

119TH CONGRESS
1ST SESSION

S. 502

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, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2025

Mr. DURBIN (for himself, Mr. LANKFORD, and Ms. SMITH) 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, 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 “Rural Hospital Closure
5 Relief Act of 2025”.

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

4 (a) IN GENERAL.—Section 1820 of the Social Secu-
 5 rity Act (42 U.S.C. 1395i–4) is amended—

6 (1) in subsection (c)(2)—

7 (A) in subparagraph (B)(i)—

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

10 (ii) in subclause (II), by inserting
 11 “or” at the end; 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 2025, and before the date that is 9
 20 years after the date of enactment of
 21 this subclause, by the State as being
 22 a necessary provider of health care
 23 services to residents in the area;”;

24 (B) by adding at the end the following new
 25 subparagraphs:

1 “(F) HOSPITAL DESCRIBED.—For pur-
2 poses of subparagraph (B)(i)(III), a hospital
3 described in this subparagraph is a hospital
4 that—

5 “(i) is a sole community hospital (as
6 defined in section 1886(d)(5)(D)(iii)), a
7 medicare dependent, small rural hospital
8 (as defined in section 1886(d)(5)(G)(iv)), a
9 low-volume hospital that in 2021 receives a
10 payment adjustment under section
11 1886(d)(12), or a subsection (d) hospital
12 (as defined in section 1886(d)(1)(B));

13 “(ii) is located in a rural area, as de-
14 fined in section 1886(d)(2)(D), or a rural
15 census tract of a metropolitan statistical
16 area (as determined under the most recent
17 modification of the Goldsmith Modifica-
18 tion, originally published in the Federal
19 Register on February 27, 1992 (57 Fed.
20 Reg. 6725));

21 “(iii)(I) is located—

22 “(aa) in a county that has a per-
23 centage of individuals with income at
24 or below the Federal poverty level in
25 2023 or 2024 that is higher than the

1 national or statewide average in that
2 year; or

3 “(bb) in a health professional
4 shortage area (as defined in section
5 332(a)(1)(A) of the Public Health
6 Service Act); or

7 “(II) has a percentage of inpatient
8 days of individuals entitled to benefits
9 under part A of this title in 2023 or 2024
10 that is higher than the national or state-
11 wide average in that year;

12 “(iv) has attested to the Secretary
13 that the hospital—

14 “(I) was operating as of the date
15 of enactment of this subparagraph;
16 and

17 “(II) had 2 consecutive years of
18 negative operating margins preceding
19 the date of certification described in
20 subparagraph (B)(i)(III), as defined
21 by the Secretary in the regulations or
22 program instruction issued pursuant
23 to section 2(b) of the Rural Hospital
24 Closure Relief Act of 2025; and

1 “(v) submits to the Secretary, at such
2 time and in such manner as the Secretary
3 may require, an application for certifi-
4 cation of the facility as a critical access
5 hospital, including an attestation out-
6 lining—

7 “(I) the good governance quali-
8 fications and strategic plan for multi-
9 year financial solvency of the hospital;
10 and

11 “(II) the hospital’s commitment
12 to open and maintain, for the dura-
13 tion of the hospital’s designation as a
14 critical access hospital under this sec-
15 tion, a new service line or expanded
16 service capacity for a service that is in
17 high demand or limited supply in the
18 hospital’s service area (determined
19 based on the hospital’s most recent
20 community health needs assessment
21 under section 501(r)(3) of the Inter-
22 nal Revenue Code of 1986 (or other
23 comparable assessment)), such as ob-
24 stetrics or behavioral health care serv-
25 ices.

1 “(G) LIMITATION ON CERTAIN DESIGNA-
 2 TIONS.—

3 “(i) IN GENERAL.—Subject to clauses
 4 (ii) and (iii), the Secretary may not under
 5 subsection (e) certify pursuant to a certifi-
 6 cation by a State under subparagraph
 7 (B)(i)(III)—

8 “(I) more than a total of 120 fa-
 9 cilities as critical access hospitals; and

10 “(II) within any one State, more
 11 than 5 facilities as critical access hos-
 12 pitals.

13 “(ii) PROCESS.—The Secretary shall
 14 follow the following process in carrying out
 15 clause (i) with respect to each year in
 16 which the Secretary determines that the
 17 limitation under clause (i)(I) has not been
 18 reached:

19 “(I) INITIAL ASSESSMENT.—The
 20 Secretary shall conduct an initial as-
 21 sessment of the total number of hos-
 22 pitals described in paragraph (2)(F).

