

115TH CONGRESS  
1ST SESSION

# H. R. 3224

To amend title XVIII of the Social Security Act to clarify reasonable costs for critical access hospital payments under the Medicare program, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2017

Mr. HARPER (for himself, Mr. LOEBSACK, Mr. KIND, Mr. KELLY of Mississippi, Mr. THOMPSON of Mississippi, Mr. PALAZZO, and Mr. PETERSON) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 amend title XVIII of the Social Security Act to clarify reasonable costs for critical access hospital payments under the Medicare 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 This Act may be cited as the “Critical Access and  
5 Rural Equity Act of 2017” or the “CARE Act of 2017”.

1 **SEC. 2. CLARIFYING REASONABLE COSTS FOR CRITICAL**  
2 **ACCESS HOSPITAL MEDICARE PAYMENTS.**

3 (a) INCLUSION OF CERTAIN COSTS AS REASONABLE  
4 COSTS.—

5 (1) INPATIENT CRITICAL ACCESS HOSPITAL  
6 SERVICES.—Section 1814(l) of the Social Security  
7 Act (42 U.S.C. 1395f(l)) is amended by adding at  
8 the end the following new paragraph:

9 “(6) In determining payment and reasonable  
10 costs under paragraph (1) for inpatient critical ac-  
11 cess services, the Secretary shall recognize as allow-  
12 able costs of the critical access hospital at least the  
13 following:

14 “(A) Costs of services that would be con-  
15 sidered bona fide emergency services (as defined  
16 in section 1861(v)(1)(K)(ii)) if provided in a  
17 hospital emergency room, including professional  
18 services and any associated surgical on-call and  
19 standby costs.

20 “(B) Costs of a test or procedure per-  
21 formed at a critical access hospital or an entity  
22 owned by the critical access hospital, including  
23 a clinical diagnostic laboratory test, mammo-  
24 gram (as defined in section 354(a)(5) of the  
25 Public Health Service Act), colonoscopy, cardiac

1 stress test, pulmonary function test, echocardiogram,  
2 gram, and bone density study.

3 “(C) Standby and on-call costs for certified  
4 registered nurse anesthetist services, regardless  
5 of the number of surgical procedures requiring  
6 anesthesia services and regardless of the number  
7 of full-time equivalent physicians.

8 “(D) Costs of services provided by the critical  
9 access hospital or satellite facility of the  
10 critical access hospital that improve the total  
11 health of communities, including immunization  
12 programs, health clinics, and medical homes.

13 “(E) Costs of services provided by an off-  
14 campus provider-based clinic described in section  
15 1820(c)(2)(F) of the critical access hospital,  
16 regardless of distance of such clinic from  
17 a hospital or another critical access hospital.”.

18 (2) OUTPATIENT CRITICAL ACCESS HOSPITAL  
19 SERVICES.—Section 1834(g) of the Social Security  
20 Act (42 U.S.C. 1395m(g)) is amended by adding at  
21 the end the following new paragraph:

22 “(6) COVERAGE OF CERTAIN ADDITIONAL  
23 COSTS AS REASONABLE COSTS.—In determining the  
24 reasonable costs of outpatient critical access hospital  
25 services under paragraphs (1) and (2)(A), the Sec-

1       retary shall recognize as allowable the costs de-  
2       scribed in paragraph (6) of section 1814(l).”.

3               (3)       CONFORMING       AMENDMENT.—Section  
4       1861(v)(7) of the Social Security Act (42 U.S.C.  
5       1395x(v)(7)) is amended by adding at the end the  
6       following new subparagraph:

7               “(E) For provisions further describing costs  
8       recognized as reasonable costs for inpatient and out-  
9       patient critical access hospital services, see sections  
10       1814(l)(6) and 1834(g)(6).”.

11       (b) TREATMENT OF PROVIDER-BASED CLINICS OF  
12       CRITICAL ACCESS HOSPITALS.—Section 1820(c)(2) of the  
13       Social Security Act (42 U.S.C. 1395i-4(c)(2)) is amend-  
14       ed—

15               (1) in subparagraph (B)(i)(I), by striking “is  
16       located” and inserting “subject to subparagraph  
17       (E), is located”; and

18               (2) by adding at the end the following new sub-  
19       paragraph:

20               “(F)       TREATMENT       OF       OFF-CAMPUS  
21       PROVIDER-BASED       CLINICS.—Subparagraph  
22       (B)(i)(I) shall not apply to an off-campus  
23       provider-based clinic (as described in section  
24       485.610 of title 45 of the Code of Federal Reg-

1           ulations) of a facility designated as a critical  
2           access hospital.”.

