

116TH CONGRESS  
2D SESSION

# H. R. 6857

To amend title XVIII of the Social Security Act to establish a COVID-19 skilled nursing facility payment incentive program.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2020

Mr. SUOZZI introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to establish a COVID-19 skilled nursing facility payment incentive 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 “COVID-19-Only  
5 Homes Organized for Resident Treatment Act of 2020”  
6 or the “COHORT Act of 2020”.

1 **SEC. 2. COVID-19 SKILLED NURSING FACILITY PAYMENT IN-**  
2 **CENTIVE PROGRAM.**

3 (a) IN GENERAL.—Section 1819 of the Social Secu-  
4 rity Act (42 U.S.C. 1395i–3) is amended by adding at the  
5 end the following new subsection:

6 “(k) COVID-19 DESIGNATION PROGRAM.—

7 “(1) IN GENERAL.—Not later than 2 weeks  
8 after the date of the enactment of this subsection,  
9 the Secretary shall establish a program under which  
10 a skilled nursing facility that makes an election de-  
11 scribed in paragraph (2)(A) and meets the require-  
12 ments described in paragraph (2)(B) is designated  
13 (or a portion of such facility is so designated) as a  
14 COVID-19 treatment center and receives incentive  
15 payments under section 1888(e)(13).

16 “(2) DESIGNATION.—

17 “(A) IN GENERAL.—A skilled nursing fa-  
18 cility may elect to be designated (or to have a  
19 portion of such facility designated) as a  
20 COVID-19 treatment center under the program  
21 established under paragraph (1) if the facility  
22 submits to the Secretary, at a time and in a  
23 manner specified by the Secretary, an applica-  
24 tion for such designation that contains such in-  
25 formation as required by the Secretary and

demonstrates that such facility meets the requirements described in subparagraph (B).

“(B) REQUIREMENTS.—The requirements described in this subparagraph with respect to a skilled nursing facility are the following:

“(i) The facility has a star rating with respect to staffing of 4 or 5 on the Nursing Home Compare website (as described in subsection (i)) and has maintained such a rating on such website during the 2-year period ending on the date of the submission of the application described in subparagraph (A).

“(ii) The facility has a star rating of 4 or 5 with respect to health inspections on such website and has maintained such a rating on such website during such period.

“(iii) During such period, the Secretary or a State has not found a deficiency with such facility relating to infection control that the Secretary or State determined immediately jeopardized the health or safety of the residents of such facility (as described in paragraph (1) or (2)(A) of subsection (h), as applicable).

1           “(iv) The facility provides care at  
2           such facility (or, in the case of an election  
3           made with respect to a portion of such fa-  
4           cility, to provide care in such portion of  
5           such facility) only to eligible individuals.

6           “(v) The facility arranges for and  
7           transfers all residents of such facility (or  
8           such portion of such facility, as applicable)  
9           who are not eligible individuals to other  
10          skilled nursing facilities (or other portions  
11          of such facility, as applicable).

12          “(vi) The facility complies with the  
13          notice requirement described in paragraph  
14          (4).

15          “(vii) The facility meets the reporting  
16          requirement described in paragraph (5).

17          “(viii) Any other requirement deter-  
18          mined appropriate by the Secretary.

19          “(3) DURATION OF DESIGNATION.—

20                 “(A) IN GENERAL.—A designation of a  
21                 skilled nursing facility (or portion of such facil-  
22                 ity) as a COVID-19 treatment center shall  
23                 begin on a date specified by the Secretary and  
24                 end upon the earliest of the following:

1 “(i) The revocation of such designa-  
2 tion under subparagraph (B).

3 “(ii) The submission of a notification  
4 by such facility to the Secretary that such  
5 facility elects to terminate such designa-  
6 tion.

7 “(iii) The termination of the program  
8 (as specified in paragraph (6)).

9 “(B) REVOCATION.—The Secretary may  
10 revoke the designation of a skilled nursing facil-  
11 ity (or portion of such facility) as a COVID-19  
12 treatment center if the Secretary determines  
13 that the facility is no longer in compliance with  
14 a requirement described in paragraph (2)(B).

