

114TH CONGRESS
1ST SESSION

H. R. 2581

To amend title XVIII of the Social Security Act to establish a 3-year demonstration program to test the use of value-based insurance design methodologies under eligible Medicare Advantage plans, to preserve Medicare beneficiary choice under Medicare Advantage, to revise the treatment under the Medicare program of infusion drugs furnished through durable medical equipment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 29, 2015

Mr. BRADY of Texas 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 establish a 3-year demonstration program to test the use of value-based insurance design methodologies under eligible Medicare Advantage plans, to preserve Medicare beneficiary choice under Medicare Advantage, to revise the treatment under the Medicare program of infusion drugs furnished through durable medical equipment, 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. DEMONSTRATION PROGRAM.**

2 (a) IN GENERAL.—The Secretary of Health and
3 Human Services (in this section referred to as the “Sec-
4 retary”) shall establish a 3-year demonstration program
5 to test the use of value-based insurance design methodolo-
6 gies (as defined in subsection (c)(1)) under eligible Medi-
7 care Advantage plans offered by Medicare Advantage or-
8 ganizations under part C of title XVIII of the Social Secu-
9 rity Act (42 U.S.C. 1395w–21 et seq.).

10 (b) DEMONSTRATION PROGRAM DESIGN.—

11 (1) SELECTION OF MEDICARE ADVANTAGE
12 SITES AND ELIGIBLE MEDICARE ADVANTAGE
13 PLANS.—Not later than two years after the date of
14 the enactment of this Act, the Secretary shall—

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

18 (B) approve eligible Medicare Advantage
19 plans to participate in such demonstration pro-
20 gram.

21 In selecting Medicare Advantage sites under sub-
22 paragraph (A), the Secretary shall take into account
23 area differences as well as the availability of health
24 maintenance organization plans and preferred pro-
25 vider organization plans offered in such sites.

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

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

11 (A) The plan is an Medicare Advantage re-
12 gional plan (as defined in paragraph (4) of sec-
13 tion 1859(b) of such Act (42 U.S.C. 1395w–
14 28(b))) or Medicare Advantage local plan (as
15 defined in paragraph (5) of such section) of-
16 fered in the Medicare Advantage region selected
17 under paragraph (1)(A).

18 (B) The plan has—

19 (i)(I) a quality rating under section
20 1853(n)(4) of such Act (42 U.S.C. 1395w–
21 23(n)(4)) of 4 stars or higher based on the
22 most recent data available for such year,
23 or

24 (II) in the case of a specialized Medi-
25 care Advantage plan for special needs indi-

1 viduals, as defined in section
2 1859(b)(6)(A) of such Act (42 U.S.C.
3 1395w-28(b)(6)(A)), a quality rating
4 under 1853(n)(4) of such Act (42 U.S.C.
5 1395w-23(n)(4)) equal to or higher than
6 the national average for special needs
7 plans (excluding Institutional-Special needs
8 plans) based on the most recent data avail-
9 able for such year; and

10 (ii) at least 20 percent of the popu-
11 lation to whom the plan is offered consists
12 of subsidy eligible individuals (as defined
13 in section 1860D-14(a)(3)(A) of the Social
14 Security Act (42 U.S.C. 1395w-
15 114(a)(3)(A))).

16 (4) DISCLOSURE TO BENEFICIARIES.—The Sec-
17 retary shall provide to each individual eligible to en-
18 roll under a Medicare Advantage plan approved to
19 participate under the demonstration program during
20 a plan year for which the plan is so selected—

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

23 (B) background information on the dem-
24 onstration program;

1 (C) clinical data derived from the studies
2 resulting from the demonstration program; and

3 (D) notification of the potential benefits
4 that the individual will receive, and of the other
5 potential impacts that the individual will experi-
6 ence, on account of the participation of the plan
7 in the demonstration program.

8 (c) VALUE-BASED INSURANCE DESIGN METHODOLO-
9 GIES.—

10 (1) DEFINITION.—For purposes of this section,
11 the term “value-based insurance design method-
12 ology” means a methodology for identifying specific
13 prescription medications, and clinical services that
14 are payable under title XVIII of the Social Security
15 Act, for which copayments, coinsurance, or both,
16 would improve the management of specific chronic
17 clinical conditions because of the high value and ef-
18 fectiveness of such medications and services for such
19 specific chronic clinical conditions, as approved by
20 the Secretary.

