112TH CONGRESS
2D SESSION

S. 3684

To amend title XVIII of the Social Security Act to provide for advanced illness care coordination services for Medicare beneficiaries, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2012

Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend title XVIII of the Social Security Act to provide for advanced illness care coordination services for Medicare beneficiaries, 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; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Senior Navigation and Planning Act of 2012''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Whereas the population of the United States is estimated to age rapidly, with the number of people over the age of 65 set to double to more than 72,000,000, or 1 in 5 Americans, over the next two decades.

(2) Whereas Americans today are living longer and healthier lives than ever before in the history of the United States yet are also facing increased incidence of multiple chronic conditions as aging progresses. Advanced illness occurs when one or more conditions become serious enough that general health and functioning decline and quality of life increasingly becomes the primary focus of care.

(3) Whereas older Americans with advanced illness face an increasingly complicated and fragmented system of care delivery and are at greater risk for repeat hospitalizations, adverse drug reac-

tions, and conflicting medical advice that may be overwhelming to individuals and families.

(4) Whereas the progression of advanced illness over time leads to more intense needs that require greater time and assistance from that individual's caregiver, be it a family member or a direct care worker and significantly increased medical needs, including the need to see multiple specialists across the health care system, which often results in uncoordinated care, making individuals more prone to adverse health outcomes, increased frustration, and decreased satisfaction.

(5) Whereas advanced illness imposes financial and emotional burdens on families, friends, and coworkers, in addition to leading to billions per year in lost productivity due to caregivers having to take time off of work to care for frail and elderly loved ones.

(6) Whereas numerous private sector leaders, including hospitals, health systems, home health agencies, hospice programs, long-term care providers, employers, and other entities, have put in place innovative solutions to providing more comprehensive and coordinated care for Americans living with advanced illness.

(7) Whereas hospice programs, as one of the longest standing Medicare care coordination benefits that entails administering a comprehensive set of services via an interdisciplinary team working to provide person-centered care to the frailest and most vulnerable individuals in our communities, can help serve as a model for advanced illness care delivery.

(8) Whereas the Government of the United States, as the Nation's largest purchaser of health care services, must learn from these innovators and encourage health care providers to furnish more supportive and comprehensive advanced illness care coordination services to improve individual's experiences and ensure a more sustainable system of care delivery for generations of Americans to come.

SEC. 3. MEDICARE AND MEDICAID COVERAGE OF ADVANCED ILLNESS CARE COORDINATION SERVICES.

(a) MEDICARE COVERAGE OF ADVANCED ILLNESS CARE COORDINATION SERVICES.—

(1) COVERAGE.—Section 1812(a)(5) of the Social Security Act (42 U.S.C. 1395d(a)(5)) is amended to read as follows:

''(5) for individuals with advanced illness (as determined under section 1861(iii)(2)) who have not

made an election under subsection (d)(1) to receive hospice care under this part, advanced illness care coordination services (as defined in section 1861(iii)(1)).''.

(2) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Advanced Illness Care Coordination Services

''(iii)(1) The term 'advanced illness care coordination services' means the following services furnished to an individual with advanced illness by an applicable provider:

''(A) Palliative care consultation services.

''(B) Person and family centered care planning services, including information on advance care planning.

''(C) Medication management.

''(D) Individual and family counseling services, including assistance with the identification of care options and the goals of care.

''(E) Culturally and educationally appropriate family caregiver training and support services, including respite services.

''(F) Such other services the Secretary may specify.

''(2)(A) An individual is considered to have 'advanced illness' if the individual has a medical prognosis that the individual's life expectancy is 18 months or less or meets other criteria specified by the Secretary in accordance with subparagraph (B).

''(B) In specifying criteria under subparagraph (A), the Secretary shall consider—

''(i) the severity of illness, including the diagnosis, stage, comorbidities, functional status, hospitalization, and other objective factors determined appropriate by the Secretary;

''(ii) the acuity of illness, as measured by the progression of illness and disability over the immediately preceding 30- and 90-day periods; and

''(iii) treatment response, such as, in the case of cancer, resistance to chemotherapy.

