

113TH CONGRESS
1ST SESSION

S. 1758

To amend title XVIII of the Social Security Act to increase access to Medicare data.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2013

Ms. BALDWIN (for herself and Mr. THUNE) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to increase
access to Medicare data.

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.**

4 This Act may be cited as the “Quality Data, Quality
5 Healthcare Act of 2013”.

6 **SEC. 2. EXPANDING THE AVAILABILITY OF MEDICARE**
7 **DATA.**

8 (a) EXPANDING USE OF MEDICARE DATA BY QUALI-
9 FIED ENTITIES.—Section 1874(e) of the Social Security
10 Act (42 U.S.C. 1395kk(e)) is amended—

1 (1) in paragraph (3), in the first sentence, by
2 inserting “or, such claims data in sufficient detail to
3 identify cost and utilization, as appropriate” before
4 the period at the end; and

5 (2) by adding at the end the following new
6 paragraph:

7 “(5) EXPANDING USE OF MEDICARE DATA BY
8 QUALIFIED ENTITIES.—

9 “(A) IN GENERAL.—Beginning January 1,
10 2014, notwithstanding paragraph (4)(B) and
11 the second sentence of paragraph (4)(D), a
12 qualified entity may—

13 “(i) use data received by such entity
14 under this section, and information derived
15 from the evaluation described in paragraph
16 (4)(D), for additional non-public analyses
17 (as determined appropriate by the Sec-
18 retary); or

19 “(ii) subject to subparagraph (C),
20 provide or sell such data and analyses to
21 entities described in subparagraph (B) for
22 non-public use (including for the purposes
23 of assisting providers of services and sup-
24 pliers to develop and participate in quality

1 and patient care improvement activities,
2 including developing new models of care).

3 “(B) ENTITIES DESCRIBED.—The entities
4 described in this subparagraph are the fol-
5 lowing:

6 “(i) A health care provider.

7 “(ii) A health insurance issuer (as de-
8 fined in section 2791 of the Public Health
9 Service Act).

10 “(iii) An employer (as defined in sec-
11 tion 3(5) of the Employee Retirement In-
12 surance Security Act of 1974).

13 “(iv) Any organization affiliated with
14 or representing an entity described in
15 clause (i), (ii), or (iii), such as a medical
16 society.

17 “(v) A public health authority (as de-
18 fined for purposes of the Health Insurance
19 Portability and Accountability Act of
20 1996).

21 “(vi) A State or local government
22 agency.

23 “(vii) A research organization that
24 certifies that it will only use the data or

1 analyses for the public good and not for
2 proprietary purposes.

3 “(viii) Any other entity the Secretary
4 determines appropriate to further the goals
5 of this paragraph.

6 “(C) REQUIREMENTS.—

7 “(i) DATA USE AGREEMENT.—A
8 qualified entity may only provide data or
9 analysis to an entity under subparagraph
10 (A)(ii) pursuant to a data use agreement
11 with the entity. Under such agreement, the
12 entity—

13 “(I) may not re-sell such data or
14 analyses; and

15 “(II) shall comply with the pri-
16 vacy and security policies of the quali-
17 fied entity in using such data or anal-
18 yses.

19 “(ii) CIVIL MONEY PENALTY.—

20 “(I) IN GENERAL.—If the Sec-
21 retary determines that an entity de-
22 scribed in subparagraph (B) know-
23 ingly used such data and analyses for
24 purposes other than as authorized
25 under this paragraph, the entity shall

1 be subject to a civil money penalty in
 2 an amount determined by the Sec-
 3 retary for each such violation.

4 “(II) PROCEDURES.—The provi-
 5 sions of section 1128A (other than
 6 subsections (a) and (b) of such sec-
 7 tion) shall apply to a civil money pen-
 8 alty under subclause (I) in the same
 9 manner as such provisions apply to a
 10 penalty or proceeding under section
 11 1128A(a).”.

12 (b) ACCESS TO MEDICARE DATA TO QUALIFIED
 13 CLINICAL DATA REGISTRIES TO FACILITATE QUALITY
 14 IMPROVEMENT.—Section 1848(m)(3)(E) of the Social Se-
 15 curity Act (42 U.S.C. 1395w–4(m)(3)(E)) is amended by
 16 adding at the end the following new clause:

17 “(vi) ACCESS TO MEDICARE DATA TO
 18 FACILITATE QUALITY IMPROVEMENT.—

19 “(I) IN GENERAL.—Consistent
 20 with applicable laws and regulations
 21 with respect to privacy and other rel-
 22 evant matters, beginning January 1,
 23 2014, the Secretary shall, subject to
 24 subclause (II), provide claims data
 25 under this title (in a form and man-

1 ner determined to be appropriate) to
2 qualified clinical data registries under
3 this subparagraph for purposes of
4 linking such data with clinical out-
5 comes data and preforming and dis-
6 seminating risk-adjusted, scientifically
7 valid research to support quality im-
8 provement.

9 “(II) LIMITATION.—A qualified
10 clinical data registry may not publicly
11 report any data made available under
12 subclause (I) that individually identi-
13 fies a provider of services or supplier
14 unless the registry obtains the consent
15 of the provider of services or supplier
16 prior to such reporting.”.

○