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108TH CONGRESS } 2nd Session }	SENATE	{ REPORT 108-388
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CHILDREN'S HOSPITALS EDUCATIONAL EQUITY AND  
RESEARCH ACT OR THE CHEER ACT

OCTOBER 7, 2004.—Ordered to be printed

Mr. GREGG, from the Committee on Health, Education, Labor, and  
Pensions, submitted the following

REPORT

[To accompany S. 2526]

The Committee on Health, Education, Labor, and Pensions, to which was referred the bill (S. 2526) to reauthorize the Children's Hospitals Graduate Medical Education Program, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

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PURPOSE AND NEED FOR LEGISLATION

First enacted as part of The Healthcare Research and Quality Act of 1999 (P.L. 106-129), the Children's Hospitals Education and Research Act of 1999 authorized the Children's Hospitals Graduate Medical Education (CHGME) program for 2 years. The program was reauthorized for an additional 5 years as part of the Children's Health Act of 2000 (P.L. 106-310).

Graduate medical education is funded through Medicare payments to full service teaching hospitals. Prior to the enactment of this program, the independent children's teaching hospitals did not have a similar program to fund resident training programs for physicians. Congress recognized this inequity and the financial disadvantage it was placing on children's hospitals.

The Children's Hospitals Education Equity and Research Act of 2004 extends the authorization of the Children's Hospitals Graduate Medical Education Program to FY 2010 and provides independent children's hospitals with Federal assistance similar to that provided to other teaching hospitals through Medicare.

## II. SUMMARY

S. 2526 reauthorizes the Children's Hospitals Graduate Medical Education Program from 2006 to 2010 and increases the authorization level in FY 2006 to \$330 million. In years FY 2007 to FY 2010 the legislation authorizes such sums as are necessary. The bill also makes technical changes to the underlying statute including reversing an oversight in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 with regard to resident physician allotments.

## III. HISTORY OF LEGISLATION AND VOTES IN COMMITTEE

On June 16, 2004, Senator Bond, for himself and Senators Kennedy, DeWine, and Murray, introduced S. 2526 to reauthorize the Children's Hospitals Graduate Medical Education Program.

On September 22, 2004, the committee held an executive session and considered an amendment in the nature of a substitute to S. 2526 offered by Senators Bond and DeWine. The committee approved S. 2526, as amended, by unanimous voice vote.

## IV. EXPLANATION OF BILL AND COMMITTEE VIEWS

S. 2526 as amended reauthorizes the Children's Hospitals Graduate Medical Education Program for 5 years through 2010 and authorizes \$330 million to fund residency programs in children's hospitals in FY 2006 and such sums as are necessary in FY 2007 through FY 2010.

The committee made a few small technical changes to the program and includes one provision necessary to reflect Congressional intent by clarifying that the provision for redistribution of unused residency positions included in the Medicare Modernization Act (P.L. 108-173) does not apply to the CHGME program. The committee does not believe the original provision was appropriately applied to the CHGME program. The CHGME program is separate and distinct from the Medicare-financed GME programs. In addition, pediatrics is experiencing significant shortages in many pediatric subspecialties.

The committee believes that children's hospitals should have more time to grow their programs, as well as to have the opportunity to redistribute any unused resident slots within the CHGME program.

The committee also clarifies that beds or bassinets assigned to healthy newborn infants should not be counted when determining the number of beds for the purposes of Indirect Medical Education

Payments. The committee is concerned that including beds and bassinets of healthy newborns has the effect of depressing their pediatric patient case mix intensity, relative to their actual patient care and teaching programs.

The committee corrects an unintended error in the underlying statute to allow direct medical education payments under CHGME to be adjusted by the current area wage index adjustment, for discharges in the preceding year. The statute now provides for no area wage index adjustment beyond fiscal year 2000. The committee also corrects other small technical errors in the statute.

#### V. COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 7, 2004.*

Hon. JUDD GREGG,  
*Chairman, Committee on Health, Education, Labor, and Pensions,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2526, the Children's Hospital Education Equity and Research Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Margaret Nowak.

Sincerely,

DOUGLAS HOLTZ-EAKIN, *Director.*

Enclosure.

#### *S. 2526.—Children's Hospitals Educational Equity and Research Act*

Summary: S. 2526 would amend the Public Health Service Act to authorize payments through 2010 to children's hospitals that operate graduate medical education programs. Separate payments would be made to the hospitals for both direct expenses and indirect expenses related to graduate medical education. The bill also would alter the factors used in determining the amount of payment for indirect expenses.

