

115TH CONGRESS
1ST SESSION

H. R. 3224

To amend title XVIII of the Social Security Act to clarify reasonable costs for critical access hospital payments under the Medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2017

Mr. HARPER (for himself, Mr. LOEBACK, Mr. KIND, Mr. KELLY of Mississippi, Mr. THOMPSON of Mississippi, Mr. PALAZZO, and Mr. PETERSON) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 to clarify reasonable costs for critical access hospital payments 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 “Critical Access and
5 Rural Equity Act of 2017” or the “CARE Act of 2017”.

1 **SEC. 2. CLARIFYING REASONABLE COSTS FOR CRITICAL**
2 **ACCESS HOSPITAL MEDICARE PAYMENTS.**

3 (a) INCLUSION OF CERTAIN COSTS AS REASONABLE
4 COSTS.—

5 (1) INPATIENT CRITICAL ACCESS HOSPITAL
6 SERVICES.—Section 1814(l) of the Social Security
7 Act (42 U.S.C. 1395f(l)) is amended by adding at
8 the end the following new paragraph:

9 “(6) In determining payment and reasonable
10 costs under paragraph (1) for inpatient critical ac-
11 cess services, the Secretary shall recognize as allow-
12 able costs of the critical access hospital at least the
13 following:

14 “(A) Costs of services that would be con-
15 sidered bona fide emergency services (as defined
16 in section 1861(v)(1)(K)(ii)) if provided in a
17 hospital emergency room, including professional
18 services and any associated surgical on-call and
19 standby costs.

20 “(B) Costs of a test or procedure per-
21 formed at a critical access hospital or an entity
22 owned by the critical access hospital, including
23 a clinical diagnostic laboratory test, mammo-
24 gram (as defined in section 354(a)(5) of the
25 Public Health Service Act), colonoscopy, cardiac

1 stress test, pulmonary function test, echocardiogram,
2 gram, and bone density study.

3 “(C) Standby and on-call costs for certified
4 registered nurse anesthetist services, regardless
5 of the number of surgical procedures requiring
6 anesthesia services and regardless of the number
7 of full-time equivalent physicians.

8 “(D) Costs of services provided by the critical
9 access hospital or satellite facility of the
10 critical access hospital that improve the total
11 health of communities, including immunization
12 programs, health clinics, and medical homes.

13 “(E) Costs of services provided by an off-campus
14 provider-based clinic described in section
15 1820(c)(2)(F) of the critical access hospital,
16 regardless of distance of such clinic from
17 a hospital or another critical access hospital.”.

18 (2) OUTPATIENT CRITICAL ACCESS HOSPITAL
19 SERVICES.—Section 1834(g) of the Social Security
20 Act (42 U.S.C. 1395m(g)) is amended by adding at
21 the end the following new paragraph:

22 “(6) COVERAGE OF CERTAIN ADDITIONAL
23 COSTS AS REASONABLE COSTS.—In determining the
24 reasonable costs of outpatient critical access hospital
25 services under paragraphs (1) and (2)(A), the Sec-

1 retary shall recognize as allowable the costs de-
 2 scribed in paragraph (6) of section 1814(l).”.

3 (3) CONFORMING AMENDMENT.—Section
 4 1861(v)(7) of the Social Security Act (42 U.S.C.
 5 1395x(v)(7)) is amended by adding at the end the
 6 following new subparagraph:

7 “(E) For provisions further describing costs
 8 recognized as reasonable costs for inpatient and out-
 9 patient critical access hospital services, see sections
 10 1814(l)(6) and 1834(g)(6).”.

11 (b) TREATMENT OF PROVIDER-BASED CLINICS OF
 12 CRITICAL ACCESS HOSPITALS.—Section 1820(c)(2) of the
 13 Social Security Act (42 U.S.C. 1395i–4(c)(2)) is amend-
 14 ed—

15 (1) in subparagraph (B)(i)(I), by striking “is
 16 located” and inserting “subject to subparagraph
 17 (E), is located”; and

18 (2) by adding at the end the following new sub-
 19 paragraph:

20 “(F) TREATMENT OF OFF-CAMPUS
 21 PROVIDER-BASED CLINICS.—Subparagraph
 22 (B)(i)(I) shall not apply to an off-campus
 23 provider-based clinic (as described in section
 24 485.610 of title 45 of the Code of Federal Reg-

1 ulations) of a facility designated as a critical
2 access hospital.”.