15 “(4) RESIDENT NOTICE REQUIREMENT.—For  
16 purposes of paragraph (2)(B)(vi), the notice require-  
17 ment described in this paragraph is that, not later  
18 than 72 hours before the date specified by the Sec-  
19 retary under paragraph (3)(A) with respect to the  
20 designation of a skilled nursing facility (or portion  
21 of such facility) as a COVID-19 treatment center,  
22 the facility provides a notification to each resident of  
23 such facility (and to appropriate representatives or  
24 family members of each such resident, as specified  
25 by the Secretary) that contains the following:

1           “(A) Notice of such designation.

2           “(B) In the case such resident is not an el-  
3           igible individual (and, in the case such designa-  
4           tion is made only with respect to a portion of  
5           such facility, resides in such portion of such fa-  
6           cility)—

7                   “(i) a specification of when and where  
8                   such resident will be transferred (or moved  
9                   within such facility);

10                   “(ii) an explanation that, in lieu of  
11                   such transfer or move, such resident may  
12                   arrange for transfer to such other setting  
13                   (including a home) selected by the resi-  
14                   dent; and

15                   “(iii) if such resident so arranges to  
16                   be transferred to a home, information on  
17                   Internet resources for caregivers who elect  
18                   to care for such resident at home.

19           “(C) Contact information for the State  
20           long-term care ombudsman (established under  
21           section 307(a)(12) of the Older Americans Act  
22           of 1965) for the applicable State.

23           “(5) REPORTING REQUIREMENT.—

24                   “(A) IN GENERAL.—For purposes of para-  
25                   graph (2)(B)(vii), the reporting requirement de-

scribed in this paragraph is, with respect to a skilled nursing facility, that the facility reports to the Secretary, weekly and in such manner specified by the Secretary, the following (but only to the extent the information described in clauses (i) through (vii) is not otherwise reported to the Secretary weekly):

“(i) The number of COVID-19 related deaths at such facility.

“(ii) The number of discharges from such facility.

“(iii) The number of admissions to such facility.

“(iv) The number of beds occupied and the number of beds available at such facility.

“(v) The number of residents on a ventilator at such facility.

“(vi) The number of clinical and non-clinical staff providing direct patient care at such facility.

“(vii) Such other information determined appropriate by the Secretary.

“(B) NONAPPLICATION OF PAPERWORK REDUCTION ACT.—Chapter 35 of title 44,

1 United States Code (commonly known as the  
2 ‘Paperwork Reduction Act’), shall not apply to  
3 the collection of information under this para-  
4 graph.

5 “(6) DEFINITION.—For purposes of this sub-  
6 section, the term ‘eligible individual’ means an indi-  
7 vidual who, during the 30-day period ending on the  
8 first day on which such individual is a resident of a  
9 COVID-19 treatment center (on or after the date  
10 such center is so designated), was furnished a test  
11 for COVID-19 that came back positive.

12 “(7) TERMINATION.—The program established  
13 under paragraph (1) shall terminate upon the termi-  
14 nation of the emergency period described in section  
15 1135(g)(1)(B).

16 “(8) PROHIBITION ON ADMINISTRATIVE AND  
17 JUDICIAL REVIEW.—There shall be no administrative  
18 or judicial review under section 1869, 1878, or oth-  
19 erwise of a designation of a skilled nursing facility  
20 (or portion of such facility) as a COVID-19 treat-  
21 ment center, or revocation of such a designation,  
22 under this subsection.”.

23 (b) PAYMENT INCENTIVE.—Section 1888(e) of the  
24 Social Security Act (42 U.S.C. 1395yy(e)) is amended—

1           (1) in paragraph (1), in the matter preceding  
2           subparagraph (A), by striking “and (12)” and in-  
3           serting “(12), and (13)”; and

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

6           “(13) ADJUSTMENT FOR COVID-19 TREATMENT  
7           CENTERS.—In the case of a resident of a skilled  
8           nursing facility that has been designated as a  
9           COVID-19 treatment center under section 1819(k)  
10          (or in the case of a resident who resides in a portion  
11          of such facility that has been so designated), if such  
12          resident is an eligible individual (as defined in para-  
13          graph (5) of such section), the per diem amount of  
14          payment for such resident otherwise applicable shall  
15          be increased by 20 percent to reflect increased costs  
16          associated with such residents.”.

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