

[DISCUSSION DRAFT]119TH CONGRESS
2D SESSION**H. R.** _____

To amend titles XVIII and XIX of the Social Security Act to make improvements relating to the designation of rural emergency hospitals.

IN THE HOUSE OF REPRESENTATIVES

Ms. TOKUDA introduced the following bill; which was referred to the Committee on _____

A BILL

To amend titles XVIII and XIX of the Social Security Act to make improvements relating to the designation of rural emergency hospitals.

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 “Rural Emergency Hos-
5 pital Designation Improvement Act”.

6 **SEC. 2. ELIGIBILITY CHANGES.**

7 (a) IN GENERAL.—Section 1861(kkk)(3) of the So-
8 cial Security Act (42 U.S.C. 1395x(kkk)(3)) is amended

1 in the matter preceding subparagraph (A), by striking “as
2 of” and inserting “at any point during the period begin-
3 ning on January 1, 2015, and ending on”.

4 (b) WAIVER OF CERTAIN REQUIREMENTS.—Section
5 1861(kkk)(3) of the Social Security (42 U.S.C.
6 1395x(kkk)(3), as amended by subsection (a), is amend-
7 ed—

8 (1) by redesignating subparagraphs (A) and
9 (B) as clauses (i) and (ii), respectively;

10 (2) by striking “DESCRIBED.—A facility” and
11 inserting “DESCRIBED.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), a facility”; and

14 (3) by adding at the end the following new sub-
15 paragraph:

16 “(B) WAIVER.—Not later than 1 year
17 after the date of enactment of this subpara-
18 graph, the Secretary shall promulgate regula-
19 tions to waive the requirements under subpara-
20 graph (A) with respect to facilities that operate
21 similarly to a rural emergency hospital in order
22 for such facilities to be eligible for conversion to
23 a rural emergency hospital under this sub-
24 section.”.

1 **SEC. 3. DISTINCT PART UNITS.**

2 Section 1861(kkk)(6) of the Social Security Act (42
3 U.S.C. 1395x(kkk)(6)) is amended—

4 (1) in subparagraph (A), by striking “and” at
5 the end;

6 (2) in subparagraph (B), by striking the period
7 at the end and inserting a semicolon; and

8 (3) by adding at the end the following new sub-
9 paragraphs:

10 “(C) maintain or include a unit of the fa-
11 cility that is a distinct part licensed as an inpa-
12 tient psychiatric unit for behavioral health pa-
13 tients and allows for inpatient care;

14 “(D) maintain or include a unit of the fa-
15 cility that is a distinct part licensed as an inpa-
16 tient rehabilitation facility and allows for inpa-
17 tient care; and

18 “(E) maintain or include a unit of the fa-
19 cility that is a distinct part licensed as an ob-
20 stetric wing, labor and delivery unit, or obstet-
21 ric emergency department.”.

22 **SEC. 4. ADD-ON PAYMENT FOR DIAGNOSTIC LABORATORY**
23 **TESTS.**

24 Section 1834(x)(1) of the Social Security Act (42
25 U.S.C. 1395m(x)(1)) is amended—

1 (1) by striking “HOSPITALS.—” and all that
2 follows through “In the case” and inserting “HOS-
3 PITALS.—

4 “(1) IN GENERAL.—

5 “(A) PAYMENT FOR RURAL EMERGENCY
6 HOSPITAL SERVICES.—In the case”; and

7 (2) by adding at the end the following new sub-
8 paragraph:

9 “(B) PAYMENT FOR DIAGNOSTIC LABORA-
10 TORY TESTS.—In the case of clinical diagnostic
11 laboratory tests and other diagnostic laboratory
12 tests that are not covered OPD services (as de-
13 fined in section 1833(t)(1)(B)) furnished by a
14 rural emergency hospital (as defined in section
15 1861(kkk)(2)) on or after **January 1, 2027**,
16 the amount of payment for such tests shall be
17 equal to the amount of payment that would oth-
18 erwise apply under the applicable fee schedule,
19 increased by 5 percent to reflect the higher
20 costs incurred by such hospitals, and shall in-
21 clude the application of any copayment amount
22 determined under this part as if such increase
23 had not occurred”.

