), by striking “and” at
9 the end;

10 (2) in subparagraph (J), by striking the period
11 at the end and inserting “; and”; and

12 (3) by adding at the end the following new sub-
13 paragraph:

14 “(K) emergency services (as defined in sec-
15 tion 2799A–1(a)(3)(C) of the Public Health
16 Service Act) provided by a freestanding emer-
17 gency center (as defined in section
18 1861(nnn)).”.

19 (b) FREESTANDING EMERGENCY CENTER DE-
20 FINED.—Section 1861 of the Social Security Act (42
21 U.S.C. 1395x) is amended by adding at the end the fol-
22 lowing new subsection:

23 “(nnn) FREESTANDING EMERGENCY CENTER.—The
24 term ‘freestanding emergency center’ means a health care
25 facility that—

1 “(1) is an independent freestanding emergency
2 department (as defined in section 2799A–1(a)(3)(D)
3 of the Public Health Service Act);

4 “(2) is operational 24 hours a day, 7 days a
5 week, and 365 days a year with a physician (as de-
6 fined in subsection (r)) onsite and available at all
7 times;

8 “(3) has in place mechanisms to allow for ap-
9 propriate transfers and referrals;

10 “(4) develops, implements, and maintains an
11 ongoing, data-driven quality assessment and per-
12 formance improvement (QAPI) program;

13 “(5) is located—

14 “(A) in a metropolitan statistical area; or

15 “(B)(i) in the case of a facility established
16 prior to 2020, in a rural county; or

17 “(ii) in the case of a facility established on
18 or after January 1, 2020, in a rural county
19 that does not have a Medicare-certified hospital
20 or a rural emergency hospital (as defined in
21 subsection (kkk)(2));

22 “(6) has established a governing body to deter-
23 mine, implement, and monitor policies governing the
24 total operation of the facility, and has oversight and
25 accountability for the QAPI program, ensuring that

1 facility policies and such QAPI program are admin-
2 istered so as to provide quality health care in a safe
3 environment; and

4 “(7) meets all State requirements applicable to
5 facilities which furnish emergency medical services
6 to individuals but do not typically provide for stays
7 in excess of 24 hours, and meets such other require-
8 ments as the Secretary may prescribe not in excess
9 of the conditions of participation under this title
10 that are specifically applicable to off campus dedi-
11 cated emergency departments of hospitals (as de-
12 scribed in section 482.55 of title 42, Code of Federal
13 Regulations (or any successor regulation)), and not
14 the conditions of participation under this title that
15 are applicable to hospitals (as defined in subsection
16 (e)), including rural emergency hospitals (as defined
17 in subsection (kkk)(2)), other than with respect to
18 compliance with the requirements described in sec-
19 tion 1867;”.

20 (c) PAYMENT UNDER MEDICARE.—Section
21 1833(t)(21) of the Social Security Act (42 U.S.C.
22 1395l(t)(21)) is amended by adding at the end the fol-
23 lowing new subparagraph:

24 “(F) TREATMENT OF FREESTANDING
25 EMERGENCY CENTERS.—The facility payment

1 rate for services of a freestanding emergency
2 center (as defined in section 1861(nnn)) for
3 higher acuity evaluation or management level
4 services (as represented by HCPCS codes
5 99283–99285, or any successor codes) shall be
6 in an amount equal to the payment that would
7 otherwise apply to a hospital outpatient depart-
8 ment under this subsection, including the appli-
9 cation of the geographic adjustment under
10 paragraph (2)(D) and the OPD fee schedule in-
11 crease factor under paragraph (3)(C)(iv).”.

12 (d) COVERAGE UNDER MEDICAID.—Section
13 1905(a)(2)(A) of the Social Security Act (42 U.S.C.
14 1396d(a)(2)(A)) is amended by inserting “, including the
15 services of freestanding emergency centers (as defined in
16 section 1861(nnn))” after “outpatient hospital services”.

17 (e) EFFECTIVE DATE.—The amendments made by
18 this Act shall apply with respect to items and services fur-
19 nished on or after May 11, 2023.

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