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(Original	Signature of Member)

114TH CONGRESS 2D SESSION

H. R. 5713

To provide for the extension of certain long-term care hospital Medicare payment rules, clarify the application of rules on the calculation of hospital length of stay to certain moratorium-excepted long-term care hospitals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

VI	introduced the following bill; which was referred to	the
	Committee on	
	Johnnittee on	

A BILL

- To provide for the extension of certain long-term care hospital Medicare payment rules, clarify the application of rules on the calculation of hospital length of stay to certain moratorium-excepted long-term care hospitals, 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; TABLE OF CONTENTS.
- 4 (a) SHORT TITLE.—This Act may be cited as the
- 5 "Sustaining Healthcare Integrity and Fair Treatment Act
- 6 of 2016".

- 1 (b) Table of Contents.—This table of contents for
- 2 this Act is as follows:
 - Sec. 1. Short title; table of contents.

TITLE I—MEDICARE PART A PROVISIONS

- Sec. 101. Extension of certain LTCH Medicare payment rules.
- Sec. 102. Application of rules on the calculation of hospital length of stay to all LTCHs.
- Sec. 103. Change in Medicare classification for certain hospitals.
- Sec. 104. Temporary exception to the application of the Medicare LTCH site neutral provisions for certain spinal cord specialty hospitals.
- Sec. 105. Temporary exception to site neutral payment rate for certain discharges from long-term care hospitals that involve severe wounds.

TITLE II—OTHER PROVISIONS

Sec. 201. No payment for items and services furnished by newly enrolled providers or suppliers within a temporary moratorium area.

TITLE I—MEDICARE PART A PROVISIONS

- 5 SEC. 101. EXTENSION OF CERTAIN LTCH MEDICARE PAY-
- 6 MENT RULES.
- 7 (a) 25-Percent Patient Threshold Payment
- 8 Adjustment.—Section 114(c)(1)(A) of the Medicare,
- 9 Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C.
- 10 1395ww note), as amended by section 4302(a) of division
- 11 B of the American Recovery and Reinvestment Act (Public
- 12 Law 111-5), sections 3106(a) and 10312(a) of Public
- 13 Law 111–148 and section 1206(b)(1)(B) of the Pathway
- 14 for SGR Reform Act of 2013 (division B of Public Law
- 15 113–67), is amended by striking "for a 9-year period" and
- 16 inserting "through June 30, 2016, and for discharges oc-

1	curring on or after October 1, 2016, and before July 1,
2	2017,".
3	(b) Payment for Hospitals-within-hospitals.—
4	Section 114(c)(2) of the Medicare, Medicaid, and SCHIP
5	Extension Act of 2007 (42 U.S.C. 1395ww note), as
6	amended by section 4302(a) of division B of the American
7	Recovery and Reinvestment Act (Public Law 111–5), sec-
8	tions 3106(a) and 10312(a) of Public Law 111–148, and
9	section 1206(b)(1)(A) of the Pathway for SGR Reform
10	Act of 2013 (division B of Public Law 113–67), is amend-
11	ed—
12	(1) in subparagraph (A), by inserting "or any
1213	(1) in subparagraph (A), by inserting "or any similar provision," after "Regulations,";
13	similar provision," after "Regulations,";
13 14	similar provision," after "Regulations,"; (2) in subparagraph (B)—
13 14 15	similar provision," after "Regulations,"; (2) in subparagraph (B)— (A) in clause (i), by inserting "or any simi-
13 14 15 16	similar provision," after "Regulations,"; (2) in subparagraph (B)— (A) in clause (i), by inserting "or any similar provision," after "Regulations,"; and
13 14 15 16 17	similar provision," after "Regulations,"; (2) in subparagraph (B)— (A) in clause (i), by inserting "or any similar provision," after "Regulations,"; and (B) in clause (ii), by inserting ", or any
13 14 15 16 17 18	similar provision," after "Regulations,"; (2) in subparagraph (B)— (A) in clause (i), by inserting "or any similar provision," after "Regulations,"; and (B) in clause (ii), by inserting ", or any similar provision," after "Regulations"; and
13 14 15 16 17 18	similar provision," after "Regulations,"; (2) in subparagraph (B)— (A) in clause (i), by inserting "or any similar provision," after "Regulations,"; and (B) in clause (ii), by inserting ", or any similar provision," after "Regulations"; and (3) in subparagraph (C), by striking "for a 9-

