

115TH CONGRESS
1ST SESSION

H. R. 1838

To amend title XVIII of the Social Security Act to modernize payments for ambulatory surgical centers under the Medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2017

Mr. NUNES (for himself, Mr. LARSON of Connecticut, Mr. STEWART, Mr. SCHWEIKERT, Mr. GARAMENDI, Mr. SMITH of Washington, Mrs. BLACKBURN, Mr. LAMBORN, Mr. VEASEY, Mr. TIPTON, Mr. YOUNG of Alaska, Mr. SESSIONS, Mr. ROE of Tennessee, Mrs. WALORSKI, Mr. NORCROSS, Mr. PASCRELL, Mr. BUCSHON, Mr. HENSARLING, Ms. SÁNCHEZ, Mr. LANCE, Mr. STIVERS, Mr. SWALWELL of California, Mr. DAVID SCOTT of Georgia, Ms. JENKINS of Kansas, Mr. LOEBSACK, Mr. KILDEE, Mr. PETERS, Mr. FARENTHOLD, and Mr. SAM JOHNSON of Texas) 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

A BILL

To amend title XVIII of the Social Security Act to modernize payments for ambulatory surgical centers under the Medicare 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Ambulatory Surgical
3 Center Quality and Access Act of 2017”.

4 **SEC. 2. ALIGNING UPDATES FOR AMBULATORY SURGICAL**
5 **CENTER SERVICES WITH UPDATES FOR OPD**
6 **SERVICES.**

7 Section 1833(i)(2)(D) of the Social Security Act (42
8 U.S.C. 1395l(i)(2)(D)) is amended—

9 (1) in clause (v)—

10 (A) in the first sentence, by inserting be-
11 fore the period the following: “and, in the case
12 of 2018 or a subsequent year, by the adjust-
13 ment described in subsection (t)(3)(G) for the
14 respective year”; and

15 (B) by moving the margin 6 ems to the
16 left;

17 (2) by redesignating clause (vi) as clause (vii);
18 and

19 (3) by inserting after clause (v) the following
20 new clause:

21 “(vi) In implementing the system described in clause
22 (i) for 2018 and each subsequent year, there shall be an
23 annual update under such system for the year equal to
24 the OPD fee schedule increase factor specified under sub-
25 section (t)(3)(C)(iv) for such year, adjusted in accordance
26 with clauses (iv) and (v).”.

1 **SEC. 3. TRANSPARENCY OF QUALITY REPORTING AND**
2 **MEDICARE BENEFICIARY INFORMATION.**

3 Paragraph (7) of section 1833(i) of the Social Secu-
4 rity Act (42 U.S.C. 1395l(i)) is amended by adding at the
5 end the following new subparagraphs:

6 “(C) To the extent that quality measures imple-
7 mented by the Secretary under this paragraph for ambula-
8 tory surgical centers and under section 1833(t)(17) for
9 hospital outpatient departments are applicable to the pro-
10 vision of surgical services in both ambulatory surgical cen-
11 ters and hospital outpatient departments, the Secretary
12 shall make reported data on such centers and departments
13 available on the website ‘Medicare.gov’ in a manner that
14 will permit side-by-side comparisons on such measures for
15 ambulatory surgical centers and hospital outpatient de-
16 partments in the same geographic area.

17 “(D) The Secretary shall ensure that an ambulatory
18 surgery center and a hospital has the opportunity to re-
19 view, and submit any corrections for, the data to be made
20 public with respect to the ambulatory surgery center under
21 subparagraph (C) prior to such data being made public.

22 “(E) The Secretary shall develop materials and in-
23 form beneficiaries under this title of publicly available
24 comparisons provided for in subparagraph (C).”.

1 **SEC. 4. ADVISORY PANEL ON HOSPITAL OUTPATIENT PAY-**
2 **MENT REPRESENTATION.**

3 (a) ASC REPRESENTATIVE.—The second sentence of
4 section 1833(t)(9)(A) of the Social Security Act (42
5 U.S.C. 1395l(t)(9)(A)) is amended by inserting “and sup-
6 pliers subject to the prospective payment system (includ-
7 ing at least one ambulatory surgical center representa-
8 tive)” after “an appropriate selection of representatives of
9 providers”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall take effect on the date of the enact-
12 ment of this Act.

13 **SEC. 5. REASONS FOR EXCLUDING ADDITIONAL PROCE-**
14 **DURES FROM ASC APPROVED LIST.**

15 (a) IN GENERAL.—Section 1833(i)(1) of the Social
16 Security Act (42 U.S.C. 1395l(i)(1)) is amended by add-
17 ing at the end the following: “In updating such lists for
18 application in years beginning after the date of the enact-
19 ment of this sentence, for each procedure that was re-
20 quested to be included in such lists during the public com-
21 ment period but which the Secretary does not propose (in
22 the final rule updating such lists) to so include in such
23 lists, Secretary shall cite in such final rule the specific cri-
24 teria in paragraph (b) or (c) of section 416.166 of title
25 42, Code of Federal Regulations, based on which the pro-
26 cedure was excluded. If paragraph (b) of such section is

1 cited for exclusion of a procedure, the Secretary shall iden-
2 tify the peer reviewed research or the evidence upon which
3 such determination is based. The Secretary may not use
4 or cite section 416.166(c)(7) of such title as criteria or
5 a basis for exclusion of a procedure from such lists.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply to lists of ambulatory surgery
8 procedures for application in years beginning after the
9 date of the enactment of this Act.

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