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115TH CONGRESS
1ST SESSION

H. R. 4206

To amend title XVIII of the Social Security Act to modernize the physician self-referral prohibitions to promote care coordination in the merit-based incentive payment system and to facilitate physician practice participation in alternative payment models under the Medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 2017

Mr. BUCSHON (for himself, Mr. RUIZ, Mr. MARCHANT, and Mr. KIND) 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 XVIII of the Social Security Act to modernize the physician self-referral prohibitions to promote care coordination in the merit-based incentive payment system and to facilitate physician practice participation in alternative payment models under the Medicare program, 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 ''Medicare Care Coordination Improvement Act of 2017''.

SEC. 2. MODERNIZATION OF LIMITATIONS ON PHYSICIAN SELF-REFERRAL.

(a) WAIVERS TO PROMOTE CARE COORDINATION BY FACILITATING PARTICIPATION IN ALTERNATIVE PAYMENT MODELS.—

(1) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(A) in subsection (z), as added by section 101(e)(2) of the Medicare Access and CHIP Reauthorization Act of 2015 (Public Law 114–10), by adding at the end the following new paragraph:

''(5) WAIVER AUTHORITY.—

''(A) IN GENERAL.—The provisions of subsection (f) of section 1899 shall apply with respect to covered APM entities to the same extent and in the same manner as such provisions apply with respect to accountable care organizations under such section.

''(B) COVERED APM ENTITIES.—For purposes of subparagraph (A), the term 'covered APM entity' means, subject to subparagraph (C), each of the following:

''(i) An eligible alternative payment entity as defined in paragraph (3)(D).

''(ii) An entity participating in an alternative payment model as defined in paragraph (3)(C), including such participation that qualifies as a clinical practice improvement activity under section 1848(q)(2)(B)(iii)(VI).

''(iii) An entity participating in a physician-focused payment model for which comments and recommendations have, under subparagraph (C) of section 1868(c)(2), been submitted indicating that such model meets the criteria described in subparagraph (A) of such section.

''(iv) An entity participating in any other model that the Secretary determines is a covered APM for purposes of subparagraph (A), including such a determination made pursuant to physicians submitting a proposal to the Secretary for an alternative payment model.

''(v) An entity engaging in activities that the Secretary has determined constitute significant progress toward estab-

lishing a model referred to in any of clauses (i) through (iv).

''(C) CERTAIN REQUIREMENTS.—A model referred to in any of clauses (i) through (iv) of subparagraph (B) may not be considered a covered APM entity for purposes of subparagraph (A) unless the model meets the requirements described in section 1877(b)(6)(B).''; and

(B) by redesignating subsection (z), as added by section 514(a) of the Medicare Access and CHIP Reauthorization Act of 2015 (Public Law 114–10), as subsection (aa).

(2) CONFORMING AMENDMENT.—Section 514(c)(1) of the Medicare Access and CHIP Reauthorization Act of 2015 (Public Law 114–10) is amended by striking ''subsection (z)'' and inserting ''subsection (aa)''.

(b) EXPANSION OF ADMINISTRATIVE AUTHORITY TO PROVIDE EXCEPTIONS TO PHYSICIAN OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS TO PROMOTE CARE COORDINATION.—

(1) PROMOTING CARE COORDINATION.—Section 1877(b)(4) of the Social Security Act (U.S.C. 1395nn(b)(4)) is amended by striking ''risk of program or patient abuse'' and inserting the following:

''significant risk of program or patient abuse, including those that would promote care coordination, quality improvement, or resource conservation by physician practices under part B''.

(2) CARE COORDINATION IN MIPS AND PARTICIPATION IN APMS.—Section 1877(a) of the Social Security Act (U.S.C. 1395nn(a)) is amended by adding at the end the following new paragraph:

''(3) LIMITATION.—The Secretary may not impose requirements under this section that could adversely affect—

''(A) physician care coordination in the merit-based incentive payment system under section 1848(q); or

''(B) physician participation in an alternative payment model under 1833(z).''.

(c) EXCEPTION FACILITATING THE DEVELOPMENT AND OPERATION OF ALTERNATIVE PAYMENT MODELS.—Section 1877(b) of the Social Security Act (42 U.S.C. 1395nn(b)) is amended by adding at the end the following new paragraph:

''(6) DEVELOPMENT AND OPERATION OF ALTERNATIVE PAYMENT MODELS.—

''(A) IN GENERAL.—In the case of services furnished pursuant to an arrangement that

meets the requirements described in subparagraph (B) entered into for the purpose of developing or operating an alternative payment model, including—

"(i) advanced alternative payment models described in section 1833(z) (including physician-focused payment models referred to in section 1868(c));

"(ii) MIPS APMs (as defined by the Secretary); and

"(iii) any other alternative payment model that the Secretary may, by regulation, specify.

"(B) REQUIREMENTS.—The requirements described in this subparagraph with respect to an arrangement relating to an alternative payment model are as follows:

"(i) The arrangement is in writing, identifies the services, items, or actions subject to the arrangement and is signed by the parties to the arrangement.

"(ii) Items and services furnished subject to the arrangement are furnished at fair market value. In this clause, the term 'fair market value' has the meaning given

such term in subsection (h)(3), except that the Secretary may not take into account the volume or value of referrals in determining such value for purposes of this clause.

''(iii) The arrangement includes a description of the alternative payment model.

''(iv) Under the arrangement written reports are submitted to the Secretary on a semi-annual basis on the progress achieved in the development and operation of the alternative payment model

''(v) The arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against a significant risk of program patient abuse''.

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