

114TH CONGRESS  
2D SESSION

# S. 3096

To establish a pilot program promoting an alternative payment model for person-centered care for Medicare beneficiaries with advanced illnesses.

---

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2016

Mr. WHITEHOUSE (for himself and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To establish a pilot program promoting an alternative payment model for person-centered care for Medicare beneficiaries with advanced illnesses.

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.**

4       This Act may be cited as the “Removing Barriers to  
5       Person-Centered Care Act of 2016”.

6       **SEC. 2. IDENTIFICATION AND DEVELOPMENT OF ADVANCE**  
7                               **CARE QUALITY MEASURES.**

8       (a) IN GENERAL.—The Secretary of Health and  
9       Human Services (referred to in this Act as “the Sec-  
10       retary”), in consultation with the Administrator of the

1 Centers for Medicare & Medicaid Services, the Director  
2 of the Agency for Healthcare Research and Quality Serv-  
3 ices, and the entity with a contract under section 1890(a)  
4 of the Social Security Act (42 U.S.C. 1395aaa(a)), shall  
5 identify and develop a recommended set of not more than  
6 20 advance care quality measures for Medicare bene-  
7 ficiaries that may be tested in, and allow for the assess-  
8 ment of, the pilot program established under subpara-  
9 graph (D) of section 1115A(b)(2) of the Social Security  
10 Act (42 U.S.C. 1315a(b)(2)), as added by section 3. Such  
11 set of quality measures shall include outcome, structural,  
12 and process measures in the following categories:

- 13 (1) Patient and family experience of care.
- 14 (2) Access to needed services (medical and sup-  
15 portive), such as timely referral to hospice.
- 16 (3) Completion of care planning documentation,  
17 such as health care proxies, advance directives, and  
18 portable treatment orders.
- 19 (4) Consistency of care with documented care  
20 preferences.
- 21 (5) Screening for physical symptoms, such as  
22 dyspnea, nausea, and constipation.
- 23 (6) Utilization of health care and support serv-  
24 ices.

1 (b) PROCESS FOR IDENTIFYING AND DEVELOPING  
2 QUALITY MEASURES.—In identifying and developing the  
3 quality measures described in subsection (a), the Secretary  
4 shall take the following actions:

5 (1) IDENTIFY EXISTING MEASURES.—Identify  
6 existing quality measures that are in use under pub-  
7 lic and privately sponsored health care arrange-  
8 ments.

9 (2) DEVELOPMENT OF MEASURES.—Enter into  
10 grants, contracts, or intergovernmental agreements  
11 with eligible entities for the purposes of developing  
12 quality measures (which may include improving ex-  
13 isting quality measures) that, to the extent prac-  
14 ticable, allow for the use of health information tech-  
15 nologies in collecting data relating to such quality  
16 measures.

17 (c) PUBLICATION AND REPORT.—Not later than Jan-  
18 uary 1, 2018, the Secretary shall—

19 (1) publish an initial core set of quality meas-  
20 ures; and

21 (2) submit a report to Congress that—

22 (A) evaluates the set of quality measures  
23 published under paragraph (1); and

24 (B) includes a strategy for designating a  
25 core set of quality measures on advance illness

1 care that may be used across public and private  
 2 payers and eliminating redundant measures  
 3 that are not part of the core set.

4 (d) FUNDING.—There are authorized to be appro-  
 5 priated such sums as may be necessary for fiscal year  
 6 2017 to carry out this section.

7 **SEC. 3. PILOT PROGRAM FOR MEDICARE BENEFICIARIES**  
 8 **WITH ADVANCED ILLNESSES.**

9 (a) IN GENERAL.—Section 1115A of the Social Secu-  
 10 rity Act (42 U.S.C. 1315a) is amended—

11 (1) in the last sentence of subparagraph (A) of  
 12 subsection (b)(2), by inserting “, and shall include  
 13 the model described in subsection (h)” before the pe-  
 14 riod at the end; and

15 (2) by adding at the end the following new sub-  
 16 section:

17 “(h) PILOT PROGRAM TO PROMOTE PERSON-CEN-  
 18 TERED CARE FOR MEDICARE BENEFICIARIES WITH AD-  
 19 VANCED ILLNESSES.—

20 “(1) IN GENERAL.—The model described in this  
 21 subsection is a pilot program under which the Sec-  
 22 retary shall enter into demonstration project agree-  
 23 ments with advance care collaboratives to provide  
 24 services and supplies under parts A and B of title  
 25 XVIII in a manner that promotes accountability for

1 target Medicare beneficiaries, coordinates the provi-  
2 sion of items and services under parts A and B of  
3 such title, and encourages investment in infrastruc-  
4 ture and redesigned care processes for coordinated,  
5 person- and family-centered, and high-quality service  
6 delivery.

