

113TH CONGRESS
2D SESSION

H. R. 5110

To amend title XVIII of the Social Security Act to repeal rebasing of payments for home health services, as required under the Patient Protection and Affordable Care Act, and to replace such rebasing with a Medicare home health value-based purchasing program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2014

Mr. WALDEN (for himself, Mr. PRICE of Georgia, Mrs. ELLMERS, Mr. MCKINLEY, Mr. LATHAM, Mr. DUFFY, Mrs. McMORRIS RODGERS, Mr. GRAVES of Missouri, Mr. BOUSTANY, Mr. PAULSEN, Mr. THOMPSON of Pennsylvania, Mr. YOUNG of Alaska, and Mr. GARDNER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 title XVIII of the Social Security Act to repeal rebasing of payments for home health services, as required under the Patient Protection and Affordable Care Act, and to replace such rebasing with a Medicare home health value-based purchasing program, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Securing Access Via
3 Excellence for Medicare Home Health Act of 2014” or the
4 “SAVE Medicare Home Health Act of 2014”.

5 **SEC. 2. REPEAL OF MEDICARE HOME HEALTH REBASING**
6 **REDUCTION PROVIDED UNDER PPACA AND**
7 **DETAILED ANALYSIS OF SUCH REDUCTION.**

8 (a) REPEAL OF REBASING REDUCTION AND CODI-
9 FICATION OF CY 2014 PAYMENT ADJUSTMENT.—

10 (1) REPEAL.—Section 1895(b)(3)(A) of the So-
11 cial Security Act (42 U.S.C. 1395fff(b)(3)(A)) is
12 amended by striking clause (iii).

13 (2) CODIFICATION.—Such section, as amended
14 by paragraph (1), is further amended by adding at
15 the end the following new clause:

16 “(iii) CODIFICATION OF CY 2014 PAY-
17 MENT ADJUSTMENT.—The amount (or
18 amounts) that would otherwise be applica-
19 ble under clause (i)(III) for 2015 and sub-
20 sequent years shall be determined taking
21 into account the 3.5 percentage point re-
22 duction effective for 2014 pursuant to the
23 rule for home health prospective payment
24 system rate update for calendar year 2014
25 (promulgated on December 2, 2013, 78
26 Federal Register 72256).”.

1 (b) DETAILED ANALYSIS OF REBASING REDUC-
2 TION.—

3 (1) IN GENERAL.—The Secretary of Health and
4 Human Services shall conduct a detailed analysis of
5 the rebasing reduction in Medicare payments for
6 home health services promulgated under the rule for
7 home health prospective payment system rate update
8 for calendar year 2014 (promulgated on December
9 2, 2013, 78 Federal Register 72256), pursuant to
10 the Regulatory Flexibility Act, Executive Order
11 13563, section 3131(a) of the Patient Protection
12 and Affordable Care Act, and other specified factors.
13 Such analysis shall include an assessment of at least
14 the following factors:

15 (A) The age, poverty level, gender, rural
16 residence, ethnic or racial minority, and infir-
17 mity of Medicare beneficiaries receiving home
18 health services in comparison to other Medicare
19 beneficiaries.

20 (B) The number, gender, and geographic
21 distribution of professional Medicare home
22 health caregivers.

23 (C) The number and location of home
24 health agencies that have closed, consolidated,

1 or been acquired since the rebasing reduction
 2 was implemented.

3 (D) The number and location of profes-
 4 sional home health caregiver jobs that have
 5 been lost since the rebasing reduction was im-
 6 plemented.

7 (2) REPORT.—Not later than February 1,
 8 2015, the Secretary shall submit to Congress a re-
 9 port that contains findings regarding the analysis
 10 conducted under paragraph (1), including the Sec-
 11 retary’s assessment of the factors specified in such
 12 paragraph.

13 **SEC. 3. ESTABLISHMENT OF HOME HEALTH VALUE-BASED**
 14 **PURCHASING (VBP) PROGRAM.**

15 (a) READMISSION MEASURES.—Section 1895 of the
 16 Social Security Act (42 U.S.C. 1395fff) is amended by
 17 adding at the end the following new subsection:

18 “(f) POST-HOSPITAL HOME HEALTH SERVICES RE-
 19 ADMISION MEASURE.—

20 “(1) READMISSION MEASURE.—Not later than
 21 January 1, 2016, the Secretary shall specify a home
 22 health all-cause all-condition hospital unplanned re-
 23 admission measure (or any successor to such a
 24 measure) for readmissions (for any cause) to a hos-
 25 pital for an individual who is entitled to benefits

1 under part A (or enrolled under part B) and who is
2 receiving post-hospital home health services.

