II

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

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A BILL

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

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 ''Removing Barriers to Person-Centered Care Act of 2016''.

SEC. 2. IDENTIFICATION AND DEVELOPMENT OF ADVANCE CARE QUALITY MEASURES.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as ''the Secretary''), in consultation with the Administrator of the

Centers for Medicare & Medicaid Services, the Director of the Agency for Healthcare Research and Quality Services, and the entity with a contract under section 1890(a) of the Social Security Act (42 U.S.C. 1395aaa(a)), shall identify and develop a recommended set of not more than 20 advance care quality measures for Medicare beneficiaries that may be tested in, and allow for the assessment of, the pilot program established under subparagraph (D) of section 1115A(b)(2) of the Social Security Act (42 U.S.C. 1315a(b)(2)), as added by section 3. Such set of quality measures shall include outcome, structural, and process measures in the following categories:

(1) Patient and family experience of care.

(2) Access to needed services (medical and supportive), such as timely referral to hospice.

(3) Completion of care planning documentation, such as health care proxies, advance directives, and portable treatment orders.

(4) Consistency of care with documented care preferences.

(5) Screening for physical symptoms, such as dyspnea, nausea, and constipation.

(6) Utilization of health care and support services.

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

(1) IDENTIFY EXISTING MEASURES.—Identify existing quality measures that are in use under public and privately sponsored health care arrangements.

(2) DEVELOPMENT OF MEASURES.—Enter into grants, contracts, or intergovernmental agreements with eligible entities for the purposes of developing quality measures (which may include improving existing quality measures) that, to the extent practicable, allow for the use of health information technologies in collecting data relating to such quality measures.

(c) PUBLICATION AND REPORT.—Not later than January 1, 2018, the Secretary shall—

(1) publish an initial core set of quality measures; and

(2) submit a report to Congress that—

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

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

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

(d) FUNDING.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2017 to carry out this section.

SEC. 3. PILOT PROGRAM FOR MEDICARE BENEFICIARIES WITH ADVANCED ILLNESSES.

(a) IN GENERAL.—Section 1115A of the Social Security Act (42 U.S.C. 1315a) is amended—

(1) in the last sentence of subparagraph (A) of subsection (b)(2), by inserting ", and shall include the model described in subsection (h)" before the period at the end; and

(2) by adding at the end the following new subsection:

"(h) PILOT PROGRAM TO PROMOTE PERSON-CENTERED CARE FOR MEDICARE BENEFICIARIES WITH ADVANCED ILLNESSES.—

"(1) IN GENERAL.—The model described in this subsection is a pilot program under which the Secretary shall enter into demonstration project agreements with advance care collaboratives to provide services and supplies under parts A and B of title XVIII in a manner that promotes accountability for

target Medicare beneficiaries, coordinates the provision of items and services under parts A and B of such title, and encourages investment in infrastructure and redesigned care processes for coordinated, person- and family-centered, and high-quality service delivery.

''(2) ELIGIBILITY.—An advance care collaborative shall be eligible to enter into a demonstration project agreement under this subsection if the collaborative—

''(A) submits a timely application under paragraph (3); and

''(B) meets such other requirements and satisfies such conditions as the Secretary shall determine.

''(3) APPLICATION.—

''(A) IN GENERAL.—Not later than October 1, 2018, each advance care collaborative that wishes to enter into a demonstration project agreement with the Secretary shall submit to the Secretary an application that includes—

''(i) information about each provider of services, physician, and practitioner in the collaborative;

''(ii) a description of, and an implementation plan for, the demonstration project that the collaborative intends to carry out under paragraph (6), including intended uses of grant amounts under paragraph (5), and a strategy for the continued participation of community-based social services organizations, including faith-based organizations, in the care of the target Medicare beneficiary population;

''(iii) a description of how the collaborative intends to use the waivers and expanded services described in paragraphs (7) and (8) to conduct the demonstration project;

''(iv) with respect to the collection and reporting of data relating to the results of the demonstration project—

''(I) subject to the availability of such measures, a description of how the collaborative will collect and report on data pertaining to the recommended set of quality measures established by the Secretary under section 2 of the Removing Barriers to

Person-Centered Care Act of 2016; and

''(II) a description of additional quality measures the collaborative proposes to use to measure any characteristics of its demonstration project that are not captured in the quality measures described in subclause (I), and how the collaborative will collect and report on data pertaining to such measures; and

''(v) a description of how the collaborative will identify its target Medicare beneficiary population for the demonstration project.

''(B) PRIORITY.—In selecting advance care collaboratives to participate in the pilot program, the Secretary may give priority to collaboratives that are located in States that use, or are in the process of developing, a uniform, portable medical order for life-sustaining treatment.

