

# Union Calendar No. 283

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2810

**[Report No. 113–257, Parts I and II]**

To amend title XVIII of the Social Security Act to reform the sustainable growth rate and Medicare payment for physicians' services, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2013

Mr. BURGESS (for himself, Mr. PALLONE, Mr. UPTON, Mr. WAXMAN, Mr. PITTS, and Mr. DINGELL) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and the Judiciary, 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

NOVEMBER 12, 2013

Reported from the Committee on Energy and Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

NOVEMBER 12, 2013

The Committee on the Judiciary discharged

NOVEMBER 12, 2013

Referral to the Committee on Ways and Means extended for a period ending  
not later than December 2, 2013

DECEMBER 2, 2013

Referral to the Committee on Ways and Means extended for a period ending  
not later than January 10, 2014

JANUARY 10, 2014

Referral to the Committee on Ways and Means extended for a period ending  
not later than March 14, 2014

MARCH 14, 2014

Additional sponsors: Mr. CASSIDY, Mr. BUCSHON, Mrs. CHRISTENSEN, Mr. GINGREY of Georgia, Mr. STOCKMAN, Mr. THORNBERRY, Mr. BENISHEK, Mr. MURPHY of Pennsylvania, Mr. GOSAR, Ms. MATSUI, Ms. CASTOR of Florida, Mr. ENGEL, Mr. CUELLAR, Mr. SESSIONS, Mr. YOUNG of Alaska, Mr. GENE GREEN of Texas, Mr. OLSON, Mrs. ELLMERS, Mr. ROE of Tennessee, Mrs. BLACKBURN, Mr. LATTI, Mrs. McMORRIS RODGERS, Mr. TERRY, Mr. ROGERS of Michigan, Mr. WALDEN, Mr. BILIRAKIS, Ms. SCHAKOWSKY, Mr. BRALEY of Iowa, Mrs. CAPP, Mr. CARTER, Mr. BARTON, Mr. WHITFIELD, Mr. LANCE, Mr. HOLDING, Mr. WESTMORELAND, Mr. LATHAM, Mrs. BROOKS of Indiana, Mr. WALBERG, Mr. RICE of South Carolina, Mr. LOEBSACK, Mr. COFFMAN, Mr. BERA of California, Mr. RUIZ, Mr. STIVERS, Mr. MCKINLEY, Mr. KENNEDY, Mr. BEN RAY LUJÁN of New Mexico, Mr. RUSH, Mr. YODER, Mr. MARINO, Mr. MCNERNEY, and Mr. LANGEVIN

MARCH 14, 2014

Reported from the Committee on Ways and Means with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on July 24, 2013]

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## A BILL

To amend title XVIII of the Social Security Act to reform the sustainable growth rate and Medicare payment for physicians' services, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5 *“Medicare Patient Access and Quality Improvement Act of*  
 6 *2013”.*

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

*Sec. 1. Short title; table of contents.*

*Sec. 2. Reform of sustainable growth rate (SGR) and Medicare payment for phy-*  
*sicians’ services.*

*Sec. 3. Expanding availability of Medicare data.*

*Sec. 4. Encouraging care coordination and medical homes.*

*Sec. 5. Miscellaneous.*

9 **SEC. 2. REFORM OF SUSTAINABLE GROWTH RATE (SGR)**

10 **AND MEDICARE PAYMENT FOR PHYSICIANS’**

11 **SERVICES.**

12 (a) *STABILIZING FEE UPDATES (PHASE I).*—

13 (1) *REPEAL OF SGR PAYMENT METHODOLOGY.*—

14 *Section 1848 of the Social Security Act (42 U.S.C.*  
 15 *1395w–4) is amended—*

16 (A) *in subsection (d)—*

17 (i) *in paragraph (1)(A), by inserting*

18 *“or a subsequent paragraph or section*  
 19 *1848A” after “paragraph (4)”; and*

20 (ii) *in paragraph (4)—*

1                   (I) in the heading, by striking  
2                   “YEARS BEGINNING WITH 2001” and in-  
3                   serting “2001, 2002, AND 2003”; and

4                   (II) in subparagraph (A), by  
5                   striking “a year beginning with 2001”  
6                   and inserting “2001, 2002, and 2003”;  
7                   and

8                   (B) in subsection (f)—

9                   (i) in paragraph (1)(B), by inserting  
10                  “through 2013” after “of each succeeding  
11                  year”; and

12                  (ii) in paragraph (2), by inserting  
13                  “and ending with 2013” after “beginning  
14                  with 2000”.

15                  (2) UPDATE OF RATES FOR 2014 THROUGH  
16                  2018.—Subsection (d) of section 1848 of the Social Se-  
17                  curity Act (42 U.S.C. 1395w-4) is amended by add-  
18                  ing at the end the following new paragraph:

19                  “(15) UPDATE FOR 2014 THROUGH 2018.—The  
20                  update to the single conversion factor established in  
21                  paragraph (1)(C) for each of 2014 through 2018 shall  
22                  be 0.5 percent.”.

23                  (b) QUALITY UPDATE INCENTIVE PROGRAM (PHASE  
24                  II).—

1           (1) *IN GENERAL.*—Section 1848 of the Social Se-  
 2           curity Act (42 U.S.C. 1395w-4), as amended by sub-  
 3           section (a), is further amended—

4                   (A) in subsection (d), by adding at the end  
 5           the following new paragraph:

6           “(16) *UPDATE BEGINNING WITH 2019.*—

7                   “(A) *IN GENERAL.*—Subject to subpara-  
 8           graph (B), the update to the single conversion  
 9           factor established in paragraph (1)(C) for each  
 10          year beginning with 2019 shall be 0.5 percent.

11                  “(B) *ADJUSTMENT.*—In the case of an eligi-  
 12          ble professional (as defined in subsection (k)(3))  
 13          who does not have a payment arrangement de-  
 14          scribed in section 1848A(a) in effect, the update  
 15          under subparagraph (A) for a year beginning  
 16          with 2019 shall be adjusted by the applicable  
 17          quality adjustment determined under subsection  
 18          (q)(3) for the year involved.”; and

19                  (B) in subsection (i)(1)—

20                   (i) by striking “and” at the end of sub-  
 21          paragraph (D);

22                   (ii) by striking the period at the end of  
 23          subparagraph (E) and inserting “, and”;  
 24          and

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

3                   “(F) the implementation of subsection (q).”.

4                   (2) *ENHANCING PHYSICIAN QUALITY REPORTING*  
5                   *SYSTEM TO SUPPORT QUALITY UPDATE INCENTIVE*  
6                   *PROGRAM.—Section 1848 of the Social Security Act*  
7                   *(42 U.S.C. 1395w–4) is amended—*

8                   (A) in subsection (k)(1), in the first sen-  
9                   tence, by inserting “and, if applicable, clinical  
10                  practice improvement activities,” after “quality  
11                  measures”;

12                  (B) in subsection (k)(2)—

13                   (i) in subparagraph (C)—

14                   (I) in the subparagraph heading,  
15                   by striking “AND SUBSEQUENT YEARS”  
16                   and inserting “THROUGH 2018”; and

17                   (II) in clause (i), by inserting  
18                   “(before 2019)” after “subsequent  
19                   year”;

20                   (ii) by redesignating subparagraph (D)  
21                   as subparagraph (E);

22                   (iii) by inserting after subparagraph  
23                   (C) the following new subparagraph:

24                   “(D) *FOR 2019 AND SUBSEQUENT YEARS.—*

25                   *For purposes of reporting data on quality meas-*

ures and, as applicable clinical practice improvement activities, for covered professional services furnished during the performance period (as defined in subsection (q)(2)(B)) with respect to 2019 and the performance period with respect to each subsequent year, subject to subsection (q)(1)(D), the quality measures and clinical practice improvement activities specified under this paragraph shall be, with respect to an eligible professional, the quality measures and, as applicable, clinical practice improvement activities within the final core measure set under paragraph (9)(F) applicable to the peer cohort of such provider and year involved.”; and

(iv) in subparagraph (E), as redesignated by subparagraph (B)(ii) of this paragraph, by striking “AND SUBSEQUENT YEARS”;

(C) in subsection (k)(3)—

(i) in the paragraph heading, by striking “COVERED PROFESSIONAL SERVICES AND ELIGIBLE PROFESSIONALS DEFINED” and inserting “DEFINITIONS”; and

(ii) by adding at the end the following new subparagraphs:

1           “(C) *CLINICAL PRACTICE IMPROVEMENT AC-*  
 2           *TIVITIES.—The term ‘clinical practice improve-*  
 3           *ment activity’ means an activity that relevant*  
 4           *eligible professional organizations and other rel-*  
 5           *evant stakeholders identify as improving clinical*  
 6           *practice or care delivery and that the Secretary*  
 7           *determines, when effectively executed, is likely to*  
 8           *result in improved outcomes.*

9           “(D) *ELIGIBLE PROFESSIONAL ORGANIZA-*  
 10           *TION.—The term ‘eligible professional organiza-*  
 11           *tion’ means a professional organization as de-*  
 12           *finied by nationally recognized multispecialty*  
 13           *boards of certification or equivalent certification*  
 14           *boards.*

15           “(E) *PEER COHORT.—The term ‘peer co-*  
 16           *hort’ means a peer cohort identified on the list*  
 17           *under paragraph (9)(B), as updated under*  
 18           *clause (ii) of such paragraph.”;*

19           (D) in subsection (k)(7), by striking “ and  
 20           the application of paragraphs (4) and (5)” and  
 21           inserting “, the application of paragraphs (4)  
 22           and (5), and the implementation of paragraph  
 23           (9)”;

24           (E) by adding at the end of subsection (k)  
 25           the following new paragraph:



1           “(9) *ESTABLISHMENT OF FINAL CORE MEASURE*  
 2       *SETS.*—

3           “(A) *IN GENERAL.*—*Under the system under*  
 4       *this subsection—*

5                   “(i) *for each peer cohort identified*  
 6                   *under subparagraph (B) and in accordance*  
 7                   *with this paragraph, there shall be pub-*  
 8                   *lished a final core measure set under sub-*  
 9                   *paragraph (F), which shall consist of qual-*  
 10                   *ity measures and may also consist of clin-*  
 11                   *ical practice improvement activities, with*  
 12                   *respect to which eligible professionals shall,*  
 13                   *subject to subsection (m)(3)(C), be assessed*  
 14                   *for purposes of determining, for years begin-*  
 15                   *ning with 2019, the quality adjustment*  
 16                   *under subsection (q)(3) applicable to such*  
 17                   *professionals; and*

18                   “(ii) *each eligible professional shall*  
 19                   *self-identify, in accordance with subpara-*  
 20                   *graph (B), within such a peer cohort for*  
 21                   *purposes of such assessments.*

22           “(B) *PEER COHORTS.*—*The Secretary shall*  
 23       *identify (and publish a list of) peer cohorts by*  
 24       *which eligible professionals shall self-identify for*  
 25       *purposes of this subsection and subsection (q)*

1       *with respect to a performance period (as defined*  
2       *in subsection (q)(2)(B)) for a year beginning*  
3       *with 2019. For purposes of this subsection and*  
4       *subsection (q), the Secretary shall develop one or*  
5       *more peer cohorts for multispecialty groups, each*  
6       *of which shall be included as a peer cohort under*  
7       *this subparagraph. Such self-identification will*  
8       *be made through such a process and at such time*  
9       *as specified under the system under this sub-*  
10      *section. Such list—*

11               “(i) shall include, as peer cohorts, pro-  
12               vider specialties defined by nationally rec-  
13               ognized multispecialty boards of certifi-  
14               cation or equivalent certification boards  
15               and such other cohorts as established under  
16               this section in order to capture classifica-  
17               tions of providers across eligible professional  
18               organizations and other practice areas,  
19               groupings, or categories; and

20               “(ii) shall be updated from time to  
21               time.

22               “(C) *QUALITY MEASURES FOR CORE MEAS-*  
23      *URE SETS.—*

24               “(i) *DEVELOPMENT.—Under the sys-*  
25      *tem under this subsection there shall be es-*

1           *established a process for the development of*  
2           *quality measures under this subparagraph*  
3           *for purposes of potential inclusion of such*  
4           *measures in core measure sets under this*  
5           *paragraph. Under such process—*

6                     *“(I) there shall be coordination, to*  
7                     *the extent possible, across organizations*  
8                     *developing such measures;*

9                     *“(II) eligible professional organi-*  
10                    *zations and other relevant stakeholders*  
11                    *may submit best practices and clinical*  
12                    *practice guidelines for the development*  
13                    *of quality measures that address qual-*  
14                    *ity domains (as defined under clause*  
15                    *(ii)) for potential inclusion in such*  
16                    *core measure sets;*

17                    *“(III) there is encouraged to be*  
18                    *developed, as appropriate, meaningful*  
19                    *outcome measures (or quality of life*  
20                    *measures in cases for which outcomes*  
21                    *may not be a valid measurement),*  
22                    *functional status measures, and pa-*  
23                    *tient experience measures; and*

24                    *“(IV) measures developed under*  
25                    *this clause shall be developed, to the ex-*

1                   tent possible, in accordance with best  
2                   practices and clinical practice guide-  
3                   lines.

4                   “(ii) *QUALITY DOMAINS.*—For pur-  
5                   poses of this paragraph, the term ‘quality  
6                   domains’ means at least the following do-  
7                   mains:

8                   “(I) *Clinical care.*

9                   “(II) *Safety.*

10                  “(III) *Care coordination.*

11                  “(IV) *Patient and caregiver expe-*  
12                  *rience.*

13                  “(V) *Population health and pre-*  
14                  *vention.*

15                  “(D) *PROCESS FOR ESTABLISHING CORE*  
16                  *MEASURE SETS.*—

17                  “(i) *IN GENERAL.*—Under the system  
18                  under this subsection, for purposes of sub-  
19                  paragraph (A), there shall be established a  
20                  process to approve final core measure sets  
21                  under this paragraph for peer cohorts. Each  
22                  such final core measure set shall be com-  
23                  posed of quality measures (and, as applica-  
24                  ble, clinical practice improvement activi-  
25                  ties) with respect to which eligible profes-

1           sionals within such peer cohort shall report  
2           under this subsection and be assessed under  
3           subsection (q). Such process shall provide—

4                   “(I) for the establishment of cri-  
5                   teria, which shall be made publicly  
6                   available before the request is made  
7                   under clause (ii), for selecting such  
8                   measures and activities for potential  
9                   inclusion in such a final core measure  
10                  set; and

11                   “(II) that all peer cohorts, and to  
12                   the extent practicable all quality do-  
13                   mains, are addressed by measures and,  
14                   as applicable, clinical practice im-  
15                   provement activities selected to be in-  
16                   cluded in a core measure set under this  
17                   paragraph, which may include through  
18                   the use of such a measure or clinical  
19                   practice improvement activity that ad-  
20                   dresses more than one such domain or  
21                   cohort.

22                   “(ii) SOLICITATION OF PUBLIC INPUT  
23                   ON QUALITY MEASURES AND CLINICAL PRAC-  
24                   TICE IMPROVEMENT ACTIVITIES.—Under the  
25                   process established under clause (i), relevant

1           *eligible professional organizations and other*  
2           *relevant stakeholders shall be requested to*  
3           *identify and submit quality measures and*  
4           *clinical practice improvement activities (as*  
5           *defined in paragraph (3)(C)) for selection*  
6           *under this paragraph. For purposes of the*  
7           *previous sentence, measures and activities*  
8           *may be submitted regardless of whether such*  
9           *measures were previously published in a*  
10          *proposed rule or endorsed by an entity with*  
11          *a contract under section 1890(a).*

12          “(E) CORE MEASURE SETS.—

13                 “(i) IN GENERAL.—Under the process  
14                 established under subparagraph (D)(i), the  
15                 Secretary—

16                         “(I) shall select, from quality  
17                         measures described in clause (ii) appli-  
18                         cable to a peer cohort, quality measures  
19                         to be included in a core measure set for  
20                         such cohort;

21                         “(II) shall, to the extent there are  
22                         insufficient quality measures applica-  
23                         ble to a peer cohort to address one or  
24                         more applicable quality domains, select  
25                         to be included in a core measure set for

1            *such cohort such clinical practice im-*  
 2            *provement activities described in clause*  
 3            *(ii)(IV) as are needed and available to*  
 4            *sufficiently address such an applicable*  
 5            *domain with respect to such peer co-*  
 6            *hort; and*

7            *“(III) may select, to the extent de-*  
 8            *termined appropriate, any additional*  
 9            *clinical practice improvement activi-*  
 10           *ties described in clause (ii)(IV) appli-*  
 11           *cable to a peer cohort to be included in*  
 12           *a core measure set for such cohort.*

13           *Activities selected under this paragraph*  
 14           *shall be selected with consideration of best*  
 15           *practices and clinical practice guidelines*  
 16           *identified under subparagraph (C)(i)(II).*

17           *“(ii) SOURCES OF QUALITY MEASURES*  
 18           *AND CLINICAL PRACTICE IMPROVEMENT AC-*  
 19           *TIVITIES.—A quality measure or clinical*  
 20           *practice improvement activity selected for*  
 21           *inclusion in a core measure set under the*  
 22           *process under subparagraph (D)(i) shall*  
 23           *be—*

24           *“(I) a measure endorsed by a con-*  
 25           *sensus-based entity;*

1                   “(II) a measure developed under  
 2                   paragraph (2)(C) or a measure other-  
 3                   wise applied or developed for a similar  
 4                   purpose under this section;

5                   “(III) a measure developed under  
 6                   subparagraph (C); or

7                   “(IV) a measure or activity sub-  
 8                   mitted under subparagraph (D)(ii).

9                   A measure or activity may be selected under  
 10                  this subparagraph, regardless of whether  
 11                  such measure or activity was previously  
 12                  published in a proposed rule. A measure so  
 13                  selected shall be evidence-based but (other  
 14                  than a measure described in subclause (I))  
 15                  shall not be required to be consensus-based.

16                  “(iii) *TRANSPARENCY.*—Before pub-  
 17                  lishing in a final regulation a core measure  
 18                  set under clause (i) as a final core measure  
 19                  set under subparagraph (F), the Secretary  
 20                  shall—

21                  “(I) submit for publication in ap-  
 22                  plicable specialty-appropriate peer-re-  
 23                  viewed journals such core measure set  
 24                  under clause (i) and the method for de-  
 25                  veloping and selecting measures within



1           *such set, including clinical and other*  
2           *data supporting such measures, and,*  
3           *as applicable, the method for selecting*  
4           *clinical practice improvement activi-*  
5           *ties included within such set; and*

6                     *“(II) regardless of whether or not*  
7           *the core measure set or method is pub-*  
8           *lished in such a journal under sub-*  
9           *clause (I), provide for notice of the pro-*  
10          *posed regulation in the Federal Reg-*  
11          *ister, including with respect to the ap-*  
12          *plicable methods and data described in*  
13          *subclause (I), and a period for public*  
14          *comment thereon.*

15                    *“(F) FINAL CORE MEASURE SETS.—Not*  
16          *later than November 15 of the year prior to the*  
17          *first day of a performance period, the Secretary*  
18          *shall publish a final regulation in the Federal*  
19          *Register that includes a final core measure set*  
20          *(and the applicable methods and data described*  
21          *in subparagraph (E)(iii)(I)) for each peer cohort*  
22          *to be applied for such performance period.*

23                    *“(G) PERIODIC REVIEW AND UPDATES.—*

24                    *“(i) IN GENERAL.—In carrying out*  
25          *this paragraph, under the system under this*

subsection, there shall periodically be reviewed—

“(I) the quality measures and clinical practice improvement activities selected for inclusion in final core measure sets under this paragraph for each year such measures and activities are to be applied under this subsection or subsection (q) to ensure that such measures and activities continue to meet the conditions applicable to such measures and activities for such selection; and

“(II) the final core measure sets published under subparagraph (F) for each year such sets are to be applied to peer cohorts of eligible professionals to ensure that each applicable set continues to meet the conditions applicable to such sets before being so published.

“(ii) COLLABORATION WITH STAKEHOLDERS.—In carrying out clause (i), relevant eligible professional organizations and other relevant stakeholders may identify

1           *and submit updates to quality measures*  
2           *and clinical practice improvement activities*  
3           *selected under this paragraph for inclusion*  
4           *in final core measure sets as well as any*  
5           *additional quality measures and clinical*  
6           *practice improvement activities. Not later*  
7           *than November 15 of the year prior to the*  
8           *first day of a performance period, submis-*  
9           *sions under this clause shall be reviewed.*

10           “(iii) *ADDITIONAL, AND UPDATES TO,*  
11           *MEASURES AND ACTIVITIES.—Based on the*  
12           *review conducted under this subparagraph*  
13           *for a period, as needed, there shall be—*

14                   “(I) *selected additional, and up-*  
15                   *dates to, quality measures and clinical*  
16                   *practice improvement activities selected*  
17                   *under this paragraph for potential in-*  
18                   *clusion in final core measure sets in*  
19                   *the same manner such quality meas-*  
20                   *ures and clinical practice improvement*  
21                   *activities are selected under this para-*  
22                   *graph for such potential inclusion;*

23                   “(II) *removed, from final core*  
24                   *measure sets, quality measures and*

1                   *clinical practice improvement activi-*  
 2                   *ties that are no longer meaningful; and*

3                   “(III) *updated final core measure*  
 4                   *sets published under subparagraph (F)*  
 5                   *in the same manner as such sets are*  
 6                   *approved under such subparagraph.*

7                   *For purposes of this subsection and sub-*  
 8                   *section (q), a final core measure set, as up-*  
 9                   *dated under this subparagraph, shall be*  
 10                   *treated in the same manner as a final core*  
 11                   *measure set published under subparagraph*  
 12                   *(F).*

13                   “(iv) *TRANSPARENCY.—*

14                   “(I)   *NOTIFICATION    REQUIRED*  
 15                   *FOR CERTAIN UPDATES.—In the case of*  
 16                   *an update under subclause (II) or (III)*  
 17                   *of clause (iii) that adds, materially*  
 18                   *changes, or removes a measure or ac-*  
 19                   *tivity from a measure set, such update*  
 20                   *shall not apply under this subsection*  
 21                   *or subsection (q) unless notification of*  
 22                   *such update is made available to ap-*  
 23                   *plicable eligible professionals.*

24                   “(II)   *PUBLIC    AVAILABILITY    OF*  
 25                   *UPDATED    FINAL    CORE    MEASURE*

1                   *SETS.—Subparagraph (E)(iii) shall*  
2                   *apply with respect to measure sets up-*  
3                   *dated under subclause (II) or (III) of*  
4                   *clause (iii) in the same manner as*  
5                   *such subparagraph applies to applica-*  
6                   *ble core measure sets under subpara-*  
7                   *graph (E).*

8                   “(H) *COORDINATION WITH EXISTING PRO-*  
9                   *GRAMS.—The development and selection of qual-*  
10                  *ity measures and clinical practice improvement*  
11                  *activities under this paragraph shall, as appro-*  
12                  *priate, be coordinated with the development and*  
13                  *selection of existing measures and requirements,*  
14                  *such as the development of the Physician Com-*  
15                  *pare Website under subsection (m)(5)(G) and the*  
16                  *application of resource use management under*  
17                  *subsection (n). To the extent feasible, such meas-*  
18                  *ures and activities shall align with measures*  
19                  *used by other payers and with measures and ac-*  
20                  *tivities in use under other programs in order to*  
21                  *streamline the process of such development and*  
22                  *selection under this paragraph. The Secretary*  
23                  *shall develop a plan to integrate reporting on*  
24                  *quality measures under this subsection with re-*  
25                  *porting requirements under subsection (o) relat-*

ing to the meaningful use of certified EHR technology.

“(I) CONSULTATION WITH RELEVANT ELIGIBLE PROFESSIONAL ORGANIZATIONS AND OTHER RELEVANT STAKEHOLDERS.—Relevant eligible professional organizations (as defined in paragraph (3)(D)) and other relevant stakeholders, including State and national medical societies, shall be consulted in carrying out this paragraph.

“(J) OPTIONAL APPLICATION.—The process under section 1890A is not required to apply to the development or selection of measures under this paragraph.”; and

(F) in subsection (m)(3)(C)(i), by adding at the end the following new sentence: “Such process shall, beginning for 2019, treat eligible professionals in such a group practice as reporting on measures for purposes of application of subsections (q) and (a)(8)(A)(iii) if, in lieu of reporting measures under subsection (k)(2)(D), the group practice reports measures determined appropriate by the Secretary.”.

(3) ESTABLISHMENT OF QUALITY UPDATE INCENTIVE PROGRAM.—

1           (A) *IN GENERAL.*—Section 1848 of the So-  
 2           cial Security Act (42 U.S.C. 1395w–4) is  
 3           amended by adding at the end the following new  
 4           subsection:

5           “(q) *QUALITY UPDATE INCENTIVE PROGRAM.*—

6           “(1) *ESTABLISHMENT.*—

7           “(A) *IN GENERAL.*—The Secretary shall es-  
 8           tablish an eligible professional quality update  
 9           incentive program (in this section referred to as  
 10          the ‘quality update incentive program’) under  
 11          which—

12               “(i) there is developed and applied, in  
 13               accordance with paragraph (2), appropriate  
 14               methodologies for assessing the performance  
 15               of eligible professionals with respect to qual-  
 16               ity measures and clinical practice improve-  
 17               ment activities included within the final  
 18               core measure sets published under subsection  
 19               (k)(9)(F) applicable to the peer cohorts of  
 20               such providers;

21               “(ii) there is applied, consistent with  
 22               the system under subsection (k), methods for  
 23               collecting information needed for such as-  
 24               sessments (which shall involve the minimum

1           *amount of administrative burden required*  
 2           *to ensure reliable results); and*

3           “(iii) *the applicable update adjust-*  
 4           *ments under paragraph (3) are determined*  
 5           *by such assessments.*

6           “(B) *DEFINITIONS.—*

7           “(i) *ELIGIBLE PROFESSIONAL.—In this*  
 8           *subsection, the term ‘eligible professional’*  
 9           *has the meaning given such term in sub-*  
 10           *section (k)(3), except that such term shall*  
 11           *not include a professional who has a pay-*  
 12           *ment arrangement described in section*  
 13           *1848A(a)(1) in effect.*

14           “(ii) *PEER COHORTS; CLINICAL PRAC-*  
 15           *TICE IMPROVEMENT ACTIVITIES; ELIGIBLE*  
 16           *PROFESSIONAL ORGANIZATIONS.—In this*  
 17           *subsection, the terms ‘peer cohort’, ‘clinical*  
 18           *practice improvement activity’, and ‘eligible*  
 19           *professional organization’ have the mean-*  
 20           *ings given such terms in subsection (k)(3).*

21           “(C) *CONSULTATION WITH ELIGIBLE PRO-*  
 22           *FESSIONAL ORGANIZATIONS AND OTHER REL-*  
 23           *EVANT STAKEHOLDERS.—Eligible professional*  
 24           *organizations and other relevant stakeholders, in-*



1       cluding State and national medical societies,  
2       shall be consulted in carrying out this subsection.

3               “(D) APPLICATION AT GROUP PRACTICE  
4       LEVEL.—The Secretary shall establish a process,  
5       consistent with subsection (m)(3)(C), under  
6       which the provisions of this subsection are ap-  
7       plied to eligible professionals in a group practice  
8       if the group practice reports measures deter-  
9       mined appropriate by the Secretary under such  
10      subsection.

11              “(E) COORDINATION WITH EXISTING PRO-  
12      GRAMS.—The application of measures and clin-  
13      ical practice improvement activities and assess-  
14      ment of performance under this subsection shall,  
15      as appropriate, be coordinated with the applica-  
16      tion of measures and assessment of performance  
17      under other provisions of this section.

18              “(2) ASSESSING PERFORMANCE WITH RESPECT  
19      TO FINAL CORE MEASURE SETS FOR APPLICABLE  
20      PEER COHORTS.—

21              “(A) ESTABLISHMENT OF METHODS FOR  
22      ASSESSMENT.—

23              “(i) IN GENERAL.—Under the quality  
24      update incentive program, the Secretary  
25      shall—

1                   “(I) establish one or more meth-  
2                   ods, applicable with respect to a per-  
3                   formance period, to assess (using a  
4                   scoring scale of 0 to 100) the perform-  
5                   ance of an eligible professional with re-  
6                   spect to, subject to paragraph (1)(D),  
7                   quality measures and clinical practice  
8                   improvement activities included within  
9                   the final core measure set published  
10                  under subsection (k)(9)(F) applicable  
11                  for the period to the peer cohort in  
12                  which the provider self-identified under  
13                  subsection (k)(9)(B) for such period;  
14                  and

15                  “(II) subject to paragraph (1)(D),  
16                  compute a composite score for such  
17                  provider for such performance period  
18                  with respect to the measures and ac-  
19                  tivities included within such final core  
20                  measure set.

21                  “(ii) *METHODS*.—Such methods shall,  
22                  with respect to an eligible professional, pro-  
23                  vide that the performance of such profes-  
24                  sional shall, subject to paragraph (1)(D), be  
25                  assessed for a performance period with re-

spect to the quality measures and clinical practice improvement activities within the final core measure set for such period for the peer cohort of such professional and on which information is collected from such professional.

“(iii) *WEIGHTING OF MEASURES.*—Such a method may provide for the assignment of different scoring weights or, as appropriate, other factors—

“(I) for quality measures and clinical practice improvement activities;

“(II) based on the type or category of measure or activity; and

“(III) based on the extent to which a quality measure or clinical practice improvement activity meaningfully assesses quality.

“(iv) *RISK ADJUSTMENT.*—Such a method shall provide for appropriate risk adjustments.

“(v) *INCORPORATION OF OTHER METHODS OF MEASURING PHYSICIAN QUALITY.*—In establishing such methods, there shall be,

1           as appropriate, incorporated comparable  
2           methods of measurement from physician  
3           quality incentive programs under this sub-  
4           section.

5           “(B) *PERFORMANCE PERIOD.*—There shall  
6           be established a period (in this subsection re-  
7           ferred to as a ‘performance period’), with respect  
8           to a year (beginning with 2019) for which the  
9           quality adjustment is applied under paragraph  
10          (3), to assess performance on quality measures  
11          and clinical practice improvement activities.  
12          Each such performance period shall be a period  
13          of 12 consecutive months and shall end as close  
14          as possible to the beginning of the year for which  
15          such adjustment is applied.

16          “(3) *QUALITY ADJUSTMENT TAKING INTO AC-*  
17          *COUNT QUALITY ASSESSMENTS.*—

18                 “(A) *QUALITY ADJUSTMENT.*—For purposes  
19                 of subsection (d)(16), if the composite score com-  
20                 puted under paragraph (2)(A) for an eligible  
21                 professional for a year (beginning with 2019)  
22                 is—

23                         “(i) a score of 67 or higher, the quality  
24                         adjustment under this paragraph for the el-

1                    *eligible professional and year is 1 percentage*  
 2                    *point;*

3                    *“(ii) a score of at least 34, but below*  
 4                    *67, the quality adjustment under this para-*  
 5                    *graph for the eligible professional and year*  
 6                    *is zero; or*

7                    *“(iii) a score below 34, the quality ad-*  
 8                    *justment under this paragraph for the eligi-*  
 9                    *ble professional and year is -1 percentage*  
 10                   *point.*

11                   *“(B) NO EFFECT ON SUBSEQUENT YEARS’*  
 12                   *QUALITY ADJUSTMENTS.—Each such quality ad-*  
 13                   *justment shall be made each year without regard*  
 14                   *to the quality adjustment for a previous year*  
 15                   *under this paragraph.*

16                   *“(4) TRANSITION FOR NEW ELIGIBLE PROFES-*  
 17                   *SIONALS.—In the case of a physician, practitioner, or*  
 18                   *other supplier that during a performance period, with*  
 19                   *respect to a year for which a quality adjustment is*  
 20                   *applied under paragraph (3), first becomes an eligible*  
 21                   *professional (and had not previously submitted claims*  
 22                   *under this title as a person, as an entity, or as part*  
 23                   *of a physician group or under a different billing*  
 24                   *number or tax identifier), the quality adjustment*

1        *under this subsection applicable to such physician,*  
 2        *practitioner, or supplier—*

3                *“(A) for such year, with respect to such first*  
 4                *performance period, shall be zero; and*

5                *“(B) for a year, with respect to a subse-*  
 6                *quent performance period, shall be the quality*  
 7                *adjustment that would otherwise be applied*  
 8                *under this subsection.*

9                *“(5) FEEDBACK.—*

10                *“(A) FEEDBACK.—*

11                *“(i) ONGOING FEEDBACK.—Under the*  
 12                *process under subsection (m)(5)(H), there*  
 13                *shall be provided, as real time as possible,*  
 14                *but at least quarterly, beginning not later*  
 15                *than 6 months after the first day of the first*  
 16                *performance period, to each eligible profes-*  
 17                *sional feedback—*

18                *“(I) on the performance of such*  
 19                *provider with respect to quality meas-*  
 20                *ures and clinical practice improvement*  
 21                *activities within the final core measure*  
 22                *set published under subsection*  
 23                *(k)(9)(F) for the applicable perform-*  
 24                *ance period and the peer cohort of such*  
 25                *professional; and*

1                   “(II) to assess the progress of such  
2                   professional under the quality update  
3                   incentive program with respect to a  
4                   performance period for a year.

5                   “(ii) *USE OF REGISTRIES AND OTHER*  
6                   *MECHANISMS.—Feedback under this sub-*  
7                   *paragraph shall, to the extent an eligible*  
8                   *professional chooses to participate in a data*  
9                   *registry for purposes of this subsection (in-*  
10                  *cluding registries under subsections (k) and*  
11                  *(m)), be provided and based on performance*  
12                  *received through the use of such registry,*  
13                  *and to the extent that an eligible profes-*  
14                  *sional chooses not to participate in such a*  
15                  *registry for such purposes, be provided*  
16                  *through other similar mechanisms that*  
17                  *allow for the provision of such feedback and*  
18                  *receipt of such performance information.*

19                  “(B) *DATA MECHANISM.—Under the quality*  
20                  *update incentive program, there shall be devel-*  
21                  *oped an electronic interactive eligible profes-*  
22                  *sional mechanism through which such a profes-*  
23                  *sional may receive performance data, including*  
24                  *data with respect to performance on the meas-*  
25                  *ures and activities developed and selected under*

1        *this section. Such mechanism shall be developed*  
 2        *in consultation with private payers and health*  
 3        *insurance issuers (as defined in section*  
 4        *2791(b)(2) of the Public Health Service Act) as*  
 5        *appropriate.*

6                “(C) *TRANSFER OF FUNDS.—The Secretary*  
 7        *shall provide for the transfer of \$100,000,000*  
 8        *from the Federal Supplementary Medical Insur-*  
 9        *ance Trust Fund established in section 1841 to*  
 10        *the Center for Medicare & Medicaid Services*  
 11        *Program Management Account to support such*  
 12        *efforts to develop the infrastructure as necessary*  
 13        *to carry out subsection (k)(9) and this subsection*  
 14        *and for purposes of section 1889(h). Such funds*  
 15        *shall be so transferred on the date of the enact-*  
 16        *ment of this subsection and shall remain avail-*  
 17        *able until expended.”.*

18                (B) *INCENTIVE TO REPORT UNDER QUALITY*  
 19        *UPDATE        INCENTIVE        PROGRAM.—Section*  
 20        *1848(a)(8)(A) of the Social Security Act (42*  
 21        *U.S.C. 1395w–4(a)(8)(A)) is amended—*

22                (i) *in clause (i), by striking “With re-*  
 23        *spect to” and inserting “Subject to clause*  
 24        *(iii), with respect to”; and*



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

3                   “(iii) *APPLICATION TO ELIGIBLE PRO-*  
4                   *FESSIONALS NOT REPORTING.*—With respect  
5                   to covered professional services (as defined  
6                   in subsection (k)(3)) furnished by an eligi-  
7                   ble professional during 2019 or any subse-  
8                   quent year, if the eligible professional does  
9                   not submit data for the performance period  
10                  (as defined in subsection (q)(2)(B)) with re-  
11                  spect to such year on, subject to subsection  
12                  (q)(1)(D), the quality measures and, as ap-  
13                  plicable, clinical practice improvement ac-  
14                  tivities within the final core measure set  
15                  under subsection (k)(9)(F) applicable to the  
16                  peer cohort of such provider, the fee schedule  
17                  amount for such services furnished by such  
18                  professional during the year (including the  
19                  fee schedule amount for purposes of deter-  
20                  mining a payment based on such amount)  
21                  shall be equal to 95 percent (in lieu of the  
22                  applicable percent) of the fee schedule  
23                  amount that would otherwise apply to such  
24                  services under this subsection (determined  
25                  after application of paragraphs (3), (5),

1                   and (7), but without regard to this para-  
 2                   graph). The Secretary shall develop a min-  
 3                   imum per year caseload threshold, with re-  
 4                   spect to eligible professionals, and the pre-  
 5                   vious sentence shall not apply to eligible  
 6                   professionals with a caseload for a year  
 7                   below such threshold for such year.”.

8                   (C) *EDUCATION ON QUALITY UPDATE IN-*  
 9                   *CENTIVE PROGRAM.*—Section 1889 of the Social  
 10                  Security Act (42 U.S.C. 1395zz) is amended by  
 11                  adding at the end the following new subsection:

12               “(h) *QUALITY UPDATE INCENTIVE PROGRAM.*—Under  
 13               this section, information shall be disseminated to educate  
 14               and assist eligible professionals (as defined in section  
 15               1848(k)(3)) about the quality update incentive program  
 16               under section 1848(q) and quality measures under section  
 17               1848(k)(9) through multiple approaches, including a na-  
 18               tional dissemination strategy and outreach by medicare  
 19               contractors.”.

