To amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital and ambulatory surgical center treatment episodes.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2013

Mr. Lipinski (for himself, Mr. Mullin, Mr. DeFazio, Mr. Michaud, Mr. Peterson, and Mr. Polis) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital and ambulatory surgical center treatment episodes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Hospital Price Transparency and Disclosure Act of 2013”.

SEC. 2. PUBLIC DISCLOSURE OF HOSPITAL DATA.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following new section:
"DATA REPORTING BY HOSPITALS AND AMBULATORY SURGICAL CENTERS AND PUBLIC POSTING"

"Sec. 249. (a) Semiannual Reporting Requirement.—Not later than 80 days after the end of each semiannual period beginning January 1 or July 1 (beginning more than one year after the date of the enactment of this section), a hospital and an ambulatory surgical center shall report to the Secretary the following data:

"(1) In the case of a hospital—

"(A) the frequency of occurrence for such hospital during such period of each treatment episode identified under subsection (c)(1) for a condition or disease selected under subparagraph (A) or (B) of such subsection (or updated under subsection (c)(3)), furnished in an inpatient or outpatient setting, respectively; and

"(B) if care was furnished for such a treatment episode by such hospital during such period—

"(i) the total number of such treatment episodes for which care was so furnished by the hospital during such period;

"(ii) the insured individual average charge (as computed under subsection
(e)(3)) by the hospital for such treatment episode during such period; and

“(iii) the uninsured individual average charge (as computed under subsection (e)(4)) by the hospital for such treatment episode during such period.

“(2) In the case of an ambulatory surgical center—

“(A) the frequency of occurrence for such center during such period of each treatment episode identified under subsection (e)(1) for a condition or disease selected under subparagraph (C) of such subsection (or updated under subsection (e)(3)); and

“(B) if care was furnished for such a treatment episode by such center during such period—

“(i) the total number of such treatment episodes for which care was so furnished by the center during such period;

“(ii) the insured individual average charge (as computed under subsection (e)(3)) by the center for such episode during such period; and
“(iii) the uninsured individual average charge (as computed under subsection (e)(4)) by the center for such episode during such period.

“(b) Public Availability of Data.—

“(1) Public posting of data.—The Secretary shall promptly post, on the official public Internet site of the Department of Health and Human Services, the data reported under subsection (a) and an appropriate link, with respect to a hospital or center for which the data is reported, to other consumer quality information maintained on such site (or a site maintained by the Centers for Medicare & Medicaid Services) relating to the hospital or center. Such data shall be set forth in a manner that promotes charge comparison among hospitals and among ambulatory surgical centers.

“(2) Notice of availability.—A hospital and an ambulatory surgical center shall prominently post at each admission site of the hospital or center a notice of the availability of the data reported under subsection (a) on the official public Internet site under paragraph (1).

“(c) Specification of Treatment Episodes.—

For purposes of this section:
“(1) IN GENERAL.—The Secretary shall identify treatment episodes for each of the following:

“(A) The 100 conditions and diseases selected by the Secretary as being the most frequently treated conditions and diseases in a hospital inpatient setting.

“(B) The 100 conditions and diseases selected by the Secretary as being the most frequently treated conditions and diseases in a hospital outpatient setting.

“(C) The 100 conditions and diseases selected by the Secretary as being the most frequently treated conditions and diseases in an ambulatory surgical center setting.

“(2) AGREEMENT WITH IOM.—In carrying out paragraph (1), the Secretary may enter into an agreement with the Institute of Medicine to define a treatment episode for any condition or disease selected by the Secretary under this subsection. Such a definition may take into account the varying complexity associated with respect to different treatments.

“(3) UPDATING SELECTION.—The Secretary shall periodically update the conditions and diseases selected under paragraph (1).
“(d) Civil Money Penalty.—The Secretary may impose a civil money penalty of not more than $10,000 for each knowing violation of subsection (a) or (b)(2) by a hospital or an ambulatory surgical center. The provisions of subsection (i)(2) of section 351A shall apply with respect to civil money penalties under this subsection in the same manner as such provisions apply to civil money penalties under subsection (i)(1) of such section.

“(e) Administrative Provisions.—

“(1) In general.—The Secretary shall prescribe such regulations and issue such guidelines as may be required to carry out this section.

“(2) Classification of Services.—The regulations and guidelines under paragraph (1) shall include rules on the classification of different treatment episodes and the assignment of items and procedures to those episodes.

“(3) Computation of Insured Individual Average Charges.—

“(A) In general.—For purposes of subsections (a)(1)(B)(ii) and (a)(2)(B)(ii), an insured individual average charge for a treatment episode, with respect to a hospital or ambulatory surgical center during a period, shall be computed as the average of the rates (including
any applicable copayment, coinsurance, other
cost sharing, or other fees, such as facility fees,
associated with treatment in the hospital or
center) for such episode that have been nego-
tiated by the hospital or ambulatory surgical
center, respectively, with the 5 most used health
insurance providers for such hospital or center
during such period.

“(B) 5 MOST USED HEALTH INSURANCE
PROVIDERS.—For purposes of subparagraph
(A), the 5 most used health insurance pro-
viders, with respect to a hospital or ambulatory
surgical center during a period, are the 5 group
health plans or insurance issuers offering health
insurance coverage—

“(i) that have negotiated with the hos-
pital or center a rate for the treatment epi-

dode involved; and

“(ii) the enrollees of which represent
the highest number of patients of the hos-
pital or center, respectively.

“(4) COMPUTATION OF UNINSURED INDIVIDUAL
AVERAGE CHARGES.—

“(A) IN GENERAL.—For purposes of sub-
sections (a)(1)(B)(iii) and (a)(2)(B)(iii), an un-
insured individual average charge for a treatment episode, with respect to a hospital or ambulatory surgical center during a period, shall be computed as the average of the total amounts charged for such an episode for which care was furnished to an uninsured individual by such hospital or ambulatory surgical center during such period.

“(B) UNINSURED INDIVIDUAL DEFINED.—For purposes of subparagraph (A), the term ‘uninsured individual’ means, with respect to care furnished to the individual by a hospital or ambulatory surgical center, an individual who does not have insurance or other third-party contractual benefits that provides payment for costs incurred for such care.

“(5) FORM OF REPORT AND NOTICE.—The regulations and guidelines under paragraph (1) shall specify the electronic form and manner by which a hospital or an ambulatory surgical center shall report data under subsection (a) and the form for posting of notices under subsection (b)(2).

“(f) RULES OF CONSTRUCTION.—

“(1) NON-PREEMPTION OF STATE LAWS.—Nothing in this section shall be construed as pre-
empting or otherwise affecting any provision of State law relating to the disclosure of charges or other information for a hospital or an ambulatory surgical center.

“(2) CHARGES.—Nothing in this section shall be construed to regulate or set hospital or ambulatory surgical center charges.

“(g) HOSPITAL AND AMBULATORY SURGICAL CENTER DEFINED.—For purposes of this section, the terms ‘hospital’ and ‘ambulatory surgical center’ have the meaning given such terms by the Secretary.”.