

105TH CONGRESS
1ST SESSION

S. 415

To amend the medicare program under title XVIII of the Social Security Act to improve rural health services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1997

Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. THOMAS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the medicare program under title XVIII of the Social Security Act to improve rural health 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 “Rural Health Improve-
5 ment Act of 1997”.

6 **SEC. 2. MEDICARE RURAL HOSPITAL FLEXIBILITY PRO-**
7 **GRAM.**

8 (a) FINDINGS AND PURPOSE.—

1 (1) FINDINGS.—Congress makes the following
2 findings:

3 (A) One-quarter of the United States pop-
4 ulation, or about 65,000,000 persons, reside in
5 rural areas. Rural areas have a larger propor-
6 tion of elderly residents. Rural populations have
7 a higher infant mortality rate, and a 40 percent
8 higher rate of death from accidents.

9 (B) Rural hospitals are forced to comply
10 with burdensome and inflexible medicare re-
11 quirements that do not fit the realities of the
12 rural environment.

13 (C) Rural hospitals are inadequately reim-
14 bursed by the medicare program under title
15 XVIII of the Social Security Act (42 U.S.C.
16 1395 et seq.).

17 (D) Inadequate medicare reimbursement
18 and burdensome and inflexible requirements
19 contribute to the high closure rate among rural
20 hospitals, resulting in reduced access to primary
21 care and emergency services for millions of
22 rural residents.

23 (E) Medical assistance facilities have been
24 operating in Montana since 1990, and rural pri-
25 mary care hospitals have been operating since

1 1993. Both programs help rural hospitals adapt
2 to the changing health care needs of the local
3 community.

4 (F) The Inspector General of the Depart-
5 ment of Health and Human Services has found
6 that medical assistance facilities—

7 (i) provide access to health care in re-
8 mote rural areas; and

9 (ii) are cost-efficient.

10 (G) The Inspector General of the Depart-
11 ment of Health and Human Services found that
12 flexible medicare requirements are key to the
13 success of medical assistance facilities.

14 (H) Twenty-one States applied to the Es-
15 sential Access Hospital (EACH) program au-
16 thorized in the Omnibus Budget Reconciliation
17 Act of 1989 (Public Law 101–239). Seven
18 States, West Virginia, California, Colorado,
19 Kansas, New York, North Carolina, and South
20 Dakota were awarded grants.

21 (I) Medical assistance facilities and rural
22 primary care hospitals promote the development
23 of rural health care networks and result in in-
24 creased access for rural residents to a variety of
25 health care services.

1 (2) PURPOSE.—The purpose of this section is
2 to establish the medicare rural hospital flexibility
3 program and to allow all States to develop critical
4 access hospitals.

5 (b) MEDICARE RURAL HOSPITAL FLEXIBILITY PRO-
6 GRAM.—Section 1820 of the Social Security Act (42
7 U.S.C. 1395i-4) is amended to read as follows:

8 “MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

9 “SEC. 1820. (a) PURPOSE.—The purpose of this sec-
10 tion is to—

11 “(1) ensure access to health care services for
12 rural communities by allowing hospitals to be des-
13 ignated as critical access hospitals if those hospitals
14 limit the scope of available inpatient acute care serv-
15 ices;

16 “(2) provide more appropriate and flexible
17 staffing and licensure standards;

18 “(3) enhance the financial security of critical
19 access hospitals by requiring that those facilities be
20 reimbursed under this title on a reasonable cost
21 basis; and

22 “(4) promote linkages between critical access
23 hospitals designated by the State under this section
24 and broader programs supporting the development
25 of and transition to integrated provider networks.

1 “(b) ESTABLISHMENT.—Any State that submits an
2 application in accordance with subsection (c) may estab-
3 lish a medicare rural hospital flexibility program described
4 in subsection (d).

