

114TH CONGRESS
1ST SESSION

H. R. 2570

AN ACT

To amend title XVIII of the Social Security Act with respect to the treatment of patient encounters in ambulatory surgical centers in determining meaningful EHR use, establish a demonstration program requiring the utilization of Value-Based Insurance Design to demonstrate that reducing the copayments or coinsurance charged to Medicare beneficiaries for selected high-value prescription medications and clinical services can increase their utilization and ultimately improve clinical outcomes and lower health care expenditures, 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 “Strengthening Medi-
3 care Advantage through Innovation and Transparency for
4 Seniors Act of 2015”.

5 **SEC. 2. TREATMENT OF PATIENT ENCOUNTERS IN AMBULA-**
6 **TORY SURGICAL CENTERS IN DETERMINING**
7 **MEANINGFUL EHR USE.**

8 Section 1848(o)(2) of the Social Security Act (42
9 U.S.C. 1395w-4(o)(2)) is amended by adding at the end
10 of the following new subparagraph:

11 “(D) TREATMENT OF PATIENT ENCOUN-
12 TERS AT AMBULATORY SURGICAL CENTERS.—

13 “(i) IN GENERAL.—Subject to clause
14 (ii), for a payment year after 2015 any pa-
15 tient encounter of an eligible professional
16 occurring at an ambulatory surgical center
17 (described in section 1833(i)(1)(A)) shall
18 not be treated as a patient encounter in
19 determining whether an eligible profes-
20 sional qualifies as a meaningful EHR user.
21 Notwithstanding any other provision of
22 law, the Secretary may implement this
23 clause by program instruction or otherwise.

24 “(ii) SUNSET.—Clause (i) shall no
25 longer apply as of the first payment year
26 that begins more than 3 years after the

1 date the Secretary determines, through no-
2 tice and comment rulemaking, that cer-
3 tified EHR technology is applicable to the
4 ambulatory surgical center setting.”.

5 **SEC. 3. VALUE-BASED INSURANCE DESIGN DEMONSTRATION PROGRAM.**
6

7 (a) IN GENERAL.—The Secretary of Health and
8 Human Services (in this section referred to as the “Sec-
9 retary”) shall establish a 3-year demonstration program
10 to test the use of value-based insurance design methodolo-
11 gies (as defined in subsection (c)(1)) under eligible Medi-
12 care Advantage plans offered by Medicare Advantage or-
13 ganizations under part C of title XVIII of the Social Secu-
14 rity Act (42 U.S.C. 1395w–21 et seq.). The Secretary may
15 extend the program to a duration of 4 or 5 years, as deter-
16 mined necessary by the Secretary in coordination with the
17 Centers for Medicare and Medicaid Innovation.

18 (b) DEMONSTRATION PROGRAM DESIGN.—

19 (1) SELECTION OF MEDICARE ADVANTAGE
20 SITES AND ELIGIBLE MEDICARE ADVANTAGE
21 PLANS.—Not later than 2 years after the date of the
22 enactment of this Act, the Secretary shall—

23 (A) select at least two Medicare Advantage
24 sites with respect to which to conduct the dem-
25 onstration program under this section; and

1 (B) approve eligible Medicare Advantage
2 plans to participate in such demonstration pro-
3 gram.

4 In selecting Medicare Advantage sites under sub-
5 paragraph (A), the Secretary shall take into account
6 area differences as well as the availability of health
7 maintenance organization plans and preferred pro-
8 vider organization plans offered in such sites.

9 (2) START OF DEMONSTRATION.—The dem-
10 onstration program shall begin not later than the
11 third plan year beginning after the date of the en-
12 actment of this Act.

13 (3) ELIGIBLE MEDICARE ADVANTAGE PLANS.—
14 For purposes of this section, the term “eligible
15 Medicare Advantage plan” means a Medicare Ad-
16 vantage plan under part C of title XVIII of the So-
17 cial Security Act (42 U.S.C. 1395w–21 et seq.) that
18 meets the following requirements:

19 (A) The plan is an Medicare Advantage re-
20 gional plan (as defined in paragraph (4) of sec-
21 tion 1859(b) of such Act (42 U.S.C. 1395w–
22 28(b))) or Medicare Advantage local plan (as
23 defined in paragraph (5) of such section) of-
24 fered in the Medicare Advantage region selected
25 under paragraph (1)(A).

