

118TH CONGRESS
2D SESSION

H. R. 9173

To amend title XVIII of the Social Security Act to stabilize payments to long-term care hospitals under the Medicare program and improve patient access.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2024

Mr. SMUCKER (for himself, Mr. BOYLE of Pennsylvania, and Mr. JOYCE of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title XVIII of the Social Security Act to stabilize payments to long-term care hospitals under the Medicare program and improve patient access.

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 “Long Term Care Sta-
5 bilization Act”.

1 **SEC. 2. TEMPORARY CAP ON FIXED LOSS AMOUNT FOR**
2 **SETTING PAYMENTS FOR HIGH-COST LONG-**
3 **TERM CARE HOSPITAL PATIENTS.**

4 (a) **MEDICARE HIGH COST OUTLIER PAYMENTS TO**
5 **LONG-TERM CARE HOSPITALS.**—Section 1886(m)(7) of
6 the Social Security Act (42 U.S.C. 1395ww(m)(7)) is
7 amended—

8 (1) by redesignating subparagraphs (C) and
9 (D) as subparagraph (D) and (E), respectively;

10 (2) by inserting after subparagraph (B) the fol-
11 lowing new subparagraph:

12 “(C) **TEMPORARY CAP ON FIXED LOSS**
13 **AMOUNT.**—Notwithstanding subparagraphs (A)
14 and (B), the fixed loss amount for high cost
15 outlier payments made for standard Federal
16 payment rate discharges in fiscal years 2025
17 and 2026 may not exceed \$50,000.”; and

18 (3) in subparagraph (D), as so redesignated by
19 paragraph (1), by inserting “, and any increase in
20 payments resulting from the application of subpara-
21 graph (C),” after “subparagraph (B)”.

22 (b) **STUDY AND REPORT ON HIGH COST OUTLIER**
23 **PAYMENTS TO LONG-TERM CARE HOSPITALS.**—

24 (1) **STUDY.**—The Secretary of Health and
25 Human Services (in this section referred to as the
26 “Secretary”) shall conduct a study on the current

1 methodology for making high cost outlier payments
2 to long-term care hospitals under the payment sys-
3 tem described in section 1886(m)(1) of the Social Se-
4 curity Act (42 U.S.C. 1395ww(m)(1)). Such study
5 shall include an analysis of the following:

6 (A) Potential legislative changes to reform
7 the methodology for making high cost outlier
8 payments to long-term care hospitals to ensure
9 that such hospitals are incentivized to treat
10 Medicare beneficiaries with high resource needs.

11 (B) The effect of the site neutral payment
12 rate and patient criteria under section
13 1886(m)(6) of the Social Security Act (42
14 U.S.C. 1395ww(m)(6)) on the data that the
15 Secretary uses to calculate the fixed loss
16 amount for high cost outlier payments to long-
17 term care hospitals.

18 (C) The changes to long-term care hospital
19 utilization during the COVID–19 pandemic and
20 the impact that such changes had on the data
21 that the Secretary uses to calculate the fixed
22 loss amount for high cost outlier payments to
23 long-term care hospitals.

24 (D) The effect of inflation and increasing
25 labor costs on the data that the Secretary uses

1 to calculate the fixed loss amount for high cost
2 outlier payments to long-term care hospitals.

3 (E) The harms to long-term care hospitals
4 and beneficiaries, including patient access to
5 care, as a result of the increases to the fixed
6 loss amounts adopted by the Secretary in fiscal
7 years 2023 and 2024.

8 (F) The potential benefits to long-term
9 care hospitals and beneficiaries that may result
10 from increasing the 99.6875 percent of 8 per-
11 cent target for high cost outlier payments set
12 by section 1886(m)(7)(B) of the Social Security
13 Act (42 U.S.C. 1395ww(m)(7)(B)).

14 (2) REPORT.—Not later than 1 year after the
15 date of the enactment of this Act, the Secretary
16 shall submit to Congress a report on the study con-
17 ducted under paragraph (1), including recommenda-
18 tions on changes to the methodology for making
19 high cost outlier payments to longterm care hos-
20 pitals under the payment system described in section
21 1886(m)(1) of the Social Security Act (42 U.S.C.
22 1395ww(m)(1)).