7 “(2) ELIGIBILITY.—An advance care collabo-  
8 rative shall be eligible to enter into a demonstration  
9 project agreement under this subsection if the col-  
10 laborative—

11 “(A) submits a timely application under  
12 paragraph (3); and

13 “(B) meets such other requirements and  
14 satisfies such conditions as the Secretary shall  
15 determine.

16 “(3) APPLICATION.—

17 “(A) IN GENERAL.—Not later than Octo-  
18 ber 1, 2018, each advance care collaborative  
19 that wishes to enter into a demonstration  
20 project agreement with the Secretary shall sub-  
21 mit to the Secretary an application that in-  
22 cludes—

23 “(i) information about each provider  
24 of services, physician, and practitioner in  
25 the collaborative;

1           “(ii) a description of, and an imple-  
2           mentation plan for, the demonstration  
3           project that the collaborative intends to  
4           carry out under paragraph (6), including  
5           intended uses of grant amounts under  
6           paragraph (5), and a strategy for the con-  
7           tinued participation of community-based  
8           social services organizations, including  
9           faith-based organizations, in the care of  
10          the target Medicare beneficiary population;

11          “(iii) a description of how the collabo-  
12          rative intends to use the waivers and ex-  
13          panded services described in paragraphs  
14          (7) and (8) to conduct the demonstration  
15          project;

16          “(iv) with respect to the collection and  
17          reporting of data relating to the results of  
18          the demonstration project—

19                 “(I) subject to the availability of  
20                 such measures, a description of how  
21                 the collaborative will collect and re-  
22                 port on data pertaining to the rec-  
23                 ommended set of quality measures es-  
24                 tablished by the Secretary under sec-  
25                 tion 2 of the Removing Barriers to

1 Person-Centered Care Act of 2016;  
2 and

3 “(II) a description of additional  
4 quality measures the collaborative  
5 proposes to use to measure any char-  
6 acteristics of its demonstration project  
7 that are not captured in the quality  
8 measures described in subclause (I),  
9 and how the collaborative will collect  
10 and report on data pertaining to such  
11 measures; and

12 “(v) a description of how the collabo-  
13 rative will identify its target Medicare ben-  
14 efiary population for the demonstration  
15 project.

16 “(B) PRIORITY.—In selecting advance care  
17 collaboratives to participate in the pilot pro-  
18 gram, the Secretary may give priority to  
19 collaboratives that are located in States that  
20 use, or are in the process of developing, a uni-  
21 form, portable medical order for life-sustaining  
22 treatment.

23 “(C) GEOGRAPHIC DIVERSITY.—In select-  
24 ing advance care collaboratives to participate in  
25 the pilot program, the Secretary shall make ef-

1           forts to select collaboratives from geographically  
2           diverse areas.

3           “(4) DEMONSTRATION PROJECT AGREEMENT.—

4                 “(A) IN GENERAL.—Not later than Janu-  
5           ary 1, 2019, the Secretary shall enter into  
6           agreements with up to 20 advance care  
7           collaboratives to participate in the pilot pro-  
8           gram.

9                 “(B) REQUIRED TERMS.—As part of any  
10           agreement between the Secretary and an ad-  
11           vance care collaborative under this paragraph:

12                 “(i) PRE-IMPLEMENTATION GRANT.—

13                 The advance care collaborative shall receive  
14                 a grant described in paragraph (5).

15                 “(ii) DEMONSTRATION PROJECT.—

16                 The advance care collaborative shall con-  
17                 duct a demonstration project described in  
18                 paragraph (6).

19                 “(C) TERMINATION.—The Secretary may  
20           terminate an agreement with an advance care  
21           collaborative if the collaborative’s expenditures  
22           under the demonstration project for services  
23           and supplies under parts A and B of title  
24           XVIII substantially exceed the benchmark es-



1            established for the collaborative by the Secretary  
2            under paragraph (6)(B)(ii).

