

118TH CONGRESS
2D SESSION

S. 4777

To amend title XVIII of the Social Security Act to require hospitals to fulfill certain obligations relating to discontinuation of services or closure.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2024

Ms. BALDWIN (for herself and Mr. MARKEY) 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 require hospitals to fulfill certain obligations relating to discontinuation of services or closure.

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 “Hospital Stability and
5 Health Services Act of 2024”.

6 **SEC. 2. MAINTENANCE OF HEALTH CARE ACCESS RELAT-**
7 **ING TO HOSPITAL DISCONTINUATION OF**
8 **SERVICES OR CLOSURE.**

9 Section 1866 of the Social Security Act (42 U.S.C.
10 1395cc) is amended—

1 (1) in subsection (a)(1)—

2 (A) in subparagraph (X), by striking
3 “and” at the end;

4 (B) in subparagraph (Y)(ii)(V), by striking
5 the period and inserting “, and”; and

6 (C) by inserting after subparagraph (Y)
7 the following new subparagraph:

8 “(Z) beginning 60 days after the date of the en-
9 actment of this subparagraph, in the case of a hos-
10 pital, to comply with the requirements of subsection
11 (l) (relating to discontinuation of services or clo-
12 sure).”; and

13 (2) by adding at the end the following new sub-
14 section:

15 “(l) REQUIREMENTS FOR HOSPITALS RELATING TO
16 DISCONTINUATION OF SERVICES OR CLOSURE.—

17 “(1) REQUIREMENTS.—

18 “(A) IN GENERAL.—For purposes of sub-
19 section (a)(1)(Z), except as provided in sub-
20 paragraph (B), the requirements described in
21 this subsection are that a hospital—

22 “(i) notify the Secretary, in accord-
23 ance with paragraph (2), not less than 90
24 days prior to the discontinuation of serv-
25 ices or full hospital closure;

1 “(ii) prohibit the discontinuation of
2 essential services (as defined in paragraph
3 (6)) during the notification period (as de-
4 fined in such paragraph) unless there is a
5 clear harm posed to patient or employee
6 health or safety in the hospital continuing
7 to furnish such services;

8 “(iii) respond to any inquiries by the
9 Secretary relating to the implementation of
10 this subsection, including the determina-
11 tion of essential services under paragraph
12 (6)(C); and

13 “(iv) if applicable—

14 “(I) submit a mitigation plan
15 and related information as described
16 in paragraph (3); and

17 “(II) participate in the public
18 comment and review process (includ-
19 ing, if applicable, the alternative miti-
20 gation plan) described in paragraph
21 (4).

22 “(B) APPLICATION IN CASE OF CATA-
23 STROPHIC EVENTS.—In the case where a dis-
24 continuation of services or closure of a hospital
25 is due to an unforeseen catastrophic event (as

1 defined by the Secretary), the requirements de-
2 scribed in subparagraph (A) shall apply, ex-
3 cept—

4 “(i) the hospital shall provide the no-
5 tification under clause (i) of such subpara-
6 graph not later than 30 days after the cat-
7 astrophic event or as soon as feasible as
8 determined by the Secretary; and

9 “(ii) clause (ii) of such subparagraph
10 (relating to prohibiting the discontinuation
11 of services) shall not apply.

12 “(2) NOTIFICATION INFORMATION.—For pur-
13 poses of paragraph (1)(A)(i), the notification under
14 such paragraph shall include the following informa-
15 tion with respect to a hospital:

16 “(A) DISCONTINUATION OF SERVICES.—In
17 the case where the hospital is discontinuing
18 services (without full hospital closure):

19 “(i) The services that will be discon-
20 tinued and number of hospital beds im-
21 pacted.

22 “(ii) The number of individuals fur-
23 nished such services annually and a break-
24 down of the type of insurance used by such
25 individuals for such services.

1 “(iii) The number of impacted em-
2 ployees and what labor organization rep-
3 resents them (and the contact information
4 for such organization).

5 “(iv) The names and addresses of any
6 organized health care coalitions and com-
7 munity groups that represent the commu-
8 nities impacted by the discontinuation of
9 such services.

10 “(v) Alternative providers of such
11 services, including provider type, contact
12 information, and distance and transpor-
13 tation time by car and public transit from
14 the hospital.

15 “(B) FULL HOSPITAL CLOSURE.—In the
16 case of full hospital closure:

17 “(i) Hospital ownership entities.

18 “(ii) The full extent of services that
19 will no longer be furnished by the hospital.

20 “(iii) The number of individuals fur-
21 nished services annually by the hospital, a
22 description of the services furnished, and a
23 breakdown of the type of insurance used
24 by such individuals for such services.

1 “(iv) The number of impacted employ-
2 ees and, if applicable, what labor organiza-
3 tions represent them (and the contact in-
4 formation for each such organization).

