

111TH CONGRESS
2D SESSION

H. R. 5712

To provide for certain clarifications and extensions under Medicare, Medicaid,
and the Children's Health Insurance Program.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2010

Mr. LEVIN (for himself, Mr. WAXMAN, Mr. DINGELL, Mr. STARK, and Mr. PALLONE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on the Budget and Ways and Means, 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 provide for certain clarifications and extensions under Medicare, Medicaid, and the Children's Health Insurance 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 "Veterans', Seniors',
5 and Children's Health Technical Corrections Act of
6 2010".

1 **SEC. 2. CLARIFICATION OF EFFECTIVE DATE OF PART B**
2 **SPECIAL ENROLLMENT PERIOD FOR DIS-**
3 **ABLED TRICARE BENEFICIARIES.**

4 Effective as if included in the enactment of Public
5 Law 111–148, section 3110(a)(2) of such Act is amended
6 to read as follows:

7 “(2) EFFECTIVE DATE.—The amendment made
8 by paragraph (1) shall apply to elections made on
9 and after the date of the enactment of this Act.”.

10 **SEC. 3. REPEAL OF DELAY OF RUG-IV.**

11 Effective as if included in the enactment of Public
12 Law 111–148, section 10325 of such Act is repealed.

13 **SEC. 4. CLARIFICATION FOR AFFILIATED HOSPITALS FOR**
14 **DISTRIBUTION OF ADDITIONAL RESIDENCY**
15 **POSITIONS.**

16 Effective as if included in the enactment of section
17 5503(a) of Public Law 111–148, section 1886(h)(8) of the
18 Social Security Act (42 U.S.C. 1395ww(h)(8)), as added
19 by such section 5503(a), is amended by adding at the end
20 the following new subparagraph:

21 “(I) AFFILIATION.—The provisions of this
22 paragraph shall be applied to hospitals which
23 are members of the same affiliated group (as
24 defined by the Secretary under paragraph
25 (4)(H)(ii)) and the reference resident level for
26 each such hospital shall be the reference resi-

1 dent level with respect to the cost reporting pe-
2 riod that results in the smallest difference be-
3 tween the reference resident level and the other-
4 wise applicable resident limit.”.

5 **SEC. 5. CONTINUED INCLUSION OF ORPHAN DRUGS IN DEF-**
6 **INITION OF COVERED OUTPATIENT DRUGS**
7 **WITH RESPECT TO CHILDREN’S HOSPITALS**
8 **UNDER THE 340B DRUG DISCOUNT PROGRAM.**

9 (a) DEFINITION OF COVERED OUTPATIENT DRUG.—

10 (1) AMENDMENT.—Subsection (e) of section
11 340B of the Public Health Service Act (42 U.S.C.
12 256b) is amended by striking “covered entities de-
13 scribed in subparagraph (M)” and inserting “cov-
14 ered entities described in subparagraph (M) (other
15 than a children’s hospital described in subparagraph
16 (M))”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by paragraph (1) shall take effect as if included in
19 the enactment of section 2302 of the Health Care
20 and Education Reconciliation Act of 2010 (Public
21 Law 111–152).

22 (b) TECHNICAL AMENDMENT.—Subparagraph (B) of
23 section 1927(a)(5) of the Social Security Act (42 U.S.C.
24 1396r–8(a)(5)) is amended by striking “and a children’s

1 hospital” and all that follows through the end of the sub-
2 paragraph and inserting a period.

3 **SEC. 6. MEDICAID AND CHIP TECHNICAL CORRECTIONS.**

4 (a) REPEAL OF EXCLUSION OF CERTAIN INDIVID-
5 UALS AND ENTITIES FROM MEDICAID.—Section 6502 of
6 Public Law 111–148 is repealed and the provisions of law
7 amended by such section are restored as if such section
8 had never been enacted. Nothing in the previous sentence
9 shall affect the execution or placement of the insertion
10 made by section 6503 of such Act.

11 (b) INCOME LEVEL FOR CERTAIN CHILDREN UNDER
12 MEDICAID.—Effective as if included in the enactment of
13 Public Law 111–148, section 2001(a)(5)(B) of such Act
14 is amended by striking all that follows “is amended” and
15 inserting the following: “by inserting after ‘100 percent’
16 the following: ‘(or, beginning January 1, 2014, 133 per-
17 cent)’.”.

18 (c) CALCULATION AND PUBLICATION OF PAYMENT
19 ERROR RATE MEASUREMENT FOR CERTAIN YEARS.—
20 Section 601(b) of the Children’s Health Insurance Pro-
21 gram Reauthorization Act of 2009 (Public Law 111–3)
22 is amended by adding at the end the following: “The Sec-
23 retary is not required under this subsection to calculate
24 or publish a national or a State-specific error rate for fis-
25 cal year 2009 or fiscal year 2010.”.

