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James P. McGovern

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

WWW.HOUSE.GOV/MCGOVERN/
THIRD DISTRICT MASSACHUSETTS

To: *Deborah Adler*

Date: *5/6/99*

Fax #: *456-5557*

Pages: *9* including this cover sheet.

From:

Karl Stern

COMMENTS:

*Deborah - Jennifer Badalger at HCFR and Clinic Jennings
should have this bill by now. Thanks for your help and
I'd appreciate any comments you have about this bill.*

Karl

F:\M6\MCGOVE\MCGOVE.05C [Revised Discussion Draft]

H.L.C.

DRAFT

MAY 5, 1999

106TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. McGOVERN introduced the following bill; which was referred to the
Committee on _____

A BILL

To direct the Secretary of Health and Human Services to make additional payments under the medicare program to certain home health agencies with high cost patients, to provide for an interest-free grace period for the repayment of overpayments made by the Secretary to home health agencies, 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 "Home Health Access
5 Preservation Act of 1999".

DRAFT

1 **SEC. 2. ADDITIONAL PAYMENTS TO AGENCIES FOR MOST**
2 **EXPENSIVE CASES.**

3 (a) **PAYMENTS FOR OUTLIERS.—**

4 (1) **IN GENERAL.**—Subject to paragraph (2),
5 from amounts appropriated pursuant to subsection
6 (c), the Secretary of Health and Human Services
7 shall pay an additional amount to home health agen-
8 cies furnishing qualified home health services during
9 a cost reporting period beginning on or after Octo-
10 ber 1, 1997, under the medicare program (under
11 title XVIII of the Social Security Act). At the elec-
12 tion of such a home health agency, payment under
13 this section shall be made on a quarterly basis.

14 (2) **LIMITATION OF PAYMENTS.**—No payment
15 shall be made under this section to a home health
16 agency that, as of the date of the enactment of this
17 Act, has ceased furnishing home health services for
18 which payment may be made under the medicare
19 program (under such title).

20 (b) **DESCRIPTION OF QUALIFIED SERVICES.**—For
21 purposes of additional payment amounts under this sec-
22 tion by the Secretary to home health agencies, qualified
23 home health services are home health services furnished
24 under the medicare program for the treatment of condi-
25 tions within a diagnosis described in subsection (c).

DRAFT

1 (c) DESCRIPTION OF DIAGNOSIS.—A diagnosis de-
2 scribed in this subsection is one of the following diagnoses
3 as classified in St. Anthony's ICD-9-CM Code Book for
4 Physician Payment:

5 (1) Diabetes Mellitus (ICD-9-CM code 250).

6 (2) Essential Hypertension (ICD-9-CM code
7 401).

8 (3) Other Forms of Chronic Ischemic Heart
9 Disease (ICD-9-CM code 414).

10 (4) Heart Failure (ICD-9-CM code 428).

11 (5) Acute, but Ill-Defined Cerebrovascular Dis-
12 ease (ICD-9-CM code 436).

13 (6) Pneumonia, Organism Unspecified (ICD-9-
14 CM code 486).

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16 Classified (ICD-9-CM code 496).

17 (8) Chronic Ulcer of Skin (ICD-9-CM code
18 707).

19 (9) Symptoms Involving Urinary System (ICD-
20 9-CM code 788).

21 (10) Fracture of Neck of Femur (ICD-9-CM
22 code 820).

23 (d) DETERMINATION OF AGENCY-SPECIFIC PAY-
24 MENT AMOUNT.—

DRAFT

1 (1) CERTIFICATION OF QUANTITY OF QUALI-
2 FIED HOME HEALTH SERVICES FURNISHED.—With
3 respect to a fiscal year, a home health agency may
4 certify to the Secretary the number of patients to
5 which the agency furnished qualified home health
6 services during the agency's cost reporting period
7 beginning in that fiscal year. Such certification shall
8 be submitted to the Secretary during the 30-day pe-
9 riod beginning on the date the agency submits to the
10 Secretary a cost report for the cost reporting period
11 beginning in such fiscal year.

12 (2) DETERMINATION OF AGGREGATE QUALI-
13 FIED HOME HEALTH SERVICES FURNISHED.—From
14 data contained in certifications submitted under
15 paragraph (1) with respect to cost reporting periods
16 beginning in a fiscal year, the Secretary determine
17 the aggregate amount of qualified home health serv-
18 ices furnished by agencies submitting such certifi-
19 cations. The Secretary shall make such determina-
20 tion by not later than 60 days after the deadline for
21 submission of cost reports for agencies with cost re-
22 porting periods beginning at the latest point in time
23 in the fiscal year.

24 (3) AGENCY SPECIFIC PERCENTAGE OF AGGRE-
25 GATE AMOUNT.—The Secretary shall determine with

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1 respect to a home health agency making the certifi-
2 cation under paragraph (1) the agency specific per-
3 centage of the aggregate amount determined under
4 paragraph (2) for the fiscal year.

