111TH CONGRESS
1ST SESSION

S. 1249

To amend title XVIII of the Social Security Act to create a value indexing mechanism for the physician work component of the Medicare physician fee schedule.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2009

Ms. KLOBUCHAR (for herself, Ms. CANTWELL, and Mr. GREGG) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend title XVIII of the Social Security Act to create a value indexing mechanism for the physician work component of the Medicare physician fee schedule.

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 ''Medicare Payment Im-
5 provement Act of 2009''.

1 **SEC. 2. VALUE INDEX UNDER THE MEDICARE PHYSICIAN**
2 **FEE SCHEDULE.**

3 (a) IN GENERAL.—Section 1848(e)(5) of the Social
4 Security Act (42 U.S.C. 1395w–4(e)) is amended by add-
5 ing at the end the following new paragraph:

6 ''(6) VALUE INDEX.—

7 ''(A) IN GENERAL.—The Secretary shall
8 determine a value index for each hospital refer-
9 ral area (as defined by the Secretary). The
10 value index shall be the ratio of the quality
11 component under subparagraph (B) to the cost
12 component under subparagraph (C) for that
13 hospital referral area.

14 ''(B) QUALITY COMPONENT.—

15 ''(i) IN GENERAL.—The quality com-
16 ponent shall be based on a composite score
17 that reflects quality measures available on
18 a State or hospital referral area (as so de-
19 fined) basis. The measures shall reflect
20 health outcomes and health status for the
21 Medicare population, patient safety, and
22 patient satisfaction. The Secretary shall
23 use the best data available, after consulta-
24 tion with the Agency for Healthcare Re-
25 search and Quality and with private enti-
26 ties that compile quality data.

1 "(ii) ADVISORY GROUP.—
2 "(I) IN GENERAL.—Not later
3 than 60 days after the date of enact-
4 ment of the Medicare Payment Im-
5 provement Act of 2009, the Secretary
6 shall establish a group of experts and
7 stakeholders to make consensus rec-
8 ommendations to the Secretary re-
9 garding development of the quality
10 component. The membership of the
11 advisory group shall at least reflect
12 providers, purchasers, health plans,
13 researchers, relevant Federal agencies,
14 and individuals with technical exper-
15 tise on health care quality.
16 "(II) DUTIES.—In the develop-
17 ment of recommendations with respect
18 to the quality component, the group
19 established under subclause (I) shall
20 consider at least the following areas:
21 "(aa) High variation and
22 high cost per capita utilization of
23 resources, including rates of hos-
24 pitalizations, number of visits
25 and subspecialty referrals, and

number of procedures (as determined by data under this title).

"(bb) Health outcomes and functional status of patients.

"(cc) The continuity, management, and coordination of health care and care transitions, including episodes of care, for patients across the continuum of providers, health care settings, and health plans.

"(dd) Patient, caregiver, and authorized representative experience, quality and relevance of information provided to patients, caregivers, and authorized representatives, and use of information by patients, caregivers, and authorized representatives to inform decision making.

"(ee) The safety, effectiveness, and timeliness of care.

"(ff) The appropriate use of health care resources and services.

1 "(gg) Other items deter-
2 mined appropriate by the Sec-
3 retary.
4 "(iii) REQUIREMENT.—In establishing
5 the quality component under this subpara-
6 graph, the Secretary shall—
7 "(I) take into account the rec-
8 ommendations of the group estab-
9 lished under clause (ii)(I); and
10 "(II) provide for an open and
11 transparent process for the activities
12 conducted pursuant to the convening
13 of such group with respect to the de-
14 velopment of the quality component.
15 "(iv) ESTABLISHMENT.—The quality
16 component for each hospital referral area
17 (as so defined) shall be the ratio of the
18 quality score for such area to the national
19 average quality score.
20 "(v) QUALITY BASELINE.—If the
21 quality component for a hospital referral
22 area (as so defined) does not rank in the
23 top 25th percentile as compared to the na-
24 tional average (as determined by the Sec-
25 retary) and the amount of reimbursement

1 for services under this section is greater
2 than the amount of reimbursement for
3 such services that would have applied
4 under this section if the amendments made
5 by section 2 of the Medicare Payment Im-
6 provement Act of 2009 had not been en-
7 acted, this section shall be applied as if
8 such amendments had not been enacted.
9 "(vi) APPLICATION.—In the case of a
10 hospital referral area (as so defined) that
11 is less than an entire State, if available
12 quality data is not sufficient to measure
13 quality at the sub-State level, the quality
14 component for a sub-State hospital referral
15 area shall be the quality component for the
16 entire State.
17 "(C) COST COMPONENT.—
18 "(i) IN GENERAL.—The cost compo-
19 nent shall be total annual per beneficiary
20 Medicare expenditures under part A and
21 this part for the hospital referral area (as
22 so defined). The Secretary may use total
23 per beneficiary expenditures under such
24 parts in the last two years of life as an al-
25 ternative measure if the Secretary deter-