3            “(5) GRANTS FOR PRE-IMPLEMENTATION AC-  
4            TIVITIES.—

5            “(A) IN GENERAL.—Beginning in fiscal  
6            year 2019, from the amount made available  
7            under subsection (f)(2)(B), the Secretary shall  
8            award grants to advance care collaboratives  
9            that have entered into demonstration project  
10           agreements with the Secretary to facilitate the  
11           implementation of demonstration projects.

12           “(B) USE OF GRANT AMOUNTS.—A grant  
13           awarded under this paragraph may be used by  
14           an advance care collaborative for the following  
15           purposes:

16           “(i) To conduct a needs assessment in  
17           collaboration with community-based social  
18           service organizations, such as faith-based  
19           organizations, beneficiary groups, and pro-  
20           viders of long-term services and supports  
21           to identify gaps in services and supports  
22           for the target Medicare beneficiary popu-  
23           lation identified by the collaborative.

24           “(ii) To modify, upgrade, or purchase  
25           health information technology to facilitate

1 the exchange of information between mem-  
2 bers of the collaborative, including tech-  
3 nologies that support data aggregation and  
4 analytics, increase interoperability across  
5 medical and supportive services, or improve  
6 accessibility of beneficiary care plans.

7 “(iii) To conduct education and train-  
8 ing for health care professionals, bene-  
9 ficiaries and family caregivers, or commu-  
10 nity-based social service organizations, in-  
11 cluding faith-based organizations, in meth-  
12 ods for learning, documenting, and com-  
13 municating treatment preferences and  
14 goals, on best practices for pain and symp-  
15 tom management, and to improve under-  
16 standing of palliative care and hospice  
17 services, among other topics.

18 “(iv) To hire staff to conduct care  
19 management and coordination activities.

20 “(v) To conduct other activities deter-  
21 mined appropriate by the Secretary.

22 “(6) DEMONSTRATION PROJECT.—

23 “(A) IN GENERAL.—Not later than Janu-  
24 ary 1, 2020, each advance care collaborative  
25 that has a demonstration project agreement

1 with the Secretary shall begin to conduct a  
2 demonstration project to provide coordinated,  
3 person- and family-centered, and high-quality  
4 service delivery to target Medicare beneficiaries  
5 by utilizing the waivers and expanded services  
6 described in paragraphs (7) and (8).

7 “(B) SHARED SAVINGS PAYMENTS.—

8 “(i) IN GENERAL.—Beginning in fis-  
9 cal year 2021, in addition to reimburse-  
10 ment that would otherwise be due under  
11 title XVIII for services provided by the ad-  
12 vance care collaborative in conducting the  
13 demonstration project, a collaborative shall  
14 be eligible for shared savings payments if  
15 the Secretary determines that expenditures  
16 under the demonstration project for serv-  
17 ices and supplies under parts A and B of  
18 title XVIII are below the expenditures  
19 benchmark established by the Secretary for  
20 the collaborative under clause (ii).

21 “(ii) BENCHMARK.—The Secretary  
22 shall establish an appropriate expenditures  
23 benchmark for each advance care collabo-  
24 rative conducting a demonstration project  
25 under this subsection.

1           “(C) DURATION.—Subject to paragraph  
2           (4)(C), any demonstration project under this  
3           paragraph shall be conducted for not less than  
4           3 years.

5           “(7) WAIVER OF CERTAIN REQUIREMENTS.—As  
6           part of a demonstration project under the pilot pro-  
7           gram, the Secretary shall waive the following re-  
8           quirements with respect to coverage of, and payment  
9           for, services under title XVIII provided to a target  
10          Medicare beneficiary by an advance care collabora-  
11          tive under such demonstration project:

12           “(A) COVERAGE OF CURATIVE CARE DUR-  
13          ING ELECTION PERIOD.—The requirement de-  
14          scribed in section 1812(d)(2)(A) that an indi-  
15          vidual electing to receive hospice care shall be  
16          deemed to have waived all rights to have pay-  
17          ment made under title XVIII with respect to  
18          services described in clause (ii)(I) of such sec-  
19          tion.

20           “(B) ALTERNATIVE CERTIFICATION FOR  
21          HOME CARE.—With respect to home health  
22          services furnished to an individual by a Medi-  
23          care-certified home health agency, the require-  
24          ments described in section 1814(a)(2) and sub-  
25          paragraph (C) of such section that—

1           “(i) a physician make the certification  
2           (and recertification, where such services  
3           are provided over a period of time) de-  
4           scribed in such subparagraph (C);

5           “(ii) a plan for furnishing such serv-  
6           ices to such individual is periodically re-  
7           viewed by a physician; and

8           “(iii) the physician (or another practi-  
9           tioner who is collaborating with or super-  
10          vised by the physician) has a face-to-face  
11          encounter with the individual,

12          provided that such certification and recertifi-  
13          cation, and review of such plan, is conducted by  
14          a nurse practitioner (as defined in section  
15          1861(aa)(5)) who is authorized to conduct such  
16          certification, recertification, and review under  
17          State law.

