

SENATE FILE NO. SF0095

Medicare discrimination.

Sponsored by: Senator(s) Scott and Nethercott and
Representative(s) Barlow and Obermueller

A BILL

for

1 AN ACT relating to the provision of health care; requiring
2 a study of discrimination by the federal Medicare program
3 against Wyoming residents and Wyoming health care
4 providers; requiring a study of Medicare reimbursement
5 rates and related health and health care impacts; requiring
6 a study of the economic impacts of Medicare reimbursement
7 rates; assigning duties to the governor, the state health
8 officer, the department of health, the board of medicine,
9 the Wyoming business council and the Wyoming attorney
10 general; enabling the governor to create a steering
11 committee to coordinate study activities; requiring
12 hospitals owned by political subdivisions to include
13 modification provisions in contracts that transfer patients
14 to other states as specified; providing a sunset date;

1 providing an appropriation; and providing for an effective
2 date.

3

4 *Be It Enacted by the Legislature of the State of Wyoming:*

5

6 **Section 1.**

7

8 (a) The following persons shall provide reports and
9 analyses for inclusion in the final report required by this
10 section:

11

12 (i) With assistance from department of health
13 staff, the state health officer shall, based on his
14 professional knowledge and other reliable research, prepare
15 a report analyzing the following issues:

16

17 (A) The effect on Wyoming patients in terms
18 of mortality, morbidity and general well-being of receiving
19 medical care in their home community, as opposed to
20 receiving care in a distant location;

21

22 (B) Identification of the most common,
23 serious medical conditions treated in Wyoming's larger

1 communities and identification of those medical conditions
2 which pose significant mortality or morbidity risks if
3 treatment becomes unavailable in a Wyoming community and a
4 patient is required to travel elsewhere to obtain the
5 treatment. Consideration shall be given to the risks of
6 both travel time under normal travel conditions and travel
7 when weather or other factors delay or temporarily prevent
8 safe travel;

9

10 (C) Identification of those medical
11 treatments identified in subparagraph (B) of this paragraph
12 which are at risk of being discontinued due to Medicare
13 discrimination or low reimbursements. The state health
14 officer may request assistance from the Wyoming business
15 council in analyzing the economic issues involved in this
16 determination.

17

18 (ii) Based on its experience and knowledge
19 recruiting physicians and other health care providers to
20 Wyoming, the department of health shall provide a
21 statement, accompanied by available data and analysis,
22 explaining any difficulties in recruiting physicians and

1 other health care providers created by low reimbursements
2 in general, and low Medicare reimbursements in particular;

3

4 (iii) The Wyoming business council shall analyze
5 the following issues:

6

7 (A) Identify the cost shift to commercial
8 insurers, self-insured businesses and private payors caused
9 by Medicare and other payors who reimburse or pay less than
10 the costs incurred by a health care provider or hospital in
11 providing a service;

12

13 (B) Identity how actual costs and charges
14 paid in Wyoming by Medicare and by commercial insurers
15 compare to similar payments made in surrounding states,
16 either for all procedures or for those where a patient is
17 most likely to receive the procedure out-of-state;

18

19 (C) Identify or estimate total health care
20 spending for all Wyoming residents and identify how much of
21 that spending occurs outside of Wyoming. Identify whether
22 the percentage of out-of-state spending is likely to change
23 and, if so, the likely reasons for the change;

1

2 (D) Identify what types of medical care, if
3 any, may become no longer economically viable in Wyoming as
4 a result of out-of-state competition. With assistance from
5 the state health officer, identify the health risks to
6 Wyoming residents which may result from any reduction in
7 the identified types of medical care.

