

114TH CONGRESS
1ST SESSION

S. 377

To amend title XVIII of the Social Security Act to increase access to ambulance services under the Medicare program and to reform payments for such services under such program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2015

Mr. SCHUMER (for himself, Mr. ROBERTS, Mr. LEAHY, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to increase access to ambulance services under the Medicare program and to reform payments for such services under such 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 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Ambulance Access, Fraud Prevention, and Re-
6 form Act of 2015”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title.

Sec. 2. Reform to the Medicare ambulance fee schedule.

Sec. 3. Prior authorization for ambulance transports of ESRD beneficiaries.

Sec. 4. Requiring ambulance providers to submit cost and other information.

1 **SEC. 2. REFORM TO THE MEDICARE AMBULANCE FEE**
 2 **SCHEDULE.**

3 (a) IN GENERAL.—Section 1834(l) of the Social Se-
 4 curity Act (42 U.S.C. 1395m(l)) is amended by adding
 5 the following new paragraphs:

6 “(16) INCREASE IN CONVERSION FACTOR FOR
 7 GROUND AMBULANCE SERVICES.—In the case of
 8 ground ambulance services furnished on or after
 9 April 1, 2015, for purposes of determining the fee
 10 schedule amount for such services under this sub-
 11 section, the conversion factor otherwise applicable to
 12 such services shall be increased by—

13 “(A) with respect to ground ambulance
 14 services for which the transportation originates
 15 in a qualified rural area, as identified using the
 16 methodology described in paragraph
 17 (12)(B)(iii), 25.6 percent;

18 “(B) with respect to ground ambulance
 19 services not described in subparagraph (A) and
 20 for which the transportation originates in a
 21 rural area described under paragraph (9) or in
 22 a rural census tract described in such para-
 23 graph, 3 percent; and

1 “(C) with respect to ground ambulance
2 services not described in subparagraph (A) or
3 (B), 2 percent.

4 “(17) INCREASE IN MILEAGE RATE FOR
5 GROUND AMBULANCE SERVICES.—In the case of
6 ground ambulance services furnished on or after
7 April 1, 2015, for purposes of determining the fee
8 schedule amount for such services under this sub-
9 section, the payment rate for mileage otherwise ap-
10 plicable to such services shall be increased by—

11 “(A) with respect to ground ambulance
12 services for which the transportation originates
13 in a qualified rural area, as identified using the
14 methodology described in paragraph
15 (12)(B)(iii), 3 percent;

16 “(B) with respect to ground ambulance
17 services not described in subparagraph (A) and
18 for which the transportation originates in a
19 rural area described under paragraph (9) or in
20 a rural census tract described in such para-
21 graph, 3 percent; and

22 “(C) with respect to ground ambulance
23 services not described in subparagraph (A) or
24 (B), 2 percent.”.

25 (b) STUDY AND REPORT.—

1 (1) STUDY.—The Secretary of Health and
2 Human Services shall conduct a study on how the
3 conversion factor applicable to ground ambulance
4 services under the ambulance fee schedule under sec-
5 tion 1834(l) of the Social Security Act (42 U.S.C.
6 1395m(l)), as adjusted under paragraph (16) of
7 such section (as added by subsection (a)), should be
8 modified, if at all, to take into account the cost of
9 providing services in urban, rural, and super-rural
10 areas. In determining such costs, the Secretary shall
11 use the data collected through the data collection
12 system under paragraph (18) of such section, as
13 added by section 4.

14 (2) REPORT.—Not later than January 1, 2020,
15 the Secretary of Health and Human Services shall
16 submit to Congress a report on the study conducted
17 under paragraph (1), together with recommenda-
18 tions for such legislation and administrative action
19 as the Secretary determines appropriate.

20 **SEC. 3. PRIOR AUTHORIZATION FOR AMBULANCE TRANS-**
21 **PORTS OF ESRD BENEFICIARIES.**

22 (a) IN GENERAL.—Section 1834(l) of the Social Se-
23 curity Act (42 U.S.C. 1395m(l)), as amended by section
24 2, is amended by adding at the end the following new
25 paragraph:

1 “(18) PRIOR AUTHORIZATION OF COVERAGE
2 FOR AMBULANCE TRANSPORTS OF ESRD BENE-
3 FICIARIES.—

4 “(A) PROCESS.—

5 “(i) IN GENERAL.—For applicable
6 ESRD ambulance services furnished on or
7 after January 1, 2017, by an applicable
8 ambulance provider, the Secretary shall es-
9 tablish and implement a process under
10 which the Secretary shall determine, in ad-
11 vance of furnishing such a service to an in-
12 dividual, whether payment for such service
13 may not be made because such service is
14 not covered or because of the application of
15 section 1862(a)(1).

16 “(ii) DENIAL OF PAYMENT.—Subject
17 to subparagraph (B)(ii)(II), no payment
18 shall be made under this part for the serv-
19 ice unless the Secretary determines pursu-
20 ant to such process that the service meets
21 the applicable requirements for coverage.

