

116TH CONGRESS
2D SESSION

H. R. 6857

To amend title XVIII of the Social Security Act to establish a COVID-19 skilled nursing facility payment incentive program.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2020

Mr. SUOZZI 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 establish a COVID-19 skilled nursing facility payment incentive 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 “COVID-19-Only
5 Homes Organized for Resident Treatment Act of 2020”
6 or the “COHORT Act of 2020”.

1 **SEC. 2. COVID-19 SKILLED NURSING FACILITY PAYMENT IN-**
2 **CENTIVE PROGRAM.**

3 (a) IN GENERAL.—Section 1819 of the Social Secu-
4 rity Act (42 U.S.C. 1395i–3) is amended by adding at the
5 end the following new subsection:

6 “(k) COVID-19 DESIGNATION PROGRAM.—

7 “(1) IN GENERAL.—Not later than 2 weeks
8 after the date of the enactment of this subsection,
9 the Secretary shall establish a program under which
10 a skilled nursing facility that makes an election de-
11 scribed in paragraph (2)(A) and meets the require-
12 ments described in paragraph (2)(B) is designated
13 (or a portion of such facility is so designated) as a
14 COVID-19 treatment center and receives incentive
15 payments under section 1888(e)(13).

16 “(2) DESIGNATION.—

17 “(A) IN GENERAL.—A skilled nursing fa-
18 cility may elect to be designated (or to have a
19 portion of such facility designated) as a
20 COVID-19 treatment center under the program
21 established under paragraph (1) if the facility
22 submits to the Secretary, at a time and in a
23 manner specified by the Secretary, an applica-
24 tion for such designation that contains such in-
25 formation as required by the Secretary and

demonstrates that such facility meets the requirements described in subparagraph (B).

“(B) REQUIREMENTS.—The requirements described in this subparagraph with respect to a skilled nursing facility are the following:

“(i) The facility has a star rating with respect to staffing of 4 or 5 on the Nursing Home Compare website (as described in subsection (i)) and has maintained such a rating on such website during the 2-year period ending on the date of the submission of the application described in subparagraph (A).

“(ii) The facility has a star rating of 4 or 5 with respect to health inspections on such website and has maintained such a rating on such website during such period.

“(iii) During such period, the Secretary or a State has not found a deficiency with such facility relating to infection control that the Secretary or State determined immediately jeopardized the health or safety of the residents of such facility (as described in paragraph (1) or (2)(A) of subsection (h), as applicable).

1 “(iv) The facility provides care at
2 such facility (or, in the case of an election
3 made with respect to a portion of such fa-
4 cility, to provide care in such portion of
5 such facility) only to eligible individuals.

6 “(v) The facility arranges for and
7 transfers all residents of such facility (or
8 such portion of such facility, as applicable)
9 who are not eligible individuals to other
10 skilled nursing facilities (or other portions
11 of such facility, as applicable).

12 “(vi) The facility complies with the
13 notice requirement described in paragraph
14 (4).

15 “(vii) The facility meets the reporting
16 requirement described in paragraph (5).

17 “(viii) Any other requirement deter-
18 mined appropriate by the Secretary.

19 “(3) DURATION OF DESIGNATION.—

20 “(A) IN GENERAL.—A designation of a
21 skilled nursing facility (or portion of such facil-
22 ity) as a COVID-19 treatment center shall
23 begin on a date specified by the Secretary and
24 end upon the earliest of the following:

1 “(i) The revocation of such designa-
2 tion under subparagraph (B).

3 “(ii) The submission of a notification
4 by such facility to the Secretary that such
5 facility elects to terminate such designa-
6 tion.

7 “(iii) The termination of the program
8 (as specified in paragraph (6)).

9 “(B) REVOCATION.—The Secretary may
10 revoke the designation of a skilled nursing facil-
11 ity (or portion of such facility) as a COVID-19
12 treatment center if the Secretary determines
13 that the facility is no longer in compliance with
14 a requirement described in paragraph (2)(B).

