

117TH CONGRESS
1ST SESSION

S. 1438

To amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions to help combat the opioid crisis.

IN THE SENATE OF THE UNITED STATES

APRIL 28, 2021

Ms. HASSAN (for herself 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 provide for the distribution of additional residency positions to help combat the opioid crisis.

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 “Opioid Workforce Act
5 of 2021”.

6 **SEC. 2. DISTRIBUTION OF ADDITIONAL RESIDENCY POSI-**
7 **TIONS TO HELP COMBAT OPIOID CRISIS.**

8 (a) IN GENERAL.—Section 1886(h) of the Social Se-
9 curity Act (42 U.S.C. 1395ww(h)) is amended—

1 (1) in paragraph (4)(F)(i), by striking “and
2 (9)” and inserting “(9), and (10)”;

3 (2) in paragraph (4)(H)(i), by striking “and
4 (9)” and inserting “(9), and (10)”;

5 (3) in paragraph (7)(E), by inserting “para-
6 graph (10),” after “paragraph (9),”; and

7 (4) by adding at the end the following new
8 paragraph:

9 “(10) DISTRIBUTION OF ADDITIONAL RESI-
10 DENCY POSITIONS TO HELP COMBAT OPIOID CRI-
11 SIS.—

12 “(A) ADDITIONAL RESIDENCY POSI-
13 TIONS.—For each of fiscal years 2024 through
14 2028 (and succeeding fiscal years if the Sec-
15 retary determines that there are additional full-
16 time equivalent residency positions available to
17 distribute under subparagraph (D)), the Sec-
18 retary shall increase the otherwise applicable
19 resident limit for each qualifying hospital that
20 submits a timely application under this para-
21 graph by such number as the Secretary may ap-
22 prove, effective for portions of cost reporting
23 periods occurring on or after July 1 of the fis-
24 cal year of the increase. The aggregate number
25 of additional full-time equivalent resident posi-

1 tions available for distribution under this para-
2 graph shall be equal to 1,000, distributed in ac-
3 cordance with the succeeding subparagraphs of
4 this paragraph.

5 “(B) DISTRIBUTION FOR FISCAL YEAR
6 2024.—

7 “(i) IN GENERAL.—For fiscal year
8 2024, 500 of the positions described in
9 subparagraph (A) may only be distributed
10 to hospitals that have established (as of
11 the date of the enactment of this para-
12 graph) approved programs in addiction
13 medicine, addiction psychiatry, or pain
14 medicine, as determined by the Secretary.

15 “(ii) CONSIDERATIONS IN DISTRIBUTION.—The Secretary shall distribute addi-
16 tional residency positions under this sub-
17 paragraph based on the demonstrated like-
18 lihood (as determined by the Secretary) of
19 the hospital filling such positions.

20 “(iii) REQUIREMENTS.—A hospital
21 that receives an increase in the otherwise
22 applicable resident limit under this sub-
23 paragraph shall ensure, during the 5-year
24 period beginning after the date of such in-
25

crease, that the hospital uses the positions made available under this subparagraph for a program described in clause (i) or a program that is a prerequisite (as determined by the Secretary) for such a program so described, such as internal medicine. The Secretary may determine whether a hospital has met the requirements under this clause during such 5-year period in such manner and at such time as the Secretary determines appropriate, including at the end of such 5-year period.

“(iv) REDISTRIBUTION OF POSITIONS IF HOSPITAL NO LONGER MEETS CERTAIN REQUIREMENTS.—In the case in which the Secretary determines that a hospital described in clause (iii) does not meet the requirements of such clause, the Secretary shall—

“(I) reduce the otherwise applicable resident limit of the hospital by the amount by which such limit was increased under this subparagraph; and

1 “(II) provide for the distribution
2 of positions attributable to such re-
3 duction in accordance with the re-
4 quirements of this paragraph.

5 “(C) DISTRIBUTION FOR FISCAL YEARS
6 2025 THROUGH 2028.—

7 “(i) IN GENERAL.—For the period of
8 fiscal years 2025 through 2028, 500 of the
9 positions available for distribution under
10 subparagraph (A) shall be distributed to
11 hospitals which demonstrate to the Sec-
12 retary that the hospital has established or
13 will establish an approved residency train-
14 ing program in addiction medicine, addic-
15 tion psychiatry, or pain medicine.