21 (2) USE OF METHODOLOGIES TO REDUCE CO-
22 PAYMENTS AND COINSURANCE.—A Medicare Advan-
23 tage organization offering an eligible Medicare Ad-
24 vantage plan approved to participate under the dem-
25 onstration program, for each plan year for which the

1 plan is so selected and using value-based insurance
2 design methodologies—

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

14 (B) may, for such plan year, reduce or
15 eliminate copayments, coinsurance, or both for
16 such prescription medication and clinical serv-
17 ices so identified with respect to the manage-
18 ment of such conditions of such individuals—

19 (i) if such reduction or elimination is
20 evidence-based and for the purpose of en-
21 couraging such individuals in such plan to
22 use such prescription medications and clin-
23 ical services (such as preventive care, pri-
24 mary care, specialty visits, diagnostic tests,

1 procedures, and durable medical equip-
2 ment) with respect to such conditions; and

3 (ii) for the purpose of encouraging
4 such individuals in such plan to use health
5 care providers that such organization has
6 identified with respect to such plan year as
7 being high value providers; and

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

17 (3) PROHIBITION OF INCREASES OF COPAY-
18 MENTS AND COINSURANCE.—In no case may any
19 Medicare Advantage plan participating in the dem-
20 onstration program increase, for any plan year for
21 which the plan is so participating, the amount of co-
22 payments or coinsurance for any item or service cov-
23 ered under such plan for purposes of discouraging
24 the use of such item or service.

25 (d) REPORT ON IMPLEMENTATION.—

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

7 (2) ELEMENTS.—The report required by para-
8 graph (1) shall, with respect to eligible Medicare Ad-
9 vantage plans participating in the demonstration
10 program for the first plan year of such program, in-
11 clude the following:

12 (A) A list of each medication and service
13 identified pursuant to subsection (c)(2)(A) for
14 such plan with respect to such plan year.

15 (B) For each such medication or service so
16 identified, the amount of the copayment or co-
17 insurance required under such plan with respect
18 to such plan year for such medication or service
19 and the amount of the reduction of such copay-
20 ment or coinsurance from a previous plan year.

21 (C) For each provider identified pursuant
22 to subsection (c)(2)(B)(ii) for such plan with
23 respect to such plan year, a statement of the
24 amount of the copayment or coinsurance re-
25 quired under such plan with respect to such

1 plan year and the amount of the reduction of
2 such copayment or coinsurance from the pre-
3 vious plan year.

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

6 (1) IN GENERAL.—The Secretary shall enter
7 into a contract or agreement with an independent
8 entity to review and assess the implementation of
9 the demonstration program under this section. The
10 review and assessment shall include the following:

11 (A) An assessment of the utilization of
12 value-based insurance design methodologies by
13 Medicare Advantage plans participating under
14 such program.

15 (B) An analysis of whether reducing or
16 eliminating the copayment or coinsurance for
17 each medication and clinical service identified
18 pursuant to subsection (c)(2)(A) resulted in in-
19 creased adherence to medication regimens, in-
20 creased service utilization, improvement in qual-
21 ity metrics, better health outcomes, and en-
22 hanced beneficiary experience.

23 (C) An analysis of the extent to which
24 costs to Medicare Advantage plans under part
25 C of title XVIII of the Social Security Act par-

1 participating in the demonstration program is less
2 than costs to Medicare Advantage plans under
3 such part that are not participating in the dem-
4 onstration program.

5 (D) An analysis of whether reducing or
6 eliminating the copayment or coinsurance for
7 providers identified pursuant to subsection
8 (c)(2)(B)(ii) resulted in improvement in quality
9 metrics, better health outcomes, and enhanced
10 beneficiary experience.

11 (E) An analysis, for each provider so iden-
12 tified, the extent to which costs to Medicare Ad-
13 vantage plans under part C of title XVIII of the
14 Social Security Act participating in the dem-
15 onstration program is less than costs to Medi-
16 care Advantage plans under such part that are
17 not participating in the demonstration program.

18 (F) Such other matters as the Secretary
19 considers appropriate.

20 (2) REPORT.—The contract or agreement en-
21 tered into under paragraph (1) shall require such
22 entity to submit to the Secretary a report on the re-
23 view and assessment conducted by the entity under
24 such paragraph in time for the inclusion of the re-
25 sults of such report in the report required by para-

1 graph (3). Such report shall include a description, in
2 clear language, of the manner in which the entity
3 conducted the review and assessment.

4 (3) REPORT TO CONGRESS.—Not later than 4
5 years after the date on which the demonstration pro-
6 gram begins under subsection (b)(2), the Secretary
7 shall submit to Congress a report on the review and
8 assessment of the demonstration program conducted
9 under this subsection. The report shall include the
10 following:

11 (A) A description of the results of the re-
12 view and assessment included in the report sub-
13 mitted pursuant to paragraph (2).

14 (B) Such recommendations as the Sec-
15 retary considers appropriate for enhancing the
16 utilization of the methodologies applied under
17 the demonstration program to all Medicare Ad-
18 vantage plans under part C of title XVIII of the
19 Social Security Act so as to reduce copayments
20 and coinsurance under such plans paid by
21 Medicare beneficiaries for high-value prescrip-
22 tion medications and clinical services for which
23 coverage is provided under such plans and to
24 otherwise improve the quality of health care
25 provided under such plans.

