

**H.R.2015**

**Balanced Budget Act of 1997 (Enrolled Bill - Sent to President)**

---

**Subtitle C--Rural Initiatives**

**SEC. 4201. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.**

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM- Section 1820 (42 U.S.C. 1395i-4) is amended to read as follows:

**^MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM**

^SEC. 1820. (a) ESTABLISHMENT- Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

^(b) APPLICATION- A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing--

^(1) assurances that the State--

^(A) has developed, or is in the process of developing, a State rural health care plan that--

^(i) provides for the creation of 1 or more rural health networks (as defined in subsection (d)) in the State;

^(ii) promotes regionalization of rural health services in the State; and

^(iii) improves access to hospital and other health services for rural residents of the State; and

^(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

^(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

^(3) such other information and assurances as the Secretary may require.

**^(c) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED-**

^(1) IN GENERAL- A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that--

^(A) the State shall develop at least 1 rural health network (as defined in subsection (d)) in the State; and

^(B) at least 1 facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

**^(2) STATE DESIGNATION OF FACILITIES-**

`(A) IN GENERAL- A State may designate 1 or more facilities as a critical access hospital in accordance with subparagraph (B).

`(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL- A State may designate a facility as a critical access hospital if the facility--

`(i) is a nonprofit or public hospital and is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that--

`(I) is located more than a 35-mile drive (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital, or another facility described in this subsection; or

`(II) is certified by the State as being a necessary provider of health care services to residents in the area;

`(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

`(iii) provides not more than 15 (or, in the case of a facility under an agreement described in subsection (f), 25) acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

`(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that--

`(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present;

`(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1); and

`(III) the inpatient care described in clause (iii) may be provided by a physician assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

`(v) meets the requirements of section 1861(aa)(2)(I).

`(d) DEFINITION OF RURAL HEALTH NETWORK-

`(1) IN GENERAL- In this section, the term `rural health network' means, with respect to a State, an organization consisting of--

`(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital; and

`(B) at least 1 hospital that furnishes acute care services.

`(2) AGREEMENTS-

`(A) IN GENERAL- Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

`(B) ITEMS DESCRIBED- The items described in this subparagraph are the following:

`(i) Patient referral and transfer.

`(ii) The development and use of communications systems including (where feasible)--

`(I) telemetry systems; and

`(II) systems for electronic sharing of patient data.

`(iii) The provision of emergency and non-emergency transportation among the facility and the hospital.

`(C) CREDENTIALING AND QUALITY ASSURANCE- Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least--

`(i) 1 hospital that is a member of the network;

`(ii) 1 peer review organization or equivalent entity; or

`(iii) 1 other appropriate and qualified entity identified in the State rural health care plan.

`(e) CERTIFICATION BY THE SECRETARY- The Secretary shall certify a facility as a critical access hospital if the facility--

`(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

`(2) is designated as a critical access hospital by the State in which it is located; and

`(3) meets such other criteria as the Secretary may require.

`(f) PERMITTING MAINTENANCE OF SWING BEDS- Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the provision of extended care services, so long as the total number of beds that may be used at any time for the furnishing of either such services or acute care inpatient services does not exceed 25 beds and the number of beds used at any time for acute care inpatient services does not exceed 15 beds. For purposes of the previous sentence, any bed of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital shall not be counted.

`(g) GRANTS-

`(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM- The Secretary may award grants to States that have submitted applications in accordance with subsection (b) for--

`(A) engaging in activities relating to planning and implementing a rural health care plan;

`(B) engaging in activities relating to planning and implementing rural health networks; and

`(C) designating facilities as critical access hospitals.

`(2) RURAL EMERGENCY MEDICAL SERVICES-

`(A) IN GENERAL- The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

`(B) APPLICATION- An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (b)(1) and paragraph (3) of that subsection.

`(h) GRANDFATHERING OF CERTAIN FACILITIES-

`(1) IN GENERAL- Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Balanced Budget Act of 1997 shall be deemed to have been certified by the Secretary under subsection (e) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (c).

`(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS- Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a `critical access hospital' shall be deemed to be a reference to a `medical assistance facility' or `rural primary care hospital'.

`(i) WAIVER OF CONFLICTING PART A PROVISIONS- The Secretary is authorized to waive such provisions of this part and part D as are necessary to conduct the program established under this section.

`(j) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (g), \$25,000,000 in each of the fiscal years 1998 through 2002.'

