

115TH CONGRESS
1ST SESSION

S. 967

To amend title XVIII of the Social Security Act to increase access to ambulance services under the Medicare program and to reform payments for such services under such program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2017

Ms. STABENOW (for herself, Mr. ROBERTS, Mr. LEAHY, Ms. COLLINS, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to increase access to ambulance services under the Medicare program and to reform payments for such services under such program, 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 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Ambulance Access, Fraud Prevention, and Re-
6 form Act of 2017”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title.

Sec. 2. Reform to the Medicare ambulance fee schedule.

Sec. 3. Prior authorization for ambulance transports of ESRD beneficiaries.

Sec. 4. Requiring providers of services and ambulance service providers to submit cost data and other information with respect to ambulance services.

Sec. 5. Treatment of ambulance service providers.

1 SEC. 2. REFORM TO THE MEDICARE AMBULANCE FEE
2 SCHEDULE.

3 (a) IN GENERAL.—Section 1834(l) of the Social Se-
 4 curity Act (42 U.S.C. 1395m(l)) is amended by adding
 5 the following new paragraphs:

6 “(17) INCREASE IN CONVERSION FACTOR FOR
 7 GROUND AMBULANCE SERVICES.—In the case of
 8 ground ambulance services furnished on or after
 9 January 1, 2018, for purposes of determining the
 10 fee schedule amount for such services under this
 11 subsection, the conversion factor otherwise applica-
 12 ble to such services shall be increased by—

13 “(A) with respect to ground ambulance
 14 services for which the transportation originates
 15 in a qualified rural area, as identified using the
 16 methodology described in paragraph
 17 (12)(B)(iii), 25.6 percent;

18 “(B) with respect to ground ambulance
 19 services not described in subparagraph (A) and
 20 for which the transportation originates in a
 21 rural area described under paragraph (9) or in

1 a rural census tract described in such para-
2 graph, 3 percent; and

3 “(C) with respect to ground ambulance
4 services not described in subparagraph (A) or
5 (B), 2 percent.

6 “(18) INCREASE IN MILEAGE RATE FOR
7 GROUND AMBULANCE SERVICES.—In the case of
8 ground ambulance services furnished on or after
9 January 1, 2018, for purposes of determining the
10 fee schedule amount for such services under this
11 subsection, the payment rate for mileage otherwise
12 applicable to such services shall be increased by—

13 “(A) with respect to ground ambulance
14 services for which the transportation originates
15 in a qualified rural area, as identified using the
16 methodology described in paragraph
17 (12)(B)(iii), 3 percent;

18 “(B) with respect to ground ambulance
19 services not described in subparagraph (A) and
20 for which the transportation originates in a
21 rural area described under paragraph (9) or in
22 a rural census tract described in such para-
23 graph, 3 percent; and

1 “(C) with respect to ground ambulance
2 services not described in subparagraph (A) or
3 (B), 2 percent.”.

4 (b) STUDY AND REPORT.—

5 (1) STUDY.—The Secretary of Health and
6 Human Services shall conduct a study on how the
7 conversion factor applicable to ground ambulance
8 services under the ambulance fee schedule under sec-
9 tion 1834(l) of the Social Security Act (42 U.S.C.
10 1395m(l)), as adjusted under paragraph (17) of
11 such section (as added by subsection (a)), should be
12 modified, if at all, to take into account the cost of
13 providing services in urban, rural, and super-rural
14 areas. In determining such costs, the Secretary shall
15 use the data collected through the data collection
16 system under paragraph (20) of such section, as
17 added by section 4.

18 (2) REPORT.—Not later than January 1, 2022,
19 the Secretary of Health and Human Services shall
20 submit to Congress a report on the study conducted
21 under paragraph (1), together with recommenda-
22 tions for such legislation and administrative action
23 as the Secretary determines appropriate.

1 **SEC. 3. PRIOR AUTHORIZATION FOR AMBULANCE TRANS-**
 2 **PORTS OF ESRD BENEFICIARIES.**

3 (a) IN GENERAL.—Section 1834(l) of the Social Se-
 4 curity Act (42 U.S.C. 1395m(l)), as amended by section
 5 2, is amended by adding at the end the following new
 6 paragraph:

7 “(19) PRIOR AUTHORIZATION OF COVERAGE
 8 FOR AMBULANCE TRANSPORTS OF ESRD BENE-
 9 FICIARIES.—

10 “(A) PROCESS.—

11 “(i) IN GENERAL.—For applicable
 12 ESRD ambulance services furnished on or
 13 after January 1, 2019, by a provider of
 14 services or an ambulance service provider,
 15 the Secretary shall establish and imple-
 16 ment a process under which the Secretary
 17 shall determine, in advance of furnishing
 18 such a service to an individual, whether
 19 payment for such service may not be made
 20 because such service is not covered or be-
 21 cause of the application of section
 22 1862(a)(1).