5 “(c) APPLICATION.—A State may establish a medi-
6 care rural hospital flexibility program described in sub-
7 section (d) if the State submits to the Secretary at such
8 time and in such form as the Secretary may require an
9 application containing—

10 “(1) assurances that the State—

11 “(A) has developed, or is in the process of
12 developing, a State rural health care plan
13 that—

14 “(i) provides for the creation of 1 or
15 more rural health networks (as defined in
16 subsection (e)) in the State;

17 “(ii) promotes regionalization of rural
18 health services in the State; and

19 “(iii) improves access to hospital and
20 other health services for rural residents of
21 the State; and

22 “(B) has developed the rural health care
23 plan described in subparagraph (A) in consulta-
24 tion with the hospital association of the State,
25 rural hospitals located in the State, and the

1 State Office of Rural Health (or, in the case of
 2 a State in the process of developing such plan,
 3 that assures the Secretary that the State will
 4 consult with its State hospital association, rural
 5 hospitals located in the State, and the State Of-
 6 fice of Rural Health in developing such plan);

7 “(2) assurances that the State has designated
 8 (consistent with the rural health care plan described
 9 in paragraph (1)(A)), or is in the process of so des-
 10 ignating, rural nonprofit or public hospitals or facili-
 11 ties located in the State as critical access hospitals;
 12 and

13 “(3) such other information and assurances as
 14 the Secretary may require.

15 “(d) MEDICARE RURAL HOSPITAL FLEXIBILITY
 16 PROGRAM DESCRIBED.—

17 “(1) IN GENERAL.—A State that has submitted
 18 an application in accordance with subsection (c),
 19 may establish a medicare rural hospital flexibility
 20 program that provides that—

21 “(A) the State shall develop at least 1
 22 rural health network (as defined in subsection
 23 (e)) in the State; and

1 “(B) at least 1 facility in the State shall
2 be designated as a critical access hospital in ac-
3 cordance with paragraph (2).

4 “(2) STATE DESIGNATION OF FACILITIES.—

5 “(A) IN GENERAL.—A State may des-
6 ignate 1 or more facilities as a critical access
7 hospital in accordance with subparagraph (B).

8 “(B) CRITERIA FOR DESIGNATION AS CRIT-
9 ICAL ACCESS HOSPITAL.—A State may des-
10 ignate a facility as a critical access hospital if
11 the facility—

12 “(i) is located in a county (or equiva-
13 lent unit of local government) in a rural
14 area (as defined in section 1886(d)(2)(D))
15 that—

16 “(I) is located more than a 35-
17 mile drive from a hospital, or another
18 facility described in this subsection; or

19 “(II) is certified by the State as
20 being a necessary provider of health
21 care services to residents in the area;

22 “(ii) makes available 24-hour emer-
23 gency care services that a State determines

1 are necessary for ensuring access to emer-
2 gency care services in each area served by
3 a critical access hospital;

4 “(iii) provides not more than 15 acute
5 care inpatient beds (meeting such stand-
6 ards as the Secretary may establish) for
7 providing inpatient care for a period not to
8 exceed 96 hours (unless a longer period is
9 required because transfer to a hospital is
10 precluded because of inclement weather or
11 other emergency conditions), except that a
12 peer review organization or equivalent en-
13 tity may, on request, waive the 96-hour re-
14 striction on a case-by-case basis;

15 “(iv) meets such staffing requirements
16 as would apply under section 1861(e) to a
17 hospital located in a rural area, except
18 that—

19 “(I) the facility need not meet
20 hospital standards relating to the
21 number of hours during a day, or
22 days during a week, in which the fa-
23 cility must be open and fully staffed,
24 except insofar as the facility is re-
25 quired to make available emergency

1 care services as determined under
2 clause (ii) and must have nursing
3 services available on a 24-hour basis,
4 but need not otherwise staff the facil-
5 ity except when an inpatient is
6 present;

7 “(II) the facility may provide any
8 services otherwise required to be pro-
9 vided by a full-time, on site dietician,
10 pharmacist, laboratory technician,
11 medical technologist, and radiological
12 technologist on a part-time, off site
13 basis under arrangements as defined
14 in section 1861(w)(1); and

15 “(III) the inpatient care de-
16 scribed in clause (iii) may be provided
17 by a physician’s assistant, nurse prac-
18 titioner, or clinical nurse specialist
19 subject to the oversight of a physician
20 who need not be present in the facil-
21 ity; and

22 “(v) meets the requirements of section
23 1861(aa)(2)(I).