5 (4) PAYMENT AMOUNT.—The Secretary shall
6 pay for a fiscal year to a home health agency mak-
7 ing the certification under paragraph (1) an amount
8 equal to the product of the percentage determined
9 under paragraph (3) and the amount appropriated
10 for such fiscal year under subsection (c).

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated, out of any money in the
13 Treasury not otherwise appropriated for making addi-
14 tional payments to home health agencies under this sec-
15 tion, \$250,000,000 in each of the fiscal years 2000
16 through 2002.

17 (f) TERMINATION.—The Secretary shall not make ad-
18 ditional payments under this section for cost reporting pe-
19 riods, or portions of cost reporting periods, beginning on
20 or after the date of the implementation of the prospective
21 payment system for home health services under section
22 1895 of the Social Security Act (42 U.S.C. 1395fff).

23 (g) LIMITATION ON JUDICIAL REVIEW.—There shall
24 be no administrative or judicial review under section 1869
25 of the Social Security Act (42 U.S.C. 1395ff), section

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1 1878 of such Act (42 U.S.C. 1395oo), or otherwise of any
2 action of the Secretary with respect to the determination
3 of an additional payment amount under this section.

4 **SEC. 3. OVERPAYMENTS.**

5 (a) 36-MONTH REPAYMENT PERIOD.—In the case of
6 an overpayment by the Secretary of Health and Human
7 Services to a home health agency for home health services
8 furnished during a cost reporting period beginning on or
9 after October 1, 1997, as a result of payment limitations
10 provided for under clause (v), (vi), or (viii) of section
11 1861(v)(1)(L) of the Social Security Act (42 U.S.C.
12 1395x(v)(1)(L)), the home health agency may elect to
13 repay the amount of such overpayment over a 36-month
14 period beginning on the date of notification of such over-
15 payment.

16 (b) INTEREST ON OVERPAYMENT AMOUNTS.—

17 (1) 36-MONTH GRACE PERIOD.—

18 (A) IN GENERAL.—In the case of an agen-
19 cy that makes an election under subsection (a),
20 no interest shall accrue on the outstanding bal-
21 ance of the amount of overpayment during such
22 36-month period.

23 (B) OVERDUE BALANCES.—In the case of
24 such an agency, interest shall accrue on any
25 outstanding balance of the amount of overpay-

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1 ment after termination of such 36-month pe-
2 riod. Interest shall accrue under this subpara-
3 graph at the rate of interest [charged by banks
4 for loans to their most favored commercial cus-
5 tomers, as published in the Wall Street Journal
6 on the Friday immediately following the date of
7 the enactment of this Act] [of ____ percent].

8 (2) OTHER AGENCIES.—In the case of an agen-
9 cy described in subsection (a) that does not make an
10 election under subsection (a), interest shall accrue
11 on the outstanding balance of the amount of over-
12 payment at the rate described in the second sentence
13 of paragraph (1)(B).

14 (c) TERMINATION.—No election under subsection (a)
15 may be made for cost reporting periods, or portions of cost
16 reporting periods beginning on or after the date of the
17 implementation of the prospective payment system for
18 home health services under section 1895 of the Social Se-
19 curity Act (42 U.S.C. 1395fff).

20 (d) EFFECTIVE DATE.—The provisions of subsection
21 (a) shall take effect as if included in the enactment of the
22 Balanced Budget Act of 1997.

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1 **SEC. 4. UPDATE ON IMPLEMENTATION OF PROSPECTIVE**
2 **PAYMENT SYSTEM FOR HOME HEALTH AGEN-**
3 **CIES.**

4 Not later than 90 days after the date of enactment
5 of this Act, and every 90 days thereafter until the prospec-
6 tive payment system for home health agencies (established
7 by section 1895 of the Social Security Act (42 U.S.C.
8 1395fff)) is implemented, the Secretary of Health and
9 Human Services shall meet with the staff of the appro-
10 priate committees of Congress to provide an informal up-
11 date regarding the progress of the Secretary in implement-
12 ing such payment system.

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To: Deborah Date: 5/19/99
Fax #: 456-5557 Pages: 9, including this cover sheet.
From: Kath

COMMENTS:

Thanks for looking at them. We will introduce this
with Reps Weygand, Coburn & Hillenry on Tuesday.

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[Discussion Draft]

H.L.C.

MAY 18, 1999

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Mr. MCGOVERN introduced the following bill; which was referred to the
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11 title XVIII of the Social Security Act). At the elec-
12 tion of such a home health agency, payment under
13 this section shall be made on a quarterly basis.

14 (2) **LIMITATION OF PAYMENTS.**—No payment
15 shall be made under this section to a home health
16 agency that, as of the date of the enactment of this
17 Act, has ceased furnishing home health services for
18 which payment may be made under the medicare
19 program (under such title).

