

Union Calendar No. 470

114TH CONGRESS
2^D SESSION

H. R. 5273

[Report No. 114-604, Part I]

To amend title XVIII of the Social Security Act to provide for regulatory relief under the Medicare program for certain providers of services and suppliers and increased transparency in hospital coding and enrollment data, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2016

Mr. TIBERI (for himself and Mr. McDERMOTT) 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

JUNE 7, 2016

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

JUNE 7, 2016

The Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 18, 2016]

A BILL

To amend title XVIII of the Social Security Act to provide for regulatory relief under the Medicare program for certain providers of services and suppliers and increased transparency in hospital coding and enrollment data, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Helping Hospitals Improve Patient Care Act of 2016”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—PROVISIONS RELATING TO MEDICARE PART A

Sec. 101. Development of Medicare study for HCPCS version of MS-DRG codes for similar hospital services.

Sec. 102. Establishing beneficiary equity in the Medicare hospital readmission program.

Sec. 103. Five-year extension of the rural community hospital demonstration program.

Sec. 104. Regulatory relief for LTCHs.

Sec. 105. Savings from IPPS MACRA pay-for through not applying documentation and coding adjustments.

TITLE II—PROVISIONS RELATING TO MEDICARE PART B

Sec. 201. Continuing Medicare payment under HOPD prospective payment system for services furnished by mid-build off-campus outpatient departments of providers.

Sec. 202. Treatment of cancer hospitals in off-campus outpatient department of a provider policy.

Sec. 203. Treatment of eligible professionals in ambulatory surgical centers for meaningful use and MIPS.

TITLE III—OTHER MEDICARE PROVISIONS

Sec. 301. Delay in authority to terminate contracts for Medicare Advantage plans failing to achieve minimum quality ratings.

Sec. 302. Requirement for enrollment data reporting for Medicare.

Sec. 303. Updating the Welcome to Medicare package.

1 **TITLE I—PROVISIONS RELATING**
 2 **TO MEDICARE PART A**

3 **SEC. 101. DEVELOPMENT OF MEDICARE STUDY FOR HCPCS**
 4 **VERSION OF MS-DRG CODES FOR SIMILAR**
 5 **HOSPITAL SERVICES.**

6 *Section 1886 of the Social Security Act (42 U.S.C.*
 7 *1395ww) is amended by adding at the end the following*
 8 *new subsection:*

9 *“(t) RELATING SIMILAR INPATIENT AND OUTPATIENT*
 10 *HOSPITAL SERVICES.—*

11 *“(1) DEVELOPMENT OF HCPCS VERSION OF MS-*
 12 *DRG CODES.—*

13 *“(A) IN GENERAL.—Not later than January*
 14 *1, 2018, the Secretary shall develop HCPCS*
 15 *versions for MS-DRGs that is similar to the*
 16 *ICD-10-PCS for such MS-DRGs such that, to*
 17 *the extent possible, the MS-DRG assignment*
 18 *shall be similar for a claim coded with the*
 19 *HCPCS version as an identical claim coded with*
 20 *a ICD-10-PCS code.*

21 *“(B) COVERAGE OF SURGICAL MS-DRGS.—*
 22 *In carrying out subparagraph (A), the Secretary*
 23 *shall develop HCPCS versions of MS-DRG codes*
 24 *for not fewer than 10 surgical MS-DRGs.*

1 “(C) *PUBLICATION AND DISSEMINATION OF*
2 *THE HCPCS VERSIONS OF MS-DRGS.—*

3 “(i) *IN GENERAL.—The Secretary shall*
4 *develop a HCPCS MS-DRG definitions*
5 *manual and software that is similar to the*
6 *definitions manual and software for ICD-*
7 *10-PCS codes for such MS-DRGs. The Sec-*
8 *retary shall post the HCPCS MS-DRG*
9 *definitions manual and software on the*
10 *Internet website of the Centers for Medicare*
11 *& Medicaid Services. The HCPCS MS-*
12 *DRG definitions manual and software shall*
13 *be in the public domain and available for*
14 *use and redistribution without charge.*

15 “(ii) *USE OF PREVIOUS ANALYSIS*
16 *DONE BY MEDPAC.—In developing the*
17 *HCPCS MS-DRG definitions manual and*
18 *software under clause (i), the Secretary*
19 *shall consult with the Medicare Payment*
20 *Advisory Commission and shall consider the*
21 *analysis done by such Commission in trans-*
22 *lating outpatient surgical claims into inpa-*
23 *tient surgical MS-DRGs in preparing*
24 *chapter 7 (relating to hospital short-stay*
25 *policy issues) of its ‘Medicare and the*

1 *Health Care Delivery System*’ report sub-
2 mitted to Congress in June 2015.

