116TH CONGRESS
1ST SESSION

S. 348

To amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 2019

Mr. MENENDEZ (for himself, Mr. BOOZMAN, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Resident Physician Shortage Reduction Act of 2019''.

SEC. 2. DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.

(a) IN GENERAL.—Section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)) is amended—

(1) in paragraph (4)(F)(i), by striking ''paragraphs (7) and (8)'' and inserting ''paragraphs (7), (8), and (9)'';

(2) in paragraph (4)(H)(i), by striking ''paragraphs (7) and (8)'' and inserting ''paragraphs (7), (8), and (9)'';

(3) in paragraph (7)(E), by inserting ''paragraph (9),'' after ''paragraph (8),''; and

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

''(9) DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.—

''(A) ADDITIONAL RESIDENCY POSITIONS.—

''(i) IN GENERAL.—For each of fiscal years 2021 through 2025 (and succeeding fiscal years if the Secretary determines that there are additional residency positions available to distribute under clause (iii)(II)), the Secretary shall increase the otherwise applicable resident limit for each qualifying hospital that submits a timely application under this subparagraph by such number as the Secretary may approve for portions of cost reporting periods oc-

curring on or after July 1 of the fiscal year of the increase. Except as provided in clause (iii), the aggregate number of increases in the otherwise applicable resident limit under this subparagraph shall be equal to 3,000 in each of fiscal years 2021 through 2025, of which at least 1,500 in each such fiscal year shall be used for full-time equivalent residents training in a shortage specialty residency program (as defined in subparagraph (F)(iii)).

''(ii) PROCESS FOR DISTRIBUTING POSITIONS.—

''(I) ROUNDS OF APPLICATIONS.—The Secretary shall initiate 5 separate rounds of applications for an increase under clause (i), 1 round with respect to each of fiscal years 2021 through 2025.

''(II) NUMBER AVAILABLE.—In each of such rounds, the aggregate number of positions available for distribution in the fiscal year as a result of an increase in the otherwise applicable resident limit (as described in

clause (i)) shall be distributed, plus any additional positions available under clause (iii).

''(III) TIMING.—The Secretary shall notify hospitals of the number of positions distributed to the hospital under this paragraph as result of an increase in the otherwise applicable resident limit by January 1 of the fiscal year of the increase. Such increase shall be effective for portions of cost reporting periods beginning on or after July 1 of that fiscal year.

''(iii) POSITIONS NOT DISTRIBUTED DURING THE FISCAL YEAR.—

''(I) IN GENERAL.—If the number of resident full-time equivalent positions distributed under this paragraph in a fiscal year is less than the aggregate number of positions available for distribution in the fiscal year (as described in clause (i), including after application of this subclause), the difference between such number distributed and such number available

for distribution shall be added to the aggregate number of positions available for distribution in the following fiscal year.

''(II) EXCEPTION IF POSITIONS NOT DISTRIBUTED BY END OF FISCAL YEAR 2025.—If the aggregate number of positions distributed under this paragraph during the 5-year period of fiscal years 2021 through 2025 is less than 15,000, the Secretary shall, in accordance with the considerations described in subparagraph (B)(i) and the priority described in subparagraph (B)(ii), conduct an application and distribution process in each subsequent fiscal year until such time as the aggregate amount of positions distributed under this paragraph is equal to 15,000.

''(B) DISTRIBUTION TO CERTAIN HOSPITALS.—

''(i) CONSIDERATION IN DISTRIBUTION.—In determining for which hospitals the increase in the otherwise applicable

resident limit is provided under subparagraph (A), the Secretary shall take into account the demonstrated likelihood of the hospital filling the positions made available under this paragraph within the first 5 cost reporting periods beginning after the date the increase would be effective, as determined by the Secretary.

''(ii) PRIORITY FOR CERTAIN HOSPITALS.—Subject to clause (iii), in determining for which hospitals the increase in the otherwise applicable resident limit is provided under subparagraph (A), the Secretary shall distribute the increase in the following priority order:

''(I) First, to hospitals in States with (aa) new medical schools that received 'Candidate School' status from the Liaison Committee on Medical Education or that received 'Pre-Accreditation' status from the American Osteopathic Association Commission on Osteopathic College Accreditation on or after January 1, 2000, and that have achieved or continue to progress

toward 'Full Accreditation' status (as such term is defined by the Liaison Committee on Medical Education) or toward 'Accreditation' status (as such term is defined by the American Osteopathic Association Commission on Osteopathic College Accreditation), or (bb) additional locations and branch campuses established on or after January 1, 2000, by medical schools with 'Full Accreditation' status (as such term is defined by the Liaison Committee on Medical Education) or 'Accreditation' status (as such term is defined by the American Osteopathic Association Commission on Osteopathic College Accreditation).

''(II) Second, to hospitals in which the resident level of the hospital is greater than the otherwise applicable resident limit during the most recent cost reporting period ending on or before the date of enactment of this paragraph.

"(III) Third, to hospitals with which the Secretary cooperates under section 7302(d) of title 38, United States Code.

"(IV) Fourth, to hospitals that emphasize training in community-based settings or in hospital outpatient departments.

