

118TH CONGRESS
1ST SESSION

H. R. 2863

To amend title XVIII of the Social Security Act and title XXVII of the Public Health Service Act to address incorrect billing by off-campus hospital locations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2023

Mrs. SPARTZ 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 title XVIII of the Social Security Act and title XXVII of the Public Health Service Act to address incorrect billing by off-campus hospital locations, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preventing Hospital
5 Overbilling of Medicare Act”.

1 **SEC. 2. ADDRESSING INCORRECT BILLING BY OFF-CAMPUS**
2 **HOSPITAL LOCATIONS.**

3 (a) PROMOTING MEDICARE SITE-NEUTRAL PAY-
4 MENTS.—

5 (1) REMOVING CERTAIN EXCEPTIONS TO THE
6 DEFINITION OF AN OFF-CAMPUS OUTPATIENT DE-
7 PARTMENT OF A PROVIDER.—

8 (A) IN GENERAL.—Section 1833(t)(21)(B)
9 of the Social Security Act (42 U.S.C.
10 1395l(t)(21)(B)) is amended to read as follows:

11 “(B) OFF-CAMPUS OUTPATIENT DEPART-
12 MENT OF A PROVIDER.—For purposes of para-
13 graph (1)(B)(v) and this paragraph, the term
14 ‘off-campus outpatient department of a pro-
15 vider’ means a department of a provider (as de-
16 fined in section 413.65(a)(2) of title 42 of the
17 Code of Federal Regulations, as in effect as of
18 the date of the enactment of the Bipartisan
19 Budget Act of 2015) that is not located—

20 “(i) on the campus (as defined in such
21 section 413.65(a)(2)) of such provider; or

22 “(ii) within the distance (described in
23 such definition of campus) from a remote
24 location of a hospital facility (as defined in
25 such section 413.65(a)(2)).”.

1 (B) EFFECTIVE DATE.—The amendment
2 made by subparagraph (A) shall apply with re-
3 spect to items and services furnished on or
4 after January 1, 2024.

5 (2) REMOVING SITE-NEUTRAL EXCEPTION FOR
6 OFF-CAMPUS EMERGENCY DEPARTMENTS.—Section
7 1833(t)(21)(A) of the Social Security Act (42
8 U.S.C. 1395l(t)(21)(A)) is amended by inserting
9 “before January 1, 2024” after “furnished”.

10 (3) CLARIFYING SECRETARIAL AUTHORITY TO
11 PROMOTE SITE-NEUTRAL PAYMENTS.—Section
12 1833(t)(2)(F) of the Social Security Act (42 U.S.C.
13 1395l(t)(2)(F)) is amended by adding at the end the
14 following new sentence: “Such method may include
15 actions determined appropriate by the Secretary to
16 promote site-neutral payment policies to reduce ex-
17 penditures attributable to items and services fur-
18 nished under this part, such as actions to prevent
19 hospitals from billing for items and services fur-
20 nished at an off-campus outpatient department of a
21 provider as if such items and services were furnished
22 at such hospital.”.

23 (b) ENSURING SEPARATE NPIs FOR OFF-CAMPUS
24 OUTPATIENT DEPARTMENTS OF A PROVIDER.—

1 (1) IN GENERAL.—Section 1173(b) of the So-
2 cial Security Act (42 U.S.C. 1320d–2(b)) is amend-
3 ed by adding at the end the following new para-
4 graph:

5 “(3) ENSURING SEPARATE NPIS FOR OFF-CAM-
6 PUS OUTPATIENT DEPARTMENTS OF A PROVIDER.—
7 The standards specified under paragraph (1) shall
8 ensure that, not later than January 1, 2024, each
9 off-campus outpatient department of a provider (as
10 defined in section 1833(t)(21)(B)) is assigned a sep-
11 arate unique health identifier from such provider.”.

12 (2) TREATMENT OF CERTAIN DEPARTMENTS AS
13 SUBPARTS OF A HOSPITAL.—Not later than January
14 1, 2024, the Secretary of Health and Human Serv-
15 ices shall revise sections 162.408 and 162.410 of
16 title 45, Code of Federal Regulations, to ensure that
17 each off-campus outpatient department of a provider
18 (as defined in section 1833(t)(21)(B) of the Social
19 Security Act (42 U.S.C. 1395l(t)(21)(B))) is treated
20 as a subpart (as described in such sections) of such
21 provider and assigned a unique health identifier pur-
22 suant to section 1173(b)(3) of such Act (as added
23 by paragraph (1)).

24 (c) OFF-CAMPUS DEPARTMENTS OF A PROVIDER
25 BILLING REQUIREMENTS.—

1 (1) MEDICARE.—Section 1866(a)(1) of the So-
2 cial Security Act (42 U.S.C. 1395cc(a)(1)) is
3 amended—

4 (A) in subparagraph (X), by striking
5 “and” at the end;

6 (B) in subparagraph (Y)(ii)(V), by striking
7 the period and inserting “, and”; and

8 (C) by inserting after subparagraph (Y)
9 the following new subparagraph:

10 “(Z) in the case of a hospital with an off-cam-
11 pus outpatient department of a provider (as defined
12 in section 1833(t)(21)(B)), with respect to items
13 and services furnished at such department of a pro-
14 vider on or after January 1, 2024, to bill under this
15 title (including under part C of this title) for such
16 items and services using the unique health identifier
17 established for such department of a provider pursu-
18 ant to section 1173(b)(3) on a HIPAA X12 837P
19 transaction or CMS 1500 form (or a successor
20 transaction or form).”.

21 (2) OTHER PROVIDERS.—Part E of title XXVII
22 of the Public Health Service Act (42 U.S.C. 300gg–
23 131 et seq.) is amended by adding at the end the
24 following new section:

1 **“SEC. 2799B-10. BILLING REQUIREMENTS FOR OFF-CAMPUS**
2 **DEPARTMENTS OF A PROVIDER.**

3 “A health care provider may not, with respect to
4 items and services furnished to an individual at an off-
5 campus outpatient department of a provider (as defined
6 in section 1833(t)(21)(B) of the Social Security Act), sub-
7 mit a claim for such items and services to a group health
8 plan or health insurance issuer, and may not hold such
9 individual liable for such items and services, unless such
10 items and services are billed—

11 “(1) using the separate unique health identifier
12 established for such department pursuant to section
13 1173(b)(3) of such Act; and

14 “(2) on a HIPAA X12 837P transaction or
15 CMS 1500 form (or a successor transaction or
16 form).”.

17 (3) **EFFECTIVE DATE.**—The amendment made
18 by paragraph (1) shall apply with respect to claims
19 submitted for items and services furnished on or
20 after January 1, 2024.

21 (d) **NAIC MODEL ACT OR REGULATION.**—The Sec-
22 retary of Health and Human Services shall request that,
23 not later than 6 months after the date of the enactment
24 of this Act, the National Association of Insurance Com-
25 missioners establish a model Act or regulation designed
26 to address the issue of hospitals inappropriately billing for

1 items and services furnished at off-campus outpatient de-
2 partments of a provider (as defined in section
3 1833(t)(21)(B) of the Social Security Act (42 U.S.C.
4 1935l(t)(21)(B))) by allowing health insurance issuers and
5 group health plans (as such terms are defined in section
6 2791 of the Public Health Service Act (42 U.S.C. 300gg-
7 91)) to reject such claims unless such department of a
8 provider bills in accordance with the provisions of section
9 2799B-10 of such Act. The Secretary shall request that
10 such model Act or regulation include requirements similar
11 to those found in Colorado House Bill 18-1282.

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