20               (4) *CONFORMING AMENDMENTS.*—

21               (A) *TREATMENT OF SATISFACTORILY RE-*  
 22               *PORTING PQRS MEASURES THROUGH PARTICIPA-*  
 23               *TION IN A QUALIFIED CLINICAL DATA REG-*  
 24               *ISTRY.*—Section 1848(m)(3)(D) of the Social Se-  
 25               curity Act (42 U.S.C. 1395w–4(m)(3)(D)) is

1        *amended by striking “For 2014 and subsequent*  
 2        *years” and inserting “For each of 2014 through*  
 3        *2018”.*

4                *(B) COORDINATING ENHANCED PQRS RE-*  
 5        *PORTING WITH EHR.—Section 1848(o)(2)(B)(iii)*  
 6        *of the Social Security Act (42 U.S.C. 1395w-*  
 7        *4(o)(2)(B)(iii)) is amended by striking “sub-*  
 8        *section (k)(2)(C)” and inserting “subparagraph*  
 9        *(C) or (D) of subsection (k)(2)”.*

10                *(C) COORDINATING PQRS REPORTING PE-*  
 11        *RIOD WITH QUALITY UPDATE INCENTIVE PRO-*  
 12        *GRAM PERFORMANCE PERIOD.—Section*  
 13        *1848(m)(6)(C) of the Social Security Act (42*  
 14        *U.S.C. 1395w-4(m)(6)(C)) is amended—*

15                *(i) in clause (i), by striking “and*  
 16                *(iii)” and inserting “, (iii), and (iv)”;* and  
 17                *(ii) by adding at the end the following*  
 18                *new clause:*

19                *“(iv) COORDINATION WITH QUALITY*  
 20        *UPDATE INCENTIVE PROGRAM.—For 2019*  
 21        *and each subsequent year the reporting pe-*  
 22        *riod shall be coordinated with the perform-*  
 23        *ance period under subsection (q)(2)(B).”.*

24                *(D) COORDINATING EHR REPORTING WITH*  
 25        *QUALITY UPDATE INCENTIVE PROGRAM PER-*

1           *FORMANCE PERIOD.—Section 1848(o)(5)(B) of*  
 2           *the Social Security Act (42 U.S.C. 1395w–*  
 3           *4(o)(5)(B)) is amended by adding at the end the*  
 4           *following: “Beginning for 2019, the EHR report-*  
 5           *ing period shall be coordinated with the perform-*  
 6           *ance period under subsection (q)(2)(B).”.*

7           *(c) ADVANCING ALTERNATIVE PAYMENT MODELS.—*

8           *(1) IN GENERAL.—Part B of title XVIII of the*  
 9           *Social Security Act (42 U.S.C. 1395w–4 et seq.) is*  
 10          *amended by adding at the end the following new sec-*  
 11          *tion:*

12       **“SEC. 1848A. ADVANCING ALTERNATIVE PAYMENT MODELS.**

13       *“(a) PAYMENT MODEL CHOICE PROGRAM.—Payment*  
 14       *for covered professional services (as defined in section*  
 15       *1848(k)) that are furnished by an eligible professional (as*  
 16       *defined in such section) under an Alternative Payment*  
 17       *Model specified on the list under subsection (h) (in this sec-*  
 18       *tion referred to as an ‘eligible APM’) shall be made under*  
 19       *this title in accordance with the payment arrangement*  
 20       *under such model. In applying the previous sentence, such*  
 21       *a professional with such a payment arrangement in effect,*  
 22       *shall be deemed for purposes of section 1848(a)(8) to be sat-*  
 23       *isfactorily submitting data on quality measures for such*  
 24       *covered professional services.*

1       “(b) *PROCESS FOR IMPLEMENTING ELIGIBLE*  
2 *APMs.*—

3               “(1) *IN GENERAL.*—*For purposes of subsection*  
4 *(a) and in accordance with this section, the Secretary*  
5 *shall establish a process under which—*

6                       “(A) *a contract is entered into, in accord-*  
7 *ance with paragraph (2);*

8                       “(B) *proposals for potential Alternative*  
9 *Payment Models are submitted in accordance*  
10 *with subsection (c);*

11                      “(C) *Alternative Payment Models so pro-*  
12 *posed are recommended, in accordance with sub-*  
13 *section (d), for testing and evaluation, including*  
14 *through the demonstration program under sub-*  
15 *section (e), and approval under subsection (f);*

16                      “(D) *applicable Alternative Payment Mod-*  
17 *els are tested and evaluated under such dem-*  
18 *onstration program;*

19                      “(E) *models are implemented as eligible*  
20 *APMs in accordance with subsection (f); and*

21                      “(F) *a comprehensive list of all eligible*  
22 *APMs is made publicly available, in accordance*  
23 *with subsection (h), for application under sub-*  
24 *section (a).*

1           “(2) *CONTRACT WITH APM CONTRACTING ENTI-*  
2           *TY.—*

3                   “(A) *IN GENERAL.—For purposes of para-*  
4                   *graph (1)(A), the Secretary shall identify and*  
5                   *have in effect a contract with an independent en-*  
6                   *tity that has appropriate expertise to carry out*  
7                   *the functions applicable to such entity under this*  
8                   *section. Such entity shall be referred to in this*  
9                   *section as the ‘APM contracting entity’.*

10                   “(B) *TIMING FOR FIRST CONTRACT.—The*  
11                   *Secretary shall enter into the first contract under*  
12                   *subparagraph (A) to be in effect January 1,*  
13                   *2019.*

14                   “(C) *COMPETITIVE PROCEDURES.—Com-*  
15                   *petitive procedures (as defined in section 4(5) of*  
16                   *the Office of Federal Procurement Policy Act (41*  
17                   *U.S.C. 403(5)) shall be used to enter into a con-*  
18                   *tract under subparagraph (A).*

19                   “(c) *SUBMISSION OF PROPOSED ALTERNATIVE PAY-*  
20                   *MENT MODELS.—Beginning not later than 90 days after*  
21                   *the date the Secretary enters into a contract under sub-*  
22                   *section (b)(2) with the APM contracting entity, physicians,*  
23                   *eligible professional organizations, health care provider or-*  
24                   *ganizations, and other entities may submit to the APM con-*  
25                   *tracting entity proposals for Alternative Payment Models*

1 *for application under this section. Such a proposal of a*  
 2 *model shall include suggestions for measures to be used*  
 3 *under subsection (e)(1)(B) for purposes of evaluating such*  
 4 *model. In reviewing submissions under this subsection for*  
 5 *purposes of making recommendations under subsection*  
 6 *(d)(1), the contracting entity shall focus on submissions for*  
 7 *such models that are intended to improve care coordination*  
 8 *and quality for patients through modifying the manner in*  
 9 *which physicians and other providers are paid under this*  
 10 *title.*

11       “(d) *RECOMMENDATION BY APM CONTRACTING ENTI-*  
 12 *TY OF PROPOSED MODELS.—*

13               “(1) *RECOMMENDATION.—*

14                       “(A) *RECOMMENDATIONS TO SECRETARY.—*

15                               “(i) *IN GENERAL.—Under the process*  
 16 *under subsection (b), the APM contracting*  
 17 *entity shall at least quarterly recommend,*  
 18 *in accordance with clause (ii), to the Sec-*  
 19 *retary—*

20                                       “(I) *Alternative Payment Models*  
 21 *submitted under subsection (c) to be*  
 22 *tested and evaluated through a dem-*  
 23 *onstration program under subsection*  
 24 *(e); and*

1                   “(II) *Alternative Payment Models*  
2                   *submitted under subsection (c) to be*  
3                   *implemented under subsection (f) with-*  
4                   *out testing and evaluation through*  
5                   *such a demonstration program.*

6                   *Such a recommendation under subclause (I)*  
7                   *may be made with respect to a model for*  
8                   *which a waiver would be required under*  
9                   *paragraph (2). Any reference in this sub-*  
10                   *section to an Alternative Payment Model*  
11                   *under this clause is a reference to such*  
12                   *model as may be modified under clause*  
13                   *(iii).*

14                   “(ii) *REQUIREMENTS.—In recom-*  
15                   *mending an Alternative Payment Model*  
16                   *under clause (i), each of the following shall*  
17                   *apply:*

18                   “(I) *The APM contracting entity*  
19                   *may recommend an Alternative Pay-*  
20                   *ment Model under clause (i)(I) only if*  
21                   *the entity determines that the model*  
22                   *satisfies the criteria described in sub-*  
23                   *paragraph (B), including the criteria*  
24                   *described in subparagraph (B)(iv).*



1                   “(II) *The APM contracting entity*  
2                   *may recommend an Alternative Pay-*  
3                   *ment Model under clause (i)(II) only if*  
4                   *the entity determines that the model*  
5                   *satisfies the criteria described in sub-*  
6                   *paragraph (C), including the criteria*  
7                   *described in subparagraph (C)(iii).*

8                   “(III) *The APM contracting enti-*  
9                   *ty shall include with the recommended*  
10                  *Alternative Payment Model rec-*  
11                  *ommendations for rules of coordination*  
12                  *described in clause (v).*

13                  “(iii) *MODIFICATIONS BY APM CON-*  
14                  *TRACTING ENTITY.—For purposes of this*  
15                  *subparagraph, to the extent necessary to*  
16                  *meet the applicable requirements of clause*  
17                  *(ii), the APM contracting entity may mod-*  
18                  *ify an Alternative Payment Model sub-*  
19                  *mitted under subsection (c) to ensure that*  
20                  *the model would—*

21                       “(I) *reduce spending under this*  
22                       *title without reducing the quality of*  
23                       *care; or*

1                   “(II) improve the quality of care  
2                   without increasing spending under this  
3                   title.

4                   “(iv) FORMS OF MODIFICATIONS.—  
5                   Such a modification under clause (iii) may  
6                   include one or more of the following:

7                   “(I) A change to the payment ar-  
8                   rangement under which eligible profes-  
9                   sionals participating in such model  
10                  would be paid for covered professional  
11                  services furnished under such model.

12                  “(II) A change to the criteria for  
13                  eligible professionals to be eligible to  
14                  participate under such model in order  
15                  to ensure that the requirement de-  
16                  scribed in subclause (I) or (II) is satis-  
17                  fied.

18                  “(III) A change to the rules of co-  
19                  ordination described in clause (v).

20                  “(IV) The application of a with-  
21                  hold mechanism under the payment ar-  
22                  rangement under which the distribu-  
23                  tion of withheld amounts is based on  
24                  the success of the model in meeting  
25                  spending reduction requirements.

1                   “(V) *Such other change as the*  
 2                   *contracting entity may specify.*

3                   “(v) *RULES OF COORDINATION FOR AP-*  
 4                   *PLICATION OF PAYMENT ARRANGEMENTS*  
 5                   *UNDER MODELS.—*

6                   “(I) *IN GENERAL.—Rules of co-*  
 7                   *ordination described in this clause for*  
 8                   *an Alternative Payment Model shall be*  
 9                   *designed to determine, for purposes of*  
 10                  *applying subsection (a) and section*  
 11                  *1848(d)(16), under what circumstances*  
 12                  *an eligible professional is treated as*  
 13                  *having a payment arrangement under*  
 14                  *a particular model.*

15                  “(II) *NONDUPLICATION OF PAY-*  
 16                  *MENT.—Such rules of coordination*  
 17                  *shall ensure coordination and non-*  
 18                  *duplication of payment of services that*  
 19                  *might be covered under more than one*  
 20                  *payment arrangement or under section*  
 21                  *1848(d)(16).*

22                  “(III) *APPLICATION TO NON-APM*  
 23                  *PAYMENT.—In applying such rules of*  
 24                  *coordination for purposes of section*  
 25                  *1848(d)(16), an eligible professional*

1           *shall not be treated as having a pay-*  
2           *ment arrangement in effect under such*  
3           *a model for any covered professional*  
4           *services not treated as furnished under*  
5           *the model.*

6           “(B) *CRITERIA FOR RECOMMENDING MOD-*  
7           *ELS FOR DEMONSTRATION.*—*For purposes of sub-*  
8           *paragraph (A)(ii)(I), the criteria described in*  
9           *this subparagraph, with respect to an Alter-*  
10          *native Payment Model, are each of the following:*

11           “(i) *The model has been supported by*  
12           *meaningful clinical and non-clinical data,*  
13           *with respect to a sufficient population sam-*  
14           *ple, that indicates the model would be suc-*  
15           *cessful at addressing each of the abilities de-*  
16           *scribed in clause (iv).*

17           “(ii)(I) *In the case of a model that has*  
18           *already been evaluated and supported by*  
19           *data with respect to a population of indi-*  
20           *viduals enrolled under this part, if the*  
21           *model were evaluated under the demonstra-*  
22           *tion under subsection (e) such a population*  
23           *would represent a sufficient number of indi-*  
24           *viduals enrolled under this part to ensure a*

1           *meaningful evaluation of the likely effect of*  
2           *expanding the demonstration.*

3           “(II) *In the case of a model that has*  
4           *not been so evaluated and supported by*  
5           *data with respect to such a population, the*  
6           *population that would be furnished services*  
7           *under such model if the model were evalu-*  
8           *ated under the demonstration under sub-*  
9           *section (e) would represent a sufficient*  
10           *number of individuals enrolled under this*  
11           *part to ensure a meaningful evaluation of*  
12           *the likely effect of expanding the demonstra-*  
13           *tion.*

14           “(iii) *Such model, including if tested*  
15           *and evaluated under the demonstration*  
16           *under subsection (e), would not deny or*  
17           *limit the coverage or provision of benefits*  
18           *under this title for applicable individuals.*

19           “(iv) *The proposal for such model dem-*  
20           *onstrates—*

21           “(I) *the significant likelihood to*  
22           *successfully manage the cost of fur-*  
23           *nishing items and services under this*  
24           *title so as to not result in expenditures*  
25           *under this title being greater than ex-*

1            *penditures under this title if the APM*  
2            *were not implemented; and*

3            *“(II) the ability to maintain or*  
4            *improve the overall quality of patient*  
5            *care provided to individuals enrolled*  
6            *under this part.*

7            *“(v) The model provides for a payment*  
8            *arrangement—*

9            *“(I) that specifies the items and*  
10           *services covered under the arrangement*  
11           *and specifies rules of coordination de-*  
12           *scribed in subparagraph (A)(v) be-*  
13           *tween the items and services covered*  
14           *under the arrangement and other items*  
15           *and services not covered under the ar-*  
16           *rangement;*

17           *“(II) in the case such payment*  
18           *arrangement does not provide for pay-*  
19           *ment under the fee schedule under sec-*  
20           *tion 1848 for such items and services*  
21           *furnished by such eligible professionals,*  
22           *that provides for a payment adjust-*  
23           *ment based on meaningful EHR use*  
24           *comparable to such adjustment that*

1                   *would otherwise apply under section*  
2                   *1848; and*

3                   *“(III) that provides for a pay-*  
4                   *ment adjustment based on quality*  
5                   *measures comparable to such adjust-*  
6                   *ment that would otherwise apply under*  
7                   *section 1848.*

8                   *“(C) CRITERIA FOR RECOMMENDING MOD-*  
9                   *ELS FOR APPROVAL WITHOUT EVALUATION*  
10                  *UNDER DEMONSTRATION.—For purposes of sub-*  
11                  *paragraph (A)(ii)(II), the criteria described in*  
12                  *this subparagraph, with respect to an Alter-*  
13                  *native Payment Model, is that the model has al-*  
14                  *ready been tested and evaluated for a sufficient*  
15                  *enough period and through such testing and*  
16                  *evaluation the model was shown—*

17                  *“(i) to have satisfied the criteria de-*  
18                  *scribed in each of clauses (i), (ii), (iii), and*  
19                  *(v) of subparagraph (B); and*

20                  *“(ii)(I) to have reduced spending*  
21                  *under this title without reducing the quality*  
22                  *of care; or*

23                  *“(II) to have improved the quality of*  
24                  *patient care without increasing such spend-*  
25                  *ing.*

1 “(D) *TRANSPARENCY AND DISCLOSURES.*—

2 “(i) *DISCLOSURES.*—*Not later than 90*  
3 *days after receipt of a submission of a*  
4 *model under subsection (c) by the APM con-*  
5 *tracting entity, the APM contracting entity*  
6 *shall submit to the Secretary and the model*  
7 *submitter and make publicly available a no-*  
8 *tification on whether or not, and if so how,*  
9 *the model meets criteria for recommending*  
10 *such model under subparagraph (A), in-*  
11 *cluding whether or not such model requires*  
12 *a waiver under paragraph (2). In the case*  
13 *that the APM contracting entity determines*  
14 *not to recommend such model under this*  
15 *paragraph, such notification shall include*  
16 *an explanation of the reasons for not mak-*  
17 *ing such a recommendation. Any informa-*  
18 *tion made publicly available pursuant to*  
19 *the previous sentence shall not include pro-*  
20 *prietary data.*

21 “(ii) *SUBMISSION OF RECOMMENDED*  
22 *MODELS.*—*The APM contracting entity*  
23 *shall at least quarterly submit to the Sec-*  
24 *retary, the Medicare Payment Advisory*  
25 *Commission, and the Chief Actuary of the*



Centers for Medicare & Medicaid Services  
the following:

“(I) The models recommended  
under subparagraph (A)(i)(I), includ-  
ing any such models that require a  
waiver under paragraph (2), and the  
data and analyses on such rec-  
ommended models that support the cri-  
teria described in subparagraph (B).

“(II) The models recommended  
under subparagraph (A)(i)(II) and the  
data and analyses on such rec-  
ommended models that support the cri-  
teria described in subparagraph (C).

“(iii) *EXPLANATION FOR NO REC-  
OMMENDATIONS.*—For any year beginning  
with 2015 that the APM contracting entity  
does not recommend any models under sub-  
paragraph (A)(i), the entity shall instead  
satisfy this clause by submitting to the Sec-  
retary and making publicly available an ex-  
planation for not having any such rec-  
ommendations.

“(iv) *JUSTIFICATIONS FOR REC-  
OMMENDATIONS.*—In submitting data and

analyses under subclause (I) or (II) of clause (ii) with respect to a model, the APM contracting entity shall include a specific explanation of how the model would (and recommendations for ensuring that the model will) meet the criteria described in subparagraph (B) or (C), respectively.

“(v) CONFIRMATION OF SPENDING ESTIMATES BY CMS CHIEF ACTUARY.—For each Alternative Payment Model described in subclause (I) or (II) of clause (ii), the Chief Actuary of the Centers for Medicare & Medicaid Services shall submit to the Secretary a determination of whether or not the Chief Actuary confirms that the model satisfies the criterion described in subparagraph (B)(iv)(I) or (C)(ii), respectively.

“(2) MODELS REQUIRING WAIVER APPROVAL.—

“(A) IN GENERAL.—In the case that an Alternative Payment Model recommended under paragraph (1)(A)(i) would require a waiver from any requirement under this title, in determining approval of such model, the Secretary may make such a waiver solely in order for such

1           *model to be tested and evaluated under the dem-*  
 2           *onstration program.*

3           “(B) *APPROVAL.*—*Not later than 180 days*  
 4           *after the date of the receipt of such submission*  
 5           *for a model, the Secretary shall notify the APM*  
 6           *contracting entity and the entity submitting*  
 7           *such model under subsection (c) whether or not*  
 8           *such a waiver for such model is approved and*  
 9           *the reason for any denial of such a waiver.*

10          “(e) *DEMONSTRATION.*—

11           “(1) *IN GENERAL.*—*Subject to paragraphs (5),*  
 12           *(6), and (7), the Secretary may conduct a demonstra-*  
 13           *tion program, with respect to an Alternative Payment*  
 14           *Model approved under paragraph (2), under which*  
 15           *participating APM providers shall be paid under this*  
 16           *title in accordance with the payment arrangement*  
 17           *under such model and such model shall be evaluated*  
 18           *by the independent evaluation entity under para-*  
 19           *graph (4). The duration of a demonstration program*  
 20           *under this subsection, with respect to such a model,*  
 21           *shall be 3 years.*

22           “(2) *APPROVAL BY SECRETARY OF MODELS FOR*  
 23           *DEMONSTRATION.*—

24           “(A) *IN GENERAL.*—*Not later than 180*  
 25           *days after the date of receipt of a submission*

1           *under subsection (d)(1)(D)(ii), with respect to an*  
2           *Alternative Payment Model recommended under*  
3           *subsection (d)(1)(A)(i)(I), the Secretary shall—*

4                   “(i) *review the basis for such rec-*  
5                   *ommendation in order to assess, taking into*  
6                   *account the determination of the Chief Actu-*  
7                   *ary under subsection (d)(1)(D)(v) with re-*  
8                   *spect to such model, if the model is signifi-*  
9                   *cantly likely to—*

10                   “(I) *reduce spending under this*  
11                   *title without reducing the quality of*  
12                   *care; or*

13                   “(II) *improve the quality of care*  
14                   *without increasing spending under this*  
15                   *title;*

16                   “(ii) *assess whether the model is sig-*  
17                   *nificantly likely to result in participation*  
18                   *under such model of a sufficient number of*  
19                   *those eligible professionals for whom the*  
20                   *model was designed consistent with clause*  
21                   *(i) to be able to evaluate the likely effect of*  
22                   *expanding the demonstration; and*

23                   “(iii) *approve such model for a dem-*  
24                   *onstration program under this subsection,*

including as modified under subparagraph  
(B), only if the Secretary determines—

“(I) the model is significantly  
likely to satisfy the criterion described  
in subclause (I) or (II) of clause (i);

“(II) the model is significantly  
likely to result in the participation of  
a sufficient number of eligible profes-  
sionals described in clause (ii);

“(III) the model applies rules of  
coordination described in subpara-  
graph (C) applicable to such model;  
and

“(IV) the model satisfies the cri-  
teria described in subsection (d)(1)(B).

The Secretary shall periodically make available  
a list of such models approved under clause (iii).

“(B) MODIFICATIONS BY SECRETARY.—

“(i) BEFORE APPROVAL.—For pur-  
poses of subparagraph (A), the Secretary  
may modify an Alternative Payment Model  
recommended under subsection  
(d)(1)(A)(i)(I) to ensure that the model  
meets the requirements described in sub-

1 paragraph (A)(iii). Such a modification  
2 may include one or more of the following:

3 “(I) A change to the payment ar-  
4 rangement under which eligible profes-  
5 sionals participating in such model  
6 would be paid for covered professional  
7 services furnished under such model.

8 “(II) A change to the criteria for  
9 eligible professionals to be eligible to  
10 participate under such model in order  
11 to ensure that such requirements are  
12 satisfied.

13 “(III) A change to the rules of co-  
14 ordination described in subparagraph  
15 (C).

16 “(IV) The application of a with-  
17 hold mechanism under the payment ar-  
18 rangement under which the distribu-  
19 tion of withheld amounts is based on  
20 the success of the model in meeting  
21 spending reduction requirements.

22 “(V) Such other change as the  
23 Secretary may specify.

24 “(ii) *TERMINATION OR MODIFICATION*  
25 *DURING DEMONSTRATION.*—The Secretary

1           *shall terminate or modify the design and*  
2           *implementation of an Alternative Payment*  
3           *Model approved under subparagraph*  
4           *(A)(iii) for a demonstration program, after*  
5           *testing has begun, unless the Secretary de-*  
6           *termines (and the Chief Actuary of the Cen-*  
7           *ters for Medicare & Medicaid Services, with*  
8           *respect to program spending under this*  
9           *title, certifies) that the model is expected to*  
10          *continue to satisfy the requirements de-*  
11          *scribed in such paragraph relating to qual-*  
12          *ity of care and reduced spending. Such ter-*  
13          *mination may occur at any time after such*  
14          *testing has begun and before completion of*  
15          *the testing.*

16           “(C) *RULES OF COORDINATION FOR APPLI-*  
17          *CATION OF PAYMENT ARRANGEMENTS UNDER*  
18          *MODELS.—*

19                   “(i) *IN GENERAL.—Rules of coordina-*  
20                  *tion described in this subparagraph for an*  
21                  *Alternative Payment Model shall be de-*  
22                  *signed to determine, for purposes of apply-*  
23                  *ing subsection (a) and section 1848(d)(16),*  
24                  *under what circumstances an eligible profes-*

1           sional is treated as having a payment ar-  
 2           rangement under a particular model.

3           “(ii) *NONDUPLICATION OF PAYMENT.*—  
 4           Such rules of coordination shall ensure co-  
 5           ordination and nonduplication of payment  
 6           of services that might be covered under more  
 7           than one payment arrangement or under  
 8           section 1848(d)(16).

9           “(iii) *APPLICATION TO NON-APM PAY-*  
 10          *MENT.*—In applying such rules for purposes  
 11          of section 1848(d)(16), an eligible profes-  
 12          sional shall not be treated as having a pay-  
 13          ment arrangement in effect under such a  
 14          model for any covered professional services  
 15          not treated as furnished under the model.

16          “(3) *PARTICIPATING APM PROVIDERS.*—

17               “(A) *IN GENERAL.*—To participate under a  
 18               demonstration program under this subsection,  
 19               with respect to an Alternative Payment Model,  
 20               an eligible professional shall enter into a con-  
 21               tract with the Administrator of the Centers for  
 22               Medicare & Medicaid Services under this sub-  
 23               section. For purposes of this section, such an eli-  
 24               gible professional who so participates under such



1        *an Alternative Payment Model in this section is*  
2        *referred to as a ‘participating APM provider’.*

3                “(B) *REQUIREMENTS.—The Secretary shall*  
4        *establish criteria for eligible professionals to*  
5        *enter into contracts under this paragraph for*  
6        *purposes of participation under a demonstration*  
7        *program with respect to an Alternative Payment*  
8        *Model. Such criteria shall ensure participation*  
9        *under such model of a sufficient number of eligi-*  
10       *ble professionals for whom the model was de-*  
11       *signed in order to satisfy the criterion described*  
12       *in paragraph (2)(A)(iii)(II).*

13               “(4) *REPORTING AND EVALUATION.—*

14               “(A) *INDEPENDENT EVALUATION ENTITY.—*  
15        *Under this subsection, the Secretary shall enter*  
16        *into a contract with an independent entity to*  
17        *evaluate Alternative Payment Models under dem-*  
18        *onstration programs under this subsection based*  
19        *on appropriate measures specified under sub-*  
20        *paragraph (B). In this section, such entity shall*  
21        *be referred to as the ‘independent evaluation en-*  
22        *tity’. Such contract shall be entered into in a*  
23        *timely manner so as to ensure evaluation of an*  
24        *Alternative Payment Model under a demonstra-*  
25        *tion program under this subsection may begin as*

1       soon as possible after the model is approved  
2       under paragraph (2).

3               “(B) *PERFORMANCE MEASURES.*—For pur-  
4       poses of this subsection, the Secretary shall speci-  
5       fy—

6               “(i) *measures to evaluate Alternative*  
7       *Payment Models under demonstration pro-*  
8       *grams under this subsection, which may in-*  
9       *clude measures suggested under subsection*  
10      *(c) and shall be sufficient to allow for a*  
11      *comprehensive assessment of such a model;*  
12      *and*

13              “(ii) *quality measures on which par-*  
14      *ticipating APM providers shall report,*  
15      *which shall be similar to measures applica-*  
16      *ble under section 1848(k).*

17              “(C) *REPORTING REQUIREMENTS.*—A con-  
18      tract entered into with a participating APM  
19      provider under paragraph (3) shall require such  
20      provider to report on appropriate measures spec-  
21      ified under subparagraph (B).

22              “(D) *PERIODIC REVIEW.*—The independent  
23      evaluation entity shall periodically review and  
24      analyze and submit such analysis to the Sec-  
25      retary and the participating APM providers in-

1        *involved data reported under subparagraph (C)*  
2        *and such other data as deemed necessary to*  
3        *evaluate the model.*

4                *“(E) FINAL EVALUATION.—Not later than 6*  
5        *months after the date of completion of a dem-*  
6        *onstration program, the independent evaluation*  
7        *entity shall submit to the Secretary, the Medi-*  
8        *care Payment Advisory Commission, and the*  
9        *Chief Actuary of the Centers for Medicare &*  
10       *Medicaid Services (and make publicly available)*  
11       *a report on each model evaluated under such*  
12       *program. Such report shall include—*

13                *“(i) outcomes on the clinical and*  
14        *claims data received through such program*  
15        *with respect to such model;*

16                *“(ii) recommendations on—*

17                *“(I) whether or not such model*  
18        *should be implemented as an eligible*  
19        *APM under this section; or*

20                *“(II) whether or not the evalua-*  
21        *tion of such model under the dem-*  
22        *onstration program should be extended*  
23        *or expanded;*

1                   “(iii) the justification for each such  
 2                   recommendation described in clause (ii);  
 3                   and

4                   “(iv) in the case of a recommendation  
 5                   to implement such model as an eligible  
 6                   APM, recommendations on standardized  
 7                   rules for purposes of such implementation.

8                   “(5) *APPROVAL OF EXTENDING EVALUATION*  
 9                   *UNDER DEMONSTRATION.*—Not later than 90 days  
 10                  after the date of receipt of a submission under para-  
 11                  graph (4)(E), the Secretary shall, including based on  
 12                  a recommendation submitted under such paragraph,  
 13                  determine whether an Alternative Payment Model  
 14                  may be extended or expanded under the demonstra-  
 15                  tion program.

16                  “(6) *TERMINATION.*—The Secretary shall termi-  
 17                  nate a demonstration program for a model under this  
 18                  subsection unless the Secretary determines (and the  
 19                  Chief Actuary of the Centers for Medicare & Medicaid  
 20                  Services, with respect to spending under this title,  
 21                  certifies), after testing has begun, that the model is ex-  
 22                  pected to—

23                         “(A) improve the quality of care (as deter-  
 24                         mined by the Administrator of the Centers for

1       *Medicare & Medicaid Services) without increas-*  
2       *ing spending under this title;*

3               *“(B) reduce spending under this title with-*  
4       *out reducing the quality of care; or*

5               *“(C) improve the quality of care and reduce*  
6       *spending.*

7       *Such termination may occur at any time after such*  
8       *testing has begun and before completion of the testing.*

9               *“(7) FUNDING.—*

10              *“(A) IN GENERAL.—There are appro-*  
11       *priated, from amounts in the Federal Supple-*  
12       *mentary Medical Insurance Trust Fund under*  
13       *section 1841 not otherwise appropriated and as*  
14       *of the date of the enactment of this section,*  
15       *\$2,000,000,000 for the purposes described in sub-*  
16       *paragraph (B), of which no more than 2.5 per-*  
17       *cent may be used for the purpose described in*  
18       *clause (iii) of such subparagraph. Amounts ap-*  
19       *propriated under this subparagraph shall be*  
20       *available until expended.*

21              *“(B) PURPOSES.—Amounts appropriated*  
22       *under subparagraph (A) shall be used for—*

23                    *“(i) payments for items and services*  
24                    *furnished by participating APM providers*  
25                    *under an Alternative Payment Model under*

1           *a demonstration program under this sub-*  
2           *section that—*

3                     *“(I) would not otherwise be eligi-*  
4                     *ble for payment under this title; or*

5                     *“(II) exceed the amount of pay-*  
6                     *ment that would otherwise be made for*  
7                     *such items and services under this title*  
8                     *if such items and services were not fur-*  
9                     *nished under such demonstration pro-*  
10                    *gram;*

11                    *“(ii) the evaluations provided for*  
12                    *under this section of models under such a*  
13                    *demonstration program;*

14                    *“(iii) payment to the APM contracting*  
15                    *entity for carrying out its duties under this*  
16                    *section; and*

17                    *“(iv) for otherwise carrying out this*  
18                    *subsection.*

19                    *“(C) LIMITATION.—The amounts appro-*  
20                    *priated under subparagraph (A) are the only*  
21                    *amounts authorized or appropriated to carry out*  
22                    *the purposes described in subparagraph (B).*

23            *“(f) IMPLEMENTATION OF RECOMMENDED MODELS AS*  
24            *ELIGIBLE APMs.—*

1           “(1) *ASSESSMENT.*—With respect to each Alter-  
 2       *native Payment Model recommended under subsection*  
 3       *(d)(1)(A)(i)(II) or (e)(4)(E)(ii)(I), the Secretary shall*  
 4       *review the basis for such recommendation and assess*  
 5       *and determine, in consultation with the Chief Actu-*  
 6       *ary of the Centers for Medicare & Medicaid Services,*  
 7       *whether the model is significantly likely to continue*  
 8       *to result in meeting the criterion described in sub-*  
 9       *section (e)(2)(A)(iii)(I), with or without a modifica-*  
 10      *tion described in paragraph (5).*

11           “(2)    *IMPLEMENTATION    THROUGH    RULE-*  
 12      *MAKING.*—

13           “(A) *PUBLICATION OF NPRM.*—If the Sec-  
 14       *retary determines that such a model is signifi-*  
 15       *cantly likely to meet such criterion, the Secretary*  
 16       *shall publish as part of the applicable physician*  
 17       *fee schedule rulemaking process (specified in*  
 18       *paragraph (3)) a notice of proposed rulemaking*  
 19       *to implement such model, including as modified*  
 20       *under paragraph (5).*

21           “(B) *COMMENTS BY MEDPAC.*—Not later  
 22       *than 90 days after the date of issuance of such*  
 23       *notice with respect to a model, the Medicare*  
 24       *Payment Advisory Commission shall submit*  
 25       *comments on the proposed rule for such model to*

1       *Congress and to the Secretary. Such comments*  
2       *shall include an evaluation of the reports from*  
3       *the contracting entity and independent evalua-*  
4       *tion entity on such model regarding the model's*  
5       *impact on expenditures and quality of care*  
6       *under this title.*

7               “(C) *FINAL RULE AND CONDITIONS.—The*  
8       *Secretary shall publish as part of the applicable*  
9       *physician fee schedule rulemaking process (speci-*  
10       *fied in paragraph (3)) a final notice imple-*  
11       *menting such proposed rule, including as modi-*  
12       *fied under paragraph (5), as an eligible APM*  
13       *only if—*

14               “(i) *the Secretary determines that such*  
15       *model is expected to—*

16               “(I) *reduce spending under this*  
17       *title without reducing the quality of*  
18       *care; or*

19               “(II) *improve the quality of pa-*  
20       *tient care without increasing spending;*

21               “(ii) *the Chief Actuary of the Centers*  
22       *for Medicare & Medicaid Services certifies*  
23       *that such model would reduce (or would not*  
24       *result in any increase in) spending under*  
25       *this title;*



1                   “(iii) the Secretary determines that  
 2                   such model would not deny or limit the cov-  
 3                   erage or provision of benefits under this  
 4                   title for applicable individuals;

5                   “(iv) the Secretary determines that the  
 6                   model is significantly likely to result in the  
 7                   participation of a sufficient number of ap-  
 8                   propriate eligible professionals for whom the  
 9                   model was designed in order to satisfy the  
 10                  criterion described in subsection  
 11                  (d)(2)(A)(iii)(II);

12                  “(v) the Secretary determines that the  
 13                  model applies rules of coordination de-  
 14                  scribed in paragraph (6); and

15                  “(vi) the Secretary determines that  
 16                  model meets such other criteria as the Sec-  
 17                  retary may determine.

