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115TH CONGRESS
2D SESSION

H. R. 7084

To amend title XVIII of the Social Security Act to increase hospital competition, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 23, 2018

Mr. BANKS of Indiana 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

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A BILL

To amend title XVIII of the Social Security Act to increase hospital competition, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hospital Competition Act of 2018''.

SEC. 2. HOSPITAL CONSOLIDATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $160,000,000 to the Federal Trade Commission to hire staff to investigate, as con-

sistent with the Sherman Antitrust Act and other relevant Federal laws, anti-competitive mergers and practices under such laws to the extent such mergers and practices relate to providers of inpatient and outpatient health care services, as defined by the Secretary of Health and Human Services.

(b) MEDICARE RATES APPLIED TO CERTAIN HHI HOSPITALS.—

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

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

(B) in subparagraph (Y), by striking the period at the end and inserting ''; and''; and

(C) by inserting after subparagraph (Y) the following new subparagraph:

''(Z) in the case of a hospital in an urban area and with respect to which there is a Herfindahl-Hirschman Index (HHI) of greater than 4,000 and in the case of a hospital in a rural area and with respect to which there is Herfindahl-Hirschman Index (HHI) of greater than 5,000, to apply the reimbursement rate with respect to individuals (regardless of whether such an individual is entitled to

or eligible for benefits under this title, but excluding individuals eligible for medical assistance under a State plan under title XIX) furnished items and services at such hospital that would be billable under this title for such items and services if furnished by such hospital to an individual entitled to or enrolled for benefits under this title.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to items and services furnished on or after January 1, 2021.

(c) GRANTS FOR HOSPITAL INFRASTRUCTURE IMPROVEMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out a grant program under which the Secretary shall provide grants to eligible States, in accordance with this subsection.

(2) USES.—An eligible State receiving a grant under this subsection may use such grant to improve the State hospital infrastructure and to supplement any other funds provided for a purpose authorized under a State or local hospital grant programs under State law.

(3) ELIGIBILITY.—

(A) IN GENERAL.—An eligible State may receive not more than one grant under this sub-

section with respect to each qualifying criterion described in subparagraph (B) that is met by the State.

(B) ELIGIBLE STATE.—For purposes of this subsection, the term ''eligible State'' means a State that meets any one or more of the following qualifying criteria:

(i) The State does not have in effect any State certificate of need law that requires a health care provider to provide to a regulatory body a certification that the community needs the services provided by the health care provider.

(ii) The State has in effect State scope of practice laws that—

(I) allow advanced practice providers (such as nurse practitioners, advanced practice registered nurses, clinical nurse specialists, and physician assistants) to evaluate patients; diagnose, order, and interpret diagnostic tests; and initiate and manage treatments; or

(II) provide that the only justification for limiting the scope of

practice of a health care provider is safety to the public.

(iii) The State does not have in effect any State laws that require managed care plans to accept into the network of such plan any qualified provider who is willing to accept the terms and conditions of the managed care plan.

(4) FUNDING.—There is authorized to be appropriated to carry out this subsection $1,000,000,000 for each of the fiscal years 2019 through 2028. Funds appropriated under this paragraph shall remain available until expended.

SEC. 3. OFF-CAMPUS PROVIDER-BASED DEPARTMENT MEDICARE SITE NEUTRAL PAYMENT.

(a) IN GENERAL.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(w) OFF-CAMPUS PROVIDER-BASED DEPARTMENT SITE NEUTRAL PAYMENT.—

''(1) IN GENERAL.—With respect to items and services furnished in an off-campus provider-based department, payment under this section for such items and services shall be the amount determined under the fee schedule under section 1848 for such

items and services furnished if furnished in a physician office setting.

''(2) OFF-CAMPUS PROVIDER-BASED DEPARTMENT.—For purposes of this subsection, the term 'off-campus provider-based department' has such meaning as specified by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to items and services furnished on or after January 1, 2021.

SEC. 4. REPEALING SHARED SAVINGS INCENTIVES FROM MEDICARE SHARED SAVINGS PROGRAM.

