

118TH CONGRESS  
2D SESSION

# H. R. 9125

To amend title XVIII of the Social Security Act to improve the accuracy and predictability of Medicare payments to long-term care hospitals.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2024

Mrs. MILLER of West Virginia (for herself, Ms. VAN DUYNE, Mr. SMUCKER, Mr. SMITH of Nebraska, and Mr. JOYCE of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend title XVIII of the Social Security Act to improve the accuracy and predictability of Medicare payments to long-term care hospitals.

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 “Patient Access to  
5 LTCH Care Act”.

1 **SEC. 2. ENSURING ADEQUACY OF PAYMENTS FOR HIGH-**  
2 **ACUITY LONG-TERM CARE HOSPITAL PA-**  
3 **TIENTS.**

4 (a) IN GENERAL.—Section 1886(m)(7) of the Social  
5 Security Act (42 U.S.C. 1395ww(m)(7)) is amended—

6 (1) in subparagraph (B)—

7 (A) by striking “Notwithstanding subpara-  
8 graph (A)” and inserting the following:

9 “(i) IN GENERAL.—Notwithstanding  
10 subparagraph (A)”;

11 (B) by adding at the end the following new  
12 clause:

13 “(ii) LIMITATION ON INCREASE OF  
14 FIXED LOSS AMOUNT.—Notwithstanding  
15 clause (i)—

16 “(I) in the case that application  
17 of such clause would result in a fixed  
18 loss amount established for fiscal year  
19 2025 or 2026 that is greater than  
20 \$50,000, the Secretary shall set such  
21 fixed loss amount for such fiscal year  
22 at \$50,000; and

23 “(II) in the case that application  
24 of such clause would result in a fixed  
25 loss amount established for fiscal year  
26 2027 or a subsequent fiscal year that

1 is greater than 110 percent of the  
2 fixed loss amount established for the  
3 preceding fiscal year, the Secretary  
4 shall set such fixed loss amount for  
5 such fiscal year at 110 percent of the  
6 fixed loss amount established for the  
7 preceding fiscal year.”; and

8 (2) in subparagraph (C), by striking “reduc-  
9 tion” and inserting “change”.

10 (b) PAYMENT ADJUSTMENT FOR COMPLEX LONG-  
11 TERM CARE HOSPITAL PATIENTS.—Section 1886(m) of  
12 the Social Security Act (42 U.S.C. 1395ww(m)) is amend-  
13 ed by adding at the end the following new paragraph:

14 “(8) PAYMENT ADJUSTMENT FOR PATIENTS  
15 WITH COMPLICATIONS OR COMORBIDITIES OR MAJOR  
16 COMPLICATIONS OR COMORBIDITIES.—

17 “(A) IN GENERAL.—For discharges occur-  
18 ring on or after October 1, 2025, or such ear-  
19 lier date as the Secretary may specify, the Sec-  
20 retary shall increase payment rates under the  
21 system described in paragraph (1) in accord-  
22 ance with subparagraph (B) to fully account for  
23 the higher costs associated with treating the  
24 highest complexity individuals.

1           “(B) INCREASE.—In calculating payment  
2 rates under the system described in paragraph  
3 (1) for a discharge of an individual occurring  
4 on or after October 1, 2025 (or such earlier  
5 date as the Secretary may specify), the Sec-  
6 retary shall—

7           “(i) in the case such individual had  
8 more than 5 major complications or  
9 comorbidities and fewer than 6 complica-  
10 tions or comorbidities that were not major  
11 or had between 3 and 5 major complica-  
12 tions and comorbidities and 5 or more  
13 complications and comorbidities that were  
14 not major (as demonstrated by claims data  
15 on the claim form submitted by the long-  
16 term care hospital), increase the payment  
17 weight for the applicable diagnosis-related  
18 group by 5 percent; and

19           “(ii) in the case such individual had  
20 more than 5 major complications or  
21 comorbidities and more than 5 complica-  
22 tions or comorbidities that were not major  
23 (as so demonstrated), increase the pay-  
24 ment weight for the applicable diagnosis-  
25 related group by 10 percent.

1 “(C) ASSUMPTIONS AND ADJUSTMENTS.—

2 “(i) IN GENERAL.—The Secretary  
3 shall annually determine the impact of  
4 ICD–10 coding changes on aggregate  
5 spending as a result of the application of  
6 the payment increases under subparagraph  
7 (A) with respect to fiscal years 2026  
8 through 2030.

9 “(ii) PERMANENT ADJUSTMENTS.—

10 The Secretary shall, at a time and in a  
11 manner determined appropriate by the  
12 Secretary, through notice and comment  
13 rulemaking, provide for one or more per-  
14 manent increases or decreases to the  
15 standard prospective payment amount (or  
16 amounts) for fiscal years referenced in  
17 clause (i), on a prospective basis, to offset  
18 for increases or decreases in aggregate ex-  
19 penditures associated with coding changes  
20 attributable to the application of the pay-  
21 ment increases under subparagraph (A).