23 “(ii) DENIAL OF PAYMENT.—Subject
 24 to subparagraph (B)(ii)(II), no payment
 25 shall be made under this part for the serv-
 26 ice unless the Secretary determines pursu-

1 ant to such process that the service meets
 2 the applicable requirements for coverage.

3 “(B) ELEMENTS OF PROCESS.—The proc-
 4 ess described in subparagraph (A) shall include
 5 the following elements:

6 “(i) In order to obtain a prior author-
 7 ization, the provider of services or ambu-
 8 lance service provider shall submit—

9 “(I) a valid physician certifi-
 10 cation statement (PCS) for non-emer-
 11 gency ambulance transport; and

12 “(II) any other documentation
 13 determined appropriate by the Sec-
 14 retary.

15 “(ii)(I) The Secretary shall respond to
 16 a prior authorization request within 7 busi-
 17 ness days of receiving the request.

18 “(II) If the Secretary does not make
 19 a prior authorization determination within
 20 7 business days of the date of the Sec-
 21 retary’s receipt of medical documentation
 22 needed to make such determination, sub-
 23 paragraph (A)(ii) shall not apply.

24 “(iii) In making the determination
 25 under subparagraph (A) with respect to a

1 service and individual, the Secretary shall
2 evaluate the medical necessity of the serv-
3 ice by determining—

4 “(I) whether the individual is un-
5 able to get up from bed without as-
6 sistance, unable to ambulate, and un-
7 able to sit in a chair or wheelchair;

8 “(II) whether the individual has
9 a medical condition that, regardless of
10 bed confinement, is such that trans-
11 port by ambulance is medically nec-
12 essary; or

13 “(III) whether the individual
14 meets other criteria as determined ap-
15 propriate by the Secretary.

16 “(iv) If the prior authorization re-
17 quest is approved, such request shall be
18 retroactive to the date on which such re-
19 quest was received.

20 “(v) An approved prior authorization
21 shall be valid for a 60-day period. The Sec-
22 retary may provide for an extension of
23 such period if the Secretary determines
24 such an extension is appropriate.

1 “(vi) An approved prior authorization
 2 shall be deemed to constitute medical ne-
 3 cessity but shall not eliminate the docu-
 4 mentation requirements necessary to sup-
 5 port a claim for the transport.

6 “(vii) Other elements determined ap-
 7 propriate by the Secretary.

8 “(C) RELIANCE UPON CONTRACTORS.—
 9 The Secretary may rely upon contractors to im-
 10 plement the requirements of this paragraph.
 11 The contractor’s compensation shall be limited
 12 to a demonstration that it has reduced the
 13 number of non-emergency basic life support
 14 services involving individuals with end-stage
 15 renal disease for renal dialysis services (as de-
 16 scribed in section 1881(b)(14)(B)) furnished
 17 other than on an emergency basis.

18 “(D) APPLICABLE ESRD AMBULANCE
 19 SERVICES.—In this paragraph, the term ‘appli-
 20 cable ESRD ambulance services’ means ambu-
 21 lance services consisting of non-emergency basic
 22 life support services involving transport of an
 23 individual with end-stage renal disease for renal
 24 dialysis services (as described in section

1 1881(b)(14)(B)) furnished other than on an
 2 emergency basis.

3 “(E) AMBULANCE SERVICE PROVIDER.—In
 4 this paragraph, the term ‘ambulance service
 5 provider’ means an entity that furnishes ambu-
 6 lance services (as described in section
 7 1861(s)(7)) and is not a provider of services (as
 8 defined section 1861(u)).

9 “(F) IMPLEMENTATION.—

10 “(i) IN GENERAL.—Subject to clause
 11 (ii), the Secretary may carry out this para-
 12 graph through program instruction or oth-
 13 erwise.

