

115TH CONGRESS  
2D SESSION

# H. R. 4987

To amend title XVIII of the Social Security Act to provide for technical amendments to the Merit-based Incentive Payment System under Medicare.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2018

Mr. BURGESS (for himself, Mr. GENE GREEN of Texas, Mr. ROSKAM, and Mr. LEVIN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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

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## A BILL

To amend title XVIII of the Social Security Act to provide for technical amendments to the Merit-based Incentive Payment System under Medicare.

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. TECHNICAL AMENDMENTS TO PUBLIC LAW 114-**

4 **10.**

5 (a) MIPS TRANSITION.—Section 1848 of the Social  
6 Security Act (42 U.S.C. 1395w-4) is amended—

7 (1) in subsection (q)—

8 (A) in paragraph (1)—

1 (i) in subparagraph (B), by striking  
2 “items and services” and inserting “cov-  
3 ered professional services (as defined in  
4 subsection (k)(3)(A))”; and

5 (ii) in subparagraph (C)(iv)—

6 (I) by amending subclause (I) to  
7 read as follows:

8 “(I) The minimum number (as  
9 determined by the Secretary) of—

10 “(aa) for performance peri-  
11 ods beginning before January 1,  
12 2018, individuals enrolled under  
13 this part who are treated by the  
14 eligible professional for the per-  
15 formance period involved; and

16 “(bb) for performance peri-  
17 ods beginning on or after Janu-  
18 ary 1, 2018, individuals enrolled  
19 under this part who are fur-  
20 nished covered professional serv-  
21 ices (as defined in subsection  
22 (k)(3)(A)) by the eligible profes-  
23 sional for the performance period  
24 involved.”;

1 (II) in subclause (II), by striking  
2 “items and services” and inserting  
3 “covered professional services (as de-  
4 fined in subsection (k)(3)(A))”; and

5 (III) by amending subclause (III)  
6 to read as follows:

7 “(III) The minimum amount (as  
8 determined by the Secretary) of—

9 “(aa) for performance peri-  
10 ods beginning before January 1,  
11 2018, allowed charges billed by  
12 such professional under this part  
13 for such performance period; and

14 “(bb) for performance peri-  
15 ods beginning on or after Janu-  
16 ary 1, 2018, allowed charges for  
17 covered professional services (as  
18 defined in subsection (k)(3)(A))  
19 billed by such professional for  
20 such performance period.”;

21 (B) in paragraph (5)(D)—

22 (i) in clause (i)(I), by inserting “sub-  
23 ject to clause (iii),” after “clauses (i) and  
24 (ii) of paragraph (2)(A),”; and

1 (ii) by adding at the end the following  
2 new clause:

3 “(iii) TRANSITION YEARS.—For each  
4 of the second, third, fourth, and fifth years  
5 for which the MIPS applies to payments,  
6 the performance score for the performance  
7 category described in paragraph (2)(A)(ii)  
8 shall not take into account the improve-  
9 ment of the professional involved.”;

10 (C) in paragraph (5)(E)—

11 (i) in clause (i)(I)(bb)—

12 (I) in the heading by striking  
13 “FIRST 2 YEARS” and inserting  
14 “FIRST 5 YEARS”; and

15 (II) by striking “the first and  
16 second years” and inserting “each of  
17 the first through fifth years”; and

18 (ii) in clause (i)(II)(bb)—

19 (I) in the heading, by striking “2  
20 YEARS” and inserting “5 YEARS”; and

21 (II) by striking the second sen-  
22 tence and inserting the following new  
23 sentences: “For each of the second,  
24 third, fourth, and fifth years for  
25 which the MIPS applies to payments,

1 not less than 10 percent and not more  
2 than 30 percent of such score shall be  
3 based on performance with respect to  
4 the category described in clause (ii) of  
5 paragraph (2)(A). Nothing in the pre-  
6 vious sentence shall be construed, with  
7 respect to a performance period for a  
8 year described in the previous sen-  
9 tence, as preventing the Secretary  
10 from basing 30 percent of such score  
11 for such year with respect to the cat-  
12 egory described in such clause (ii), if  
13 the Secretary determines, based on in-  
14 formation posted under subsection  
15 (r)(2)(I) that sufficient resource use  
16 measures are ready for adoption for  
17 use under the performance category  
18 under paragraph (2)(A)(ii) for such  
19 performance period.”;