3 “(2) RESOURCE USE MEASURE.—Not later than
4 January 1, 2017, the Secretary shall specify a meas-
5 ure that is the measure specified under paragraph
6 (1), risk-adjusted for potentially preventable re-
7 admissions to a hospital for an individual described
8 in such paragraph.

9 “(3) DEVELOPMENT.—The measures specified
10 under paragraphs (1) and (2) shall be developed
11 through a formal process that is based on input
12 from a group of multiple stakeholders consisting of
13 at least senior advocates, Medicare beneficiaries,
14 caregivers, and home health physicians, nurses,
15 therapists, and operators of home health agencies.

16 “(4) QUARTERLY FEEDBACK REPORTS TO
17 HOME HEALTH AGENCIES.—Beginning January 1,
18 2017, and every quarter thereafter, the Secretary
19 shall provide confidential feedback to home health
20 agencies on their performance with respect to such
21 measures.

22 “(5) PUBLIC REPORTING ON PERFORMANCE.—
23 “(A) IN GENERAL.—Subject to subpara-
24 graphs (B) and (C), the Secretary shall estab-
25 lish procedures for making public on the Medi-

care Home Health Compare website (or successor to such website) the performance of home health agencies with respect to a measure specified under paragraph (1) and a measure specified under paragraph (2).

“(B) OPPORTUNITY TO REVIEW.—The procedures under subparagraph (A) shall ensure that a home health agency has the opportunity to review and submit corrections to the information that is to be made public with respect to such agency before such information is made public.

“(C) TIMING.—Such procedures shall provide that the information described in subparagraph (A) is first made publicly available beginning no later than January 1, 2018.”.

(b) VALUE-BASED PURCHASING PROGRAM FOR HOME HEALTH AGENCIES.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff), as amended by subsection (a), is further amended by adding at the end the following new subsection:

“(g) APPLICATION OF VALUE-BASED PURCHASING PROGRAM.—

“(1) ESTABLISHMENT.—

1 “(A) IN GENERAL.—Subject to the suc-
2 ceeding provisions of this subsection, the Sec-
3 retary shall establish a home health agency
4 value-based purchasing program (in this sub-
5 section referred to as the ‘HHA VBP Pro-
6 gram’) under which value-based incentive pay-
7 ments are made in a year to home health agen-
8 cies.

9 “(B) PROGRAM TO BEGIN IN 2019.—The
10 HHA VBP Program shall apply to payments
11 for episodes of home health services beginning
12 on or after January 1, 2019.

13 “(2) APPLICATION OF MEASURES.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), the Secretary shall apply the meas-
16 ure specified under subsection (f)(2) for pur-
17 poses of the HHA VBP Program.

18 “(B) REPLACEMENT.—If the Secretary de-
19 termines that the application of such measure is
20 not practicable and should be delayed and the
21 Secretary notifies the Committee on Finance of
22 the Senate and the Committees on Ways and
23 Means and Energy and Commerce of the House
24 of Representatives of the reasons for such delay
25 in advance of implementing such delay, the Sec-

retary may delay the application of such measure for a period of up to 1 year. For the period of any such delay, the measure specified under subsection (f)(1) shall apply for purposes of the HHA VBP Program instead of the measure specified under subsection (f)(2).

“(3) PERFORMANCE STANDARDS.—

“(A) ESTABLISHMENT.—The Secretary shall establish performance standards with respect to the measure applied under paragraph (2) for a performance period for a year.

“(B) HIGHER OF ACHIEVEMENT AND IMPROVEMENT.—The performance standards established under subparagraph (A) shall include levels of achievement and improvement. In calculating the HHA performance score under paragraph (4), the Secretary shall use the higher of either improvement or achievement.

“(C) TIMING.—The Secretary shall establish and announce the performance standards established under subparagraph (A) not later than 60 days before the beginning of the performance period for the year involved.

“(4) HHA PERFORMANCE SCORE.—

1 “(A) IN GENERAL.—The Secretary shall
2 develop by regulation a methodology for assess-
3 ing the total performance of each home health
4 agency based on performance standards estab-
5 lished under paragraph (3) with respect to the
6 measure applied under paragraph (2). Using
7 such methodology, the Secretary shall provide
8 for an assessment (in this subsection referred to
9 as the ‘HHA performance score’) for each home
10 health agency for each such performance pe-
11 riod.