8

9 (iv) The board of medicine shall provide a
10 report, and provide copies to the state health officer and
11 the Wyoming business council, listing the areas of medical
12 practice that it believes may be at risk of ending or
13 becoming significantly limited in Wyoming, or that may end
14 or become significantly limited in a major portion of
15 Wyoming, as a result of out-of-state competition. The
16 board shall base its report on its experience with
17 professional licensure requests and the personal judgment
18 of its members;

19

20 (v) The attorney general shall consider and
21 report to the governor on the following:

22

1 (A) Whether legal action over Medicaid's
2 low and discriminatory reimbursement practices in Wyoming
3 could provide relief from the problems created by the low
4 and discriminatory reimbursement practices. The attorney
5 general shall provide information about the identity of the
6 proper plaintiff in any legal action;

7

8 (B) Whether legal precedents supporting
9 public utility rate regulation and other regulatory
10 mechanisms have or could have any application to medical
11 care reimbursement rates and could serve as a basis for
12 regulating reimbursement in Wyoming or requiring fair
13 reimbursement rates;

14

15 (C) The report required by this paragraph
16 does not require a definitive answer on the subjects
17 reported, but does seek a recommendation as to whether the
18 state should spend the resources necessary to more fully
19 determine if legal action should be pursued.

20

21 (b) The governor shall compile the reports and
22 analyses required by subsection (a) of this section,
23 together with any recommendations that he may have, into a

1 single report that shall be provided to the joint labor,
2 health and social services interim committee, the joint
3 appropriations committee and to the legislative service
4 office on or before November 1, 2018. The governor shall
5 determine if the report will be a final report, or if the
6 report shall be a preliminary report with a final report to
7 be submitted on or before November 1, 2019. In preparing
8 the report, the governor may include or exclude any portion
9 of the analysis provided by the attorney general under
10 paragraph (a)(v) of this section in order to comply with
11 the law or not jeopardize any legal claim recommended by
12 the attorney general.

13

14 **Section 2.**

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16 (a) The governor:

17

18 (i) May create a steering committee with a
19 membership he deems appropriate to advise on the issues
20 identified in section 1 of this act and to help direct any
21 of the duties imposed by section 1 of this act;

22

1 (ii) May assign to the steering committee or any
2 state agency he deems appropriate the task of managing the
3 development of the reports required by section 1 of this
4 act.

5

6 **Section 3.**

7

8 (a) Every hospital district, county owned hospital or
9 other hospital owned or operated by a political subdivision
10 of this state who is entering into an agreement for the
11 transfer or referral of patients to an out-of-state health
12 care provider, or for the management of a hospital by an
13 organization which owns or manages a hospital in an
14 adjacent state or is affiliated with an organization which
15 does, shall include in the agreement a provision allowing
16 the agreement to be modified to require compliance with any
17 new law enacted by the state on or before July 1, 2021
18 related to the reimbursement, patient safety or economic
19 impact issues studied under this act. This paragraph shall
20 apply from the effective date of this act until July 1,
21 2021.

22

1 (b) Subsection (a) of this section shall not apply
2 to:

3

4 (i) Any agreement for the transfer or referral
5 of patients when local facilities are temporarily unable to
6 care for patients or in the case of emergencies where the
7 best interests of a transferred patient will be served by
8 the transfer;

9

10 (ii) Any agreement that expires on or before
11 July 1, 2020;

12

13 (iii) With approval of the state health officer,
14 circumstances where the state health officer determines
15 that an agreement is necessary to protect public health and
16 ensure that Wyoming patients have adequate access to
17 necessary health care.

18

19 **Section 4.** There is appropriated fifty thousand
20 dollars (\$50,000.00) from the general fund to the governor.
21 This appropriation shall be for the period beginning with
22 the effective date of this act and ending June 30, 2020.
23 This appropriation shall only be expended for the hiring of

1 consultant services deemed by the governor to be useful in
2 researching, developing and presenting the analyses and
3 reports required by this act, and for assembling,
4 reproducing and distributing the final report.
5 Notwithstanding any other provision of law, this
6 appropriation shall not be transferred or expended for any
7 other purpose and any unexpended, unobligated funds
8 remaining from this appropriation shall revert as provided
9 by law on June 30, 2020.

10

11 **Section 5.** This act is effective immediately upon
12 completion of all acts necessary for a bill to become law
13 as provided by Article 4, Section 8 of the Wyoming
14 Constitution.

15

16

(END)