"(V) Fifth, to hospitals that are not located in a rural area and operate an approved medical residency training program (or rural track) in a rural area or an approved medical residency training program with an integrated rural track.

"(VI) Sixth, to all other hospitals.

"(iii) DISTRIBUTION TO HOSPITALS IN HIGHER PRIORITY GROUP PRIOR TO DISTRIBUTION IN LOWER PRIORITY GROUPS.—The Secretary may only distribute an increase under subparagraph (A) to a lower priority group under clause (ii) if all qualifying hospitals in the higher priority group or groups have received the maximum

number of increases under such subparagraph that the hospital is eligible for under this paragraph for the fiscal year.

''(C) REQUIREMENTS FOR USE OF ADDITIONAL POSITIONS.—

''(i) IN GENERAL.—Subject to clause (ii), a hospital that receives an increase in the otherwise applicable resident limit under subparagraph (A) shall ensure, during the 5-year period beginning on the effective date of such increase, that—

''(I) not less than 50 percent of the positions attributable to such increase are used to train full-time equivalent residents in a shortage specialty residency program (as defined in subclause (F)(iii)), as determined by the Secretary at the end of such 5-year period;

''(II) the total number of full-time equivalent residents, excluding any additional positions attributable to such increase, is not less than the average number of full-time equivalent residents during the 3 most recent

cost reporting periods ending on or before the effective date of such increase; and

''(III) the ratio of full-time equivalent residents in a shortage specialty residency program (as so defined) is not less than the average ratio of full-time equivalent residents in such a program during the 3 most recent cost reporting periods ending on or before the effective date of such increase.

''(ii) REDISTRIBUTION OF POSITIONS IF HOSPITAL NO LONGER MEETS CERTAIN REQUIREMENTS.—In the case where the Secretary determines that a hospital described in clause (i) does not meet the requirements of such clause, the Secretary shall—

''(I) reduce the otherwise applicable resident limit of the hospital by the amount by which such limit was increased under this paragraph; and

''(II) provide for the distribution of positions attributable to such re-

duction in accordance with the requirements of this paragraph.

"(D) LIMITATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), a hospital may not receive more than 75 full-time equivalent additional residency positions in the aggregate under this paragraph over the period of fiscal years 2021 through 2025.

"(ii) INCREASE IN NUMBER OF ADDITIONAL POSITIONS A HOSPITAL MAY RECEIVE.—The Secretary shall increase the aggregate number of full-time equivalent additional residency positions a hospital may receive under this paragraph over such period if the Secretary estimates that the number of positions available for distribution under subparagraph (A) exceeds the number of applications approved under such subparagraph over such period.

"(E) APPLICATION OF PER RESIDENT AMOUNTS FOR PRIMARY CARE AND NONPRIMARY CARE.—With respect to additional residency positions in a hospital attributable to the increase provided under this paragraph, the ap-

proved FTE per resident amounts are deemed to be equal to the hospital per resident amounts for primary care and nonprimary care computed under paragraph (2)(D) for that hospital.

''(F) DEFINITIONS.—In this paragraph:

''(i) OTHERWISE APPLICABLE RESIDENT LIMIT.—The term 'otherwise applicable resident limit' means, with respect to a hospital, the limit otherwise applicable under subparagraphs (F)(i) and (H) of paragraph (4) on the resident level for the hospital determined without regard to this paragraph but taking into account paragraphs (7)(A), (7)(B), (8)(A), and (8)(B).

''(ii) RESIDENT LEVEL.—The term 'resident level' has the meaning given such term in paragraph (7)(C)(i).

''(iii) SHORTAGE SPECIALTY RESIDENCY PROGRAM.—The term 'shortage specialty residency program' means any approved residency training program in a specialty identified in the report entitled 'The Physician Workforce: Projections and Research into Current Issues Affecting Supply and Demand', issued in December

2008 by the Health Resources and Services Administration, as a specialty whose baseline physician requirements projections exceed the projected supply of total active physicians for the period of 2005 through 2020.''.

(b) IME.—

(1) IN GENERAL.—Section 1886(d)(5)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(v)), in the third sentence, is amended by striking ''and (h)(8)'' and inserting ''(h)(8), and (h)(9)''.

(2) CONFORMING PROVISION.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended—

(A) by redesignating clause (x), as added by section 5505(b) of the Patient Protection and Affordable Care Act (Public Law 111–148), as clause (xi) and moving such clause 4 ems to the left; and

(B) by adding after clause (xi), as redesignated by subparagraph (A), the following new clause:

''(xii) For discharges occurring on or after July 1, 2021, insofar as an additional payment amount

under this subparagraph is attributable to resident positions distributed to a hospital under subsection (h)(9), the indirect teaching adjustment factor shall be computed in the same manner as provided under clause (ii) with respect to such resident positions.''.

SEC. 3. STUDY AND REPORT ON STRATEGIES FOR INCREASING DIVERSITY.

(a) STUDY.—The Comptroller General of the United States (in this section referred to as the ''Comptroller General'') shall conduct a study on strategies for increasing the diversity of the health professional workforce. Such study shall include an analysis of strategies for increasing the number of health professionals from rural, lower income, and underrepresented minority communities, including which strategies are most effective for achieving such goal.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

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