S. 2425

One Hundred Fourteenth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the sixth day of January, two thousand and fifteen

An Act

To amend titles XVIII and XIX of the Social Security Act to improve payments for complex rehabilitation technology and certain radiation therapy services, to ensure flexibility in applying the hardship exception for meaningful use for the 2015 EHR reporting period for 2017 payment adjustments, and for other purposes.

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 "Patient Access and Medicare Protection Act".

SEC. 2. NON-APPLICATION OF MEDICARE FEE SCHEDULE ADJUSTMENTS FOR WHEELCHAIR ACCESSORIES AND SEAT AND BACK CUSHIONS WHEN FURNISHED IN CONNECTION WITH COMPLEX REHABILITATIVE POWER WHEELCHAIRS.

(a) NON-APPLICATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to January 1, 2017, use information on the payment determined under the competitive acquisition programs under section 1847 of the Social Security Act (42 U.S.C. 1395w–3) to adjust the payment amount that would otherwise be recognized under section 1834(a)(1)(B)(ii) of such Act (42 U.S.C. 1395m(a)(1)(B)(ii)) for wheelchair accessories (including seating systems) and seat and back cushions when furnished in connection with Group 3 complex rehabilitative power wheelchairs.

(2) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement this subsection by program instruction or otherwise.

(b) GAO STUDY AND REPORT.—

(1) STUDY.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study on wheelchair accessories (including seating systems) and seat and back cushions furnished in connection with Group 3 complex rehabilitative power wheelchairs. Such study shall include an analysis of the following with respect to such wheelchair accessories and seat and back cushions in each of the groups described in clauses (i) through (iii) of subparagraph (B):

(i) The item descriptions and associated HCPCS codes for such wheelchair accessories and seat and back cushions.

(ii) A breakdown of utilization and expenditures for such wheelchair accessories and seat and back cushions under title XVIII of the Social Security Act.

(iii) A comparison of the payment amount under the competitive acquisition program under section 1847 of such Act (42 U.S.C. 1395w–3) with the payment amount that would otherwise be recognized under section 1834 of such Act (42 U.S.C. 1395m), including beneficiary cost sharing, for such wheelchair accessories and seat and back cushions.

(iv) The aggregate distribution of such wheelchair accessories and seat and back cushions furnished under such title XVIII within each of the groups described in subparagraph (B).

(v) Other areas determined appropriate by the Comptroller General.

(B) GROUPS DESCRIBED.—The following groups are described in this subparagraph:

(i) Wheelchair accessories and seat and back cushions furnished predominantly with Group 3 complex rehabilitative power wheelchairs.

(ii) Wheelchair accessories and seat and back cushions furnished predominantly with power wheelchairs that are not described in clause (i).

(iii) Other wheelchair accessories and seat and back cushions furnished with either power wheelchairs described in clause (i) or (ii).

(2) REPORT.—Not later than June 1, 2016, the Comptroller General of the United States shall submit to Congress a report containing the results of the study conducted under paragraph (1), together with recommendations for such legislation and administrative as the Comptroller General determines to be appropriate.

SEC. 3. TRANSITIONAL PAYMENT RULES FOR CERTAIN RADIATION THERAPY SERVICES UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.

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

(1) in subsection (b), by adding at the end the following new paragraph:

"(11) SPECIAL RULE FOR CERTAIN RADIATION THERAPY SERVICES.—The code definitions, the work relative value units under subsection (c)(2)(C)(i), and the direct inputs for the practice expense relative value units under subsection (c)(2)(C)(ii) for radiation treatment delivery and related imaging services (identified in 2016 by HCPCS G-codes G6001 through G6015) for the fee schedule established under this subsection for services furnished in 2017 and 2018 shall be the same as such definitions, units, and inputs for such services for the fee schedule established for services furnished in 2016."; and

(2) in subsection (c)(2)(K), by adding at the end the following new clause:

"(iv) TREATMENT OF CERTAIN RADIATION THERAPY SERVICES.—Radiation treatment delivery and related imaging services identified under subsection (b)(11)

shall not be considered as potentially misvalued services for purposes of this subparagraph and subparagraph (O) for 2017 and 2018.".

(b) REPORT TO CONGRESS ON ALTERNATIVE PAYMENT MODEL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the development of an episodic alternative payment model for payment under the Medicare program under title XVIII of the Social Security Act for radiation therapy services furnished in nonfacility settings.

SEC. 4. ENSURING FLEXIBILITY IN APPLYING HARDSHIP EXCEPTION FOR MEANINGFUL USE FOR 2015 EHR REPORTING PERIOD FOR 2017 PAYMENT ADJUSTMENTS.

(a) ELIGIBLE PROFESSIONALS.—Section 1848(a)(7)(B) of the Social Security Act (42 U.S.C. 1395w–4(a)(7)(B)) is amended, in the first sentence, by inserting "(and, with respect to the payment adjustment under subparagraph (A) for 2017, for categories of eligible professionals, as established by the Secretary and posted on the Internet website of the Centers for Medicare & Medicaid Services prior to December 15, 2015, an application for which must be submitted to the Secretary by not later than March 15, 2016)" after "case-by-case basis".

(b) ELIGIBLE HOSPITALS.—Section 1886(b)(3)(B)(ix) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(ix)) is amended—

(1) in the first sentence of subclause (I), by striking "(n)(6)(A)" and inserting "(n)(6)"; and

(2) in subclause (II), in the first sentence, by inserting "(and, with respect to the application of subclause (I) for fiscal year 2017, for categories of subsection (d) hospitals, as established by the Secretary and posted on the Internet website of the Centers for Medicare & Medicaid Services prior to December 15, 2015, an application for which must be submitted to the Secretary by not later than April 1, 2016)" after "case-by-case basis".