18                  “(3) *APPLICABLE PHYSICIAN FEE SCHEDULE*  
 19                  *RULEMAKING PROCESS.*—For purposes of paragraph  
 20                  (2), in the case of an Alternative Payment Model rec-  
 21                  ommended under subsection (d)(1)(A)(ii) or  
 22                  (e)(4)(E)(ii)(I)—

23                  “(A) on or before April 1 of a year, the ap-  
 24                  plicable physician fee schedule rulemaking proc-  
 25                  ess is the process for publication by November 1

1        *of that year of the fee schedule amounts under*  
 2        *this section for the succeeding year; or*

3                *“(B) after April 1 of a year, the applicable*  
 4        *physician fee schedule rulemaking process is the*  
 5        *process for publication by November 1 of the fol-*  
 6        *lowing year of the fee schedule amounts under*  
 7        *this section for the second succeeding year.*

8                *“(4) JUSTIFICATION FOR DISAPPROVALS.—In the*  
 9        *case that an Alternative Payment Model rec-*  
 10        *ommended under subsection (d)(1)(A)(ii) or*  
 11        *(e)(4)(E)(ii)(I) is not implemented as an eligible*  
 12        *APM under this subsection, the Secretary shall make*  
 13        *publicly available the rationale, in detail, for such de-*  
 14        *cision.*

15                *“(5) MODIFICATIONS BY SECRETARY.—For pur-*  
 16        *poses of this subsection, the Secretary may modify an*  
 17        *Alternative Payment Model recommended under sub-*  
 18        *section (d)(1)(A)(i)(II) or (e)(4)(E)(ii)(I) to ensure*  
 19        *that the model meets the requirements under para-*  
 20        *graph (1)(B). Such a modification may include one*  
 21        *or more of the following:*

22                *“(A) A change to the payment arrangement*  
 23        *under which eligible professionals participating*  
 24        *in such model would be paid for covered profes-*  
 25        *sional services furnished under such model.*

1           “(B) *A change to the criteria for eligible*  
 2           *professionals to be eligible to participate under*  
 3           *such model in order to ensure that such require-*  
 4           *ments are satisfied.*

5           “(C) *A change to the rules of coordination*  
 6           *described in paragraph (6).*

7           “(D) *The application of a withhold mecha-*  
 8           *nism under the payment arrangement under*  
 9           *which the distribution of withheld amounts is*  
 10          *based on the success of the model in meeting*  
 11          *spending reduction requirements.*

12          “(E) *Such other change as the Secretary*  
 13          *may specify.*

14          “(6) *RULES OF COORDINATION FOR APPLICATION*  
 15          *OF PAYMENT ARRANGEMENTS UNDER MODELS.—*

16          “(A) *IN GENERAL.—Rules of coordination*  
 17          *described in this paragraph for an Alternative*  
 18          *Payment Model shall be designed to determine,*  
 19          *for purposes of applying subsection (a) and sec-*  
 20          *tion 1848(d)(16), under what circumstances an*  
 21          *eligible professional is treated as having a pay-*  
 22          *ment arrangement under a particular model.*

23          “(B) *NONDUPLICATION OF PAYMENT.—Such*  
 24          *rules of coordination shall ensure coordination*  
 25          *and nonduplication of payment of services that*

1           *might be covered under more than one payment*  
 2           *arrangement or under section 1848(d)(16).*

3           “(C) *APPLICATION TO NON-APM PAYMENT.*—  
 4           *In applying such rules for purposes of section*  
 5           *1848(d)(16), an eligible professional shall not be*  
 6           *treated as having a payment arrangement in ef-*  
 7           *fect under such a model for any covered profes-*  
 8           *sional services not treated as furnished under the*  
 9           *model.*

10          “(g) *PERIODIC REVIEW AND TERMINATION.*—

11           “(1) *PERIODIC REVIEW.*—*In the case of an Alter-*  
 12           *native Payment Model that has been implemented, the*  
 13           *Secretary and the Chief Actuary of the Centers for*  
 14           *Medicare & Medicaid Services shall review such*  
 15           *model every 3 years to determine (and certify, in the*  
 16           *case of the Chief Actuary and spending under this*  
 17           *title), for the previous 3 years, whether the model*  
 18           *has—*

19                   “(A) *reduced the quality of care, or*

20                   “(B) *increased spending under this title,*  
 21           *compared to the quality of care or spending that*  
 22           *would have resulted if the model had not been imple-*  
 23           *mented.*

24           “(2) *TERMINATION.*—

1                   “(A) *QUALITY OF CARE REDUCTION TERMI-*  
2                   *NATION.—If based upon such review the Sec-*  
3                   *retary determines under paragraph (1)(A) that*  
4                   *the model has reduced the quality of care, the*  
5                   *Secretary may terminate such model.*

6                   “(B) *SPENDING INCREASE TERMINATION.—*  
7                   *Unless such Chief Actuary certifies under para-*  
8                   *graph (1)(B) that the expenditures under this*  
9                   *title under the model do not exceed the expendi-*  
10                  *tures that would otherwise have been made if the*  
11                  *model had not been implemented for the period*  
12                  *involved, the Secretary shall terminate such*  
13                  *model.*

14                  “(h) *DISSEMINATION OF ELIGIBLE APMs.—Under*  
15                  *this section there shall be established a process for speci-*  
16                  *fying, and making publicly available a list of, all eligible*  
17                  *APMs, which shall include at least those implemented under*  
18                  *subsection (f) and demonstrations carried out with respect*  
19                  *to payments under section 1848 through authority in exist-*  
20                  *ence as of the day before the date of the enactment of this*  
21                  *section. Under such process such list shall be periodically*  
22                  *updated and, beginning with January 1, 2015, and annu-*  
23                  *ally thereafter, such list shall be published in the Federal*  
24                  *Register.”.*

1           (2)       *CONFORMING        AMENDMENT.—Section*  
 2       *1848(a)(1) of the Social Security Act (42 U.S.C.*  
 3       *1395w–4(a)(1)) is amended by striking “shall in-*  
 4       *stead” and inserting “shall, subject to section 1848A,*  
 5       *instead”.*

6       (d) *ADJUSTMENT TO MEDICARE PAYMENT LOCAL-*  
 7       *ITIES.—*

8           (1) *IN GENERAL.—Section 1848(e) of the Social*  
 9       *Security Act (42 U.S.C. 1395w–4(e)) is amended by*  
 10       *adding at the end the following new paragraph:*

11           *“(6) USE OF MSAS AS FEE SCHEDULE AREAS IN*  
 12       *CALIFORNIA.—*

13           *“(A) IN GENERAL.—Subject to the suc-*  
 14       *ceeding provisions of this paragraph and not-*  
 15       *withstanding the previous provisions of this sub-*  
 16       *section, for services furnished on or after Janu-*  
 17       *ary 1, 2017, the fee schedule areas used for pay-*  
 18       *ment under this section applicable to California*  
 19       *shall be the following:*

20           *“(i) Each Metropolitan Statistical*  
 21       *Area (each in this paragraph referred to as*  
 22       *an ‘MSA’), as defined by the Director of the*  
 23       *Office of Management and Budget as of De-*  
 24       *cember 31 of the previous year, shall be a*  
 25       *fee schedule area.*

1           “(ii) *All areas not included in an MSA*  
 2           *shall be treated as a single rest-of-State fee*  
 3           *schedule area.*

4           “(B) *TRANSITION FOR MSAS PREVIOUSLY IN*  
 5           *REST-OF-STATE PAYMENT LOCALITY OR IN LO-*  
 6           *CALITY 3.—*

7           “(i) *IN GENERAL.—For services fur-*  
 8           *nished in California during a year begin-*  
 9           *ning with 2017 and ending with 2021 in*  
 10           *an MSA in a transition area (as defined in*  
 11           *subparagraph (D)), subject to subparagraph*  
 12           *(C), the geographic index values to be ap-*  
 13           *plied under this subsection for such year*  
 14           *shall be equal to the sum of the following:*

15           “(I) *CURRENT LAW COMPO-*  
 16           *NENT.—The old weighting factor (de-*  
 17           *scribed in clause (ii)) for such year*  
 18           *multiplied by the geographic index val-*  
 19           *ues under this subsection for the fee*  
 20           *schedule area that included such MSA*  
 21           *that would have applied in such area*  
 22           *(as estimated by the Secretary) if this*  
 23           *paragraph did not apply.*

24           “(II) *MSA-BASED COMPONENT.—*  
 25           *The MSA-based weighting factor (de-*

1                   scribed in clause (iii)) for such year  
 2                   multiplied by the geographic index val-  
 3                   ues computed for the fee schedule area  
 4                   under subparagraph (A) for the year  
 5                   (determined without regard to this sub-  
 6                   paragraph).

7                   “(ii) OLD WEIGHTING FACTOR.—The  
 8                   old weighting factor described in this  
 9                   clause—

10                   “(I) for 2017, is  $\frac{5}{6}$ ; and

11                   “(II) for each succeeding year, is  
 12                   the old weighting factor described in  
 13                   this clause for the previous year minus  
 14                    $\frac{1}{6}$ .

15                   “(iii) MSA-BASED WEIGHTING FAC-  
 16                   TOR.—The MSA-based weighting factor de-  
 17                   scribed in this clause for a year is 1 minus  
 18                   the old weighting factor under clause (ii)  
 19                   for that year.

20                   “(C) HOLD HARMLESS.—For services fur-  
 21                   nished in a transition area in California during  
 22                   a year beginning with 2017, the geographic  
 23                   index values to be applied under this subsection  
 24                   for such year shall not be less than the cor-  
 25                   responding geographic index values that would



1        *have applied in such transition area (as esti-*  
 2        *mated by the Secretary) if this paragraph did*  
 3        *not apply.*

4                *“(D) TRANSITION AREA DEFINED.—In this*  
 5        *paragraph, the term ‘transition area’ means each*  
 6        *of the following fee schedule areas for 2013:*

7                        *“(i) The rest-of-State payment locality.*

8                        *“(ii) Payment locality 3.*

9                *“(E) REFERENCES TO FEE SCHEDULE*  
 10        *AREAS.—Effective for services furnished on or*  
 11        *after January 1, 2017, for California, any ref-*  
 12        *erence in this section to a fee schedule area shall*  
 13        *be deemed a reference to a fee schedule area es-*  
 14        *tablished in accordance with this paragraph.”.*

15        *(2) CONFORMING AMENDMENT TO DEFINITION OF*  
 16        *FEE SCHEDULE AREA.—Section 1848(j)(2) of the So-*  
 17        *cial Security Act (42 U.S.C. 1395w–4(j)(2)) is*  
 18        *amended by striking “The term” and inserting “Ex-*  
 19        *cept as provided in subsection (e)(6)(D), the term”.*

20        *(e) RELATIVE VALUES UNDER THE MEDICARE PHYSI-*  
 21        *CIAN FEE SCHEDULE.—*

22                *(1) ELIGIBLE PHYSICIANS REPORTING SYSTEM*  
 23        *TO IMPROVE ACCURACY OF RELATIVE VALUES.—Sec-*  
 24        *tion 1848(c) of the Social Security Act (42 U.S.C.*

1       1395w-4(c)) is amended by adding at the end the fol-  
2       lowing new paragraph:

3               “(7) *PHYSICIAN REPORTING SYSTEM TO IMPROVE*  
4       *ACCURACY OF RELATIVE VALUES.*—

5               “(A) *IN GENERAL.*—*The Secretary shall im-*  
6       *plement a system for the periodic reporting by*  
7       *physicians of data on the accuracy of relative*  
8       *values under this subsection, such as data relat-*  
9       *ing to service volume and time. Such data shall*  
10       *be submitted in a form and manner specified by*  
11       *the Secretary and shall, as appropriate, incor-*  
12       *porate data from existing sources of data, pa-*  
13       *tient scheduling systems, cost accounting sys-*  
14       *tems, and other similar systems.*

15               “(B) *IDENTIFICATION OF REPORTING CO-*  
16       *HORT.*—*Not later than January 1, 2015, the*  
17       *Secretary shall establish a mechanism for physi-*  
18       *cians to participate under the reporting system*  
19       *under this paragraph, all of whom shall collec-*  
20       *tively be referred to under this paragraph as the*  
21       *‘reporting group’. The reporting group shall in-*  
22       *clude physicians across settings that collectively*  
23       *represent a range of specialties and practitioner*  
24       *types, furnish a range of physicians’ services,*  
25       *and serve a range of patient populations.*

1           “(C) *INCENTIVE TO REPORT.*—Under the  
2           system under this paragraph, the Secretary may  
3           provide for such payments under this part to  
4           physicians included in the reporting group as  
5           the Secretary determines appropriate to com-  
6           pensate such physicians for reporting data under  
7           the system. Such payments shall be provided in  
8           such form and manner as specified by the Sec-  
9           retary. In carrying out this subparagraph, re-  
10          porting by such a physician under this para-  
11          graph shall not be treated as the furnishing of  
12          physicians’ services for purposes of applying this  
13          section.

14          “(D) *FUNDING.*—To carry out this para-  
15          graph (other than with respect to payments  
16          made under subparagraph (C)), in addition to  
17          funds otherwise appropriated, the Secretary shall  
18          provide for the transfer from the Federal Supple-  
19          mentary Medical Insurance Trust Fund under  
20          section 1841 of \$1,000,000 to the Centers for  
21          Medicare & Medicaid Services Program Manage-  
22          ment Account for each fiscal year beginning with  
23          fiscal year 2014. Amounts transferred under this  
24          subparagraph for a fiscal year shall be available  
25          until expended.”.

1           (2) *RELATIVE VALUE ADJUSTMENTS FOR*  
 2           *MISVALUED PHYSICIANS' SERVICES.—*

3                   (A) *IN GENERAL.—Section 1848(c)(2) of the*  
 4                   *Social Security Act (42 U.S.C. 1395w–4(c)(2)) is*  
 5                   *amended by adding at the end the following new*  
 6                   *subparagraph:*

7                           “(M) *ADJUSTMENTS FOR MISVALUED PHYSI-*  
 8                           *CANS' SERVICES.—*

9                                   “(i) *IN GENERAL.—Only with respect*  
 10                                   *to fee schedules established for 2016, 2017,*  
 11                                   *and 2018 (and not for subsequent years),*  
 12                                   *the Secretary shall—*

13   “(I) *identify, based on the data*  
 14   *reported under paragraph (8) and*  
 15   *other relevant data, misvalued services*  
 16   *for which adjustments to the relative*  
 17   *values established under this para-*  
 18   *graph would result in a reduction in*  
 19   *expenditures under the fee schedule*  
 20   *under this section, with respect to such*  
 21   *year, of not more than 1 percent of the*  
 22   *projected amount of expenditures under*  
 23   *such fee schedule for such year; and*

1                   “(II) *make such adjustments for*  
 2                   *each such year so as only to result in*  
 3                   *such a reduction for such year.*

4                   “(ii) *NO EFFECT ON SUBSEQUENT*  
 5                   *YEARS.—A reduction under this subpara-*  
 6                   *graph for a year shall not affect any reduc-*  
 7                   *tion for any subsequent year.*

8                   “(iii) *RULE OF CONSTRUCTION RELAT-*  
 9                   *ING TO UNDERVALUED CODES.—Nothing in*  
 10                   *this subparagraph shall be construed as pre-*  
 11                   *venting the Secretary from increasing the*  
 12                   *relative values for codes that are under-*  
 13                   *valued.”.*

14                   (B)       *BUDGET       NEUTRALITY.—Section*  
 15                   *1848(c)(2)(B)(v) of the Social Security Act (42*  
 16                   *U.S.C. 1395w–4(c)(2)(B)(v)) is amended by add-*  
 17                   *ing at the end the following new subclause:*

18                   “(VIII)       *REDUCTIONS       FOR*  
 19                   *MISVALUED PHYSICIANS’ SERVICES.—*  
 20                   *Reduced expenditures attributable to*  
 21                   *subparagraph (M) for fiscal years*  
 22                   *2016, 2017, and 2018.”.*

23                   (3) *DISCLOSURE OF DATA USED TO ESTABLISH*  
 24                   *MULTIPLE PROCEDURE PAYMENT REDUCTION POL-*  
 25                   *ICY.—The Secretary of Health and Human Services*

1        *shall make publicly available the data used to estab-*  
 2        *lish the multiple procedure payment reduction policy*  
 3        *to the professional component of imaging services in*  
 4        *the final rule published in the Federal Register, v. 77,*  
 5        *n. 222, November 16, 2012, pages 68891-69380 under*  
 6        *the physician fee schedule under section 1848 of the*  
 7        *Social Security Act (42 U.S.C. 1395w-4).*

8        **SEC. 3. EXPANDING AVAILABILITY OF MEDICARE DATA.**

9        *(a) EXPANDING USES OF MEDICARE DATA BY QUALI-*  
 10       *FIED ENTITIES.—*

11                *(1) IN GENERAL.—To the extent consistent with*  
 12        *applicable information, privacy, security, and disclo-*  
 13        *sure laws, beginning with 2014, notwithstanding*  
 14        *paragraph (4)(B) of section 1874(e) of the Social Se-*  
 15        *curity Act (42 U.S.C. 1395kk(e)) and the second sen-*  
 16        *tence of paragraph (4)(D) of such section, a qualified*  
 17        *entity may use data received by such entity under*  
 18        *such section, and information derived from the eval-*  
 19        *uation described in such paragraph (4)(D), for addi-*  
 20        *tional non-public analyses (as determined appro-*  
 21        *priate by the Secretary of Health and Human Serv-*  
 22        *ices) or provide or sell such data to registered or au-*  
 23        *thorized users and subscribers, including to providers*  
 24        *of services and suppliers, for non-public use (includ-*  
 25        *ing for the purposes of assisting providers of services*

1        *and suppliers to develop and participate in quality*  
 2        *and patient care improvement activities, including*  
 3        *developing new models of care).*

4            (2) *DEFINITIONS.—In this section:*

5                    (A) *The term “qualified entity” has the*  
 6                    *meaning given such term in section 1874(e)(2) of*  
 7                    *the Social Security Act (42 U.S.C. 1395kk(e)).*

8                    (B) *The terms “supplier” and “provider of*  
 9                    *services” have the meanings given such terms in*  
 10                   *subsections (d) and (u), respectively, of section*  
 11                   *1861 of the Social Security Act (42 U.S.C.*  
 12                   *1395x).*

13        (b) *ACCESS TO MEDICARE DATA TO PROVIDERS OF*  
 14        *SERVICES AND SUPPLIERS TO FACILITATE DEVELOPMENT*  
 15        *OF ALTERNATIVE PAYMENT MODELS AND TO QUALIFIED*  
 16        *CLINICAL DATA REGISTRIES TO FACILITATE QUALITY IM-*  
 17        *PROVEMENT.—Consistent with applicable laws and regula-*  
 18        *tions with respect to privacy and other relevant matters,*  
 19        *the Secretary shall provide Medicare claims data (in a form*  
 20        *and manner determined to be appropriate) to—*

21                    (1) *qualified entities, that may share with pro-*  
 22                    *viders of services and suppliers that are registered or*  
 23                    *authorized users or subscribers, for non-public use in-*  
 24                    *cluding to facilitate the development of new models of*  
 25                    *care (including development of Alternate Payment*

1 *Models under section 1848A of the Social Security*  
 2 *Act, models for small group specialty practices, and*  
 3 *care coordination models); and*

4 *(2) qualified clinical data registries under sec-*  
 5 *tion 1848(m)(3)(E)) of the Social Security Act (42*  
 6 *U.S.C. 1395w-4(m)(3)(E)) for purposes of linking*  
 7 *such data with clinical outcomes data and performing*  
 8 *and disseminating risk-adjusted, scientifically valid*  
 9 *analysis and research to support quality improvement*  
 10 *or patient safety, provided that any public reporting*  
 11 *of identifiable provider data shall only be conducted*  
 12 *with prior consent of such provider.*

13 **SEC. 4. ENCOURAGING CARE COORDINATION AND MEDICAL**  
 14 **HOMES.**

15 *Section 1848(b) of the Social Security Act (42 U.S.C.*  
 16 *1395w-4(b)) is amended by adding at the end the following*  
 17 *new paragraph:*

18 *“(8) ENCOURAGING CARE COORDINATION AND*  
 19 *MEDICAL HOMES.—*

20 *“(A) IN GENERAL.—In order to promote the*  
 21 *coordination of care by an applicable provider*  
 22 *(as defined in subparagraph (B)) for individuals*  
 23 *with complex chronic care needs who are fur-*  
 24 *nished items and services by multiple physicians*



1           *and other suppliers and providers of services, the*  
 2           *Secretary shall—*

3                     *“(i) develop one or more HCPCS codes*  
 4                     *for complex chronic care management serv-*  
 5                     *ices for individuals with complex chronic*  
 6                     *care needs; and*

7                     *“(ii) for such services furnished on or*  
 8                     *after January 1, 2015, by an applicable*  
 9                     *provider, make payment (as the Secretary*  
 10                    *determines to be appropriate) under the fee*  
 11                    *schedule under this section using such*  
 12                    *HCPCS codes.*

13                    *“(B) APPLICABLE PROVIDER DEFINED.—*  
 14                    *For purposes of this paragraph, the term ‘appli-*  
 15                    *cable provider’ means a physician (as defined in*  
 16                    *section 1861(r)(1)) or a physician assistant or*  
 17                    *nurse practitioner (as defined in section*  
 18                    *1861(aa)(5)(A)) who—*

19                    *“(i) is certified as a medical home (by*  
 20                    *achieving an accreditation status of level 3*  
 21                    *by the National Committee for Quality As-*  
 22                    *urance);*

23                    *“(ii) is recognized as a patient-cen-*  
 24                    *tered specialty practice by the National*  
 25                    *Committee for Quality Assurance;*

1                   “(iii) has received equivalent certifi-  
2                   cation (as determined by the Secretary); or

3                   “(iv) meets such other comparable  
4                   qualifications as the Secretary determines  
5                   to be appropriate.

6                   “(C) *BUDGET NEUTRALITY.*—The budget  
7                   neutrality provision under subsection  
8                   (c)(2)(B)(ii)(II) shall apply in establishing the  
9                   payment under subparagraph (A)(ii).

10                  “(D) *SINGLE APPLICABLE PROVIDER PAY-*  
11                  *MENT.*—In carrying out this paragraph, the Sec-  
12                  retary shall only make payment to a single ap-  
13                  plicable provider for complex chronic care man-  
14                  agement services furnished to an individual.”.

15 **SEC. 5. MISCELLANEOUS.**

16                  (a) *SOLICITATIONS, RECOMMENDATIONS, AND RE-*  
17                  *PORTS.*—

18                         (1) *SOLICITATION FOR RECOMMENDATIONS ON*  
19                         *EPISODES OF CARE DEFINITION.*—The Administrator  
20                         of the Centers for Medicare & Medicaid Services shall  
21                         request eligible professional organizations (as defined  
22                         in section 1848(k)(3) of the Social Security Act (42  
23                         U.S.C. 1395w–4(k)(3))) and other relevant stake-  
24                         holders to submit recommendations for defining non-  
25                         acute related episodes of care for purposes of applying

1 *such definition under subsections (k) and (q) of sec-*  
 2 *tion 1848 of the Social Security Act (42 U.S.C.*  
 3 *1395w-4) and section 1848A of such Act, as added by*  
 4 *subsections (b) and (c) of section 2.*

5 (2) *SOLICITATION FOR RECOMMENDATIONS ON*  
 6 *PROVIDER FEE SCHEDULE PAYMENT BUNDLES.—*

7 (A) *IN GENERAL.—The Administrator of the*  
 8 *Centers for Medicare & Medicaid Services shall*  
 9 *solicit from eligible professional organizations*  
 10 *(as defined in section 1848(k)(3) of the Social*  
 11 *Security Act (42 U.S.C. 1395w-4(k)(3))) rec-*  
 12 *ommendations for payment bundles for chronic*  
 13 *conditions and expensive, high volume services*  
 14 *for which payment is made under title XVIII of*  
 15 *such Act.*

16 (B) *REPORT TO CONGRESS.—Not later than*  
 17 *24 months after the date of the enactment of this*  
 18 *Act, the Administrator shall submit to Congress*  
 19 *a report on proposals for such payment bundles.*

20 (3) *REPORTS ON MODIFIED PFS SYSTEM AND*  
 21 *PAYMENT SYSTEM ALTERNATIVES.—*

22 (A) *BIANNUAL PROGRESS REPORTS.—Not*  
 23 *later than January 15, 2016, and annually*  
 24 *thereafter, the Secretary of Health and Human*  
 25 *Services shall submit to Congress and post on the*

1        *public Internet website of the Centers for Medi-*  
 2        *care & Medicaid Services a biannual progress re-*  
 3        *port—*

4                *(i) on the implementation of para-*  
 5                *graph (9) of section 1848(k) of the Social*  
 6                *Security Act (42 U.S.C. 1395w–4(k)), as*  
 7                *added by section 2(b)(2), and the quality*  
 8                *update incentive program under subsection*  
 9                *(q) of section 1848 of the Social Security*  
 10               *Act (42 U.S.C. 1395w–4), as added by sec-*  
 11               *tion 2(b)(3);*

12               *(ii) that includes an evaluation of such*  
 13               *paragraph and such quality update incen-*  
 14               *tive program and recommendations with re-*  
 15               *spect to such program and appropriate up-*  
 16               *date mechanisms; and*

17               *(iii) on the actions taken to promote*  
 18               *and fulfill the identification of eligible*  
 19               *APMs under section 1848A of the Social Se-*  
 20               *curity Act, as added by section 2(c), for ap-*  
 21               *plication under such section 1848A.*

22        *(B) GAO AND MEDPAC REPORTS.—*

23               *(i) GAO REPORT ON INITIAL STAGES*  
 24               *OF PROGRAM.—The Comptroller General of*  
 25               *the United States shall submit to Congress*

1           *a report for 2019 and each subsequent year*  
 2           *analyzing the extent to which the system*  
 3           *under section 1848(k)(9) of the Social Secu-*  
 4           *rity Act (42 U.S.C. 1395w-4(k)(9)) and*  
 5           *such quality update incentive program*  
 6           *under section 1848(q) of the Social Security*  
 7           *Act, as added by section 2(b) is successfully*  
 8           *satisfying performance objectives, including*  
 9           *with respect to—*

10                     *(I) the process for developing and*  
 11                     *selecting measures and activities under*  
 12                     *subsection (k)(9) of section 1848 of*  
 13                     *such Act (42 U.S.C. 1395w-4);*

14                     *(II) the process for assessing per-*  
 15                     *formance against such measures and*  
 16                     *activities under subsection (q) of such*  
 17                     *section; and*

18                     *(III) the adequacy of the measures*  
 19                     *and activities so selected.*

20                     *(ii) EVALUATION BY GAO AND MEDPAC*  
 21                     *ON IMPLEMENTATION OF QUALITY UPDATE*  
 22                     *INCENTIVE PROGRAM.—*

23                     *(I) GAO.—The Comptroller Gen-*  
 24                     *eral of the United States shall evaluate*  
 25                     *the initial phase of the quality update*

1 *incentive program under subsection (q)*  
2 *of section 1848 of the Social Security*  
3 *Act (42 U.S.C. 1395w-4) and shall*  
4 *submit to Congress, not later than*  
5 *2019, a report with recommendations*  
6 *for improving such quality update in-*  
7 *centive program.*

8 *(II) MEDPAC.—In the course of*  
9 *its March Report to Congress on Medi-*  
10 *care payment policy, MedPAC shall*  
11 *analyze the initial phase of such qual-*  
12 *ity update incentive program and*  
13 *make recommendations, as appro-*  
14 *priate, for improving such quality up-*  
15 *date incentive program.*

16 *(iii) MEDPAC REPORT ON PAYMENT*  
17 *SYSTEM ALTERNATIVES.—*

18 *(I) IN GENERAL.—Not later than*  
19 *June 15, 2016, the Medicare Payment*  
20 *Advisory Commission shall submit to*  
21 *Congress a report that analyzes mul-*  
22 *tiple options for alternative payment*  
23 *models in lieu of section 1848 of the*  
24 *Social Security Act (42 U.S.C. 1395w-*  
25 *4). In analyzing such models, the*

1                    *Medicare Payment Advisory Commis-*  
 2                    *sion shall examine at least the fol-*  
 3                    *lowing models:*

4                    *(aa) Accountable care orga-*  
 5                    *nization payment models.*

6                    *(bb) Primary care medical*  
 7                    *home payment models.*

8                    *(cc) Bundled or episodic pay-*  
 9                    *ments for certain conditions and*  
 10                    *services.*

11                    *(dd) Gainsharing arrange-*  
 12                    *ments*

13                    *(II) ITEMS TO BE INCLUDED.—*  
 14                    *Such report shall include information*  
 15                    *on how each recommended new pay-*  
 16                    *ment model will achieve maximum*  
 17                    *flexibility to reward high quality, effi-*  
 18                    *cient care.*

19                    *(C) TRACKING EXPENDITURE GROWTH AND*  
 20                    *ACCESS.—Beginning in 2015, the Chief Actuary*  
 21                    *of the Centers for Medicare & Medicaid Services*  
 22                    *shall track expenditure growth and beneficiary*  
 23                    *access to physicians' services under section 1848*  
 24                    *of the Social Security Act (42 U.S.C. 1395w-4)*  
 25                    *and shall post on the public Internet website of*

1           *the Centers for Medicare & Medicaid Services*  
 2           *annual reports on such topics.*

3           (4) *REPORT ON CLINICAL DECISION SUPPORT*  
 4           *MECHANISMS.—Not later than one year after the date*  
 5           *of the enactment of this Act, the Secretary of Health*  
 6           *and Human Services shall submit to Congress a re-*  
 7           *port on the extent to which clinical decision support*  
 8           *mechanisms and other provider support tools could be*  
 9           *used to further program objectives under section 1848*  
 10           *of the Social Security Act (42 U.S.C. 1395w-4)) and*  
 11           *recommendation for how such mechanisms and tools*  
 12           *should be so used.*

13          (b) *RULE OF CONSTRUCTION REGARDING HEALTH*  
 14          *CARE PROVIDER STANDARDS OF CARE.—*

15               (1) *IN GENERAL.—The development, recognition,*  
 16               *or implementation of any guideline or other standard*  
 17               *under any Federal health care provision shall not be*  
 18               *construed to establish the standard of care or duty of*  
 19               *care owed by a health care provider to a patient in*  
 20               *any medical malpractice or medical product liability*  
 21               *action or claim.*

22               (2) *DEFINITIONS.—For purposes of this sub-*  
 23               *section:*

24                       (A) *The term “Federal health care provi-*  
 25                       *sion” means any provision of the Patient Protec-*



tion and Affordable Care Act (Public Law 111–148), title I and subtitle B of title III of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), and titles XVIII and XIX of the Social Security Act.

(B) The term “health care provider” means any individual or entity—

(i) licensed, registered, or certified under Federal or State laws or regulations to provide health care services; or

(ii) required to be so licensed, registered, or certified but that is exempted by other statute or regulation.

(C) The term “medical malpractice or medical liability action or claim” means a medical malpractice action or claim (as defined in section 431(7) of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11151(7))) and includes a liability action or claim relating to a health care provider’s prescription or provision of a drug, device, or biological product (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act).

1           (D) *The term “State” includes the District*  
 2           *of Columbia, Puerto Rico, and any other com-*  
 3           *monwealth, possession, or territory of the United*  
 4           *States.*

5           (3) *NO PREEMPTION.—No provision of the Pa-*  
 6           *tient Protection and Affordable Care Act (Public Law*  
 7           *111–148), title I or subtitle B of title III of the*  
 8           *Health Care and Education Reconciliation Act of*  
 9           *2010 (Public Law 111–152), or title XVIII or XIX of*  
 10          *the Social Security Act shall be construed to preempt*  
 11          *any State or common law governing medical profes-*  
 12          *sional or medical product liability actions or claims.*

13 **SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

14          **(a) SHORT TITLE.—This Act may be cited as**  
 15          **the “SGR Repeal and Medicare Beneficiary**  
 16          **Access Act of 2013”.**

17          **(b) TABLE OF CONTENTS.—The table of con-**  
 18          **tents for this Act is as follows:**

Sec. 1. Short title; table of contents.

Sec. 2. Repealing the sustainable growth rate (SGR) and im-  
 proving medicare payment for physicians’ serv-  
 ices.

Sec. 3. Priorities and funding for quality measure develop-  
 ment.

Sec. 4. Encouraging care management for individuals with  
 chronic care needs.

Sec. 5. Ensuring accurate valuation of services under the phy-  
 sician fee schedule.

Sec. 6. Promoting evidence-based care.

Sec. 7. Empowering beneficiary choices through access to in-  
 formation on physicians’ services.

Sec. 8. Expanding claims data availability to improve care.

Sec. 9. Reducing administrative burden and other provisions.

1 **SEC. 2. REPEALING THE SUSTAINABLE GROWTH RATE**  
2 **(SGR) AND IMPROVING MEDICARE PAYMENT**  
3 **FOR PHYSICIANS' SERVICES.**

4 **(a) STABILIZING FEE UPDATES.—**

5 **(1) REPEAL OF SGR PAYMENT METHOD-**  
6 **LOGY.—Section 1848 of the Social Secu-**  
7 **rity Act (42 U.S.C. 1395w–4) is amended—**

8 **(A) in subsection (d)—**

9 **(i) in paragraph (1)(A), by in-**  
10 **serting “or a subsequent para-**  
11 **graph” after “paragraph (4)”; and**

12 **(ii) in paragraph (4)—**

13 **(I) in the heading, by in-**  
14 **serting “AND ENDING WITH 2013”**  
15 **after “YEARS BEGINNING WITH**  
16 **2001”; and**

17 **(II) in subparagraph (A),**  
18 **by inserting “and ending with**  
19 **2013” after “a year beginning**  
20 **with 2001”; and**

21 **(B) in subsection (f)—**

22 **(i) in paragraph (1)(B), by in-**  
23 **serting “through 2013” after “of**  
24 **each succeeding year”; and**

1                   (ii) in paragraph (2), by in-  
2                   serting “and ending with 2013”  
3                   after “beginning with 2000”.

4                   (2) UPDATE OF RATES FOR 2014 AND SUB-  
5                   SEQUENT YEARS.—Subsection (d) of section  
6                   1848 of the Social Security Act (42 U.S.C.  
7                   1395w-4) is amended by adding at the  
8                   end the following new paragraphs:

9                   “(15) UPDATE FOR 2014 THROUGH 2016.—  
10                  The update to the single conversion fac-  
11                  tor established in paragraph (1)(C) for  
12                  each of 2014 through 2016 shall be 0.5  
13                  percent.

14                  “(16) UPDATE FOR 2017 THROUGH 2023.—  
15                  The update to the single conversion fac-  
16                  tor established in paragraph (1)(C) for  
17                  each of 2017 through 2023 shall be zero  
18                  percent.

19                  “(17) UPDATE FOR 2024 AND SUBSEQUENT  
20                  YEARS.—The update to the single conver-  
21                  sion factor established in paragraph  
22                  (1)(C) for 2024 and each subsequent year  
23                  shall be—

24                         “(A) for items and services fur-  
25                         nished by a qualifying APM partici-

1           pant (as defined in section 1833(z)(2))  
2           for such year, 2 percent; and

3           “(B) for other items and services,  
4           1 percent.”.

5           **(3) MEDPAC REPORTS.—**

6           **(A) INITIAL REPORT.—**Not later  
7           than July 1, 2016, the Medicare Pay-  
8           ment Advisory Commission shall sub-  
9           mit to Congress a report on the rela-  
10          tionship between—

11                (i) physician and other health  
12                professional utilization and ex-  
13                penditures (and the rate of in-  
14                crease of such utilization and ex-  
15                penditures) of items and services  
16                for which payment is made under  
17                section 1848 of the Social Security  
18                Act (42 U.S.C. 1395w-4); and

19                (ii) total utilization and ex-  
20                penditures (and the rate of in-  
21                crease of such utilization and ex-  
22                penditures) under parts A, B, and  
23                D of title XVIII of such Act.

24           Such report shall include a method-  
25           ology to describe such relationship

1           and the impact of changes in such  
2           physician and other health profes-  
3           sional practice and service ordering  
4           patterns on total utilization and ex-  
5           penditures under parts A, B, and D of  
6           such title.

7           **(B) FINAL REPORT.**—Not later than  
8           July 1, 2020, the Medicare Payment  
9           Advisory Commission shall submit to  
10          Congress a report on the relationship  
11          described in subparagraph (A), in-  
12          cluding the results determined from  
13          applying the methodology included in  
14          the report submitted under such sub-  
15          paragraph.

16          **(b) CONSOLIDATION OF CERTAIN CURRENT**  
17          **LAW PERFORMANCE PROGRAMS WITH NEW**  
18          **VALUE-BASED PERFORMANCE INCENTIVE PRO-**  
19          **GRAM.**—

20               **(1) EHR MEANINGFUL USE INCENTIVE**  
21          **PROGRAM.**—

22               **(A) SUNSETTING SEPARATE MEANING-**  
23          **FUL USE PAYMENT ADJUSTMENTS.**—Sec-  
24          **tion 1848(a)(7)(A) of the Social Secu-**

1           rity Act (42 U.S.C. 1395w–4(a)(7)(A)) is  
2           amended—

3                   (i) in clause (i), by striking “or  
4                   any subsequent payment year”  
5                   and inserting “or 2016”;

6                   (ii) in clause (ii)—

7                           (I) in the matter pre-  
8                           ceding subclause (I), by strik-  
9                           ing “Subject to clause (iii),  
10                          for” and inserting “For”;

11                          (II) in subclause (I), by  
12                          adding at the end “and”;

13                          (III) in subclause (II), by  
14                          striking “; and” and inserting  
15                          a period; and

16                          (IV) by striking subclause  
17                          (III); and

18                          (iii) by striking clause (iii).

19           (B) CONTINUATION OF MEANINGFUL  
20           USE DETERMINATIONS FOR VBP PRO-  
21           GRAM.—Section 1848(o)(2) of the So-  
22           cial Security Act (42 U.S.C. 1395w-  
23           4(o)(2)) is amended—

24                   (i) in subparagraph (A), in the  
25                   matter preceding clause (i)—

1 (I) by striking “For pur-  
2 poses of paragraph (1), an”  
3 and inserting “An”; and

4 (II) by inserting “, or pur-  
5 suant to subparagraph (D) for  
6 purposes of subsection (q), for  
7 a performance period under  
8 such subsection for a year”  
9 after “under such subsection  
10 for a year”; and

11 (ii) by adding at the end the  
12 following new subparagraph:

13 “(D) CONTINUED APPLICATION FOR  
14 PURPOSES OF VBP PROGRAM.—With re-  
15 spect to 2017 and each subsequent  
16 payment year, the Secretary shall, for  
17 purposes of subsection (q) and in ac-  
18 cordance with paragraph (1)(F) of  
19 such subsection, determine whether  
20 an eligible professional who is a VBP  
21 eligible professional (as defined in  
22 subsection (q)(1)(C)) for such year is a  
23 meaningful EHR user under this  
24 paragraph for the performance pe-



riod under subsection (q) for such year.”.

**(2) QUALITY REPORTING.—**

**(A) SUNSETTING SEPARATE QUALITY REPORTING INCENTIVES.—Section 1848(a)(8)(A) of the Social Security Act (42 U.S.C. 1395w–4(a)(8)(A)) is amended—**

**(i) in clause (i), by striking “or any subsequent year” and inserting “or 2016”; and**

**(ii) in clause (ii)(II), by striking “and each subsequent year”.**

**(B) CONTINUATION OF QUALITY MEASURES AND PROCESSES FOR VBP PROGRAM.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended—**

**(i) in subsection (k), by adding at the end the following new paragraph:**

**“(9) CONTINUED APPLICATION FOR PURPOSES OF VBP PROGRAM.—The Secretary shall, in accordance with subsection (q)(1)(F), carry out the provisions of this**

1 subsection for purposes of subsection  
2 (q).”; and

3 (ii) in subsection (m)—

4 (I) by redesignating the  
5 paragraph (7) added by sec-  
6 tion 10327(a) of Public Law  
7 111-148 as paragraph (8); and

8 (II) by adding at the end  
9 the following new paragraph:

10 “(9) CONTINUED APPLICATION FOR PUR-  
11 POSES OF VBP PROGRAM.—The Secretary  
12 shall, in accordance with subsection  
13 (q)(1)(F), carry out the processes under  
14 this subsection for purposes of subsection  
15 (q).”.