3 “(D) *DEFINITION AND REFERENCE.*—In
4 this paragraph:

5 “(i) *HCPCS.*—The term ‘*HCPCS*’
6 means, with respect to hospital items and
7 services, the code under the *Healthcare*
8 *Common Procedure Coding System*
9 (*HCPCS*) (or a successor code) for such
10 items and services.

11 “(ii) *ICD–10–PCS.*—The term ‘*ICD–*
12 *10–PCS*’ means the *International Classi-*
13 *fication of Diseases, 10th Revision, Proce-*
14 *dure Coding System*, and includes a subse-
15 quent revision of such *International Classi-*
16 *fication of Diseases, Procedure Coding Sys-*
17 *tem.*”.

18 **SEC. 102. ESTABLISHING BENEFICIARY EQUITY IN THE**
19 **MEDICARE HOSPITAL READMISSION PRO-**
20 **GRAM.**

21 (a) *TRANSITIONAL ADJUSTMENT FOR DUAL ELIGIBLE*
22 *POPULATION.*—Section 1886(q)(3) of the *Social Security*
23 *Act (42 U.S.C. 1395ww(q)(3))* is amended—

1 (1) in subparagraph (A), by inserting “subject to
2 subparagraph (D),” after “purposes of paragraph
3 (1),”; and

4 (2) by adding at the end the following new sub-
5 paragraph:

6 “(D) *TRANSITIONAL ADJUSTMENT FOR*
7 *DUAL ELIGIBLES.—*

8 “(i) *IN GENERAL.—In determining a*
9 *hospital’s adjustment factor under this*
10 *paragraph for purposes of making pay-*
11 *ments for discharges occurring during and*
12 *after fiscal year 2019, and before the appli-*
13 *cation of clause (i) of subparagraph (E), the*
14 *Secretary shall assign hospitals to groups*
15 *(as defined by the Secretary under clause*
16 *(ii)) and apply the applicable provisions of*
17 *this subsection using a methodology in a*
18 *manner that allows for separate comparison*
19 *of hospitals within each such group, as de-*
20 *termined by the Secretary.*

21 “(ii) *DEFINING GROUPS.—For pur-*
22 *poses of this subparagraph, the Secretary*
23 *shall define groups of hospitals based on*
24 *their overall proportion, of the inpatients*
25 *who are entitled to, or enrolled for, benefits*

1 under part A, who are full-benefit dual eli-
2 gible individuals (as defined in section
3 1935(c)(6)). In defining groups, the Sec-
4 retary shall consult the Medicare Payment
5 Advisory Commission and may consider the
6 analysis done by such Commission in pre-
7 paring the portion of its report submitted to
8 Congress in June 2013 relating to readmis-
9 sions.

10 “(iii) *MINIMIZING REPORTING BURDEN*
11 *ON HOSPITALS.*—In carrying out this sub-
12 paragraph, the Secretary shall not impose
13 any additional reporting requirements on
14 hospitals.

15 “(iv) *BUDGET NEUTRAL DESIGN METH-*
16 *ODOLOGY.*—The Secretary shall design the
17 methodology to implement this subpara-
18 graph so that the estimated total amount of
19 reductions in payments under this sub-
20 section equals the estimated total amount of
21 reductions in payments that would other-
22 wise occur under this subsection if this sub-
23 paragraph did not apply.”.

24 (b) *SUBSEQUENT ADJUSTMENTS BASED ON IMPACT*
25 *REPORTS.*—Section 1886(q)(3) of the Social Security Act

1 *(42 U.S.C. 1395ww(q)(3)), as amended by subsection (a),*
2 *is further amended by adding at the end the following new*
3 *subparagraph:*

4 “(E) *CHANGES IN RISK ADJUSTMENT.—*

5 “(i) *CONSIDERATION OF RECOMMENDA-*
6 *TIONS IN IMPACT REPORTS.—The Secretary*
7 *may take into account the studies conducted*
8 *and the recommendations made by the Sec-*
9 *retary under section 2(d)(1) of the IMPACT*
10 *Act of 2014 (Public Law 113–185; 42*
11 *U.S.C. 1395lll note) with respect to the ap-*
12 *plication under this subsection of risk ad-*
13 *justment methodologies. Nothing in this*
14 *clause shall be construed as precluding con-*
15 *sideration of the use of groupings of hos-*
16 *pitals.”.*

17 (c) *MEDPAC STUDY ON READMISSIONS PROGRAM.—*

18 *The Medicare Payment Advisory Commission shall conduct*
19 *a study to review overall hospital readmissions described*
20 *in section 1886(q)(5)(E) of the Social Security Act (42*
21 *U.S.C. 1395ww(q)(5)(E)) and whether such readmissions*
22 *are related to any changes in outpatient and emergency*
23 *services furnished. The Commission shall submit to Con-*
24 *gress a report on such study in its report to Congress in*
25 *June 2017.*

