

[DISCUSSION DRAFT]

116TH CONGRESS
2^D SESSION

H. R. _____

To amend title XVIII of the Social Security Act to provide for forgiveness of certain accelerated and advance payments under parts A and B of the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend title XVIII of the Social Security Act to provide for forgiveness of certain accelerated and advance payments under parts A and B of 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 “_____ Act
5 of 2020”.

1 **SEC. 2. PROVIDING FOR FORGIVENESS OF CERTAIN ACCEL-**
2 **ERATED AND ADVANCE PAYMENTS UNDER**
3 **PARTS A AND B OF THE MEDICARE PRO-**
4 **GRAM.**

5 (a) FORGIVENESS OF PAYMENTS.—

6 (1) PART A.—Section 1815(f) of the Social Se-
7 curity Act (42 U.S.C. 1395g(f)) is amended—

8 (A) in paragraph (2), by adding at the end
9 the following new subparagraph:

10 “(D) In the case of an accelerated payment
11 made to a hospital under such program on or after
12 the date of the enactment of the CARES Act and
13 so made during the emergency period described in
14 section 1135(g)(1)(B), the Secretary shall waive the
15 requirement that such payment be repaid (or re-
16 couped) if the hospital meets the requirements de-
17 scribed in paragraph (5), except that such waiver
18 shall not apply with respect to any amounts from
19 such payment that were not used for COVID–19
20 losses or expenses of the hospital as of June 30,
21 2021, based on the attestation of the hospital. The
22 hospital shall repay any such amounts to the Sec-
23 retary not later than July 1, 2023. The interest rate
24 for any such amount not so repaid as of such date
25 shall be 2 percent if the hospital demonstrates hard-
26 ship.”;

1 (B) in paragraph (3), by inserting “and
2 paragraph (2)(D)” after “paragraph (2)(C”;
3 and

4 (C) by adding at the end the following new
5 paragraph:

6 “(5) For purposes of paragraph (2)(D), the require-
7 ments described in this paragraph are the following:

8 “(A) The hospital did not use any portion of a
9 payment described in such paragraph for compensa-
10 tion or benefits, including salary, bonuses, awards of
11 stock, or other financial benefits, for an officer or
12 employee described in section 4004(a)(2) of the
13 CARES Act (Public Law 116–136).

14 “(B) The hospital used at least 60 percent of
15 such payment for employee compensation (other
16 than an officer or employee described in subpara-
17 graph (A)) during the period beginning on January
18 1, 2020, and ending on June 30, 2021.

19 “(C) The hospital did not balance bill or sur-
20 prise bill any COVID–19 patient.”.

21 (2) PART B.—

22 (A) IN GENERAL.—In carrying out the
23 program described in section 421.214 of title
24 42, Code of Federal Regulations (or a successor
25 regulation), in the case of a payment made

1 under such program to an entity on or after the
2 date of the enactment of the CARES Act (Pub-
3 lic Law 116–136) and so made during the
4 emergency period described in section
5 1135(g)(1)(B) of the Social Security Act (42
6 U.S.C. 1320b–5(g)(1)(B)), the Secretary of
7 Health and Human shall waive the requirement
8 that such payment be repaid (or recouped) if
9 the entity meets the requirements described in
10 subparagraph (B), but only for amounts that,
11 as of June 30, 2021, are in excess of the
12 COVID–19 losses and expenses of the entity,
13 based on the attestation of the entity. The enti-
14 ty shall repay any such amounts to the Sec-
15 retary not later than July 1, 2023. The interest
16 rate for any such amount not so repaid as of
17 such date shall be 2 percent if the entity dem-
18 onstrates hardship.

19 (B) REQUIREMENTS.—For purposes of
20 subparagraph (A), the requirements described
21 in this subparagraph are the following:

22 (i) The entity did not use any portion
23 of a payment described in such subpara-
24 graph for compensation or benefits, includ-
25 ing salary, bonuses, awards of stock, or

1 other financial benefits, for an officer or
2 employee described in section 4004(a)(2)
3 of the CARES Act (Public Law 116–136).