1	SEC. 102. APPLICATION OF RULES ON THE CALCULATION
2	OF HOSPITAL LENGTH OF STAY TO ALL
3	LTCHS.
4	(a) In General.—Section 1206(a)(3) of the Path-
5	way for SGR Reform Act of 2013 (division B of Public
6	Law 113–67; 42 U.S.C. 1395ww note) is amended—
7	(1) by striking subparagraph (B);
8	(2) by striking "SITE NEUTRAL BASIS.—" and
9	all that follows through "For discharges occurring"
10	and inserting "SITE NEUTRAL BASIS.—For dis-
11	charges occurring";
12	(3) by striking "subject to subparagraph (B),";
13	and
14	(4) by redesignating clauses (i) and (ii) as sub-
15	paragraphs (A) and (B), respectively, and moving
16	each of such subparagraphs (as so redesignated) 2
17	ems to the left.
18	(b) Effective Date.—The amendments made by
19	subsection (a) shall be effective as if included in the enact-
20	ment of section 1206(a)(3) of the Pathway for SGR Re-
21	form Act of 2013 (division B of Public Law 113–67; 42
22	U.S.C. 1395ww note).

1	SEC. 103. CHANGE IN MEDICARE CLASSIFICATION FOR
2	CERTAIN HOSPITALS.
3	(a) In General.—Subsection (d)(1)(B) of section
4	1886 of the Social Security Act (42 U.S.C. 1395ww) is
5	amended—
6	(1) in clause (iv)—
7	(A) in subclause (I), by striking "or" at
8	the end;
9	(B) in subclause (II)—
10	(i) by striking ", or" at the end and
11	inserting a semicolon; and
12	(ii) by redesignating such subclause as
13	clause (vi) and by moving it to immediately
14	follow clause (v); and
15	(iii) in clause (v), by striking the
16	semicolon at the end and inserting ", or";
17	and
18	(C) by striking "(IV)(I) a hospital" and in-
19	serting "(IV) a hospital".
20	(b) Conforming Payment References.—The sec-
21	ond sentence of subsection $(d)(1)(B)$ of such section is
22	amended—
23	(1) by inserting "(as in effect as of such date)"
24	after "clause (iv)"; and
25	(2) by inserting "(or, in the case of a hospital
26	described in clause (iv)(II), as so in effect, shall be

1	classified under clause (vi) on and after the effective
2	date of such clause (vi) and for cost reporting peri-
3	ods beginning on or after January 1, 2015, shall not
4	be subject to subsection (m) as of the date of such
5	classification)" after "so classified".
6	(c) Application.—
7	(1) In general.—For cost reporting periods
8	beginning on or after January 1, 2015, in the case
9	of an applicable hospital (as defined in paragraph
10	(3)), the following shall apply:
11	(A) Payment for inpatient operating costs
12	shall be made on a reasonable cost basis in the
13	manner provided in section $412.526(c)(3)$ of
14	title 42, Code of Federal Regulations (as in ef-
15	fect on January 1, 2015) and in any subse-
16	quent modifications.
17	(B) Payment for capital costs shall be
18	made in the manner provided by section
19	412.526(c)(4) of title 42, Code of Federal Reg-
20	ulations (as in effect on such date).
21	(C) Claims for payment for Medicare bene-
22	ficiaries who are discharged on or after January
23	1, 2017, shall be processed as claims which are
24	paid on a reasonable cost basis as described in

1	section 412.526(c) of title 42, Code of Federal
2	Regulations (as in effect on such date).
3	(2) APPLICABLE HOSPITAL DEFINED.—In this
4	subsection, the term "applicable hospital" means a
5	hospital that is classified under clause (iv)(II) of sec-
6	tion 1886(d)(1)(B) of the Social Security Act (42
7	U.S.C. $1395ww(d)(1)(B)$) on the day before the date
8	of the enactment of this Act and which is classified
9	under clause (vi) of such section, as redesignated
10	and moved by subsection (a), on or after such date
11	of enactment.
12	(d) Conforming Technical Amendment.—
13	Clauses (i) and (ii) of section 1886(m)(5)(F) and section
14	1899B(a)(2)(A)(iv) of the Social Security Act (42 U.S.C.
15	1395ww(m)(5)(F) and 42 U.S.C. $1395lll(a)(2)(A)(iv))$ are
16	each amended by striking "1886(d)(1)(B)(iv)(II)" and in-
17	serting "1886(d)(1)(B)(vi)".
18	SEC. 104. TEMPORARY EXCEPTION TO THE APPLICATION
19	OF THE MEDICARE LTCH SITE NEUTRAL PRO-
20	VISIONS FOR CERTAIN SPINAL CORD SPE-
21	CIALTY HOSPITALS.
22	(a) Exception.—Section 1886(m)(6) of the Social
23	Security Act (42 U.S.C. 1395ww(m)(6)) is amended—
24	(1) in subparagraph (A)(i), by striking "and
25	(E)" and inserting ", (E), and (F)"; and