''(3) For purposes of this subsection, the term 'applicable provider' means—

''(A) a hospice program (as defined in subsection (dd)(2)); or

''(B) other provider of services or supplier specified by the Secretary.

''(4) In the case of an applicable provider that is furnishing advanced illness care coordination services to an individual who becomes eligible for hospice care under this

title, the applicable provider shall notify the individual of such eligibility.''.

(3) PAYMENT BASED ON THE PHYSICIAN FEE SCHEDULE.—Section 1814(i)(4) of the Social Security Act (42 U.S.C. 1395f(i)(4)) is amended to read as follows:

''(4) The amount paid to an applicable provider with respect to advanced illness care coordination services (as defined in section 1861(iii)) for which payment may be made under this part shall be—

''(A) with respect to such services furnished by a physician, an amount equal to the amount that would be paid for an equivalent physician's service under the fee schedule established under section 1848(b);

''(B) with respect to such services, other than respite services, furnished by a non-physician practitioner, an amount equal to the amount that would be paid for an equivalent service under section 1833(a)(1)(O); and

''(C) with respect to respite services, payment shall be at an appropriate rate to be determined by the Secretary''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after January 1, 2013.

(b) MEDICAID COVERAGE OF ADVANCED ILLNESS CARE COORDINATION SERVICES.—

(1) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(A) by redesignating paragraph (29) as paragraph (30);

(B) in paragraph (28), by striking at the end ''and''; and

(C) by inserting after paragraph (28) the following new paragraph:

''(29) advanced illness care coordination services (as defined in section 1861(iii)) for individuals described in section 1812(a)(5); and''.

(2) CONFORMING AMENDMENT.—Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)) is amended by striking ''and (28)'' and inserting '', (28), and (29)''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by

paragraphs (1) and (2) take effect on January 1, 2013.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraphs (1) and (2), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

(c) EDUCATION ON ADVANCED ILLNESS CARE COORDINATION SERVICES.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a program under which physicians

(as defined in subsection (r) of section 1861 of the Social Security Act (42 U.S.C. 1395x)) are educated on the coverage of advanced illness care coordination services (as defined in subsection (iii) of such section) under the Medicare and Medicaid programs under titles XVIII and XIX, respectively, of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.), including the importance of early intervention in providing such care to individuals.

SEC. 4. INCREASING AWARENESS OF THE IMPORTANCE OF ADVANCE CARE PLANNING.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

"PART W—PROGRAMS TO INCREASE AWARENESS OF ADVANCE CARE PLANNING ISSUES

"SEC. 399OO. ADVANCE CARE PLANNING EDUCATION CAMPAIGNS AND INFORMATION PHONE LINE AND CLEARINGHOUSE.

"(a) ADVANCE CARE PLANNING EDUCATION CAMPAIGN.—The Secretary shall, directly or through grants awarded under subsection (c), conduct a national public education campaign—

"(1) to raise public awareness of the importance of planning for care throughout the life cycle and as illness progresses;

''(2) to explain the need for readily available legal documents and medical orders that express an individual's wishes through—

''(A) advance directives (including living wills, comfort care orders, and durable powers of attorney for health care); and

''(B) other planning tools, such as Physician's Orders for Life-Sustaining Treatment (POLST) or a State authorized portable order; and

''(3) to educate the public about the availability of advanced illness care, palliative care, and hospice care.

''(b) COMMUNICATIONS RESOURCES.—The Secretary, directly or through grants awarded under subsection (c), shall provide for multiple, innovative communications resources, including a toll-free information telephone line, that the public and health care professionals may access to find out about State-specific information regarding advance directives and end-of-life decisions.