''(C) GEOGRAPHIC DIVERSITY.—In selecting advance care collaboratives to participate in the pilot program, the Secretary shall make ef-

forts to select collaboratives from geographically diverse areas.

''(4) DEMONSTRATION PROJECT AGREEMENT.—

''(A) IN GENERAL.—Not later than January 1, 2019, the Secretary shall enter into agreements with up to 20 advance care collaboratives to participate in the pilot program.

''(B) REQUIRED TERMS.—As part of any agreement between the Secretary and an advance care collaborative under this paragraph:

''(i) PRE-IMPLEMENTATION GRANT.—The advance care collaborative shall receive a grant described in paragraph (5).

''(ii) DEMONSTRATION PROJECT.—The advance care collaborative shall conduct a demonstration project described in paragraph (6).

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

tablished for the collaborative by the Secretary under paragraph (6)(B)(ii).

''(5) GRANTS FOR PRE-IMPLEMENTATION ACTIVITIES.—

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

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

''(i) To conduct a needs assessment in collaboration with community-based social service organizations, such as faith-based organizations, beneficiary groups, and providers of long-term services and supports to identify gaps in services and supports for the target Medicare beneficiary population identified by the collaborative.

''(ii) To modify, upgrade, or purchase health information technology to facilitate

the exchange of information between members of the collaborative, including technologies that support data aggregation and analytics, increase interoperability across medical and supportive services, or improve accessibility of beneficiary care plans.

''(iii) To conduct education and training for health care professionals, beneficiaries and family caregivers, or community-based social service organizations, including faith-based organizations, in methods for learning, documenting, and communicating treatment preferences and goals, on best practices for pain and symptom management, and to improve understanding of palliative care and hospice services, among other topics.

''(iv) To hire staff to conduct care management and coordination activities.

''(v) To conduct other activities determined appropriate by the Secretary.

''(6) DEMONSTRATION PROJECT.—

''(A) IN GENERAL.—Not later than January 1, 2020, each advance care collaborative that has a demonstration project agreement

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

''(B) SHARED SAVINGS PAYMENTS.—

''(i) IN GENERAL.—Beginning in fiscal year 2021, in addition to reimbursement that would otherwise be due under title XVIII for services provided by the advance care collaborative in conducting the demonstration project, a collaborative shall be eligible for shared savings payments if the Secretary determines that expenditures under the demonstration project for services and supplies under parts A and B of title XVIII are below the expenditures benchmark established by the Secretary for the collaborative under clause (ii).

''(ii) BENCHMARK.—The Secretary shall establish an appropriate expenditures benchmark for each advance care collaborative conducting a demonstration project under this subsection.

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

"(7) WAIVER OF CERTAIN REQUIREMENTS.—As part of a demonstration project under the pilot program, the Secretary shall waive the following requirements with respect to coverage of, and payment for, services under title XVIII provided to a target Medicare beneficiary by an advance care collaborative under such demonstration project:

"(A) COVERAGE OF CURATIVE CARE DURING ELECTION PERIOD.—The requirement described in section 1812(d)(2)(A) that an individual electing to receive hospice care shall be deemed to have waived all rights to have payment made under title XVIII with respect to services described in clause (ii)(I) of such section.

"(B) ALTERNATIVE CERTIFICATION FOR HOME CARE.—With respect to home health services furnished to an individual by a Medicare-certified home health agency, the requirements described in section 1814(a)(2) and subparagraph (C) of such section that—

"(i) a physician make the certification (and recertification, where such services are provided over a period of time) described in such subparagraph (C);

"(ii) a plan for furnishing such services to such individual is periodically reviewed by a physician; and

"(iii) the physician (or another practitioner who is collaborating with or supervised by the physician) has a face-to-face encounter with the individual,

provided that such certification and recertification, and review of such plan, is conducted by a nurse practitioner (as defined in section 1861(aa)(5)) who is authorized to conduct such certification, recertification, and review under State law.

"(C) ALTERNATIVE CERTIFICATION FOR HOSPICE CARE.—The requirements described in subparagraphs (A) and (B) of section 1814(a)(7) that an individual's attending physician and the medical director (or physician member of the interdisciplinary group described in section 1861(gg)) of the Medicare-certified hospice program providing (or arranging for)

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

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

''(E) COVERAGE OF HOME HEALTH CARE WITHOUT HOMEBOUND STATUS REQUIREMENT.—With respect to home health services furnished to an individual by a Medicare-certified home health agency (as defined in section 1861(o)), the requirement described in section

1814(a)(2)(C) that the individual is or was confined to his or her home.