1	(2) by adding at the end the following new sub-
2	paragraph:
3	"(F) Temporary exception for cer-
4	TAIN SPINAL CORD SPECIALTY HOSPITALS.—
5	For discharges in cost reporting periods begin-
6	ning during fiscal year 2018, subparagraph
7	(A)(i) shall not apply (and payment shall be
8	made to a long-term care hospital without re-
9	gard to this paragraph) if such discharge is
10	from a long-term care hospital that meets each
11	of the following requirements:
12	"(i) Not-for-profit.—The long-
13	term care hospital was a not-for-profit
14	long-term care hospital on June 1, 2014,
15	as determined by cost report data.
16	"(ii) Primarily providing treat-
17	MENT FOR CATASTROPHIC SPINAL CORD
18	OR ACQUIRED BRAIN INJURIES OR OTHER
19	PARALYZING NEUROMUSCULAR CONDI-
20	TIONS.—Of the discharges in calendar year
21	2013 from the long-term care hospital for
22	which payment was made under this sec-
23	tion, at least 50 percent were classified
24	under MS-LTCH-DRGs 28, 29, 52, 57,
25	551, 573, and 963.

1	"(iii) Significant out-of-state ad-
2	MISSIONS.—
3	"(I) IN GENERAL.—The long-
4	term care hospital discharged inpa-
5	tients (including both individuals enti-
6	tled to, or enrolled for, benefits under
7	this title and individuals not so enti-
8	tled or enrolled) during fiscal year
9	2014 who had been admitted from at
10	least 20 of the 50 States, determined
11	by the States of residency of such in-
12	patients and based on such data sub-
13	mitted by the hospital to the Sec-
14	retary as the Secretary may require.
15	"(II) IMPLEMENTATION.—Not-
16	withstanding any other provision of
17	law, the Secretary may implement
18	subclause (I) by program instruction
19	or otherwise.
20	"(III) Non-application of pa-
21	PERWORK REDUCTION ACT.—Chapter
22	35 of title 44, United States Code,
23	shall not apply to data collected under
24	this clause.".

1	(b) STUDY AND REPORT ON THE STATUS AND VIA-
2	BILITY OF CERTAIN SPINAL CORD SPECIALTY LONG-
3	TERM CARE HOSPITALS.—
4	(1) Study.—The Comptroller General of the
5	United States shall conduct a study on long-term
6	care hospitals described in section 1886(m)(6)(F) of
7	the Social Security Act, as added by subsection (a).
8	Such report shall include an analysis of the fol-
9	lowing:
10	(A) The impact on such hospitals of the
11	classification and facility licensure by State
12	agencies of such hospitals.
13	(B) The Medicare payment rates for such
14	hospitals.
15	(C) Data on the number and health care
16	needs of Medicare beneficiaries who have been
17	diagnosed with catastrophic spinal cord or ac-
18	quired brain injuries or other paralyzing neuro-
19	muscular conditions (as described within the
20	discharge classifications specified in clause (ii)
21	of such section) who are receiving services from
22	such hospitals.
23	(2) Report.—Not later than October 1, 2018,
24	the Comptroller General shall submit to Congress a
25	report on the study conducted under paragraph (1).

1	including recommendations for such legislation and
2	administrative action as the Comptroller General de-
3	termines appropriate.
4	SEC. 105. TEMPORARY EXCEPTION TO SITE NEUTRAL PAY-
5	MENT RATE FOR CERTAIN DISCHARGES
6	FROM LONG-TERM CARE HOSPITALS THAT
7	INVOLVE SEVERE WOUNDS.
8	(a) In General.—Section 1886(m)(6) of the Social
9	Security Act (42 U.S.C. 1395ww(m)(6)), as amended by
10	section 104, is further amended—
11	(1) in subparagraph (A)(i) by striking "and
12	(F)" and inserting "(F), and (G)";
13	(2) in subparagraph (E)(i)(I)(aa), by striking
14	"the amendment made" and all that follows before
15	the semicolon and inserting "the last sentence of
16	subsection (d)(1)(B)"; and
17	(3) by adding at the end the following new sub-
18	paragraph:
19	"(G) Additional Temporary Exception
20	FOR CERTAIN SEVERE WOUND DISCHARGES
21	FROM CERTAIN LONG-TERM CARE HOSPITALS.—
22	"(i) In general.—For a discharge
23	occurring in a cost reporting period begin-
24	ning during fiscal year 2018, subpara-
25	graph (A)(i) shall not apply (and payment

