

113TH CONGRESS
1ST SESSION

H. R. 36

To improve access to emergency medical services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2013

Mr. DENT (for himself and Mr. SESSIONS) introduced the following bill; which
was referred to the Committee on Energy and Commerce

A BILL

To improve access to emergency medical services, 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 “Health Care Safety
5 Net Enhancement Act of 2013”.

6 **SEC. 2. CONSTITUTIONAL AUTHORITY.**

7 The constitutional authority upon which this Act
8 rests is the power of the Congress to provide for the gen-
9 eral welfare, to regulate commerce, and to make all laws
10 which shall be necessary and proper for carrying into exe-

1 cution Federal powers, as enumerated in section 8 of arti-
2 cle I of the Constitution of the United States.

3 **SEC. 3. PROTECTION FOR EMERGENCY AND RELATED**
4 **SERVICES FURNISHED PURSUANT TO**
5 **EMTALA.**

6 Section 224(g) of the Public Health Service Act (42
7 U.S.C. 233(g)) is amended—

8 (1) in paragraph (4), by striking “An entity”
9 and inserting “Subject to paragraph (6), an entity”;
10 and

11 (2) by adding at the end the following:

12 “(6)(A) For purposes of this section—

13 “(i) an entity described in subparagraph
14 (B) shall be considered to be an entity de-
15 scribed in paragraph (4); and

16 “(ii) the provisions of this section shall
17 apply to an entity described in subparagraph
18 (B) in the same manner as such provisions
19 apply to an entity described in paragraph (4),
20 except that—

21 “(I) notwithstanding paragraph
22 (1)(B), the deeming of any entity described
23 in subparagraph (B), or of an officer, gov-
24 erning board member, employee, con-
25 tractor, or on-call provider of such an enti-

1 ty, to be an employee of the Public Health
2 Service for purposes of this section shall
3 apply only with respect to items and serv-
4 ices that are furnished to an individual
5 pursuant to section 1867 of the Social Se-
6 curity Act and to post stabilization services
7 (as defined in subparagraph (D)) furnished
8 to such an individual;

9 “(II) nothing in paragraph (1)(D)
10 shall be construed as preventing a physi-
11 cian or physician group described in sub-
12 paragraph (B)(ii) from making the appli-
13 cation referred to in such paragraph or as
14 conditioning the deeming of a physician or
15 physician group that makes such an appli-
16 cation upon receipt by the Secretary of an
17 application from the hospital or emergency
18 department that employs or contracts with
19 the physician or group, or enlists the phy-
20 sician or physician group as an on-call pro-
21 vider;

22 “(III) notwithstanding paragraph (3),
23 this paragraph shall apply only with re-
24 spect to causes of action arising from acts

1 or omissions that occur on or after Janu-
2 ary 1, 2014;

3 “(IV) paragraph (5) shall not apply to
4 a physician or physician group described in
5 subparagraph (B)(ii);

6 “(V) the Attorney General, in con-
7 sultation with the Secretary, shall make
8 separate estimates under subsection (k)(1)
9 with respect to entities described in sub-
10 paragraph (B) and entities described in
11 paragraph (4) (other than those described
12 in subparagraph (B)), and the Secretary
13 shall establish separate funds under sub-
14 section (k)(2) with respect to such groups
15 of entities, and any appropriations under
16 this subsection for entities described in
17 subparagraph (B) shall be separate from
18 the amounts authorized by subsection
19 (k)(2);

20 “(VI) notwithstanding subsection
21 (k)(2), the amount of the fund established
22 by the Secretary under such subsection
23 with respect to entities described in sub-
24 paragraph (B) may exceed a total of
25 \$10,000,000 for a fiscal year; and

1 “(VII) subsection (m) shall not apply
2 to entities described in subparagraph (B).

3 “(B) An entity described in this subparagraph
4 is—

5 “(i) a hospital or an emergency depart-
6 ment to which section 1867 of the Social Secu-
7 rity Act applies; and

8 “(ii) a physician or physician group that is
9 employed by, is under contract with, or is an
10 on-call provider of such hospital or emergency
11 department, to furnish items and services to in-
12 dividuals under such section.

13 “(C) For purposes of this paragraph, the term
14 ‘on-call provider’ means a physician or physician
15 group that—

16 “(i) has full, temporary, or locum tenens
17 staff privileges at a hospital or emergency de-
18 partment to which section 1867 of the Social
19 Security Act applies; and

20 “(ii) is not employed by or under contract
21 with such hospital or emergency department,
22 but agrees to be ready and available to provide
23 services pursuant to section 1867 of the Social
24 Security Act or post-stabilization services to in-
25 dividuals being treated in the hospital or emer-

1 agency department with or without compensation
2 from the hospital or emergency department.

3 “(D) For purposes of this paragraph, the term
4 ‘post stabilization services’ means, with respect to an
5 individual who has been treated by an entity de-
6 scribed in subparagraph (B) for purposes of com-
7 plying with section 1867 of the Social Security Act,
8 services that are—

9 “(i) related to the condition that was so
10 treated; and

11 “(ii) provided after the individual is sta-
12 bilized in order to maintain the stabilized condi-
13 tion or to improve or resolve the condition of
14 the individual.

15 “(E)(i) Nothing in this paragraph (or in any
16 other provision of this section as such provision ap-
17 plies to entities described in subparagraph (B) by
18 operation of subparagraph (A)) shall be construed as
19 authorizing or requiring the Secretary to make pay-
20 ments to such entities, the budget authority for
21 which is not provided in advance by appropriation
22 Acts.

23 “(ii) The Secretary shall limit the total amount
24 of payments under this paragraph for a fiscal year
25 to the total amount appropriated in advance by ap-

1 appropriation Acts for such purpose for such fiscal
2 year. If the total amount of payments that would
3 otherwise be made under this paragraph for a fiscal
4 year exceeds such total amount appropriated, the
5 Secretary shall take such steps as may be necessary
6 to ensure that the total amount of payments under
7 this paragraph for such fiscal year does not exceed
8 such total amount appropriated.”.

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