1 (d) *ADDRESSING ISSUE OF CERTAIN PATIENTS.*—Sub-
2 *paragraph (E) of section 1886(q)(3) of the Social Security*
3 *Act (42 U.S.C. 1395ww(q)(3)), as added by subsection (b),*
4 *is further amended by adding at the end the following new*
5 *clause:*

6 “(ii) *CONSIDERATION OF EXCLUSION*
7 *OF PATIENT CASES BASED ON V OR OTHER*
8 *APPROPRIATE CODES.*—*In promulgating*
9 *regulations to carry out this subsection with*
10 *respect to discharges occurring after fiscal*
11 *year 2018, the Secretary may consider the*
12 *use of V or other ICD-related codes for re-*
13 *moval of a readmission. The Secretary may*
14 *consider modifying measures under this*
15 *subsection to incorporate V or other ICD-re-*
16 *lated codes at the same time as other*
17 *changes are being made under this subpara-*
18 *graph.”.*

19 (e) *REMOVAL OF CERTAIN READMISSIONS.*—Subpara-
20 *graph (E) of section 1886(q)(3) of the Social Security Act*
21 *(42 U.S.C. 1395ww(q)(3)), as added by subsection (b) and*
22 *amended by subsection (d), is further amended by adding*
23 *at the end the following new clause:*

24 “(iii) *REMOVAL OF CERTAIN READMIS-*
25 *SIONS.*—*In promulgating regulations to*

1 *carry out this subsection, with respect to*
2 *discharges occurring after fiscal year 2018,*
3 *the Secretary may consider removal as a re-*
4 *admission of an admission that is classified*
5 *within one or more of the following: trans-*
6 *plants, end-stage renal disease, burns, trau-*
7 *ma, psychosis, or substance abuse. The Sec-*
8 *retary may consider modifying measures*
9 *under this subsection to remove readmis-*
10 *sions at the same time as other changes are*
11 *being made under this subparagraph.”.*

12 **SEC. 103. FIVE-YEAR EXTENSION OF THE RURAL COMMU-**
13 **NITY HOSPITAL DEMONSTRATION PROGRAM.**

14 *(a) EXTENSION.—Section 410A of the Medicare Pre-*
15 *scription Drug, Improvement, and Modernization Act of*
16 *2003 (Public Law 108–173; 42 U.S.C. 1395ww note), as*
17 *amended by sections 3123 and 10313 of the Patient Protec-*
18 *tion and Affordable Care Act (Public Law 111–148), is*
19 *amended—*

20 *(1) in subsection (a)(5), by striking “5-year ex-*
21 *tension period” and inserting “10-year extension pe-*
22 *riod”; and*

23 *(2) in subsection (g)—*

24 *(A) in the subsection heading, by striking*
25 *“FIVE-YEAR” and inserting “TEN-YEAR”;*

1 (B) in paragraph (1), by striking “addi-
2 tional 5-year” and inserting “additional 10-
3 year”;

4 (C) by striking “5-year extension period”
5 and inserting “10-year extension period” each
6 place it appears;

7 (D) in paragraph (4)(B)—

8 (i) in the matter preceding clause (i),
9 by inserting “each 5-year period in” after
10 “hospital during”; and

11 (ii) in clause (i), by inserting “each
12 applicable 5-year period in” after “the first
13 day of”; and

14 (E) by adding at the end the following new
15 paragraphs:

16 “(5) *OTHER HOSPITALS IN DEMONSTRATION*
17 *PROGRAM.*—During the second 5 years of the 10-year
18 extension period, the Secretary shall apply the provi-
19 sions of paragraph (4) to rural community hospitals
20 that are not described in paragraph (4) but are par-
21 ticipating in the demonstration program under this
22 section as of December 30, 2014, in a similar manner
23 as such provisions apply to rural community hos-
24 pitals described in paragraph (4).