(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE- Not later than June 1, 1998, the Secretary of Health and Human Services shall submit to Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Secretary) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(c)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395i-4(c)(2)(B)(iii)), as added by subsection (a) of this section.

(c) CONFORMING AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS-

(1) IN GENERAL- Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) and title XVIII of that Act (42 U.S.C. 1395 et seq.) are each amended by striking 'rural primary care' each place it appears and inserting 'critical access'.

(2) DEFINITIONS- Section 1861(mm) of the Social Security Act (42 U.S.C. 1395x(mm)) is amended to read as follows:

**'CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES**

'(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).

'(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.

'(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.'

(3) PART A PAYMENT- Section 1814 of the Social Security Act (42 U.S.C. 1395f) is amended--

(A) in subsection (a)(8), by striking '72' and inserting '96'; and

(B) by amending subsection (l) to read as follows:

**'Payment for Inpatient Critical Access Hospital Services**

'(l) The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.'

(4) PAYMENT CONTINUED TO DESIGNATED EACHS- Section 1886(d)(5)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(D)) is amended--

(A) in clause (iii)(III), by inserting 'as in effect on September 30, 1997' before the period at the end; and

(B) in clause (v)--

(i) by inserting 'as in effect on September 30, 1997' after '1820(i)(1)'; and

(ii) by striking '1820(g)' and inserting '1820(d)'.

(5) PART B PAYMENT- Section 1834(g) of the Social Security Act (42 U.S.C. 1395m(g)) is amended to read as follows:

'(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES- The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.'

(6) TRANSITION FOR MAF-

(A) IN GENERAL- The Secretary of Health and Human Services shall provide for an appropriate transition for a facility that, as of the date of the enactment of this Act, operated as a limited service rural hospital under a demonstration described in section 4008(i)(1) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b-1 note) from such demonstration to the program established under subsection (a). At the conclusion of the transition period described in subparagraph (B), the Secretary shall end such demonstration.

(B) TRANSITION PERIOD DESCRIBED-

(i) INITIAL PERIOD- Subject to clause (ii), the transition period described in this subparagraph is the period beginning on the date of the enactment of this Act and ending on October 1, 1998.

(ii) EXTENSION- If the Secretary determines that the transition is not complete as of October 1, 1998, the Secretary shall provide for an appropriate extension of the transition period.

(d) EFFECTIVE DATE- The amendments made by this section shall apply to services furnished on or after October 1, 1997.

**SEC. 4202. PROHIBITING DENIAL OF REQUEST BY RURAL REFERRAL CENTERS FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.**

(a) IN GENERAL- Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended--

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

“(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which has ever been classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.”

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS-

(1) IN GENERAL- Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1991 shall be classified as such a rural referral center for fiscal year 1998 and each subsequent fiscal year.

(2) BUDGET NEUTRALITY- The provisions of section 1886(d)(8)(D) of the Social Security Act shall apply to reclassifications made pursuant to paragraph (1) in the same manner as such provisions apply to a reclassification under section 1886(d)(10) of such Act.

**SEC. 4203. HOSPITAL GEOGRAPHIC RECLASSIFICATION PERMITTED FOR PURPOSES OF DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS.**

(a) IN GENERAL- For the period described in subsection (c), the Medicare Geographic Classification Review Board shall consider the application under section 1886(d)(10)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(C)(i)) of a hospital described in 1886(d)(1)(B) of such Act (42 U.S.C. 1395ww(d)(1)(B)) to change the hospital's geographic classification for purposes of determining for a fiscal year eligibility for and amount of additional payment amounts under section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)).

(b) APPLICABLE GUIDELINES- The Medicare Geographic Classification Review Board shall apply the guidelines established for reclassification under subclause (I) of section 1886(d)(10)(C)(i) of such Act to reclassification by reason of subsection (a) until the Secretary of Health and Human Services promulgates separate guidelines for such reclassification.

(c) PERIOD DESCRIBED- The period described in this subsection is the period beginning on the date of the enactment of this Act and ending 30 months after such date.

**SEC. 4204. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.**

(a) SPECIAL TREATMENT EXTENDED-

(1) PAYMENT METHODOLOGY - Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended-

(A) in clause (i), by striking `October 1, 1994,' and inserting `October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,'; and

(B) in clause (ii)(II), by striking `October 1, 1994,' and inserting `October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,'.