116TH CONGRESS
1ST SESSION

H. R. 2282

To amend title XVIII of the Social Security Act to modernize the physician self-referral prohibitions to promote care coordination in the merit-based incentive payment system and to facilitate physician practice participation in alternative payment models under the Medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2019

Mr. RUIZ (for himself, Mr. BUCSHON, Mr. KIND, and Mr. MARCHANT) 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 modernize the physician self-referral prohibitions to promote care coordination in the merit-based incentive payment system and to facilitate physician practice participation in alternative payment models under the Medicare program, 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,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Care Coordination Improvement Act of 2019".

SEC. 2. MODERNIZATION OF LIMITATIONS ON PHYSICIAN SELF-REFERRAL.

(a) FACILITATION OF PARTICIPATION IN ALTERNATIVE PAYMENT MODELS.—

(1) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(A) in subsection (z), as added by section 101(e)(2) of the Medicare Access and CHIP Reauthorization Act of 2015 (Public Law 114–10), by adding at the end the following paragraph:

"(5) WAIVER AUTHORITY.—

"(A) IN GENERAL.—The provisions of subsection (f) of section 1899 shall apply with respect to covered APM entities to the same extent and in the same manner as such provisions apply with respect to accountable care organizations under such section.

"(B) COVERED APM ENTITIES.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'covered APM entity' means, subject to clause (ii) of this

1 subparagraph and subparagraph (C), each
2 of the following:

3   "(I) An eligible alternative pay-
4   ment entity as defined in paragraph
5   (3)(D).

6   "(II) An entity participating in
7   an alternative payment model as de-
8   fined in paragraph (3)(C), including
9   such participation that qualifies as a
10   clinical practice improvement activity
11   under section 1848(q)(2)(B)(iii)(VI).

12   "(III) An entity participating in
13   a physician-focused payment model
14   for which comments and recommenda-
15   tions have, under subparagraph (C) of
16   section 1868(c)(2), been submitted in-
17   dicating that such model meets the
18   criteria described in subparagraph (A)
19   of such section.

20   "(IV) An entity participating in
21   any other model that the Secretary
22   determines is a covered APM entity
23   for purposes of subparagraph (A), in-
24   cluding such a determination made
25   pursuant to one or more physicians

1   submitting a proposal to the Secretary

2   for an alternative payment model.

3   "(ii) INCLUSION OF CERTAIN ENTI-

4   TIES.—Such term may include an entity

5   engaging in activities that the Secretary

6   has determined constitute significant

7   progress toward establishing a model re-

8   ferred to in any of subclauses (I) through

9   (IV). Any waiver under this paragraph

10   with respect to an entity described in the

11   preceding sentence may only be approved

12   for three years.

13   "(C) CERTAIN REQUIREMENTS.—A model

14   referred to in any of subclauses (I) through

15   (IV) of subparagraph (B)(i) may not be consid-

16   ered a covered APM entity for purposes of sub-

17   paragraph (A) unless the model meets the re-

18   quirements   described   in   section

19   1877(b)(6)(B)."; and

20   (B) by redesignating subsection (z), as

21   added by section 514(a) of the Medicare Access

22   and CHIP Reauthorization Act of 2015 (Public

23   Law 114–10), as subsection (aa).

24   (2) CONFORMING AMENDMENT.—Section

25   514(c)(1) of the Medicare Access and CHIP Reau-

1 thorization Act of 2015 (Public Law 114–10) is
2 amended by striking "subsection (z)" and inserting
3 "subsection (aa)".

4 (b) EXCEPTION FACILITATING THE DEVELOPMENT
5 AND OPERATION OF ALTERNATIVE PAYMENT MODELS.—
6 Section 1877(b) of the Social Security Act (42 U.S.C.
7 1395nn(b)) is amended by adding at the end the following
8 new paragraph:

9   "(6) DEVELOPMENT AND OPERATION OF AL-
10   TERNATIVE PAYMENT MODELS.—

11   "(A) IN GENERAL.—In the case of items
12   and services furnished pursuant to an arrange-
13   ment that meets the requirements described in
14   subparagraph (B) entered into for the purpose
15   of developing or operating a covered APM enti-
16   ty (as defined in section 1833(z)(5)(B)), includ-
17   ing—

18   "(i) an advanced alternative payment
19   model described in section 1833(z) (includ-
20   ing a physician-focused payment model re-
21   ferred to in section 1868(c));
22   "(ii) a MIPS APM (as defined by the
23   Secretary); and

1   "(iii) any other alternative payment

2   model that the Secretary may, by regula-

3   tion, specify.

4   "(B) REQUIREMENTS.—

5   "(i) IN GENERAL.—Subject to clause

6   (ii), the requirements described in this sub-

7   paragraph with respect to an arrangement

8   relating to an alternative payment model

9   are as follows:

10   "(I) The arrangement is in writ-

11   ing, identifies the services, items, or

12   actions subject to the arrangement

13   and is signed by the parties to the ar-

14   rangement.

15   "(II) The arrangement includes a

16   description of the alternative payment

17   model.

18   "(III) Under the arrangement

19   written reports are submitted to the

20   Secretary on a semi-annual basis on

21   the progress achieved in the develop-

22   ment and operation of the alternative

23   payment model.

24   "(IV) The arrangement meets

25   such other requirements as the Sec-

1   retary may impose by regulation as

2   needed to protect against a significant

3   risk of program or patient abuse.

4   "(ii) CLARIFICATION.—The Secretary

5   shall not prohibit or restrict an arrange-

6   ment from meeting the requirements de-

7   scribed in this subparagraph on the basis

8   that the arrangement takes into account

9   the volume or value of referrals if such ar-

10   rangement otherwise meets the require-

11   ments described in clause (i).".

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