1 “(6) *EXPANSION OF DEMONSTRATION PROGRAM*
2 *TO RURAL AREAS IN ANY STATE.*—

3 “(A) *IN GENERAL.*—*The Secretary shall,*
4 *notwithstanding subsection (a)(2) or paragraph*
5 *(2) of this subsection, not later than 120 days*
6 *after the date of the enactment of this paragraph,*
7 *issue a solicitation for applications to select up*
8 *to the maximum number of additional rural*
9 *community hospitals located in any State to*
10 *participate in the demonstration program under*
11 *this section for the second 5 years of the 10-year*
12 *extension period without exceeding the limitation*
13 *under paragraph (3) of this subsection.*

14 “(B) *PRIORITY.*—*In determining which*
15 *rural community hospitals that submitted an*
16 *application pursuant to the solicitation under*
17 *subparagraph (A) to select for participation in*
18 *the demonstration program, the Secretary—*

19 “(i) *shall give priority to rural com-*
20 *munity hospitals located in one of the 20*
21 *States with the lowest population densities*
22 *(as determined by the Secretary using the*
23 *2015 Statistical Abstract of the United*
24 *States); and*

25 “(ii) *may consider—*

1 “(I) closures of hospitals located
 2 in rural areas in the State in which
 3 the rural community hospital is lo-
 4 cated during the 5-year period imme-
 5 diately preceding the date of the enact-
 6 ment of this paragraph; and

7 “(II) the population density of the
 8 State in which the rural community
 9 hospital is located.”.

10 (b) *CHANGE IN TIMING FOR REPORT.*—Subsection (e)
 11 of such section 410A is amended—

12 (1) by striking “Not later than 6 months after
 13 the completion of the demonstration program under
 14 this section” and inserting “Not later than August 1,
 15 2018”; and

16 (2) by striking “such program” and inserting
 17 “the demonstration program under this section”.

18 **SEC. 104. REGULATORY RELIEF FOR LTCHS.**

19 (a) *TECHNICAL CHANGE TO THE MEDICARE LONG-*
 20 *TERM CARE HOSPITAL MORATORIUM EXCEPTION.*—

21 (1) *IN GENERAL.*—Section 114(d)(7) of the *Medi-*
 22 *care, Medicaid, and SCHIP Extension Act of 2007*
 23 *(42 U.S.C. 1395ww note)*, as amended by sections
 24 *3106(b) and 10312(b) of Public Law 111–148*, section
 25 *1206(b)(2) of the Pathway for SGR Reform Act of*

1 2013 (division B of Public Law 113–67), and section
2 112 of the Protecting Access to Medicare Act of 2014,
3 is amended by striking “The moratorium under para-
4 graph (1)(A)” and inserting “Any moratorium under
5 paragraph (1)”.

6 (2) *EFFECTIVE DATE.*—The amendment made by
7 paragraph (1) shall take effect as if included in the
8 enactment of section 112 of the Protecting Access to
9 Medicare Act of 2014.

10 (b) *MODIFICATION TO MEDICARE LONG-TERM CARE*
11 *HOSPITAL HIGH COST OUTLIER PAYMENTS.*—Section
12 1886(m) of the Social Security Act (42 U.S.C. 1395ww(m))
13 is amended by adding at the end the following new para-
14 graph:

15 “(7) *TREATMENT OF HIGH COST OUTLIER PAY-*
16 *MENTS.*—

17 “(A) *ADJUSTMENT TO THE STANDARD FED-*
18 *ERAL PAYMENT RATE FOR ESTIMATED HIGH*
19 *COST OUTLIER PAYMENTS.*—Under the system
20 described in paragraph (1), for fiscal years be-
21 ginning on or after October 1, 2017, the Sec-
22 retary shall reduce the standard Federal pay-
23 ment rate as if the estimated aggregate amount
24 of high cost outlier payments for standard Fed-
25 eral payment rate discharges for each such fiscal

1 *year would be equal to 8 percent of estimated ag-*
2 *gregate payments for standard Federal payment*
3 *rate discharges for each such fiscal year.*

4 “(B) *LIMITATION ON HIGH COST OUTLIER*
5 *PAYMENT AMOUNTS.—Notwithstanding subpara-*
6 *graph (A), the Secretary shall set the fixed loss*
7 *amount for high cost outlier payments such that*
8 *the estimated aggregate amount of high cost*
9 *outlier payments made for standard Federal*
10 *payment rate discharges for fiscal years begin-*
11 *ning on or after October 1, 2017, shall be equal*
12 *to 99.6875 percent of 8 percent of estimated ag-*
13 *gregate payments for standard Federal payment*
14 *rate discharges for each such fiscal year.*

15 “(C) *WAIVER OF BUDGET NEUTRALITY.—*
16 *Any reduction in payments resulting from the*
17 *application of subparagraph (B) shall not be*
18 *taken into account in applying any budget neu-*
19 *trality provision under such system.*

20 “(D) *NO EFFECT ON SITE NEUTRAL HIGH*
21 *COST OUTLIER PAYMENT RATE.—This paragraph*
22 *shall not apply with respect to the computation*
23 *of the applicable site neutral payment rate under*
24 *paragraph (6).”.*

1 **SEC. 105. SAVINGS FROM IPPS MACRA PAY-FOR THROUGH**
 2 **NOT APPLYING DOCUMENTATION AND COD-**
 3 **ING ADJUSTMENTS.**