1 (B) The plan has—

2 (i)(I) a quality rating under section
3 1853(o) of such Act (42 U.S.C. 1395w–
4 23(o)) of 4 stars or higher based on the
5 most recent data available for such year,
6 or (II) in the case of a specialized Medi-
7 care Advantage plan for special needs indi-
8 viduals, as defined in section
9 1859(b)(6)(A) of such Act (42 U.S.C.
10 1395w–28(b)(6)(A)), a quality rating
11 under section 1853(o) of such Act (42
12 U.S.C. 1395w–23(o)) equal to or higher
13 than the national average for special needs
14 plans (excluding Institutional-Special needs
15 plans) based on the most recent data avail-
16 able for such year; and

17 (ii) at least 20 percent of the popu-
18 lation to whom the plan is offered in a
19 service area consists of subsidy eligible in-
20 dividuals (as defined in section 1860D–
21 14(a)(3)(A) of the Social Security Act (42
22 U.S.C. 1395w–114(a)(3)(A))).

23 (4) DISCLOSURE TO BENEFICIARIES.—The Sec-
24 retary shall provide to each individual eligible to en-
25 roll under a Medicare Advantage plan approved to

1 participate under the demonstration program during
2 a plan year for which the plan is so selected—

3 (A) notification that the plan is partici-
4 pating in such demonstration program;

5 (B) background information on the dem-
6 onstration program;

7 (C) clinical data derived from the studies
8 resulting from the demonstration program; and

9 (D) notification of the potential benefits
10 that the individual will receive, and of the other
11 potential impacts that the individual will experi-
12 ence, on account of the participation of the plan
13 in the demonstration program.

14 (c) VALUE-BASED INSURANCE DESIGN METHODOLO-
15 GIES.—

16 (1) DEFINITION.—For purposes of this section,
17 the term “value-based insurance design method-
18 ology” means a methodology for identifying specific
19 prescription medications, and clinical services that
20 are payable under title XVIII of the Social Security
21 Act, for which the reduction of copayments, coinsur-
22 ance, or both, would improve the management of
23 specific chronic clinical conditions because of the
24 high value and effectiveness of such medications and

1 services for such specific chronic clinical conditions,
2 as approved by the Secretary.

3 (2) USE OF METHODOLOGIES TO REDUCE CO-
4 PAYMENTS AND COINSURANCE.—A Medicare Advan-
5 tage organization offering an eligible Medicare Ad-
6 vantage plan approved to participate under the dem-
7 onstration program, for each plan year for which the
8 plan is so selected and using value-based insurance
9 design methodologies—

10 (A) shall identify each prescription medica-
11 tion and clinical service covered under such
12 plan for which the plan proposes to reduce or
13 eliminate the copayment or coinsurance, with
14 respect to the management of specific chronic
15 clinical conditions (as specified by the Sec-
16 retary) of Medicare Advantage eligible individ-
17 uals (as defined in section 1851(a)(3) of the
18 Social Security Act (42 U.S.C. 1395w-
19 21(a)(3))) enrolled under such plans, for such
20 plan year;

21 (B) may, for such plan year, reduce or
22 eliminate copayments, coinsurance, or both for
23 such prescription medication and clinical serv-
24 ices so identified with respect to the manage-
25 ment of such conditions of such individuals—

1 (i) if such reduction or elimination is
2 evidence-based and for the purpose of en-
3 couraging such individuals in such plan to
4 use such prescription medications and clin-
5 ical services (such as preventive care, pri-
6 mary care, specialty visits, diagnostic tests,
7 procedures, and durable medical equip-
8 ment) with respect to such conditions; and

9 (ii) for the purpose of encouraging
10 such individuals in such plan to use health
11 care providers that such organization has
12 identified with respect to such plan year as
13 being high value providers; and

14 (C) if a reduction or elimination is applied
15 pursuant to subparagraph (B), with respect to
16 such medication and clinical services, shall, for
17 such plan year, count toward the deductible ap-
18 plicable to such individual under such plan
19 amounts that would have been payable by the
20 individual as copayment or coinsurance for such
21 medication and services if the reduction or
22 elimination had not been applied.

23 (3) PROHIBITION OF INCREASES OF COPAY-
24 MENTS AND COINSURANCE.—In no case may any
25 Medicare Advantage plan participating in the dem-

1 onstration program increase, for any plan year for
2 which the plan is so participating, the amount of co-
3 payments or coinsurance for any item or service cov-
4 ered under such plan for purposes of discouraging
5 the use of such item or service.

6 (d) REPORT ON IMPLEMENTATION.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date on which the demonstration program under
9 this section begins under subsection (b)(2), the Sec-
10 retary shall submit to Congress a report on the sta-
11 tus of the implementation of the demonstration pro-
12 gram.

13 (2) ELEMENTS.—The report required by para-
14 graph (1) shall, with respect to eligible Medicare Ad-
15 vantage plans participating in the demonstration
16 program for the first plan year of such program, in-
17 clude the following:

18 (A) A list of each medication and service
19 identified pursuant to subsection (c)(2)(A) for
20 such plan with respect to such plan year.