14 “(ii) SUFFICIENT NOTICE TO PRE-
 15 PARE.—Not later than June 30, 2018, the
 16 Secretary shall make the aspects of the
 17 process under this paragraph available to
 18 the public.”.

19 (b) REFERENCES TO AMBULANCE SERVICE PRO-
 20 VIDERS.—Section 1834(l) of the Social Security Act (42
 21 U.S.C. 1395m(l)) is amended—

22 (1) in paragraph (1), by striking “a supplier or
 23 provider” and inserting “an ambulance service pro-
 24 vider (as defined in paragraph (19)(E)) or under ar-

1 rangement with an ambulance service provider or by
2 a provider”;

3 (2) in paragraph (8), in the matter following
4 subparagraph (B), by striking “supplier of ambu-
5 lance services” and inserting “ambulance service
6 provider (as defined in paragraph (19)(E))”;

7 (3) in paragraph (9), in the heading, by insert-
8 ing “PROVIDERS OF SERVICES AND AMBULANCE
9 SERVICE” after “RURAL”;

10 (4) in paragraph (12), in the heading, by in-
11 serting “PROVIDERS OF SERVICES AND AMBULANCE
12 SERVICE” after “RURAL”; and

13 (5) in each of subparagraphs (B)(ii) and (D)(ii)
14 of paragraph (14), by striking “entity” and inserting
15 “provider of services or ambulance service provider
16 (as defined in paragraph (19)(E))”.

17 **SEC. 4. REQUIRING PROVIDERS OF SERVICES AND AMBU-**
18 **LANCE SERVICE PROVIDERS TO SUBMIT**
19 **COST DATA AND OTHER INFORMATION WITH**
20 **RESPECT TO AMBULANCE SERVICES.**

21 Section 1834(l) of the Social Security Act (42 U.S.C.
22 1395m(l)), as amended by section 3, is amended by adding
23 at the end the following new paragraph:

24 “(20) SUBMISSION OF COST DATA AND OTHER
25 INFORMATION.—

1 “(A) DEVELOPMENT OF DATA COLLECTION
2 SYSTEM.—

3 “(i) IN GENERAL.—The Secretary
4 shall develop a data collection system for
5 the submission by providers of services and
6 ambulance service providers (as defined in
7 paragraph (19)(E)) of data on cost, rev-
8 enue, and utilization with respect to ambu-
9 lance services, and other information deter-
10 mined appropriate by the Secretary. Such
11 system shall enable providers of services
12 and ambulance service providers to submit
13 to the Secretary information—

14 “(I) needed to evaluate the ap-
15 propriateness of payment rates under
16 this subsection;

17 “(II) on the utilization of capital
18 equipment and ambulance capacity;
19 and

20 “(III) on different types of am-
21 bulance services furnished in different
22 geographic locations, including rural
23 areas and low population density
24 areas described in paragraph (12).

1 “(ii) COLLECTION OF COST DATA IN-
 2 FORMATION.—For purposes of collecting
 3 the cost data information described in sub-
 4 paragraph (B)(iv), the Secretary shall use
 5 the sampling methodology described in
 6 subparagraph (B)(ii).

7 “(B) SPECIFICATION OF DATA COLLEC-
 8 TION SYSTEM.—

9 “(i) IN GENERAL.—Not later than 90
 10 days after the date of enactment of this
 11 paragraph, the Secretary shall specify the
 12 data collection system developed under
 13 subparagraph (A), which shall consist of
 14 the basic data collection described in clause
 15 (iii) and the cost data information de-
 16 scribed in clause (iv), and the time period
 17 for which the reporting of such data is re-
 18 quired under this paragraph.

19 “(ii) SELECTION OF PROVIDERS OF
 20 SERVICES AND AMBULANCE SERVICE PRO-
 21 VIDERS REQUIRED TO SUBMIT COST DATA
 22 INFORMATION.—

23 “(I) IN GENERAL.—Subject to
 24 subparagraph (D)(ii), the Secretary
 25 shall determine a statistically appro-

1 priate sample of providers of services
2 and ambulance service providers based
3 upon the organizational designation of
4 the provider of services or ambulance
5 service provider as described in clause
6 (iii)(I) to submit cost data informa-
7 tion under clause (iv) for each period
8 for which the reporting of such data is
9 required, as specified under clause (i).