18          “(C) ALTERNATIVE CERTIFICATION FOR  
19          HOSPICE CARE.—The requirements described in  
20          subparagraphs (A) and (B) of section  
21          1814(a)(7) that an individual’s attending physi-  
22          cian and the medical director (or physician  
23          member of the interdisciplinary group described  
24          in section 1861(gg)) of the Medicare-certified  
25          hospice program providing (or arranging for)

1 the individual's hospice care certify that the in-  
2 dividual is terminally ill and periodically review  
3 the written plan for hospice care, provided that  
4 such certification and review is conducted by a  
5 nurse practitioner (as defined in section  
6 1861(aa)(5)) who is authorized to conduct such  
7 certification and review under State law.

8 “(D) COVERAGE OF SKILLED NURSING  
9 SERVICES WITHOUT INPATIENT STAY.—With  
10 respect to extended care services furnished to  
11 an individual by a Medicare-certified skilled  
12 nursing facility, the requirement described in  
13 section 1861(i) that an individual must have  
14 been an inpatient in a hospital for not less than  
15 3 consecutive days before his discharge and  
16 transfer to the skilled nursing facility before  
17 such extended care services may be deemed  
18 post-hospital extended care services.

19 “(E) COVERAGE OF HOME HEALTH CARE  
20 WITHOUT HOMEBOUND STATUS REQUIRE-  
21 MENT.—With respect to home health services  
22 furnished to an individual by a Medicare-cer-  
23 tified home health agency (as defined in section  
24 1861(o)), the requirement described in section

1           1814(a)(2)(C) that the individual is or was con-  
2           fined to his or her home.

3           “(8) AVAILABILITY OF EXPANDED SERVICES.—

4           As part of a demonstration project under the pilot  
5           program, an advance care collaborative may receive  
6           payment for the furnishing the following services to  
7           target Medicare beneficiaries in the same manner,  
8           and subject to the same limitations, that a hospice  
9           program is paid for hospice care under section  
10          1814(i):

11                   “(A) INPATIENT ALTERNATIVE TO ROU-  
12                   TINE HOSPICE CARE.—

13                           “(i) IN GENERAL.—Notwithstanding  
14                           regulations in effect prior to the enactment  
15                           of this subparagraph, if an assessment  
16                           meeting such requirements as the Sec-  
17                           retary determines appropriate has been  
18                           made that the home of an individual who  
19                           is certified for hospice care and has elected  
20                           to receive hospice care is unsafe or other-  
21                           wise unsuitable for the provision of such  
22                           care, such individual may receive such care  
23                           in an inpatient setting, including a Medi-  
24                           care-certified hospice that meets the condi-  
25                           tions of participation specified in section

1 418.110 of title 42, Code of Federal Regu-  
2 lations (as in effect on the date of enact-  
3 ment of this subparagraph), or a skilled  
4 nursing facility that meets the standards  
5 specified in subsections (b) and (e) of such  
6 section, for the duration of the election pe-  
7 riod. The assessment described in the pre-  
8 ceding sentence may be conducted by the  
9 individual’s attending physician, a nurse  
10 practitioner, or the medical director (or  
11 physician member of the interdisciplinary  
12 group described in section 1861(gg)) of the  
13 hospice program providing (or arranging  
14 for) the individual’s hospice care.

15 “(ii) APPLICATION OF LIMITATION ON  
16 INPATIENT CARE DAYS.—For purposes of  
17 any limitation on the number of total inpa-  
18 tient care days for which a hospice may re-  
19 ceive payment, hospice care that is pro-  
20 vided in an inpatient setting under this  
21 subclause (but would otherwise be provided  
22 in an outpatient setting) shall not count  
23 towards such limitation.

24 “(B) HOME-BASED ALTERNATIVE TO INPA-  
25 TIENT RESPITE CARE.—



1           “(i) IN GENERAL.—Notwithstanding  
2           section 1861(dd)(1)(G), an individual who  
3           is certified for hospice care and has elected  
4           to receive hospice care may receive short-  
5           term, home-based respite care as an alter-  
6           native to inpatient respite care.