''(8) AVAILABILITY OF EXPANDED SERVICES.—As part of a demonstration project under the pilot program, an advance care collaborative may receive payment for the furnishing the following services to target Medicare beneficiaries in the same manner, and subject to the same limitations, that a hospice program is paid for hospice care under section 1814(i):

''(A) INPATIENT ALTERNATIVE TO ROUTINE HOSPICE CARE.—

''(i) IN GENERAL.—Notwithstanding regulations in effect prior to the enactment of this subparagraph, if an assessment meeting such requirements as the Secretary determines appropriate has been made that the home of an individual who is certified for hospice care and has elected to receive hospice care is unsafe or otherwise unsuitable for the provision of such care, such individual may receive such care in an inpatient setting, including a Medicare-certified hospice that meets the conditions of participation specified in section

418.110 of title 42, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph), or a skilled nursing facility that meets the standards specified in subsections (b) and (e) of such section, for the duration of the election period. The assessment described in the preceding sentence may be conducted by the individual's attending physician, a nurse practitioner, or the medical director (or physician member of the interdisciplinary group described in section 1861(gg)) of the hospice program providing (or arranging for) the individual's hospice care.

''(ii) APPLICATION OF LIMITATION ON INPATIENT CARE DAYS.—For purposes of any limitation on the number of total inpatient care days for which a hospice may receive payment, hospice care that is provided in an inpatient setting under this subclause (but would otherwise be provided in an outpatient setting) shall not count towards such limitation.

''(B) HOME-BASED ALTERNATIVE TO INPATIENT RESPITE CARE.—

"(i) IN GENERAL.—Notwithstanding section 1861(dd)(1)(G), an individual who is certified for hospice care and has elected to receive hospice care may receive short-term, home-based respite care as an alternative to inpatient respite care.

"(ii) LIMITATIONS.—The home-based respite care described in clause (i) is subject to the same limitations that apply to inpatient respite care under section 1861(dd)(1)(G), including the limitation that respite care may be provided only on an intermittent, non-routine, and occasional basis and may not be provided consecutively over longer than 5 days.

"(9) PARTICIPATION BY BENEFICIARIES, PROVIDERS, AND SUPPLIERS VOLUNTARY.—Participation in a demonstration project conducted under the pilot program with respect to target Medicare beneficiaries, providers of services, physicians, and practitioners shall be voluntary.

"(10) DEFINITIONS.—In this subparagraph:

"(A) ADVANCE CARE COLLABORATIVE.—The term 'advance care collaborative' means an

affiliated group of providers of services, physicians, or practitioners that—

"(i) has a mechanism for shared governance between participating providers of services, physicians, and practitioners; and

"(ii) has a formal legal structure that would allow for the receipt and distribution of shared savings payments under paragraph (6)(B) to the providers of services, physicians, and practitioners that belong to the group.

"(B) DEMONSTRATION PROJECT AGREEMENT.—The term 'demonstration project agreement' means an agreement between the Secretary and an advance care collaborative under paragraph (4).

"(C) PILOT PROGRAM.—The term 'pilot program' means the pilot program described in this subsection.

"(D) PHYSICIAN.—The term 'physician' has the meaning given such term in section 1861(r)(1).

"(E) PRACTITIONER.—The term 'practitioner' has the meaning given such term in section 1842(b)(18)(C).

"(F) PROVIDER OF SERVICES.—The term 'provider of services' has the meaning given such term in section 1861(u).

"(G) SUPPLIER.—The term 'supplier' has the meaning given such term in 1861(d).

"(H) TARGET MEDICARE BENEFICIARY.—The term 'target Medicare beneficiary' means an individual who—

"(i) is enrolled for benefits under parts A and B of title XVIII, but who is not enrolled in a Medicare Advantage plan under part C of such title, an eligible organization under section 1876, or a PACE program under section 1894; and

"(ii) demonstrates two or more of the following characteristics:

"(I) Has one or more advanced chronic conditions, such as late-stage cancer, congestive heart failure, chronic kidney disease, chronic obstructive pulmonary disease, geriatric frailty, Alzheimer's disease, or another form of progressive dementia.

"(II) Has evidence of recent and progressive cognitive impairment or

functional limitations (such as an inability to perform one or more activities of daily living).

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

''(IV) Other characteristics identified by the Secretary.''.

(b) AVAILABILITY OF FUNDS FOR PRE-IMPLEMENTATION GRANTS.—Section 1115A(f)(2) of the Social Security Act (42 U.S.C. 1315a(f)(2)) is amended—

(1) by striking ''Out of amounts appropriated'' and inserting ''(A) Out of amounts appropriated''; and

(2) by adding at the end the following new subparagraph:

''(B) Out of the amount appropriated under subparagraph (B) of paragraph (1), $10,000,000 shall be made available for fiscal year 2019 for the purpose of awarding grants under subsection (h)(6), and shall remain available for such purpose until expended.''.

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