

110TH CONGRESS
1ST SESSION

S. 543

To improve Medicare beneficiary access by extending the 60 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2007

Mr. NELSON of Nebraska (for himself, Mr. BUNNING, Ms. STABENOW, Ms. SNOWE, Mr. KERRY, Ms. COLLINS, Mr. REED, Mrs. CLINTON, and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To improve Medicare beneficiary access by extending the 60 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program.

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 “Preserving Patient Ac-
5 cess to Inpatient Rehabilitation Hospitals Act of 2007”.

1 **SEC. 2. EXTENSION OF THE 60 PERCENT COMPLIANCE**
2 **THRESHOLD USED TO DETERMINE WHETHER**
3 **A HOSPITAL OR UNIT OF A HOSPITAL IS AN**
4 **INPATIENT REHABILITATION FACILITY**
5 **UNDER THE MEDICARE PROGRAM.**

6 (a) IN GENERAL.—Section 5005 of the Deficit Re-
7 duction Act of 2005 (42 U.S.C. 1395ww note) is amend-
8 ed—

9 (1) in subsection (a), by striking “apply the ap-
10 plicable percent specified in subsection (b)” and in-
11 serting “require a compliance rate that is no greater
12 than the 60 percent compliance rate that became ef-
13 fective for cost reporting periods beginning on or
14 after July 1, 2005”; and

15 (2) by striking subsection (b) and inserting the
16 following new subsection:

17 “(b) CONTINUED USE OF COMORBIDITIES.—For cost
18 reporting periods beginning on or after July 1, 2007, the
19 Secretary shall include patients with comorbidity as de-
20 scribed in section 412.23(b)(2)(i) of title 42, Code of Fed-
21 eral Regulations, in the inpatient population that counts
22 towards the percent specified in subsection (a).”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a)(1) shall take effect on June 30, 2007.

1 **SEC. 3. MEDICAL NECESSITY CRITERIA FOR BENE-**
2 **FICIARIES SERVED IN REHABILITATION HOS-**
3 **PITALS AND UNITS.**

4 On and after June 30, 2007, the Secretary of Health
5 and Human Services, the Centers for Medicare & Medicaid
6 Services, fiscal intermediaries under section 1816 of the
7 Social Security Act (42 U.S.C. 1395h), medicare adminis-
8 trative contractors under section 1874A of such Act (42
9 U.S.C. 1395kk), recovery audit contractors under section
10 1893(h) of such Act (42 U.S.C. 1395ddd(h)) or section
11 306 of the Medicare Prescription Drug, Improvement, and
12 Modernization Act of 2003, and other government agents
13 shall use and apply the criteria established in HCFA Rul-
14 ing 85-2, as issued on July 31, 1985 (50 Fed. Reg.
15 31040), as the sole standard for determining the medical
16 necessity of services provided by inpatient rehabilitation
17 hospitals and units to beneficiaries under the Medicare
18 program under title XVIII of the Social Security Act.

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