''(c) GRANTS.—

''(1) IN GENERAL.—The Secretary shall use funds appropriated under subsection (d) for the purpose of awarding grants to public or nonprofit private entities (including States or political subdivi-

sions of a State), or a consortium of any of such entities, for the purpose of conducting education campaigns under subsection (a).

''(2) PERIOD.—Any grant awarded under paragraph (1) shall be for a period of 3 years.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

''(1) for purposes of carrying out subsection (b), $5,000,000 for fiscal year 2013 and each subsequent year; and

''(2) for purposes of making grants under subsection (c), $10,000,000 for fiscal year 2013, to remain available until expended.''.

SEC. 5. INCLUSION OF ADVANCE CARE PLANNING MATERIALS IN THE MEDICARE & YOU HANDBOOK.

(a) IN GENERAL.—Section 1804(a) of the Social Security Act (42 U.S.C. 1395b–2(a)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) information on advanced illness care coordination, palliative care, other end-of-life planning tools, and the hospice care benefit under this title.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to notices distributed on or after January 1, 2013.

SEC. 6. SENIOR NAVIGATION ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish the Senior Navigation Advisory Board (in this section referred to as the ''Advisory Board'').

(b) MEMBERSHIP.—The Board shall be comprised of advocates, consumer representatives, researchers, government officials, health care providers, ethicists, members of the faith-based community, family caregivers, medical providers, and other individuals with expertise in issues related to end-of-life care.

(c) DUTIES.—The Advisory Board shall advise the Secretary on issues related to end-of-life care and advance care planning, including how to—

(1) improve the quality of life for beneficiaries;

(2) reduce current legal barriers to the enforcement of advance directives;

(3) encourage provider participation in educational and training activities surrounding advanced illnesses and personal care planning;

(4) develop quality and outcome measures that applicable programs should report for advanced illness care coordination services (as defined in section 1861(iii) of the Social Security Act, as added by section 3);

(5) determine what information should be discussed in discharge planning;

(6) enhance advance care planning; and

(7) develop and sustain an optimal service array for implementing quality care coordination services.

(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Advisory Board.

(e) PAY AND REIMBURSEMENT.—

(1) NO COMPENSATION FOR MEMBERS OF ADVISORY BOARD.—Except as provided in paragraph (2), a member of the Advisory Board may not receive pay, allowances, or benefits by reason of their service on the Board.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of

subsistence under subchapter I of chapter 57 of title 5, United States Code.

(f) REPORT.—Not later than 3 years after the establishment of the Advisory Board, the Advisory Board shall submit to Congress a final report containing the findings and conclusions of the Advisory Board, together with recommendations for such legislation and administrative actions as the Advisory Board considers appropriate.

(g) TERMINATION.—The Advisory Board shall terminate 30 days after submitting the report under subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 7. IMPROVEMENT OF POLICIES RELATED TO THE USE AND PORTABILITY OF ADVANCED DIRECTIVES.

(a) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting ''and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D)—

(i) by inserting ''paragraph (5) and applicable'' after ''requirements of''; and

(ii) by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (3), by striking ''a written'' and inserting ''an''; and

(3) by adding at the end the following new paragraph:

''(5)(A) An advance directive or State authorized portable order validly executed outside of the State in which the directive or order is presented shall be given effect by a provider of services or organization (as the case may be) to the same extent as an advance directive or order validly executed under the law of the State in which it is presented.

''(B) In the absence of knowledge to the contrary, a physician or other health care provider or a provider of services or organization may presume that a written advance health care directive or similar instrument or a State authorized portable order, regardless of where executed, is valid.

''(C) In the absence of a validly executed advance directive or State authorized portable order, a provider of services or organization shall honor any authentic expression of an individual's wishes with respect to health care.

''(D) The provisions of this paragraph shall preempt any State law with respect to advance directive portability to the extent such law is inconsistent with such provisions. Nothing in this paragraph shall be construed to authorize the administration of health care treatment otherwise prohibited by the laws of the State in which the directive is presented.''.