5 “(v) The names and addresses of any
6 organized health care coalitions and com-
7 munity groups that represent the commu-
8 nities impacted by the closure.

9 “(vi) Alternative providers, including
10 provider type, contact information, and
11 distance and transportation time by car
12 and public transit from the hospital.

13 “(vii) Steps taken prior to the deci-
14 sion to close in order to avoid closure.

15 “(viii) Distribution of liquidation pro-
16 ceeds (cash or assets) or any payments
17 (cash or assets) made to employees, own-
18 ers, or contractors related to the closure.

19 “(3) SUBMISSION OF MITIGATION PLAN AND
20 RELATED INFORMATION FOR ESSENTIAL SERV-
21 ICES.—

22 “(A) NOTIFICATION BY SECRETARY.—If
23 the Secretary determines that the discontinu-
24 ation of services or closure of an applicable hos-
25 pital would negatively impact access to essential

1 services, the Secretary shall notify the applica-
2 ble hospital of such determination.

3 “(B) SUBMISSION OF MITIGATION PLAN
4 AND RELATED INFORMATION.—If an applicable
5 hospital receives a notification under subpara-
6 graph (A), the applicable hospital shall, not
7 later than 15 days after receiving such notifica-
8 tion, submit to the Secretary, the State health
9 department, and the local department of public
10 health—

11 “(i) a plan to—

12 “(I) preserve access to essential
13 services for impacted communities
14 through partnerships, commitments
15 from surrounding facilities, transpor-
16 tation plan access, and preparation
17 for surge response; and

18 “(II) support employees in
19 transitioning to new positions within
20 health care;

21 “(ii) information on workforce and
22 public engagement to ensure awareness of
23 the discontinuation of services or closure;

24 “(iii) a description of potential alter-
25 natives to the discontinuation of services or

1 closure that the hospital considered and an
2 explanation of why those alternatives are
3 not a viable option; and

4 “(iv) a local market study to ascertain
5 regional bed supply, payor mix distribution
6 among all providers, demographic trends,
7 and remaining health systems in the area.

8 “(C) PUBLIC AVAILABILITY.—The Sec-
9 retary shall make a mitigation plan and related
10 information submitted by an applicable hospital
11 under this paragraph available to the public on
12 the internet website of the Centers for Medicare
13 & Medicaid Services.

14 “(4) PUBLIC COMMENT AND REVIEW PROCESS;
15 ALTERNATIVE MITIGATION PLAN.—

16 “(A) PUBLIC COMMENT PERIOD.—

17 “(i) IN GENERAL.—The Secretary
18 shall provide a public comment period of
19 not less than 45 days with the opportunity
20 to submit written comments regarding the
21 impact of the potential discontinuation of
22 services or closure of an applicable hos-
23 pital.

24 “(ii) NOTICE.—Notice of the oppor-
25 tunity to submit comments shall be pub-

1 lished in the Federal Register and distrib-
2 uted to—

3 “(I) providers of services and
4 suppliers that may be impacted by the
5 discontinuation of services or closure
6 of the applicable hospital;

7 “(II) any labor organization that
8 represents any subdivision of employ-
9 ees of the applicable hospital;

10 “(III) organized health care coa-
11 litions and community groups that
12 represent the communities impacted
13 by the discontinuation of services or
14 closure;

15 “(IV) the State health agency;
16 and

17 “(V) the local department of pub-
18 lic health.

19 “(iii) RECOMMENDATIONS OF STATE
20 HEALTH AGENCY AND LOCAL DEPART-
21 MENTS OF PUBLIC HEALTH.—In reviewing
22 a mitigation plan submitted by an applica-
23 ble hospital under paragraph (3), the Sec-
24 retary shall take into consideration any
25 recommendations submitted by the State

1 health agency and local departments of
2 public health, as applicable, regarding
3 whether such plan should be approved.

4 “(B) ALTERNATIVE MITIGATION PLAN.—

5 “(i) IN GENERAL.—If, after reviewing
6 the mitigation plan submitted by an appli-
7 cable hospital under paragraph (3) and the
8 comments submitted during the public
9 comment period under subparagraph (A)
10 with respect to the discontinuation of serv-
11 ices or closure of the applicable hospital,
12 the Secretary finds that the discontinu-
13 ation of services or closure of the applica-
14 ble hospital would have a significant im-
15 pact on access to essential services, the
16 Secretary shall work with the applicable
17 hospital or other providers of services and
18 suppliers in the area, as appropriate, to de-
19 velop and implement an alternative plan to
20 the plan submitted by the applicable hos-
21 pital under paragraph (3) (referred to in
22 this subsection as the ‘alternative mitiga-
23 tion plan’) in order to ensure continued ac-
24 cess to essential services, which may in-
25 clude an agreement to delay the dis-

1 continuation of services or closure of the
2 applicable hospital until the alternative
3 mitigation plan is complete.