20 (D) in paragraph (6)(D)—

21 (i) in clause (i), in the second sen-  
22 tence, by striking “Such performance  
23 threshold” and inserting “Subject to  
24 clauses (iii) and (iv), such performance  
25 threshold”;

1 (ii) in clause (ii)—

2 (I) in the first sentence, by in-  
3 serting “(beginning with 2019 and  
4 ending with 2024)” after “for each  
5 year of the MIPS”; and

6 (II) in the second sentence, by  
7 inserting “subject to clause (iii),”  
8 after “For each such year,”;

9 (iii) in clause (iii)—

10 (I) in the heading, by striking  
11 “2” and inserting “5”; and

12 (II) in the first sentence, by  
13 striking “two years” and inserting  
14 “five years”; and

15 (iv) by adding at the end the following  
16 new clause:

17 “(iv) ADDITIONAL SPECIAL RULE FOR  
18 THIRD, FOURTH AND FIFTH YEARS OF  
19 MIPS.—For purposes of determining MIPS  
20 adjustment factors under subparagraph  
21 (A), in addition to the requirements speci-  
22 fied in clause (iii), the Secretary shall in-  
23 crease the performance threshold with re-  
24 spect to each of the third, fourth, and fifth  
25 years to which the MIPS applies to ensure

1 a gradual and incremental transition to the  
2 performance threshold described in clause  
3 (i) (as estimated by the Secretary) with re-  
4 spect to the sixth year to which the MIPS  
5 applies.”;

6 (E) in paragraph (6)(E)—

7 (i) by striking “In the case of items  
8 and services” and inserting “In the case of  
9 covered professional services (as defined in  
10 subsection (k)(3)(A))”; and

11 (ii) by striking “under this part with  
12 respect to such items and services” and in-  
13 sserting “under this part with respect to  
14 such covered professional services”; and

15 (F) in paragraph (7), in the first sentence,  
16 by striking “items and services” and inserting  
17 “covered professional services (as defined in  
18 subsection (k)(3)(A))”;

19 (2) in subsection (r)(2), by adding at the end  
20 the following new subparagraph:

21 “(I) INFORMATION.—The Secretary shall,  
22 not later than December 31st of each year (be-  
23 ginning with 2018), post on the Internet  
24 website of the Centers for Medicare & Medicaid  
25 Services information on resource use measures

1 in use under subsection (q), resource use meas-  
2 ures under development and the time-frame for  
3 such development, potential future resource use  
4 measure topics, a description of stakeholder en-  
5 gagement, and the percent of expenditures  
6 under part A and this part that are covered by  
7 resource use measures.”; and

8 (3) in subsection (s)(5)(B), by striking “section  
9 1833(z)(2)(C)” and inserting “section  
10 1833(z)(3)(D)”.

11 (b) PHYSICIAN-FOCUSED PAYMENT MODEL TECH-  
12 NICAL ADVISORY COMMITTEE PROVISION OF INITIAL  
13 PROPOSAL FEEDBACK.—Section 1868(c)(2)(C) of the So-  
14 cial Security Act (42 U.S.C. 1395ee(c)(2)(C)) is amended  
15 to read as follows:

16 “(C) COMMITTEE REVIEW OF MODELS  
17 SUBMITTED.—The Committee, on a periodic  
18 basis—

19 “(i) shall review models submitted  
20 under subparagraph (B);

21 “(ii) may provide individuals and  
22 stakeholder entities who submitted such  
23 models with—

24 “(I) initial feedback on such  
25 models regarding the extent to which



1 such models meet the criteria de-  
2 scribed in subparagraph (A); and

3 “(II) an explanation of the basis  
4 for the feedback provided under sub-  
5 clause (I); and

6 “(iii) shall prepare comments and rec-  
7 ommendations regarding whether such  
8 models meet the criteria described in sub-  
9 paragraph (A) and submit such comments  
10 and recommendations to the Secretary.”.

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