24 “(e) DEFINITION OF RURAL HEALTH NETWORK.—

1 “(1) IN GENERAL.—In this section, the term
2 ‘rural health network’ means, with respect to a
3 State, an organization consisting of—

4 “(A) at least 1 facility that the State has
5 designated or plans to designate as a critical
6 access hospital; and

7 “(B) at least 1 hospital that furnishes
8 acute care services.

9 “(2) AGREEMENTS.—

10 “(A) IN GENERAL.—Each critical access
11 hospital that is a member of a rural health net-
12 work shall have an agreement with respect to
13 each item described in subparagraph (B) with
14 at least 1 hospital that is a member of the net-
15 work.

16 “(B) ITEMS DESCRIBED.—The items de-
17 scribed in this subparagraph are the following:

18 “(i) Patient referral and transfer.

19 “(ii) The development and use of com-
20 munications systems including (where fea-
21 sible)—

22 “(I) telemetry systems; and

23 “(II) systems for electronic shar-
24 ing of patient data.

1 “(iii) The provision of emergency and
2 non-emergency transportation among the
3 facility and the hospital.

4 “(C) CREDENTIALING AND QUALITY AS-
5 SURANCE.—Each critical access hospital that is
6 a member of a rural health network shall have
7 an agreement with respect to credentialing and
8 quality assurance with at least—

9 “(i) 1 hospital that is a member of
10 the network;

11 “(ii) 1 peer review organization or
12 equivalent entity; or

13 “(iii) 1 other appropriate and quali-
14 fied entity identified in the State rural
15 health care plan.

16 “(f) CERTIFICATION BY THE SECRETARY.—The Sec-
17 retary shall certify a facility as a critical access hospital
18 if the facility—

19 “(1) is located in a State that has established
20 a medicare rural hospital flexibility program in ac-
21 cordance with subsection (d);

22 “(2) is designated as a critical access hospital
23 by the State in which it is located; and

24 “(3) meets such other criteria as the Secretary
25 may require.

1 “(g) PERMITTING MAINTENANCE OF SWING BEDS.—
2 Nothing in this section shall be construed to prohibit a
3 critical access hospital from entering into an agreement
4 with the Secretary under section 1883 under which the
5 facility’s inpatient hospital facilities are used for the fur-
6 nishing of extended care services.

7 “(h) GRANTS.—

8 “(1) MEDICARE RURAL HOSPITAL FLEXIBILITY
9 PROGRAM.—The Secretary may award grants to
10 States that have submitted applications in accord-
11 ance with subsection (c) for—

12 “(A) engaging in activities relating to plan-
13 ning and implementing a rural health care plan;

14 “(B) engaging in activities relating to
15 planning and implementing rural health net-
16 works; and

17 “(C) designating facilities as critical access
18 hospitals.

19 “(2) RURAL EMERGENCY MEDICAL SERVICES.—

20 “(A) IN GENERAL.—The Secretary may
21 award grants to States that have submitted ap-
22 plications in accordance with subparagraph (B)
23 for the establishment or expansion of a pro-
24 gram for the provision of rural emergency medi-
25 cal services.

1 “(B) APPLICATION.—An application is in
2 accordance with this subparagraph if the State
3 submits to the Secretary at such time and in
4 such form as the Secretary may require an ap-
5 plication containing the assurances described in
6 subparagraphs (A)(ii), (A)(iii), and (B) of sub-
7 section (c)(1) and paragraph (3) of that sub-
8 section.