10 “(II) IMPLEMENTATION.—In de-
11 termining an appropriate sample of
12 providers of services and ambulance
13 service providers under subclause (I),
14 the Secretary shall promulgate an in-
15 terim final rule and shall accept and
16 consider public comments on the in-
17 terim final rule for 30 days after the
18 date of publication of such interim
19 final rule.

20 “(III) NOTIFICATION OF PRO-
21 VIDERS OF SERVICES AND AMBU-
22 LANCE SERVICE PROVIDERS SE-
23 LECTED.—Not later than 180 days
24 after the date on which the Secretary
25 has completed the basic data collec-

1 tion under clause (iii), the Secretary
2 shall provide notice to those providers
3 of services and ambulance service pro-
4 viders selected under this clause to
5 submit cost data information under
6 clause (iv).

7 “(iii) BASIC DATA COLLECTION.—The
8 Secretary shall require providers of serv-
9 ices and ambulance service providers to
10 submit information under the data collec-
11 tion system under this paragraph, such as
12 the following with respect to the provider
13 of services or ambulance service provider,
14 not later than the date that is 120 days
15 after the date on which the Secretary
16 specifies such data collection system under
17 clause (i), and not less often than once
18 every 5 years thereafter:

19 “(I) The organizational designa-
20 tion of the provider of services or am-
21 bulance service provider as a govern-
22 ment ambulance authority, inde-
23 pendent ambulance company, public
24 safety or fire department-based orga-

1 nization, hospital-based organization,
2 or other type of organization.

3 “(II) The percentage of volunteer
4 emergency medical technician labor
5 the provider of services or ambulance
6 service provider relies on.

7 “(III) The volume of ambulance
8 services furnished per year.

9 “(IV) The percentage of emer-
10 gency and non-emergency services fur-
11 nished under this title per year.

12 “(V) The average duration of
13 transports.

14 “(VI) Whether the provider of
15 services or ambulance service provider
16 has a sole source contract and the
17 percentage of the activity provided
18 under that contract.

19 “(VII) Whether the provider of
20 services or ambulance service provider
21 is required to pay fees to the local ju-
22 risdiction to subsidize emergency and
23 other services as a requirement of
24 doing business.

1 “(VIII) The percentage of trans-
2 ports that are urban, rural, or in a
3 low-population density area described
4 in paragraph (12), as determined by
5 the Secretary.

6 “(IX) Other data elements that
7 the Secretary, in consultation with
8 stakeholders, determines appropriate.

9 “(iv) COST DATA INFORMATION.—The
10 Secretary shall require those providers of
11 services and ambulance service providers
12 selected under clause (ii) to submit under
13 the data collection system under this para-
14 graph for each period for which the report-
15 ing of such data is required, as specified
16 under clause (i), data on cost, revenue, and
17 utilization, such as—

18 “(I) data on total revenue, in-
19 cluding revenues under this title, sub-
20 scription programs, Medicaid, other
21 health care plans and self-pay, public
22 funding, fundraising and donations,
23 uncompensated care, and write-offs;
24 and

1 “(II) data on total cost including
 2 labor costs (paid and volunteer), oper-
 3 ating costs, administrative costs, vehi-
 4 cle and fleet costs, communications
 5 costs, equipment and supplies (includ-
 6 ing drugs), maintenance, building and
 7 facility costs, administrative costs,
 8 local jurisdiction costs, the cost of
 9 readiness, and central office adminis-
 10 tration costs.

11 “(C) PENALTY FOR FAILURE TO REPORT
 12 COST DATA INFORMATION.—

13 “(i) IN GENERAL.—Beginning on Jan-
 14 uary 1, 2021, subject to clause (ii), a 5-
 15 percent reduction to payments under this
 16 part shall be made for a 1-year prospective
 17 period specified by the Secretary to a pro-
 18 vider of services or ambulance service pro-
 19 vider who—

20 “(I) is identified under subpara-
 21 graph (B)(ii) or (D)(ii) as being re-
 22 quired to submit information under
 23 subparagraph (B)(iv) or (D)(ii), re-
 24 spectively; and

1 “(II) does not submit such infor-
2 mation in a timely manner for the pe-
3 riod specified under subparagraph
4 (B)(i) or (D)(ii), respectively.

5 “(ii) EXCEPTION.—The Secretary
6 may suspend the payment reduction under
7 clause (i) with respect to a period in the
8 event of a natural disaster, bankruptcy, or
9 other similar situation that the Secretary
10 determines interfered with ability of the
11 provider of services or ambulance service
12 provider to submit such information in a
13 timely manner for the specified period.

