

116TH CONGRESS
2D SESSION

S. 5077

To amend title XIX of the Social Security Act to adjust the limitations on Medicaid disproportionate share hospital payments.

IN THE SENATE OF THE UNITED STATES

DECEMBER 20, 2020

Mr. CORNYN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XIX of the Social Security Act to adjust the limitations on Medicaid disproportionate share hospital payments.

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 “Children’s Hospital
5 Protection Act”.

6 **SEC. 2. MEDICAID SHORTFALL AND THIRD-PARTY PAY-**
7 **MENTS.**

8 (a) IN GENERAL.—Subsection (g) of section 1923 of
9 the Social Security Act (42 U.S.C. 1396r–4) is amended
10 to read as follows:

1 “(g) LIMIT ON AMOUNT OF PAYMENT TO HOS-
2 PITAL.—

3 “(1) IN GENERAL.—

4 “(A) AMOUNT OF ADJUSTMENT SUBJECT
5 TO UNCOMPENSATED COSTS.—A payment ad-
6 justment during a fiscal year shall not be con-
7 sidered to be consistent with subsection (c) with
8 respect to a hospital (other than a hospital de-
9 scribed in paragraph (2)(B)) if the payment ad-
10 justment exceeds an amount equal to—

11 “(i) the costs incurred during the year
12 of furnishing hospital services by the hos-
13 pital to individuals described in subpara-
14 graph (B) minus—

15 “(ii) the sum of—

16 “(I) payments under this title
17 (other than under this section) for
18 such services; and

19 “(II) payments by uninsured pa-
20 tients for such services.

21 “(B) INDIVIDUALS DESCRIBED.—For pur-
22 poses of subparagraph (A), the individuals de-
23 scribed in this clause are the following:

24 “(i) Individuals who are eligible for
25 medical assistance under the State plan or

1 under a waiver of such plan and for whom
2 the State plan or waiver is the primary
3 payor for such services.

4 “(ii) Subject to subparagraph (C), in-
5 dividuals who have no health insurance (or
6 other source of third party coverage) for
7 services provided during the year, as deter-
8 mined by the Secretary.

9 “(C) EXCLUSION OF CERTAIN PAY-
10 MENTS.—For purposes of subparagraph (B)(ii),
11 payments made to a hospital for services pro-
12 vided to indigent patients made by a State or
13 a unit of local government within a State shall
14 not be considered to be a source of third party
15 coverage.

16 “(2) APPLICATION OF LIMITS FOR CERTAIN
17 HOSPITALS.—

18 “(A) IN GENERAL.—A payment adjust-
19 ment during a fiscal year shall not be consid-
20 ered to be consistent with subsection (c) with
21 respect to a hospital described in subparagraph
22 (B) if the payment adjustment exceeds the
23 higher of—

1 “(i) the amount determined for the
2 hospital and fiscal year under paragraph
3 (1)(A); and

4 “(ii) the amount determined for the
5 hospital under paragraph (1)(A) as in ef-
6 fect on January 1, 2020.

7 “(B) HOSPITALS DESCRIBED.—A hospital
8 is described in this subparagraph for a fiscal
9 year if, for the most recent cost reporting pe-
10 riod ending before such fiscal year, the hospital
11 is in at least the 98th percentile of all hospitals
12 with respect to the number of hospital days for
13 such period that were made up of patients who
14 (for such days) were entitled to benefits under
15 part A of title XVIII and were entitled to sup-
16 plemental security income benefits under title
17 XVI (excluding any State supplementary bene-
18 fits paid with respect to such patients).”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall take effect on October 1, 2021, and shall
21 apply to payment adjustments made under section 1923
22 of the Social Security Act (42 U.S.C. 1396r–4) during fis-
23 cal years beginning on or after such date.

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