CBO estimates that implementing S. 2526 would cost \$248 million in 2006 and \$1.3 billion over the 2006–2009 period, assuming the appropriation of the necessary amounts. Enacting the legislation would not affect direct spending or receipts.

S. 2526 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2526 is shown in the following table. The costs of this legislation fall within budget function 550 (health).

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget Authority/Authorization Level <sup>1</sup> .....	303	309	0	0	0	0
Estimated Outlays .....	303	308	77	0	0	0
Proposed Changes:						
Estimated Authorization Level .....	0	0	330	326	342	348

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
Estimated Outlays .....	0	0	248	334	340	346
Spending Under S. 2526:						
Estimated Authorization Level .....	303	309	330	336	342	348
Estimated Outlays .....	303	308	325	334	340	346

<sup>1</sup>The 2004 level is the amount appropriated for that year for the program of payments to children's hospitals that operate graduate medical education programs. The amount shown for 2005 is a baseline projection that assumes an increase for anticipated inflation.

**Basis of estimate:** The program of payments to children's hospitals that operate graduate medical education programs is authorized through 2005. That program provides two sets of payments to children's hospitals that operate graduate medical education programs. Payments for the "direct" costs of such programs are related to the cost to the hospital of operating the graduate medical education program. Payments for "indirect" costs associated with operating a graduate medical education program are intended to compensate for patient-care costs that are expected to be higher in teaching hospitals than in nonteaching hospitals.

S. 2526 would authorize funding through 2010 for those payments to children's hospitals that operate graduate medical education programs. The bill would authorize the appropriation of specific amounts for 2006. For subsequent years, CBO estimated authorization levels by adjusting 2006 levels for anticipated inflation. For this estimate, CBO assumes that S. 2526 will be enacted this fall and that the authorized and estimated amounts will be appropriated for each year.

The bill would authorize appropriation of \$110 million in 2006, and such sums as necessary in 2007 through 2010, for payments toward the direct costs of operating graduate medical education programs in children's hospitals. Those funds would be allocated across eligible hospitals based on a formula that would take into account the number of medical residents and the average cost per resident in 1997 of the hospital's graduate medical education program.

The bill also would authorize appropriation of \$220 million in 2006, and such sums as necessary in 2007 through 2010, for payments toward the indirect costs of operating graduate medical education programs in children's hospitals. Those funds would be allocated across eligible hospitals based on a formula that would take into account the number of discharges, the relative costliness of those cases as measured by a case-mix index, and the ratio of the number of medical residents to the number of beds (excluding beds for healthy newborns) in each hospital. Under current law, the allocation formula used the number of residents rather than the ratio of residents to beds.

Based on historical spending patterns for the graduate medical education programs, CBO estimates the bill would cost \$248 million in 2006 and \$1.3 billion over the 2006–2009 period, assuming appropriation of the authorized amounts.

**Intergovernmental and private-sector impact:** S. 2526 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Margaret Nowak; Impact on State, Local, and Tribal Governments: Leo Lex; Impact on the Private Sector: Peter Richmond.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## VI. REGULATORY IMPACT STATEMENT

The committee has determined that there will be de minimus changes in the regulatory burden imposed by the bill.

## VII. IMPACT OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1, the Congressional Accountability Act (CAA) requires a description of the application of this bill to the legislative branch. This bill does not amend any act that applies to the legislative branch.

## VIII. SECTION-BY-SECTION ANALYSIS

### *Section 1. Short title*

Section 1 provides the short title of the bill, the “Children’s Hospitals Educational Equity and Research Act” or the “CHEER Act.”

### *Section 2. Reauthorization of Children’s Hospitals Graduate Medical Education Program*

a. Amends Section 340E of the Public Health Service Act to extend the authorization of the CHGME program from fiscal year 2006 through fiscal year 2010.

b. Provides that the redistribution of unused residency positions provision in the Medicare Modernization Act (P.L. 108–173) shall not apply to the CHGME program. It also provides that the direct medical education payments under CHGME be adjusted by the hospitals current area wage adjustment, as applied under Medicare for discharges occurring in the preceding fiscal year.

c. Clarifies that indirect medical education payments under CHGME reflect the ratio of the number of full-time equivalent residents to beds rather than simply the number of full-time equivalent residents. It defines beds to exclude beds or bassinets assigned to healthy newborn infants.

d. Corrects a technical error in the underlying statute.

e. Provides authorization of appropriations for direct medical education (DME) payments and indirect medical education (IME) payments under CHGME through fiscal year 2010, providing \$110,000,000 for DME and \$220,000,000 for IME for fiscal year 2006 and such sums as may be necessary for remaining fiscal years.

f. Deletes a repeated sentence in the underlying statute.