4 “(ii) TECHNICAL ASSISTANCE.—An
5 alternative mitigation plan under clause (i)
6 may include technical assistance or infor-
7 mation on available funding mechanisms to
8 support the furnishing of essential services.

9 “(iii) COLLABORATION.—The Sec-
10 retary should, to the extent practicable,
11 collaborate with State and municipal gov-
12 ernment officials in the development of an
13 alternative mitigation plan under clause
14 (i).

15 “(iv) PUBLIC AVAILABILITY.—The
16 Secretary shall make any information sub-
17 mitted and the alternative mitigation plan
18 developed under this paragraph available
19 to the public on the internet website of the
20 Centers for Medicare & Medicaid Services.

21 “(C) IMPLEMENTATION.—The Secretary
22 shall promulgate regulations to detail the re-
23 quired response time by an applicable hospital
24 and the speed of the review process under this
25 paragraph in order to ensure that such process

1 can be completed with respect to an applicable
2 hospital prior to the proposed service dis-
3 continuation date or closure date of the applica-
4 ble hospital.

5 “(D) PROHIBITION.—In the case where
6 the Secretary finds that a hospital has violated
7 the requirements of this subsection, the Sec-
8 retary may prohibit the hospital and any hos-
9 pital under the same hospital ownership entity
10 from being eligible to enroll or reenroll under
11 the program under this title under section
12 1866(j) until the earlier of—

13 “(i) the date that is 3 years after the
14 date on which the hospital discontinues
15 services or closes;

16 “(ii) the date on which the Secretary
17 determines essential health services that
18 were negatively impacted by the dis-
19 continuation or closure have been restored;
20 or

21 “(iii) such time as the Secretary is
22 satisfied with the mitigation plan sub-
23 mitted by the hospital under paragraph (3)
24 or the alternative mitigation plan under
25 paragraph (4).

1 “(5) ANNUAL REPORTS.—The Secretary shall
2 submit an annual report to Congress on the dis-
3 continuation of services and full closure of hospitals.
4 Each report submitted under the preceding sentence
5 shall include—

6 “(A) a description of trends in the dis-
7 continuation of services and closures of hos-
8 pitals, including hospital ownership type, geo-
9 graphic location, types of services furnished, de-
10 mographic served, and insurance type;

11 “(B) an analysis of the impact of the dis-
12 continuation of services and closures on health
13 care access and ability to meet surge demand
14 due to emergency (such as a pandemic or cli-
15 mate disaster);

16 “(C) recommendations for such adminis-
17 trative or legislative changes as the Secretary
18 determines appropriate to preserve access to es-
19 sential services nationwide.

20 “(6) DEFINITIONS.—In this subsection:

21 “(A) APPLICABLE HOSPITAL.—The term
22 ‘applicable hospital’ means a hospital that sub-
23 mits a notification under paragraph (1)(A)(i) of
24 a discontinuation of services or full hospital clo-
25 sure.

1 “(B) DISCONTINUATION.—The term ‘dis-
2 continuation’ may include any reduction or dis-
3 continuation of services furnished by an appli-
4 cable hospital, including those that occur as
5 part of a merger or acquisition agreement.

6 “(C) ESSENTIAL SERVICES.—The term ‘es-
7 sential services’ means, with respect to an ap-
8 plicable hospital, services that are necessary for
9 preserving health care access (as determined by
10 the Secretary), including services for which the
11 Secretary determines—

12 “(i) there are no equivalent services
13 available within the same travel time;

14 “(ii) that loss of the services would re-
15 sult in meaningful reductions in surge ca-
16 pacity that will negatively impact access to
17 services;

18 “(iii) that loss of the services would
19 limit health care access for specific demo-
20 graphics of individuals based on sex, sexu-
21 ality, race, nationality, age, or disability
22 status;

23 “(iv) that loss of the services would
24 have a meaningful impact on the ability of

1 health systems to respond to impacts of
2 climate change; or

3 “(v) there is a health or health care-
4 related emergency declaration status appli-
5 cable to the surrounding geographical area
6 of the hospital on the date on which the
7 hospital submits notification under para-
8 graph (1)(A)(i) of a discontinuation of
9 services or full hospital closure.

10 “(D) NOTIFICATION PERIOD.—The term
11 ‘notification period’ means, with respect to an
12 applicable hospital, the period beginning on the
13 date on which the hospital submits notification
14 under paragraph (1)(A)(i) of a discontinuation
15 of services or full hospital closure and ending
16 on the date of such discontinuation of services
17 or closure.

18 “(7) NO PREEMPTION OF STATE LAW.—Noth-
19 ing in subsection (a)(1)(Z) or this subsection shall
20 be construed to limit any rights or remedies under
21 State or local law relating to protecting access to es-
22 sential services or reviewing proposed hospital clo-
23 sures or reduction of services.”.

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