(b) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking ''in the individual's medical record'' and inserting ''in a prominent part of the individual's current medical record''; and

(ii) by inserting ''and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D)—

(i) by inserting ''paragraph (6) and applicable'' after ''requirements of''; and

(ii) by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (4), by striking ''a written'' and inserting ''an''; and

(3) by adding at the end the following paragraph:

''(6)(A) An advance directive or State authorized portable order validly executed outside of the State in

which the directive is presented shall be given effect by a provider of services or organization (as the case may be) to the same extent as an advance directive or order validly executed under the law of the State in which it is presented.

''(B) In the absence of knowledge to the contrary, a physician or other health care provider or a provider of services or organization may presume that a written advance health care directive or similar instrument or a State authorized portable order, regardless of where executed, is valid.

''(C) In the absence of a validly executed advance directive or State authorized portable order, a provider of services or organization shall honor any authentic expression of an individual's wishes with respect to health care.

''(D) The provisions of this paragraph shall preempt any State law with respect to advance directive portability to the extent such law is inconsistent with such provisions. Nothing in this paragraph shall be construed to authorize the administration of health care treatment otherwise prohibited by the laws of the State in which the directive is presented.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b)

shall apply to provider agreements and contracts entered into, renewed, or extended under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and to State plans under title XIX of such Act (42 U.S.C. 1396 et seq.), on or after such date as the Secretary of Health and Human Services specifies, but in no case may such date be later than 1 year after the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year

of the session is considered to be a separate regular session of the State legislature.

SEC. 8. ADDITIONAL REQUIREMENTS FOR FACILITIES.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(A) in subparagraph (V), by striking ''and'' at the end;

(B) in subparagraph (W), as added by section 3005(1)(C) of the Patient Protection and Affordable Care Act (Public Law 111–148), by redesignating such subparagraph as subparagraph (X), moving such subparagraph to follow subparagraph (V), moving such subparagraph 2 ems to the left, and striking the period at the end and inserting a comma;

(C) in subparagraph (W), as added by section 6406(b)(3) of the Patient Protection and Affordable Care Act (Public Law 111–148), by redesignating such subparagraph as subparagraph (Y), moving such subparagraph to follow subparagraph (X), as added by subparagraph (B), moving such subparagraph 2 ems to the

left, and striking the period at the end and inserting ", and"; and

(D) by inserting after subparagraph (Y) the following new subparagraphs:

"(Z) in the case of hospitals, skilled nursing facilities, home health agencies, and hospice programs, to provide an individual (and the caregivers and family of the individual, with the individual's consent, and the legal representative of the individual) who is receiving care by or through the provider with the opportunity to discuss the general course of treatment expected, the likely impact on length of life and function, and the procedures they should use to secure help if an unexpected situation arises, and

"(AA) in the case of hospitals, skilled nursing facilities, home health agencies, hospice programs, and applicable providers of advanced illness care coordination services (as defined in section 1861(iii)(3)) to—

"(i) provide for an assessment of each individual (at the time of discharge from the provider) using an assessment instrument that is at least as informative as the continuity assessment record and evaluation (CARE) instrument

developed by the Centers for Medicare & Medicaid Services; and

"(ii) include the results of such assessment in the individual's medical record.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to agreements entered into or renewed on or after January 1, 2014.

(b) HHS STUDY AND REPORT ON APPROPRIATE ASSESSMENTS AT DISCHARGE.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study on the extent to which the assessment of individuals by hospitals, skilled nursing facilities, hospice programs, home health agencies, and applicable providers of advanced illness care coordination services under section 1886(a)(1)(AA) of the Social Security Act, as added by subsection (a), accurately reflects the actual diagnosis and care plan, including care coordination, of the individual at the time of discharge. Such study shall include an analysis of how successful the hospital, skilled nursing facility, hospice program, home health agency, or applicable provider is in converting care goals and preferences expressed by the individual into a valid advance directive.

