

117TH CONGRESS  
2D SESSION

# H. R. 8597

To amend titles XVIII and XIX of the Social Security Act to provide for coverage of services furnished by freestanding emergency centers, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2022

Mr. ARRINGTON (for himself, Mr. SESSIONS, Mr. BABIN, Mr. PFLUGER, Ms. VAN DUYNE, Mr. WILLIAMS of Texas, Mr. GOHMERT, Mr. NEHLS, Mr. HERN, Mr. JACKSON, and Mr. BURGESS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To amend titles XVIII and XIX of the Social Security Act to provide for coverage of services furnished by freestanding emergency centers, 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.**

4 This Act may be cited as the “Emergency Care Im-  
5 provement Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) To expand provider capacity to respond to  
2           the COVID-19 pandemic, in April of 2020 the Cen-  
3           ters for Medicare & Medicaid Services issued a waiv-  
4           er allowing freestanding emergency centers (FECs)  
5           to enroll as Medicare-certified hospitals and receive  
6           Medicare reimbursement for the duration of the  
7           COVID-19 public health emergency.

8           (2) FECs are fully licensed emergency depart-  
9           ments that are staffed by both Emergency Medicine  
10          trained physicians and registered nurses who are on-  
11          site 24 hours a day, seven days a week, and possess  
12          licensed pharmacies, clinical laboratories, and ad-  
13          vanced imaging services. FECs are State-licensed,  
14          and adhere to the same standards and provide the  
15          same level of care as Hospital Based Emergency  
16          Rooms, including State EMTALA regulations on  
17          treating all patients.

18          (3) Over 110 FECs, mostly located in Texas,  
19          have enrolled and provided high-quality emergency  
20          services for all kinds of emergency conditions at sig-  
21          nificant savings to the Medicare program to thou-  
22          sands of Medicare beneficiaries.

23          (4) An actuarial study of Medicare claims data  
24          found that FECs did not increase overall utilization  
25          of emergency care services and saved the Medicare

1 program 21.8 percent in lower emergency care pay-  
 2 ments for patients of similar acuity.

3 **SEC. 3. COVERAGE OF FREESTANDING EMERGENCY CEN-**  
 4 **TERS UNDER MEDICARE AND MEDICAID.**

5 (a) COVERAGE UNDER MEDICARE PART B.—Section  
 6 1832(a)(2) of the Social Security Act (42 U.S.C.  
 7 1395k(a)) is amended—

8 (1) in subparagraph (I), by striking “and” at  
 9 the end;

10 (2) in subparagraph (J), by striking the period  
 11 at the end and inserting “; and”; and

12 (3) by adding at the end the following new sub-  
 13 paragraph:

14 “(K) emergency services (as defined in sec-  
 15 tion 2799A–1(a)(3)(C) of the Public Health  
 16 Service Act) provided by a freestanding emer-  
 17 gency center (as defined in section 1861(III)).”.

18 (b) FREESTANDING EMERGENCY CENTER DE-  
 19 FINED.—Section 1861 of the Social Security Act (42  
 20 U.S.C. 1395x) is amended by adding at the end the fol-  
 21 lowing new subsection:

22 “(III) FREESTANDING EMERGENCY CENTER.—The  
 23 term ‘freestanding emergency center’ means a health care  
 24 facility that—

1 “(1) is an independent freestanding emergency  
2 department (as defined in section 2799A–1(a)(3)(D)  
3 of the Public Health Service Act);

4 “(2) is operational 24 hours a day, 7 days a  
5 week, and 365 days a year with a physician (as de-  
6 fined in subsection (r)) onsite at all times;

7 “(3) has in place mechanisms to allow for ap-  
8 propriate transfers and referrals;

9 “(4) develops, implements, and maintains an  
10 ongoing, data-driven quality assessment and per-  
11 formance improvement (QAPI) program;

12 “(5) is located—

13 “(A) in a metropolitan statistical area; or

14 “(B)(i) in the case of a facility established  
15 prior to 2020, in a rural county; or

16 “(ii) in the case of a facility established on  
17 or after January 1, 2020, in a rural county  
18 that does not have a Medicare-certified hospital  
19 or a rural emergency hospital (as defined in  
20 subsection (kkk)(2));

21 “(6) has established a governing body to deter-  
22 mine, implement, and monitor policies governing the  
23 total operation of the facility, and has oversight and  
24 accountability for the QAPI program, ensuring that  
25 facility policies and such QAPI program are admin-

1       istered so as to provide quality health care in a safe  
2       environment; and

3               “(7) meets all State requirements applicable to  
4       facilities which furnish emergency medical services  
5       to individuals but do not typically provide for stays  
6       in excess of 24 hours, and meets such other require-  
7       ments as the Secretary may prescribe not in excess  
8       of the conditions of participation under this title  
9       that are specifically applicable to off campus dedi-  
10      cated emergency departments of hospitals (as de-  
11      scribed in section 482.55 of title 42, Code of Federal  
12      Regulations (or any successor regulation)), and not  
13      the conditions of participation under this title that  
14      are applicable to hospitals (as defined in subsection  
15      (e)), including rural emergency hospitals (as defined  
16      in subsection (kkk)(2)), other than with respect to  
17      compliance with the requirements described in sec-  
18      tion 1867;”.

19      (c)     PAYMENT     UNDER     MEDICARE.—Section  
20      1833(t)(21) of the Social Security Act (42 U.S.C.  
21      1395l(t)(21)) is amended by adding at the end the fol-  
22      lowing new subparagraph:

23               “(F)     TREATMENT     OF     FREESTANDING  
24               EMERGENCY CENTERS.—The facility payment  
25               rate for services of a freestanding emergency

1 center (as defined in section 1861(III)) for high-  
 2 er acuity evaluation or management level serv-  
 3 ices (as represented by HCPCS codes 99283–  
 4 99285, or any successor codes) shall be in an  
 5 amount equal to the payment that would other-  
 6 wise apply to a hospital outpatient department  
 7 under this subsection, including the application  
 8 of the geographic adjustment under paragraph  
 9 (2)(D) and the OPD fee schedule increase fac-  
 10 tor under paragraph (3)(C)(iv).”.

11 (d) COVERAGE UNDER MEDICAID.—Section  
 12 1905(a)(2)(A) of the Social Security Act (42 U.S.C.  
 13 1396d(a)(2)(A)) is amended by inserting “, which shall  
 14 include the services of freestanding emergency centers, as  
 15 defined in section 1861(III)” after “outpatient hospital  
 16 services”.

17 (e) EFFECTIVE DATE.—The amendments made by  
 18 this Act shall apply to items and services furnished on or  
 19 after January 1, 2023, or the first day following the termi-  
 20 nation of the emergency period (as defined in section  
 21 1135(g)(1)(B) of the Social Security Act (42 U.S.C.  
 22 1320b–5(g)(1)(B))), whichever comes first.

○