16 “(ii) CONSIDERATIONS IN DISTRIBUTION.—The Secretary shall distribute addi-
17 tional residency positions under this sub-
18 paragraph based on the demonstrated like-
19 lihood, as determined by the Secretary, of
20 the hospital filling such positions within
21 the first 4 training years (as specified by
22 the Secretary) after the increase would be
23 effective.
24

1 “(iii) REQUIREMENTS.—A hospital
2 that receives an increase in the otherwise
3 applicable resident limit under this sub-
4 paragraph shall ensure, during the 5-year
5 period beginning after the date of such in-
6 crease, that the hospital uses the positions
7 made available under this subparagraph
8 for a program described in clause (i) or a
9 program that is a prerequisite (as deter-
10 mined by the Secretary) for such a pro-
11 gram so described, such as internal medi-
12 cine. The Secretary may determine wheth-
13 er a hospital has met the requirements
14 under this clause during such 5-year pe-
15 riod in such manner and at such time as
16 the Secretary determines appropriate, in-
17 cluding at the end of such 5-year period.

18 “(iv) REDISTRIBUTION OF POSITIONS
19 IF HOSPITAL NO LONGER MEETS CERTAIN
20 REQUIREMENTS.—In the case where the
21 Secretary determines that a hospital de-
22 scribed in clause (iii) does not meet the re-
23 quirements of such clause, the Secretary
24 shall—

1 “(I) reduce the otherwise applica-
 2 ble resident limit of the hospital by
 3 the amount by which such limit was
 4 increased under this subparagraph;
 5 and

6 “(II) provide for the distribution
 7 of positions attributable to such re-
 8 duction in accordance with the re-
 9 quirements of this paragraph.

10 “(D) DISTRIBUTION OF REMAINING POSI-
 11 TIONS.—If the aggregate number of positions
 12 distributed under subparagraphs (B) and (C)
 13 during the period of fiscal years 2024 through
 14 2028 is less than 500, the Secretary shall dis-
 15 tribute the remaining residency positions in suc-
 16 ceeding fiscal years according to criteria con-
 17 sistent with this paragraph until such time as
 18 the aggregate amount of positions distributed
 19 under this paragraph is equal to 500.

20 “(E) LIMITATION.—An individual hospital
 21 may not receive more than 25 full-time equiva-
 22 lent residency positions under this paragraph.

23 “(F) NOTIFICATION.—The Secretary shall
 24 notify hospitals of the number of positions dis-
 25 tributed to the hospital under this paragraph as

1 a result of an increase in the otherwise applica-
 2 ble resident limit by January 1 of the fiscal
 3 year of the increase. Such increase shall be ef-
 4 fective for portions of cost reporting periods be-
 5 ginning on or after July 1 of that fiscal year.

6 “(G) APPLICATION OF PER RESIDENT
 7 AMOUNTS FOR PRIMARY CARE AND NONPRI-
 8 MARY CARE.—With respect to additional resi-
 9 dency positions in a hospital attributable to the
 10 increase provided under this paragraph, the ap-
 11 proved FTE per resident amounts are deemed
 12 to be equal to the hospital per resident amounts
 13 for primary care and nonprimary care com-
 14 puted under paragraph (2)(D) for that hospital.

15 “(H) PERMITTING FACILITIES TO APPLY
 16 AGGREGATION RULES.—The Secretary shall
 17 permit hospitals receiving additional residency
 18 positions attributable to the increase provided
 19 under this paragraph to, beginning in the fifth
 20 year after the effective date of such increase,
 21 apply such positions to the limitation amount
 22 under paragraph (4)(F) that may be aggre-
 23 gated pursuant to paragraph (4)(H) among
 24 members of the same affiliated group.

“(I) CLARIFICATION.—Chapter 35 of title 44, United States Code, shall not apply to implementation of this paragraph.

“(J) DEFINITIONS.—In this paragraph:

“(i) OTHERWISE APPLICABLE RESIDENT LIMIT.—The term ‘otherwise applicable resident limit’ means, with respect to a hospital, the limit otherwise applicable under paragraph (4)(F)(i) on the resident level for the hospital determined without regard to this paragraph but taking into account paragraphs (7)(A), (7)(B), (8)(A), (8)(B), and (9)(A).

“(ii) RESIDENT LEVEL.—The term ‘resident level’ has the meaning given such term in paragraph (7)(C)(i).”.

(b) IME.—

(1) IN GENERAL.—Section 1886(d)(5)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(v)), in the third sentence, is amended by striking “and (h)(9)” and inserting “(h)(9), and (h)(10)”.

(2) CONFORMING PROVISION.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C.

1 1395ww(d)(5)(B)) is amended by adding after
2 clause (xii) the following new clause:

3 “(xiii) For discharges occurring on or after
4 July 1, 2024, insofar as an additional payment
5 amount under this subparagraph is attributable to
6 resident positions distributed to a hospital under
7 subsection (h)(10), the indirect teaching adjustment
8 factor shall be computed in the same manner as pro-
9 vided under clause (ii) with respect to such resident
10 positions.”.

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