4 *Section 7(b)(1)(B)(iii) of the TMA, Abstinence Edu-*
 5 *cation, and QI Programs Extension Act of 2007 (Public*
 6 *Law 110–90), as amended by section 631(b) of the Amer-*
 7 *ican Taxpayer Relief Act of 2012 (Public Law 122–240)*
 8 *and section 414(1)(B)(iii) of the Medicare Access and CHIP*
 9 *Reauthorization Act of 2015 (Public Law 114–10), is*
 10 *amended by striking “an increase of 0.5 percentage points*
 11 *for discharges occurring during each of fiscal years 2018*
 12 *through 2023” and inserting “an increase of 0.4590 per-*
 13 *centage points for discharges occurring during fiscal year*
 14 *2018 and 0.5 percentage points for discharges occurring*
 15 *during each of fiscal years 2019 through 2023”.*

16 **TITLE II—PROVISIONS**
 17 **RELATING TO MEDICARE PART B**

18 **SEC. 201. CONTINUING MEDICARE PAYMENT UNDER HOPD**
 19 **PROSPECTIVE PAYMENT SYSTEM FOR SERV-**
 20 **ICES FURNISHED BY MID-BUILD OFF-CAMPUS**
 21 **OUTPATIENT DEPARTMENTS OF PROVIDERS.**

22 *(a) IN GENERAL.—Section 1833(t)(21) of the Social*
 23 *Security Act (42 U.S.C. 1395l(t)(21)) is amended—*

24 *(1) in subparagraph (B)—*

1 (A) in clause (i), by striking “clause (ii)”
2 and inserting “the subsequent provisions of this
3 subparagraph”; and

4 (B) by adding at the end the following new
5 clauses:

6 “(iii) *DEEMED TREATMENT FOR*
7 *2017.—For purposes of applying clause (ii)*
8 *with respect to applicable items and services*
9 *furnished during 2017, a department of a*
10 *provider (as so defined) not described in*
11 *such clause is deemed to be billing under*
12 *this subsection with respect to covered OPD*
13 *services furnished prior to November 2,*
14 *2015, if the Secretary received from the pro-*
15 *vider prior to December 2, 2015, an attesta-*
16 *tion (pursuant to section 413.65(b)(3) of*
17 *title 42 of the Code of Federal Regulations)*
18 *that such department was a department of*
19 *a provider (as so defined).*

20 “(iv) *ALTERNATIVE EXCEPTION BEGIN-*
21 *NING WITH 2018.—For purposes of para-*
22 *graph (1)(B)(v) and this paragraph with*
23 *respect to applicable items and services fur-*
24 *nished during 2018 or a subsequent year,*
25 *the term ‘off-campus outpatient department*

1 of a provider’ also shall not include a de-
2 partment of a provider (as so defined) that
3 is not described in clause (ii) if—

4 “(I) the Secretary receives from
5 the provider an attestation (pursuant
6 to such section 413.65(b)(3)) not later
7 than December 31, 2016 (or, if later,
8 60 days after the date of the enactment
9 of this clause), that such department
10 met the requirements of a department
11 of a provider specified in section
12 413.65 of title 42 of the Code of Fed-
13 eral Regulations;

14 “(II) the provider includes such
15 department as part of the provider on
16 its enrollment form in accordance with
17 the enrollment process under section
18 1866(j); and

19 “(III) the department met the
20 mid-build requirement of clause (v)
21 and the Secretary receives, not later
22 than 60 days after the date of the en-
23 actment of this clause, from the chief
24 executive officer or chief operating offi-
25 cer of the provider a written certifi-

1 *cation that the department met such*
2 *requirement.*

3 “(v) *MID-BUILD REQUIREMENT DE-*
4 *SCRIBED.—The mid-build requirement of*
5 *this clause is, with respect to a department*
6 *of a provider, that before November 2, 2015,*
7 *the provider had a binding written agree-*
8 *ment with an outside unrelated party for*
9 *the actual construction of such department.*

10 “(vii) *AUDIT.—Not later than Decem-*
11 *ber 31, 2018, the Secretary shall audit the*
12 *compliance with requirements of clause (iv)*
13 *with respect to each department of a pro-*
14 *vider to which such clause applies. If the*
15 *Secretary finds as a result of an audit*
16 *under this clause that the applicable re-*
17 *quirements were not met with respect to*
18 *such department, the department shall not*
19 *be excluded from the term ‘off-campus out-*
20 *patient department of a provider’ under*
21 *such clause.*

22 “(viii) *IMPLEMENTATION.—For pur-*
23 *poses of implementing clauses (iii) through*
24 *(vii):*

1 “(I) Notwithstanding any other
2 provision of law, the Secretary may
3 implement such clauses by program in-
4 struction or otherwise.