22 “(B) ELEMENTS OF PROCESS.—The proc-
23 ess described in subparagraph (A) shall include
24 the following elements:

1 “(i) In order to obtain a prior author-
2 zation, the applicable ambulance provider
3 shall submit—

4 “(I) a valid physician certifi-
5 cation statement (PCS) for non-emer-
6 gency ambulance transport; and

7 “(II) any other documentation
8 determined appropriate by the Sec-
9 retary.

10 “(ii)(I) The Secretary shall respond to
11 a prior authorization request within 7 busi-
12 ness days of receiving the request.

13 “(II) If the Secretary does not make
14 a prior authorization determination within
15 7 business days of the date of the Sec-
16 retary’s receipt of medical documentation
17 needed to make such determination, sub-
18 paragraph (A)(ii) shall not apply.

19 “(iii) In making the determination
20 under subparagraph (A) with respect to a
21 service and individual, the Secretary shall
22 evaluate the medical necessity of the serv-
23 ice by determining—

24 “(I) whether the individual is un-
25 able to get up from bed without as-

1 sistance, unable to ambulate, and un-
2 able to sit in a chair or wheelchair;

3 “(II) whether the individual has
4 a medical condition that, regardless of
5 bed confinement, is such that trans-
6 port by ambulance is medically nec-
7 essary; or

8 “(III) whether the individual
9 meets other criteria as determined ap-
10 propriate by the Secretary.

11 “(iv) If the prior authorization re-
12 quest is approved, such request shall be
13 retroactive to the date on which such re-
14 quest was received.

15 “(v) An approved prior authorization
16 shall be valid for a 60-day period. The Sec-
17 retary may provide for an extension of
18 such period if the Secretary determines
19 such an extension is appropriate.

20 “(vi) An approved prior authorization
21 shall be deemed to constitute medical ne-
22 cessity but shall not eliminate the docu-
23 mentation requirements necessary to sup-
24 port a claim for the transport.

1 “(vii) Other elements determined ap-
2 propriate by the Secretary.

3 “(C) RELIANCE UPON CONTRACTORS.—

4 The Secretary may rely upon contractors to im-
5 plement the requirements of this paragraph.
6 The contractor’s compensation shall be limited
7 to a demonstration that it has reduced the
8 number of non-emergency basic life support
9 services involving individuals with end-stage
10 renal disease for renal dialysis services (as de-
11 scribed in section 1881(b)(14)(B)) furnished
12 other than on an emergency basis.

13 “(D) APPLICABLE ESRD AMBULANCE

14 SERVICES.—In this paragraph, the term ‘appli-
15 cable ESRD ambulance services’ means ambu-
16 lance services consisting of non-emergency basic
17 life support services involving transport of an
18 individual with end-stage renal disease for renal
19 dialysis services (as described in section
20 1881(b)(14)(B)) furnished other than on an
21 emergency basis.

22 “(E) AMBULANCE PROVIDER; APPLICABLE

23 AMBULANCE PROVIDER DEFINED.—In this
24 paragraph:

1 “(i) AMBULANCE PROVIDER.—The
 2 term ‘ambulance provider’ means a pro-
 3 vider of services (as defined in section
 4 1861(u)) or other entity that furnishes am-
 5 bulance services under this title.

6 “(ii) APPLICABLE AMBULANCE PRO-
 7 VIDER.—The term ‘applicable ambulance
 8 provider’ means an ambulance provider
 9 (other than an ambulance provider who is
 10 a provider of services (as defined in such
 11 section)).

12 “(F) IMPLEMENTATION.—

13 “(i) IN GENERAL.—Subject to clause
 14 (ii), the Secretary may carry out this para-
 15 graph through program instruction or oth-
 16 erwise.

17 “(ii) SUFFICIENT NOTICE TO PRE-
 18 PARE.—Not later than June 30, 2016, the
 19 Secretary shall make the aspects of the
 20 process under this paragraph available to
 21 the public.”.

22 (b) CONFORMING AMENDMENTS.—Section 1834(l) of
 23 the Social Security Act (42 U.S.C. 1395m(l)) is amend-
 24 ed—

1 (1) in paragraph (1), by striking “a supplier or
2 provider or under arrangement with a provider” and
3 inserting “an ambulance provider (as defined in
4 paragraph (18)(E)(i)) or under arrangement with an
5 ambulance provider”;

6 (2) in paragraph (8), in the matter following
7 subparagraph (B), by striking “provider or supplier
8 of ambulance services” and inserting “ambulance
9 provider (as defined in paragraph (18)(E)(i))”;

10 (3) in paragraph (9), in the heading, by insert-
11 ing “AMBULANCE” after “RURAL”;

12 (4) in paragraph (12), in the heading, by in-
13 serting “AMBULANCE” after “RURAL”; and

14 (5) in each of subparagraphs (B)(ii) and (D)(ii)
15 of paragraph (14), by striking “entity” and inserting
16 “ambulance provider (as defined in paragraph
17 (18)(E)(i))”.