(2) REPORT.—Not later than January 1, 2016, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

SEC. 9. INCENTIVES FOR ACCREDITATION AND CERTIFICATION IN HOSPICE AND PALLIATIVE CARE.

(a) HOSPITALS.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(t) INCENTIVES FOR ACCREDITATION IN PALLIATIVE CARE.—

''(1) INCENTIVE PAYMENT.—

''(A) IN GENERAL.—Subject to paragraph (3), with respect to inpatient hospital services and inpatient critical access hospital services furnished by an eligible hospital during a payment year, if the eligible hospital has in place an accredited palliative care program (as determined by the Secretary) with respect to such year and meets utilization criteria for such program (as established by the Secretary) with respect to such year, in addition to the amount otherwise paid under this section or section

1814, there shall also be paid to the eligible hospital, from the Federal Hospital Insurance Trust Fund established under section 1817, an amount equal to the applicable percent of the amount that would otherwise be paid under this section or section 1814 for such services for the hospital for such year.

''(B) APPLICABLE PERCENT DEFINED.—The term 'applicable percent' means—

''(i) for fiscal years 2013 through 2018, 2 percent; and

''(ii) for fiscal years 2019 through 2022, 1 percent.

''(C) FORM OF PAYMENT.—The payment under this paragraph for a payment year may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

''(2) INCENTIVE PAYMENT ADJUSTMENT.—Subject to paragraph (3), with respect to inpatient hospital services and inpatient critical access hospital services furnished by an eligible hospital during a fiscal year after fiscal year 2022, if the eligible hospital does not have in place an accredited palliative care program (as determined by the Secretary) with

respect to such fiscal year, the amount otherwise paid under this section or section 1814 for such services for the hospital for the year shall be reduced by 1 percent.

''(3) EXCEPTION.—In the case of an eligible hospital with fewer than 50 beds, such hospital shall be deemed to meet the requirement in paragraphs (1)(A) and (2) if, in lieu of having in place an accredited palliative care program, the hospital provides individuals and family members with access to a local or regional accredited palliative care team or program.

''(4) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE HOSPITAL.—The term 'eligible hospital' means—

''(i) a hospital (as defined in section 1861(e)); and

''(ii) a critical access hospital (as defined in section 1861(mm)(1)).

''(B) PAYMENT YEAR.—The term 'payment year' means fiscal years 2013 through 2022.

''(5) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of—

''(A) the methodology and standards for determining payment amounts under paragraph (1) and payment adjustments under paragraph (2);

''(B) the methodology and standards for determining whether the eligible hospital has in place an accredited palliative care program; and

''(C) the application of the exception under paragraph (3).''.

(b) SKILLED NURSING FACILITIES.—Section 1888 of the Social Security Act (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

''(g) INCENTIVES FOR ACCREDITATION IN PALLIATIVE CARE.—

''(1) INCENTIVE PAYMENT.—

''(A) IN GENERAL.—Subject to paragraph (3), with respect to covered skilled nursing facility services (as defined in subsection (e)(2)(A)) furnished by a skilled nursing facility during a payment year, if the facility has in place an accredited palliative care program (as determined by the Secretary) with respect to such year and meets utilization criteria for such program (as established by the Secretary) with respect to such year, in addition to the amount

otherwise paid under this subsection (e), there shall also be paid to the facility, from the Federal Hospital Insurance Trust Fund established under section 1817, an amount equal to the applicable percent of the amount that would otherwise be paid under subsection (e) for such services for the facility for such year.

''(B) DEFINITIONS.—In this subsection:

''(i) APPLICABLE PERCENT.—The term 'applicable percent' means—

''(I) for fiscal years 2013 through 2018, 2 percent; and

''(II) for fiscal years 2019 through 2022, 1 percent.

''(ii) PAYMENT YEAR.—The term 'payment year' means fiscal years 2013 through 2022.