21 (B) For each such medication or service so
22 identified, the amount of the copayment or co-
23 insurance required under such plan with respect
24 to such plan year for such medication or service

1 and the amount of the reduction of such copay-
2 ment or coinsurance from a previous plan year.

3 (C) For each provider identified pursuant
4 to subsection (c)(2)(B)(ii) for such plan with
5 respect to such plan year, a statement of the
6 amount of the copayment or coinsurance re-
7 quired under such plan with respect to such
8 plan year and the amount of the reduction of
9 such copayment or coinsurance from the pre-
10 vious plan year.

11 (e) REVIEW AND ASSESSMENT OF UTILIZATION OF
12 VALUE-BASED INSURANCE DESIGN METHODOLOGIES.—

13 (1) IN GENERAL.—The Secretary shall enter
14 into a contract or agreement with an independent
15 entity to review and assess the implementation of
16 the demonstration program under this section. The
17 review and assessment shall include the following:

18 (A) An assessment of the utilization of
19 value-based insurance design methodologies by
20 Medicare Advantage plans participating under
21 such program.

22 (B) An analysis of whether reducing or
23 eliminating the copayment or coinsurance for
24 each medication and clinical service identified
25 pursuant to subsection (c)(2)(A) resulted in in-

1 increased adherence to medication regimens, in-
2 increased service utilization, improvement in qual-
3 ity metrics, better health outcomes, and en-
4 hanced beneficiary experience.

5 (C) An analysis of the extent to which
6 costs to Medicare Advantage plans under part
7 C of title XVIII of the Social Security Act par-
8 ticipating in the demonstration program is less
9 than costs to Medicare Advantage plans under
10 such part that are not participating in the dem-
11 onstration program.

12 (D) An analysis of whether reducing or
13 eliminating the copayment or coinsurance for
14 providers identified pursuant to subsection
15 (c)(2)(B)(ii) resulted in improvement in quality
16 metrics, better health outcomes, and enhanced
17 beneficiary experience.

18 (E) An analysis, for each provider so iden-
19 tified, the extent to which costs to Medicare Ad-
20 vantage plans under part C of title XVIII of the
21 Social Security Act participating in the dem-
22 onstration program is less than costs to Medi-
23 care Advantage plans under such part that are
24 not participating in the demonstration program.

1 (F) Such other matters as the Secretary
2 considers appropriate.

3 (2) REPORT.—The contract or agreement en-
4 tered into under paragraph (1) shall require such
5 entity to submit to the Secretary a report on the re-
6 view and assessment conducted by the entity under
7 such paragraph in time for the inclusion of the re-
8 sults of such report in the report required by para-
9 graph (3). Such report shall include a description, in
10 clear language, of the manner in which the entity
11 conducted the review and assessment.

12 (3) REPORT TO CONGRESS.—Not later than 4
13 years after the date on which the demonstration pro-
14 gram begins under subsection (b)(2), the Secretary
15 shall submit to Congress a report on the review and
16 assessment of the demonstration program conducted
17 under this subsection. The report shall include the
18 following:

19 (A) A description of the results of the re-
20 view and assessment included in the report sub-
21 mitted pursuant to paragraph (2).

22 (B) Such recommendations as the Sec-
23 retary considers appropriate for enhancing the
24 utilization of the methodologies applied under
25 the demonstration program to all Medicare Ad-

1 vantage plans under part C of title XVIII of the
2 Social Security Act so as to reduce copayments
3 and coinsurance under such plans paid by
4 Medicare beneficiaries for high-value prescrip-
5 tion medications and clinical services for which
6 coverage is provided under such plans and to
7 otherwise improve the quality of health care
8 provided under such plans.

9 (4) OVERSIGHT REPORT.—Not later than 3
10 years after the date of the enactment of this Act, the
11 Comptroller General of the United States shall sub-
12 mit to Congress a report on the demonstration pro-
13 gram that includes an assessment, with respect to
14 individuals enrolled under Medicare Advantage plans
15 approved to participate under the demonstration
16 program, of the impact that the age, co-morbidities,
17 and geographic regions of such individuals had upon
18 the implementation of the demonstration program by
19 the plans with respect to such individuals.

20 (f) SAVINGS.—In no case may any reduction in bene-
21 ficiary copayments or coinsurance resulting from the im-
22 plementation of the demonstration program under this
23 section result in expenditures under parts A, B, and D
24 of the title XVIII of the Social Security Act that are great-

1 er than such expenditures without application of this sec-
2 tion.

3 (g) EXPANSION OF DEMONSTRATION PROGRAM.—

4 Taking into account the review and assessment conducted
5 under subsection (e), the Secretary may, through notice
6 and comment rulemaking, expand (including implementa-
7 tion on a nationwide basis) the duration and scope of the
8 demonstration program under title XVIII of the Social Se-
9 curity Act, other than under the original medicare fee-for-
10 service program under parts A and B of such title, to the
11 extent determined appropriate by the Secretary, if the re-
12 quirements of paragraphs (1), (2), and (3) of subsection
13 (c) of section 1115A of the Social Security Act (42 U.S.C.
14 1315a), as applied to the testing of a model under sub-
15 section (b) of such section, applied to the demonstration
16 under this section.