18 **SEC. 4. REQUIRING AMBULANCE PROVIDERS TO SUBMIT**

19 **COST AND OTHER INFORMATION.**

20 Section 1834(l) of the Social Security Act (42 U.S.C.
21 1395m(l)), as amended by section 3, is amended by adding
22 at the end the following new paragraph:

23 “(19) SUBMISSION OF COST AND OTHER INFOR-
24 MATION.—

1 “(A) DEVELOPMENT OF DATA COLLECTION
2 SYSTEM.—The Secretary shall develop a data
3 collection system (which may include use of a
4 cost survey and standardized definitions) for
5 ambulance providers to collect cost, revenue,
6 utilization, and other information determined
7 appropriate by the Secretary. Such system shall
8 be designed to submit information—

9 “(i) needed to evaluate the appro-
10 priateness of payment rates under this
11 subsection;

12 “(ii) on the utilization of capital
13 equipment and ambulance capacity; and

14 “(iii) on different types of ambulance
15 services furnished in different geographic
16 locations, including rural areas and low
17 population density areas described in para-
18 graph (12).

19 “(B) SPECIFICATION OF DATA COLLEC-
20 TION SYSTEM.—

21 “(i) IN GENERAL.—Not later than
22 July 1, 2016, the Secretary shall—

23 “(I) specify the data collection
24 system under subparagraph (A) and

1 the time period during which such
2 data is required to be submitted; and

3 “(II) identify the ambulance pro-
4 viders who would be required to sub-
5 mit the information under such data
6 collection system.

7 “(ii) RESPONDENTS.—Subject to sub-
8 paragraph (D)(ii), the Secretary shall de-
9 termine an appropriate sample of ambu-
10 lance providers to submit information
11 under the data collection system for each
12 period for which reporting of data is re-
13 quired.

14 “(C) PENALTY FOR FAILURE TO REPORT
15 COST AND OTHER INFORMATION.—Beginning
16 on July 1, 2017, a 5-percent reduction to pay-
17 ments under this part shall be made for a 1-
18 year prospective period specified by the Sec-
19 retary to an ambulance provider who—

20 “(i) is identified under subparagraph
21 (B)(i)(II) or (D)(ii) as being required to
22 submit the information under the data col-
23 lection system; and

1 “(ii) does not submit such information
2 during the period specified under subpara-
3 graph (B)(i)(I).

4 “(D) ONGOING DATA COLLECTION.—

5 “(i) REVISION OF DATA COLLECTION
6 SYSTEM.—The Secretary may, as deter-
7 mined appropriate, periodically revise the
8 data collection system.

9 “(ii) SUBSEQUENT DATA COLLEC-
10 TION.—

11 “(I) IN GENERAL.—In order to
12 continue to evaluate the appropriate-
13 ness of payment rates under this sub-
14 section, the Secretary shall, for years
15 after 2017 (but not less often than
16 once every 3 years), require ambu-
17 lance providers to submit information
18 for a period the Secretary determines
19 appropriate. The penalty described in
20 subparagraph (C) shall apply to such
21 subsequent data collection periods.

22 “(II) SAMPLE.—For each period
23 described in subclause (I), the Sec-
24 retary shall determine an appropriate
25 sample of ambulance providers to sub-

1 mit information under the data collec-
2 tion system for such period. In deter-
3 mining which ambulance providers
4 would be required to submit informa-
5 tion for such period, the Secretary
6 may not require an ambulance pro-
7 vider who has already submitted infor-
8 mation for a previous period to submit
9 information for a subsequent period
10 unless all of the ambulance providers
11 who the Secretary determines are the
12 same type as such ambulance provider
13 have either submitted information or
14 been penalized under subparagraph
15 (C) for not doing so.

16 “(E) CONSULTATION.—The Secretary shall
17 consult with stakeholders in carrying out the
18 development of the system and collection of in-
19 formation under this paragraph, including the
20 activities described in subparagraphs (A) and
21 (D). Such consultation shall include the use of
22 requests for information and other mechanisms
23 determined appropriate by the Secretary.

24 “(F) DEFINITION OF AMBULANCE PRO-
25 VIDER.—In this paragraph, the term ‘ambu-

1 lance provider’ has the meaning given such
2 term in paragraph (18)(E)(i).

3 “(G) ADMINISTRATION.—Chapter 35 of
4 title 44, United States Code, shall not apply to
5 the collection of information required under this
6 subsection.

7 “(H) LIMITATIONS ON REVIEW.—There
8 shall be no administrative or judicial review
9 under section 1869, section 1878, or otherwise
10 of the data collection system or identification of
11 respondents under this paragraph.

12 “(I) FUNDING FOR IMPLEMENTATION.—
13 For purposes of carrying out subparagraph (A),
14 the Secretary shall provide for the transfer,
15 from the Federal Supplementary Medical Insur-
16 ance Trust Fund under section 1841, of
17 \$1,000,000 to the Centers for Medicare & Med-
18 icaid Services Program Management Account
19 for fiscal year 2016. Amounts transferred under
20 this subparagraph shall remain available until
21 expended.”.

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