

114TH CONGRESS
1ST SESSION

S. 688

To amend title XVIII of the Social Security Act to adjust the Medicare hospital readmission reduction program to respond to patient disparities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2015

Mr. MANCHIN (for himself, Mr. PORTMAN, Mr. WICKER, Mr. KIRK, Mr. NELSON, and Mr. BROWN) 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 adjust the Medicare hospital readmission reduction program to respond to patient disparities, 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.**

4 This Act may be cited as the “Establishing Bene-
5 ficiary Equity in the Hospital Readmission Program Act
6 of 2015”.

1 **SEC. 2. ESTABLISHING BENEFICIARY EQUITY IN THE MEDI-**
 2 **CARE HOSPITAL READMISSION PROGRAM.**

3 (a) TRANSITIONAL ADJUSTMENT FOR DUAL ELIGI-
 4 BLE POPULATION AND SOCIOECONOMIC STATUS.—Sec-
 5 tion 1886(q)(4)(C) of the Social Security Act (42 U.S.C.
 6 1395ww(q)(4)(C)) is amended by adding at the end the
 7 following new clause:

8 “(iii) TRANSITIONAL ADJUSTMENT
 9 FOR DUAL ELIGIBLE POPULATION AND SO-
 10 CIOECONOMIC STATUS.—

11 “(I) IN GENERAL.—In deter-
 12 mining a hospital’s excess readmission
 13 ratio under clause (i) for purposes of
 14 making payments for discharges oc-
 15 ccurring during fiscal years 2016 and
 16 2017, and before the initial applica-
 17 tion of clause (iv), and in order to en-
 18 sure that hospitals that treat the most
 19 vulnerable populations are not un-
 20 fairly penalized by the program under
 21 this subsection, the Secretary shall
 22 provide for such risk adjustment as
 23 will take into account both a hos-
 24 pital’s proportion of inpatients who
 25 are full-benefit dual eligible individ-
 26 uals (as defined in section 1935(c)(6))

1 and the socioeconomic status of the
2 patients served by the hospital.

3 “(II) QUANTITATIVE METHOD.—

4 For purposes of applying subclause
5 (I)(bb), the Secretary, to the max-
6 imum extent practicable, shall utilize
7 the most recent data available from
8 the Bureau of the Census in order to
9 develop a quantitative method to ad-
10 just for socioeconomic status. In de-
11 veloping such quantitative method, the
12 Secretary—

13 “(aa) shall, to the maximum
14 extent practicable, use inputs
15 that address at least income,
16 education level, or poverty rate;
17 and

18 “(bb) may include inputs
19 that address other socioeconomic
20 and sociodemographic factors de-
21 termined appropriate by the Sec-
22 retary.

23 “(III) PATIENTS SERVED BY THE
24 HOSPITAL.—For purposes of sub-
25 clause (I)(bb), the Secretary shall, to

the maximum extent practicable, measure the socioeconomic status for all patients served by each hospital. The Secretary may supplement incomplete or inaccessible patient-level data with data related to the geographic region of the patients served by the hospital.

“(IV) MINIMIZING REPORTING BURDEN ON HOSPITALS.—In carrying out this clause, the Secretary shall not impose any additional reporting requirements on hospitals.”.

(b) SUBSEQUENT ADJUSTMENTS BASED ON IMPACT AND MEDPAC REPORTS.—Section 1886(q)(4)(C) of the Social Security Act (42 U.S.C. 1395ww(q)(4)(C)) is further amended by adding at the end the following new clause:

“(iv) RISK ADJUSTMENTS UNDER RE-ADMISSION PROGRAM BASED ON IMPACT AND MEDPAC REPORTS.—In making recommendations under subparagraph (D) of section 2(d)(1) of the IMPACT Act of 2014 (Public Law 113–185; 42 U.S.C. 1395lll note) with respect to the applica-

tion of risk adjustment under this subsection, the Secretary is required to base such risk adjustment on the reports submitted under subparagraphs (A)(ii) and (B)(ii) of such section as well as on the report submitted by the Medicare Payment Advisory Commission under section 2(c) of the Establishing Beneficiary Equity in the Hospital Readmission Program Act of 2015. The Administrator of the Centers for Medicare & Medicaid Services shall incorporate such recommendations in carrying out risk adjustment under this subsection for discharges occurring in fiscal years after fiscal year 2017 in order to ensure that hospitals that treat the most vulnerable populations are not unfairly penalized by the program under this subsection. For fiscal years beginning more than 5 years after the date of submission of the report under section 2(d)(1)(B)(ii) of the IMPACT Act of 2014, the Secretary may use alternative adjustment mechanisms under this subsection to account for socioeconomic factors if the Secretary finds that

1 such measures are better at accounting for
 2 socioeconomic factors than the mechanisms
 3 that would otherwise apply.”.