9 “(i) GRANDFATHERING OF CERTAIN FACILITIES.—

10 “(1) IN GENERAL.—Any medical assistance fa-
11 cility operating in Montana and any rural primary
12 care hospital designated by the Secretary under this
13 section prior to the date of the enactment of the
14 Rural Health Improvement Act of 1997 shall be
15 deemed to have been certified by the Secretary
16 under subsection (f) as a critical access hospital if
17 such facility or hospital is otherwise eligible to be
18 designated by the State as a critical access hospital
19 under subsection (d).

20 “(2) CONTINUATION OF MEDICAL ASSISTANCE
21 FACILITY AND RURAL PRIMARY CARE HOSPITAL
22 TERMS.—Notwithstanding any other provision of
23 this title, with respect to any medical assistance fa-
24 cility or rural primary care hospital described in

1 paragraph (1), any reference in this title to a ‘criti-
2 cal access hospital’ shall be deemed to be a reference
3 to a ‘medical assistance facility’ or ‘rural primary
4 care hospital’.

5 “(j) WAIVER OF CONFLICTING PART A PROVI-
6 SIONS.—The Secretary is authorized to waive such provi-
7 sions of this part and part C as are necessary to conduct
8 the program established under this section.

9 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated from the Federal Hos-
11 pital Insurance Trust Fund for making grants to all
12 States under subsection (h), \$25,000,000 in each of the
13 fiscal years 1998 through 2002.”.

14 (c) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—
15 Not later than January 1, 1998, the Administrator of the
16 Health Care Financing Administration shall submit to
17 Congress a report on the feasibility of, and administrative
18 requirements necessary to establish an alternative for cer-
19 tain medical diagnoses (as determined by the Adminis-
20 trator) to the 96-hour limitation for inpatient care in criti-
21 cal access hospitals required by section 1820(d)(2)(B)(iii)
22 of the Social Security Act (42 U.S.C. 1395i–4), as added
23 by subsection (b) of this section.

1 (d) PART A AMENDMENTS RELATING TO RURAL
2 PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOS-
3 PITALS.—

4 (1) DEFINITIONS.—Section 1861(mm) of the
5 Social Security Act (42 U.S.C. 1395x(mm)) is
6 amended to read as follows:

7 “CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS
8 HOSPITAL SERVICES

9 “(mm)(1) The term ‘critical access hospital’ means
10 a facility certified by the Secretary as a critical access hos-
11 pital under section 1820(f).

12 “(2) The term ‘inpatient critical access hospital serv-
13 ices’ means items and services, furnished to an inpatient
14 of a critical access hospital by such facility, that would
15 be inpatient hospital services if furnished to an inpatient
16 of a hospital by a hospital.”.

17 (2) COVERAGE AND PAYMENT.—

18 (A) Section 1812(a)(1) of the Social Secu-
19 rity Act (42 U.S.C. 1395d(a)(1)) is amended by
20 striking “or inpatient rural primary care hos-
21 pital services” and inserting “or inpatient criti-
22 cal access hospital services”.

23 (B) Section 1814 of the Social Security
24 Act (42 U.S.C. 1395f) is amended—

25 (i) in subsection (a)(8)—

1 (I) by striking “rural primary
2 care hospital” each place it appears
3 and inserting “critical access hos-
4 pital”; and

5 (II) by striking “72” and insert-
6 ing “96”;

7 (ii) in subsection (b), by striking
8 “other than a rural primary care hospital
9 providing inpatient rural primary care hos-
10 pital services,” and inserting “other than a
11 critical access hospital providing inpatient
12 critical access hospital services,”; and

13 (iii) by amending subsection (l) to
14 read as follows:

15 Payment for Inpatient Critical Access Hospital Services

16 “(l) The amount of payment under this part for inpa-
17 tient critical access hospital services is the reasonable
18 costs of the critical access hospital in providing such serv-
19 ices.”.