1 **SEC. 3. TEMPORARY PAYMENT AT THE STANDARD FED-**
2 **ERAL RATE FOR CERTAIN LONG-TERM CARE**
3 **HOSPITAL DISCHARGES WITH SEVERE**
4 **WOUNDS.**

5 (a) IN GENERAL.—Section 1886(m)(6) of the Social
6 Security Act (42 U.S.C. 1395ww(m)(6)) is amended—

7 (1) in subparagraph (A)(i), by striking “and
8 (G)” and inserting “(G), and (H)”; and

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

11 “(H) TEMPORARY EXCEPTION FOR CER-
12 TAIN SEVERE WOUND DISCHARGES FROM LONG-
13 TERM CARE HOSPITALS IN FISCAL YEARS 2025
14 THROUGH 2027.—

15 “(i) IN GENERAL.—For a discharge in
16 a cost reporting period beginning on or
17 after October 1, 2024, and before October
18 1, 2027, subparagraph (A)(i) shall not
19 apply (and payment shall be made to a
20 long-term care hospital without regard to
21 this paragraph) if such discharge is with
22 respect to an individual treated by a long-
23 term care hospital for a severe wound.

24 “(ii) SEVERE WOUND DEFINED.—In
25 this subparagraph, the term ‘severe wound’
26 means a stage 3 wound, stage 4 wound,

1 unstageable wound, non-healing surgical
2 wound, infected wound, fistula, osteomy-
3 elitis, or a wound with morbid obesity, as
4 identified by the applicable code on the
5 claim from the long-term care hospital.

6 “(iii) WOUND DEFINED.—In this sub-
7 paragraph, the term ‘wound’ means an in-
8 jury involving division of tissue or rupture
9 or the integument or mucous membrane
10 with exposure to the external environ-
11 ment.”.

12 (b) STUDY AND REPORT ON AN EXCEPTION TO THE
13 LONG-TERM CARE HOSPITAL SITE NEUTRAL PAYMENT
14 RATE FOR CERTAIN SEVERE WOUND DISCHARGES.—

15 (1) STUDY.—The Secretary of Health and
16 Human Services (in this section referred to as the
17 “Secretary”) shall conduct a study that examines
18 whether the temporary exception to the site neutral
19 payment rate for long-term care hospitals for certain
20 severe wound discharges under section
21 1886(m)(6)(H) of the Social Security Act, as added
22 by subsection (a)(2) (in this paragraph referred to
23 as the “severe wound temporary exception”), should
24 be made permanent. Such report shall include an
25 analysis of the following:

1 (A) The costs and benefits of the severe
2 wound temporary exception, including the im-
3 pact on patient outcomes and hospital readmis-
4 sions for patients with severe wounds.

5 (B) A minimum of 18 months of claims
6 data to determine how the severe wound tem-
7 porary exception affects payments to long-term
8 care hospitals under the payment system de-
9 scribed in section 1886(m)(1) of the Social Se-
10 curity Act (42 U.S.C. 1395ww(m)(1)).

11 (C) Taking into account data collected be-
12 fore the effective date of the severe wound tem-
13 porary exception and during the period when
14 such exception is in effect, the impact of the se-
15 vere wound temporary exception on the costs of
16 an episode of care for patients with qualifying
17 severe wounds treated in long-term care hos-
18 pitals, including the difference in costs of severe
19 wound patient episodes of care that include ad-
20 missions to long-term care hospitals pursuant
21 to a severe wound temporary exception com-
22 pared to similar episodes of care for patients
23 with severe wounds who are not admitted to
24 long-term care hospitals.

1 (D) Potential savings to the program
2 under title XVIII of the Social Security Act
3 that may result from making permanent the se-
4 vere wound temporary exception.

5 (E) A review of comments and other feed-
6 back that the Secretary shall obtain from long-
7 term care hospitals and other stakeholders pur-
8 suant to a request for information published in
9 the Federal Register regarding the severe
10 wound temporary exception and the bene-
11 ficiaries who are treated in long-term care hos-
12 pitals pursuant to such exception.

13 (2) REPORT.—Not later than October 1, 2026,
14 the Secretary shall submit to Congress a report on
15 the study conducted under paragraph (1), including
16 a recommendation on whether the severe wound
17 temporary exception should be made permanent.

18 (3) DEFINITION.—For purposes of this sub-
19 section, the term “episode of care” means the length
20 of stay of the applicable beneficiary in the longterm
21 care hospital or subsection (d) hospital, plus the 90
22 days following the discharge of the beneficiary from
23 the hospital.

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