''(C) FORM OF PAYMENT.—The payment under this paragraph for a payment year may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

''(2) INCENTIVE PAYMENT ADJUSTMENT.—Subject to paragraph (3), with respect to covered skilled nursing facility services (as defined in subsection

(e)(2)(A)) furnished by a skilled nursing facility during a fiscal year after fiscal year 2022, if the facility does not have in place an accredited palliative care program (as determined by the Secretary) with respect to such fiscal year, the amount otherwise paid under subsection (e) for such services for the facility for the year shall be reduced by 1 percent.

''(3) EXCEPTION.—In the case of a skilled nursing facility with fewer than 60 beds, such facility shall be deemed to meet the requirement in paragraphs (1)(A) and (2) if, in lieu of having in place an accredited palliative care program, the facility provides individuals and family members with access to a local or regional accredited palliative care team or program.

''(4) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of—

''(A) the methodology and standards for determining payment amounts under paragraph (1) and payment adjustments under paragraph (2);

''(B) the methodology and standards for determining whether the skilled nursing facility

has in place an accredited palliative care program; and

''(C) the application of the exception under paragraph (3).''.

(c) PHYSICIANS.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended by adding at the end the following new subsection:

''(q) INCENTIVES FOR CERTIFICATION IN HOSPICE AND PALLIATIVE CARE.—

''(1) INCENTIVE PAYMENT.—

''(A) IN GENERAL.—With respect to physician's services furnished by a physician during a payment year, if the physician is certified in hospice and palliative care (as determined by the Secretary) with respect to such year, in addition to the amount otherwise paid under this part, there shall also be paid to the physician, from the Federal Supplementary Medical Insurance Trust Fund established under section 1841, an amount equal to the applicable percent of the Secretary's estimate (based on claims submitted not later than 2 months after the end of the payment year) of the allowed charges under this part for all covered profes-

sional services (as defined in subsection (k)(3)) furnished by the physician during such year.

''(B) DEFINITIONS.—In this subsection:

''(i) APPLICABLE PERCENT.—The term 'applicable percent' means—

''(I) for 2013 through 2018, 2 percent; and

''(II) for 2019 through 2022, 1 percent.

''(ii) PAYMENT YEAR.—The term 'payment year' means 2013 through 2022.

''(C) FORM OF PAYMENT.—The payment under this subsection for a payment year may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

''(2) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of—

''(A) the methodology and standards for determining payment amounts under paragraph (1); and

''(B) the methodology and standards for determining whether the physician is certified in hospice and palliative care.''.

SEC. 10. DISCHARGE CHECKLIST PILOT PROGRAM.

(a) ESTABLISHMENT.—Not later than July 1, 2013, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct a pilot program under title XVIII of the Social Security Act to test the use of the Centers for Medicare and Medicaid Services' discharge checklist included in the publication entitled ''Planning for Your Discharge: A checklist for individuals and caregivers preparing to leave a hospital, nursing home, or other health care setting'' and the continuity assessment record and evaluation (CARE) instrument development by the Centers for Medicare and Medicaid Services.

(b) WAIVER AUTHORITY.—The Secretary may waive compliance of such requirements of titles XI and XVIII of the Social Security Act as the Secretary determines necessary to conduct the pilot program under this section.

(c) REPORT.—Not later than 6 months after the completion of the pilot program under this section, the Secretary shall submit to Congress a final report on the pilot program, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(d) FUNDING.—There are authorized to be appropriated such sums as may be necessary for purposes of conducting the pilot program under this section.

SEC. 11. WEB-BASED MATERIALS AND GRANTS.

(a) WEB-BASED MATERIALS.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish and maintain a Web site that provides information, online training, and instructional materials for entities, including faith-based organizations, on advance care planning, which shall include content addressing—

(1) advance care planning, including common issues and questions regarding advance directives and their uses;

(2) Physician Orders for Life-Sustaining Treatment (POLST);

(3) hospice benefits under Medicare, Medicaid, and the State Children's Health Insurance Program established under the Social Security Act, including information on how hospice care is administered and provided to terminally ill individuals;

(4) palliative care, including information on services that palliative care consultation teams and designated units provide for terminally ill individuals; and

(5) any additional information related to advanced progressive conditions and associated issues, as determined by the Secretary.