14 “(D) ONGOING COST DATA COLLECTION.—

15 “(i) REVISION OF DATA COLLECTION
16 SYSTEM.—The Secretary may, as appro-
17 priate, periodically revise the data collec-
18 tion system under this paragraph.

19 “(ii) SUBSEQUENT COST DATA COL-
20 LECTION.—

21 “(I) IN GENERAL.—In order to
22 continue to evaluate the appropriate-
23 ness of payment rates under this sub-
24 section, the Secretary shall, for years
25 after 2020 (but not more frequently

1 than once every 3 years), require pro-
2 viders of services and ambulance serv-
3 ice providers to submit information
4 described in subparagraph (B)(iv) for
5 a period the Secretary determines ap-
6 propriate. The penalty described in
7 subparagraph (C) shall apply to each
8 such subsequent data collection period
9 in accordance with such subpara-
10 graph.

11 “(II) SAMPLE.—For each period
12 described in subclause (I), the Sec-
13 retary shall determine a statistically
14 appropriate sample of providers of
15 services and ambulance services pro-
16 viders to submit information under
17 the data collection system for the pe-
18 riod. In determining which providers
19 of services and ambulance service pro-
20 viders would be required to submit in-
21 formation for such period, the Sec-
22 retary may not require a provider of
23 services or ambulance service provider
24 who has already submitted informa-
25 tion for a previous period to submit

1 information for a subsequent period
2 unless all of the providers of services
3 and ambulance service providers that
4 the Secretary determines are of the
5 same type as such provider of services
6 or ambulance service provider have ei-
7 ther submitted information or been
8 penalized under subparagraph (C) for
9 failing to do so in a timely manner.

10 “(E) CONSULTATION.—The Secretary shall
11 consult with stakeholders in carrying out the
12 development of the data collection system and
13 the collection of information under this para-
14 graph, including the activities described in sub-
15 paragraphs (A) and (D). Such consultation
16 shall include the use of requests for information
17 and other mechanisms determined appropriate
18 by the Secretary.

19 “(F) ADMINISTRATION.—Chapter 35 of
20 title 44, United States Code, shall not apply to
21 the collection of information required under this
22 paragraph.

23 “(G) LIMITATIONS ON REVIEW.—There
24 shall be no administrative or judicial review
25 under section 1869, section 1878, or otherwise

of the data collection system under this paragraph, the determination of providers of services and ambulance service providers required to submit information under the data collection system, or the application of the penalty for failure to report information under subparagraph (C).

“(H) FUNDING FOR IMPLEMENTATION.—
For purposes of carrying out subparagraph (A), the Secretary shall provide for the transfer, from the Federal Supplementary Medical Insurance Trust Fund under section 1841, of \$1,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for fiscal year 2016. Amounts transferred under this subparagraph shall remain available until expended.”.

SEC. 5. TREATMENT OF AMBULANCE SERVICE PROVIDERS.

(a) IN GENERAL.—Section 1834 of the Social Security Act (42 U.S.C. 1395m(l)), as amended by section 4, is amended by adding at the end the following new paragraph:

“(21) TREATMENT OF AMBULANCE SERVICE PROVIDERS AS PROVIDERS OF SERVICES FOR CERTAIN PURPOSES.—

1 “(A) PROVIDER REIMBURSEMENT REVIEW
 2 BOARD.—For purposes of section 1878, an am-
 3 bulance service provider (as defined in para-
 4 graph (19)(E)) shall be treated as a provider of
 5 services.

6 “(B) ESTABLISHMENT OF CONDITIONS OF
 7 PARTICIPATION.—An ambulance service pro-
 8 vider—

9 “(i) for purposes of section
 10 1865(a)(1), shall be treated as a provider
 11 entity; and

12 “(ii) shall be required to meet such
 13 requirements for participation under this
 14 title as the Secretary shall establish by
 15 regulation.

16 “(C) USE OF BILLING CODES.—An ambu-
 17 lance service provider may, for purposes of this
 18 title, use billing codes established for providers
 19 of services, if such use is consistent with appli-
 20 cable Federal, State, or local scope of practice
 21 requirements.”.

22 (b) EFFECTIVE DATE.—The amendment made this
 23 section shall take effect on January 1, 2018, and shall

- 1 apply to an ambulance service provider on or after such
- 2 date.

