

1 SECTION 1. SHORT TITLE

2 This Act may be cited as the “_____”.

3 SECTION 2. ADMINISTRATIVE FLEXIBILITY WITH RESPECT TO THE TERRITORIES.

4 (a) IN GENERAL. – Section 1108 of the Social Security Act (42 U.S.C. 1308) is amended-

5 (1) At the end of the section by adding the following new paragraph (h):

6 a. “(h) Administrative Flexibility with Respect to the Territories.—

7 (1) In general.—Notwithstanding any other provision of this Act, with

8 respect to the applicability to the territories of payment formulas,

9 including quality related increases, under titles XVIII and XIX, the

10 Secretary shall:

11 (A) determine the availability of data for payment calculation

12 factors required or authorized by respective payment formulas

13 under said titles;

14 (B) determine the sufficiency, relevance and reliability of available

15 data for payment calculation factors to adequately account for

16 variations in standard benefits under this Act, variations in

17 program penetration, and in the cost of delivering care that are

18 unique to the territories;

19 (C) determine whether the inclusion of payment calculation factors

20 or certain data sources thereunder, whether prescribed by the

21 respective titles or ordinarily used by the Secretary,

22 disproportionately impact the resulting payment calculation with

23 respect to each territory, either generally or relative to the states;
24 and
25 (D) insofar as the Secretary determines in accordance with
26 subsections (A), (B) or (C) that data are not available, that
27 available data is insufficient to reliably and adequately account for
28 variations in standard benefits under this Act, variations in
29 program penetration, and in the cost of delivering care that are
30 unique to the territories, or to the extent that disproportionate
31 impact to the territories would otherwise occur, the Secretary shall,
32 –

33 (i) establish and apply a proxy for payment calculation
34 factors or substitute data sources where data sources are
35 determined unavailable, or as determined necessary to
36 adequately reflect variations in standard benefits under this
37 Act and in the cost of delivering care that are unique to the
38 territories; or

39 (ii) to the extent the inclusion of payment calculation
40 factors or certain data sources thereunder
41 disproportionately impacts the resulting payment
42 calculation with respect to each territory, either generally or
43 relative to the states, disregard the factor or data source or
44 devise and apply an appropriate adjustment factor;

45 (E) in every respect, toward extending the full benefits of
46 payments to territories intended under the respective titles, ensure
47 the application of payment calculation factors with respect to the
48 territories occurs in a manner considerate of the geographic and
49 demographic differences, abnormalities in the cost of delivering
50 care in the territories, and the potential disproportionate impact to
51 each territory, either generally or relative to the states.

52 (2) Implementation - The Secretary shall make payment calculation
53 adjustments under this section in a timely manner following enactment to
54 allow for the application of appropriate payment calculation factors at the
55 earliest feasible opportunity.”