16 (3) VALUE-BASED PAYMENTS.—

17 (A) SUNSETTING SEPARATE VALUE-  
18 BASED PAYMENTS.—Clause (iii) of sec-  
19 tion 1848(p)(4)(B) of the Social Secu-  
20 rity Act (42 U.S.C. 1395w-4(p)(4)(B)) is  
21 amended to read as follows:

22 “(iii) APPLICATION.—The Sec-  
23 retary shall apply the payment  
24 modifier established under this  
25 subsection for items and services

1 furnished on or after January 1,  
2 2015, but before January 1, 2017,  
3 with respect to specific physi-  
4 cians and groups of physicians  
5 the Secretary determines appro-  
6 priate. Such payment modifier  
7 shall not be applied for items and  
8 services furnished on or after  
9 January 1, 2017.”.

10 (B) CONTINUATION OF VALUE-BASED  
11 PAYMENT MODIFIER MEASURES FOR VBP  
12 PROGRAM.—Section 1848(p) of the So-  
13 cial Security Act (42 U.S.C. 1395w-  
14 4(p)) is amended—

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

18 “(C) CONTINUED APPLICATION FOR  
19 PURPOSES OF VBP PROGRAM.—The Sec-  
20 retary shall, in accordance with sub-  
21 section (q)(1)(F), carry out subpara-  
22 graph (B) for purposes of subsection  
23 (q).” ; and

24 (ii) in paragraph (3), by add-  
25 ing at the end the following:

1           **“With respect to 2017 and each**  
2           **subsequent year, the Secretary**  
3           **shall, in accordance with sub-**  
4           **section (q)(1)(F), carry out this**  
5           **paragraph for purposes of sub-**  
6           **section (q).”.**

7           **(c) VALUE-BASED PERFORMANCE INCENTIVE**  
8           **PROGRAM.—**

9           **(1) IN GENERAL.—Section 1848 of the**  
10          **Social Security Act (42 U.S.C. 1395w-4) is**  
11          **amended by adding at the end the fol-**  
12          **lowing new subsection:**

13          **“(q) VALUE-BASED PERFORMANCE INCENTIVE**  
14          **PROGRAM.—**

15               **“(1) ESTABLISHMENT.—**

16                   **“(A) IN GENERAL.—Subject to the**  
17                   **succeeding provisions of this sub-**  
18                   **section, the Secretary shall establish**  
19                   **an eligible professional value-based**  
20                   **performance incentive program (in**  
21                   **this subsection referred to as the**  
22                   **‘VBP program’) under which the Sec-**  
23                   **retary shall—**

24                               **“(i) develop a methodology for**  
25                               **assessing the total performance of**

1           each VBP eligible professional ac-  
2           cording to performance standards  
3           under paragraph (3) for a per-  
4           formance period (as established  
5           under paragraph (4)) for a year;

6           “(ii) using such methodology,  
7           provide for a composite perform-  
8           ance score in accordance with  
9           paragraph (5) for each such pro-  
10          fessional for each performance  
11          period; and

12          “(iii) use such composite per-  
13          formance score of the VBP eligi-  
14          ble professional for a perform-  
15          ance period for a year to make  
16          VBP program incentive payments  
17          under paragraph (7) to the profes-  
18          sional for the year.

19          “(B) PROGRAM IMPLEMENTATION.—  
20          The VBP program shall apply to pay-  
21          ments for items and services fur-  
22          nished on or after January 1, 2017.

23          “(C) VBP ELIGIBLE PROFESSIONAL  
24          DEFINED.—

1           **“(i) IN GENERAL.—For purposes**  
2           **of this subsection, subject to**  
3           **clauses (ii) and (iv), the term ‘VBP**  
4           **eligible professional’ means—**

5                   **“(I) for the first and sec-**  
6                   **ond years for which the VBP**  
7                   **program applies to payments**  
8                   **(and for the performance pe-**  
9                   **riod for such first and second**  
10                  **year), a physician (as defined**  
11                  **in section 1861(r)(1)), a physi-**  
12                  **cian assistant, nurse practi-**  
13                  **tioner, and clinical nurse spe-**  
14                  **cialist (as such terms are de-**  
15                  **fin ed in section 1861(aa)(5)),**  
16                  **and a certified registered**  
17                  **nurse anesthetist (as defined**  
18                  **in section 1861(bb)(2)); and**

19                  **“(II) for the third year for**  
20                  **which the VBP program ap-**  
21                  **plies to payments (and for the**  
22                  **performance period for such**  
23                  **third year) and for each suc-**  
24                  **ceeding year (and for the per-**  
25                  **formance period for each**

1           such year), the professionals  
2           described in subclause (I) and  
3           such other eligible profes-  
4           sionals (as defined in sub-  
5           section (k)(3)(B)) as specified  
6           by the Secretary.

7           “(ii) EXCLUSIONS.—For pur-  
8           poses of clause (i), the term ‘VBP  
9           eligible professional’ does not in-  
10          clude, with respect to a year, an  
11          eligible professional (as defined  
12          in subsection (k)(3)(B))—

13                 “(I) who is a qualifying  
14                 APM participant (as defined  
15                 in section 1833(z)(2));

16                 “(II) who, subject to clause  
17                 (vii), is a partial qualifying  
18                 APM participant (as defined  
19                 in clause (iii)) for the most re-  
20                 cent period for which data  
21                 are available and who, for the  
22                 performance period with re-  
23                 spect to such year, does not  
24                 report on applicable measures  
25                 and activities described in

1 paragraph (2)(B) that are re-  
2 quired to be reported by such  
3 a professional under the VBP  
4 program; or

5 “(III) who, for the per-  
6 formance period with respect  
7 to such year, does not exceed  
8 the low-volume threshold  
9 measurement selected under  
10 clause (iv).

11 “(iii) **PARTIAL QUALIFYING APM**  
12 **PARTICIPANT.—**For purposes of  
13 this subparagraph, the term ‘par-  
14 tial qualifying APM participant’  
15 means, with respect to a year, an  
16 eligible professional for whom the  
17 Secretary determines the min-  
18 imum payment percentage (or  
19 percentages), as applicable, de-  
20 scribed in paragraph (2) of sec-  
21 tion 1833(z) for such year have  
22 not been satisfied, but who would  
23 be considered a qualifying APM  
24 participant (as defined in such  
25 paragraph) for such year if—



1           **“(I) with respect to 2017**  
2           **and 2018, the reference in**  
3           **subparagraph (A) of such**  
4           **paragraph to 25 percent was**  
5           **instead a reference to 20 per-**  
6           **cent;**

7           **“(II) with respect to 2019**  
8           **and 2020—**

9           **“(aa) the reference in**  
10           **subparagraph (B)(i) of**  
11           **such paragraph to 50 per-**  
12           **cent was instead a ref-**  
13           **erence to 40 percent; and**

14           **“(bb) the references in**  
15           **subparagraph (B)(ii) of**  
16           **such paragraph to 50 per-**  
17           **cent and 25 percent of**  
18           **such paragraph were in-**  
19           **stead references to 40 per-**  
20           **cent and 20 percent, re-**  
21           **spectively; and**

22           **“(III) with respect to 2021**  
23           **and subsequent years—**

24           **“(aa) the reference in**  
25           **subparagraph (C)(i) of**

1 such paragraph to 75 per-  
2 cent was instead a ref-  
3 erence to 50 percent; and

4 “(bb) the references in  
5 subparagraph (C)(ii) of  
6 such paragraph to 75 per-  
7 cent and 25 percent of  
8 such paragraph were in-  
9 stead references to 50 per-  
10 cent and 20 percent, re-  
11 spectively.

12 “(iv) SELECTION OF LOW-VOL-  
13 UME THRESHOLD MEASUREMENT.—  
14 The Secretary shall select one of  
15 the following low-volume thresh-  
16 old measurements to apply for  
17 purposes of clause (ii)(III):

18 “(I) The minimum number  
19 (as determined by the Sec-  
20 retary) of individuals enrolled  
21 under this part who are treat-  
22 ed by the VBP eligible profes-  
23 sional for the performance pe-  
24 riod involved.

1           **“(II) The minimum num-**  
2           **ber (as determined by the Sec-**  
3           **retary) of items and services**  
4           **furnished to individuals en-**  
5           **rolled under this part by such**  
6           **professional for such perform-**  
7           **ance period.**

8           **“(III) The minimum**  
9           **amount (as determined by the**  
10          **Secretary) of allowed charges**  
11          **billed by such professional**  
12          **under this part for such per-**  
13          **formance period.**

14          **“(v) TREATMENT OF NEW MEDI-**  
15          **CARE ENROLLED ELIGIBLE PROFES-**  
16          **SIONALS.—In the case of a profes-**  
17          **sional who first becomes a Medi-**  
18          **care enrolled eligible professional**  
19          **during the performance period**  
20          **for a year (and had not previously**  
21          **submitted claims under this title**  
22          **such as a person, an entity, or a**  
23          **part of a physician group or**  
24          **under a different billing number**  
25          **or tax identifier), such profes-**

1           sional shall not be treated under  
2           this subsection as a VBP eligible  
3           professional until the subsequent  
4           year and performance period for  
5           such subsequent year.

6           “(vi) CLARIFICATION.—In the  
7           case of items and services fur-  
8           nished during a year by an indi-  
9           vidual who is not a VBP eligible  
10          professional (including pursuant  
11          to clauses (ii) and (v)) with re-  
12          spect to a year, in no case shall a  
13          reduction under paragraph (6) or  
14          a VBP program incentive pay-  
15          ment under paragraph (7) apply  
16          to such individual for such year.

17          “(vii) PARTIAL QUALIFYING APM  
18          PARTICIPANT CLARIFICATION.—In  
19          the case of an eligible profes-  
20          sional who is a partial qualifying  
21          APM participant, with respect to  
22          a year, and who for the perform-  
23          ance period for such year reports  
24          on applicable measures and ac-  
25          tivities described in paragraph

1           **(2)(B) that are required to be re-**  
2           **ported by such a professional**  
3           **under the VBP program, such eli-**  
4           **gible professional is considered to**  
5           **be a VBP eligible professional**  
6           **with respect to such year.**

7           **“(D) APPLICATION TO GROUP PRAC-**  
8           **TICES.—**

9           **“(i) IN GENERAL.—Under the**  
10          **VBP program:**

11           **“(I) QUALITY PERFORMANCE**  
12          **CATEGORY.—The Secretary**  
13          **shall establish and apply a**  
14          **process that includes features**  
15          **of the provisions of sub-**  
16          **section (m)(3)(C) for VBP eli-**  
17          **gible professionals in a group**  
18          **practice with respect to as-**  
19          **sessing performance of such**  
20          **group with respect to the per-**  
21          **formance category described**  
22          **in clause (i) of paragraph**  
23          **(2)(A).**

24           **“(II) OTHER PERFORMANCE**  
25          **CATEGORIES.—The Secretary**

1           may establish and apply a  
2           process that includes features  
3           of the provisions of sub-  
4           section (m)(3)(C) for VBP eli-  
5           gible professionals in a group  
6           practice with respect to as-  
7           sessing the performance of  
8           such group with respect to  
9           the performance categories  
10          described in clauses (ii)  
11          through (iv) of such para-  
12          graph.

13          “(ii) ENSURING COMPREHENSIVE-  
14          NESS OF GROUP PRACTICE ASSESS-  
15          MENT.—The process established  
16          under clause (i) shall to the ex-  
17          tent practicable reflect the full  
18          range of items and services fur-  
19          nished by the VBP eligible profes-  
20          sionals in the group practice in-  
21          volved.

22          “(iii) CLARIFICATION.—VBP eli-  
23          gible professionals electing to be  
24          a virtual group under paragraph  
25          (5)(J) shall not be considered VBP

1 eligible professionals in a group  
2 practice for purposes of applying  
3 this subparagraph.

4 “(E) USE OF REGISTRIES.—Under  
5 the VBP program, the Secretary shall  
6 encourage the use of qualified clin-  
7 ical data registries pursuant to sub-  
8 section (m)(3)(E) in carrying out this  
9 subsection.

10 “(F) APPLICATION OF CERTAIN PRO-  
11 VISIONS.—In applying a provision of  
12 subsection (k), (m), (o), or (p) for pur-  
13 poses of this subsection, the Sec-  
14 retary shall—

15 “(i) adjust the application of  
16 such provision to ensure the pro-  
17 vision is consistent with the pro-  
18 visions of this subsection; and

19 “(ii) not apply such provision  
20 to the extent that the provision is  
21 duplicative with a provision of  
22 this subsection.

23 “(2) MEASURES AND ACTIVITIES UNDER  
24 PERFORMANCE CATEGORIES.—

**“(A) PERFORMANCE CATEGORIES.—**

**Under the VBP program, the Secretary shall use the following performance categories (each of which is referred to in this subsection as a performance category) in determining the composite performance score under paragraph (5):**

**“(i) Quality.**

**“(ii) Resource use.**

**“(iii) Clinical practice improvement activities.**

**“(iv) Meaningful use of certified EHR technology.**

**“(B) MEASURES AND ACTIVITIES SPECIFIED FOR EACH CATEGORY.—For purposes of paragraph (3)(A) and subject to subparagraph (C), measures and activities specified for a performance period (as established under paragraph (4)) for a year are as follows:**

**“(i) QUALITY.—For the performance category described in subparagraph (A)(i), the quality**



1 measures established for such pe-  
2 riod under subsections (k) and  
3 (m), including under subsection  
4 (m)(3)(E), and the measures of  
5 quality of care established for  
6 such period under subsection  
7 (p)(2).

8 “(ii) **RESOURCE USE.**—For the  
9 performance category described  
10 in subparagraph (A)(ii), the meas-  
11 urement of resource use for such  
12 period under subsection (p)(3),  
13 using the methodology under sub-  
14 section (r), as appropriate, and, as  
15 feasible and applicable, account-  
16 ing for the cost of covered part D  
17 drugs.

18 “(iii) **CLINICAL PRACTICE IM-**  
19 **PROVEMENT ACTIVITIES.**—For the  
20 performance category described  
21 in subparagraph (A)(iii), clinical  
22 practice improvement activities  
23 under subcategories specified by  
24 the Secretary for such period,

1           **which shall include at least the**  
2           **following:**

3                   **“(I) The subcategory of ex-**  
4                   **panded practice access, which**  
5                   **shall include activities such**  
6                   **as same day appointments for**  
7                   **urgent needs and after hours**  
8                   **access to clinician advice.**

9                   **“(II) The subcategory of**  
10                  **population           management,**  
11                  **which shall include activities**  
12                  **such as monitoring health**  
13                  **conditions of individuals to**  
14                  **provide timely health care**  
15                  **interventions or participation**  
16                  **in a qualified clinical data**  
17                  **registry.**

18                  **“(III) The subcategory of**  
19                  **care coordination, which shall**  
20                  **include activities such as**  
21                  **timely communication of test**  
22                  **results, timely exchange of**  
23                  **clinical information to pa-**  
24                  **tients and other providers,**

1           **and use of remote monitoring**  
2           **or telehealth.**

3           **“(IV) The subcategory of**  
4           **beneficiary engagement,**  
5           **which shall include activities**  
6           **such as the establishment of**  
7           **care plans for individuals**  
8           **with complex care needs, ben-**  
9           **eficiary self-management**  
10          **training, and using shared de-**  
11          **cision-making mechanisms.**

12          **“(V) The subcategory of**  
13          **patient safety and practice as-**  
14          **essment, such as through use**  
15          **of clinical or surgical check-**  
16          **lists and practice assessments**  
17          **related to maintaining certifi-**  
18          **cation.**

19          **“(VI) The subcategory of**  
20          **participation in an alternative**  
21          **payment model (as defined in**  
22          **section 1833(z)(3)(C)).**

23          **In establishing activities under**  
24          **this clause, the Secretary shall**  
25          **give consideration to the cir-**

1           **cumstances of small practices**  
2           **(consisting of fewer than 20 pro-**  
3           **fessionals) and practices located**  
4           **in rural areas and in health pro-**  
5           **fessional shortage areas (as des-**  
6           **ignated under section 332(a)(1)(A)**  
7           **of the Public Health Service Act).**

8           **“(iv) MEANINGFUL EHR USE.—**  
9           **For the performance category de-**  
10          **scribed in subparagraph (A)(iv),**  
11          **the requirements established for**  
12          **such period under subsection**  
13          **(o)(2) for determining whether an**  
14          **eligible professional is a meaning-**  
15          **ful EHR user.**

16          **“(C) ADDITIONAL PROVISIONS.—**

17          **“(i) EMPHASIZING OUTCOME**  
18          **MEASURES UNDER QUALITY PER-**  
19          **FORMANCE CATEGORY.—In applying**  
20          **subparagraph (B)(i), the Sec-**  
21          **retary shall, as feasible, empha-**  
22          **size the application of outcome**  
23          **measures.**

24          **“(ii) APPLICATION OF ADDI-**  
25          **TIONAL SYSTEM MEASURES.—The**

1           **Secretary may use measures used**  
2           **for a payment system other than**  
3           **for physicians for purposes of the**  
4           **performance category described**  
5           **in subparagraph (A)(i).**

6           **“(iii) GLOBAL AND POPULATION-**  
7           **BASED MEASURES.—The Secretary**  
8           **may use global measures, such as**  
9           **global outcome measures, and**  
10          **population-based measures for**  
11          **purposes of the performance cat-**  
12          **egory described in subparagraph**  
13          **(A)(i).**

14          **“(iv) REQUEST FOR INFORMA-**  
15          **TION FOR CLINICAL PRACTICE IM-**  
16          **PROVEMENT ACTIVITIES.—In ini-**  
17          **tially applying subparagraph**  
18          **(B)(iii), the Secretary shall use a**  
19          **request for information to solicit**  
20          **recommendations from stake-**  
21          **holders for identifying activities**  
22          **described in such subparagraph**  
23          **and specifying criteria for such**  
24          **activities.**

1           **“(v) CONTRACT AUTHORITY FOR**  
2           **CLINICAL PRACTICE IMPROVEMENT**  
3           **ACTIVITIES PERFORMANCE CAT-**  
4           **EGORY.—In applying subpara-**  
5           **graph (B)(iii), the Secretary may**  
6           **contract with entities to assist the**  
7           **Secretary in—**

8                   **“(I) identifying activities**  
9                   **described in subparagraph**  
10                  **(B)(iii);**

11                  **“(II) specifying criteria for**  
12                  **such activities; and**

13                  **“(III) determining wheth-**  
14                  **er a VBP eligible professional**  
15                  **meets such criteria.**

16           **“(vi) APPLICATION OF MEASURES**  
17           **AND ACTIVITIES TO NON-PATIENT-**  
18           **FACING PROVIDERS.—In carrying**  
19           **out this paragraph, with respect**  
20           **to measures and activities speci-**  
21           **fied in subparagraph (B) for per-**  
22           **formance categories described in**  
23           **subparagraph (A), the Secretary—**

24                   **“(I) shall give consider-**  
25                   **ation to the circumstances of**

1 professional types (or subcat-  
2 egories of those types deter-  
3 mined by practice character-  
4 istics) who typically provide  
5 services that do not involve  
6 face-to-face interaction with a  
7 patient; and

8 “(II) may, to the extent  
9 feasible and appropriate, take  
10 into account such cir-  
11 cumstances and apply under  
12 this subsection with respect  
13 to VBP eligible professionals  
14 of such professional types or  
15 subcategories, in lieu of such  
16 a measure or activity, a com-  
17 parable measure or activity  
18 that fulfills the goals of the  
19 applicable performance cat-  
20 egory.

21 In carrying out the previous sen-  
22 tence, the Secretary shall consult  
23 with professionals of such profes-  
24 sional types or subcategories.

25 “(3) PERFORMANCE STANDARDS.—

1           **“(A) ESTABLISHMENT.—Under the**  
2           **VBP program, the Secretary shall es-**  
3           **tablish performance standards with**  
4           **respect to measures and activities**  
5           **specified under paragraph (2)(B) for a**  
6           **performance period (as established**  
7           **under paragraph (4)) for a year.**

8           **“(B) CONSIDERATIONS IN ESTAB-**  
9           **LISHING STANDARDS.—In establishing**  
10          **such performance standards with re-**  
11          **spect to measures and activities spec-**  
12          **ified under paragraph (2)(B), the Sec-**  
13          **retary shall take into account the fol-**  
14          **lowing:**

15               **“(i) Historical performance**  
16               **standards.**

17               **“(ii) Improvement rates.**

18               **“(iii) The opportunity for con-**  
19               **tinued improvement.**

20          **“(4) PERFORMANCE PERIOD.—The Sec-**  
21          **retary shall establish a performance pe-**  
22          **riod (or periods) for a year (beginning**  
23          **with the year described in paragraph**  
24          **(1)(B)). Such performance period (or peri-**  
25          **ods) shall begin and end prior to the be-**



1       ginning of such year and be as close as  
2       possible to such year. In this subsection,  
3       such performance period (or periods) for  
4       a year shall be referred to as the per-  
5       formance period for the year.

6               “(5) COMPOSITE PERFORMANCE SCORE.—

7               “(A) IN GENERAL.—Subject to the  
8       succeeding provisions of this para-  
9       graph and consistent with section  
10      2(g)(2) of the SGR Repeal and Medi-  
11      care Beneficiary Access Act of 2013,  
12      the Secretary shall develop a method-  
13      ology for assessing the total perform-  
14      ance of each VBP eligible profes-  
15      sional according to performance  
16      standards under paragraph (3) with  
17      respect to applicable measures and  
18      activities specified in paragraph  
19      (2)(B) with respect to each perform-  
20      ance category applicable to such pro-  
21      fessional for a performance period (as  
22      established under paragraph (4)) for  
23      a year. Using such methodology, the  
24      Secretary shall provide for a com-  
25      posite assessment (in this subsection

1           referred to as the ‘composite perform-  
2           ance score’) for each such profes-  
3           sional for each performance period.

4           “(B) WEIGHTING PERFORMANCE CAT-  
5           EGORIES, MEASURES, AND ACTIVITIES.—  
6           Under the methodology under sub-  
7           paragraph (A), the Secretary—

8                   “(i) may assign different scor-  
9                   ing weights (including a weight of  
10                  0) for—

11                          “(I) each performance cat-  
12                          egory based on the extent to  
13                          which the category is applica-  
14                          ble to the type of eligible pro-  
15                          fessional involved; and

16                          “(II) each measure and ac-  
17                          tivity specified under para-  
18                          graph (2)(B) with respect to  
19                          each such category based on  
20                          the extent to which the meas-  
21                          ure or activity is applicable to  
22                          the type of eligible profes-  
23                          sional involved; and

1           “(ii) with respect to the per-  
2           formance category described in  
3           paragraph (2)(A)(i)—

4                   “(I) shall assign a higher  
5                   scoring weight to outcomes  
6                   measures than to other meas-  
7                   ures and increase the scoring  
8                   weight for outcome measures  
9                   over time; and

10                   “(II) may assign a higher  
11                   scoring weight to patient ex-  
12                   perience measures.

13           “(C) INCENTIVE TO REPORT; EN-  
14           COURAGING USE OF CERTIFIED EHR  
15           TECHNOLOGY FOR REPORTING QUALITY  
16           MEASURES.—

17                   “(i) INCENTIVE TO REPORT.—  
18                   Under the methodology estab-  
19                   lished under subparagraph (A),  
20                   the Secretary shall provide that  
21                   in the case of a VBP eligible pro-  
22                   fessional who fails to report on an  
23                   applicable measure or activity  
24                   that is required to be reported by  
25                   the professional, the professional

1 shall be treated as achieving the  
2 lowest potential score applicable  
3 to such measure or activity.

4 “(ii) ENCOURAGING USE OF CER-  
5 TIFIED EHR TECHNOLOGY FOR RE-  
6 PORTING QUALITY MEASURES.—  
7 Under the methodology estab-  
8 lished under subparagraph (A),  
9 the Secretary shall—

10 “(I) encourage VBP eligi-  
11 ble professionals to report on  
12 applicable measures with re-  
13 spect to the performance cat-  
14 egory described in paragraph  
15 (2)(A)(i) through the use of  
16 certified EHR technology; and

17 “(II) with respect to a per-  
18 formance period, with respect  
19 to a year, for which a VBP eli-  
20 gible professional reports  
21 such measures through the  
22 use of such EHR technology,  
23 treat such professional as sat-  
24 isfying the clinical quality  
25 measures reporting require-

1                   ment described in subsection  
2                   (o)(2)(A)(iii) for such year.

3                   “(D) CLINICAL PRACTICE IMPROVE-  
4           MENT           ACTIVITIES           PERFORMANCE  
5           SCORE.—

6                   “(i) RULE FOR ACCREDITA-  
7                   TION.—A VBP eligible professional  
8                   who is in a practice that is cer-  
9                   tified as a patient-centered med-  
10                  ical home or comparable specialty  
11                  practice pursuant to subsection  
12                  (b)(8)(B)(i) with respect to a per-  
13                  formance period shall be given  
14                  the highest potential score for the  
15                  performance category described  
16                  in paragraph (2)(A)(iii) for such  
17                  period.

18                  “(ii) APM PARTICIPATION.—Par-  
19                  ticipation by a VBP eligible pro-  
20                  fessional in an alternative pay-  
21                  ment model (as defined in section  
22                  1833(z)(3)(C)) with respect to a  
23                  performance period shall earn  
24                  such eligible professional one-half  
25                  of the highest potential score for

1           the performance category de-  
2           scribed in paragraph (2)(A)(iii)  
3           for such performance period.  
4           Nothing in the previous sentence  
5           shall prevent such professional  
6           from earning more than one-half  
7           of such highest potential score for  
8           such performance period by per-  
9           forming additional activities with  
10          respect to such performance cat-  
11          egory.

12           “(iii) SUBCATEGORIES.—A VBP  
13          eligible professional shall not be  
14          required to perform activities in  
15          each subcategory under para-  
16          graph (2)(B)(iii) to achieve the  
17          highest potential score for the  
18          performance category described  
19          in paragraph (2)(A)(iii).

20           “(E) DISTRIBUTION.—The Secretary  
21          shall ensure that the application of  
22          the methodology developed under  
23          subparagraph (A) results in a contin-  
24          uous distribution of performance

1           **scores, which shall result in differen-**  
2           **tial payments under paragraph (7).**

3           **“(F) ACHIEVEMENT AND IMPROVE-**  
4           **MENT.—**

5           **“(i) TAKING INTO ACCOUNT IM-**  
6           **PROVEMENT.—Beginning with the**  
7           **second year to which the VBP**  
8           **program applies, in addition to**  
9           **the achievement score of a VBP**  
10          **eligible professional, the method-**  
11          **ology developed under subpara-**  
12          **graph (A)—**

13           **“(I) in the case of the per-**  
14           **formance score for the per-**  
15           **formance category described**  
16           **in clauses (i) and (ii) of para-**  
17           **graph (2)(A), shall take into**  
18           **account the improvement of**  
19           **the professional; and**

20           **“(II) in the case of per-**  
21           **formance scores for other per-**  
22           **formance categories, may take**  
23           **into account the improvement**  
24           **of the professional.**

1           **“(ii) ASSIGNING HIGHER WEIGHT**  
2           **FOR       ACHIEVEMENT.—Beginning**  
3           **with the fourth year to which the**  
4           **VBP program applies, under the**  
5           **methodology developed under**  
6           **subparagraph (A), the Secretary**  
7           **may assign a higher scoring**  
8           **weight under subparagraph (B)**  
9           **with respect to the achievement**  
10          **score of a VBP eligible profes-**  
11          **sional with respect to a measure**  
12          **or activity specified under para-**  
13          **graph (2)(B) (or with respect to**  
14          **such a measure or activity and**  
15          **with respect to categories de-**  
16          **scribed in paragraph (2)(A)) than**  
17          **to any improvement score applied**  
18          **under clause (i) with respect to**  
19          **such measure or activity (or such**  
20          **measure or activity and cat-**  
21          **egories).**

22          **“(G) WEIGHTS FOR THE PERFORM-**  
23          **ANCE CATEGORIES.—**

24               **“(i) IN GENERAL.—Under the**  
25               **methodology developed under**



1           subparagraph (A), subject to  
2           clauses (ii) and (iii), the com-  
3           posite performance score shall be  
4           determined as follows:

5                   “(I) QUALITY.—

6                           “(aa) IN GENERAL.—  
7                   Subject to item (bb), 30  
8                   percent of such score  
9                   shall be based on perform-  
10                  ance with respect to the  
11                  category described in  
12                  clause (i) of paragraph  
13                  (2)(A).

14                           “(bb) FIRST 2 YEARS  
15                   AND TEST YEAR.—For the  
16                   first and second years for  
17                   which the VBP program  
18                   applies to payments, 60  
19                   percent of such score  
20                   shall be based on perform-  
21                   ance with respect to the  
22                   category described in  
23                   clause (i) of paragraph  
24                   (2)(A). With respect to the  
25                   subsequent year, the per-

1 cent described in item  
2 (aa) of such score shall be  
3 based on performance  
4 with respect to such cat-  
5 egory only for purposes of  
6 feedback and 60 percent  
7 of such score shall be  
8 based on performance  
9 with respect to such cat-  
10 egory for any other pur-  
11 pose under this sub-  
12 section.

13 “(II) RESOURCE USE.—

14 “(aa) IN GENERAL.—  
15 Subject to item (bb), 30  
16 percent of such score  
17 shall be based on perform-  
18 ance with respect to the  
19 category described in  
20 clause (ii) of paragraph  
21 (2)(A).

22 “(bb) FIRST 2 YEARS  
23 AND TEST YEAR.—For the  
24 first and second years for  
25 which the VBP program

1 applies to payments, zero  
2 percent of such score  
3 shall be based on perform-  
4 ance with respect to the  
5 category described in  
6 clause (ii) of paragraph  
7 (2)(A). With respect to the  
8 subsequent year, the per-  
9 cent described in item  
10 (aa) of such score shall be  
11 based on performance  
12 with respect to such cat-  
13 egory only for purposes of  
14 feedback and zero percent  
15 of such score shall be  
16 based on performance  
17 with respect to such cat-  
18 egory for any other pur-  
19 pose under this sub-  
20 section.

21 “(III) CLINICAL PRACTICE  
22 IMPROVEMENT ACTIVITIES.—Fif-  
23 teen percent of such score  
24 shall be based on perform-  
25 ance with respect to the cat-

1           egory described in clause (iii)  
2           of paragraph (2)(A).

3           “(IV) MEANINGFUL USE OF  
4           CERTIFIED EHR TECHNOLOGY.—  
5           Twenty-five percent of such  
6           score shall be based on per-  
7           formance with respect to the  
8           category described in clause  
9           (iv) of paragraph (2)(A).

10          “(ii) AUTHORITY TO ADJUST PER-  
11          CENTAGES IN CASE OF HIGH EHR  
12          MEANINGFUL USE ADOPTION.—In  
13          any year in which the Secretary  
14          estimates that the proportion of  
15          eligible professionals (as defined  
16          in subsection (o)(5)) who are  
17          meaningful EHR users (as deter-  
18          mined under subsection (o)(2)) is  
19          75 percent or greater, the Sec-  
20          retary may reduce the percent ap-  
21          plicable under clause (i)(IV), but  
22          not below 15 percent. If the Sec-  
23          retary makes such reduction for a  
24          year, the percentages applicable  
25          under one or more of subclauses

1 (I), (II), and (III) of clause (i) for  
2 such year (or, in the case of a  
3 year described in clause  
4 (i)(II)(bb), applicable under one  
5 or more of subclauses (I) and  
6 (III)) shall be increased in a man-  
7 ner such that the total percentage  
8 points of the increase under this  
9 clause for such year equals the  
10 total number of percentage points  
11 reduced under the preceding sen-  
12 tence for such year.

13 “(iii) AUTHORITY TO ADJUST  
14 PERCENTAGES FOR QUALITY AND RE-  
15 SOURCE USE.—Other than for a  
16 year described in clause  
17 (i)(II)(bb), the percentages de-  
18 scribed in subclauses (I) and (II)  
19 of clause (i), including after appli-  
20 cation of clause (ii), shall be  
21 equal.

22 “(H) RESOURCE USE.—Analysis of  
23 the performance category described  
24 in paragraph (2)(A)(ii) shall include  
25 results from the methodology de-

1       scribed in subsection (r)(5), as appro-  
2       priate.

3               “(I) INCLUSION OF QUALITY MEASURE  
4       DATA FROM MULTIPLE PAYERS.—In ap-  
5       plying subsections (k), (m), and (p)  
6       with respect to measures described in  
7       paragraph (2)(B)(i), analysis of the  
8       performance category described in  
9       paragraph (2)(A)(i) may include data  
10      submitted by VBP eligible profes-  
11      sionals with respect to multiple pay-  
12      ers.

13              “(J) USE OF VOLUNTARY VIRTUAL  
14      GROUPS FOR CERTAIN ASSESSMENT PUR-  
15      POSES.—

16              “(i) IN GENERAL.—In the case  
17      of VBP eligible professionals  
18      electing to be a virtual group  
19      under clause (ii) with respect to a  
20      performance period for a year, for  
21      purposes of applying the method-  
22      ology under subparagraph (A)—

23              “(I) the assessment of per-  
24      formance provided under  
25      such methodology with re-

1 spect to the performance cat-  
2 egories described in clauses  
3 (i) and (ii) of paragraph (2)(A)  
4 that is to be applied to each  
5 such professional in such  
6 group for such performance  
7 period shall be with respect to  
8 the combined performance of  
9 all such professionals in such  
10 group for such period; and

11 “(II) the composite score  
12 provided under this para-  
13 graph for such performance  
14 period with respect to each  
15 such performance category  
16 for each such VBP eligible  
17 professional in such virtual  
18 group shall be based on the  
19 assessment of the combined  
20 performance under subclause  
21 (I) for the performance cat-  
22 egory and performance pe-  
23 riod.

24 “(ii) ELECTION OF PRACTICES TO  
25 BE A VIRTUAL GROUP.—The Sec-

1           retary shall, in accordance with  
2           clause (iii), establish and have in  
3           place a process to allow an indi-  
4           vidual VBP eligible professional  
5           or a group practice consisting of  
6           not more than 10 VBP eligible  
7           professionals to elect, with re-  
8           spect to a performance period for  
9           a year, for such individual VBP  
10          eligible professional or all such  
11          VBP eligible professionals in such  
12          group practice, respectively, to be  
13          a virtual group under this sub-  
14          paragraph with at least one other  
15          such individual VBP eligible pro-  
16          fessional or group practice mak-  
17          ing such an election.

18                 “(iii)        REQUIREMENTS.—The  
19           process under clause (ii) shall  
20           provide that—

21                         “(I)    an election under  
22                         such clause, with respect to a  
23                         performance period, shall be  
24                         made before the beginning of  
25                         such performance period and



1           may not be changed during  
2           such performance period; and

3                   “(II) a practice described  
4           in such clause, and each VBP  
5           eligible professional in such  
6           practice, may elect to be in no  
7           more than one virtual group  
8           for a performance period.

9                   “(6) FUNDING FOR VBP PROGRAM INCEN-  
10          TIVE PAYMENTS.—

11                   “(A) TOTAL AMOUNT FOR INCENTIVE  
12          PAYMENTS.—The total amount for VBP  
13          program incentive payments under  
14          paragraph (7) for all VBP eligible pro-  
15          fessionals for a year shall be equal to  
16          the total amount of the performance  
17          funding pool for all VBP eligible pro-  
18          fessionals under subparagraph (B) for  
19          such year, as estimated by the Sec-  
20          retary.

21                   “(B)       PERFORMANCE       FUNDING  
22          POOL.—

23                   “(i) IN GENERAL.—In the case  
24          of items and services furnished by  
25          a VBP eligible professional during

1           a year (beginning with 2017), the  
2           otherwise applicable fee schedule  
3           amount (as defined in clause (iii))  
4           with respect to such items and  
5           services and eligible professional  
6           for such year shall be reduced by  
7           the applicable percent under  
8           clause (ii). The total amount of  
9           such reductions for a year shall  
10          be referred to in this subsection  
11          as the ‘performance funding pool’  
12          for such year.

13               “(ii) APPLICABLE PERCENT DE-  
14               FINED.—For purposes of clause (i),  
15               the term ‘applicable percent’  
16               means—

17                       “(I) for 2017, 4 percent;

18                       “(II) for 2018, 6 percent;

19                       “(III) for 2019, 8 percent;

20                       “(IV) for 2020, 10 percent;

21                       and

22                       “(V) for 2021 and subse-  
23                       quent years, a percent speci-  
24                       fied by the Secretary (but in

1           no case less than 10 percent  
2           or more than 12 percent).

3           “(iii) OTHERWISE APPLICABLE  
4           FEE SCHEDULE AMOUNT.—For pur-  
5           poses of this subparagraph and  
6           paragraph (7), the term ‘other-  
7           wise applicable fee schedule  
8           amount’ means, with respect to  
9           items and services furnished by a  
10          VBP eligible professional during a  
11          year, the fee schedule amount for  
12          such items and services and year  
13          that would otherwise apply (with-  
14          out application of this subpara-  
15          graph or paragraph (7)) with re-  
16          spect to such eligible professional  
17          under subsection (b), after appli-  
18          cation of subsection (a)(3), or  
19          under another fee schedule under  
20          this part.