(a) IN GENERAL.—Section 1899 of the Social Security Act (42 U.S.C. 1395jjj) is amended—

(1) in subsection (a)(1)—

(A) by striking subparagraph (B); and

(B) by striking ''such program—

''(A) groups of providers'' and inserting ''such program, groups of providers'';

(2) in subsection (b)(2)—

(A) in subparagraph (C), by striking ''that would allow the organization to receive and distribute payments for shared savings under subsection (d)(2) to participating providers of services and suppliers''; and

(B) in subparagraph (E)—

(i) by striking ''the implementation'' and inserting ''and the implementation''; and

(ii) by striking '', and the determination of payments for shared savings under subsection (d)(2)'';

(3) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''except'' and all that follows through the period at the end; and

(ii) by striking subparagraph (B); and

(B) by striking paragraph (2); and

(4) in subsection (g), by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2021.

SEC. 5. ADVISORY GROUP ON REDUCING BURDEN OF HOSPITAL ADMINISTRATIVE REQUIREMENTS.

(a) IN GENERAL.—Not later than January 1, 2021, the Secretary of Health and Human Services shall convene an advisory group to provide, in accordance with this section, recommendations on ways the Federal Government

could reduce the burden of administrative requirements on hospitals.

(b) RECOMMENDATIONS.—Not later than January 1, 2022, the advisory board convened under this section shall—

(1) submit to the Secretary of Health and Human Services recommendations described under subsection (a) for executive action and any recommendations for State actions for potential consideration in making grants under section 2(c) to States; and

(2) submit to Congress recommendations described under subsection (a) for legislative proposals.

(c) MEMBERSHIP.—The advisory board under this section shall consist of the following members:

(1) Three representatives of companies that have—

(A) geographically distributed workforces;

(B) at least 10,000 employees; and

(C) no more than 10 percent of such employees in any single State.

(2) Three representatives of health insurance issuers and health plans, consisting of—

(A) one representative of for-profit health insurance issuers and health plans with at last

20,000,000 enrollees in the employer-sponsored market;

(B) one representative of non-profit health insurance issuers and health plans operating in at least 5 States; and

(C) one representative of non-profit health insurance issuers and health plans operating in a rural State (as defined by the Census Bureau).

(3) Seven public policy experts in the field of hospital consolidation.

SEC. 6. PRICE TRANSPARENCY.

Section 1866 of the Social Security Act (42 U.S.C. 1395cc), as amended by section 2, is further amended—

(1) in subsection (a)(1)—

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

(B) in subparagraph (Z), by striking the period at the end and inserting ''; and''; and

(C) by inserting after subparagraph (Z) the following new subparagraph:

''(AA) in the case of a hospital, to comply with the requirement under subsection (l).''; and

(2) by adding at the end the following new subsection:

''(l) REQUIREMENT RELATING TO PUBLISHING CERTAIN HOSPITAL PRICES.—

''(1) IN GENERAL.—For purposes of subsection (a)(1)(AA), the requirement described in this subsection is, with respect to a hospital and year (beginning with 2021), for the hospital to publicly post, through the system established under paragraph (3), for each service included in the list published under paragraph (2) for such year, the volume-weighted average price charged by the hospital to—

''(A) individuals enrolled during such year in group health plans or health insurance coverage offered in the individual or group market (as such terms are defined in section 2791 of the Public Health Service Act); and

''(B) individuals who are not enrolled in any health insurance coverage or health benefits plan and individuals who are enrolled in such coverage or plan but such coverage or plan does not provide benefits for the service.

''(2) SERVICES.—For purposes of subsection (a)(1)(AA) and this subsection, the Secretary shall, for 2021 and each subsequent year, publish a list of the 100 services that are the most highly utilized in a hospital-based setting.

"(3) STANDARDIZED DIGITAL REPORTING SYSTEM.—Not later than January 1, 2021, the Secretary shall establish a standardized digital system for purposes of paragraph (1).".

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