5 “(II) Subchapter I of chapter 35
6 of title 44, United States Code, shall
7 not apply.

8 “(III) For purposes of carrying
9 out this subparagraph with respect to
10 clauses (iii) and (iv) (and clause (vii)
11 insofar as it relates to clause (iv)), the
12 Secretary shall provide for the transfer
13 from the Supplementary Medical In-
14 surance Trust Fund under section
15 1841, of \$10,000,000 to the Centers for
16 Medicare & Medicaid Services Pro-
17 gram Management Account to remain
18 available until December 31, 2018.”;
19 and

20 (2) in subparagraph (E), by adding at the end
21 the following new clause:

22 “(iv) The determination of an audit
23 under subparagraph (B)(vi).”.

24 (b) *EFFECTIVE DATE.*—The amendments made by this
25 section shall be effective as if included in the enactment of

1 *section 603 of the Bipartisan Budget Act of 2015 (Public*
 2 *Law 114–74).*

3 **SEC. 202. TREATMENT OF CANCER HOSPITALS IN OFF-CAM-**
 4 **PUS OUTPATIENT DEPARTMENT OF A PRO-**
 5 **VIDER POLICY.**

6 *(a) IN GENERAL.—Section 1833(t)(21)(B) of the So-*
 7 *cial Security Act (42 U.S.C. 1395l(t)(21)(B)), as amended*
 8 *by section 201(a), is amended—*

9 *(1) by inserting after clause (v) the following*
 10 *new clause:*

11 *“(vi) EXCLUSION FOR CERTAIN CANCER*
 12 *HOSPITALS.—For purposes of paragraph*
 13 *(1)(B)(v) and this paragraph with respect*
 14 *to applicable items and services furnished*
 15 *during 2017 or a subsequent year, the term*
 16 *‘off-campus outpatient department of a pro-*
 17 *vider’ also shall not include a department of*
 18 *a provider (as so defined) that is not de-*
 19 *scribed in clause (ii) if the provider is a*
 20 *hospital described in section*
 21 *1886(d)(1)(B)(v) and—*

22 *“(I) in the case of a department*
 23 *that met the requirements of section*
 24 *413.65 of title 42 of the Code of Fed-*
 25 *eral Regulations after November 1,*

1 2015, and before the date of the enact-
2 ment of this clause, the Secretary re-
3 ceives from the provider an attestation
4 that such department met such require-
5 ments not later than 60 days after
6 such date of enactment; or

7 “(II) in the case of a department
8 that meets such requirements after such
9 date of enactment, the Secretary re-
10 ceives from the provider an attestation
11 that such department meets such re-
12 quirements not later than 60 days
13 after the date such requirements are
14 first met with respect to such depart-
15 ment.”;

16 (2) in clause (vii), by inserting after the first
17 sentence the following: “Not later than 2 years after
18 the date the Secretary receives an attestation under
19 clause (vi) relating to compliance of a department of
20 a provider with requirements referred to in such
21 clause, the Secretary shall audit the compliance with
22 such requirements with respect to the department.”;
23 and

24 (3) in clause (viii)(III), by adding at the end the
25 following: “For purposes of carrying out this sub-

1 paragraph with respect to clause (vi) (and clause
2 (vii) insofar as it relates to such clause), the Sec-
3 retary shall provide for the transfer from the Supple-
4 mentary Medical Insurance Trust Fund under section
5 1841, of \$2,000,000 to the Centers for Medicare &
6 Medicaid Services Program Management Account to
7 remain available until expended.”

8 (b) *OFFSETTING SAVINGS.*—Section 1833(t)(18) of the
9 Social Security Act (42 U.S.C. 1395l(t)(18)) is amended—

10 (1) in subparagraph (B), by inserting “, subject
11 to subparagraph (C),” after “shall”; and

12 (2) by adding at the end the following new sub-
13 paragraph:

14 “(C) *TARGET PCR ADJUSTMENT.*—In apply-
15 ing section 419.43(i) of title 42 of the Code of
16 Federal Regulations to implement the appro-
17 priate adjustment under this paragraph for serv-
18 ices furnished on or after January 1, 2018, the
19 Secretary shall use a target PCR that is 1.0 per-
20 centage points less than the target PCR that
21 would otherwise apply. In addition to the per-
22 centage point reduction under the previous sen-
23 tence, the Secretary may consider making an ad-
24 ditional percentage point reduction to such tar-
25 get PCR that takes into account payment rates