4 (c) MEDPAC STUDY ON 30-DAY READMISSION
 5 THRESHOLD.—The Medicare Payment Advisory Commis-
 6 sion shall conduct a study on the appropriateness of using
 7 a threshold of 30 days for readmissions under section
 8 1886(q)(5)(E) of the Social Security Act (42 U.S.C.
 9 1395ww(q)(5)(E)). The Commission shall submit to Con-
 10 gress a report on such study in its report to Congress in
 11 June 2016.

12 (d) ADDRESSING ISSUE OF NONCOMPLIANT PA-
 13 TIENTS.—Section 1886(q)(4)(C) of the Social Security
 14 Act (42 U.S.C. 1395ww(q)(4)(C)), as amended by sub-
 15 sections (b) and (c), is further amended by adding at the
 16 end the following new clause:

17 “(v) CONSIDERATION OF EXCLUSION
 18 OF NONCOMPLIANT PATIENT CASES BASED
 19 ON V OR OTHER APPROPRIATE CODES.—In
 20 promulgating regulations to carry out this
 21 subsection for the applicable period with
 22 respect to fiscal year 2017, the Secretary
 23 shall consider the use of V or other ICD-
 24 related codes for potential exclusions of

1 cases in order to address the issue of non-
2 compliant patients.”.

3 (e) EXCLUDING CERTAIN CLINICAL CONDITIONS.—

4 (1) STUDY.—

5 (A) IN GENERAL.—The Secretary of
6 Health and Human Services shall conduct a
7 study, consistent with this paragraph, that as-
8 sesses and makes recommendations with respect
9 to excluding patients whose clinical conditions
10 or diagnoses may require frequent hospitaliza-
11 tions, from the calculation of excess readmis-
12 sions under section 1886(q)(5)(E) of the Social
13 Security Act (42 U.S.C. 1395ww(q)(5)(E)).

14 (B) USE OF A TECHNICAL EXPERT
15 PANEL.—The Secretary shall convene a multi-
16 stakeholder technical expert panel comprised of
17 individuals knowledgeable about clinical care of
18 hospitalized patients and quality measurement,
19 to provide input and recommendations on the
20 study conducted under this paragraph.

21 (C) CLINICAL CONDITIONS TO BE CONSID-
22 ERED.—In conducting the study, the Secretary
23 shall consider exclusions for patients with
24 transplants, burns, psychosis, and substance
25 abuse disorders. The Secretary may include ad-

ditional clinical conditions where appropriate care may require frequent hospitalizations.

(D) TRANSPARENCY.—The Secretary shall make a draft of report on such study available for public comment for a period of not less than 30 days. The final study and recommendations shall address the Secretary’s response to public comments.

(E) DEADLINE.—The Secretary shall submit a final report on the study to Congress no later than Oct. 1, 2016. Such final report shall include recommendations regarding the relevant clinical conditions that should be excluded from the calculation of excess readmissions described in subparagraph (A).

(2) APPLICATION TO CALCULATION OF EXCESS READMISSIONS.—Beginning with fiscal year 2018, the Secretary shall exclude any relevant clinical conditions identified in the recommendations made in the final report under paragraph (1)(E) in determining a hospital’s publicly reported readmission rate and excess readmissions ratio under section 1886(q)(4)(C) of the Social Security Act (42 U.S.C. 1395ww(q)(4)(C)). The Secretary also is encouraged to consider applying the exclusions so identified to

1 other Medicare public reporting and pay-for-per-
2 formance programs in which readmission measures
3 are used.

4 (f) BUDGET NEUTRAL IMPLEMENTATION.—The Sec-
5 retary of Health and Human Services shall make such
6 payment adjustment to subsection (d) hospitals under the
7 inpatient prospective payment system under section 1886
8 of the Social Security Act (42 U.S.C. 1395ww) as may
9 be necessary to ensure that the implementation of the this
10 section (including the amendments made by this section)
11 does not result in an increase in aggregate expenditures
12 under such section 1886.

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