15 “(4) RESIDENT NOTICE REQUIREMENT.—For
16 purposes of paragraph (2)(B)(vi), the notice require-
17 ment described in this paragraph is that, not later
18 than 72 hours before the date specified by the Sec-
19 retary under paragraph (3)(A) with respect to the
20 designation of a skilled nursing facility (or portion
21 of such facility) as a COVID-19 treatment center,
22 the facility provides a notification to each resident of
23 such facility (and to appropriate representatives or
24 family members of each such resident, as specified
25 by the Secretary) that contains the following:

1 “(A) Notice of such designation.

2 “(B) In the case such resident is not an el-
3 igible individual (and, in the case such designa-
4 tion is made only with respect to a portion of
5 such facility, resides in such portion of such fa-
6 cility)—

7 “(i) a specification of when and where
8 such resident will be transferred (or moved
9 within such facility);

10 “(ii) an explanation that, in lieu of
11 such transfer or move, such resident may
12 arrange for transfer to such other setting
13 (including a home) selected by the resi-
14 dent; and

15 “(iii) if such resident so arranges to
16 be transferred to a home, information on
17 Internet resources for caregivers who elect
18 to care for such resident at home.

19 “(C) Contact information for the State
20 long-term care ombudsman (established under
21 section 307(a)(12) of the Older Americans Act
22 of 1965) for the applicable State.

23 “(5) REPORTING REQUIREMENT.—

24 “(A) IN GENERAL.—For purposes of para-
25 graph (2)(B)(vii), the reporting requirement de-

scribed in this paragraph is, with respect to a skilled nursing facility, that the facility reports to the Secretary, weekly and in such manner specified by the Secretary, the following (but only to the extent the information described in clauses (i) through (vii) is not otherwise reported to the Secretary weekly):

“(i) The number of COVID-19 related deaths at such facility.

“(ii) The number of discharges from such facility.

“(iii) The number of admissions to such facility.

“(iv) The number of beds occupied and the number of beds available at such facility.

“(v) The number of residents on a ventilator at such facility.

“(vi) The number of clinical and non-clinical staff providing direct patient care at such facility.

“(vii) Such other information determined appropriate by the Secretary.

“(B) NONAPPLICATION OF PAPERWORK REDUCTION ACT.—Chapter 35 of title 44,

1 United States Code (commonly known as the
2 ‘Paperwork Reduction Act’), shall not apply to
3 the collection of information under this para-
4 graph.

5 “(6) DEFINITION.—For purposes of this sub-
6 section, the term ‘eligible individual’ means an indi-
7 vidual who, during the 30-day period ending on the
8 first day on which such individual is a resident of a
9 COVID-19 treatment center (on or after the date
10 such center is so designated), was furnished a test
11 for COVID-19 that came back positive.

12 “(7) TERMINATION.—The program established
13 under paragraph (1) shall terminate upon the termi-
14 nation of the emergency period described in section
15 1135(g)(1)(B).

16 “(8) PROHIBITION ON ADMINISTRATIVE AND
17 JUDICIAL REVIEW.—There shall be no administrative
18 or judicial review under section 1869, 1878, or oth-
19 erwise of a designation of a skilled nursing facility
20 (or portion of such facility) as a COVID-19 treat-
21 ment center, or revocation of such a designation,
22 under this subsection.”.

23 (b) PAYMENT INCENTIVE.—Section 1888(e) of the
24 Social Security Act (42 U.S.C. 1395yy(e)) is amended—

1 (1) in paragraph (1), in the matter preceding
2 subparagraph (A), by striking “and (12)” and in-
3 serting “(12), and (13)”; and

4 (2) by adding at the end the following new
5 paragraph:

6 “(13) ADJUSTMENT FOR COVID-19 TREATMENT
7 CENTERS.—In the case of a resident of a skilled
8 nursing facility that has been designated as a
9 COVID-19 treatment center under section 1819(k)
10 (or in the case of a resident who resides in a portion
11 of such facility that has been so designated), if such
12 resident is an eligible individual (as defined in para-
13 graph (5) of such section), the per diem amount of
14 payment for such resident otherwise applicable shall
15 be increased by 20 percent to reflect increased costs
16 associated with such residents.”.

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