21          “(7) VBP PROGRAM INCENTIVE PAY-  
22          MENTS.—

23                 “(A) VBP PROGRAM INCENTIVE PAY-  
24                 MENT ADJUSTMENT FACTOR.—Con-  
25                 sistent with section 2(g)(2) of the SGR

1       **Repeal and Medicare Beneficiary Ac-**  
2       **cess Act of 2013, the Secretary shall**  
3       **specify a VBP program incentive pay-**  
4       **ment adjustment factor for each VBP**  
5       **eligible professional for a year. Such**  
6       **VBP program incentive payment ad-**  
7       **justment factor for a VBP eligible**  
8       **professional for a year shall be deter-**  
9       **mined—**

10               **“(i) by the composite perform-**  
11               **ance score of the eligible profes-**  
12               **sional for such year;**

13               **“(ii) in a manner such that the**  
14               **adjustment factors specified**  
15               **under this subparagraph for a**  
16               **year results in differential pay-**  
17               **ments under this paragraph re-**  
18               **flecting the full range of the dis-**  
19               **tribution of composite perform-**  
20               **ance scores of VBP eligible pro-**  
21               **fessionals determined under para-**  
22               **graph (5)(E) for such year, with**  
23               **such professionals having higher**  
24               **composite performance scores re-**  
25               **ceiving higher payment; and**

1           “(iii) in a manner such that  
2           the adjustment factors specified  
3           under this subparagraph for a  
4           year—

5                   “(I) does not result in a  
6                   payment reduction for such  
7                   year by an amount that ex-  
8                   ceeds the applicable percent  
9                   described in paragraph  
10                  (6)(B)(ii) for such year; and

11                   “(II) does not result in a  
12                   payment increase for such  
13                   year by an amount that ex-  
14                   ceeds the applicable percent  
15                   described in paragraph  
16                  (6)(B)(ii) for such year.

17           “(B) CALCULATION OF VBP PROGRAM  
18           INCENTIVE PAYMENT AMOUNTS.—The  
19           VBP program incentive payment  
20           amount with respect to items and  
21           services furnished by a VBP eligible  
22           professional during a year shall be  
23           equal to the difference between—

24                   “(i) the product of—

1           **“(I) the VBP program in-**  
2           **centive payment adjustment**  
3           **factor determined under sub-**  
4           **paragraph (A) for such VBP**  
5           **eligible professional for such**  
6           **year; and**

7           **“(II) the otherwise appli-**  
8           **cable fee schedule amount (as**  
9           **defined in paragraph**  
10          **(6)(B)(iii)) with respect to**  
11          **such items and services and**  
12          **eligible professional for such**  
13          **year; and**

14          **“(ii) the otherwise applicable**  
15          **fee schedule amount, as reduced**  
16          **under paragraph (6)(B), with re-**  
17          **spect to such items and services,**  
18          **eligible professional, and year.**

19          **The application of the preceding sen-**  
20          **tence may result in the VBP program**  
21          **incentive payment amount being 0.0**  
22          **with respect to an item or service fur-**  
23          **nished by a VBP eligible professional.**

24          **“(C) APPLICATION OF VBP PROGRAM**  
25          **INCENTIVE PAYMENT AMOUNT.—In the**

1 case of items and services furnished  
2 by a VBP eligible professional during  
3 a year (beginning with 2017), the oth-  
4 erwise applicable fee schedule  
5 amount, as reduced under paragraph  
6 (6)(B), with respect to such items and  
7 services and eligible professional for  
8 such year shall be increased, if appli-  
9 cable, by the VBP program incentive  
10 payment amount determined under  
11 subparagraph (B) with respect to  
12 such items and services, professional,  
13 and year.

14 “(D) BUDGET NEUTRALITY.—In  
15 specifying the VBP program incentive  
16 payment adjustment factor for each  
17 VBP eligible professional for a year  
18 under subparagraph (A), the Sec-  
19 retary shall ensure that the total  
20 amount of VBP program incentive  
21 payment amounts under this para-  
22 graph for all VBP eligible profes-  
23 sionals in a year shall be equal to the  
24 performance funding pool for such

1           year under paragraph (6), as esti-  
2           mated by the Secretary.

3           “(8) ANNOUNCEMENT OF RESULT OF AD-  
4           JUSTMENTS.—Under the VBP program, the  
5           Secretary shall, not later than 60 days  
6           prior to the year involved, make avail-  
7           able to each VBP eligible professional the  
8           VBP program incentive payment adjust-  
9           ment factor under paragraph (7) and the  
10          payment reduction under paragraph (6)  
11          applicable to the eligible professional for  
12          items and services furnished by the pro-  
13          fessional in such year. The Secretary may  
14          include such information in the confiden-  
15          tial feedback under paragraph (13).

16          “(9) NO EFFECT IN SUBSEQUENT YEARS.—  
17          The VBP program incentive payment  
18          under paragraph (7) and the payment re-  
19          duction under paragraph (6) shall each  
20          apply only with respect to the year in-  
21          volved, and the Secretary shall not take  
22          into account such VBP program incentive  
23          payment or payment reduction in making  
24          payments to a VBP eligible professional  
25          under this part in a subsequent year.



**“(10) PUBLIC REPORTING.—**

**“(A) IN GENERAL.—The Secretary shall, in an easily understandable format, make available on the Physician Compare Internet website under subsection (t) the following:**

**“(i) Information regarding the performance of VBP eligible professionals under the VBP program, which—**

**“(I) shall include the composite score for each such VBP eligible professional and the performance of each such VBP eligible professional with respect to each performance category; and**

**“(II) may include the performance of each such VBP eligible professional with respect to each measure or activity specified in paragraph (2)(B).**

**“(ii) The names of eligible professionals in eligible alternative**

1           payment models (as defined in  
2           section 1833(z)(3)(D)) and, to the  
3           extent feasible, the names of such  
4           eligible alternative payment mod-  
5           els and performance of such mod-  
6           els.

7           “(B) DISCLOSURE.—The informa-  
8           tion made available under this para-  
9           graph shall indicate, where appro-  
10          priate, that publicized information  
11          may not be representative of the eli-  
12          gible professional’s entire patient  
13          population, the variety of services  
14          furnished by the eligible professional,  
15          or the health conditions of individ-  
16          uals treated.

17          “(C) OPPORTUNITY TO REVIEW AND  
18          SUBMIT CORRECTIONS.—The Secretary  
19          shall provide for an opportunity for a  
20          professional described in subpara-  
21          graph (A) to review, and submit cor-  
22          rections for, the information to be  
23          made public with respect to the pro-  
24          fessional under such subparagraph

1 prior to such information being made  
2 public.

3 “(D) AGGREGATE INFORMATION.—

4 The Secretary shall periodically post  
5 on the Physician Compare Internet  
6 website aggregate information on the  
7 VBP program, including the range of  
8 composite scores for all VBP eligible  
9 professionals and the range of the  
10 performance of all VBP eligible pro-  
11 fessionals with respect to each per-  
12 formance category.

13 “(11) CONSULTATION.—The Secretary  
14 shall consult with stakeholders in car-  
15 rying out the VBP program, including for  
16 the identification of measures and activi-  
17 ties under paragraph (2)(B) and the  
18 methodologies developed under para-  
19 graphs (5)(A) and (7). Such consultation  
20 shall include the use of a request for in-  
21 formation or other mechanisms deter-  
22 mined appropriate.

23 “(12) TECHNICAL ASSISTANCE TO SMALL  
24 PRACTICES AND PRACTICES IN HEALTH PRO-  
25 FESSIONAL SHORTAGE AREAS.—

1           “(A) IN GENERAL.—The Secretary  
2 shall enter into contracts or agree-  
3 ments with appropriate entities (such  
4 as quality improvement organiza-  
5 tions, regional extension centers (as  
6 described in section 3012(c) of the  
7 Public Health Service Act), or re-  
8 gional health collaboratives) to offer  
9 guidance and assistance to VBP eligi-  
10 ble professionals in practices of fewer  
11 than 20 professionals (with priority  
12 given to such practices located in  
13 rural areas, health professional short-  
14 age areas (as designated under in sec-  
15 tion 332(a)(1)(A) of the Public Health  
16 Service Act), or practices with low  
17 composite scores) with respect to—

18           “(i) the performance cat-  
19 egories described in clauses (i)  
20 through (iv) of paragraph (2)(A);  
21 or

22           “(ii) how to transition to the  
23 implementation of and participa-  
24 tion in an alternative payment

1           model as described in section  
2           1833(z)(3)(C).

3           “(B) FUNDING FOR IMPLEMENTA-  
4           TION.—For purposes of implementing  
5           subparagraph (A), the Secretary shall  
6           provide for the transfer from the Fed-  
7           eral Supplementary Medical Insur-  
8           ance Trust Fund established under  
9           section 1841 to the Centers for Medi-  
10          care & Medicaid Services Program  
11          Management Account of \$50,000,000  
12          for each of fiscal years 2014 through  
13          2018. Amounts transferred under this  
14          subparagraph for a fiscal year shall  
15          be available until expended.

16          “(13) FEEDBACK AND INFORMATION TO  
17          IMPROVE PERFORMANCE.—

18                 “(A) PERFORMANCE FEEDBACK.—

19                         “(i) IN GENERAL.—Beginning  
20                         July 1, 2015, the Secretary—

21                                 “(I) shall make available  
22                                 timely (such as quarterly)  
23                                 confidential feedback to each  
24                                 VBP eligible professional on  
25                                 the performance of such pro-

1           fessional with respect to the  
2           performance categories under  
3           clauses (i) and (ii) of para-  
4           graph (2)(A); and

5           “(II) may make available  
6           confidential feedback to each  
7           such professional on the per-  
8           formance of such professional  
9           with respect to the perform-  
10          ance categories under clauses  
11          (iii) and (iv) of such para-  
12          graph.

13          “(ii) MECHANISMS.—The Sec-  
14          retary may use one or more mech-  
15          anisms to make feedback avail-  
16          able under clause (i), which may  
17          include use of a web-based portal  
18          or other mechanisms determined  
19          appropriate by the Secretary. The  
20          Secretary shall encourage provi-  
21          sion of feedback through quali-  
22          fied clinical data registries as de-  
23          scribed in subsection (m)(3)(E)).

24          “(iii) USE OF DATA.—For pur-  
25          poses of clause (i), the Secretary

1           may use data, with respect to a  
2           VBP eligible professional, from  
3           periods prior to the current per-  
4           formance period and may use  
5           rolling periods in order to make  
6           illustrative calculations about the  
7           performance of such professional.

8           “(iv) DISCLOSURE EXEMPTION.—  
9           Feedback made available under  
10          this subparagraph shall be ex-  
11          empt from disclosure under sec-  
12          tion 552 of title 5, United States  
13          Code.

14          “(v) RECEIPT OF INFORMA-  
15          TION.—The Secretary may use the  
16          mechanisms established under  
17          clause (ii) to receive information  
18          from professionals, such as infor-  
19          mation with respect to this sub-  
20          section.

21          “(B) ADDITIONAL INFORMATION.—

22               “(i) IN GENERAL.—Beginning  
23               July 1, 2016, the Secretary shall  
24               make available to each VBP eligi-  
25               ble professional information, with

1           respect to individuals who are pa-  
2           tients of such VBP eligible profes-  
3           sional, about items and services  
4           for which payment is made under  
5           this title that are furnished to  
6           such individuals by other sup-  
7           pliers and providers of services,  
8           which may include information  
9           described in clause (ii). Such in-  
10          formation shall be made available  
11          under the previous sentence to  
12          such VBP eligible professionals  
13          by mechanisms determined ap-  
14          propriate by the Secretary, which  
15          may include use of a web-based  
16          portal. Such information shall be  
17          made available in accordance  
18          with the same or similar terms as  
19          data are made available to ac-  
20          countable care organizations  
21          under section 1899, including a  
22          beneficiary opt-out.

23               “(ii) TYPE OF INFORMATION.—  
24               For purposes of clause (i), the in-



1           **formation described in this**  
2           **clause, is the following:**

3                   **“(I) With respect to se-**  
4                   **lected items and services (as**  
5                   **determined appropriate by**  
6                   **the Secretary) for which pay-**  
7                   **ment is made under this title**  
8                   **and that are furnished to indi-**  
9                   **viduals, who are patients of a**  
10                  **VBP eligible professional, by**  
11                  **another supplier or provider**  
12                  **of services during the most re-**  
13                  **cent period for which data**  
14                  **are available (such as the**  
15                  **most recent three-month pe-**  
16                  **riod), the name of such pro-**  
17                  **viders furnishing such items**  
18                  **and services to such patients**  
19                  **during such period, the types**  
20                  **of such items and services so**  
21                  **furnished, and the dates such**  
22                  **items and services were so**  
23                  **furnished.**

24                  **“(II) Historical averages**  
25                  **(and other measures of the**

1 distribution if appropriate) of  
2 the total, and components of,  
3 allowed charges (and other  
4 figures as determined appro-  
5 priate by the Secretary) for  
6 care episodes for such period.

7 **“(14) REVIEW.—**

8 **“(A) TARGETED REVIEW.—The Sec-**  
9 **retary shall establish a process under**  
10 **which a VBP eligible professional**  
11 **may seek an informal review of the**  
12 **calculation of the VBP program in-**  
13 **centive payment adjustment factor**  
14 **applicable to such eligible profes-**  
15 **sional under this subsection for a**  
16 **year. The results of a review con-**  
17 **ducted pursuant to the previous sen-**  
18 **tence shall not be taken into account**  
19 **for purposes of paragraph (7) with re-**  
20 **spect to a year (other than with re-**  
21 **spect to the calculation of such eligi-**  
22 **ble professional’s VBP program in-**  
23 **centive payment adjustment factor**  
24 **for such year) after the factors deter-**  
25 **mined in subparagraph (A) of such**

1 paragraph have been determined for  
2 such year.

3 “(B) LIMITATION.—Except as pro-  
4 vided for in subparagraph (A), there  
5 shall be no administrative or judicial  
6 review under section 1869, section  
7 1878, or otherwise of the following:

8 “(i) The methodology used to  
9 determine the amount of the VBP  
10 program incentive payment ad-  
11 justment factor under paragraph  
12 (7) and the determination of such  
13 amount.

14 “(ii) The determination of the  
15 amount of funding available for  
16 such VBP program incentive pay-  
17 ments under paragraph (6)(A) and  
18 the payment reduction under  
19 paragraph (6)(B)(i).

20 “(iii) The establishment of the  
21 performance standards under  
22 paragraph (3) and the perform-  
23 ance period under paragraph (4).

24 “(iv) The identification of  
25 measures and activities specified

1           under paragraph (2)(B) and infor-  
2           mation made public or posted on  
3           the Physician Compare Internet  
4           website of the Centers for Medi-  
5           care & Medicaid Services under  
6           paragraph (10).

7           “(v) The methodology devel-  
8           oped under paragraph (5) that is  
9           used to calculate performance  
10          scores and the calculation of such  
11          scores, including the weighting of  
12          measures and activities under  
13          such methodology.”.

14       **(2) GAO REPORTS.—**

15           **(A) EVALUATION OF ELIGIBLE PRO-**  
16       **FESSIONAL VBP PROGRAM.—**Not later  
17       than October 1, 2018, and October 1,  
18       2021, the Comptroller General of the  
19       United States shall submit to Con-  
20       gress a report evaluating the eligible  
21       professional value-based performance  
22       incentive program under subsection  
23       (q) of section 1848 of the Social Secu-  
24       rity Act (42 U.S.C. 1395w–4), as added  
25       by paragraph (1). Such report shall—

1           **(i) examine the distribution of**  
2           **the performance and incentive**  
3           **payments for VBP eligible profes-**  
4           **sionals (as defined in subsection**  
5           **(q)(1)(C) of such section) under**  
6           **such program, and patterns relat-**  
7           **ing to such performance and in-**  
8           **centive payments, including**  
9           **based on type of provider, prac-**  
10          **tice size, geographic location, and**  
11          **patient mix; and**

12          **(ii) provide recommendations**  
13          **for improving such program.**

14          **(B) STUDY TO EXAMINE ALIGNMENT**  
15          **OF QUALITY MEASURES USED IN PUBLIC**  
16          **AND PRIVATE PROGRAMS.—Not later**  
17          **than 18 months after the date of the**  
18          **enactment of this Act, the Comp-**  
19          **troller General of the United States**  
20          **shall submit to Congress a report**  
21          **that—**

22               **(i) compares the similarities**  
23               **and differences in the use of qual-**  
24               **ity measures under the original**  
25               **medicare fee-for-service program**

1 under parts A and B of title XVIII  
2 of the Social Security Act, the  
3 Medicare Advantage program  
4 under part C of such title, and  
5 private payer arrangements; and

6 (ii) makes recommendations  
7 on how to reduce the administra-  
8 tive burden involved in applying  
9 such quality measures.

10 (3) FUNDING FOR IMPLEMENTATION.—

11 For purposes of implementing the provi-  
12 sions of and the amendments made by  
13 this section, the Secretary of Health and  
14 Human Services shall provide for the  
15 transfer of \$50,000,000 from the Supple-  
16 mentary Medical Insurance Trust Fund  
17 established under section 1841 of the So-  
18 cial Security Act (42 U.S.C. 1395t) to the  
19 Centers for Medicare & Medicaid Pro-  
20 gram Management Account for each of  
21 the fiscal years 2014 through 2017.  
22 Amounts transferred under this para-  
23 graph shall be available until expended.

24 (d) IMPROVING QUALITY REPORTING FOR  
25 COMPOSITE SCORES.—

1           **(1) CHANGES FOR GROUP REPORTING OP-**  
2           **TION.—**

3                   **(A)           IN           GENERAL.—Section**  
4           **1848(m)(3)(C)(ii)) of the Social Secu-**  
5           **rity Act (42 U.S.C. 1395w-**  
6           **4(m)(3)(C)(ii)) is amended by insert-**  
7           **ing “and, for 2014 and subsequent**  
8           **years, may provide” after “shall pro-**  
9           **vide”.**

10                   **(B) CLARIFICATION OF QUALIFIED**  
11           **CLINICAL DATA REGISTRY REPORTING TO**  
12           **GROUP                   PRACTICES.—Section**  
13           **1848(m)(3)(D) of the Social Security**  
14           **Act (42 U.S.C. 1395w-4(m)(3)(D)) is**  
15           **amended by inserting “and, for 2015**  
16           **and subsequent years, subparagraph**  
17           **(A) or (C)” after “subparagraph (A)”.**

18           **(2) CHANGES FOR MULTIPLE REPORTING**  
19           **PERIODS AND ALTERNATIVE CRITERIA FOR**  
20           **SATISFACTORY                   REPORTING.—Section**  
21           **1848(m)(5)(F)) of the Social Security Act**  
22           **(42 U.S.C. 1395w-4(m)(5)(F)) is amended—**

23                   **(A) by striking “and subsequent**  
24           **years” and inserting “through report-**  
25           **ing periods occurring in 2013”; and**

1           **(B) by inserting “and, for report-**  
2           **ing periods occurring in 2014 and**  
3           **subsequent years, the Secretary may**  
4           **establish” following “shall establish”.**

5           **(3) PHYSICIAN FEEDBACK PROGRAM RE-**  
6           **PORTS SUCCEEDED BY REPORTS UNDER VBP**  
7           **PROGRAM.—Section 1848(n) of the Social**  
8           **Security Act (42 U.S.C. 1395w–4(n)) is**  
9           **amended by adding at the end the fol-**  
10          **lowing new paragraph:**

11          **“(11) REPORTS ENDING WITH 2016.—Re-**  
12          **ports under the Program shall not be**  
13          **provided after December 31, 2016. See**  
14          **subsection (q)(13) for reports beginning**  
15          **with 2017.”.**

16          **(4) COORDINATION WITH SATISFYING**  
17          **MEANINGFUL EHR USE CLINICAL QUALITY**  
18          **MEASURE REPORTING REQUIREMENT.—Sec-**  
19          **tion 1848(o)(2)(A)(iii) of the Social Secu-**  
20          **urity Act (42 U.S.C. 1395w–4(o)(2)(A)(iii)) is**  
21          **amended by inserting “and subsection**  
22          **(q)(5)(C)(ii)(II)” after “Subject to subpara-**  
23          **graph (B)(ii)”.**

24          **(e) PROMOTING ALTERNATIVE PAYMENT**  
25          **MODELS.—**



1           **(1) INCENTIVE PAYMENTS FOR PARTICI-**  
2           **PATION IN ELIGIBLE ALTERNATIVE PAYMENT**  
3           **MODELS.—Section 1833 of the Social Secu-**  
4           **urity Act (42 U.S.C. 1395l) is amended by**  
5           **adding at the end the following new sub-**  
6           **section:**

7           **“(z) INCENTIVE PAYMENTS FOR PARTICIPA-**  
8           **TION IN ELIGIBLE ALTERNATIVE PAYMENT MOD-**  
9           **ELS.—**

10           **“(1) PAYMENT INCENTIVE.—**

11                   **“(A) IN GENERAL.—In the case of**  
12                   **covered professional services fur-**  
13                   **nished by an eligible professional**  
14                   **during a year that is in the period be-**  
15                   **ginning with 2017 and ending with**  
16                   **2022 and for which the professional is**  
17                   **a qualifying APM participant, in addi-**  
18                   **tion to the amount of payment that**  
19                   **would otherwise be made for such**  
20                   **covered professional services under**  
21                   **this part for such year, there also**  
22                   **shall be paid to such professional an**  
23                   **amount equal to 5 percent of the pay-**  
24                   **ment amount for the covered profes-**  
25                   **sional services under this part for the**

1 preceding year. For purposes of the  
2 previous sentence, the payment  
3 amount for the preceding year may  
4 be an estimation for the full pre-  
5 ceding year based on a period of such  
6 preceding year that is less than the  
7 full year. The Secretary shall estab-  
8 lish policies to implement this sub-  
9 paragraph in cases where payment  
10 for covered professional services fur-  
11 nished by a qualifying APM partici-  
12 pant in an alternative payment model  
13 is made to an entity participating in  
14 the alternative payment model rather  
15 than directly to the qualifying APM  
16 participant.

17 “(B) FORM OF PAYMENT.—Payments  
18 under this subsection shall be made  
19 in a lump sum, on an annual basis, as  
20 soon as practicable.

21 “(C) TREATMENT OF PAYMENT IN-  
22 CENTIVE.—Payments under this sub-  
23 section shall not be taken into ac-  
24 count for purposes of determining ac-  
25 tual expenditures under an alter-

1        native payment model and for pur-  
2        poses of determining or rebasing any  
3        benchmarks used under the alter-  
4        native payment model.

5        “(D) COORDINATION.—The amount  
6        of the additional payment for an item  
7        or service under this subsection or  
8        subsection (m) shall be determined  
9        without regard to any additional pay-  
10       ment for the item or service under  
11       subsection (m) and this subsection,  
12       respectively. The amount of the addi-  
13       tional payment for an item or service  
14       under this subsection or subsection  
15       (x) shall be determined without re-  
16       gard to any additional payment for  
17       the item or service under subsection  
18       (x) and this subsection, respectively.  
19       The amount of the additional pay-  
20       ment for an item or service under  
21       this subsection or subsection (y) shall  
22       be determined without regard to any  
23       additional payment for the item or  
24       service under subsection (y) and this  
25       subsection, respectively.

1           **“(2) QUALIFYING APM PARTICIPANT.—**  
2           **For purposes of this subsection, the term**  
3           **‘qualifying APM participant’ means the**  
4           **following:**

5                   **“(A) 2017 AND 2018.—With respect**  
6                   **to 2017 and 2018, an eligible profes-**  
7                   **sional for whom the Secretary deter-**  
8                   **mines that at least 25 percent of pay-**  
9                   **ments under this part for covered**  
10                  **professional services furnished by**  
11                  **such professional during the most re-**  
12                  **cent period for which data are avail-**  
13                  **able (which may be less than a year)**  
14                  **were attributable to such services**  
15                  **furnished under this part through an**  
16                  **entity that participates in an eligible**  
17                  **alternative payment model with re-**  
18                  **spect to such services.**

19                  **“(B) 2019 AND 2020.—With respect**  
20                  **to 2019 and 2020, an eligible profes-**  
21                  **sional described in either of the fol-**  
22                  **lowing clauses:**

23                          **“(i) MEDICARE REVENUE**  
24                          **THRESHOLD OPTION.—An eligible**  
25                          **professional for whom the Sec-**

1           retary determines that at least 50  
2           percent of payments under this  
3           part for covered professional  
4           services furnished by such profes-  
5           sional during the most recent pe-  
6           riod for which data are available  
7           (which may be less than a year)  
8           were attributable to such services  
9           furnished under this part through  
10          an entity that participates in an  
11          eligible alternative payment  
12          model with respect to such serv-  
13          ices.

14               “(ii) COMBINATION ALL-PAYER  
15               AND MEDICARE REVENUE THRESHOLD  
16               OPTION.—An eligible profes-  
17               sional—

18                       “(I) for whom the Sec-  
19                       retary determines, with re-  
20                       spect to items and services  
21                       furnished by such profes-  
22                       sional during the most recent  
23                       period for which data are  
24                       available (which may be less

1           **than a year), that at least 50**  
2           **percent of the sum of—**

3                   **“(aa) payments de-**  
4                   **scribed in clause (i); and**

5                   **“(bb) all other pay-**  
6                   **ments, regardless of payer**  
7                   **(other than payments**  
8                   **made by the Secretary of**  
9                   **Defense or the Secretary**  
10                  **of Veterans Affairs under**  
11                  **chapter 55 of title 10,**  
12                  **United States Code, or**  
13                  **title 38, United States**  
14                  **Code, or any other provi-**  
15                  **sion of law),**

16           **meet the requirement de-**  
17           **scribed in clause (iii)(I) with**  
18           **respect to payments described**  
19           **in item (aa) and meet the re-**  
20           **quirement described in clause**  
21           **(iii)(II) with respect to pay-**  
22           **ments described in item (bb);**

23                   **“(II) for whom the Sec-**  
24                   **retary determines at least 25**  
25                   **percent of payments under**

1           this part for covered profes-  
2           sional services furnished by  
3           such professional during the  
4           most recent period for which  
5           data are available (which may  
6           be less than a year) were at-  
7           tributable to such services  
8           furnished under this part  
9           through an entity that partici-  
10          pates in an eligible alter-  
11          native payment model with  
12          respect to such services; and

13               “(III) who provides to the  
14          Secretary such information as  
15          is necessary for the Secretary  
16          to make a determination  
17          under subclause (I), with re-  
18          spect to such professional.

19               “(iii) REQUIREMENT.—For pur-  
20          poses of clause (ii)(I)—

21                   “(I) the requirement de-  
22                  scribed in this subclause, with  
23                  respect to payments described  
24                  in item (aa) of such clause, is  
25                  that such payments are made

1           under an eligible alternative  
2           payment model; and

3           “(II) the requirement de-  
4           scribed in this subclause, with  
5           respect to payments described  
6           in item (bb) of such clause, is  
7           that such payments are made  
8           under an arrangement in  
9           which—

10           “(aa) quality measures  
11           comparable to measures  
12           under the performance  
13           category described in sec-  
14           tion 1848(q)(2)(B)(i) apply;

15           “(bb) certified EHR  
16           technology is used; and

17           “(cc) the eligible pro-  
18           fessional bears more than  
19           nominal financial risk if  
20           actual aggregate expendi-  
21           tures exceeds expected ag-  
22           gregate expenditures.

23           “(C) BEGINNING IN 2021.—With re-  
24           spect to 2021 and each subsequent  
25           year, an eligible professional de-



1           scribed in either of the following  
2           clauses:

3                   “(i)       MEDICARE       REVENUE  
4                   THRESHOLD   OPTION.—An eligible  
5                   professional for whom the Sec-  
6                   retary determines that at least 75  
7                   percent of payments under this  
8                   part for covered professional  
9                   services furnished by such profes-  
10                  sional during the most recent pe-  
11                  riod for which data are available  
12                  (which may be less than a year)  
13                  were attributable to such services  
14                  furnished under this part through  
15                  an entity that participates in an  
16                  eligible    alternative    payment  
17                  model with respect to such serv-  
18                  ices.

19                   “(ii)   COMBINATION   ALL-PAYER  
20                   AND MEDICARE REVENUE THRESHOLD  
21                   OPTION.—An    eligible    profes-  
22                   sional—

23                           “(I) for whom the Sec-  
24                           retary determines, with re-  
25                           spect to items and services

1 furnished by such profes-  
2 sional during the most recent  
3 period for which data are  
4 available (which may be less  
5 than a year), that at least 75  
6 percent of the sum of—

7 “(aa) payments de-  
8 scribed in clause (i); and

9 “(bb) all other pay-  
10 ments, regardless of payer  
11 (other than payments  
12 made by the Secretary of  
13 Defense or the Secretary  
14 of Veterans Affairs under  
15 chapter 55 of title 10,  
16 United States Code, or  
17 title 38, United States  
18 Code, or any other provi-  
19 sion of law),

20 meet the requirement de-  
21 scribed in clause (iii)(I) with  
22 respect to payments described  
23 in item (aa) and meet the re-  
24 quirement described in clause

1 (iii)(II) with respect to pay-  
2 ments described in item (bb);

3 “(II) for whom the Sec-  
4 retary determines at least 25  
5 percent of payments under  
6 this part for covered profes-  
7 sional services furnished by  
8 such professional during the  
9 most recent period for which  
10 data are available (which may  
11 be less than a year) were at-  
12 tributable to such services  
13 furnished under this part  
14 through an entity that partici-  
15 pates in an eligible alter-  
16 native payment model with  
17 respect to such services; and

18 “(III) who provides to the  
19 Secretary such information as  
20 is necessary for the Secretary  
21 to make a determination  
22 under subclause (I), with re-  
23 spect to such professional.

24 “(iii) REQUIREMENT.—For pur-  
25 poses of clause (ii)(I)—

1           **“(I) the requirement de-**  
2           **scribed in this subclause, with**  
3           **respect to payments described**  
4           **in item (aa) of such clause, is**  
5           **that such payments are made**  
6           **under an eligible alternative**  
7           **payment model; and**

8           **“(II) the requirement de-**  
9           **scribed in this subclause, with**  
10          **respect to payments described**  
11          **in item (bb) of such clause, is**  
12          **that such payments are made**  
13          **under an arrangement in**  
14          **which—**

15               **“(aa) quality measures**  
16               **comparable to measures**  
17               **under the performance**  
18               **category described in sec-**  
19               **tion 1848(q)(2)(B)(i) apply;**

20               **“(bb) certified EHR**  
21               **technology is used; and**

22               **“(cc) the eligible pro-**  
23               **fessional bears more than**  
24               **nominal financial risk if**  
25               **actual aggregate expendi-**

1                   tures exceeds expected ag-  
2                   gregate expenditures.

3                   “(2) **ADDITIONAL DEFINITIONS.—In this**  
4                   **subsection:**

5                   “(A) **COVERED PROFESSIONAL SERV-**  
6                   **ICES.—The term ‘covered professional**  
7                   **services’ has the meaning given that**  
8                   **term in section 1848(k)(3)(A).**

9                   “(B) **ELIGIBLE PROFESSIONAL.—The**  
10                  **term ‘eligible professional’ has the**  
11                  **meaning given that term in section**  
12                  **1848(k)(3)(B).**

13                  “(C) **ALTERNATIVE PAYMENT MODEL**  
14                  **(APM).—The term ‘alternative payment**  
15                  **model’ means any of the following:**

16                  “(i) **A model under section**  
17                  **1115A (other than a health care**  
18                  **innovation award).**

19                  “(ii) **An accountable care or-**  
20                  **ganization under section 1899.**

21                  “(iii) **A demonstration under**  
22                  **section 1866C.**

23                  “(iv) **A demonstration re-**  
24                  **quired by Federal law.**

1           **“(D) ELIGIBLE ALTERNATIVE PAY-**  
2           **MENT MODEL (APM).—**

3           **“(i) IN GENERAL.—The term ‘el-**  
4           **igible alternative payment model’**  
5           **means, with respect to a year, an**  
6           **alternative payment model—**

7           **“(I) that requires use of**  
8           **certified EHR technology (as**  
9           **defined in subsection (o)(4));**

10          **“(II) that provides for pay-**  
11          **ment for covered professional**  
12          **services based on quality**  
13          **measures comparable to**  
14          **measures under the perform-**  
15          **ance category described in**  
16          **section 1848(q)(2)(B)(i); and**

17          **“(III) that satisfies the re-**  
18          **quirement described in clause**  
19          **(ii).**

20          **“(ii) ADDITIONAL REQUIRE-**  
21          **MENT.—For purposes of clause**  
22          **(i)(III), the requirement described**  
23          **in this clause, with respect to a**  
24          **year and an alternative payment**

1           **model, is that the alternative pay-**  
2           **ment model—**

3                   **“(I) is one in which one or**  
4                   **more entities bear financial**  
5                   **risk for monetary losses**  
6                   **under such model that are in**  
7                   **excess of a nominal amount;**  
8                   **or**

9                   **“(II) is a medical home ex-**  
10                   **panded under section**  
11                   **1115A(c).**

12           **“(3) LIMITATION.—There shall be no**  
13           **administrative or judicial review under**  
14           **section 1869, 1878, or otherwise, of the**  
15           **following:**

16                   **“(A) The determination that an el-**  
17                   **igible professional is a qualifying**  
18                   **APM participant under paragraph (2)**  
19                   **and the determination that an alter-**  
20                   **native payment model is an eligible**  
21                   **alternative payment model under**  
22                   **paragraph (3)(D).**

23                   **“(B) The determination of the**  
24                   **amount of the 5 percent payment in-**  
25                   **centive under paragraph (1)(A), in-**

1           cluding any estimation as part of  
2           such determination.”.

3           (2) COORDINATION CONFORMING AMEND-  
4           MENTS.—Section 1833 of the Social Secu-  
5           rity Act (42 U.S.C. 1395l) is further  
6           amended—

7                   (A) in subsection (x)(3), by adding  
8                   at the end the following new sen-  
9                   tence: “The amount of the additional  
10                  payment for a service under this sub-  
11                  section and subsection (z) shall be de-  
12                  termined without regard to any addi-  
13                  tional payment for the service under  
14                  subsection (z) and this subsection, re-  
15                  spectively.”; and

16                  (B) in subsection (y)(3), by adding  
17                  at the end the following new sen-  
18                  tence: “The amount of the additional  
19                  payment for a service under this sub-  
20                  section and subsection (z) shall be de-  
21                  termined without regard to any addi-  
22                  tional payment for the service under  
23                  subsection (z) and this subsection, re-  
24                  spectively.”.



1           **(3) ENCOURAGING DEVELOPMENT AND**  
2           **TESTING OF CERTAIN MODELS.—Section**  
3           **1115A(b)(2) of the Social Security Act (42**  
4           **U.S.C. 1315a(b)(2)) is amended—**

5                   **(A) in subparagraph (B), by add-**  
6                   **ing at the end the following new**  
7                   **clauses:**

8                           **“(xxi) Focusing primarily on**  
9                           **physicians’ services (as defined in**  
10                           **section 1848(j)(3)) furnished by**  
11                           **physicians who are not primary**  
12                           **care practitioners.**

13                           **“(xxii) Focusing on practices**  
14                           **of fewer than 20 professionals.”;**  
15                           **and**

16                           **(B) in subparagraph (C)(viii), by**  
17                           **striking “other public sector or pri-**  
18                           **vate sector payers” and inserting**  
19                           **“other public sector payers, private**  
20                           **sector payers, or Statewide payment**  
21                           **models”.**

22           **(f) STUDY AND REPORT ON FRAUD RELATED**  
23           **TO ALTERNATIVE PAYMENT MODELS UNDER THE**  
24           **MEDICARE PROGRAM.—**

1           **(1) STUDY.—The Secretary of Health**  
2           **and Human Services, in consultation**  
3           **with the Inspector General of the Depart-**  
4           **ment of Health and Human Services,**  
5           **shall conduct a study that—**

6                   **(A) examines the applicability of**  
7                   **the Federal fraud prevention laws to**  
8                   **items and services furnished under**  
9                   **title XVIII of the Social Security Act**  
10                  **for which payment is made under an**  
11                  **alternative payment model (as de-**  
12                  **finied in section 1833(z)(3)(C) of such**  
13                  **Act (42 U.S.C. 1395l(z)(3)(C))));**

14                  **(B) identifies aspects of such al-**  
15                  **ternative payment models that are**  
16                  **vulnerable to fraudulent activity; and**

17                  **(C) examines the implications of**  
18                  **waivers to such laws granted in sup-**  
19                  **port of such alternative payment**  
20                  **models, including under any poten-**  
21                  **tial expansion of such models.**

22           **(2) REPORT.—Not later than 2 years**  
23           **after the date of the enactment of this**  
24           **Act, the Secretary shall submit to Con-**  
25           **gress a report containing the results of**

1     **the study conducted under paragraph (1).**  
2     **Such report shall include recommenda-**  
3     **tions for actions to be taken to reduce**  
4     **the vulnerability of such alternative pay-**  
5     **ment models to fraudulent activity. Such**  
6     **report also shall include, as appropriate,**  
7     **recommendations of the Inspector Gen-**  
8     **eral for changes in Federal fraud preven-**  
9     **tion laws to reduce such vulnerability.**

10    **(g) IMPROVING PAYMENT ACCURACY.—**

11         **(1) STUDIES AND REPORTS OF EFFECT OF**  
12         **CERTAIN INFORMATION ON QUALITY AND RE-**  
13         **SOURCE USE .—**

14                 **(A) STUDY USING EXISTING MEDI-**  
15                 **CARE DATA.—**

16                         **(i) STUDY.—The Secretary of**  
17                         **Health and Human Services (in**  
18                         **this subsection referred to as the**  
19                         **“Secretary”) shall conduct a study**  
20                         **that examines the effect of indi-**  
21                         **viduals’ socioeconomic status on**  
22                         **quality and resource use outcome**  
23                         **measures for individuals under**  
24                         **the Medicare program (such as to**  
25                         **recognize that less healthy indi-**

1           viduals may require more inten-  
2           sive interventions). The study  
3           shall use information collected on  
4           such individuals in carrying out  
5           such program, such as urban and  
6           rural location, eligibility for Med-  
7           icaid (recognizing and accounting  
8           for varying Medicaid eligibility  
9           across States), and eligibility for  
10          benefits under the supplemental  
11          security income (SSI) program.  
12          The Secretary shall carry out this  
13          paragraph acting through the As-  
14          sistant Secretary for Planning  
15          and Evaluation.

