

114TH CONGRESS
1ST SESSION

S. 1989

To improve access to primary care services.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2015

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

A BILL

To improve access to primary care services.

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 “Primary Care En-
5 hancement Act of 2015”.

6 **SEC. 2. TREATMENT OF DIRECT PRIMARY CARE SERVICE** 7 **ARRANGEMENTS.**

8 (a) IN GENERAL.—Section 223(c) of the Internal
9 Revenue Code of 1986 is amended by adding at the end
10 the following new paragraph:

11 “(6) TREATMENT OF DIRECT PRIMARY CARE
12 SERVICE ARRANGEMENTS.—An arrangement under

1 which an individual is provided ongoing primary care
 2 services in exchange for a fixed periodic fee which is
 3 not billed to any third party on a fee for service
 4 basis—

5 “(A) shall not be treated as a health plan
 6 for purposes of paragraph (1)(A)(ii), and

7 “(B) shall not be treated as insurance for
 8 purposes of subsection (d)(2)(B).”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 this section shall apply to taxable years beginning after
 11 the date of the enactment of this Act.

12 **SEC. 3. CERTAIN PROVIDER FEES TO BE TREATED AS MED-**
 13 **ICAL CARE.**

14 (a) IN GENERAL.—Subsection (d) of section 213 of
 15 the Internal Revenue Code of 1986 is amended by adding
 16 at the end the following new paragraph:

17 “(12) PERIODIC PROVIDER FEES.—The term
 18 ‘medical care’ shall include periodic fees paid to a
 19 primary care physician for a defined set of medical
 20 services on an as-needed basis.”.

21 (b) EFFECTIVE DATE.—The amendment made by
 22 this section shall apply to taxable years beginning after
 23 the date of the enactment of this Act.

1 **SEC. 4. MEDICARE PRIMARY CARE MEDICAL HOME DEM-**
 2 **ONSTRATION PROGRAM.**

3 Section 1115A of title XI of the Social Security Act
 4 (42 U.S.C. 1315a) is amended—

5 (1) in subsection (b)(2)(A), in the last sentence,
 6 by inserting “, and shall include the model described
 7 in subsection (h)” before the period at the end; and

8 (2) by adding at the end the following new sub-
 9 section:

10 “(h) PRIMARY CARE MEDICAL HOME MODEL.—

11 “(1) MODEL.—

12 “(A) IN GENERAL.—The model described
 13 in this subsection is a model under which quali-
 14 fied direct primary care medical home practices
 15 are reimbursed a periodic fee for furnishing
 16 services to an individual enrolled under part B
 17 of title XVIII.

18 “(B) QUALIFIED DIRECT PRIMARY CARE
 19 MEDICAL HOME PRACTICE.—In this subsection,
 20 the term ‘qualified direct primary care medical
 21 home practice’ means a qualified direct primary
 22 care medical home practice described in section
 23 1301(a)(3) of the Patient Protection and Af-
 24 fordable Care Act (as amended by section
 25 10104(a) of such Act).

26 “(2) PERIODIC FEE.—

1 “(A) IN GENERAL.—Subject to the suc-
 2 ceeding provisions of this paragraph, the Sec-
 3 retary shall establish the periodic fee to be paid
 4 to qualified direct primary care medical home
 5 practices participating in the model under this
 6 subsection for each individual enrolled in the
 7 practice.

8 “(B) AFFORDABLE PRIMARY CARE.—In no
 9 case may a monthly equivalent of the periodic
 10 fee established by the Secretary under subpara-
 11 graph (A) exceed an amount equal to twenty
 12 percent of the average per capita monthly
 13 amount that the Secretary estimates will be
 14 payable from the Federal Hospital Insurance
 15 Trust Fund under section 1817 and from the
 16 Federal Supplementary Medical Insurance
 17 Trust Fund for services and related administra-
 18 tive costs for an individual under parts A and
 19 B of title XVIII.

20 “(C) ADJUSTMENT TO PERIODIC FEE.—

21 “(i) PERFORMANCE BENCHMARK.—

22 The Secretary shall establish a perform-
 23 ance benchmark for a year using the ACO
 24 quality measures in the Medicare shared
 25 savings program under section 1899.

“(ii) ADJUSTMENT.—Beginning with the second year the model under this subsection is conducted, in the case of a qualified direct primary care medical home practice participating in the model under this subsection—

“(I) that meets or exceeds the performance benchmark for the year under clause (i), the periodic fee paid to the practice for each individual enrolled in the practice shall be increased by 5 percent; and

“(II) that does not meet the performance benchmark for the year under clause (i), the periodic fee paid to the practice for each individual enrolled in the practice shall be reduced by 5 percent.

“(3) TERMINATION IF PERFORMANCE BENCHMARK NOT MET FOR 2 CONSECUTIVE YEARS.—The Secretary shall terminate the participation of a qualified direct primary care medical home practice in the model under this subsection if the practice would otherwise be subject to the adjustment under paragraph (2)(C)(ii)(II) for 2 consecutive years.

1 “(4) SCOPE OF SERVICES.—Each qualified di-
2 rect primary care medical home practice shall em-
3 ploy the following activities and functions associated
4 with direct primary care medical homes:

5 “(A) Preventive care.