1 (d) CORRECTIONS TO EXCEPTIONS TO EXCLUSION
2 OF CHILDREN OF CERTAIN EMPLOYEES.—Section
3 2110(b)(6) of the Social Security Act (42 U.S.C.
4 1397jj(b)(6)) is amended—

5 (1) in subparagraph (B)—

6 (A) by striking “PER PERSON” in the
7 heading; and

8 (B) by striking “each employee” and in-
9 serting “employees”; and

10 (2) in subparagraph (C), by striking “, on a
11 case-by-case basis,”.

12 (e) ELECTRONIC HEALTH RECORDS.—Effective as if
13 included in the enactment of section 4201(a)(2) of the
14 American Recovery and Reinvestment Act of 2009 (Public
15 Law 111–5), section 1903(t) of the Social Security Act
16 (42 U.S.C. 1396b(t)) is amended—

17 (1) in paragraph (3)(E), by striking “reduced
18 by any payment that is made to such Medicaid pro-
19 vider from any other source (other than under this
20 subsection or by a State or local government)” and
21 inserting “reduced by the average payment the Sec-
22 retary estimates will be made to such Medicaid pro-
23 viders (determined on a percentage or other basis
24 for such classes or types of providers as the Sec-
25 retary may specify) from other sources (other than

1 under this subsection, or by the Federal government
2 or a State or local government)”; and

3 (2) in paragraph (6)(B), by inserting before the
4 period the following: “and shall be determined to
5 have met such responsibility to the extent that the
6 payment to the Medicaid provider is not in excess of
7 85 percent of the net average allowable cost”.

8 (f) CORRECTIONS OF DESIGNATIONS.—

9 (1) Section 1902 of the Social Security Act (42
10 U.S.C. 1396a) is amended—

11 (A) in subsection (a)(10), in the matter
12 following subparagraph (G), by striking “and”
13 before “(XVI) the medical” and by striking
14 “(XVI) if” and inserting “(XVII) if”; and

15 (B) in subsection (ii)(2), by striking
16 “(XV)” and inserting “(XVI)”.

17 (2) Section 2107(e)(1) of the Social Security
18 Act (42 U.S.C. 1397gg(e)(1)) is amended by redес-
19 ignating the subparagraph (N) of that section added
20 by 2101(e) of Public Law 111–148 as subparagraph
21 (O).

22 **SEC. 7. FUNDING FOR CLAIMS REPROCESSING.**

23 For purposes of carrying out the provisions of, and
24 amendments made by, this Act that relate to title XVIII
25 of the Social Security Act, and other provisions relating

1 to such title that involve reprocessing of claims, there are
2 appropriated to the Secretary of Health and Human Serv-
3 ices for the Centers for Medicare & Medicaid Services Pro-
4 gram Management Account, from amounts in the general
5 fund of the Treasury not otherwise appropriated,
6 \$95,000,000. Amounts appropriated under the preceding
7 sentence shall remain available until expended.

8 **SEC. 8. EXTENSION OF SECTION 508 RECLASSIFICATIONS.**

9 (a) IN GENERAL.—Section 106(a) of division B of
10 the Tax Relief and Health Care Act of 2006 (42 U.S.C.
11 1395 note), as amended by section 117 of the Medicare,
12 Medicaid, and SCHIP Extension Act of 2007 (Public Law
13 110–173), section 124 of the Medicare Improvements for
14 Patients and Providers Act of 2008 (Public Law 110–
15 275), and sections 3137(a) and 10317 of Public Law 111–
16 148, is amended by striking “September 30, 2010” and
17 inserting “September 30, 2011”.

18 (b) CONFORMING AMENDMENT.—Section 117(a)(3)
19 of the Medicare, Medicaid, and SCHIP Extension Act of
20 2007 (Public Law 110–173), is amended by inserting “in
21 fiscal years 2008 and 2009” after “For purposes of imple-
22 mentation of this subsection”.

23 **SEC. 9. REVISION TO THE MEDICARE IMPROVEMENT FUND.**

24 Section 1898(b)(1) of the Social Security Act (42
25 U.S.C. 1395iii(b)(1)) is amended by striking subpara-

1 graphs (A) and (B) and inserting the following subpara-
2 graphs:

3 “(A) fiscal year 2015, \$0;

4 “(B) fiscal year 2016, \$125,000,000;

5 and”.

6 **SEC. 10. PAYGO COMPLIANCE.**

7 The budgetary effects of this Act, for the purpose of
8 complying with the Statutory Pay-As-You-Go Act of 2010,
9 shall be determined by reference to the latest statement
10 titled “Budgetary Effects of PAYGO Legislation” for this
11 Act, submitted for printing in the Congressional Record
12 by the Chairman of the House Budget Committee, pro-
13 vided that such statement has been submitted prior to the
14 vote on passage.

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