1 mines that such measure better takes into
2 account severity differences among hospital
3 referral areas.
4 "(ii) ESTABLISHMENT.—The cost
5 component for a hospital referral area (as
6 so defined) shall be the ratio of the cost
7 per beneficiary for such area to the na-
8 tional average cost per beneficiary.".
9 (b) CONFORMING AMENDMENTS.—Section 1848 of
10 the Social Security Act (42 U.S.C. 1395w–4) is amend-
11 ed—
12 (1) in subsection (b)(1)(C), by striking "geo-
13 graphic" and inserting "geographic and value"; and
14 (2) in subsection (e)—
15 (A) in paragraph (1)—
16 (i) in the heading, by inserting "AND
17 VALUE" after "GEOGRAPHIC";
18 (ii) in subparagraph (A), by striking
19 clause (iii) and inserting the following new
20 clause:
21 "(iii) a value index (as defined in
22 paragraph (6)) applicable to physician
23 work.";

1 (iii) in subparagraph (C), by inserting
2 "and value" after "geographic" in the first
3 sentence;
4 (iv) in subparagraph (D), by striking
5 "physician work effort" and inserting
6 "value";
7 (v) by striking subparagraph (E); and
8 (vi) by striking subparagraph (G);
9 (B) by striking paragraph (2) and insert-
10 ing the following new paragraph:
11 "(2) COMPUTATION OF GEOGRAPHIC AND
12 VALUE ADJUSTMENT FACTOR.—For purposes of sub-
13 section (b)(1)(C), for all physicians' services for each
14 hospital referral area (as defined by the Secretary)
15 the Secretary shall establish a geographic and value
16 adjustment factor equal to the sum of the geo-
17 graphic cost-of-practice adjustment factor (specified
18 in paragraph (3)), the geographic malpractice ad-
19 justment factor (specified in paragraph (4)), and the
20 value adjustment factor (specified in paragraph (5))
21 for the service and the area."; and
22 (C) by striking paragraph (5) and insert-
23 ing the following new paragraph:
24 "(5) PHYSICIAN WORK VALUE ADJUSTMENT
25 FACTOR.—For purposes of paragraph (2), the 'phy-

1 sician work value adjustment factor' for a service for
2 a hospital referral area (as defined by the Sec-
3 retary), is the product of—
4 "(A) the proportion of the total relative
5 value for the service that reflects the relative
6 value units for the work component; and
7 "(B) the value index score for the area,
8 based on the value index established under
9 paragraph (6).".
10 (c) AVAILABILITY OF QUALITY COMPONENT PRIOR
11 TO IMPLEMENTATION.—The Secretary of Health and
12 Human Services shall make the quality component de-
13 scribed in section 1848(c)(6)(B) of the Social Security
14 Act, as added by subsection (a), for each hospital referral
15 area (as defined by the Secretary) available to the public
16 by not later than July 1, 2011.
17 (d) EFFECTIVE DATE.—Subject to subsection (e),
18 the amendments made by this section shall apply to the
19 Medicare physician fee schedule for 2012 and each subse-
20 quent year.
21 (e) TRANSITION.—Notwithstanding the amendments
22 made by the preceding provisions of this section, the Sec-
23 retary of Health and Human Services shall provide for an
24 appropriate transition to the amendments made by this

1 section. Under such transition, in the case of payments
2 under such fee schedule for services furnished during—
3 (1) 2012, 25 percent of such payments shall be
4 based on the amount of payment that would have
5 applied to the services if such amendments had not
6 been enacted and 75 percent of such payment shall
7 be based on the amount of payment that would have
8 applied to the services if such amendments had been
9 fully implemented;
10 (2) 2013, 50 percent of such payment shall be
11 based on the amount of payment that would have
12 applied to the services if such amendments had not
13 been enacted and 50 percent of such payment shall
14 be based on the amount of payment that would have
15 applied to the services if such amendments had been
16 fully implemented; and
17 (3) 2014 and subsequent years, 100 percent of
18 such payment shall be based on the amount of pay-
19 ment that is applicable under such amendments.

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