AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

I

117TH CONGRESS
1ST SESSION

H. R. 4587

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 20, 2021

Mr. WELCH (for himself, Ms. DELBENE, Mr. LAHOOD, and Mr. WENSTRUP) 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 2021’’.

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

(a) INCREASING SHARED SAVINGS RATES FOR CERTAIN ACCOUNTABLE CARE ORGANIZATIONS.—Prior to the beginning of the first performance year (as defined in section 425.20 of title 42, Code of Federal Regulations (or a successor regulation)) that begins after the date of the enactment of this Act, the Secretary of Health and Human Services shall revise section 425.605(d)(1) of title 42, Code of Federal Regulations (or a successor regulation), to provide that the shared savings rate for an accountable care organization participating in—

(1) Level A (as described in paragraph (i)(A) of such section) or Level B (as described in paragraph (ii)(A) of such section) of the BASIC track shall be at least 50 percent of all the savings under the updated benchmark (as so described), as determined on the basis of such organization's quality performance;

(2) Level C (as described in paragraph (iii)(A) of such section) or Level D (as described in paragraph (iv)(A) of such section) of the BASIC track shall be at least 55 percent of all the savings under the updated benchmark (as so described), as determined on the basis of such organization's quality 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)(C)—
8 (A) in clause (i), by striking ''75 percent''
9 and inserting ''the applicable percent (as de-
10 fined in clause (iv)) for such year'';
11 (B) in clause (ii)(I)—
12 (i) in the matter preceding item (aa),
13 by striking ''75 percent'' and inserting
14 ''the applicable percent (as defined in
15 clause (iv)) for such year''; and
16 (ii) in item (bb)—
17 (I) by striking ''and other than
18 payments made under title XIX'' and
19 inserting ''other than payments made
20 under title XIX''; and
21 (II) by striking ''State program
22 under that title),'' and inserting
23 ''State program under that title, and
24 other than payments made by payers
25 in which no payment or program
26 meeting the requirements described in

1 clause (iii)(II) is available from the
2 payer for participation by the eligible
3 professional)''; and
4 (C) by adding at the end the following new
5 clause:
6 ''(iv) APPLICABLE PERCENT DE-
7 FINED.—For purposes of clauses (i) and
8 (ii), the term 'applicable percent' means—
9 ''(I) for 2025, a percent specified
10 by the Secretary, but in no case less
11 than 50 percent or more than 55 per-
12 cent; and
13 ''(II) for a subsequent year, a
14 percent specified by the Secretary, but
15 in no case less than the percent speci-
16 fied under this clause for the pre-
17 ceding year or more than 5 percent-
18 age points higher than the percent
19 specified under this clause for such
20 preceding year.''.
21 (b) PARTIAL QUALIFYING APM PARTICIPANT MODI-
22 FICATIONS.—Section 1848(q)(1)(C)(iii)(III) of the Social
23 Security Act (42 U.S.C. 1395w–4(q)(1)(C)(iii)(III)) is
24 amended—

1 (1) in item (aa), by striking ''50 percent was
2 instead a reference to 40 percent'' and inserting
3 ''the applicable percent were instead a reference to
4 10 percentage points less than the applicable per-
5 cent''; and
6 (2) in item (bb)—
7 (A) by striking ''75 percent'' and inserting
8 ''the applicable percent'';
9 (B) by striking ''50 percent'' and inserting
10 ''10 percentage points less than the applicable
11 percent''.

12 **SEC. 5. ADDRESSING OVERLAP IN VALUE BASED CARE PRO-**
13 **GRAMS.**

14 (a) IN GENERAL.—
15 (1) CMI.—Section 1115A(a)(5) of the Social
16 Security Act (42 U.S.C. 1315a(a)(5)) is amended by
17 adding at the end the following new sentence: ''In
18 establishing such limits, the Secretary shall take into
19 account payment and service delivery models in
20 progress in such geographic areas.''.
21 (2) REPEAL OF MEDICARE DUPLICATION PRO-
22 HIBITION.—Section 1899(b) of the Social Security
23 Act (42 U.S.C. 1395jjj(b)) is amended by striking
24 paragraph (4).

1 (b) REPORT.—Not later than 1 year after the date
2 of the enactment of this Act, the Secretary of Health and
3 Human Services shall conduct an assessment and submit
4 to Congress a report on alternative payment model overlap
5 in the Medicare program. Such report shall include a de-
6 scription of and recommendations relating to—
7 (1) any issues regarding the existence of mul-
8 tiple alternative payment model participation oppor-
9 tunities for health care providers; and
10 (2) obstacles created by competing incentives
11 with respect to alternative payment models.

12 **SEC. 6. STUDY ON RACIAL HEALTH DISPARITIES.**

13 Not later than 18 months after the date of enactment
14 of this Act, the Comptroller General of the United States
15 shall submit to the appropriate committees of Congress
16 a report on health outcomes and racial disparities among
17 Medicare beneficiaries assigned to providers reimbursed
18 under alternative payment models compared to such bene-
19 ficiaries receiving care from fee-for-service providers. Such
20 report shall include, to the extent to which data is avail-
21 able, an analysis comparing the beneficiaries assigned to
22 a provider participating in the Medicare shared savings
23 program to beneficiaries not participating in Medicare Ad-
24 vantage and not assigned to any provider reimbursed

1 under an alternative payment model with respect to at
2 least the following individual outcomes measures:
3 (1) Control of hypertension.
4 (2) Colorectal cancer screenings.
5 (3) Influenza immunization.
6 (4) Completion of an annual wellness visit.
7 (5) Breast cancer screening.
8 (6) Screening for depression and performance
9 of a follow-up plan (if appropriate).
10 (7) Hemoglobin A1c control.
11 (8) Emergency room visits.
12 (9) Such other measures as the Comptroller
13 General determines appropriate.

○