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115TH CONGRESS
2D SESSION

H. R. 7122

To amend title III of the Public Health Service Act and titles XI and XVIII of the Social Security Act to accelerate the adoption of value-based payment and delivery arrangements among health care stakeholders intended to coordinate care, improve patient outcomes, share accountability, or lower costs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 2018

Mr. PAULSEN introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 III of the Public Health Service Act and titles XI and XVIII of the Social Security Act to accelerate the adoption of value-based payment and delivery arrangements among health care stakeholders intended to coordinate care, improve patient outcomes, share accountability, or lower costs, 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 ''Shared Accountability for Improved Patient Outcomes Act of 2018''.

SEC. 2. VALUE-BASED ARRANGEMENTS.

Subpart I of part S of title III of the Public Health Service Act (42 U.S.C. 280j et seq.) is amended by adding at the end the following new section:

''SEC. 399LL. EDUCATIONAL CAMPAIGNS TO ENCOURAGE VALUE-BASED HEALTH CARE DELIVERY AND QUALITY IMPROVEMENT.

''(a) IN GENERAL.—Beginning not later than January 1, 2019, the Secretary shall conduct annual education campaigns targeted to health care providers and payers to encourage the development of value-based arrangements (as defined in section 1128B(b)(5)(B) of the Social Security Act) that are designed to meet one or more of the following goals:

''(1) Promotion of accountability with respect to quality, cost, coordination, and overall care of patient populations, including patient populations that receive services which are reimbursed by various health care payers.

''(2) Improvement of management and coordination of care for patients through such arrangements approved by the parties to the arrangement.

''(3) Encouragement of investment in health care infrastructure and redesigned care processes for high-quality and efficient service delivery for patients, including individuals entitled to benefits under part A of title XVIII of the Social Security Act or enrolled under part B of such title, such as appropriate reduction of costs or growth in expenditures for items and services provided to patients, consistent with quality of care, physician medical judgment, and patient freedom of choice.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2019 through 2023.''.

SEC. 3. ANTIKICKBACK EXCEPTION FOR VALUE-BASED ARRANGEMENTS.

(a) IN GENERAL.—Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following new paragraph:

''(5)(A) Paragraphs (1) and (2) shall not apply to any remuneration exchanged under a value-based arrangement (as defined in subparagraph (B)) directly or indirectly between, among, or on behalf of one or more parties paid under such arrangement.

''(B) For purposes of this paragraph, the term 'value-based arrangement' means an arrangement that meets the following criteria:

''(i) The arrangement is set out in writing in advance of the execution of the arrangement and specifies the health care items and services covered by the arrangement.

''(ii) The arrangement is reasonably related to one or more of the goals described in section 399LL(a) of the Public Health Service Act.

''(iii) The arrangement—

''(I) is a value-based risk-sharing transaction (as defined in subparagraph (C));

''(II) provides for payment for items and services furnished under the arrangement between, among, or on behalf of one or more parties participating in a value-based risk-sharing network arrangement (as defined in subparagraph (C)); or

''(III) is another arrangement determined appropriate by the Secretary.

''(C) In this paragraph:

''(i) The term 'financial risk' means upside or downside risk such that each party is eligible or liable for payment through a specified methodology

that may include shared savings, withholds, or bonuses.

''(ii) The term 'value-based risk-sharing network arrangement' means an arrangement under which an entity is established between or organized and operated by two or more parties (which may include providers, suppliers, corporations, or individuals)—

''(I) to accept capitation payments with respect to certain items and services furnished to an individual;

''(II) to accept as payment for such items and services a predetermined percentage of the value-based risk-sharing network's revenue under the arrangement; or

''(III) to provide financial incentives to parties to the arrangement for purposes of achieving one or more of the goals described in section 399LL(a) of the Public Health Service Act through the use of—

''(aa) arrangements under which such parties agree to a withhold of a significant amount of the compensation due them, to be used to cover losses of the arrangement, to cover losses of other parties within the

arrangement, to be returned to all parties to the arrangement if such parties meet their utilization management or cost-containment goals for a specified time period, or to be distributed among all parties if the arrangement meets its utilization management or cost-containment goals for a specified time period;

''(bb) arrangements where such parties agree to preestablished cost or utilization targets and to subsequent significant financial rewards or penalties (which may include a reduction in payments to downstream providers or suppliers in the network) based on the performance of all such parties with respect to such targets; or

''(cc) other mechanisms that demonstrate significant shared financial risk (as defined in clause (i)) or significantly assist such parties in meeting risk-sharing targets, including shared-savings payments, withholds, or bonuses.

Remuneration to parties who participate in a value-based risk-sharing network arrangement may be in-kind or monetary payments, which may but are not

required to place the parties to such arrangement at financial risk (as defined in clause (i)).

''(iii) The term 'value-based risk-sharing transaction' means a payment made under an arrangement under which each party agrees—

''(I) to contribute to the achievement of preidentified clinical or economic target metrics that are specifically tailored to improve patient outcomes or reduce the costs of health care delivery without negatively affecting patient outcomes;

''(II) to implement processes or procedures that otherwise optimize the delivery, efficiency, or quality of patient-centered care; and

''(III) to predetermine the allocation of financial risk (as defined in clause (i)) assumed by each party based on the participant's relative contribution to the achievement of targeted outcomes.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to arrangements entered into on or after the date of enactment of this Act.

SEC. 4. STARK LAW EXCEPTION FOR VALUE-BASED ARRANGEMENTS.

(a) Section 1877(e) of the Social Security Act (42 U.S.C. 1395nn(e)) is amended by adding at the end the following new paragraphs:

"(9) VALUE-BASED ARRANGEMENTS.—Remuneration to a physician (or an immediate family member of such physician) paid under a value-based arrangement (as defined in section 1128B(b)(5)(B)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to arrangements entered into on or after the date of enactment of this Act.

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