20 (b) **DESCRIPTION OF QUALIFIED SERVICES.**—For
21 purposes of additional payment amounts under this sec-
22 tion by the Secretary to home health agencies, qualified
23 home health services are home health services furnished
24 under the medicare program for the treatment of condi-
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3 as classified in St. Anthony's ICD-9-CM Code Book for
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23 (d) DETERMINATION OF AGENCY-SPECIFIC PAY-
24 MENT AMOUNT.—

1 (1) CERTIFICATION OF QUANTITY OF QUALI-
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3 (A) IN GENERAL.—With respect to a fiscal
4 year, a home health agency may submit to the
5 Secretary a certification of the number of pa-
6 tients to whom the agency furnished qualified
7 home health services during the agency's cost
8 reporting period beginning in that fiscal year.

9 (B) DEADLINE FOR SUBMISSION.—

10 (i) IN GENERAL.—Such certification
11 shall be submitted to the Secretary during
12 the 30-day period beginning on the date
13 the agency submits to the Secretary a cost
14 report for the cost reporting period begin-
15 ning in such fiscal year.

16 (ii) TRANSITION RULE.—In the case
17 of an agency with a cost reporting period
18 beginning on or after October 1, 1997,
19 that ends before the date of the enactment
20 of this Act, with respect to such cost re-
21 porting period, the 30-day period under
22 clause (i) begins [on] / [____ days after]
23 the date of the enactment of this Act.

24 (2) DETERMINATION OF AGGREGATE QUALI-
25 FIED HOME HEALTH SERVICES FURNISHED.—From

1 data contained in certifications submitted under
2 paragraph (1) with respect to cost reporting periods
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5 services furnished by agencies submitting such cer-
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20 equal to the product of the percentage determined
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23 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
24 authorized to be appropriated from the Federal Hospital
25 Insurance Trust Fund (established under section 1817 of

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[Discussion Draft]

H.L.C.

6

1 the Social Security Act (42 U.S.C. 1395i)) for making ad-
2 ditional payments to home health agencies under this sec-
3 tion, \$250,000,000 in each of the fiscal years 2000
4 through 2002.

5 (f) **TERMINATION.**—The Secretary shall not make ad-
6 ditional payments under this section for cost reporting pe-
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8 or after the date of the implementation of the prospective
9 payment system for home health services under section
10 1895 of the Social Security Act (42 U.S.C. 1395fff).

11 (g) **LIMITATION ON JUDICIAL REVIEW.**—There shall
12 be no administrative or judicial review under section 1869
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18 (a) **36-MONTH REPAYMENT PERIOD.**—In the case of
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23 election under subsection (a), interest shall accrue
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H.L.C.

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1 repay the amount of such overpayment over a 36-month
2 period beginning on the date of notification of such over-
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4 (b) INTEREST ON OVERPAYMENT AMOUNTS.—

5 (1) 36-MONTH GRACE PERIOD.—

6 (A) IN GENERAL.—In the case of an agen-
7 cy that makes an election under subsection (a),
8 no interest shall accrue on the outstanding bal-
9 ance of the amount of overpayment during such
10 36-month period.

11 (B) OVERDUE BALANCES.—In the case of
12 such an agency, interest shall accrue on any
13 outstanding balance of the amount of overpay-
14 ment after termination of such 36-month pe-
15 riod. Interest shall accrue under this subpara-
16 graph at the rate of interest charged by banks
17 for loans to their most favored commercial cus-
18 tomers, as published in the Wall Street Journal
19 on the Friday immediately following the date of
20 the enactment of this Act.

21 (2) OTHER AGENCIES.—In the case of an agen-
22 cy described in subsection (a) that does not make an
23 election under subsection (a), interest shall accrue
24 on the outstanding balance of the amount of over-

1 payment at the rate described in the second sentence
2 of paragraph (1)(B).

3 (c) TERMINATION.—No election under subsection (a)
4 may be made for cost reporting periods, or portions of cost
5 reporting periods, beginning on or after the date of the
6 implementation of the prospective payment system for
7 home health services under section 1895 of the Social Se-
8 curity Act (42 U.S.C. 1395fff).

9 (d) EFFECTIVE DATE.—The provisions of subsection
10 (a) shall take effect as if included in the enactment of the
11 Balanced Budget Act of 1997.

12 **SEC. 4. UPDATE ON IMPLEMENTATION OF PROSPECTIVE**
13 **PAYMENT SYSTEM FOR HOME HEALTH AGEN-**
14 **CIES.**

15 Not later than 90 days after the date of enactment
16 of this Act, and every 90 days thereafter until the prospec-
17 tive payment system for home health agencies (established
18 by section 1895 of the Social Security Act (42 U.S.C.
19 1395fff)) is implemented, the Secretary of Health and
20 Human Services shall meet with the staff of the appro-
21 priate committees of Congress to provide an informal up-
22 date regarding the progress of the Secretary in implement-
23 ing such payment system.