23 “(II) INITIAL ALLOCATION.—Of
 24 the total number of designations avail-
 25 able under clause (i), the Secretary

1 shall allocate 1 for a hospital in each
2 State that the Secretary determines
3 (based on the initial assessment under
4 subclause (I)) has one or more hos-
5 pitals described in paragraph (2)(F).

6 “(III) REMAINING ALLOCA-
7 TION.—Of the total number of des-
8 ignations available under clause (i),
9 after application of subclause (II), the
10 Secretary shall allocate the remaining
11 number on a proportional basis based
12 on the total number of hospitals de-
13 scribed in paragraph (2)(F) in each
14 State that are eligible (as determined
15 based on the initial assessment under
16 subclause (I)).

17 “(iii) SUNSET.—Effective beginning
18 on the date that is 9 years after the date
19 of enactment of this subparagraph, the
20 Secretary may not certify a hospital as a
21 critical access hospital pursuant to a cer-
22 tification by a State under subparagraph
23 (B)(i)(III).

“(H) INFORMATION SUBMISSION REQUIRE-
MENTS FOR HOSPITALS CERTIFIED PURSUANT
TO RURAL HOSPITAL CLOSURE RELIEF ACT.—

“(i) IN GENERAL.—A critical access
hospital that is certified under subsection
(e) pursuant to a certification by a State
under subparagraph (B)(i)(III) shall sub-
mit to the Secretary the following at a
time, and in a manner, specified by the
Secretary:

“(I) REPORTS.—Reports con-
taining such information as the Sec-
retary may specify with respect to
items and services furnished as part
of the new service line or expanded
service capacity for a service as de-
scribed in the attestation submitted
by the critical access hospital under
subparagraph (F)(v)(II). To the ex-
tent practicable, the Secretary shall
align such reporting with other report-
ing requirements applicable to critical
access hospitals under this subsection.

“(II) NOTICE.—If the critical ac-
cess hospital materially changes the

1 new service line or expanded capacity
 2 for a service as so described, notice of
 3 such changes along with a plan to sat-
 4 isfactorily maintain access to care (as
 5 determined by the Secretary).

6 “(ii) REVOCATION OF CERTIFICATION
 7 FOR NONCOMPLIANCE.—If the Secretary
 8 determines that a critical access hospital
 9 described in clause (i) has failed to submit
 10 an annual report required under subclause
 11 (I) of such clause or a notice required
 12 under subclause (II) of such clause, the
 13 Secretary may, as the Secretary deter-
 14 mines appropriate, revoke the certification
 15 of the critical access hospital under sub-
 16 section (e).”; and

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

19 (b) IMPLEMENTATION.—Not later than 1 year after
 20 the date of the enactment of this Act, the Secretary of
 21 Health and Human Services shall issue final regulations
 22 or program instruction to carry out subsection (a).

23 (c) CLARIFICATION REGARDING FACILITIES THAT
 24 MEET DISTANCE OR OTHER CRITERIA AND APPLICATION

1 OF OTHER CRITERIA.—Nothing in this section shall af-
 2 fect—

3 (1) the application of criteria for designation as
 4 a critical access hospital described in subclause (I)
 5 or (II) of section 1820(c)(2)(B)(i) of the Social Se-
 6 curity Act (42 U.S.C. 1395i-4(c)(2)(B)(i)); or

7 (2) the application of criteria for designation as
 8 a critical access hospital described in clauses (ii)
 9 through (v) of section 1820(c)(2)(B) of the Social
 10 Security Act (42 U.S.C. 1395i-4(c)(2)(B)).

11 (d) GAO STUDY AND REPORT.—

12 (1) STUDY.—The Comptroller General of the
 13 United States (in this section referred to as the
 14 “Comptroller General”) shall conduct a study on the
 15 implementation of the amendments made by sub-
 16 section (a). To the extent such data are available
 17 and reliable, such study shall include—

18 (A) an analysis of—

19 (i) the characteristics of facilities des-
 20 ignated as critical access hospitals pursu-
 21 ant to section 1820(c)(2)(B)(i)(III) of the
 22 Social Security Act, as added by subsection
 23 (a);

24 (ii) an analysis of the financial status
 25 and outlook for such facilities based on

1 their designation as a critical access hos-
2 pital pursuant to such section; and

3 (iii) an analysis of any increase in ex-
4 penditures under the Medicare program
5 under title XVIII of the Social Security
6 Act (42 U.S.C. 1395 et seq.) as a result of
7 such designation, relative to the expected
8 baseline expenditures under the Medicare
9 program if such facilities had not received
10 such designation; and

11 (B) an assessment of whether the author-
12 ity to designate facilities as critical access hos-
13 pitals pursuant to such section
14 1820(c)(2)(B)(i)(III) promotes access to care in
15 rural areas.