16               (ii) REPORT.—Not later than 2  
17          years after the date of the enact-  
18          ment of this Act, the Secretary  
19          shall submit to Congress a report  
20          on the study conducted under  
21          clause (i).

22          **(B) STUDY USING OTHER DATA.—**

23               (i) STUDY.—The Secretary  
24          shall conduct a study that exam-  
25          ines the impact of risk factors,

1           such as those described in section  
2           1848(p)(3) of the Social Security  
3           Act (42 U.S.C. 1395w-4(p)(3)), race,  
4           health literacy, limited English  
5           proficiency (LEP), and patient ac-  
6           tivation, on quality and resource  
7           use outcome measures under the  
8           Medicare program (such as to rec-  
9           ognize that less healthy individ-  
10          uals may require more intensive  
11          interventions). In conducting  
12          such study the Secretary may use  
13          existing Federal data and collect  
14          such additional data as may be  
15          necessary to complete the study.

16               (ii) REPORT.—Not later than 5  
17          years after the date of the enact-  
18          ment of this Act, the Secretary  
19          shall submit to Congress a report  
20          on the study conducted under  
21          clause (i).

22               (C) EXAMINATION OF DATA IN CON-  
23          DUCTING STUDIES.—In conducting the  
24          studies under subparagraphs (A) and  
25          (B), the Secretary shall examine what

1 non-Medicare data sets, such as data  
2 from the American Community Sur-  
3 vey (ACS), can be useful in con-  
4 ducting the types of studies under  
5 such paragraphs and how such data  
6 sets that are identified as useful can  
7 be coordinated with Medicare admin-  
8 istrative data in order to improve the  
9 overall data set available to do such  
10 studies and for the administration of  
11 the Medicare program.

12 (D) RECOMMENDATIONS TO ACCOUNT  
13 FOR INFORMATION IN PAYMENT ADJUST-  
14 MENT MECHANISMS.—If the studies con-  
15 ducted under subparagraphs (A) and  
16 (B) find a relationship between the  
17 factors examined in the studies and  
18 quality and resource use outcome  
19 measures, then the Secretary shall  
20 also provide recommendations for  
21 how the Centers for Medicare & Med-  
22 icaid Services should—

23 (i) obtain access to the nec-  
24 essary data (if such data is not al-  
25 ready being collected) on such

1 factors, including recommenda-  
2 tions on how to address barriers  
3 to the Centers in accessing such  
4 data; and

5 (ii) account for such factors in  
6 determining payment adjust-  
7 ments based on quality and re-  
8 source use outcome measures  
9 under the eligible professional  
10 value-based performance incen-  
11 tive program under section  
12 1848(q) of the Social Security Act  
13 (42 U.S.C. 1395w-4(q)) and, as the  
14 Secretary determines appro-  
15 priate, other similar provisions of  
16 title XVIII of such Act.

17 (E) FUNDING.—There are hereby  
18 appropriated from the Federal Sup-  
19 plemental Medical Insurance Trust  
20 Fund to the Secretary to carry out  
21 this paragraph \$6,000,000, to remain  
22 available until expended.

23 (2) CMS ACTIVITIES.—

24 (A) HIERARCHAL CONDITION CAT-  
25 EGORY (HCC) IMPROVEMENT.—Taking

1       into account the relevant studies con-  
2       ducted and recommendations made  
3       in reports under paragraph (1), the  
4       Secretary, on an ongoing basis, shall  
5       estimate how an individual's health  
6       status and other risk factors affect  
7       quality and resource use outcome  
8       measures and, as feasible, shall incor-  
9       porate information from quality and  
10      resource use outcome measurement  
11      (including care episode and patient  
12      condition groups) into the eligible  
13      professional value-based performance  
14      incentive program under section  
15      1848(q) of the Social Security Act and,  
16      as the Secretary determines appro-  
17      priate, other similar provisions of  
18      title XVIII of such Act.

19               **(B) ACCOUNTING FOR OTHER FAC-**  
20      **TORS IN PAYMENT ADJUSTMENT MECHA-**  
21      **NISMS.—**

22               **(i) IN GENERAL.—**Taking into  
23      account the studies conducted  
24      and recommendations made in re-  
25      ports under paragraph (1), the



1           **Secretary shall account for identi-**  
2           **fied factors (other than those ap-**  
3           **plied under subparagraph (A))**  
4           **with an effect on quality and re-**  
5           **source use outcome measures**  
6           **when determining payment ad-**  
7           **justments under the eligible pro-**  
8           **fessional value-based perform-**  
9           **ance incentive program under**  
10          **section 1848(q) of the Social Secu-**  
11          **rity Act and, as the Secretary de-**  
12          **termines appropriate, other simi-**  
13          **lar provisions of title XVIII of**  
14          **such Act.**

15           **(ii) ACCESSING DATA.—The Sec-**  
16           **retary shall collect or otherwise**  
17           **obtain access to the data nec-**  
18           **essary to carry out this para-**  
19           **graph through existing and new**  
20           **data sources.**

21           **(iii) PERIODIC ANALYSES.—The**  
22           **Secretary shall carry out periodic**  
23           **analyses, at least every 3 years,**  
24           **based on the factors referred to in**

1           **clause (i) so as to monitor**  
2           **changes in possible relationships.**

3           **(C) FUNDING.—There are hereby**  
4           **appropriated from the Federal Sup-**  
5           **plemental Medical Insurance Trust**  
6           **Fund to the Secretary to carry out**  
7           **this paragraph \$10,000,000, to remain**  
8           **available until expended.**

9           **(3) STRATEGIC PLAN FOR ACCESSING**  
10          **RACE AND ETHNICITY DATA.—Not later than**  
11          **18 months after the date of the enactment**  
12          **of this Act, the Secretary shall develop**  
13          **and report to Congress on a strategic**  
14          **plan for collecting or otherwise accessing**  
15          **data on race and ethnicity for purposes**  
16          **of carrying out the eligible professional**  
17          **value-based performance incentive pro-**  
18          **gram under section 1848(q) of the Social**  
19          **Security Act and, as the Secretary deter-**  
20          **mines appropriate, other similar provi-**  
21          **sions of title XVIII of such Act.**

22          **(h) COLLABORATING WITH THE PHYSICIAN,**  
23          **PRACTITIONER, AND OTHER STAKEHOLDER COM-**  
24          **MUNITIES TO IMPROVE RESOURCE USE MEASURE-**  
25          **MENT.—Section 1848 of the Social Security Act**

1 (42 U.S.C. 1395w-4), as amended by subsection  
2 (c), is further amended by adding at the end  
3 the following new subsection:

4 “(r) COLLABORATING WITH THE PHYSICIAN,  
5 PRACTITIONER, AND OTHER STAKEHOLDER COM-  
6 MUNITIES TO IMPROVE RESOURCE USE MEASURE-  
7 MENT.—

8 “(1) IN GENERAL.—In order to involve  
9 the physician, practitioner, and other  
10 stakeholder communities in enhancing  
11 the infrastructure for resource use meas-  
12 urement, including for purposes of the  
13 value-based performance incentive pro-  
14 gram under subsection (q) and alter-  
15 native payment models under section  
16 1833(z), the Secretary shall undertake the  
17 steps described in the succeeding provi-  
18 sions of this subsection.

19 “(2) DEVELOPMENT OF CARE EPISODE  
20 AND PATIENT CONDITION GROUPS AND CLAS-  
21 SIFICATION CODES.—

22 “(A) IN GENERAL.—In order to clas-  
23 sify similar patients into distinct care  
24 episode groups and distinct patient  
25 condition groups, the Secretary shall

1 undertake the steps described in the  
2 succeeding provisions of this para-  
3 graph.

4 “(B) PUBLIC AVAILABILITY OF EXIST-  
5 ING EFFORTS TO DESIGN AN EPISODE  
6 GROUPE.—Not later than 60 days  
7 after the date of the enactment of this  
8 subsection, the Secretary shall post  
9 on the Internet website of the Cen-  
10 ters for Medicare & Medicaid Serv-  
11 ices a list of the episode groups devel-  
12 oped pursuant to subsection (n)(9)(A)  
13 and related descriptive information.

14 “(C) STAKEHOLDER INPUT.—The  
15 Secretary shall accept, through the  
16 date that is 60 days after the day the  
17 Secretary posts the list pursuant to  
18 subparagraph (B), suggestions from  
19 physician specialty societies, applica-  
20 ble practitioner organizations, and  
21 other stakeholders for episode groups  
22 in addition to those posted pursuant  
23 to such subparagraph, and specific  
24 clinical criteria and patient charac-  
25 teristics to classify patients into—

1           “(i) distinct care episode  
2 groups; and

3           “(ii) distinct patient condition  
4 groups.

5           “(D) DEVELOPMENT OF PROPOSED  
6 CLASSIFICATION CODES.—

7           “(i) IN GENERAL.—Taking into  
8 account the information de-  
9 scribed in subparagraph (B) and  
10 the information received under  
11 subparagraph (C), the Secretary  
12 shall—

13           “(I) establish distinct care  
14 episode groups and distinct  
15 patient condition groups,  
16 which account for at least an  
17 estimated two-thirds of ex-  
18 penditures under parts A and  
19 B; and

20           “(II) assign codes to such  
21 groups.

22           “(ii) CARE EPISODE GROUPS.—In  
23 establishing the care episode  
24 groups under clause (i), the Sec-  
25 retary shall take into account—

1           **“(I) the patient’s clinical**  
2           **problems at the time items**  
3           **and services are furnished**  
4           **during an episode of care,**  
5           **such as the clinical conditions**  
6           **or diagnoses, whether or not**  
7           **inpatient hospitalization is**  
8           **anticipated or occurs, and the**  
9           **principal procedures or serv-**  
10          **ices planned or furnished;**  
11          **and**

12           **“(II) other factors deter-**  
13          **mined appropriate by the Sec-**  
14          **retary.**

15           **“(iii) PATIENT CONDITION**  
16          **GROUPS.—In establishing the pa-**  
17          **tient condition groups under**  
18          **clause (i), the Secretary shall take**  
19          **into account—**

20           **“(I) the patient’s clinical**  
21          **history at the time of each**  
22          **medical visit, such as the pa-**  
23          **tient’s combination of chronic**  
24          **conditions, current health sta-**  
25          **tus, and recent significant his-**

1           tory (such as hospitalization  
2           and major surgery during a  
3           previous period, such as 3  
4           months); and

5           “(II) other factors deter-  
6           mined appropriate by the Sec-  
7           retary, such as eligibility sta-  
8           tus under this title (including  
9           eligibility under section  
10          226(a), 226(b), or 226A, and  
11          dual eligibility under this title  
12          and title XIX).

13          “(E) DRAFT CARE EPISODE AND PA-  
14          TIENT CONDITION GROUPS AND CLASSI-  
15          FICATION CODES.—Not later than 120  
16          days after the end of the comment pe-  
17          riod described in subparagraph (C),  
18          the Secretary shall post on the Inter-  
19          net website of the Centers for Medi-  
20          care & Medicaid Services a draft list  
21          of the care episode and patient condi-  
22          tion codes established under subpara-  
23          graph (D) (and the criteria and char-  
24          acteristics assigned to such code).

1           **“(F) SOLICITATION OF INPUT.—The**  
2           **Secretary shall seek, through the date**  
3           **that is 60 days after the Secretary**  
4           **posts the list pursuant to subpara-**  
5           **graph (E), comments from physician**  
6           **specialty societies, applicable practi-**  
7           **tioner organizations, and other stake-**  
8           **holders, including representatives of**  
9           **individuals entitled to benefits under**  
10          **part A or enrolled under this part, re-**  
11          **garding the care episode and patient**  
12          **condition groups (and codes) posted**  
13          **under subparagraph (E). In seeking**  
14          **such comments, the Secretary shall**  
15          **use one or more mechanisms (other**  
16          **than notice and comment rule-**  
17          **making) that may include use of open**  
18          **door forums, town hall meetings, or**  
19          **other appropriate mechanisms.**

20          **“(G) OPERATIONAL LIST OF CARE**  
21          **EPISODE AND PATIENT CONDITION**  
22          **GROUPS AND CODES.—Not later than**  
23          **120 days after the end of the com-**  
24          **ment period described in subpara-**  
25          **graph (F), taking into account the**



1        comments received under such sub-  
2        paragraph, the Secretary shall post  
3        on the Internet website of the Cen-  
4        ters for Medicare & Medicaid Serv-  
5        ices an operational list of care epi-  
6        sode and patient condition codes (and  
7        the criteria and characteristics as-  
8        signed to such code).

9        “(H) SUBSEQUENT REVISIONS.—Not  
10       later than November 1 of each year  
11       (beginning with 2016), the Secretary  
12       shall, through rulemaking, make revi-  
13       sions to the operational lists of care  
14       episode and patient condition codes  
15       as the Secretary determines may be  
16       appropriate. Such revisions may be  
17       based on experience, new information  
18       developed pursuant to subsection  
19       (n)(9)(A), and input from the physi-  
20       cian specialty societies, applicable  
21       practitioner organizations, and other  
22       stakeholders, including representa-  
23       tives of individuals entitled to bene-  
24       fits under part A or enrolled under  
25       this part.

1           **“(3) ATTRIBUTION OF PATIENTS TO PHY-**  
2           **SICIANS OR PRACTITIONERS.—**

3           **“(A) IN GENERAL.—**In order to fa-  
4           **cilitate the attribution of patients**  
5           **and episodes (in whole or in part) to**  
6           **one or more physicians or applicable**  
7           **practitioners furnishing items and**  
8           **services, the Secretary shall under-**  
9           **take the steps described in the suc-**  
10          **ceeding provisions of this paragraph.**

11          **“(B) DEVELOPMENT OF PATIENT RE-**  
12          **LATIONSHIP CATEGORIES AND CODES.—**  
13          **The Secretary shall develop patient**  
14          **relationship categories and codes**  
15          **that define and distinguish the rela-**  
16          **tionship and responsibility of a physi-**  
17          **cian or applicable practitioner with a**  
18          **patient at the time of furnishing an**  
19          **item or service. Such patient relation-**  
20          **ship categories shall include different**  
21          **relationships of the physician or ap-**  
22          **plicable practitioner to the patient**  
23          **(and the codes may reflect combina-**  
24          **tions of such categories), such as a**

1           **physician or applicable practitioner**  
2           **who—**

3                   “(i) considers themselves to have  
4                   the primary responsibility for the  
5                   general and ongoing care for the  
6                   patient over extended periods of  
7                   time;

8                   “(ii) considers themselves to be  
9                   the lead physician or practitioner  
10                  and who furnishes items and  
11                  services and coordinates care fur-  
12                  nished by other physicians or  
13                  practitioners for the patient dur-  
14                  ing an acute episode;

15                  “(iii) furnishes items and serv-  
16                  ices to the patient on a con-  
17                  tinuing basis during an acute epi-  
18                  sode of care, but in a supportive  
19                  rather than a lead role;

20                  “(iv) furnishes items and serv-  
21                  ices to the patient on an occa-  
22                  sional basis, usually at the re-  
23                  quest of another physician or  
24                  practitioner; or

1           “(v) furnishes items and serv-  
2           ices only as ordered by another  
3           physician or practitioner.

4           “(C) DRAFT LIST OF PATIENT RELA-  
5           TIONSHIP CATEGORIES AND CODES.—Not  
6           later than 180 days after the date of  
7           the enactment of this subsection, the  
8           Secretary shall post on the Internet  
9           website of the Centers for Medicare &  
10          Medicaid Services a draft list of the  
11          patient relationship categories and  
12          codes developed under subparagraph  
13          (B).

14          “(D) STAKEHOLDER INPUT.—The  
15          Secretary shall seek, through the date  
16          that is 60 days after the Secretary  
17          posts the list pursuant to subpara-  
18          graph (C), comments from physician  
19          specialty societies, applicable practi-  
20          tioner organizations, and other stake-  
21          holders, including representatives of  
22          individuals entitled to benefits under  
23          part A or enrolled under this part, re-  
24          garding the patient relationship cat-  
25          egories and codes posted under sub-

1 paragraph (C). In seeking such com-  
2 ments, the Secretary shall use one or  
3 more mechanisms (other than notice  
4 and comment rulemaking) that may  
5 include open door forums, town hall  
6 meetings, or other appropriate mech-  
7 anisms.

8 “(E) OPERATIONAL LIST OF PATIENT  
9 RELATIONSHIP CATEGORIES AND  
10 CODES.—Not later than 120 days after  
11 the end of the comment period de-  
12 scribed in subparagraph (D), taking  
13 into account the comments received  
14 under such subparagraph, the Sec-  
15 retary shall post on the Internet  
16 website of the Centers for Medicare &  
17 Medicaid Services an operational list  
18 of patient relationship categories and  
19 codes.

20 “(F) SUBSEQUENT REVISIONS.—Not  
21 later than November 1 of each year  
22 (beginning with 2016), the Secretary  
23 shall, through rulemaking, make revi-  
24 sions to the operational list of patient  
25 relationship categories and codes as

1       the Secretary determines appro-  
2       priate. Such revisions may be based  
3       on experience, new information de-  
4       veloped pursuant to subsection  
5       (n)(9)(A), and input from the physi-  
6       cian specialty societies, applicable  
7       practitioner organizations, and other  
8       stakeholders, including representa-  
9       tives of individuals entitled to bene-  
10      fits under part A or enrolled under  
11      this part.

12       “(4) REPORTING OF INFORMATION FOR  
13      RESOURCE USE MEASUREMENT.—Claims sub-  
14      mitted for items and services furnished  
15      by a physician or applicable practitioner  
16      on or after January 1, 2016, shall, as de-  
17      termined appropriate by the Secretary,  
18      include—

19               “(A) applicable codes established  
20              under paragraphs (2) and (3); and

21               “(B) the national provider identi-  
22              fier of the ordering physician or ap-  
23              plicable practitioner (if different  
24              from the billing physician or applica-  
25              ble practitioner).

1           **“(5) METHODOLOGY FOR RESOURCE USE**  
2           **ANALYSIS.—**

3           **“(A) IN GENERAL.—In order to**  
4           **evaluate the resources used to treat**  
5           **patients (with respect to care episode**  
6           **and patient condition groups), the**  
7           **Secretary shall—**

8                   **“(i) use the patient relation-**  
9                   **ship codes reported on claims**  
10                  **pursuant to paragraph (4) to at-**  
11                  **tribute patients (in whole or in**  
12                  **part) to one or more physicians**  
13                  **and applicable practitioners;**

14                  **“(ii) use the care episode and**  
15                  **patient condition codes reported**  
16                  **on claims pursuant to paragraph**  
17                  **(4) as a basis to compare similar**  
18                  **patients and care episodes and**  
19                  **patient condition groups; and**

20                  **“(iii) conduct an analysis of**  
21                  **resource use (with respect to care**  
22                  **episodes and patient condition**  
23                  **groups of such patients), as the**  
24                  **Secretary determines appro-**  
25                  **priate.**

1           **“(B) ANALYSIS OF PATIENTS OF PHY-**  
2           **SICIANS AND PRACTITIONERS.—In con-**  
3           **ducting the analysis described in sub-**  
4           **paragraph (A)(iii) with respect to pa-**  
5           **tients attributed to physicians and**  
6           **applicable practitioners, the Sec-**  
7           **retary shall, as feasible—**

8                   **“(i) use the claims data expe-**  
9                   **rience of such patients by patient**  
10                  **condition codes during a common**  
11                  **period, such as 12 months; and**

12                  **“(ii) use the claims data expe-**  
13                  **rience of such patients by care**  
14                  **episode codes—**

15                   **“(I) in the case of episodes**  
16                   **without a hospitalization,**  
17                   **during periods of time (such**  
18                   **as the number of days) deter-**  
19                   **mined appropriate by the Sec-**  
20                   **retary; and**

21                   **“(II) in the case of epi-**  
22                   **sodes with a hospitalization,**  
23                   **during periods of time (such**  
24                   **as the number of days) before,**



during, and after the hospitalization.

**“(C) MEASUREMENT OF RESOURCE USE.—In measuring such resource use, the Secretary—**

**“(i) shall use per patient total allowed amounts for all services under part A and this part (and, if the Secretary determines appropriate, part D) for the analysis of patient resource use, by care episode codes and by patient condition codes; and**

**“(ii) may, as determined appropriate, use other measures of allowed amounts (such as subtotals for categories of items and services) and measures of utilization of items and services (such as frequency of specific items and services and the ratio of specific items and services among attributed patients or episodes).**

**“(D) STAKEHOLDER INPUT.—The Secretary shall seek comments from**

1       the physician specialty societies, ap-  
2       plicable practitioner organizations,  
3       and other stakeholders, including  
4       representatives of individuals enti-  
5       tled to benefits under part A or en-  
6       rolled under this part, regarding the  
7       resource use methodology established  
8       pursuant to this paragraph. In seek-  
9       ing comments the Secretary shall use  
10      one or more mechanisms (other than  
11      notice and comment rulemaking) that  
12      may include open door forums, town  
13      hall meetings, or other appropriate  
14      mechanisms.

15      “(6) LIMITATION.—There shall be no  
16      administrative or judicial review under  
17      section 1869, section 1878, or otherwise  
18      of—

19              “(A) care episode and patient con-  
20              dition groups and codes established  
21              under paragraph (2);

22              “(B) patient relationship cat-  
23              egories and codes established under  
24              paragraph (3); and

1           “(C) measurement of, and anal-  
2           yses of resource use with respect to,  
3           care episode and patient condition  
4           codes and patient relationship codes  
5           pursuant to paragraph (5).

6           “(7) ADMINISTRATION.—Chapter 35 of  
7           title 44, United States Code, shall not  
8           apply to this section.

9           “(8) DEFINITIONS.—In this section:

10           “(A) PHYSICIAN.—The term ‘physi-  
11           cian’ has the meaning given such  
12           term in section 1861(r)(1).

13           “(B) APPLICABLE PRACTITIONER.—  
14           The term ‘applicable practitioner’  
15           means—

16           “(i) a physician assistant,  
17           nurse practitioner, and clinical  
18           nurse specialist (as such terms  
19           are defined in section  
20           1861(aa)(5)); and

21           “(ii) beginning January 1,  
22           2017, such other eligible profes-  
23           sionals (as defined in subsection  
24           (k)(3)(B)) as specified by the Sec-  
25           retary.

1           **“(9) CLARIFICATION.—The provisions of**  
2           **sections 1890(b)(7) and 1890A shall not**  
3           **apply to this subsection.”.**

4   **SEC. 3. PRIORITIES AND FUNDING FOR QUALITY MEASURE**  
5           **DEVELOPMENT.**

6           **Section 1848 of the Social Security Act (42**  
7           **U.S.C. 1395w–4), as amended by subsections**  
8           **(c) and (h) of section 2, is further amended by**  
9           **inserting at the end the following new sub-**  
10          **section:**

11          **“(s) PRIORITIES AND FUNDING FOR QUALITY**  
12          **MEASURE DEVELOPMENT.—**

13                  **“(1) PLAN IDENTIFYING MEASURE DEVEL-**  
14                  **OPMENT PRIORITIES AND TIMELINES.—**

15                          **“(A) DRAFT MEASURE DEVELOPMENT**  
16                          **PLAN.—**

17                                  **“(i) DRAFT PLAN.—**

18    **“(I) IN GENERAL.—Not later**  
19    **than October 1, 2014, the Sec-**  
20    **retary shall develop, and post**  
21    **on the Internet website of the**  
22    **Centers for Medicare & Med-**  
23    **icaid Services, a draft plan for**  
24    **the development of quality**  
25    **measures for application**

1           under the applicable provi-  
2           sions.

3           “(II) REQUIREMENT.—Such  
4           plan shall address how meas-  
5           ures used by private payers  
6           and integrated delivery sys-  
7           tems could be incorporated  
8           under such subsection.

9           “(ii) CONSIDERATION.—In devel-  
10          oping the draft plan under sub-  
11          paragraph (A), the Secretary shall  
12          consider—

13           “(I) gap analyses con-  
14           ducted by the entity with a  
15           contract under section 1890(a)  
16           or other contractors or enti-  
17           ties; and

18           “(II) whether measures  
19           are applicable across health  
20           care settings.

21           “(iii) PRIORITIES.—In devel-  
22          oping the draft plan under sub-  
23          paragraph (A), the Secretary shall  
24          give priority to the following  
25          types of measures:

1           **“(I) Outcome measures in-**  
2           **cluding patient reported out-**  
3           **come and functional status**  
4           **measures.**

5           **“(II) Patient experience**  
6           **measures.**

7           **“(III) Care coordination**  
8           **measures.**

9           **“(IV) Measures of appro-**  
10          **priate use of services, includ-**  
11          **ing measures of over use.**

12          **“(iv) DEFINITION OF APPLICABLE**  
13          **PROVISIONS.—In this subsection,**  
14          **the term ‘applicable provisions’**  
15          **means the following provisions:**

16               **“(I) Subsection (q)(2)(B)(i).**

17               **“(II) Section 1833(z)(2)(C).**

18          **“(B) STAKEHOLDER INPUT.—The**  
19          **Secretary shall accept through De-**  
20          **cember 1, 2014, comments on the**  
21          **draft plan posted under paragraph**  
22          **(1)(A) from the public, including**  
23          **health care providers, payers, con-**  
24          **sumers, and other stakeholders.**

1           **“(C) OPERATIONAL MEASURE DEVELOPMENT PLAN.—**Not later than February 1, 2015, taking into account the comments received under subparagraph (B), the Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services an operational plan for the development of quality measures for use under subsection (q)(2)(A)(i).

11           **“(2) CONTRACTS AND OTHER ARRANGEMENTS FOR QUALITY MEASURE DEVELOPMENT.—**

14           **“(A) IN GENERAL.—**The Secretary shall enter into contracts or other arrangements with entities for the purpose of developing, improving, updating, or expanding quality measures for application under the applicable provisions. Such entities may include physician specialty societies and other practitioner organizations.

23           **“(B) PRIORITIZATION.—**

24           **“(i) IN GENERAL.—**In entering into contracts or other arrange-

1           ments under subparagraph (A),  
2           the Secretary shall give priority  
3           to the development of the types of  
4           measures described in paragraph  
5           (1)(A)(iii).

6           “(ii) CONSIDERATION.—In se-  
7           lecting measures for development  
8           under this subsection, the Sec-  
9           retary shall consider whether  
10          such measures would be elec-  
11          tronically specified.

12          “(3) ANNUAL REPORT BY THE SEC-  
13          RETARY.—

14               “(A) IN GENERAL.—Not later than  
15               February 1, 2016, and annually there-  
16               after, the Secretary shall post on the  
17               Internet website of the Centers for  
18               Medicare & Medicaid Services a re-  
19               port on the progress made in devel-  
20               oping quality measures for applica-  
21               tion under the applicable provisions.

22               “(B) REQUIREMENTS.—Each report  
23               submitted pursuant to paragraph (1)  
24               shall include the following:



1           **“(i) A description of the Sec-**  
2           **retary’s efforts to implement this**  
3           **subsection.**

4           **“(ii) With respect to the meas-**  
5           **ures developed during the pre-**  
6           **vious year—**

7                   **“(I) a description of the**  
8                   **total number of quality meas-**  
9                   **ures developed and the types**  
10                  **of such measures, such as an**  
11                  **outcome or patient experi-**  
12                  **ence measure;**

13                  **“(II) the name of each**  
14                  **measure developed;**

15                  **“(III) the name of the de-**  
16                  **veloper and steward of each**  
17                  **measure;**

18                  **“(IV) with respect to each**  
19                  **type of measure, an estimate**  
20                  **of the total amount expended**  
21                  **under this title to develop all**  
22                  **measures of such type; and**

23                  **“(V) whether the measure**  
24                  **would be electronically speci-**  
25                  **fied.**

1           **“(iii) With respect to measures**  
2           **in development at the time of the**  
3           **report—**

4                 **“(I) the information de-**  
5                 **scribed in clause (ii), if avail-**  
6                 **able; and**

7                 **“(II) a timeline for comple-**  
8                 **tion of the development of**  
9                 **such measures.**

10           **“(iv) An update on the**  
11           **progress in developing the types**  
12           **of measures described in para-**  
13           **graph (1)(A)(iii), including a de-**  
14           **scription of issues affecting such**  
15           **progress.**

16           **“(v) A list of quality topics**  
17           **and concepts that are being con-**  
18           **sidered for development of meas-**  
19           **ures and the rationale for the se-**  
20           **lection of topics and concepts in-**  
21           **cluding their relationship to gap**  
22           **analyses.**

23           **“(vi) A description of any up-**  
24           **dates to the plan under para-**  
25           **graph (1) (including newly identi-**

1           **fied gaps and the status of pre-**  
2           **viously identified gaps) and the**  
3           **inventory of measures applicable**  
4           **under the applicable provisions.**

5           **“(vii) Other information the**  
6           **Secretary determines to be appro-**  
7           **priate.**

8           **“(4) STAKEHOLDER INPUT.—With re-**  
9           **spect to measures applicable under the**  
10          **applicable provisions, the Secretary shall**  
11          **seek stakeholder input with respect to—**

12           **“(A) the identification of gaps**  
13           **where no quality measures exist, par-**  
14           **ticularly with respect to the types of**  
15           **measures described in paragraph**  
16           **(1)(A)(iii);**

17           **“(B) prioritizing quality measure**  
18           **development to address such gaps;**  
19           **and**

20           **“(C) other areas related to quality**  
21           **measure development determined ap-**  
22           **propriate by the Secretary.**

23          **“(5) FUNDING.—For purposes of car-**  
24          **rying out this subsection, the Secretary**  
25          **shall provide for the transfer, from the**

1       **Federal Supplementary Medical Insur-**  
2       **ance Trust Fund under section 1841, of**  
3       **\$15,000,000 to the Centers for Medicare &**  
4       **Medicaid Services Program Management**  
5       **Account for each of fiscal years 2014**  
6       **through 2018. Amounts transferred under**  
7       **this paragraph shall remain available**  
8       **through the end of fiscal year 2021.”.**

9       **SEC. 4. ENCOURAGING CARE MANAGEMENT FOR INDIVID-**  
10       **UALS WITH CHRONIC CARE NEEDS.**

11       **Section 1848(b) of the Social Security Act**  
12       **(42 U.S.C. 1395w–4(b)) is amended by adding**  
13       **at the end the following new paragraph:**

14               **“(8) ENCOURAGING CARE MANAGEMENT**  
15       **FOR INDIVIDUALS WITH CHRONIC CARE**  
16       **NEEDS.—**

17               **“(A) IN GENERAL.—In order to en-**  
18       **courage the management of care by**  
19       **an applicable provider (as defined in**  
20       **subparagraph (B)) for individuals**  
21       **with chronic care needs the Sec-**  
22       **retary shall—**

23               **“(i) establish one or more**  
24       **HCPSC codes for chronic care**

1 management services for such in-  
2 dividuals; and

3 “(ii) subject to subparagraph  
4 (D), make payment (as the Sec-  
5 retary determines to be appro-  
6 priate) under this section for such  
7 management services furnished  
8 on or after January 1, 2015, by an  
9 applicable provider.

10 “(B) APPLICABLE PROVIDER DE-  
11 FINED.—For purposes of this para-  
12 graph, the term ‘applicable provider’  
13 means a physician (as defined in sec-  
14 tion 1861(r)(1)), physician assistant or  
15 nurse practitioner (as defined in sec-  
16 tion 1861(aa)(5)(A)), or clinical nurse  
17 specialist (as defined in section  
18 1861(aa)(5)(B)) who furnishes services  
19 as part of a patient-centered medical  
20 home or a comparable specialty prac-  
21 tice that—

22 “(i) is recognized as such a  
23 medical home or comparable spe-  
24 cialty practice by an organization  
25 that is recognized by the Sec-

1           retary for purposes of such rec-  
2           ognition as such a medical home  
3           or practice; or

4           “(ii) meets such other com-  
5           parable qualifications as the Sec-  
6           retary determines to be appro-  
7           priate.

8           “(C) BUDGET NEUTRALITY.—The  
9           budget neutrality provision under  
10          subsection (c)(2)(B)(ii)(II) shall apply  
11          in establishing the payment under  
12          subparagraph (A)(ii).

13          “(D) POLICIES RELATING TO PAY-  
14          MENT.—In carrying out this para-  
15          graph, with respect to chronic care  
16          management services, the Secretary  
17          shall—

18               “(i) make payment to only one  
19               applicable provider for such serv-  
20               ices furnished to an individual  
21               during a period;

22               “(ii) not make payment under  
23               subparagraph (A) if such payment  
24               would be duplicative of payment  
25               that is otherwise made under this

1 title for such services (such as in  
2 the case of hospice care or home  
3 health services); and

4 “(iii) not require that an an-  
5 nual wellness visit (as defined in  
6 section 1861(hhh)) or an initial  
7 preventive physical examination  
8 (as defined in section 1861(ww))  
9 be furnished as a condition of  
10 payment for such management  
11 services.”.

12 **SEC. 5. ENSURING ACCURATE VALUATION OF SERVICES**  
13 **UNDER THE PHYSICIAN FEE SCHEDULE.**

14 **(a) AUTHORITY TO COLLECT AND USE INFOR-**  
15 **MATION ON PHYSICIANS’ SERVICES IN THE DETER-**  
16 **MINATION OF RELATIVE VALUES.—**

17 **(1) IN GENERAL.—Section 1848(c)(2) of**  
18 **the Social Security Act (42 U.S.C. 1395w-**  
19 **4(c)(2)) is amended by adding at the end**  
20 **the following new subparagraph:**

21 **“(M) AUTHORITY TO COLLECT AND**  
22 **USE INFORMATION ON PHYSICIANS’ SERV-**  
23 **ICES IN THE DETERMINATION OF REL-**  
24 **ATIVE VALUES.—**

1           **“(i) COLLECTION OF INFORMA-**  
2           **TION.—Notwithstanding any other**  
3           **provision of law, the Secretary**  
4           **may collect or obtain information**  
5           **on the resources directly or indi-**  
6           **rectly related to furnishing serv-**  
7           **ices for which payment is made**  
8           **under the fee schedule estab-**  
9           **lished under subsection (b). Such**  
10          **information may be collected or**  
11          **obtained from any eligible profes-**  
12          **sional or any other source.**

13          **“(ii) USE OF INFORMATION.—**  
14          **Notwithstanding any other provi-**  
15          **sion of law, subject to clause (v),**  
16          **the Secretary may (as the Sec-**  
17          **retary determines appropriate)**  
18          **use information collected or ob-**  
19          **tained pursuant to clause (i) in**  
20          **the determination of relative val-**  
21          **ues for services under this sec-**  
22          **tion.**

23          **“(iii) TYPES OF INFORMATION.—**  
24          **The types of information de-**  
25          **scribed in clauses (i) and (ii) may,**



1           **at the Secretary’s discretion, in-**  
2           **clude any or all of the following:**

3                   **“(I) Time involved in fur-**  
4                   **nishing services.**

5                   **“(II) Amounts and types of**  
6                   **practice expense inputs in-**  
7                   **volved with furnishing serv-**  
8                   **ices.**

9                   **“(III) Prices (net of any**  
10                  **discounts) for practice ex-**  
11                  **pense inputs, which may in-**  
12                  **clude paid invoice prices or**  
13                  **other documentation or**  
14                  **records.**

15                  **“(IV) Overhead and ac-**  
16                  **counting information for**  
17                  **practices of physicians and**  
18                  **other suppliers.**

19                  **“(V) Any other element**  
20                  **that would improve the valu-**  
21                  **ation of services under this**  
22                  **section.**

23                  **“(iv) INFORMATION COLLECTION**  
24                  **MECHANISMS.—Information may be**  
25                  **collected or obtained pursuant to**

1           **this subparagraph from any or all**  
2           **of the following:**

3                   **“(I) Surveys of physicians,**  
4                   **other suppliers, providers of**  
5                   **services, manufacturers, and**  
6                   **vendors.**

7                   **“(II) Surgical logs, billing**  
8                   **systems, or other practice or**  
9                   **facility records.**

10                  **“(III) Electronic health**  
11                  **records.**

12                  **“(IV) Any other mecha-**  
13                  **nism determined appropriate**  
14                  **by the Secretary.**

15                  **“(v) TRANSPARENCY OF USE OF**  
16                  **INFORMATION.—**

17                   **“(I) IN GENERAL.—Subject**  
18                   **to subclauses (II) and (III), if**  
19                   **the Secretary uses informa-**  
20                   **tion collected or obtained**  
21                   **under this subparagraph in**  
22                   **the determination of relative**  
23                   **values under this subsection,**  
24                   **the Secretary shall disclose**  
25                   **the information source and**

1 discuss the use of such infor-  
2 mation in such determination  
3 of relative values through no-  
4 tice and comment rulemaking.

5 “(II) THRESHOLDS FOR  
6 USE.—The Secretary may es-  
7 tablish thresholds in order to  
8 use such information, includ-  
9 ing the exclusion of informa-  
10 tion collected or obtained  
11 from eligible professionals  
12 who use very high resources  
13 (as determined by the Sec-  
14 retary) in furnishing a serv-  
15 ice.