4 (ii) The entity used at least 60 per-
5 cent of such payment for employee com-
6 pensation (other than an officer or em-
7 ployee described in clause (i)) during the
8 period beginning on January 1, 2020, and
9 ending on June 30, 2021.

10 (iii) The entity did not balance bill or
11 surprise bill any COVID–19 patient.

12 (b) ENSURING THE SOLVENCY OF MEDICARE TRUST
13 FUNDS.—

14 (1) FEDERAL HOSPITAL INSURANCE TRUST
15 FUND.—Section 1817 of the Social Security Act (42
16 U.S.C. 1395i) is amended by adding at the end the
17 following new subsection:

18 “(1) ACCELERATED PAYMENT PROGRAM TRANS-
19 FERS.—

20 “(1) IN GENERAL.—There shall be transferred
21 from the General Fund of the Treasury to the Trust
22 Fund, periodically (as determined by the Managing
23 Trustee), amounts such that the aggregate amount
24 so transferred under this paragraph equals the total

1 amount of specified payments (as defined in para-
2 graph (3)) made under this part.

3 “(2) SPECIFIED PAYMENT.—In this subsection,
4 the term ‘specified payment’ means a payment that
5 is made—

6 “(A) under section 1815(e)(3); and

7 “(B) during the emergency period de-
8 scribed in section 1135(g)(1)(B).”.

9 (2) FEDERAL SUPPLEMENTARY MEDICAL IN-
10 SURANCE TRUST FUND.—Section 1841 of the Social
11 Security Act (42 U.S.C. 1395t) is amended by add-
12 ing at the end the following new subsection:

13 “(j) ADVANCE PAYMENT PROGRAM TRANSFERS.—

14 “(1) IN GENERAL.—There shall be transferred
15 from the General Fund of the Treasury to the Trust
16 Fund, periodically (as determined by the Secretary/
17 the Managing Trustee), amounts such that the ag-
18 gregate amount so transferred under this paragraph
19 equals the total amount of specified payments (as
20 defined in paragraph (3)) made under this part.

21 “(2) SPECIFIED PAYMENT.—In this subsection,
22 the term ‘specified payment’ means a payment that
23 is made—

1 “(A) under the program described in sec-
2 tion 421.214 of title 42, Code of Federal Regu-
3 lations (or a successor regulation); and

4 “(B) during the emergency period de-
5 scribed in section 1135(g)(1)(B).”.

6 (c) INSURER REQUIREMENTS.—Subpart II of part A
7 of title XXVII of the Public Health Service Act (42 U.S.C.
8 300gg–11 et seq.) is amended by adding at the end the
9 following new section:

10 **“SEC. 2730. COVERAGE AND PAYMENT REQUIREMENTS FOR**
11 **ITEMS AND SERVICES FURNISHED TO COVID-**
12 **19 PATIENTS OUT-OF-NETWORK.**

13 “*In the case of an item or service furnished by a*
14 *health care provider to a COVID–19 patient who is an*
15 *enrollee in a group health plan or group or individual*
16 *health insurance coverage offered by a health insurance*
17 *issuer, if such provider does not have in effect a contrac-*
18 *tual relationship for furnishing such item or service under*
19 *such plan or coverage, the plan or issuer (as applicable)—*

20 “(1) shall pay to such provider the amount
21 which would have been payable to such provider had
22 such provider had in effect such a relationship for
23 furnishing such item or service; and

24 “(2) shall ensure that any applicable cost-shar-
25 ing requirement is the same requirement that would

1 have applied had such item or service been furnished
2 by a provider that had in effect such a relation-
3 ship.”.

4 (d) PUBLICATION.—The Secretary of Health and
5 Human Services shall publish on a public website the fol-
6 lowing:

7 (1) A specification of each hospital receiving
8 forgiveness of payment under section 1815(e)(3) of
9 the Social Security Act (42 U.S.C. 1395g(e)(3)) and
10 each entity receiving forgiveness of payment under
11 the program described in section 421.214 of title 42,
12 Code of Federal Regulations (or a successor regula-
13 tion).

14 (2) The amount of such forgiveness with re-
15 spect to each such hospital and entity.