

116TH CONGRESS
2D SESSION

H. R. 7791

To direct the Secretary of Health and Human Services to revise certain regulations in relation to the Medicare shared savings program and other advanced alternative payment arrangements to encourage participation in such program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2020

Mr. WELCH (for himself, Ms. DELBENE, and Mr. LAHOOD) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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

A BILL

To direct the Secretary of Health and Human Services to revise certain regulations in relation to the Medicare shared savings program and other advanced alternative payment arrangements to encourage participation in such program, 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 “Value in Health Care
5 Act of 2020”.

1 **SEC. 2. ENCOURAGING PARTICIPATION IN THE MEDICARE**
2 **SHARED SAVINGS PROGRAM.**

3 (a) INCREASING SHARED SAVINGS RATES FOR CER-
4 TAIN ACCOUNTABLE CARE ORGANIZATIONS.—Prior to the
5 beginning of the first performance year (as defined in sec-
6 tion 425.20 of title 42, Code of Federal Regulations (or
7 a successor regulation)) that begins after the date of the
8 enactment of this Act, the Secretary of Health and
9 Human Services shall revise section 425.605(d)(1) of title
10 42, Code of Federal Regulations (or a successor regula-
11 tion), to provide that the shared savings rate for an ac-
12 countable care organization participating in—

13 (1) Level A (as described in paragraph (i)(A) of
14 such section) or Level B (as described in paragraph
15 (ii)(A) of such section) of the BASIC track shall be
16 at least 50 percent of all the savings under the up-
17 dated benchmark (as so described), as determined
18 on the basis of such organization’s quality perform-
19 ance;

20 (2) Level C (as described in paragraph (iii)(A)
21 of such section) or Level D (as described in para-
22 graph (iv)(A) of such section) of the BASIC track
23 shall be at least 55 percent of all the savings under
24 the updated benchmark (as so described), as deter-
25 mined on the basis of such organization’s quality
26 performance; or

1 (3) Level E (as described in paragraph (v)(A)
2 of such section) shall be at least 60 percent of all
3 the savings under the updated benchmark (as so de-
4 scribed), as determined on the basis of such organi-
5 zation's quality performance.

6 (b) MODIFYING RISK ADJUSTMENT METHOD-
7 OLOGY.—Prior to the beginning of the first performance
8 year (as defined for purposes of subsection (a)) that be-
9 gins after the date of the enactment of this Act, the Sec-
10 retary of Health and Human Services shall revise—

11 (1) section 425.605(a)(1)(i) of title 42, Code of
12 Federal Regulations, or a successor regulation, to
13 provide that positive adjustments, if applicable, in
14 prospective HCC risk scores (as applied for purposes
15 of such section) are subject to a cap of no less than
16 5 percent, and any negative adjustments, if applica-
17 ble, in prospective HCC risk scores (as applied for
18 purposes of such section) shall be between 0 and
19 negative 5 percent;

20 (2) section 425.610(a)(2)(i) of title 42, Code of
21 Federal Regulations, or a successor regulation, to
22 provide that positive adjustments, if applicable, in
23 prospective HCC risk scores (as applied for purposes
24 of such section) are subject to a cap of no less than
25 5 percent, and any negative adjustments, if applica-

1 ble, in prospective HCC risk scores (as applied for
2 purposes of such section) shall be between 0 and
3 negative 5 percent; and

4 (3) section 425.609(c)(3)(i)(A) of title 42, Code
5 of Federal Regulations, or a successor regulation, to
6 provide that the cap described in such section ref-
7 erences no less than 5 percent, and any negative ad-
8 justments, if applicable, in prospective HCC risk
9 scores (as applied for purposes of such section) shall
10 be between 0 and negative 5 percent.

11 (c) REMOVING BARRIERS TO SHARED SAVINGS PRO-
12 GRAM PARTICIPATION.—Prior to the beginning of the first
13 performance year (as defined for purposes of subsection
14 (a)) that begins after the date of the enactment of this
15 Act, the Secretary of Health and Human Services shall
16 revise part 425 of title 42, Code of Federal Regulations,
17 or any successor regulation, to—

18 (1) eliminate any distinction in requirements in
19 such part between a low revenue ACO and a high
20 revenue ACO (as such terms are defined in section
21 425.20 of title 42, Code of Federal Regulations, or
22 a successor regulation) and, with respect to such a
23 low revenue ACO or high revenue ACO and except
24 as otherwise modified in this Act, apply the require-
25 ments of such part as such requirements applied to

1 low revenue ACOs on July 1, 2019, except that the
2 Secretary of Health and Human Services may, if the
3 Secretary determines appropriate, apply less strin-
4 gent requirements than those requirements that ap-
5 plied to low revenue ACOs as of such date; and

6 (2) remove any provision requiring an account-
7 able care organization to assume responsibility for
8 repayment of any shared losses or participate in a
9 two-sided risk model before the organization has
10 participated for at least 3 years in any program sub-
11 ject to the provisions of part 425 of title 42, Code
12 of Federal Regulations, or any successor regulation,
13 provided that such an organization shall be allowed
14 to elect to participate in such two-sided risk models
15 or models requiring repayment of such losses.

16 (d) ENSURING FAIR AND ACCURATE BENCH-
17 MARKS.—Prior to the beginning of the first performance
18 year (as defined for purposes of subsection (a)) that be-
19 gins after the date of the enactment of this Act, the Sec-
20 retary of Health and Human Services shall revise part 425
21 of title 42, Code of Federal Regulations, to remove Medi-
22 care beneficiaries who are assigned to an accountable care
23 organization from the methodology for calculating the re-
24 gional expenditures used to establish, adjust, and update

1 the benchmark expenditures for ACO performance periods
 2 beginning on or after July 1, 2019.

3 **SEC. 3. PROVIDING EDUCATIONAL AND TECHNICAL SUP-**
 4 **PORT FOR THE MEDICARE SHARED SAVINGS**
 5 **PROGRAM.**

6 Section 1899 of the Social Security Act (42 U.S.C.
 7 1395jjj) is amended by adding at the end the following
 8 new subsection:

9 “(n) EDUCATIONAL AND TECHNICAL SUPPORT.—

10 “(1) IN GENERAL.—The Secretary shall estab-
 11 lish a program to assist eligible ACOs in meeting
 12 start-up and ongoing operational costs associated
 13 with establishing and participating in the shared
 14 savings program established under subsection (a).
 15 The Secretary shall establish through notice-and-
 16 comment rulemaking the requirements for participa-
 17 tion and use of funds in the program established in
 18 the preceding sentence.

19 “(2) REDUCTION IN SHARED SAVINGS PAY-
 20 MENTS.—The Secretary shall reduce any shared sav-
 21 ings payment owed to an ACO under subsection (d)
 22 in an amount equal to any funds provided to such
 23 ACO under the program established under para-
 24 graph (1).”.

1 **SEC. 4. ADVANCED PAYMENT MODEL INCENTIVE, PARTICI-**
2 **PATION, AND THRESHOLD MODIFICATIONS.**

3 (a) IN GENERAL.—Section 1833(z) of the Social Se-
4 curity Act (42 U.S.C. 1395l(z)) is amended—

5 (1) in paragraph (1)(A), by striking “2024”
6 and inserting “2030”; and

7 (2) in paragraph (2)—

8 (A) in subparagraph (B)—

9 (i) by striking the header and insert-
10 ing “2021 AND SUBSEQUENT YEARS”;

11 (ii) in the matter preceding clause (i),
12 by striking “2021 and 2022” and inserting
13 “2021 or a subsequent year”;

14 (iii) in clause (i), by striking “50 per-
15 cent” and “the applicable percent (as de-
16 fined in clause (iv)) for such year”;

17 (iv) in clause (ii)(I)—

18 (I) in the matter preceding item
19 (aa), by striking “50 percent” and in-
20 serting “the applicable percent (as de-
21 fined in clause (iv)) for such year”;
22 and

23 (II) in item (bb)—

24 (aa) by striking “and other
25 than payments made under title
26 XIX” and inserting “other than

1 payments made under title XIX”;
2 and

3 (bb) by striking “State pro-
4 gram under that title,” and in-
5 serting “State program under
6 that title, and other than pay-
7 ments made by payers in which
8 no payment or program meeting
9 the requirements described in
10 clause (iii)(II) is available from
11 the payer for participation by the
12 eligible professional)”;

13 (v) by adding at the end the following
14 new clause:

15 “(iv) APPLICABLE PERCENT DE-
16 FINED.—For purposes of clauses (i) and
17 (ii), the term ‘applicable percent’ means—

18 “(I) for 2021, 50 percent; and

19 “(II) for a subsequent year, a
20 percent specified by the Secretary, but
21 in no case less than the percent speci-
22 fied under this clause for the pre-
23 ceding year or more than 5 percent-
24 age points higher than the percent

1 specified under this clause for such
 2 preceding year.”;

3 (B) by striking subparagraph (C); and

4 (C) by redesignating subparagraph (D) as
 5 subparagraph (C).

6 (b) PARTIAL QUALIFYING APM PARTICIPANT MODI-
 7 FICATIONS.—Section 1848(q)(1)(C)(iii) of the Social Se-
 8 curity Act (42 U.S.C. 1395w–4(q)(1)(C)(iii)) is amend-
 9 ed—

10 (1) in subclause (I), by adding “and” at the
 11 end;

12 (2) in subclause (II)—

13 (A) in the matter preceding item (aa), by
 14 striking “2022” and inserting “subsequent
 15 years”;

16 (B) in item (aa), by striking “50 percent
 17 was instead a reference to 40 percent” and in-
 18 serting “the applicable percent were instead a
 19 reference to 10 percentage points less than the
 20 applicable percent”; and

21 (C) in item (bb)—

22 (i) by striking “50 percent” and in-
 23 serting “the applicable percent”; and

1 (ii) by striking “40 percent” and in-
 2 serting “10 percentage points less than the
 3 applicable percent”; and

4 (3) by striking subclause (III).

5 (c) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply with respect to years beginning on
 7 or after January 1, 2021.

8 **SEC. 5. ADDRESSING OVERLAP IN VALUE BASED CARE PRO-**
 9 **GRAMS.**

10 (a) IN GENERAL.—

11 (1) CMI.—Section 1115A(a)(5) of the Social
 12 Security Act (42 U.S.C. 1315a(a)(5)) is amended by
 13 adding at the end the following new sentence: “In
 14 establishing such limits, the Secretary shall take into
 15 account payment and service delivery models in
 16 progress in such geographic areas.”.

17 (2) REPEAL OF MEDICARE DUPLICATION PRO-
 18 HIBITION.—Section 1899(b) of the Social Security
 19 Act (42 U.S.C. 1395jjj(b)) is amended by striking
 20 paragraph (4).

21 (b) REPORT.—Not later than 1 year after the date
 22 of the enactment of this Act, the Secretary of Health and
 23 Human Services shall conduct an assessment and submit
 24 to Congress a report on alternative payment model overlap

1 in the Medicare program. Such report shall include a de-
2 scription of and recommendations relating to—

3 (1) any issues regarding the existence of mul-
4 tiple alternative payment model participation oppor-
5 tunities for health care providers; and

6 (2) obstacles created by competing incentives
7 with respect to alternative payment models.

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