16 (2) REPORT.—Not later than 6 years after the
17 date of the enactment of this Act, the Comptroller
18 General shall submit to Congress a report containing
19 the results of the study conducted under subsection
20 (a), together with recommendations for such legisla-
21 tion and administrative action as the Comptroller
22 General determines appropriate.

1 **SEC. 3. MEDPAC STUDY AND REPORT ON PAYMENT SYS-**
2 **TEMS FOR RURAL HOSPITALS.**

3 (a) STUDY.—The Medicare Payment Advisory Com-
4 mission (in this section referred to as the “Commission”)
5 shall conduct a study, using data from 2018 through
6 2028, on payment systems for rural hospitals under the
7 Medicare program under title XVIII of the Social Security
8 Act (42 U.S.C. 1395 et seq.). Such study shall include
9 an analysis of—

10 (1) facilities designated as critical access hos-
11 pitals pursuant to section 1820(c)(2)(B)(i)(III) of
12 the Social Security Act, as added by section 2(a);

13 (2) features of payment systems for rural hos-
14 pitals, including value-based payment systems, that
15 would—

16 (A) ensure financial sustainability for the
17 Medicare program; and

18 (B) preserve access to care for Medicare
19 beneficiaries; and

20 (3) if the Commission recommends any new
21 payment system for rural hospitals under the Medi-
22 care program, to the extent feasible, the impacts of
23 transition from existing payment systems to such
24 new payment system.

25 (b) REPORT.—Not later than 8 years after the date
26 of enactment of this Act, the Commission shall submit to

1 Congress a report on the study conducted under sub-
2 section (a), together with recommendations for such legis-
3 lation and administrative action as the Commission deter-
4 mines appropriate.

5 (c) DEFINITION OF RURAL HOSPITAL.—In this sec-
6 tion, the term “rural hospital” means—

7 (1) a critical access hospital (as defined in sec-
8 tion 1861(mm)(1) of the Social Security Act (42
9 U.S.C. 1395x(mm)(1)));

10 (2) a subsection (d) hospital (as defined in sec-
11 tion 1886(d)(1)(B) of the Social Security Act (42
12 U.S.C. 1395ww(d)(1)(B))) that is located in a rural
13 census tract of a metropolitan statistical area (as de-
14 termined under the most recent modification of the
15 Goldsmith Modification, originally published in the
16 Federal Register on February 27, 1992 (57 Fed.
17 Reg. 6725));

18 (3) a sole community hospital (as defined in
19 section 1886(d)(5)(D)(iii)) of the Social Security Act
20 (42 U.S.C. 1395ww(d)(5)(D)(iii));

21 (4) a medicare dependent, small rural hospital
22 (as defined in section 1886(d)(5)(G)(iv) of the Social
23 Security Act (42 U.S.C. 1395ww(d)(5)(G)(iv))); and

1 (5) a low-volume hospital (as defined in section
2 1886(d)(12)(C)(i) of the Social Security Act (42
3 U.S.C. 1395ww(d)(12)(C)(i))).

4 **SEC. 4. SUNSET.**

5 Not later than 9 years after the date of enactment
6 of this Act, the Secretary shall establish a mechanism and
7 provide guidance and technical assistance under which any
8 facility that was designated as a critical access hospital
9 pursuant to a certification by a State under section
10 1820(c)(2)(B)(i)(III) of the Social Security Act, as added
11 by section 2(a), may transition within 1 year to one of
12 the following payment models:

13 (1) Such new model or models recommended by
14 the Medicare Payment Advisory Commission in the
15 report submitted under section 3.

16 (2) The prospective payment model (or models)
17 under which the facility received payment under title
18 XVIII of the Social Security Act (42 U.S.C. 1395 et
19 seq.) prior to being so designated pursuant to such
20 certification.

21 (3) Payment as a rural emergency hospital
22 under section 1834(x) of the Social Security Act (42
23 U.S.C. 1395m(x)).

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