20 (3) TREATMENT OF CRITICAL ACCESS HOS-
21 PITALS AS PROVIDERS OF SERVICES.—

22 (A) Section 1861(u) of the Social Security
23 Act (42 U.S.C. 1395x(u)) is amended by strik-
24 ing “rural primary care hospital” and inserting
25 “critical access hospital”.

1 (B) The first sentence of section 1864(a)
2 of the Social Security Act (42 U.S.C.
3 1395aa(a)) is amended by striking “a rural pri-
4 mary care hospital” and inserting “a critical ac-
5 cess hospital”.

6 (4) CONFORMING AMENDMENTS.—

7 (A) Section 1128A(b)(1) of the Social Se-
8 curity Act (42 U.S.C. 1320a–7a(b)(1)) is
9 amended by striking “rural primary care hos-
10 pital” each place it appears and inserting “criti-
11 cal access hospital”.

12 (B) Section 1128B(c) of the Social Secu-
13 rity Act (42 U.S.C. 1320a–7b(c)) is amended
14 by striking “rural primary care hospital” and
15 inserting “critical access hospital”.

16 (C) Section 1134 of the Social Security
17 Act (42 U.S.C. 1320b–4) is amended by strik-
18 ing “rural primary care hospitals” each place it
19 appears and inserting “critical access hos-
20 pitals”.

21 (D) Section 1138(a)(1) of the Social Secu-
22 rity Act (42 U.S.C. 1320b–8(a)(1)) is amend-
23 ed—

24 (i) in the matter preceding subpara-
25 graph (A), by striking “rural primary care

1 hospital” and inserting “critical access
2 hospital”; and

3 (ii) in the matter preceding clause (i)
4 of subparagraph (A), by striking “rural
5 primary care hospital” and inserting “criti-
6 cal access hospital”.

7 (E) Section 1816(c)(2)(C) of the Social
8 Security Act (42 U.S.C. 1395h(c)(2)(C)) is
9 amended by striking “rural primary care hos-
10 pital” and inserting “critical access hospital”.

11 (F) Section 1833 of the Social Security
12 Act (42 U.S.C. 1395l) is amended—

13 (i) in subsection (h)(5)(A)(iii), by
14 striking “rural primary care hospital” and
15 inserting “critical access hospital”;

16 (ii) in subsection (i)(1)(A), by striking
17 “rural primary care hospital” and insert-
18 ing “critical access hospital”;

19 (iii) in subsection (i)(3)(A), by strik-
20 ing “rural primary care hospital services”
21 and inserting “critical access hospital serv-
22 ices”;

23 (iv) in subsection (l)(5)(A), by strik-
24 ing “rural primary care hospital” each

1 place it appears and inserting “critical ac-
2 cess hospital”; and

3 (v) in subsection (l)(5)(B), by striking
4 “rural primary care hospital” each place it
5 appears and inserting “critical access hos-
6 pital”.

7 (G) Section 1835(c) of the Social Security
8 Act (42 U.S.C. 1395n(c)) is amended by strik-
9 ing “rural primary care hospital” each place it
10 appears and inserting “critical access hospital”.

11 (H) Section 1842(b)(6)(A)(ii) of the Social
12 Security Act (42 U.S.C. 1395u(b)(6)(A)(ii)) is
13 amended by striking “rural primary care hos-
14 pital” and inserting “critical access hospital”.

15 (I) Section 1861 of the Social Security Act
16 (42 U.S.C. 1395x) is amended—

17 (i) in the last sentence of subsection
18 (e), by striking “rural primary care hos-
19 pital” and inserting “critical access hos-
20 pital”;

21 (ii) in subsection (v)(1)(S)(ii)(III), by
22 striking “rural primary care hospital” and
23 inserting “critical access hospital”;

1 (iii) in subsection (w)(1), by striking
2 “rural primary care hospital” and insert-
3 ing “critical access hospital”; and

4 (iv) in subsection (w)(2), by striking
5 “rural primary care hospital” each place it
6 appears and inserting “critical access hos-
7 pital”.

