

118TH CONGRESS
1ST SESSION

H. R. 5138

To amend title XVIII of the Social Security Act to count a period of receipt of outpatient observation services in a hospital toward satisfying the 3-day inpatient hospital stay requirement for coverage of skilled nursing facility services under Medicare, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 2023

Mr. COURTNEY (for himself, Mr. THOMPSON of Pennsylvania, Ms. DELBENE, and Mr. ESTES) 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 count a period of receipt of outpatient observation services in a hospital toward satisfying the 3-day inpatient hospital stay requirement for coverage of skilled nursing facility services under Medicare, 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 “Improving Access to
5 Medicare Coverage Act of 2023”.

1 **SEC. 2. COUNTING A PERIOD OF RECEIPT OF OUTPATIENT**
2 **OBSERVATION SERVICES IN A HOSPITAL TO-**
3 **WARD THE 3-DAY INPATIENT HOSPITAL STAY**
4 **REQUIREMENT FOR COVERAGE OF SKILLED**
5 **NURSING FACILITY SERVICES UNDER MEDI-**
6 **CARE.**

7 (a) **IN GENERAL.**—Section 1861(i) of the Social Se-
8 curity Act (42 U.S.C. 1395x(i)) is amended by adding at
9 the end the following: “For purposes of this subsection,
10 an individual receiving outpatient observation services
11 shall be deemed to be an inpatient during such period,
12 and the date such individual ceases receiving such services
13 shall be deemed the hospital discharge date (unless such
14 individual is admitted as a hospital inpatient at the end
15 of such period).”.

16 (b) **EFFECTIVE DATE.**—The amendment made by
17 subsection (a) shall apply to receipt of outpatient observa-
18 tion services beginning on or after January 1, 2024, but
19 applies to a period of post-hospital extended care services
20 that was completed before the date of the enactment of
21 this Act only if an administrative appeal is or has been
22 made with respect to such services not later than 90 days
23 after the date of the enactment of this Act. Notwith-
24 standing any other provision of law, the Secretary of
25 Health and Human Services may implement such amend-

1 ment through an interim final regulation, program in-
2 struction, or otherwise.

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