### *Section 3. Sense of the Senate*

Section 3 recognizes the importance of perinatal hospitals in both treating seriously ill newborns and training the providers who are essential to their care, as well as to the care of healthy mothers and babies.

## IX. CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**PUBLIC HEALTH SERVICE ACT**

\* \* \* \* \*

## Subpart IX—Support of Graduate Medical Education Programs in Children's Hospitals

**SEC. 340E. [256e] PROGRAM OF PAYMENTS TO CHILDREN'S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.**

(a) PAYMENTS.—The Secretary shall make two payments under this section to each children's hospital for each of fiscal years 2000 through [2005] 2010, one for the direct expenses and the other for indirect expenses associated with operating approved graduate medical residency training programs. The Secretary shall promulgate regulations pursuant to the rulemaking requirements of title 5, United States Code, which shall govern payments made under this subpart.

\* \* \* \* \*

## (c) AMOUNT OF PAYMENT FOR DIRECT GRADUATE MEDICAL EDUCATION.—

## (1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(B) the average number of full-time equivalent residents in the hospital's graduate approved medical residency training programs (as determined under section 1886(h)(4) of the Social Security Act *but without giving effect to section 1886(h)(7) of such Act*) during the fiscal year.

\* \* \* \* \*

(E) APPLICATION TO INDIVIDUAL HOSPITALS.—The Secretary shall compute for each such hospital that is a children's hospital a per resident amount—

## (i) \* \* \*

\* \* \* \* \*

(ii) by multiplying the wage-related portion by the factor [described in subparagraph (C)(ii)] *applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year for the hospitals area; and*

\* \* \* \* \*

## (d) AMOUNT OF PAYMENT FOR INDIRECT MEDICAL EDUCATION.—

## (1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(A) take into account variations in case mix among children's hospitals and the *ratio of the* number of full-time

equivalent residents in the hospitals' approved graduate medical residency training programs *to beds (excluding beds or bassinets assigned to healthy newborn infants)*; and

\* \* \* \* \*

(e) MAKING OF PAYMENTS.—

(1) INTERIM PAYMENTS.— \* \* \*

\* \* \* \* \*

(2) WITHHOLDING.—**【**The Secretary shall withhold up to 25 percent from each interim installment for direct and indirect graduate medical education paid under paragraph (1).**】** The Secretary shall withhold up to 25 percent from each interim installment for direct and indirect graduate medical education paid under paragraph (1) as necessary to ensure a hospital will not be overpaid on an interim basis.

(3) RECONCILIATION.—Prior to the end of each fiscal year, the Secretary shall determine any changes to the number of residents reported by a hospital in the application of the hospital for the current fiscal year to determine the final amount payable to the hospital for the current fiscal year for both direct expense and indirect expense amounts. Based on such determination, the Secretary shall recoup any overpayments **【**made to pay**】** *made and pay* any balance due to the extent possible. The final amount so determined shall be considered a final intermediary determination for the purposes of section 1878 of the Social Security Act and shall be subject to administrative and judicial review under that section in the same manner as the amount of payment under section 1186(d) of such Act is subject to review under such section.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) DIRECT GRADUATE MEDICAL EDUCATION.—

(A) IN GENERAL.—There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for payments under subsection

(b)(1)(A)—

(i) \* \* \*

\* \* \* \* \*

(ii) for fiscal year 2001, \$95,000,000; **【**and**】**

(iii) for each of the fiscal years 2002 through 2005, such sums as may be necessary**【**.**】**;

(iv) for fiscal year 2006, \$110,000,000; and

(v) for each of fiscal years 2007 through 2010, such sums as may be necessary

\* \* \* \* \*

(2) INDIRECT MEDICAL EDUCATION.—**【**There are hereby authorized**】** *There are authorized* to be appropriated, out of any money in the Treasury not otherwise appropriated, for payments under subsection **【**(b)(1)(A)**】** (b)(1)(B)—

(A) for fiscal year 2000, \$190,000,000;

(B) for fiscal year 2001, \$190,000,000; **【**and**】**

(C) for each of the fiscal years 2002 through 2005, such sums as may be necessary**【**.**】**;

(D) for fiscal year 2006, \$220,000,000; and

*(E) for each of fiscal years 2007 through 2010, such sums as may be necessary.*