8 (J) Section 1862(a)(14) of the Social Se-
9 curity Act (42 U.S.C. 1395y(a)(14)) is amend-
10 ed by striking “rural primary care hospital”
11 each place it appears and inserting “critical ac-
12 cess hospital”.

13 (K) Section 1866(a)(1) of the Social Secu-
14 rity Act (42 U.S.C. 1395cc(a)(1)) is amended—

15 (i) in subparagraph (F)(ii), by strik-
16 ing “rural primary care hospitals” and in-
17 serting “critical access hospitals”;

18 (ii) in subparagraph (H), in the mat-
19 ter preceding clause (i), by striking “rural
20 primary care hospitals” and “rural pri-
21 mary care hospital services” and inserting
22 “critical access hospitals” and “critical ac-
23 cess hospital services”, respectively;

24 (iii) in subparagraph (I), in the mat-
25 ter preceding clause (i), by striking “rural

1 primary care hospital” and inserting “critical
2 access hospital”; and

3 (iv) in subparagraph (N)—

4 (I) in the matter preceding clause

5 (i), by striking “rural primary hos-
6 pitals” and inserting “critical access
7 hospitals”; and

8 (II) in clause (i), by striking

9 “rural primary care hospital” and in-
10 serting “critical access hospital”.

11 (L) Section 1866(a)(3) of the Social Secu-
12 rity Act (42 U.S.C 1395cc(a)(3)) is amended—

13 (i) by striking “rural primary care
14 hospital” each place it appears in subpara-
15 graphs (A) and (B) and inserting “critical
16 access hospital”; and

17 (ii) in subparagraph (C)(ii)(II), by
18 striking “rural primary care hospitals”
19 each place it appears and inserting “critical
20 access hospitals”.

21 (M) Section 1867(e)(5) of the Social Secu-
22 rity Act (42 U.S.C. 1395dd(e)(5)) is amended
23 by striking “rural primary care hospital” and
24 inserting “critical access hospital”.

1 (e) PAYMENT CONTINUED TO DESIGNATED
2 EACHS.—Section 1886(d)(5)(D) of the Social Security
3 Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

4 (1) in clause (iii)(III), by inserting “as in effect
5 on September 30, 1997” before the period at the
6 end; and

7 (2) in clause (v)—

8 (A) by inserting “as in effect on September
9 30, 1997” after “1820(i)(1)”; and

10 (B) by striking “1820(g)” and inserting
11 “1820(e)”.

12 (f) PART B AMENDMENTS RELATING TO CRITICAL
13 ACCESS HOSPITALS.—

14 (1) COVERAGE.—

15 (A) Section 1861(mm) of the Social Secu-
16 rity Act (42 U.S.C. 1395x(mm)) (as amended
17 by subsection (d)(1) of this section) is amended
18 by adding at the end the following new para-
19 graph:

20 “(3) The term ‘outpatient critical access hospital
21 services’ means medical and other health services fur-
22 nished by a critical access hospital on an outpatient
23 basis.”.

24 (B) Section 1832(a)(2)(H) of the Social
25 Security Act (42 U.S.C. 1395k(a)(2)(H)) is

1 amended by striking “rural primary care hos-
2 pital services” and inserting “critical access
3 hospital services”.

4 (2) PAYMENT.—

5 (A) Section 1833(a)(6) of the Social Secu-
6 rity Act (42 U.S.C. 1395l(a)(6)) is amended by
7 striking “outpatient rural primary care hospital
8 services” and inserting “outpatient critical ac-
9 cess hospital services”.

10 (B) Section 1834(g) of the Social Security
11 Act (42 U.S.C. 1395m(g)) is amended to read
12 as follows:

13 “(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS
14 HOSPITAL SERVICES.—The amount of payment under
15 this part for outpatient critical access hospital services is
16 the reasonable costs of the critical access hospital in pro-
17 viding such services.”.

18 (g) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to services furnished on or after
20 October 1, 1997.

○