1	shall be made to a long-term care hospital
2	without regard to this paragraph) if such
3	discharge—
4	"(I) is from a long-term care
5	hospital identified by the last sentence
6	of subsection (d)(1)(B);
7	"(II) is classified under MS-
8	LTCH-DRG 602, 603, 539, or 540;
9	and
10	"(III) is with respect to an indi-
11	vidual treated by a long-term care
12	hospital for a severe wound.
13	"(ii) Severe wound defined.—In
14	this subparagraph, the term 'severe wound'
15	means a wound which is a stage 3 wound,
16	stage 4 wound, unstageable wound, non-
17	healing surgical wound, or fistula as identi-
18	fied in the claim from the long-term care
19	hospital.
20	"(iii) Wound defined.—In this sub-
21	paragraph, the term 'wound' means an in-
22	jury involving division of tissue or rupture
23	of the integument or mucous membrane
24	with exposure to the external environ-
25	ment.".

1	(c) Study and Report to Congress.—
2	(1) Study.—The Comptroller General of the
3	United States shall, in consultation with relevant
4	stakeholders, conduct a study on the treatment
5	needs of individuals entitled to benefits under part
6	A of title XVIII of the Social Security Act or en-
7	rolled under part B of such title who require special-
8	ized wound care, and the cost, for such individuals
9	and the Medicare program under such title, of treat-
10	ing severe wounds in rural and urban areas. Such
11	study shall include an assessment of—
12	(A) access of such individuals to appro-
13	priate levels of care for such cases;
14	(B) the potential impact that section
15	1886(m)(6)(A)(i) of such Act (42 U.S.C.
16	1395ww(m)(6)(A)(i) will have on the access,
17	quality, and cost of care for such individuals;
18	and
19	(C) how to appropriately pay for such care
20	under the Medicare program under such title.
21	(2) Report.—Not later than October 1, 2020,
22	the Comptroller General shall submit to Congress a
23	report on the study conducted under paragraph (1),
24	including recommendations for such legislation and

1	administrative action as the Comptroller General de-
2	termines appropriate.
3	TITLE II—OTHER PROVISIONS
4	SEC. 201. NO PAYMENT FOR ITEMS AND SERVICES FUR-
5	NISHED BY NEWLY ENROLLED PROVIDERS
6	OR SUPPLIERS WITHIN A TEMPORARY MORA-
7	TORIUM AREA.
8	(a) Medicare.—Section 1866(j)(7) of the Social Se-
9	curity Act (42 U.S.C. 1395cc(j)(7)) is amended—
10	(1) in the paragraph heading, by inserting ";
11	NONPAYMENT" before the period; and
12	(2) by adding at the end the following new sub-
13	paragraph:
14	"(C) Nonpayment.—
15	"(i) In general.—No payment may
16	be made under this title or under a pro-
17	gram described in subparagraph (A) with
18	respect to an item or service described in
19	clause (ii).
20	"(ii) Item or service described.—
21	An item or service described in this clause
22	is an item or service furnished—
23	"(I) within a geographic area
24	with respect to which a temporary

1	moratorium imposed under subpara-
2	graph (A) is in effect; and
3	"(II) by a provider of services or
4	supplier that meets the requirements
5	of clause (iii).
6	"(iii) Requirements.—For purposes
7	of clause (ii), the requirements of this
8	clause are that a provider of services or
9	supplier—
10	"(I) enrolls under this title on or
11	after the effective date of such tem-
12	porary moratorium; and
13	"(II) is within a category of pro-
14	viders of services and suppliers (as de-
15	scribed in subparagraph (A)) subject
16	to such temporary moratorium.
17	"(iv) Prohibition on Charges for
18	SPECIFIED ITEMS OR SERVICES.—In no
19	case shall a provider of services or supplier
20	described in clause (ii)(II) charge an indi-
21	vidual or other person for an item or serv-
22	ice described in clause (ii) furnished to an
23	individual entitled to benefits under part A
24	or enrolled under part B or an individual