6 “(B) Wellness counseling.

7 “(C) Primary care.

8 “(D) Coordination of primary care with
9 specialty and hospital care.

10 “(E) Availability of ongoing care appoint-
11 ments 7 days per week.

12 “(F) Secure e-mail and telephone consulta-
13 tion.

14 “(G) Availability of telephone access for
15 ongoing care consultation on a 7-day-per-week,
16 24-hour-per-day basis.

17 “(H) Use of a primary care provider panel
18 size that promotes the ability of participating
19 providers to appropriately provide the scope of
20 services described in this paragraph.

21 “(5) PRIORITY.—

22 “(A) IN GENERAL.—In selecting qualified
23 direct primary care medical home practices to
24 participate under this subsection, the Secretary
25 shall provide priority to practices that seek to

1 enroll individuals who are dual eligible individ-
 2 uals.

3 “(B) DUAL ELIGIBLE INDIVIDUAL.—In
 4 subparagraph (A), the term ‘dual eligible indi-
 5 vidual’ means an individual who is—

6 “(i) enrolled under part B of title
 7 XVIII; and

8 “(ii) described in subparagraph (A)(ii)
 9 of section 1935(c)(6) of the Social Security
 10 Act (42 U.S.C. 1396u–5(c)(6)), taking into
 11 account the application of subparagraph
 12 (B) of such section.

13 “(6) NOT INSURANCE.—Care provided in a
 14 qualified direct primary care medical home practice
 15 participating in the model under this subsection
 16 shall not be considered an insurance product and
 17 shall not be subject to regulation as an insurance
 18 product or health maintenance organization by State
 19 insurance commissioners.

20 “(7) REPORTING TO SECRETARY.—A qualified
 21 direct primary care medical home practice partici-
 22 pating in the model under this subsection shall sub-
 23 mit to the Secretary an annual report on—

1 “(A) the progress, of individuals enrolled
2 in the practice with one or more chronic condi-
3 tions, on the following:

4 “(i) Emergency room visits.

5 “(ii) Hospitalizations.

6 “(iii) Surgeries (including type of sur-
7 gery).

8 “(iv) Specialist visits.

9 “(v) Use of advanced radiology (other
10 than mammograms and DEXA scans); and

11 “(B) such other areas determined appro-
12 priate by the Secretary.

13 “(8) PROVISION OF DATA TO PRACTICES.—The
14 Secretary shall provide qualified direct primary care
15 medical home practices participating in the model
16 under this subsection with all necessary and relevant
17 patient data, including any prior claims data, needed
18 for clinical purposes and for the purpose of pro-
19 viding an evaluation of such the model under this
20 subsection.

21 “(9) PROVIDERS CURRENTLY OPTED OUT OF
22 MEDICARE.—Notwithstanding section 1802(b), a
23 physician or practitioner who has currently opted
24 out of the Medicare program under such section may
25 participate in a qualified direct primary care medical

1 home practice participating in the model under this
2 subsection and payment may be made under this
3 title with respect to items and services furnished by
4 such physician or practitioner under such model to
5 Medicare beneficiaries with whom the physician or
6 practitioner has in effect a private contract under
7 such section.

8 “(10) FRAUD.—A physician or practitioner who
9 has been excluded from participation in a Federal
10 health care program (as defined in section 1128C(f))
11 shall not be permitted to participate in a qualified
12 direct primary care medical home practice under the
13 model under this subsection.

14 “(11) DURATION.—Subject to subsection
15 (b)(3), the Secretary shall conduct the model under
16 this subsection for a period of not less than 3 years.

17 “(12) EXPANSION.—Notwithstanding sub-
18 section (c), if the Secretary determines, after the
19 third year that the model under this subsection is
20 conducted, that—

21 “(A) a qualified direct primary care med-
22 ical home practice participating in the model
23 under this subsection meets the requirements
24 under paragraphs (1), (2), and (3) of such sub-
25 section, such practice shall continue perma-

nently as long as it continues to meet such requirements and the other requirements of this subsection; and

“(B) a majority of qualified direct primary care medical home practice participating in the model under this subsection meet the requirements under paragraphs (1), (2), and (3) of such subsection, the Secretary shall expand the model on a nationwide basis.”.

**SEC. 5. USE OF DIRECT PRIMARY CARE MEDICAL HOMES
UNDER THE MEDICARE ADVANTAGE PROGRAM.**

(a) IN GENERAL.—Nothing in title XVIII of the Social Security Act or any other provision of law shall be construed to prohibit a Medicare Advantage organization offering a Medicare Advantage plan under part C of such title from—

(1) contracting with a qualified direct primary care medical home practice to offer primary care services under such plan; or

(2) including in such contract provisions for shared savings agreed upon between the Medicare Advantage organization and the the qualified direct primary care medical home practice.

1 (b) QUALIFIED DIRECT PRIMARY CARE MEDICAL
2 HOME PRACTICE.—In this section, the term “qualified di-
3 rect primary care medical home practice” means a quali-
4 fied direct primary care medical home practice described
5 in section 1301(a)(3) of the Patient Protection and Af-
6 fordable Care Act (as amended by section 10104(a) of
7 such Act).

○