22 “(iii) TEMPORARY ADJUSTMENTS FOR  
23 RETROSPECTIVE BEHAVIOR.—The Sec-  
24 retary shall, at a time and in a manner de-  
25 termined appropriate by the Secretary,

1 through notice and comment rulemaking,  
2 provide for one or more temporary in-  
3 creases or decreases to the standard pro-  
4 spective payment amount (or amounts) for  
5 fiscal years referenced in clause (i). Such  
6 a temporary increase or decrease shall  
7 apply only with respect to the fiscal year  
8 for which such temporary increase or de-  
9 crease is made, and the Secretary shall not  
10 take into account such a temporary in-  
11 crease or decrease in computing such  
12 amount under this subsection for a subse-  
13 quent fiscal year.

14 “(D) NONAPPLICATION OF BUDGET NEU-  
15 TRALITY.—The additional payments resulting  
16 from the application of this paragraph shall not  
17 be implemented in a budget neutral manner.”.

18 **SEC. 3. SAFEGUARDING SERVICES FOR LONG-TERM CARE**  
19 **HOSPITAL PATIENTS WITH CERTAIN COM-**  
20 **PLEX CONDITIONS.**

21 Section 1886(m)(6) of the Social Security Act (42  
22 U.S.C. 1395ww(m)(6)) is amended—

23 (1) in subparagraph (A)—

24 (A) in clause (i), by striking “and (G)”  
25 and inserting “(G), and (H)”;

1 (B) in clause (iii)(I), by inserting “or, with  
2 respect to discharges from a long-term care  
3 hospital occurring on or after October 1, 2023,  
4 by a discharge from a stay in a critical access  
5 hospital,” after “from a subsection (d) hos-  
6 pital”; and

7 (C) in clause (iv)(I), by inserting “for dis-  
8 charges from a long-term care hospital occur-  
9 ring before October 1, 2023,” before “the stay  
10 in the long-term care hospital”.

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

13 “(H) ADDITIONAL EXCEPTION FOR PA-  
14 TIENTS WITH CERTAIN COMPLEX CONDI-  
15 TIONS.—

16 “(i) IN GENERAL.—For a discharge in  
17 a cost reporting period beginning on or  
18 after October 1, 2023, subparagraph (A)(i)  
19 shall not apply (and payment shall be  
20 made to a long-term care hospital without  
21 regard to this paragraph) if such dis-  
22 charge—

23 “(I) meets either of the criteria  
24 described in clause (ii); and

1                   “(II) does not have a principal  
2                   diagnosis relating to a psychiatric di-  
3                   agnosis or to rehabilitation.

4                   “(ii) CRITERIA DESCRIBED.—For pur-  
5                   poses of clause (i), the criteria described in  
6                   this clause are, with respect to a discharge  
7                   of an individual from a long-term care hos-  
8                   pital, the following:

9                   “(I) The stay in the long-term  
10                  care hospital ending with such dis-  
11                  charge was immediately preceded by a  
12                  discharge from a stay in a subsection  
13                  (d) hospital or a critical access hos-  
14                  pital and—

15                  “(aa) such individual was  
16                  treated at the long-term care  
17                  hospital for a severe wound (as  
18                  defined in clause (iii));

19                  “(bb) such discharge from  
20                  such long-term care hospital is  
21                  assigned to Medicare-Severity-  
22                  Long-Term-Care-Diagnosis-Re-  
23                  lated-Group (MS-LTC-DRG)  
24                  189 relating to pulmonary edema



1 and respiratory failure (or any  
2 successor MS–LTC–DRG);

3 “(cc) such discharge from  
4 such long-term care hospital is  
5 assigned to MS–LTC–DRG 871  
6 relating to septicemia or severe  
7 sepsis without mechanical ven-  
8 tilation greater than 96 hours  
9 with major complications or  
10 comorbidities (or any successor  
11 MS–LTC–DRG); or

12 “(dd) such individual was  
13 treated at the long-term care  
14 hospital for COVID–19.

15 “(II) The discharge from such  
16 long-term care hospital is assigned to  
17 a MS–LTC–DRG with a relative  
18 weight that is equal to or greater than  
19 the specified amount (as defined in  
20 clause (iii)) for the fiscal year in  
21 which such discharge occurred.

22 “(iii) DEFINITIONS.—In this subpara-  
23 graph:

24 “(I) SEVERE WOUND.—The term  
25 ‘severe wound’ means a stage 3

1 wound, stage 4 wound, unstageable  
2 wound, non-healing surgical wound,  
3 infected wound, fistula, osteomyelitis,  
4 or a wound with morbid obesity, as  
5 identified by applicable codes on the  
6 claim from the long-term care hos-  
7 pital.

8 “(II) SPECIFIED AMOUNT.—The  
9 term ‘specified amount’ means, with  
10 respect to fiscal year, an amount  
11 equal to the 80th percentile of the rel-  
12 ative weights for MS–LTC–DRGs  
13 that were assigned to primary diag-  
14 noses for all discharges occurring in  
15 the preceding fiscal year.

16 “(III) WOUND.—The term  
17 ‘wound’ means as an injury involving  
18 division of tissue or rupture or the in-  
19 tegument or mucous membrane with  
20 exposure to the external environ-  
21 ment.”.

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