1 *for applicable items and services described in*
 2 *paragraph (21)(C) other than for services fur-*
 3 *nished by hospitals described in section*
 4 *1886(d)(1)(B)(v). In making any budget neu-*
 5 *trality adjustments under this subsection for*
 6 *2018 or a subsequent year, the Secretary shall*
 7 *not take into account the reduced expenditures*
 8 *that result from the application of this subpara-*
 9 *graph.”.*

10 *(c) EFFECTIVE DATE.—The amendments made by this*
 11 *section shall be effective as if included in the enactment of*
 12 *section 603 of the Bipartisan Budget Act of 2015 (Public*
 13 *Law 114–74).*

14 **SEC. 203. TREATMENT OF ELIGIBLE PROFESSIONALS IN AM-**
 15 **BULATORY SURGICAL CENTERS FOR MEAN-**
 16 **INGFUL USE AND MIPS.**

17 *(a) IN GENERAL.—Section 1848(a)(7)(D) of the Social*
 18 *Security Act (42 U.S.C. 1395w–4(a)(7)(D)) is amended—*

19 *(1) by striking “HOSPITAL-BASED ELIGIBLE PRO-*
 20 *FESSIONALS” and all that follows through “No pay-*
 21 *ment” and inserting the following: “HOSPITAL-BASED*
 22 *AND AMBULATORY SURGICAL CENTER-BASED ELIGI-*
 23 *BLE PROFESSIONALS.—*

24 *“(i) HOSPITAL-BASED.—No payment”;*

25 *and*

1 (2) *by adding at the end the following new*
2 *clauses:*

3 “(ii) *AMBULATORY SURGICAL CENTER-*
4 *BASED.—Subject to clause (iv), no payment*
5 *adjustment may be made under subpara-*
6 *graph (A) for 2017 and 2018 in the case of*
7 *an eligible professional with respect to*
8 *whom substantially all of the covered profes-*
9 *sional services furnished by such profes-*
10 *sional are furnished in an ambulatory sur-*
11 *gical center.*

12 “(iii) *DETERMINATION.—The deter-*
13 *mination of whether an eligible professional*
14 *is an eligible professional described in*
15 *clause (ii) may be made on the basis of—*

16 “(I) *the site of service (as defined*
17 *by the Secretary); or*

18 “(II) *an attestation submitted by*
19 *the eligible professional.*

20 *Determinations made under subclauses (I)*
21 *and (II) shall be made without regard to*
22 *any employment or billing arrangement be-*
23 *tween the eligible professional and any other*
24 *supplier or provider of services.*

1 “(iv) *SUNSET*.—Clause (ii) shall no
2 longer apply as of the first year that begins
3 more than 3 years after the date on which
4 the Secretary determines, through notice
5 and comment rulemaking, that certified
6 *EHR* technology applicable to the ambula-
7 tory surgical center setting is available.”.

8 (b) *CONTINUED APPLICATION OF CERTAIN PROVISIONS*
9 *UNDER MIPS*.—Section 1848(o)(2)(D) of the Social Secu-
10 rity Act (42 U.S.C. 1395w–4(o)(2)(D)) is amended by add-
11 ing at the end the following new sentence: “The provisions
12 of subparagraphs (B) and (D) of subsection (a)(7), includ-
13 ing the application of clause (iv) of such subparagraph (D),
14 shall apply to assessments of MIPS eligible professionals
15 under subsection (q) with respect to the performance cat-
16 egory described in subsection (q)(2)(A)(iv) in a manner
17 similar to the manner in which such provisions apply with
18 respect to payment adjustments made under subsection
19 (a)(7)(A).”.

1 **TITLE III—OTHER MEDICARE**
2 **PROVISIONS**

3 **SEC. 301. DELAY IN AUTHORITY TO TERMINATE CONTRACTS**
4 **FOR MEDICARE ADVANTAGE PLANS FAILING**
5 **TO ACHIEVE MINIMUM QUALITY RATINGS.**

6 (a) *FINDINGS.*—*Consistent with the studies provided*
7 *under the IMPACT Act of 2014 (Public Law 113–185), it*
8 *is the intent of Congress—*

9 (1) *to continue to study and request input on the*
10 *effects of socioeconomic status and dual-eligible popu-*
11 *lations on the Medicare Advantage STARS rating*
12 *system before reforming such system with the input of*
13 *stakeholders; and*

14 (2) *pending the results of such studies and input,*
15 *to provide for a temporary delay in authority of the*
16 *Centers for Medicare & Medicaid Services (CMS) to*
17 *terminate Medicare Advantage plan contracts solely*
18 *on the basis of performance of plans under the*
19 *STARS rating system.*

20 (b) *DELAY IN MA CONTRACT TERMINATION AUTHOR-*
21 *ITY FOR PLANS FAILING TO ACHIEVE MINIMUM QUALITY*
22 *RATINGS.*—*Section 1857(h) of the Social Security Act (42*
23 *U.S.C. 1395w–27(h)) is amended by adding at the end the*
24 *following new paragraph:*

1 “(3) *DELAY IN CONTRACT TERMINATION AU-*
 2 *THORITY FOR PLANS FAILING TO ACHIEVE MINIMUM*
 3 *QUALITY RATING.*—*During the period beginning on*
 4 *the date of the enactment of this paragraph and*
 5 *through the end of plan year 2018, the Secretary may*
 6 *not terminate a contract under this section with re-*
 7 *spect to the offering of an MA plan by a Medicare Ad-*
 8 *vantage organization solely because the MA plan has*
 9 *failed to achieve a minimum quality rating under the*
 10 *5-star rating system under section 1853(o)(4).”.*

11 **SEC. 302. REQUIREMENT FOR ENROLLMENT DATA REPORT-**
 12 **ING FOR MEDICARE.**

13 *Section 1874 of the Social Security Act (42 U.S.C.*
 14 *1395kk) is amended by adding at the end the following new*
 15 *subsection:*

16 “(g) *REQUIREMENT FOR ENROLLMENT DATA REPORT-*
 17 *ING.*—

18 “(1) *IN GENERAL.*—*Each year (beginning with*
 19 *2016), the Secretary shall submit to the Committees*
 20 *on Ways and Means and Energy and Commerce of*
 21 *the House of Representatives and the Committee on*
 22 *Finance of the Senate a report on Medicare enroll-*
 23 *ment data (and, in the case of part A, on data on in-*
 24 *dividuals receiving benefits under such part) as of a*

1 *date in such year specified by the Secretary. Such*
 2 *data shall be presented—*

3 *“(A) by Congressional district and State;*
 4 *and*

5 *“(B) in a manner that provides for such*
 6 *data based on—*

7 *“(i) fee-for-service enrollment (as de-*
 8 *finied in paragraph (2));*

9 *“(ii) enrollment under part C (includ-*
 10 *ing separate for aggregate enrollment in*
 11 *MA–PD plans and aggregate enrollment in*
 12 *MA plans that are not MA–PD plans); and*

13 *“(iii) enrollment under part D.*

14 “(2) *FEE-FOR-SERVICE ENROLLMENT DE-*
 15 *FINED.—For purpose of paragraph (1)(B)(i), the term*
 16 *‘fee-for-service enrollment’ means aggregate enrollment*
 17 *(including receipt of benefits other than through en-*
 18 *rollment) under—*

19 *“(A) part A only;*

20 *“(B) part B only; and*

21 *“(C) both part A and part B.”.*

22 **SEC. 303. UPDATING THE WELCOME TO MEDICARE PACK-**
 23 **AGE.**

24 *(a) IN GENERAL.—Not later than 12 months after the*
 25 *last day of the period for the request of information de-*

1 scribed in subsection (b), the Secretary of Health and
2 Human Services shall, taking into consideration informa-
3 tion collected pursuant to subsection (b), update the infor-
4 mation included in the Welcome to Medicare package to in-
5 clude information, presented in a clear and simple manner,
6 about options for receiving benefits under the Medicare pro-
7 gram under title XVIII of the Social Security Act (42
8 U.S.C. 1395 et seq.), including through the original medi-
9 care fee-for-service program under parts A and B of such
10 title (42 U.S.C. 1395c et seq., 42 U.S.C. 1395j et seq.), Medi-
11 care Advantage plans under part C of such title (42 U.S.C.
12 1395w–21 et seq.), and prescription drug plans under part
13 D of such title (42 U.S.C. 1395w–101 et seq.)). The Sec-
14 retary shall make subsequent updates to the information in-
15 cluded in the Welcome to Medicare package as appropriate.

16 (b) *REQUEST FOR INFORMATION.*—Not later than six
17 months after the date of the enactment of this Act, the Sec-
18 retary of Health and Human Services shall request infor-
19 mation, including recommendations, from stakeholders (in-
20 cluding patient advocates, issuers, and employers) on infor-
21 mation included in the Welcome to Medicare package, in-
22 cluding pertinent data and information regarding enroll-
23 ment and coverage for Medicare eligible individuals.

Union Calendar No. 470

114TH CONGRESS
2^D SESSION

H. R. 5273

[Report No. 114-604, Part I]

A BILL

To amend title XVIII of the Social Security Act to provide for regulatory relief under the Medicare program for certain providers of services and suppliers and increased transparency in hospital coding and enrollment data, and for other purposes.

JUNE 7, 2016

Reported from the Committee on Ways and Means with
an amendment

JUNE 7, 2016

The Committee on Energy and Commerce discharged,
committed to the Committee of the Whole House on
the State of the Union and ordered to be printed