7           “(ii) LIMITATIONS.—The home-based  
8           respite care described in clause (i) is sub-  
9           ject to the same limitations that apply to  
10          inpatient respite care under section  
11          1861(dd)(1)(G), including the limitation  
12          that respite care may be provided only on  
13          an intermittent, non-routine, and occa-  
14          sional basis and may not be provided con-  
15          secutively over longer than 5 days.

16          “(9) PARTICIPATION BY BENEFICIARIES, PRO-  
17          VIDERS, AND SUPPLIERS VOLUNTARY.—Participa-  
18          tion in a demonstration project conducted under the  
19          pilot program with respect to target Medicare bene-  
20          ficiaries, providers of services, physicians, and prac-  
21          titioners shall be voluntary.

22          “(10) DEFINITIONS.—In this subparagraph:

23                 “(A) ADVANCE CARE COLLABORATIVE.—  
24                 The term ‘advance care collaborative’ means an

1 affiliated group of providers of services, physi-  
2 cians, or practitioners that—

3 “(i) has a mechanism for shared gov-  
4 ernance between participating providers of  
5 services, physicians, and practitioners; and

6 “(ii) has a formal legal structure that  
7 would allow for the receipt and distribution  
8 of shared savings payments under para-  
9 graph (6)(B) to the providers of services,  
10 physicians, and practitioners that belong to  
11 the group.

12 “(B) DEMONSTRATION PROJECT AGREE-  
13 MENT.—The term ‘demonstration project agree-  
14 ment’ means an agreement between the Sec-  
15 retary and an advance care collaborative under  
16 paragraph (4).

17 “(C) PILOT PROGRAM.—The term ‘pilot  
18 program’ means the pilot program described in  
19 this subsection.

20 “(D) PHYSICIAN.—The term ‘physician’  
21 has the meaning given such term in section  
22 1861(r)(1).

23 “(E) PRACTITIONER.—The term ‘practi-  
24 tioner’ has the meaning given such term in sec-  
25 tion 1842(b)(18)(C).

1           “(F) PROVIDER OF SERVICES.—The term  
2           ‘provider of services’ has the meaning given  
3           such term in section 1861(u).

4           “(G) SUPPLIER.—The term ‘supplier’ has  
5           the meaning given such term in 1861(d).

6           “(H) TARGET MEDICARE BENEFICIARY.—  
7           The term ‘target Medicare beneficiary’ means  
8           an individual who—

9                   “(i) is enrolled for benefits under  
10                   parts A and B of title XVIII, but who is  
11                   not enrolled in a Medicare Advantage plan  
12                   under part C of such title, an eligible orga-  
13                   nization under section 1876, or a PACE  
14                   program under section 1894; and

15                   “(ii) demonstrates two or more of the  
16                   following characteristics:

17                           “(I) Has one or more advanced  
18                           chronic conditions, such as late-stage  
19                           cancer, congestive heart failure,  
20                           chronic kidney disease, chronic ob-  
21                           structive pulmonary disease, geriatric  
22                           frailty, Alzheimer’s disease, or another  
23                           form of progressive dementia.

24                           “(II) Has evidence of recent and  
25                           progressive cognitive impairment or

1 functional limitations (such as an in-  
 2 ability to perform one or more activi-  
 3 ties of daily living).

4 “(III) Has, during the previous  
 5 12 months, experienced an increase in  
 6 health care utilization, such as two or  
 7 more nonelective hospital admissions.

8 “(IV) Other characteristics iden-  
 9 tified by the Secretary.”.

10 (b) AVAILABILITY OF FUNDS FOR PRE-IMPLEMENTA-  
 11 TION GRANTS.—Section 1115A(f)(2) of the Social Secu-  
 12 rity Act (42 U.S.C. 1315a(f)(2)) is amended—

13 (1) by striking “Out of amounts appropriated”  
 14 and inserting “(A) Out of amounts appropriated”;  
 15 and

16 (2) by adding at the end the following new sub-  
 17 paragraph:

18 “(B) Out of the amount appropriated  
 19 under subparagraph (B) of paragraph (1),  
 20 \$10,000,000 shall be made available for fiscal  
 21 year 2019 for the purpose of awarding grants  
 22 under subsection (h)(6), and shall remain avail-  
 23 able for such purpose until expended.”.

○