

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; providing a
12 sunset date; providing an appropriation; and providing for
13 an effective date.

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

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Section 1.

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

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(i) With assistance from department of health staff, the department of health shall, based on its professional knowledge and other reliable research, prepare a report analyzing the following issues:

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

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(B) Identification of the most common, serious medical conditions treated in Wyoming's larger communities and identification of those medical conditions which pose significant mortality or morbidity risks if treatment becomes unavailable in a Wyoming community and a patient is required to travel elsewhere to obtain the

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1 treatment. Consideration shall be given to the risks of
2 both travel time under normal travel conditions and travel
3 when weather or other factors delay or temporarily prevent
4 safe travel;

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

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14 (ii) Based on its experience and knowledge
15 recruiting physicians and other health care providers to
16 Wyoming, the department of health shall provide a
17 statement, accompanied by available data and analysis,
18 explaining any difficulties in recruiting physicians and
19 other health care providers created by low reimbursements
20 in general, and low Medicare reimbursements in particular;

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22 (iii) The Wyoming business council shall analyze
23 the following issues:

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2 (A) Identify the cost shift in the
3 noncritical hospital access context to commercial insurers,
4 self-insured businesses and private payors caused by
5 Medicare and other payors who reimburse or pay less than
6 the costs incurred by a health care provider or hospital in
7 providing a service;

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

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

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21 (D) Identify what types of medical care, if
22 any, may become no longer economically viable in Wyoming as
23 a result of out-of-state competition. With assistance from

1 the department of health, identify the health risks to
2 Wyoming residents which may result from any reduction in
3 the identified types of medical care.

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

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

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19 (A) Whether legal action over Medicare's
20 low and discriminatory reimbursement practices in Wyoming
21 could provide relief from the problems created by the low
22 and discriminatory reimbursement practices. The attorney

1 general shall provide information about the identity of the
2 proper plaintiff in any legal action;

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4 (B) Whether legal precedents supporting
5 public utility rate regulation and other regulatory
6 mechanisms have or could have any application to Medicare
7 reimbursement rates and could serve as a basis for
8 regulating Medicare reimbursement in Wyoming or requiring
9 fair Medicare reimbursement rates;

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

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17 (b) The governor shall compile the reports and
18 analyses required by subsection (a) of this section,
19 together with any recommendations that he may have, into a
20 single report that shall be provided to the joint labor,
21 health and social services interim committee, the joint
22 appropriations committee and to the legislative service
23 office on or before November 1, 2018. The governor shall

1 determine if the report will be a final report, or if the
2 report shall be a preliminary report with a final report to
3 be submitted on or before November 1, 2019. In preparing
4 the report, the governor may include or exclude any portion
5 of the analysis provided by the attorney general under
6 paragraph (a)(v) of this section in order to comply with
7 the law or not jeopardize any legal claim recommended by
8 the attorney general.

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10 **Section 2.**

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12 (a) The governor:

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

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

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1 **Section 3.** There is appropriated fifty thousand
2 dollars (\$50,000.00) from the general fund to the governor.
3 This appropriation shall be for the period beginning with
4 the effective date of this act and ending June 30, 2020.
5 This appropriation shall only be expended for the hiring of
6 consultant services deemed by the governor to be useful in
7 researching, developing and presenting the analyses and
8 reports required by this act, and for assembling,
9 reproducing and distributing the final report.
10 Notwithstanding any other provision of law, this
11 appropriation shall not be transferred or expended for any
12 other purpose and any unexpended, unobligated funds
13 remaining from this appropriation shall revert as provided
14 by law on June 30, 2020.

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16 **Section 4.** This act is effective immediately upon
17 completion of all acts necessary for a bill to become law
18 as provided by Article 4, Section 8 of the Wyoming
19 Constitution.

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(END)