3 (c) ALLOWING COORDINATION FOR PROVISION OF
4 EMERGENCY SERVICES.—Section 1820(c)(2) of the Social
5 Security Act (42 U.S.C. 1395i–4(c)(2)), as amended by
6 subsection (b), is further amended—

7 (1) in subparagraph (B)(ii), by striking
8 “makes” and inserting “subject to subparagraph
9 (G), makes”; and

10 (2) by adding at the end the following new sub-
11 paragraph:

12 “(G) ALLOWING COORDINATION FOR PRO-
13 VISION OF EMERGENCY SERVICES.—The Sec-
14 retary may waive the requirements under sub-
15 paragraph (B)(ii), with respect to a facility, if
16 such facility—

17 “(i) is located not more than 15 miles
18 of another facility or hospital that has an
19 emergency department that satisfies the
20 requirement of subparagraph (B)(ii); and

21 “(ii) coordinates with such other facil-
22 ity or hospital with respect to furnishing
23 24-hour emergency care services described
24 in such subparagraph to the area served by
25 such facility.”.

1 (d) TREATMENT OF MEDICAID PROVIDER TAXES
2 FOR CRITICAL ACCESS HOSPITAL REASONABLE COSTS.—

3 (1) INPATIENT CRITICAL ACCESS HOSPITAL
4 SERVICES.—Section 1814(l) of the Social Security
5 Act (42 U.S.C. 1395f(l)), as amended by subsection
6 (a)(1), is further amended by adding at the end the
7 following new paragraph:

8 “(7)(A) In determining payment and reasonable
9 costs under paragraph (1) for inpatient critical ac-
10 cess services—

11 “(i) with respect to a current permissible
12 health care related tax imposed and paid by the
13 critical access hospital for a cost reporting pe-
14 riod beginning before the date of enactment of
15 this paragraph, the Secretary shall not, through
16 recoupment or otherwise, disallow payment to
17 the critical access hospital under this subsection
18 on the basis that payments to the critical access
19 hospital under this subsection offset some or all
20 of the costs of such tax; and

21 “(ii) with respect to a current permissible
22 health care related tax imposed and paid by the
23 critical access hospital for a cost reporting pe-
24 riod beginning on or after the date of enact-
25 ment of this paragraph, the Secretary shall—

1 “(I) assess the percentage of individ-
 2 uals entitled to benefits under this part
 3 who are furnished inpatient critical access
 4 hospital services at such critical access
 5 hospital during such cost reporting period
 6 and who are also receiving medical assist-
 7 ance under the Medicaid program under
 8 title XIX during such period; and

9 “(II) adjust payments under this sub-
 10 section with respect to such services fur-
 11 nished during such period in a manner
 12 specified by the Secretary based on such
 13 percentage to take into account such tax.

14 “(B) For purposes of this paragraph and sec-
 15 tion 1834(g)(7), the term ‘current permissible health
 16 care related tax’ means a broad-based health care
 17 related tax (as defined in paragraph (3)(B) of such
 18 section) that is in effect prior to enactment of this
 19 paragraph and for which there is not in effect a hold
 20 harmless provision described in paragraph (4) of
 21 such section.”.

22 (2) OUTPATIENT CRITICAL ACCESS HOSPITAL
 23 SERVICES.—Section 1834(g) of the Social Security
 24 Act (42 U.S.C. 1395m(g)), as amended by sub-

1 section (a)(2), is further amended by adding at the
2 end the following new paragraph:

3 “(7) TREATMENT OF MEDICAID PROVIDER
4 TAXES.—In determining payment for outpatient crit-
5 ical access hospital services under paragraphs (1)
6 and (2), the provisions of paragraph (7) of section
7 1814(l) shall apply to payment for such services
8 under this subsection in the same manner as such
9 provisions apply to payment for inpatient critical ac-
10 cess hospital services under section 1814(l), except
11 that in applying subparagraph (B) of such para-
12 graph (7), the reference to ‘individuals entitled to
13 benefits under this part’ shall be deemed a reference
14 to ‘individuals enrolled under part B’.”.

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