12 “(B) RANKING OF HHA PERFORMANCE
13 SCORES.—The Secretary shall, for the perform-
14 ance period for each year, rank the HHA per-
15 formance scores determined under subpara-
16 graph (A) from low to high.

17 “(5) BUDGET NEUTRAL WITHHOLDING.—The
18 Secretary shall withhold from the payment rates
19 made for each year (during the period beginning
20 with 2019 and ending with 2024) for home health
21 services under this section such withholding percent-
22 age as is necessary so that the enactment of the Se-
23 curing Access Via Excellence for Medicare Home
24 Health Act of 2014 is estimated not to result in any

1 net change in payments made for such services
2 under this title.

3 “(6) VALUE-BASED INCENTIVE PAYMENT PER-
4 CENTAGE.—The Secretary shall provide for a dis-
5 tribution of a portion of the amounts withheld under
6 paragraph (5) for performance payments to home
7 health agencies in a manner so as to ensure that—

8 “(A) the distribution (expressed as a per-
9 centage of such withheld amounts) is based on
10 each agency’s HHA performance ranking under
11 paragraph (4)(B) for the performance period
12 for the year involved;

13 “(B) the application of all such percent-
14 ages in such year results in an appropriate dis-
15 tribution of value-based incentive payments
16 under this subsection such that—

17 “(i) home health agencies with the
18 highest rankings under paragraph (4)(B)
19 receive the highest value-based incentive
20 payment amounts under this subsection;

21 “(ii) home health agencies with the
22 lowest rankings under paragraph (4)(B)
23 receive the lowest value-based incentive
24 payment amounts under this subsection;
25 and

1 “(iii) in the case of home health agen-
2 cies in the lowest 40 percent of the ranking
3 under paragraph (4)(B), the payment rate
4 under this subsection for services furnished
5 by such facility during such year shall be
6 less than the payment rate for such serv-
7 ices for such year that would otherwise
8 apply without application of this sub-
9 section; and

10 “(C) the total amount of value-based in-
11 centive payments under this subsection for all
12 home health agencies in such year shall be
13 greater than or equal to 50 percent, but not
14 greater than 70 percent, of the total amount of
15 the payments withheld for such year under
16 paragraph (5), as estimated by the Secretary.

17 “(7) ANNOUNCEMENT OF RESULT OF ADJUST-
18 MENTS.—Under the HHA VBP program, the Sec-
19 retary shall, not later than 60 days before a year in-
20 volved, inform each home health agency of the ad-
21 justments to payments to the agency for services
22 furnished by the agency during the year under this
23 subsection.

24 “(8) NO EFFECT IN SUBSEQUENT YEAR.—The
25 value-based payment adjustments under this sub-

1 section shall only apply with respect to the year in-
2 volved, and the Secretary shall not take into account
3 such adjustment in making payments to a home
4 health agency under this section in a subsequent
5 year.

6 “(9) FUNDING FOR PROGRAM MANAGEMENT.—
7 The Secretary shall provide for the one-time transfer
8 from the Federal Supplementary Medical Insurance
9 Trust Fund established under section 1841 to the
10 Centers for Medicare & Medicaid Services Program
11 Management Account of—

12 “(A) \$2,000,000 for purposes of subsection
13 (f); and

14 “(B) \$10,000,000 for purposes of imple-
15 menting this subsection.

16 Such funds shall remain available until expended.”.

17 (c) MEDPAC STUDY.—Not later than June 30,
18 2021, the Medicare Payment Advisory Commission shall
19 submit to Congress a report that reviews the progress of
20 the home health value-based purchasing program estab-
21 lished under section 1895(g) of the Social Security Act,
22 as added by subsection (b), and makes recommendations,
23 as appropriate, on any improvements that should be made
24 to such program. For purposes of the previous sentence,
25 the Medicare Payment Advisory Commission shall con-

1 sider any unintended consequences with respect to such
2 home health agency value-based purchasing program and
3 any potential adjustments to the readmission measure
4 specified under section 1895(f) of such Act, as added by
5 subsection (a), for purposes of determining the effect of
6 the socio-economic status of a beneficiary under the Medi-
7 care program under title XVIII of the Social Security Act
8 on the performance score of a home health agency pro-
9 vided under section 1895(g)(4) of such Act, as added by
10 subsection (b).

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