3           (c) ALLOWING COORDINATION FOR PROVISION OF  
4 EMERGENCY SERVICES.—Section 1820(c)(2) of the Social  
5 Security Act (42 U.S.C. 1395i–4(c)(2)), as amended by  
6 subsection (b), is further amended—

7           (1) in subparagraph (B)(ii), by striking  
8           “makes” and inserting “subject to subparagraph  
9           (G), makes”; and

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

12                   “(G) ALLOWING COORDINATION FOR PRO-  
13 VISION OF EMERGENCY SERVICES.—The Sec-  
14 retary may waive the requirements under sub-  
15 paragraph (B)(ii), with respect to a facility, if  
16 such facility—

17                           “(i) is located not more than 15 miles  
18                           of another facility or hospital that has an  
19                           emergency department that satisfies the  
20                           requirement of subparagraph (B)(ii); and

21                                   “(ii) coordinates with such other facil-  
22                                   ity or hospital with respect to furnishing  
23                                   24-hour emergency care services described  
24                                   in such subparagraph to the area served by  
25                                   such facility.”.

1 (d) TREATMENT OF MEDICAID PROVIDER TAXES  
2 FOR CRITICAL ACCESS HOSPITAL REASONABLE COSTS.—

3 (1) INPATIENT CRITICAL ACCESS HOSPITAL  
4 SERVICES.—Section 1814(l) of the Social Security  
5 Act (42 U.S.C. 1395f(l)), as amended by subsection  
6 (a)(1), is further amended by adding at the end the  
7 following new paragraph:

8 “(7)(A) In determining payment and reasonable  
9 costs under paragraph (1) for inpatient critical ac-  
10 cess services—

11 “(i) with respect to a current permissible  
12 health care related tax imposed and paid by the  
13 critical access hospital for a cost reporting pe-  
14 riod beginning before the date of enactment of  
15 this paragraph, the Secretary shall not, through  
16 recoupment or otherwise, disallow payment to  
17 the critical access hospital under this subsection  
18 on the basis that payments to the critical access  
19 hospital under this subsection offset some or all  
20 of the costs of such tax; and

21 “(ii) with respect to a current permissible  
22 health care related tax imposed and paid by the  
23 critical access hospital for a cost reporting pe-  
24 riod beginning on or after the date of enact-  
25 ment of this paragraph, the Secretary shall—

1           “(I) assess the percentage of individ-  
2           uals entitled to benefits under this part  
3           who are furnished inpatient critical access  
4           hospital services at such critical access  
5           hospital during such cost reporting period  
6           and who are also receiving medical assist-  
7           ance under the Medicaid program under  
8           title XIX during such period; and

9           “(II) adjust payments under this sub-  
10          section with respect to such services fur-  
11          nished during such period in a manner  
12          specified by the Secretary based on such  
13          percentage to take into account such tax.

14          “(B) For purposes of this paragraph and sec-  
15          tion 1834(g)(7), the term ‘current permissible health  
16          care related tax’ means a broad-based health care  
17          related tax (as defined in paragraph (3)(B) of such  
18          section) that is in effect prior to enactment of this  
19          paragraph and for which there is not in effect a hold  
20          harmless provision described in paragraph (4) of  
21          such section.”.

22          (2) OUTPATIENT CRITICAL ACCESS HOSPITAL  
23          SERVICES.—Section 1834(g) of the Social Security  
24          Act (42 U.S.C. 1395m(g)), as amended by sub-

1 section (a)(2), is further amended by adding at the  
2 end the following new paragraph:

3 “(7) TREATMENT OF MEDICAID PROVIDER  
4 TAXES.—In determining payment for outpatient crit-  
5 ical access hospital services under paragraphs (1)  
6 and (2), the provisions of paragraph (7) of section  
7 1814(l) shall apply to payment for such services  
8 under this subsection in the same manner as such  
9 provisions apply to payment for inpatient critical ac-  
10 cess hospital services under section 1814(l), except  
11 that in applying subparagraph (B) of such para-  
12 graph (7), the reference to ‘individuals entitled to  
13 benefits under this part’ shall be deemed a reference  
14 to ‘individuals enrolled under part B’.”.

○