16 “(III) DISCLOSURE OF IN-  
17 FORMATION.—The Secretary  
18 shall make aggregate informa-  
19 tion available under this sub-  
20 paragraph but shall not dis-  
21 close information in a form or  
22 manner that identifies an eli-  
23 gible professional or a group  
24 practice, or information col-

1           lected or obtained pursuant  
2           to a nondisclosure agreement.

3           “(vi) INCENTIVE TO PARTICI-  
4           PATE.—The Secretary may provide  
5           for such payments under this part  
6           to an eligible professional that  
7           submits such solicited informa-  
8           tion under this subparagraph as  
9           the Secretary determines appro-  
10          priate in order to compensate  
11          such eligible professional for such  
12          submission. Such payments shall  
13          be provided in a form and man-  
14          ner specified by the Secretary.

15          “(vii) ADMINISTRATION.—Chap-  
16          ter 35 of title 44, United States  
17          Code, shall not apply to informa-  
18          tion collected or obtained under  
19          this subparagraph.

20          “(viii) DEFINITION OF ELIGIBLE  
21          PROFESSIONAL.—In this subpara-  
22          graph, the term ‘eligible profes-  
23          sional’ has the meaning given  
24          such term in subsection (k)(3)(B).

1           “(ix) **FUNDING.**—For purposes  
2           of carrying out this subpara-  
3           graph, in addition to funds other-  
4           wise appropriated, the Secretary  
5           shall provide for the transfer,  
6           from the Federal Supplementary  
7           Medical Insurance Trust Fund  
8           under section 1841, of \$2,000,000  
9           to the Centers for Medicare &  
10          Medicaid Services Program Man-  
11          agement Account for each fiscal  
12          year beginning with fiscal year  
13          2014. Amounts transferred under  
14          the preceding sentence for a fis-  
15          cal year shall be available until  
16          expended.”.

17           (2) **LIMITATION ON REVIEW.**—Section  
18          1848(i)(1) of the Social Security Act (42  
19          U.S.C. 1395w–4(i)(1)) is amended—

20                   (A) in subparagraph (D), by strik-  
21                   ing “and” at the end;

22                   (B) in subparagraph (E), by strik-  
23                   ing the period at the end and insert-  
24                   ing “, and”; and

1           (C) by adding at the end the fol-  
2           lowing new subparagraph:

3           “(F) the collection and use of in-  
4           formation in the determination of rel-  
5           ative values under subsection  
6           (c)(2)(M).”.

7           (b) **AUTHORITY FOR ALTERNATIVE AP-  
8           PROACHES TO ESTABLISHING PRACTICE EXPENSE  
9           RELATIVE VALUES.**—Section 1848(c)(2) of the  
10          **Social Security Act (42 U.S.C. 1395w–4(c)(2))**,  
11          as amended by subsection (a), is amended by  
12          adding at the end the following new subpara-  
13          graph:

14               “(N) **AUTHORITY FOR ALTERNATIVE  
15               APPROACHES TO ESTABLISHING PRACTICE  
16               EXPENSE RELATIVE VALUES.**—The Sec-  
17               retary may establish or adjust prac-  
18               tice expense relative values under  
19               this subsection using cost, charge, or  
20               other data from suppliers or pro-  
21               viders of services, including informa-  
22               tion collected or obtained under sub-  
23               paragraph (M).”.

24           (c) **REVISED AND EXPANDED IDENTIFICATION  
25           OF POTENTIALLY MISVALUED CODES.**—Section

1 1848(c)(2)(K)(ii) of the Social Security Act (42  
2 U.S.C. 1395w-4(c)(2)(K)(ii)) is amended to read  
3 as follows:

4 “(ii) IDENTIFICATION OF POTEN-  
5 Tially MISVALUED CODES.—For  
6 purposes of identifying poten-  
7 tially misvalued codes pursuant  
8 to clause (i)(I), the Secretary shall  
9 examine codes (and families of  
10 codes as appropriate) based on  
11 any or all of the following cri-  
12 teria:

13 “(I) Codes that have expe-  
14 rienced the fastest growth.

15 “(II) Codes that have expe-  
16 rienced substantial changes  
17 in practice expenses.

18 “(III) Codes that describe  
19 new technologies or services  
20 within an appropriate time  
21 period (such as 3 years) after  
22 the relative values are ini-  
23 tially established for such  
24 codes.

1           **“(IV) Codes which are**  
2           **multiple codes that are fre-**  
3           **quently billed in conjunction**  
4           **with furnishing a single serv-**  
5           **ice.**

6           **“(V) Codes with low rel-**  
7           **ative values, particularly**  
8           **those that are often billed**  
9           **multiple times for a single**  
10          **treatment.**

11          **“(VI) Codes that have not**  
12          **been subject to review since**  
13          **implementation of the fee**  
14          **schedule.**

15          **“(VII) Codes that account**  
16          **for the majority of spending**  
17          **under the physician fee**  
18          **schedule.**

19          **“(VIII) Codes for services**  
20          **that have experienced a sub-**  
21          **stantial change in the hospital**  
22          **length of stay or procedure**  
23          **time.**

24          **“(IX) Codes for which**  
25          **there may be a change in the**



1           **typical site of service since**  
2           **the code was last valued.**

3           **“(X) Codes for which there**  
4           **is a significant difference in**  
5           **payment for the same service**  
6           **between different sites of**  
7           **service.**

8           **“(XI) Codes for which**  
9           **there may be anomalies in rel-**  
10          **ative values within a family of**  
11          **codes.**

12          **“(XII) Codes for services**  
13          **where there may be effi-**  
14          **ciencies when a service is fur-**  
15          **nished at the same time as**  
16          **other services.**

17          **“(XIII) Codes with high**  
18          **intra-service work per unit of**  
19          **time.**

20          **“(XIV) Codes with high**  
21          **practice expense relative**  
22          **value units.**

23          **“(XV) Codes with high**  
24          **cost supplies.**

1                   **“(XVI) Codes as deter-**  
2                   **mined appropriate by the Sec-**  
3                   **retary.”.**

4           **(d) TARGET FOR RELATIVE VALUE ADJUST-**  
5   **MENTS FOR MISVALUED SERVICES.—**

6           **(1) IN GENERAL.—Section 1848(c)(2) of**  
7           **the Social Security Act (42 U.S.C. 1395w-**  
8           **4(c)(2)), as amended by subsections (a)**  
9           **and (b), is amended by adding at the end**  
10          **the following new subparagraph:**

11                   **“(O) TARGET FOR RELATIVE VALUE**  
12                   **ADJUSTMENTS FOR MISVALUED SERV-**  
13                   **ICES.—With respect to fee schedules**  
14                   **established for each of 2015 through**  
15                   **2018, the following shall apply:**

16                           **“(i) DETERMINATION OF NET RE-**  
17                           **DUCTION IN EXPENDITURES.—For**  
18                           **each year, the Secretary shall de-**  
19                           **termine the estimated net reduc-**  
20                           **tion in expenditures under the fee**  
21                           **schedule under this section with**  
22                           **respect to the year as a result of**  
23                           **adjustments to the relative values**  
24                           **established under this paragraph**  
25                           **for misvalued codes.**

1           **“(ii) BUDGET NEUTRAL REDIS-**  
2           **TRIBUTION OF FUNDS IF TARGET MET**  
3           **AND COUNTING OVERAGES TOWARDS**  
4           **THE TARGET FOR THE SUCCEEDING**  
5           **YEAR.—If the estimated net reduc-**  
6           **tion in expenditures determined**  
7           **under clause (i) for the year is**  
8           **equal to or greater than the tar-**  
9           **get for the year—**

10           **“(I) reduced expenditures**  
11           **attributable to such adjust-**  
12           **ments shall be redistributed**  
13           **for the year in a budget neu-**  
14           **tral manner in accordance**  
15           **with subparagraph (B)(ii)(II);**  
16           **and**

17           **“(II) the amount by which**  
18           **such reduced expenditures**  
19           **exceeds the target for the**  
20           **year shall be treated as a re-**  
21           **duction in expenditures de-**  
22           **scribed in clause (i) for the**  
23           **succeeding year, for purposes**  
24           **of determining whether the**  
25           **target has or has not been**

1 met under this subparagraph  
2 with respect to that year.

3 “(iii) EXEMPTION FROM BUDGET  
4 NEUTRALITY IF TARGET NOT MET.—If  
5 the estimated net reduction in ex-  
6 penditures determined under  
7 clause (i) for the year is less than  
8 the target for the year, reduced  
9 expenditures in an amount equal  
10 to the target recapture amount  
11 shall not be taken into account in  
12 applying subparagraph (B)(ii)(II)  
13 with respect to fee schedules be-  
14 ginning with 2015.

15 “(iv) TARGET RECAPTURE  
16 AMOUNT.—For purposes of clause  
17 (iii), the target recapture amount  
18 is, with respect to a year, an  
19 amount equal to the difference  
20 between—

21 “(I) the target for the year;  
22 and

23 “(II) the estimated net re-  
24 duction in expenditures deter-

1           mined under clause (i) for the  
2           year.

3           “(v) TARGET.—For purposes of  
4           this subparagraph, with respect  
5           to a year, the target is calculated  
6           as 0.5 percent of the estimated  
7           amount of expenditures under the  
8           fee schedule under this section  
9           for the year.”.

10          (2) CONFORMING AMENDMENT.—Section  
11          1848(c)(2)(B)(v) of the Social Security Act  
12          (42 U.S.C. 1395w–4(c)(2)(B)(v)) is amended  
13          by adding at the end the following new  
14          subclause:

15                       “(VIII) REDUCTIONS FOR  
16                       MISVALUED SERVICES IF TARGET  
17                       NOT MET.—Effective for fee  
18                       schedules beginning with  
19                       2015, reduced expenditures  
20                       attributable to the application  
21                       of the target recapture  
22                       amount described in subpara-  
23                       graph (O)(iii).”.

24          (e) PHASE-IN OF SIGNIFICANT RELATIVE  
25          VALUE UNIT (RVU) REDUCTIONS.—

1           **(1) IN GENERAL.—Section 1848(c) of the**  
2           **Social Security Act (42 U.S.C. 1395w–4(c))**  
3           **is amended by adding at the end the fol-**  
4           **lowing new paragraph:**

5           **“(7) PHASE-IN OF SIGNIFICANT RELATIVE**  
6           **VALUE UNIT (RVU) REDUCTIONS.—Effective**  
7           **for fee schedules established beginning**  
8           **with 2015, if the total relative value units**  
9           **for a service for a year would otherwise**  
10          **be decreased by an estimated amount**  
11          **equal to or greater than 20 percent as**  
12          **compared to the total relative value units**  
13          **for the previous year, the applicable ad-**  
14          **justments in work, practice expense, and**  
15          **malpractice relative value units shall be**  
16          **phased-in over a 2-year period.”.**

17          **(2) CONFORMING AMENDMENTS.—Sec-**  
18          **tion 1848(c)(2) of the Social Security Act**  
19          **(42 U.S.C. 1395w–4(c)(2)) is amended—**

20               **(A) in subparagraph (B)(ii)(I), by**  
21               **striking “subclause (II)” and inserting**  
22               **“subclause (II) and paragraph (7)”;**  
23               **and**

24               **(B) in subparagraph (K)(iii)(VI)—**

1 (i) by striking “provisions of  
2 subparagraph (B)(ii)(II)” and in-  
3 serting “provisions of subpara-  
4 graph (B)(ii)(II) and paragraph  
5 (7)”; and

6 (ii) by striking “under sub-  
7 paragraph (B)(ii)(II)” and insert-  
8 ing “under subparagraph  
9 (B)(ii)(I)”.

10 (f) **AUTHORITY TO SMOOTH RELATIVE VAL-**  
11 **UES WITHIN GROUPS OF SERVICES.—Section**  
12 **1848(c)(2)(C) of the Social Security Act (42**  
13 **U.S.C. 1395w–4(c)(2)(C)) is amended—**

14 (1) in each of clauses (i) and (iii), by  
15 striking “the service” and inserting “the  
16 service or group of services” each place it  
17 appears; and

18 (2) in the first sentence of clause (ii),  
19 by inserting “or group of services” before  
20 the period.

21 (g) **GAO STUDY AND REPORT ON RELATIVE**  
22 **VALUE SCALE UPDATE COMMITTEE.—**

23 (1) **STUDY.—The Comptroller General**  
24 **of the United States (in this subsection**  
25 **referred to as the “Comptroller General”)**

1 shall conduct a study of the processes  
2 used by the Relative Value Scale Update  
3 Committee (RUC) to provide rec-  
4 ommendations to the Secretary of Health  
5 and Human Services regarding relative  
6 values for specific services under the  
7 Medicare physician fee schedule under  
8 section 1848 of the Social Security Act (42  
9 U.S.C. 1395w-4).

10 (2) REPORT.—Not later than 1 year  
11 after the date of the enactment of this  
12 Act, the Comptroller General shall submit  
13 to Congress a report containing the re-  
14 sults of the study conducted under para-  
15 graph (1).

16 (h) ADJUSTMENT TO MEDICARE PAYMENT LO-  
17 CALITIES.—

18 (1) IN GENERAL.—Section 1848(e) of the  
19 Social Security Act (42 U.S.C. 1395w-4(e))  
20 is amended by adding at the end the fol-  
21 lowing new paragraph:

22 “(6) USE OF MSAS AS FEE SCHEDULE  
23 AREAS IN CALIFORNIA.—

24 “(A) IN GENERAL.—Subject to the  
25 succeeding provisions of this para-



1 graph and notwithstanding the pre-  
2 vious provisions of this subsection,  
3 for services furnished on or after Jan-  
4 uary 1, 2017, the fee schedule areas  
5 used for payment under this section  
6 applicable to California shall be the  
7 following:

8 “(i) Each Metropolitan Statis-  
9 tical Area (each in this paragraph  
10 referred to as an ‘MSA’), as de-  
11 fined by the Director of the Office  
12 of Management and Budget as of  
13 December 31 of the previous year,  
14 shall be a fee schedule area.

15 “(ii) All areas not included in  
16 an MSA shall be treated as a sin-  
17 gle rest-of-State fee schedule area.

18 “(B) TRANSITION FOR MSAS PRE-  
19 VIOUSLY IN REST-OF-STATE PAYMENT LO-  
20 CALITY OR IN LOCALITY 3.—

21 “(i) IN GENERAL.—For services  
22 furnished in California during a  
23 year beginning with 2017 and  
24 ending with 2021 in an MSA in a  
25 transition area (as defined in sub-

1 paragraph (D)), subject to sub-  
2 paragraph (C), the geographic  
3 index values to be applied under  
4 this subsection for such year shall  
5 be equal to the sum of the fol-  
6 lowing:

7 “(I) CURRENT LAW COMPO-  
8 NENT.—The old weighting fac-  
9 tor (described in clause (ii))  
10 for such year multiplied by  
11 the geographic index values  
12 under this subsection for the  
13 fee schedule area that in-  
14 cluded such MSA that would  
15 have applied in such area (as  
16 estimated by the Secretary) if  
17 this paragraph did not apply.

18 “(II) MSA-BASED COMPO-  
19 NENT.—The MSA-based  
20 weighting factor (described in  
21 clause (iii)) for such year mul-  
22 tiplied by the geographic  
23 index values computed for the  
24 fee schedule area under sub-  
25 paragraph (A) for the year

1 (determined without regard  
2 to this subparagraph).

3 “(ii) OLD WEIGHTING FACTOR.—

4 The old weighting factor de-  
5 scribed in this clause—

6 “(I) for 2017, is  $\frac{5}{6}$ ; and

7 “(II) for each succeeding  
8 year, is the old weighting fac-  
9 tor described in this clause  
10 for the previous year minus  
11  $\frac{1}{6}$ .

12 “(iii) MSA-BASED WEIGHTING  
13 FACTOR.—The MSA-based  
14 weighting factor described in this  
15 clause for a year is 1 minus the  
16 old weighting factor under clause  
17 (ii) for that year.

18 “(C) HOLD HARMLESS.—For serv-  
19 ices furnished in a transition area in  
20 California during a year beginning  
21 with 2017, the geographic index val-  
22 ues to be applied under this sub-  
23 section for such year shall not be less  
24 than the corresponding geographic  
25 index values that would have applied

1 in such transition area (as estimated  
2 by the Secretary) if this paragraph  
3 did not apply.

4 “(D) TRANSITION AREA DEFINED.—In  
5 this paragraph, the term ‘transition  
6 area’ means each of the following fee  
7 schedule areas for 2013:

8 “(i) The rest-of-State payment  
9 locality.

10 “(ii) Payment locality 3.

11 “(E) REFERENCES TO FEE SCHEDULE  
12 AREAS.—Effective for services fur-  
13 nished on or after January 1, 2017,  
14 for California, any reference in this  
15 section to a fee schedule area shall be  
16 deemed a reference to a fee schedule  
17 area established in accordance with  
18 this paragraph.”.

19 (2) CONFORMING AMENDMENT TO DEFINI-  
20 TION OF FEE SCHEDULE AREA.—Section  
21 1848(j)(2) of the Social Security Act (42  
22 U.S.C. 1395w–4(j)(2)) is amended by strik-  
23 ing “The term” and inserting “Except as  
24 provided in subsection (e)(6)(D), the  
25 term”.

1 SEC. 6. PROMOTING EVIDENCE-BASED CARE.

2 (a) RECOGNIZING APPROPRIATE USE CRI-  
3 TERIA FOR CERTAIN IMAGING SERVICES.—

4 (1) IN GENERAL.—Section 1834 of the  
5 Social Security Act (42 U.S.C. 1395m) is  
6 amended by adding at the end the fol-  
7 lowing new subsection:

8 “(p) RECOGNIZING APPROPRIATE USE CRI-  
9 TERIA FOR CERTAIN IMAGING SERVICES.—

10 “(1) PROGRAM ESTABLISHED.—

11 “(A) IN GENERAL.—The Secretary  
12 shall establish a program to promote  
13 the use of appropriate use criteria (as  
14 defined in subparagraph (B)) for ap-  
15 plicable imaging services (as defined  
16 in subparagraph (C)) furnished in an  
17 applicable setting (as defined in sub-  
18 paragraph (D)) by ordering profes-  
19 sionals and furnishing professionals  
20 (as defined in subparagraphs (E) and  
21 (F), respectively).

22 “(B) APPROPRIATE USE CRITERIA DE-  
23 FINED.—In this subsection, the term  
24 ‘appropriate use criteria’ means cri-  
25 teria to assist ordering professionals  
26 and furnishing professionals in mak-

1       ing the most appropriate treatment  
2       decision for a specific clinical condi-  
3       tion. To the extent feasible, such cri-  
4       teria shall be evidence-based.

5               “(C) APPLICABLE IMAGING SERVICE  
6       DEFINED.—In this subsection, the term  
7       ‘applicable imaging service’ means an  
8       advanced diagnostic imaging service  
9       (as defined in subsection (e)(1)(B)) for  
10      which the Secretary determines—

11              “(i) one or more applicable ap-  
12             propriate use criteria specified  
13             under paragraph (2) apply;

14              “(ii) there are one or more  
15             qualified clinical decision support  
16             mechanisms listed under para-  
17             graph (3)(C); and

18              “(iii) one or more of such  
19             mechanisms is available free of  
20             charge.

21               “(D) APPLICABLE SETTING DE-  
22       FINED.—In this subsection, the term  
23       ‘applicable setting’ means a physi-  
24       cian’s office, a hospital outpatient de-  
25       partment (including an emergency

1       department), an ambulatory surgical  
2       center, and any other outpatient set-  
3       ting determined appropriate by the  
4       Secretary.

5               “(E) ORDERING PROFESSIONAL DE-  
6       FINED.—In this subsection, the term  
7       ‘ordering professional’ means a physi-  
8       cian (as defined in section 1861(r)) or  
9       a practitioner described in section  
10      1842(b)(18)(C) who orders an applica-  
11      ble imaging service for an individual.

12              “(F) FURNISHING PROFESSIONAL DE-  
13      FINED.—In this subsection, the term  
14      ‘furnishing professional’ means a phy-  
15      sician (as defined in section 1861(r))  
16      or a practitioner described in section  
17      1842(b)(18)(C) who furnishes an appli-  
18      cable imaging service for an indi-  
19      vidual.

20              “(2) ESTABLISHMENT OF APPLICABLE AP-  
21      PROPRIATE USE CRITERIA.—

22              “(A) IN GENERAL.—Not later than  
23      November 15, 2015, the Secretary  
24      shall through rulemaking, and in con-  
25      sultation with physicians, practi-

tioners, and other stakeholders, specify applicable appropriate use criteria for applicable imaging services from among appropriate use criteria developed or endorsed by national professional medical specialty societies or other entities.

“(B) CONSIDERATIONS.—In specifying applicable appropriate use criteria under subparagraph (A), the Secretary shall take into account whether the criteria—

“(i) have stakeholder consensus;

“(ii) have been determined to be scientifically valid and are evidence based; and

“(iii) are in the public domain.

“(C) REVISIONS.—The Secretary shall periodically update and revise (as appropriate) such specification of applicable appropriate use criteria.

“(D) TREATMENT OF MULTIPLE APPLICABLE APPROPRIATE USE CRITERIA.—In the case where the Secretary de-



1           **termines that more than one appro-**  
2           **priate use criteria applies with re-**  
3           **spect to an applicable imaging serv-**  
4           **ice, the Secretary shall specify one or**  
5           **more applicable appropriate use cri-**  
6           **teria under this paragraph for the**  
7           **service.**

8           **“(3) MECHANISMS FOR CONSULTATION**  
9           **WITH APPLICABLE APPROPRIATE USE CRI-**  
10          **TERIA.—**

11           **“(A) IDENTIFICATION OF MECHA-**  
12           **NISMS TO CONSULT WITH APPLICABLE AP-**  
13           **PROPRIATE USE CRITERIA.—**

14           **“(i) IN GENERAL.—The Sec-**  
15           **retary shall specify one or more**  
16           **qualified clinical decision support**  
17           **mechanisms that could be used by**  
18           **ordering professionals to consult**  
19           **with applicable appropriate use**  
20           **criteria for applicable imaging**  
21           **services.**

22           **“(ii) CONSULTATION.—The Sec-**  
23           **retary shall consult with physi-**  
24           **cians, practitioners, and other**

1           **stakeholders in specifying mecha-**  
2           **nisms under this paragraph.**

3           **“(iii) INCLUSION OF CERTAIN**  
4           **MECHANISMS.—Mechanisms speci-**  
5           **fied under this paragraph may in-**  
6           **clude any or all of the following**  
7           **that meet the requirements de-**  
8           **scribed in subparagraph (B)(ii):**

9                   **“(I) Use of clinical deci-**  
10                   **sion support modules in cer-**  
11                   **tified EHR technology (as de-**  
12                   **finied in section 1848(o)(4)).**

13                   **“(II) Use of private sector**  
14                   **clinical decision support**  
15                   **mechanisms that are inde-**  
16                   **pendent from certified EHR**  
17                   **technology, which may in-**  
18                   **clude use of clinical decision**  
19                   **support mechanisms available**  
20                   **from medical specialty organi-**  
21                   **zations.**

22                   **“(III) Use of a clinical de-**  
23                   **cision support mechanism es-**  
24                   **tablished by the Secretary.**

1                   **“(B) QUALIFIED CLINICAL DECISION**  
2                   **SUPPORT MECHANISMS.—**

3                   **“(i) IN GENERAL.—For purposes**  
4                   **of this subsection, a qualified**  
5                   **clinical decision support mecha-**  
6                   **nism is a mechanism that the Sec-**  
7                   **retary determines meets the re-**  
8                   **quirements described in clause**  
9                   **(ii).**

10                  **“(ii) REQUIREMENTS.—The re-**  
11                  **quirements described in this**  
12                  **clause are the following:**

13                       **“(I) The mechanism makes**  
14                       **available to the ordering pro-**  
15                       **fessional applicable appro-**  
16                       **priate use criteria specified**  
17                       **under paragraph (2) and the**  
18                       **supporting documentation for**  
19                       **the applicable imaging serv-**  
20                       **ice ordered.**

21                       **“(II) In the case where**  
22                       **there are more than one ap-**  
23                       **plicable appropriate use cri-**  
24                       **teria specified under such**  
25                       **paragraph for an applicable**

1           **imaging service, the mecha-**  
2           **nism indicates the criteria**  
3           **that it uses for the service.**

4           **“(III) The mechanism de-**  
5           **termines the extent to which**  
6           **an applicable imaging service**  
7           **ordered is consistent with the**  
8           **applicable appropriate use**  
9           **criteria so specified.**

10          **“(IV) The mechanism gen-**  
11          **erates and provides to the or-**  
12          **dering professional a certifi-**  
13          **cation or documentation that**  
14          **documents that the qualified**  
15          **clinical decision support**  
16          **mechanism was consulted by**  
17          **the ordering professional.**

18          **“(V) The mechanism is up-**  
19          **dated on a timely basis to re-**  
20          **fect revisions to the speci-**  
21          **fication of applicable appro-**  
22          **priate use criteria under such**  
23          **paragraph.**

24          **“(VI) The mechanism**  
25          **meets privacy and security**

standards under applicable provisions of law.

“(VII) The mechanism performs such other functions as specified by the Secretary, which may include a requirement to provide aggregate feedback to the ordering professional.

“(C) LIST OF MECHANISMS FOR CONSULTATION WITH APPLICABLE APPROPRIATE USE CRITERIA.—

“(i) INITIAL LIST.—Not later than April 1, 2016, the Secretary shall publish a list of mechanisms specified under this paragraph.

“(ii) PERIODIC UPDATING OF LIST.—The Secretary shall periodically update the list of qualified clinical decision support mechanisms specified under this paragraph.

“(4) CONSULTATION WITH APPLICABLE APPROPRIATE USE CRITERIA.—

1           “(A) CONSULTATION BY ORDERING  
2           PROFESSIONAL.—Beginning with Janu-  
3           ary 1, 2017, subject to subparagraph  
4           (C), with respect to an applicable im-  
5           aging service ordered by an ordering  
6           professional that would be furnished  
7           in an applicable setting and paid for  
8           under an applicable payment system  
9           (as defined in subparagraph (D)), an  
10          ordering professional shall—

11                 “(i) consult with a qualified  
12                 decision support mechanism list-  
13                 ed under paragraph (3)(C); and

14                 “(ii) provide to the furnishing  
15                 professional the information de-  
16                 scribed in clauses (i) through (iii)  
17                 of subparagraph (B).

18          “(B) REPORTING BY FURNISHING  
19          PROFESSIONAL.—Beginning with Janu-  
20          ary 1, 2017, subject to subparagraph  
21          (C), with respect to an applicable im-  
22          aging service furnished in an applica-  
23          ble setting and paid for under an ap-  
24          plicable payment system (as defined  
25          in subparagraph (D)), payment for

1        **such service may only be made if the**  
2        **claim for the service includes the fol-**  
3        **lowing:**

4                **“(i) Information about which**  
5                **qualified clinical decision support**  
6                **mechanism was consulted by the**  
7                **ordering professional for the**  
8                **service.**

9                **“(ii) Information regarding—**

10                **“(I) whether the service**  
11                **ordered would adhere to the**  
12                **applicable appropriate use**  
13                **criteria specified under para-**  
14                **graph (2);**

15                **“(II) whether the service**  
16                **ordered would not adhere to**  
17                **such criteria; or**

18                **“(III) whether such cri-**  
19                **teria was not applicable to the**  
20                **service ordered.**

21                **“(iii) The national provider**  
22                **identifier of the ordering profes-**  
23                **sional (if different from the fur-**  
24                **nishing professional).**

1           **“(C) EXCEPTIONS.—The provisions**  
2           **of subparagraphs (A) and (B) and**  
3           **paragraph (6)(A) shall not apply to**  
4           **the following:**

5                 **“(i) EMERGENCY SERVICES.—An**  
6                 **applicable imaging service or-**  
7                 **dered for an individual with an**  
8                 **emergency medical condition (as**  
9                 **defined in section 1867(e)(1)).**

10                **“(ii) INPATIENT SERVICES.—An**  
11                **applicable imaging service or-**  
12                **dered for an inpatient and for**  
13                **which payment is made under**  
14                **part A.**

15                **“(iii) ALTERNATIVE PAYMENT**  
16                **MODELS.—An applicable imaging**  
17                **service ordered by an ordering**  
18                **professional with respect to an in-**  
19                **dividual attributed to an alter-**  
20                **native payment model (as defined**  
21                **in section 1833(z)(3)(C)).**

22                **“(iv) SIGNIFICANT HARDSHIP.—**  
23                **An applicable imaging service or-**  
24                **dered by an ordering professional**  
25                **who the Secretary may, on a case-**



1 by-case basis, exempt from the ap-  
2 plication of such provisions if the  
3 Secretary determines, subject to  
4 annual renewal, that consultation  
5 with applicable appropriate use  
6 criteria would result in a signifi-  
7 cant hardship, such as in the case  
8 of a professional who practices in  
9 a rural area without sufficient  
10 Internet access.

11 “(D) APPLICABLE PAYMENT SYSTEM  
12 DEFINED.—In this subsection, the term  
13 ‘applicable payment system’ means  
14 the following:

15 “(i) The physician fee sched-  
16 ule established under section  
17 1848(b).

18 “(ii) The prospective payment  
19 system for hospital outpatient de-  
20 partment services under section  
21 1833(t).

22 “(iii) The ambulatory surgical  
23 center payment systems under  
24 section 1833(i).

1           **“(5) IDENTIFICATION OF OUTLIER ORDER-**  
2           **ING PROFESSIONALS.—**

3           **“(A) IN GENERAL.—With respect to**  
4           **applicable imaging services furnished**  
5           **beginning with 2017, the Secretary**  
6           **shall determine, on a periodic basis**  
7           **(which may be annually), ordering**  
8           **professionals who are outlier order-**  
9           **ing professionals.**

10          **“(B) OUTLIER ORDERING PROFES-**  
11          **SIONALS.—The determination of an**  
12          **outlier ordering professional shall—**

13               **“(i) be based on low adher-**  
14               **ence to applicable appropriate**  
15               **use criteria specified under para-**  
16               **graph (2), which may be based on**  
17               **comparison to other ordering pro-**  
18               **fessionals; and**

19               **“(ii) include data for ordering**  
20               **professionals for whom prior au-**  
21               **thorization under paragraph**  
22               **(6)(A) applies.**

23          **“(C) USE OF TWO YEARS OF DATA.—**  
24          **The Secretary shall use two years of**

1 data to identify outlier ordering pro-  
2 fessionals under this paragraph.

3 “(D) CONSULTATION WITH STAKE-  
4 HOLDERS.—The Secretary shall con-  
5 sult with physicians, practitioners  
6 and other stakeholders in developing  
7 methods to identify outlier ordering  
8 professionals under this paragraph.

9 “(6) PRIOR AUTHORIZATION FOR ORDER-  
10 ING PROFESSIONALS WHO ARE OUTLIERS.—

11 “(A) IN GENERAL.—Beginning Jan-  
12 uary 1, 2020, subject to paragraph  
13 (4)(C), with respect to services fur-  
14 nished during a year, the Secretary  
15 shall, for a period determined appro-  
16 priate by the Secretary, apply prior  
17 authorization for applicable imaging  
18 services that are ordered by an  
19 outlier ordering professional identi-  
20 fied under paragraph (5).

21 “(B) FUNDING.—For purposes of  
22 carrying out this paragraph, the Sec-  
23 retary shall provide for the transfer,  
24 from the Federal Supplementary  
25 Medical Insurance Trust Fund under

1           section 1841, of \$5,000,000 to the Cen-  
2           ters for Medicare & Medicaid Serv-  
3           ices Program Management Account  
4           for each of fiscal years 2019 through  
5           2021. Amounts transferred under the  
6           preceding sentence shall remain  
7           available until expended.”.

8           (2) CONFORMING AMENDMENT.—Section  
9           1833(t)(16) of the Social Security Act (42  
10          U.S.C. 1395l(t)(16)) is amended by adding  
11          at the end the following new subpara-  
12          graph:

13                   “(E) APPLICATION OF APPROPRIATE  
14                   USE CRITERIA FOR CERTAIN IMAGING  
15                   SERVICES.—For provisions relating to  
16                   the application of appropriate use  
17                   criteria for certain imaging services,  
18                   see section 1834(p).”.

19          (b) ESTABLISHMENT OF APPROPRIATE USE  
20          PROGRAM FOR OTHER PART B SERVICES.—Sec-  
21          tion 1834 of the Social Security Act (42 U.S.C.  
22          1395m), as amended by subsection (a), is  
23          amended by adding at the end the following  
24          new subsection:

1       **“(q) ESTABLISHMENT OF APPROPRIATE USE**  
2 **PROGRAM FOR OTHER PART B SERVICES.—**

3           **“(1) ESTABLISHMENT.—**

4               **“(A) IN GENERAL.—The Secretary**  
5 **may establish an appropriate use pro-**  
6 **gram for services under this part**  
7 **(other than applicable imaging serv-**  
8 **ices under subsection (p)) using a**  
9 **process similar to the process under**  
10 **such subsection.**

11           **“(B) REQUIREMENTS.—In deter-**  
12 **mining whether to establish a pro-**  
13 **gram under subparagraph (A), the**  
14 **Secretary shall take into consider-**  
15 **ation—**

16               **“(i) the implementation of ap-**  
17 **propriate use criteria for applica-**  
18 **ble imaging services under sub-**  
19 **section (p); and**

20               **“(ii) the report under para-**  
21 **graph (2).**

22           **“(C) INPUT FROM STAKEHOLDERS IN**  
23 **ADVANCE OF RULEMAKING.—Before**  
24 **issuing a notice of proposed rule-**  
25 **making to establish a program under**

1           subparagraph (A), the Secretary shall  
2           issue an advance notice of proposed  
3           rulemaking.

4           “(2) REPORT ON EXPERIENCE OF IMAGING  
5           APPROPRIATE USE CRITERIA PROGRAM.—Not  
6           later than 18 months after the date of the  
7           enactment of this subsection, the Comp-  
8           troller General of the United States shall  
9           submit to Congress a report that includes  
10          a description of the extent to which ap-  
11          propriate use criteria could be used for  
12          other services under this part, such as ra-  
13          diation therapy and clinical diagnostic  
14          laboratory services.”.

15   SEC. 7. EMPOWERING BENEFICIARY CHOICES THROUGH  
16               ACCESS TO INFORMATION ON PHYSICIANS’  
17               SERVICES.

18          (a) TRANSFERRING FREESTANDING PHYSI-  
19          CIAN COMPARE PROVISION TO THE SOCIAL SECU-  
20          RITY ACT.—

21               (1) IN GENERAL.—Section 10331 of Pub-  
22          lic Law 111-148 is transferred and redes-  
23          ignated as subsection (t) of section 1848  
24          of the Social Security Act (42 U.S.C.

1       **1395w-4), as amended by subsections (c)**  
2       **and (h) of section 2 and by section 3.**

3           **(2) CONFORMING REDESIGNATIONS.—**  
4       **Section 1848(t) of the Social Security Act**  
5       **(42 U.S.C. 1395w-4(t)), as transferred and**  
6       **redesignated by paragraph (1), is further**  
7       **amended—**

8           **(A) by striking the subsection**  
9       **heading and inserting the following**  
10       **new subsection heading: “PUBLIC RE-**  
11       **PORTING OF PERFORMANCE AND OTHER**  
12       **INFORMATION ON PHYSICIAN COM-**  
13       **PARE.—”;**

14          **(B) by redesignating subsections**  
15       **(a) through (i) as paragraphs (1)**  
16       **through (9), respectively, and indent-**  
17       **ing appropriately;**

18          **(C) in paragraph (1), as redesign-**  
19       **ated by subparagraph (B)—**

20           **(i) by redesignating para-**  
21       **graphs (1) and (2) as subpara-**  
22       **graphs (A) and (B), respectively,**  
23       **and indenting appropriately;**

24           **(ii) in subparagraph (B), as re-**  
25       **designated by clause (i), by redes-**

1           ignating subparagraphs (A)  
2           through (G) as clauses (i) through  
3           (vii), respectively, and indenting  
4           appropriately;

5           (D) in paragraph (2), as redesign-  
6           ated by subparagraph (B), by redesign-  
7           ignating paragraphs (1) through (7)  
8           as subparagraphs (A) through (G), re-  
9           spectively, and indenting appro-  
10          priately; and

11          (E) in paragraph (9), as redesign-  
12          ated by subparagraph (B), by redesign-  
13          ignating paragraphs (1) through (4)  
14          as subparagraphs (A) through (D), re-  
15          spectively, and indenting appro-  
16          priately.