17 (h) WAIVER AUTHORITY.—The Secretary may waive
18 such provisions of titles XI and XVIII of the Social Secu-
19 rity Act as may be necessary to carry out the demonstra-
20 tion program under this section.

21 (i) IMPLEMENTATION FUNDING.—For purposes of
22 carrying out the demonstration program under this sec-
23 tion, the Secretary shall provide for the transfer from the
24 Federal Hospital Insurance Trust Fund under section
25 1817 of the Social Security Act (42 U.S.C. 1395i) and

1 the Federal Supplementary Insurance Trust Fund under
2 section 1841 of the Social Security Act (42 U.S.C. 1395t),
3 including the Medicare Prescription Drug Account in such
4 Trust Fund, in such proportion as determined appropriate
5 by the Secretary, of such sums as may be necessary.

6 **SEC. 4. TREATMENT OF INFUSION DRUGS FURNISHED**
7 **THROUGH DURABLE MEDICAL EQUIPMENT.**

8 Section 1842(o)(1) of the Social Security Act (42
9 U.S.C. 1395u(o)(1)) is amended—

10 (1) in subparagraph (C), by inserting “(and in-
11 cluding a drug or biological described in subpara-
12 graph (D)(i) furnished on or after January 1,
13 2017)” after “2005”; and

14 (2) in subparagraph (D)—

15 (A) by striking “infusion drugs” and in-
16 serting “infusion drugs or biologicals” each
17 place it appears; and

18 (B) in clause (i)—

19 (i) by striking “2004” and inserting
20 “2004, and before January 1, 2017”; and

21 (ii) by striking “for such drug”.

1 **SEC. 5. SENSE OF CONGRESS REGARDING THE IMPLEMEN-**
2 **TATION AND DISTRIBUTION OF QUALITY IN-**
3 **CENTIVE PAYMENTS TO MEDICARE ADVAN-**
4 **TAGE PLANS.**

5 It is the sense of Congress that—

6 (1) the Secretary of Health and Human Serv-
7 ices has incorrectly interpreted subsection (n) of sec-
8 tion 1853 of the Social Security Act (42 U.S.C.
9 1395w–23) as prohibiting the provision of any Medi-
10 care quality incentive payments under subsection (o)
11 of such section with respect to Medicare Advantage
12 plans that exceed the payment benchmark cap under
13 such subsection (n) for the area served by such
14 plans; and

15 (2) the Secretary should immediately apply
16 quality incentive payments under such subsection (o)
17 with respect to such Medicare Advantage plans with-
18 out regard to the limits set forth in such subsection
19 (n).

20 **SEC. 6. MEDICARE IMPROVEMENT FUND.**

21 Section 1898(b)(1) of the Social Security Act (42
22 U.S.C. 1395iii(b)(1)) is amended by striking “during and
23 after fiscal year 2020, \$0” and inserting “after fiscal year
24 2020, \$220,000,000”.

1 **SEC. 7. NON-INCLUSION OF DME INFUSION DRUGS UNDER**
2 **DME COMPETITIVE ACQUISITION PROGRAMS.**

3 (a) **IN GENERAL.**—Section 1847(a)(2)(A) of the So-
4 cial Security Act (42 U.S.C. 1395w–3(a)(2)(A)) is amend-
5 ed—

6 (1) by striking “and excluding” and inserting “,
7 excluding”; and

8 (2) by inserting before the period at the end the
9 following: “, and excluding drugs and biologicals de-
10 scribed in section 1842(o)(1)(D)”.

11 (b) **CONFORMING AMENDMENT.**—Section
12 1842(o)(1)(D)(ii) of the Social Security Act (42 U.S.C.
13 1395u(o)(1)(D)(ii)) is amended by striking “2007” and
14 inserting “2007, and before the date of the enactment of
15 the Strengthening Medicare Advantage through Innova-
16 tion and Transparency for Seniors Act of 2015”.

Passed the House of Representatives June 17, 2015.

Attest:

Clerk.

114TH CONGRESS
1ST SESSION

H. R. 2570

AN ACT

To amend title XVIII of the Social Security Act with respect to the treatment of patient encounters in ambulatory surgical centers in determining meaningful EHR use, establish a demonstration program requiring the utilization of Value-Based Insurance Design to demonstrate that reducing the copayments or coinsurance charged to Medicare beneficiaries for selected high-value prescription medications and clinical services can increase their utilization and ultimately improve clinical outcomes and lower health care expenditures, and for other purposes.