(c) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall implement the provisions of, and the amendments made by, subsections (a) and (b) by program instruction, such as through information on the Internet website of the Centers for Medicare & Medicaid Services.

SEC. 5. MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1) of the Social Security Act (42 U.S.C. 1395iii(b)(1)) is amended by striking "$5,000,000" and inserting "$0".

SEC. 6. STRENGTHENING MEDICAID PROGRAM INTEGRITY THROUGH FLEXIBILITY.

Section 1936 of the Social Security Act (42 U.S.C. 1396u–6) is amended—

(1) in subsection (a), by inserting ", or otherwise," after "entities"; and

(2) in subsection (e)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting "(including the costs of equipment, salaries and benefits, and travel and training)" after "Program under this section"; and

(B) in paragraph (3), by striking "by 100" and inserting "by 100, or such number as determined necessary by the Secretary to carry out the Program,".

SEC. 7. ESTABLISHING MEDICARE ADMINISTRATIVE CONTRACTOR ERROR REDUCTION INCENTIVES.

(a) IN GENERAL.—Section 1874A(b)(1)(D) of the Social Security Act (42 U.S.C. 1395kk–1(b)(1)(D)) is amended—

(1) by striking "QUALITY.—The Secretary" and inserting "QUALITY.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Secretary"; and

(2) by inserting after clause (i), as added by paragraph (1), the following new clauses:

"(ii) IMPROPER PAYMENT RATE REDUCTION INCENTIVES.—The Secretary shall provide incentives for medicare administrative contractors to reduce the improper payment error rates in their jurisdictions.

"(iii) INCENTIVES.—The incentives provided for under clause (ii)—

"(I) may include a sliding scale of award fee payments and additional incentives to medicare administrative contractors that either reduce the improper payment rates in their jurisdictions to certain thresholds, as determined by the Secretary, or accomplish tasks, as determined by the Secretary, that further improve payment accuracy; and

"(II) may include substantial reductions in award fee payments under cost-plus-award-fee contracts, for medicare administrative contractors that reach an upper end improper payment rate threshold or other threshold as determined by the Secretary, or fail to accomplish tasks, as determined by the Secretary, that further improve payment accuracy.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to contracts entered into or renewed on or after the date that is 3 years after the date of enactment of this Act.

(2) APPLICATION TO EXISTING CONTRACTS.—In the case of contracts in existence on or after the date of the enactment of this Act and that are not subject to the effective date under paragraph (1), the Secretary of Health and Human Services shall, when appropriate and practicable, seek to apply the incentives provided for in the amendments made by subsection (a) through contract modifications.

SEC. 8. STRENGTHENING PENALTIES FOR THE ILLEGAL DISTRIBUTION OF A MEDICARE, MEDICAID, OR CHIP BENEFICIARY IDENTIFICATION OR BILLING PRIVILEGES.

Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following:

"(4) Whoever without lawful authority knowingly and willfully purchases, sells or distributes, or arranges for the purchase, sale, or distribution of a beneficiary identification number or unique health identifier for a health care provider

under title XVIII, title XIX, or title XXI shall be imprisoned for not more than 10 years or fined not more than $500,000 ($1,000,000 in the case of a corporation), or both.".

SEC. 9. IMPROVING THE SHARING OF DATA BETWEEN THE FEDERAL GOVERNMENT AND STATE MEDICAID PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a plan to encourage and facilitate the participation of States in the Medicare-Medicaid Data Match Program (commonly referred to as the "Medi-Medi Program") under section 1893(g) of the Social Security Act (42 U.S.C. 1395ddd(g)).

(b) PROGRAM REVISIONS TO IMPROVE MEDI-MEDI DATA MATCH PROGRAM PARTICIPATION BY STATES.—Section 1893(g)(1)(A) of the Social Security Act (42 U.S.C. 1395ddd(g)(1)(A)) is amended—

(1) in the matter preceding clause (i), by inserting "or otherwise" after "eligible entities";

(2) in clause (i)—

(A) by inserting "to review claims data" after "algorithms"; and

(B) by striking "service, time, or patient" and inserting "provider, service, time, or patient";

(3) in clause (ii)—

(A) by inserting "to investigate and recover amounts with respect to suspect claims" after "appropriate actions"; and

(B) by striking "; and" and inserting a semicolon;

(4) in clause (iii), by striking the period and inserting" ; and"; and

(5) by adding at the end the following new clause:

"(iv) furthering the Secretary's design, development, installation, or enhancement of an automated data system architecture—

"(I) to collect, integrate, and assess data for purposes of program integrity, program oversight, and administration, including the Medi-Medi Program; and

"(II) that improves the coordination of requests for data from States.".

(c) PROVIDING STATES WITH DATA ON IMPROPER PAYMENTS MADE FOR ITEMS OR SERVICES PROVIDED TO DUAL ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—The Secretary shall develop and implement a plan that allows each State agency responsible for administering a State plan for medical assistance under title XIX of the Social Security Act access to relevant data on improper or fraudulent payments made under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for health care items or services provided to dual eligible individuals.

(2) DUAL ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term "dual eligible individual" means an individual who is entitled to, or enrolled for, benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), or enrolled for benefits under part B of title XVIII of such

Act (42 U.S.C. 1395j et seq.), and is eligible for medical assistance under a State plan under title XIX of such Act (42 U.S.C. 1396 et seq.) or under a waiver of such plan.

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.