(b) GRANTS.—

(1) HOSPICE CARE GRANT PROGRAM.—

(A) GRANTS AUTHORIZED.—The Secretary is authorized to award grants to entities, including faith-based organizations, to develop and provide services for terminally ill individuals who are receiving hospice care in their own homes.

(B) REQUIREMENTS.—

(i) DURATION.—The grant program shall be conducted for a 5-year period, beginning not later than January 1, 2013.

(ii) AMOUNT OF GRANTS.—An entity may be awarded a grant under this paragraph for a fiscal year that is not less than $5,000 and not more than $250,000.

(iii) NUMBER OF GRANTS.—The Secretary shall award grants under this paragraph to not more than 100 entities.

(C) ADDITIONAL MEDICAID FUNDS.—A State may elect to provide additional funds to recipients of a grant under this section, with such funds to be considered as amounts expended for the proper and efficient administration of the State plan under title XIX of the Social Security Act for purposes of the State

receiving payments under section 1903(a)(7) of that Act (42 U.S.C. 1396b(a)(7)).

(D) USE OF FUNDS.—Grants awarded pursuant to this paragraph shall be used by entities to develop and provide end-of-life support services for terminally ill individuals who are receiving care in their own homes, including—

(i) support for family or other designated caregivers; and

(ii) any additional information or materials relating to support services determined appropriate by the Secretary.

(E) APPLICATION.—Each entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(F) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the grant program established under this paragraph, there is authorized to be appropriated $15,000,000 for the period of fiscal years 2013 through 2017.

(2) ADVANCED ILLNESS CARE EDUCATIONAL GRANT PROGRAM.—

(A) GRANTS AUTHORIZED.—The Secretary is authorized to award grants to entities, including faith-based organizations and religious educational institutions, to develop and provide appropriate training and educational programs addressing the care of individuals with advanced illness.

(B) REQUIREMENTS.—

(i) DURATION.—The grant program shall be conducted for a 5-year period, beginning not later than January 1, 2013.

(ii) AMOUNT OF GRANTS.—An entity may be awarded a grant under this paragraph for a fiscal year that is not less than $5,000, and not more than $50,000.

(iii) NUMBER OF GRANTS.—The Secretary shall award grants under this paragraph to not more than 100 entities.

(C) USE OF FUNDS.—Grants awarded pursuant to this paragraph shall be used by entities to develop appropriate training and education programs addressing care of individuals with advanced illness and include such programs as part of their educational curriculum,

continuing education programs, or vocational training.

(D) APPLICATION.—Each entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(E) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the grant program established under this paragraph, there is authorized to be appropriated $10,000,000 for the period of fiscal years 2013 through 2017.

SEC. 12. HHS STUDY AND REPORT ON THE STORAGE OF ADVANCED DIRECTIVES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study on State and regional activities with respect to storing completed advance directives and Physician Orders for Life-Sustaining Treatment. Such study shall include an analysis of the practicality and feasibility of establishing a national registry for completed advance directives and Physician Orders for Life-Sustaining Treatment, taking into consideration the constraints created by the privacy provisions enacted as a re-

sult of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

(b) REPORT.—Not later than January 1, 2015, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

SEC. 13. GAO STUDY AND REPORT ON THE PROVISIONS OF, AND AMENDMENTS MADE BY, THIS ACT.

(a) STUDY.—The Comptroller General of the United States (in this section referred to as the ''Comptroller General'') shall conduct a study on the provisions of, and amendments made by, this Act, including the quality and costs (such as individual and family experience, individual understanding of treatment choices, and any decrease in avoidable hospital admissions) associated with such provisions and such amendments.

(b) REPORT.—Not later than January 1, 2015, the Comptroller General shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

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