1	under a program specified in subparagraph
2	(A).".
3	(b) Conforming Amendments.—
4	(1) Medicaid.—
5	(A) In General.—Section 1903(i)(2) of
6	the Social Security Act (42 U.S.C. 1396b(i)(2))
7	is amended—
8	(i) in subparagraph (A), by striking
9	the comma at the end and inserting a
10	semicolon;
11	(ii) in subparagraph (B), by striking
12	"or" at the end; and
13	(iii) by adding at the end the fol-
14	lowing new subparagraph:
15	"(D) subject to section $1902(kk)(4)(A)(ii)(II)$,
16	within a geographic area that is subject to a morato-
17	rium imposed under section $1866(j)(7)$ by a provider
18	or supplier that meets the requirements specified in
19	subparagraph (C)(iii) of such section, during the pe-
20	riod of such moratorium; or".
21	(B) Exception with respect to ac-
22	CESS.—Section 1902(kk)(4)(A)(ii) of the Social
23	Security Act (42 U.S.C. 1396a(kk)(4)(A)(ii)) is
24	amended to read as follows:
25	"(ii) Exceptions.—

1	"(I) Compliance with morato-
2	RIUM.—A State shall not be required
3	to comply with a temporary morato-
4	rium described in clause (i) if the
5	State determines that the imposition
6	of such temporary moratorium would
7	adversely impact beneficiaries' access
8	to medical assistance.
9	"(II) FFP AVAILABLE.—Not-
10	withstanding section 1903(i)(2)(D),
11	payment may be made to a State
12	under this title with respect to
13	amounts expended for items and serv-
14	ices described in such section if the
15	Secretary, in consultation with the
16	State agency administering the State
17	plan under this title (or a waiver of
18	the plan), determines that denying
19	payment to the State pursuant to
20	such section would adversely impact
21	beneficiaries' access to medical assist-
22	ance. ".
23	(C) STATE PLAN REQUIREMENT WITH RE-
24	SPECT TO LIMITATION ON CHARGES TO BENE-
25	FICIARIES.—Section 1902(kk)(4)(A) of the So-

1	cial Security Act (42 U.S.C. 1396a(kk)(4)(A))
2	is amended by adding at the end the following
3	new clause:
4	"(iii) Limitation on charges to
5	BENEFICIARIES.—The State prohibits, dur-
6	ing the period of such a moratorium, a
7	provider meeting the requirements speci-
8	fied in subparagraph (C)(iii) of section
9	1866(j)(7) from charging an individual or
10	other person eligible to receive medical as-
11	sistance under the State plan under this
12	title (or a waiver of the plan) for an item
13	or service described in section
14	1903(i)(2)(D) furnished to such an indi-
15	vidual.".
16	(2) Correcting amendments to related
17	PROVISIONS.—
18	(A) Section 1866(j).—Section 1866(j) of
19	the Social Security Act (42 U.S.C. 1395cc(j)) is
20	amended—
21	(i) in paragraph (1)(A)—
22	(I) by striking "paragraph (4)"
23	and inserting "paragraph (5)";
24	(II) by striking "moratoria in ac-
25	cordance with paragraph (5)" and in-

1	serting "moratoria in accordance with
2	paragraph (7)"; and
3	(III) by striking "paragraph (6)"
4	and inserting "paragraph (9)"; and
5	(ii) by redesignating the second para-
6	graph (8) (added by section 1304(1) of
7	Public Law 111–152) as paragraph (9).
8	(B) Section 1902(KK).—Section 1902(kk)
9	of such Act (42 U.S.C. 1396a(kk)) is amend-
10	ed —
11	(i) in paragraph (1), by striking "sec-
12	tion $1886(j)(2)$ " and inserting "section
13	1866(j)(2)";
14	(ii) in paragraph (2), by striking "sec-
15	tion $1886(j)(3)$ " and inserting "section
16	1866(j)(3)";
17	(iii) in paragraph (3), by striking
18	"section 1866(j)(4)" and inserting "section
19	1866(j)(5)"; and
20	(iv) in paragraph (4)(A), by striking
21	"section 1886(j)(6)" and inserting "section
22	1866(j)(7)".
23	(c) Effective Date.—The amendments made by
24	this section (other than subsection $(b)(2)$) shall apply with

- 1 respect to items and services furnished on or after the date
- 2 that is one year after the date of enactment of this section.