1 **SEC. 5. SWING BEDS.**

2 Section 1861(kkk)(6) of the Social Security Act (42
3 U.S.C. 1395x(kkk)(6)), as amended by section 3, is
4 amended—

5 (1) in subparagraph (D), by striking “and” at
6 the end;

7 (2) in subparagraph (E), by striking the period
8 at the end and inserting “; and”; and

9 (3) by adding at the end the following new sub-
10 paragraph:

11 “(F) may enter into an agreement with the
12 Secretary under which its facilities may be used
13 for the furnishing of services of the type which,
14 if furnished by a skilled nursing facility would
15 constitute extended care services. Payment to a
16 rural emergency hospital for services furnished
17 under such an agreement shall be based upon
18 the reasonable cost of the services as deter-
19 mined under section 1883(a)(2)(B) (if such sec-
20 tion were applied by submitting ‘rural emer-
21 gency hospital’ for ‘hospital’ and ‘inpatient hos-
22 pital’ in clauses (ii) and (iii), respectively, of
23 such section).”.

1 **SEC. 6. NECESSARY PROVIDER STATUS FOR FACILITIES**
2 **THAT REVERT TO CRITICAL ACCESS HOS-**
3 **PITAL DESIGNATION.**

4 Not later than 1 year after the date of the enactment
5 of this Act, the Secretary of Health and Human Services
6 shall promulgate regulations to permit a rural emergency
7 hospital (as defined in section 1861(kkk)(2) of the Social
8 Security Act (42 U.S.C. 1395x(kkk)(2))) that reverts back
9 to its previous designation as a critical access hospital (as
10 defined in section 1861(mm)(1) of such Act (42 U.S.C.
11 1395x(m)(1))) to regain its status as a necessary provider
12 of health care services pursuant to section
13 1820(c)(2)(B)(i)(II) of such Act (42 U.S.C. 1395i–
14 4(c)(2)(B)(i)(II)), but only if the facility was designated
15 as a necessary provider of health care services pursuant
16 to such section prior to converting to a rural emergency
17 hospital.

18 **SEC. 7. NATIONAL HEALTH SERVICE CORPS SITE ELIGI-**
19 **BILITY.**

20 The Secretary of Health and Human Services, acting
21 through the Administrator of the Health Resources and
22 Services Administration, shall promulgate regulations to
23 deem a rural emergency hospital (as defined in section
24 1861(kkk)(2) of the Social Security Act (42 U.S.C.
25 1395x(kkk)(2))) to be a health professional shortage area

1 in accordance with section 332(a)(1)(C) of the Public
2 Health Service Act (42 U.S.C. 254e(a)(1)(C)).

3 **SEC. 8. SMALL RURAL HOSPITAL IMPROVEMENT PROGRAM**
4 **GRANTS.**

5 Section 1820(g) of the Social Security Act (42 U.S.C.
6 42 U.S.C. 1395i-4(g)) is amended—

- 7 (1) in paragraph (1)(D), by inserting “or rural
8 emergency hospitals (as defined in section
9 1861(kkk)(2))” after “critical access hospitals”; and
10 (2) in paragraph (3)(A), by inserting “or rural
11 emergency hospitals (as defined in section
12 1861(kkk)(2))” after “small rural hospitals”.

13 **SEC. 9. INCLUSION OF RURAL EMERGENCY HOSPITAL**
14 **SERVICES UNDER MEDICAID.**

15 (a) IN GENERAL.—Section 1905(a) of the Social Se-
16 curity Act (42 U.S.C. 1396d(a)) is amended—

- 17 (1) in paragraph (2)(A), by inserting “(includ-
18 ing rural emergency hospital services, as defined in
19 section 1861(kkk)(1), which are licensed or other-
20 wise approved by the State)” after “services”; and
21 (2) in paragraph (4)(A), by inserting “but in-
22 cluding services provided in a nursing facility that is
23 a distinct part unit of a rural emergency hospital, as
24 defined in section 1861(kkk)(2)” after “diseases”.

25 (b) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 the amendments made by this subsection shall apply
3 with respect to medical assistance provided on or
4 after the date of enactment of this Act.

5 (2) EXCEPTION FOR STATE LEGISLATION.—In
6 the case of a State plan under title XIX of the So-
7 cial Security Act (42 U.S.C. 1396 et seq.) that the
8 Secretary of Health and Human Services determines
9 requires State legislation in order for such plan to
10 meet any requirement imposed by the amendments
11 made by this section, such plan shall not be re-
12 garded as failing to comply with the requirements of
13 such title solely on the basis of its failure to meet
14 such an additional requirement before the first day
15 of the first calendar quarter beginning after the
16 close of the first regular session of the State legisla-
17 ture that begins after the date of the enactment of
18 this Act. For purposes of the previous sentence, in
19 the case of a State that has a 2-year legislative ses-
20 sion, each year of the session shall be considered to
21 be a separate regular session of the State legislature.