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

12 (f) SAVINGS.—In no case may any reduction in bene-
13 ficiary copayments or coinsurance resulting from the im-
14 plementation of the demonstration program under this
15 section result in expenditures under parts A, B, and D
16 of the title XVIII of the Social Security Act that are great-
17 er than such expenditures without application of this sec-
18 tion.

19 (g) EXPANSION OF DEMONSTRATION PROGRAM.—
20 Taking into account the review and assessment conducted
21 under subsection (e), the Secretary may, through notice
22 and comment rulemaking, expand (including implementa-
23 tion on a nationwide basis) the duration and scope of the
24 demonstration program under title XVIII of the Social Se-
25 curity Act, other than under the original Medicare fee-for-

1 service program under parts A and B of such title, to the
2 extent determined appropriate by the Secretary, if the re-
3 quirements of paragraphs (1), (2) and (3) of subsection
4 (c) of section 1115A of the Social Security Act (42 U.S.C.
5 1315a), as applied to the testing of a model under sub-
6 section (b) of such section, applied to the demonstration
7 under this section.

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

12 (i) IMPLEMENTATION FUNDING.—For purposes of
13 carrying out the demonstration program under this sec-
14 tion, the Secretary shall provide for the transfer from the
15 Federal Hospital Insurance Trust Fund under section
16 1817 of the Social Security Act (42 U.S.C. 1395i) and
17 the Federal Supplementary Insurance Trust Fund under
18 section 1841 of the Social Security Act (42 U.S.C. 1395t),
19 including the Medicare Prescription Drug Account in such
20 Trust Fund, in such proportion as determined appropriate
21 by the Secretary, of such sums as may be necessary.

22 **SEC. 2. PRESERVATION OF MEDICARE BENEFICIARY**
23 **CHOICE UNDER MEDICARE ADVANTAGE.**

24 Section 1851(e)(2) of the Social Security Act (42
25 U.S.C. 1395w-21(e)(2)) is amended—

1 (1) in subparagraph (C)—

2 (A) in the heading, by inserting “FROM
3 2011 THROUGH 2015” after “45-DAY PERIOD”;
4 and

5 (B) by inserting “and ending with 2015”
6 after “beginning with 2011”; and

7 (2) by adding at the end the following new sub-
8 paragraph:

9 “(G) CONTINUOUS OPEN ENROLLMENT
10 AND DISENROLLMENT FOR FIRST 3 MONTHS IN
11 2016 AND SUBSEQUENT YEARS.—

12 “(i) IN GENERAL.—Subject to clause
13 (ii) and subparagraph (D), at any time
14 during the first 3 months of a year (begin-
15 ning with 2016), or, if the individual first
16 becomes a Medicare Advantage eligible in-
17 dividual during a year (beginning with
18 2016), during the first 3 months of such
19 year in which the individual is a Medicare
20 Advantage eligible individual, a Medicare
21 Advantage eligible individual may change
22 the election under subsection (a)(1).

23 “(ii) LIMITATION OF ONE CHANGE
24 DURING OPEN ENROLLMENT PERIOD EACH
25 YEAR.—An individual may change the elec-

1 tion pursuant to clause (i) only once dur-
2 ing the applicable 3-month period de-
3 scribed in such clause in each year. The
4 limitation under this clause shall not apply
5 to changes in elections effected during an
6 annual, coordinated election period under
7 paragraph (3) or during a special enroll-
8 ment period under paragraph (4).

9 “(iii) LIMITED APPLICATION TO PART
10 D.—Clauses (i) and (ii) of this subpara-
11 graph shall only apply with respect to
12 changes in enrollment in a prescription
13 drug plan under part D in the case of an
14 individual who, previous to such change in
15 enrollment, is enrolled in a Medicare Ad-
16 vantage plan.

17 “(iv) LIMITATIONS ON MARKETING.—
18 Pursuant to subsection (j), no unsolicited
19 marketing or marketing materials may be
20 sent to an individual described in clause (i)
21 during the continuous open enrollment and
22 disenrollment period established for the in-
23 dividual under such clause.”.

1 **SEC. 3. TREATMENT OF INFUSION DRUGS FURNISHED**
2 **THROUGH DURABLE MEDICAL EQUIPMENT.**

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

5 (1) in subparagraph (C), by inserting “(and in-
6 cluding a drug or biological described in subpara-
7 graph (D)(i) furnished on or after January 1,
8 2017)” after “2005”; and

9 (2) in subparagraph (D)—

10 (A) by striking “infusion drugs” and in-
11 sserting “infusion drugs or biologicals” each
12 place it appears; and

13 (B) in clause (i)—

14 (i) by striking “2004” and inserting
15 “2004, and before January 1, 2017”; and

16 (ii) by striking “for such drug”.

○