17          (3) CONFORMING AMENDMENTS.—Sec-  
18          tion 1848(t) of the Social Security Act (42  
19          U.S.C. 1395w-4(t)), as amended by para-  
20          graph (2), is further amended—

21                 (A) in paragraph (1)—

22                         (i) in subparagraph (A)—

23                                 (I) by striking “the Medi-  
24                                 care program under section  
25                                 1866(j) of the Social Security



1           **Act (42 U.S.C. 1395cc(j))” and**  
2           **inserting “the program under**  
3           **this title under section**  
4           **1866(j)”;** and

5           **(II) by striking “of such**  
6           **Act (42 U.S.C. 1395w-4)”;** and

7           **(ii) in subparagraph (B), in**  
8           **the matter preceding clause (i)—**

9           **(I) by striking “subsection**  
10           **(c)” and inserting “paragraph**  
11           **(3)”;**

12           **(II) by striking “the Medi-**  
13           **care program under such sec-**  
14           **tion 1866(j)” and inserting**  
15           **“the program under this title**  
16           **under section 1866(j)”;** and

17           **(III) by striking “this sec-**  
18           **tion” and inserting “this sub-**  
19           **section”;**

20           **(B) in paragraph (2)—**

21           **(i) in the matter preceding**  
22           **subparagraph (A), by striking**  
23           **“subsection (a)(2)” and inserting**  
24           **“paragraph (1)(B)”;**

1           (ii) in subparagraph (D), by  
2           striking “the Medicare program”  
3           and inserting “the program under  
4           this title”; and

5           (iii) in each of subparagraphs  
6           (F) and (G), by striking “this sec-  
7           tion” and inserting “this sub-  
8           section”;

9           (C) in paragraph (3), by striking  
10          “this section” and inserting “this sub-  
11          section”;

12          (D) in paragraph (4)—

13           (i) by striking “of the Social  
14           Security Act, as added by section  
15           3014 of this Act”; and

16           (ii) by striking “this section”  
17           and inserting “this subsection”;

18          (E) in paragraph (5)—

19           (i) by striking “this subsection  
20           (a)(2)” and inserting “paragraph  
21           (1)(B)”; and

22           (ii) by striking “(Public Law  
23           110–275)”;

1           (F) in paragraph (6), by striking  
2           “subsection (a)(1)” and inserting  
3           “paragraph (1)(A)”;

4           (G) in paragraph (7)—

5                 (i) by striking “subsection (f)”  
6                 and inserting “paragraph (6)”;  
7                 and

8                 (ii) by striking “title XVIII of  
9                 the Social Security Act” and in-  
10                 serting “this title”;

11           (H) in paragraph (8)—

12                 (i) by striking “subparagraphs  
13                 (A) through (G) of subsection  
14                 (a)(2)” and inserting “clauses (i)  
15                 through (vii) of paragraph (1)(B)”;

16                 (ii) by striking “title XVIII of  
17                 the Social Security Act” and in-  
18                 serting “this title”; and

19                 (iii) by striking “such title”  
20                 and inserting “this title”; and

21           (I) in paragraph (9)—

22                 (i) in the matter preceding  
23                 subparagraph (A), by striking  
24                 “this section” and inserting “this  
25                 subsection”;

1           (ii) in subparagraph (A), by  
2           striking “of the Social Security  
3           Act (42 U.S.C. 1395w–4)”;

4           (iii) in subparagraph (B), by  
5           striking “of such Act (42 U.S.C.  
6           1395x(r))”;

7           (iv) in subparagraph (C), by  
8           striking “subsection (a)(1)” and  
9           inserting “paragraph (1)(A)”;

10          (v) by striking subparagraph  
11          (D).

12          **(b) PUBLIC AVAILABILITY OF MEDICARE**  
13          **DATA.—Section 1848(t) of the Social Security**  
14          **Act (42 U.S.C. 1395w–4(t)), as amended by sub-**  
15          **section (a), is further amended—**

16               (1) by redesignating paragraph (9) as  
17               paragraph (10);

18               (2) by inserting after paragraph (8)  
19               the following new paragraph:

20               **“(9) PUBLIC AVAILABILITY OF ELIGIBLE**  
21               **PROFESSIONAL CLAIMS DATA.—**

22                       **“(A) IN GENERAL.—The Secretary**  
23                       **shall make publicly available on Phy-**  
24                       **sician Compare the information de-**

1           scribed in subparagraph (B) with re-  
2           spect to eligible professionals.

3           “(B) INFORMATION DESCRIBED.—The  
4           following information, with respect to  
5           an eligible professional, is described  
6           in this subparagraph:

7                   “(i) Information on the num-  
8                   ber of services furnished by the  
9                   eligible professional, which may  
10                  include information on the most  
11                  frequent services furnished or  
12                  groupings of services.

13                  “(ii) Information on submitted  
14                  charges and payments for serv-  
15                  ices under this part.

16                  “(iii) A unique identifier for  
17                  the eligible professional that is  
18                  available to the public, such as a  
19                  national provider identifier.

20           “(C) SEARCHABILITY.—The informa-  
21           tion made available under this para-  
22           graph shall be searchable by at least  
23           the following:

24                   “(i) The specialty or type of  
25                   the eligible professional.

1           “(ii) Characteristics of the  
2           services furnished, such as vol-  
3           ume or groupings of services.

4           “(iii) The location of the eligi-  
5           ble professional.

6           “(D) DISCLOSURE.—The informa-  
7           tion made available under this para-  
8           graph shall indicate, where appro-  
9           priate, that publicized information  
10          may not be representative of the eli-  
11          gible professional’s entire patient  
12          population, the variety of services  
13          furnished by the eligible professional,  
14          or the health conditions of individ-  
15          uals treated.

16          “(E) IMPLEMENTATION.—

17                 “(i) INITIAL IMPLEMENTATION.—  
18                 Physician Compare shall include  
19                 the information described in sub-  
20                 paragraph (B)—

21                         “(I) with respect to physi-  
22                         cians, by not later than July 1,  
23                         2015; and

1                   **“(II) with respect to other**  
2                   **eligible professionals, by not**  
3                   **later than July 1, 2016.**

4                   **“(ii) ANNUAL UPDATING.—The**  
5                   **information made available under**  
6                   **this paragraph shall be updated**  
7                   **on Physician Compare not less**  
8                   **frequently than on an annual**  
9                   **basis.**

10                  **“(F) OPPORTUNITY TO REVIEW AND**  
11                  **SUBMIT CORRECTIONS.—The Secretary**  
12                  **shall provide for an opportunity for**  
13                  **an eligible professional to review, and**  
14                  **submit corrections for, the informa-**  
15                  **tion to be made public with respect to**  
16                  **the eligible professional under this**  
17                  **paragraph prior to such information**  
18                  **being made public.”; and**

19                  **(3) in paragraph (10)(C), as redesign-**  
20                  **ated by paragraph (1), by inserting “(or**  
21                  **a successor website)” before the period at**  
22                  **the end.**

1 SEC. 8. EXPANDING CLAIMS DATA AVAILABILITY TO IM-  
2 PROVE CARE.

3 (a) EXPANSION OF USES OF CLAIMS DATA BY  
4 QUALIFIED ENTITIES.—Section 1874(e) of the  
5 Social Security Act (42 U.S.C. 1395kk(e)) is  
6 amended by adding at the end the following  
7 new paragraph:

8 “(5) EXPANSION OF USES OF CLAIMS  
9 DATA BY QUALIFIED ENTITIES.—

10 “(A) EXPANSION.—To the extent  
11 consistent with applicable informa-  
12 tion, privacy, security, and disclosure  
13 laws, beginning July 1, 2014, notwith-  
14 standing paragraph (4)(B) (other than  
15 clause (iii) of such paragraph) and  
16 the second sentence of paragraph  
17 (4)(D), a qualified entity may, as de-  
18 termined appropriate by the Sec-  
19 retary, do any or all of the following:

20 “(i)(I) Use the combined data  
21 described in paragraph (4)(B)(iii)  
22 to conduct analyses, other than  
23 for reports described in para-  
24 graph (4), for entities described in  
25 subparagraph (B) for non-public  
26 uses, as determined appropriate



1           by the Secretary, such as for the  
2           purposes described in subclause  
3           (II).

4           “(II) The purposes described  
5           in this subclause are assisting  
6           providers of services and sup-  
7           pliers in developing and partici-  
8           pating in quality and patient care  
9           improvement activities (including  
10          developing new models of care),  
11          population health management,  
12          and disease monitoring, and the  
13          purposes described in subpara-  
14          graph (C).

15          “(ii) Provide or sell such anal-  
16          yses to entities described in sub-  
17          paragraph (B).

18          “(iii) Provide entities de-  
19          scribed in clauses (i), (ii), (v), and  
20          (vi) of subparagraph (B) with ac-  
21          cess to the combined data de-  
22          scribed in paragraph (4)(B)(iii)  
23          through a qualified data enclave  
24          (as defined in subparagraph (F))  
25          that is maintained by the quali-

1           **fied entity in order for entities**  
2           **described in such clauses to con-**  
3           **duct analyses for non-public uses,**  
4           **such as for the purposes de-**  
5           **scribed in clause (i)(II).**

6           **“(B) ENTITIES DESCRIBED.—For the**  
7           **purpose of subparagraph (A) clauses**  
8           **(i) and (ii), the entities described in**  
9           **this subparagraph are the following:**

10               **“(i) A provider of services.**

11               **“(ii) A supplier.**

12               **“(iii) Subject to subparagraph**  
13               **(C), an employer (as defined in**  
14               **section 3(5) of the Employee Re-**  
15               **tirement Insurance Security Act**  
16               **of 1974).**

17               **“(iv) A health insurance issuer**  
18               **(as defined in section 2791 of the**  
19               **Public Health Service Act) that**  
20               **provides data under paragraph**  
21               **(4)(B)(iii).**

22               **“(v) A medical society or hos-**  
23               **pital association.**

24               **“(vi) Other entities approved**  
25               **by the Secretary (other than an**

1           **employer (as so defined) and a**  
2           **health insurance issuer (as so de-**  
3           **defined)).**

4           **“(C) LIMITATION WITH RESPECT TO**  
5           **EMPLOYERS.—Any analyses provided**  
6           **or sold under this paragraph to an**  
7           **employer (as so defined) may only be**  
8           **used by such employer for purposes**  
9           **of providing health insurance to em-**  
10          **ployees and retirees of the employer.**

11          **“(D) PROTECTION OF PATIENT IDEN-**  
12          **TIFICATION.—**

13               **“(i) IN GENERAL.—Except as**  
14               **provided in clause (ii), an analysis**  
15               **provided or sold under this para-**  
16               **graph shall not contain informa-**  
17               **tion that individually identifies a**  
18               **patient.**

19               **“(ii) INFORMATION ON PATIENTS**  
20               **OF THE PROVIDER OF SERVICES OR**  
21               **SUPPLIER.—An analysis that is**  
22               **provided or sold under this para-**  
23               **graph to a provider of services or**  
24               **supplier may contain data that in-**  
25               **dividually identifies a patient of**

1           such provider or supplier but  
2           only with respect to items and  
3           services furnished by such pro-  
4           vider or supplier to such patient.

5           “(iii) OPPORTUNITY FOR PRO-  
6           VIDERS OF SERVICES AND SUPPLIERS  
7           TO REVIEW.—Prior to a qualified  
8           entity providing or selling an  
9           analysis under this paragraph to  
10          an entity described in subpara-  
11          graph (B), to the extent that such  
12          analysis would individually iden-  
13          tify a provider of services or sup-  
14          plier who is not being provided or  
15          sold such analysis, such qualified  
16          entity shall provide an oppor-  
17          tunity for such provider or sup-  
18          plier to review and submit correc-  
19          tions to such analysis.

20          “(E) NO REDISCLOSURE.—An entity  
21          described in subparagraph (B) that is  
22          provided or sold an analysis under  
23          this paragraph shall not redisclose or  
24          make public such an analysis.

1           **“(F) REQUIREMENTS FOR A QUALI-**  
2           **FIED DATA ENCLAVE.—**

3           **“(i) DEFINITION.—For purposes**  
4           **of this paragraph, the term ‘quali-**  
5           **fied data enclave’ means a data**  
6           **enclave that the Secretary deter-**  
7           **mines meets the following:**

8                   **“(I) The data enclave is a**  
9                   **web-based portal or com-**  
10                   **parable mechanism.**

11                   **“(II) Subject to the re-**  
12                   **quirements described in**  
13                   **clause (ii) and such other re-**  
14                   **quirements as the Secretary**  
15                   **may specify, the data enclave**  
16                   **is capable of providing access**  
17                   **to the combined data de-**  
18                   **scribed in subparagraph**  
19                   **(A)(iii).**

20                   **“(ii) ENCLAVE ACCESS REQUIRE-**  
21                   **MENTS.—The requirements de-**  
22                   **scribed in this clause are the fol-**  
23                   **lowing:**

24                   **“(I) A qualified data en-**  
25                   **clave shall preclude any enti-**

1           ty that obtains access to the  
2           data from removing or ex-  
3           tracting the data from such  
4           enclave.

5           “(II) Subject to the suc-  
6           ceeding sentence, the enclave  
7           shall preclude access to data  
8           that individually identifies a  
9           patient, including data on the  
10          patient’s name and date of  
11          birth and such other data as  
12          the Secretary shall specify.  
13          Such data enclave may pro-  
14          vide providers of services and  
15          suppliers with access to such  
16          individually identifiable pa-  
17          tient data but only with re-  
18          spect to items and services  
19          furnished by such provider or  
20          supplier to such patient.

21          “(III) Access to data in the  
22          enclave shall not be provided  
23          to any entity unless the quali-  
24          fied entity and the entity have  
25          entered into a data use agree-

1           ment, the terms of which con-  
2           tain the requirements of this  
3           paragraph and such other  
4           terms the Secretary may  
5           specify.

6           “(G) ANNUAL REPORTS.—Any quali-  
7           fied entity that provides or sells anal-  
8           yses pursuant to subparagraph (A)(ii)  
9           or provides access to a qualified data  
10          enclave pursuant to subparagraph  
11          (A)(iii) shall annually submit to the  
12          Secretary a report that includes—

13               “(i) a summary of the analyses  
14               provided or sold, including the  
15               number of such analyses, the  
16               number of purchasers of such  
17               analyses, and the total amount of  
18               fees received for such analyses;

19               “(ii) a description of the top-  
20               ics and purposes of such analyses;

21               “(iii) information on the enti-  
22               ties who obtained access to the  
23               qualified data enclave, the uses of  
24               the data, and the total amount of

1 fees received for providing such  
2 access; and

3 “(iv) other information deter-  
4 mined appropriate by the Sec-  
5 retary.”.

6 (b) EXPANSION OF DATA AVAILABLE TO  
7 QUALIFIED ENTITIES.—Section 1874(e) of the  
8 Social Security Act (42 U.S.C. 1395kk(e)) is  
9 amended—

10 (1) in the subsection heading, by  
11 striking “Medicare”; and

12 (2) in paragraph (3)—

13 (A) by inserting after the first  
14 sentence the following new sentence:  
15 “Effective July 1, 2014, if the Sec-  
16 retary determines appropriate, the  
17 data described in this paragraph may  
18 also include standardized extracts (as  
19 determined by the Secretary) of  
20 claims data under titles XIX and XXI  
21 for assistance provided under such ti-  
22 tles for one or more specified geo-  
23 graphic areas and time periods re-  
24 quested by a qualified entity.”; and



1           **(B) in the last sentence, by insert-**  
2           **ing “or under titles XIX or XXI” be-**  
3           **fore the period at the end.**

4           **(c) ACCESS TO MEDICARE DATA BY QUALI-**  
5           **FIED CLINICAL DATA REGISTRIES TO FACILITATE**  
6           **QUALITY IMPROVEMENT.—Section 1848(m)(3)(E)**  
7           **of the Social Security Act (42 U.S.C. 1395w-**  
8           **4(m)(3)(E)) is amended by adding at the end**  
9           **the following new clause:**

10                   **“(vi) ACCESS TO MEDICARE DATA**  
11                   **TO FACILITATE QUALITY IMPROVE-**  
12                   **MENT.—**

13                   **“(I) IN GENERAL.—To the**  
14                   **extent consistent with appli-**  
15                   **cable information, privacy, se-**  
16                   **curity, and disclosure laws,**  
17                   **and subject to other require-**  
18                   **ments as the Secretary may**  
19                   **specify, beginning July 1,**  
20                   **2014, the Secretary shall, if re-**  
21                   **quested by a qualified clinical**  
22                   **data registry under this sub-**  
23                   **paragraph, subject to sub-**  
24                   **clauses (II) and (III), provide**  
25                   **data as described in section**

1           **1874(e)(3) (in a form and man-**  
2           **ner determined to be appro-**  
3           **priate) to such registry for**  
4           **purposes of linking such data**  
5           **with clinical data and per-**  
6           **forming analyses and re-**  
7           **search to support quality im-**  
8           **provement or patient safety.**

9           **“(II) PROTECTION.—A quali-**  
10          **fied clinical data registry may**  
11          **not publicly report any data**  
12          **made available under sub-**  
13          **clause (I) (or any analyses or**  
14          **research described in such**  
15          **subclause) that individually**  
16          **identifies a provider of serv-**  
17          **ices, supplier, or individual**  
18          **unless the registry obtains the**  
19          **consent of such provider, sup-**  
20          **plier, or individual prior to**  
21          **such reporting.**

22          **“(III) FEE.—The data de-**  
23          **scribed in subclause (I) shall**  
24          **be made available to qualified**  
25          **clinical data registries at a fee**

1 equal to the cost of making  
2 such data available. Any fee  
3 collected pursuant to the pre-  
4 ceding sentence shall be de-  
5 posited in the Centers for  
6 Medicare & Medicaid Services  
7 Program Management Ac-  
8 count.”.

9 (d) **REVISION OF PLACEMENT OF FEES.—**Sec-  
10 tion 1874(e)(4)(A) of the Social Security Act  
11 (42 U.S.C. 1395kk(e)(4)(A)) is amended, in the  
12 second sentence—

13 (1) by inserting “, for periods prior to  
14 July 1, 2014,” after “deposited”; and

15 (2) by inserting the following before  
16 the period at the end: “, and, beginning  
17 July 1, 2014, into the Centers for Medi-  
18 care & Medicaid Services Program Man-  
19 agement Account”.

20 **SEC. 9. REDUCING ADMINISTRATIVE BURDEN AND OTHER**  
21 **PROVISIONS.**

22 (a) **MEDICARE PHYSICIAN AND PRACTITIONER**  
23 **OPT-OUT TO PRIVATE CONTRACT.—**

24 (1) **INDEFINITE, CONTINUING AUTOMATIC**  
25 **EXTENSION OF OPT OUT ELECTION.—**

1           (A)       IN       GENERAL.—Section  
2       1802(b)(3) of the Social Security Act  
3       (42 U.S.C. 1395a(b)(3)) is amended—

4           (i) in subparagraph (B)(ii), by  
5       striking “during the 2-year period  
6       beginning on the date the affi-  
7       davit is signed” and inserting  
8       “during the applicable 2-year pe-  
9       riod (as defined in subparagraph  
10      (D))”;

11          (ii) in subparagraph (C), by  
12      striking “during the 2-year period  
13      described in subparagraph  
14      (B)(ii)” and inserting “during the  
15      applicable 2-year period”; and

16          (iii) by adding at the end the  
17      following new subparagraph:

18      “(D) APPLICABLE 2-YEAR PERIODS  
19      FOR EFFECTIVENESS OF AFFIDAVITS.—In  
20      this subsection, the term ‘applicable  
21      2-year period’ means, with respect to  
22      an affidavit of a physician or practi-  
23      tioner under subparagraph (B), the 2-  
24      year period beginning on the date the  
25      affidavit is signed and includes each

1 subsequent 2-year period unless the  
2 physician or practitioner involved  
3 provides notice to the Secretary (in a  
4 form and manner specified by the  
5 Secretary), not later than 30 days be-  
6 fore the end of the previous 2-year  
7 period, that the physician or practi-  
8 tioner does not want to extend the  
9 application of the affidavit for such  
10 subsequent 2-year period.”.

11 (B) EFFECTIVE DATE.—The amend-  
12 ments made by subparagraph (A)  
13 shall apply to affidavits entered into  
14 on or after the date that is 60 days  
15 after the date of the enactment of this  
16 Act.

17 (2) PUBLIC AVAILABILITY OF INFORMA-  
18 TION ON OPT-OUT PHYSICIANS AND PRACTI-  
19 TIONERS.—Section 1802(b) of the Social  
20 Security Act (42 U.S.C. 1395a(b)) is  
21 amended—

22 (A) in paragraph (5), by adding at  
23 the end the following new subpara-  
24 graph:

1           **“(D) OPT-OUT PHYSICIAN OR PRACTI-**  
2           **TIONER.—The term ‘opt-out physician**  
3           **or practitioner’ means a physician or**  
4           **practitioner who has in effect an affi-**  
5           **davit under paragraph (3)(B).”;**

6           **(B) by redesignating paragraph**  
7           **(5) as paragraph (6); and**

8           **(C) by inserting after paragraph**  
9           **(4) the following new paragraph:**

10          **“(5) POSTING OF INFORMATION ON OPT-**  
11          **OUT PHYSICIANS AND PRACTITIONERS.—**

12           **“(A) IN GENERAL.—Beginning not**  
13           **later than February 1, 2015, the Sec-**  
14           **retary shall make publicly available**  
15           **through an appropriate publicly ac-**  
16           **cessible website of the Department of**  
17           **Health and Human Services informa-**  
18           **tion on the number and characteris-**  
19           **tics of opt-out physicians and practi-**  
20           **tioners and shall update such infor-**  
21           **mation on such website not less often**  
22           **than annually.**

23           **“(B) INFORMATION TO BE IN-**  
24           **CLUDED.—The information to be made**  
25           **available under subparagraph (A)**

1           shall include at least the following  
2           with respect to opt-out physicians  
3           and practitioners:

4                   “(i) Their number.

5                   “(ii) Their physician or profes-  
6                   sional specialty or other designa-  
7                   tion.

8                   “(iii) Their geographic dis-  
9                   tribution.

10                  “(iv) The timing of their be-  
11                  coming opt-out physicians and  
12                  practitioners, relative to when  
13                  they first entered practice and  
14                  with respect to applicable 2-year  
15                  periods.

16                  “(v) The proportion of such  
17                  physicians and practitioners who  
18                  billed for emergency or urgent  
19                  care services.”.

20           (b) MEDICARE NON-PARTICIPATING PHYSI-  
21           CIANS DEMONSTRATION PROJECT.—

22                   (1) IN GENERAL.—The Secretary of  
23                   Health and Human Services (in this sub-  
24                   section referred to as the “Secretary”)  
25                   shall establish and implement a dem-

1       onstration project (in this section re-  
2       ferred to as the “demonstration project”)  
3       under title XVIII of the Social Security  
4       Act to provide that payments for services  
5       under such title furnished by non-partici-  
6       pating physicians (as defined in section  
7       1861(r)(1) of the Social Security Act (42  
8       U.S.C. 1395x(r)(1))) to individuals entitled  
9       to benefits under part A or enrolled  
10      under part B of such title are paid di-  
11      rectly to such physicians. The Secretary  
12      shall carry out the demonstration project  
13      in a geographic area that is a statistically  
14      significant area no larger than a State.

15           (2) ADVANCE NOTICE TO PHYSICIANS.—

16      The Secretary shall, in a timely manner  
17      and prior to the beginning of the year in  
18      which payment will be made under the  
19      demonstration project, notify physicians  
20      in the geographic area described in para-  
21      graph (1) of the option to participate in  
22      the demonstration project.

23           (3) TIMETABLE FOR IMPLEMENTATION.—

24           (A) DEMONSTRATION START DATE.—

25      The demonstration project shall



1           **apply with respect to services fur-**  
2           **nished beginning on January 1, 2015.**

3           **(B) 1-YEAR DURATION.—The Sec-**  
4           **retary shall implement the dem-**  
5           **onstration project such that pay-**  
6           **ments are made under such dem-**  
7           **onstration project for a period of 1**  
8           **year.**

9           **(4) REPORT.—Not later than 18 months**  
10          **after the date of the conclusion of the**  
11          **demonstration project, the Secretary**  
12          **shall submit to Congress a report ana-**  
13          **lyzing the impact of the demonstration**  
14          **project. Such report shall include an**  
15          **analysis of the impact, if any, of the dem-**  
16          **onstration project upon the—**

17               **(A) percentage and number of**  
18               **physicians who choose not to partici-**  
19               **pate under title XVIII of the Social**  
20               **Security Act and a comparison of**  
21               **such percentage and number to the**  
22               **previous year;**

23               **(B) percentage of claims sub-**  
24               **mitted by and payments made to phy-**  
25               **sicians in the demonstration that are**

1 unassigned and a comparison of un-  
2 assigned claims and payments by  
3 non-participating physicians in the  
4 previous year;

5 (C) percentage and number of the  
6 physicians in the demonstration by  
7 specialty designation; and

8 (D) access to services for which  
9 payment is made under such title for  
10 individuals entitled to benefits under  
11 part A or enrolled under part B of  
12 such title.

13 **(5) BENEFICIARY NOTICE.—**

14 (A) NOTICE BY SECRETARY TO BENE-  
15 FICIARIES.—The Secretary shall notify  
16 individuals entitled to benefits under  
17 part A or enrolled under part B of  
18 title XVIII of the Social Security Act  
19 in the geographic area in which the  
20 demonstration project is conducted of  
21 the implications of physician partici-  
22 pation in the demonstration project.

23 (B) NOTICE BY PHYSICIANS TO PA-  
24 TIENTS.—A physician who elects to  
25 participate in the demonstration

1           project shall notify individuals to  
2           whom the physician furnishes serv-  
3           ices for which payment will be pro-  
4           vided under the demonstration  
5           project of such election. Such notifi-  
6           cation shall be provided prior to the  
7           provision of service and include a no-  
8           tification, with respect to each such  
9           individual, that—

10                   (i) the right of the individual  
11                   to payment is being reassigned to  
12                   the physician;

13                   (ii) payment for services fur-  
14                   nished by the physician to such  
15                   individual will be made directly  
16                   to the physician; and

17                   (iii) the individual is respon-  
18                   sible for the remaining amount,  
19                   which may be higher than would  
20                   be the case if the physician par-  
21                   ticipated in the Medicare pro-  
22                   gram.

23           (c) GAINSHARING STUDY AND REPORT.—Not  
24           later than 6 months after the date of the en-  
25           actment of this Act, the Secretary of Health

1 and Human Services, in consultation with the  
2 Inspector General of the Department of  
3 Health and Human Services, shall submit to  
4 Congress a report with legislative rec-  
5 ommendations to amend existing fraud and  
6 abuse laws, through exceptions, safe harbors,  
7 or other narrowly targeted provisions, to per-  
8 mit gainsharing or similar arrangements be-  
9 tween physicians and hospitals that improve  
10 care while reducing waste and increasing effi-  
11 ciency. The report shall—

12           (1) consider whether such provisions  
13           should apply to ownership interests, com-  
14           pensation arrangements, or other rela-  
15           tionships; and

16           (2) describe how the recommenda-  
17           tions address accountability, trans-  
18           parency, and quality, including how best  
19           to limit inducements to stint on care, dis-  
20           charge patients prematurely, or other-  
21           wise reduce or limit medically necessary  
22           care; and

23           (3) consider whether a portion of any  
24           savings generated by such arrangements  
25           should accrue to the Medicare program

1       under title XVIII of the Social Security  
2       Act.

3       (d) **PROMOTING INTEROPERABILITY OF ELEC-**  
4 **TRONIC HEALTH RECORD SYSTEMS.—**

5           (1) **RECOMMENDATIONS FOR ACHIEVING**  
6 **WIDESPREAD EHR INTEROPERABILITY.—**

7           (A) **OBJECTIVE.—**As a consequence  
8       of a significant Federal investment in  
9       the implementation of health infor-  
10      mation technology through the Medi-  
11      care EHR incentive programs, Con-  
12      gress declares it a national objective  
13      to achieve widespread and nation-  
14      wide exchange of health information  
15      through interoperable certified EHR  
16      technology by December 31, 2019.

17          (B) **DEFINITIONS.—**In this para-  
18      graph:

19           (i) **WIDESPREAD INTEROPER-**  
20 **ABILITY.—**The term “widespread  
21      interoperability” means nation-  
22      wide interoperability between  
23      certified EHR technology systems  
24      employed by meaningful EHR  
25      users under the Medicare EHR in-

1           centive programs and other clini-  
2           cians and health care providers.

3           (ii)     INTEROPERABILITY.—The  
4           term “interoperability” means the  
5           ability of two or more health in-  
6           formation systems or components  
7           to exchange clinical and other in-  
8           formation and to use the informa-  
9           tion that has been exchanged  
10          using common standards as to  
11          provide access to longitudinal in-  
12          formation for health care pro-  
13          viders in order to facilitate co-  
14          ordinated care and improved pa-  
15          tient outcomes.

16          (C) ESTABLISHMENT OF METRICS.—  
17          Not later than December 31, 2015, and  
18          in consultation with stakeholders, the  
19          Secretary shall establish metrics to  
20          be used to determine if and to the ex-  
21          tent that the objective described in  
22          subparagraph (A) has been achieved.

23          (D) RECOMMENDATIONS IF OBJEC-  
24          TIVE NOT ACHIEVED.—If the Secretary  
25          of Health and Human Services deter-

1        mines that the objective described in  
2        subparagraph (A) has not been  
3        achieved by December 31, 2017, then  
4        the Secretary shall submit to Con-  
5        gress a report, by not later than De-  
6        cember 31, 2018, that identifies bar-  
7        riers to such objective and rec-  
8        ommends actions that the Federal  
9        Government can take to achieve such  
10       objective. Such recommended actions  
11       may include recommendations—

12                (i) to adjust payments for  
13                meaningful EHR users under the  
14                Medicare EHR incentive pro-  
15                grams; and

16                (ii) for criteria for decerti-  
17                fying certified EHR technology  
18                products.

19        (2) PREVENTING BLOCKING THE SHARING  
20        OF INFORMATION.—

21                (A) FOR MEANINGFUL EHR PROFES-  
22                SIONALS.—Section 1848(o)(2)(A)(ii) of  
23                the Social Security Act (42 U.S.C.  
24                1395w-4(o)(2)(A)(ii)) is amended by  
25                inserting before the period at the end

1           the following: “, and the professional  
2           demonstrates (through a process  
3           specified by the Secretary, such as  
4           the use of an attestation similar to  
5           that required in the health informa-  
6           tion technology donation safe harbor  
7           established under regulations under  
8           section 1128B(b)(3)(E)) that the pro-  
9           fessional has not and will not take  
10          any deliberate action to limit or re-  
11          strict the use, compatibility, or inter-  
12          operability of the certified EHR tech-  
13          nology”.

14           (B) FOR MEANINGFUL EHR HOS-  
15          PITALS.—Section 1886(n)(3)(A)(ii) of  
16          the Social Security Act (42 U.S.C.  
17          1395ww(n)(3)(A)(ii)) is amended by in-  
18          serting before the period at the end  
19          the following: “, and the hospital dem-  
20          onstrates (through a process specified  
21          by the Secretary, such as the use of  
22          an attestation referred to in section  
23          1848(o)(2)(A)(ii)) that the hospital has  
24          not and will not take any deliberate  
25          action to limit or restrict the use,



1           **compatibility, or interoperability of**  
2           **the certified EHR technology”.**

3           **(C) EFFECTIVE DATE.—The amend-**  
4           **ments made by this subsection shall**  
5           **apply to meaningful EHR users as of**  
6           **the date that is 6 months after the**  
7           **date of the enactment of this Act.**

8           **(3) STUDY AND REPORT ON THE FEASI-**  
9           **BILITY OF ESTABLISHING A WEBSITE TO COM-**  
10          **PARE CERTIFIED EHR TECHNOLOGY PROD-**  
11          **UCTS.—**

12           **(A) STUDY.—The Secretary shall**  
13           **conduct a study to examine the feasi-**  
14           **bility of establishing a website (in**  
15           **this subsection referred to as the**  
16           **“website”) that includes aggregated**  
17           **results of surveys of meaningful EHR**  
18           **users on the functionality of certified**  
19           **EHR technology products to enable**  
20           **such users to directly compare the**  
21           **functionality and other features of**  
22           **such products. Such information may**  
23           **be made available through contracts**  
24           **with physician, hospital, or other or-**

1           **ganizations that maintain such com-**  
2           **parative information.**

3           **(B) REPORT.—Not later than 1**  
4           **year after the date of the enactment**  
5           **of this Act, the Secretary shall submit**  
6           **to Congress a report on the website.**  
7           **The report shall include information**  
8           **on the benefits and resources of such**  
9           **a website.**

10          **(4) DEFINITIONS.—In this subsection:**

11           **(A) The term “certified EHR tech-**  
12           **nology” has the meaning given such**  
13           **term in section 1848(o)(4) of the So-**  
14           **cial Security Act (42 U.S.C. 1395w-**  
15           **4(o)(4)).**

16           **(B) The term “meaningful EHR**  
17           **hospital” means an eligible hospital**  
18           **(as defined in section 1886(n)(6)(A) of**  
19           **the Social Security Act (42 U.S.C.**  
20           **1395ww(n)(6)(A)) that is a meaningful**  
21           **EHR user.**

22           **(C) The term “meaningful EHR**  
23           **professional” means an eligible pro-**  
24           **fessional (as defined in section**  
25           **1848(o)(5)(C) of the Social Security**

1           **Act (42 U.S.C. 1395w-4(o)(5)(C)) who**  
2           **is a meaningful EHR user.**

3           **(D) The term “meaningful EHR**  
4           **user” has the meaning given such**  
5           **term under the Medicare EHR incen-**  
6           **tive programs.**

7           **(E) The term “Medicare EHR in-**  
8           **centive programs” means the incen-**  
9           **tive programs under section 1848(o),**  
10          **subsections (l) and (m) of section**  
11          **1853, and section 1886(n) of the Social**  
12          **Security Act (42 U.S.C. 1395w-4(o),**  
13          **1395w-23, 1395ww(n)).**

14          **(F) The term “Secretary” means**  
15          **the Secretary of Health and Human**  
16          **Services.**

17          **(e) GAO STUDY AND REPORT ON THE USE OF**  
18          **TELEHEALTH UNDER FEDERAL PROGRAMS.—**

19               **(1) STUDY.—The Comptroller General**  
20               **of the United States shall conduct a study**  
21               **on the following:**

22                       **(A) How the definition of tele-**  
23                       **health across various Federal pro-**  
24                       **grams and federal efforts can inform**  
25                       **the use of telehealth in the Medicare**

1           **program under title XVIII of the So-**  
2           **cial Security Act (42 U.S.C. 1395 et**  
3           **seq.).**

4           **(B) Issues that can facilitate or in-**  
5           **hibit the use of telehealth under the**  
6           **Medicare program under such title,**  
7           **including oversight and professional**  
8           **licensure, changing technology, pri-**  
9           **vacy and security, infrastructure re-**  
10          **quirements, and varying needs across**  
11          **urban and rural areas.**

12          **(C) Potential implications of**  
13          **greater use of telehealth with respect**  
14          **to payment and delivery system**  
15          **transformations under the Medicare**  
16          **program under such title XVIII and**  
17          **the Medicaid program under title XIX**  
18          **of such Act (42 U.S.C. 1396 et seq.).**

19          **(D) How the Centers for Medicare**  
20          **& Medicaid Services conducts over-**  
21          **sight of payments made under the**  
22          **Medicare program under such title**  
23          **XVIII to providers for telehealth serv-**  
24          **ices.**

1           **(2) REPORT.**—Not later than 24 months  
2           after the date of the enactment of this  
3           Act, the Comptroller General shall submit  
4           to Congress a report containing the re-  
5           sults of the study conducted under para-  
6           graph (1), together with recommenda-  
7           tions for such legislation and administra-  
8           tive action as the Comptroller General  
9           determines appropriate.

10          **(f) RULE OF CONSTRUCTION REGARDING**  
11 **HEALTH CARE PROVIDER STANDARDS OF CARE.**—

12           **(1) IN GENERAL.**—The development,  
13           recognition, or implementation of any  
14           guideline or other standard under any  
15           Federal health care provision shall not be  
16           construed to establish the standard of  
17           care or duty of care owed by a health  
18           care provider to a patient in any medical  
19           malpractice or medical product liability  
20           action or claim.

21           **(2) DEFINITIONS.**—For purposes of this  
22           subsection:

23                   **(A)** The term “Federal health care  
24                   provision” means any provision of the  
25                   Patient Protection and Affordable

1           **Care Act (Public Law 111–148), title I**  
2           **and subtitle B of title III of the**  
3           **Health Care and Education Reconcili-**  
4           **ation Act of 2010 (Public Law 111–**  
5           **152), and titles XVIII and XIX of the**  
6           **Social Security Act.**

7           **(B) The term “health care pro-**  
8           **vider” means any individual or enti-**  
9           **ty—**

10                   **(i) licensed, registered, or cer-**  
11                   **tified under Federal or State laws**  
12                   **or regulations to provide health**  
13                   **care services; or**

14                   **(ii) required to be so licensed,**  
15                   **registered, or certified but that is**  
16                   **exempted by other statute or reg-**  
17                   **ulation.**

18           **(C) The term “medical mal-**  
19           **practice or medical liability action or**  
20           **claim” means a medical malpractice**  
21           **action or claim (as defined in section**  
22           **431(7) of the Health Care Quality Im-**  
23           **provement Act of 1986 (42 U.S.C.**  
24           **11151(7))) and includes a liability ac-**  
25           **tion or claim relating to a health care**

1        **provider’s prescription or provision**  
2        **of a drug, device, or biological prod-**  
3        **uct (as such terms are defined in sec-**  
4        **tion 201 of the Federal Food, Drug,**  
5        **and Cosmetic Act or section 351 of**  
6        **the Public Health Service Act).**

7                **(D) The term “State” includes the**  
8        **District of Columbia, Puerto Rico,**  
9        **and any other commonwealth, posses-**  
10       **sion, or territory of the United States.**

11        **(3) NO PREEMPTION.—No provision of**  
12       **the Patient Protection and Affordable**  
13       **Care Act (Public Law 111–148), title I or**  
14       **subtitle B of title III of the Health Care**  
15       **and Education Reconciliation Act of 2010**  
16       **(Public Law 111–152), or title XVIII or**  
17       **XIX of the Social Security Act shall be**  
18       **construed to preempt any State or com-**  
19       **mon law governing medical professional**  
20       **or medical product liability actions or**  
21       **claims.**

Union Calendar No. 283

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**H. R. 2810**

[Report No. 113-257, Parts I and II]

**A BILL**

To amend title XVIII of the Social Security Act to reform the sustainable growth rate and Medicare payment for physicians' services, and for other purposes.

MARCH 14, 2014

Reported from the Committee on Ways and Means with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed