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114TH CONGRESS
1ST SESSION

H. R. 1130

To improve the understanding of, and promote access to treatment for, chronic kidney disease, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2015

Mr. MARINO (for himself, Mr. LEWIS, and Mr. ROSKAM) 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 improve the understanding of, and promote access to treatment for, chronic kidney disease, 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 ''Chronic Kidney Disease Improvement in Research and Treatment Act of 2015''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TITLE I—IMPROVING UNDERSTANDING OF CHRONIC KIDNEY DISEASE THROUGH EXPANDED RESEARCH AND COORDINATION

SEC. 101. IDENTIFYING GAPS IN CHRONIC KIDNEY DISEASE RESEARCH.

(a) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall develop and submit to the Congress a comprehensive report assessing the adequacy of Federal

expenditures in chronic kidney disease research relative to Federal expenditures for chronic kidney disease care.

(b) CONTENTS.—The report required by this section shall—

(1) analyze the current chronic kidney disease research projects being funded by Federal agencies;

(2) identify, including by surveying the kidney care community, areas of chronic kidney disease knowledge gaps that are not part of current Federal research efforts;

(3) report on the level of Federal expenditures on kidney research as compared to the amount of Federal expenditures on treating individuals with chronic kidney disease; and

(4) identify areas of kidney failure knowledge gaps in research to assess treatment patterns associated with providing care to minority populations that are disproportionately affected by kidney failure.

SEC. 102. COORDINATING RESEARCH ON CHRONIC KIDNEY DISEASE.

(a) INTERAGENCY COMMITTEE.—The Secretary of Health and Human Services shall establish and maintain an interagency committee for the purpose of improving the coordination of chronic kidney disease research.

(b) REPORTS.—For the purpose described in subsection (a), the interagency committee established under such subsection shall issue public reports that—

(1) include a strategic plan, including recommendations for—

(A) improving communication and coordination among Federal agencies;

(B) procedures for monitoring Federal chronic kidney disease research activities; and

(C) ways to maximize the efficiency of the Federal chronic kidney disease research investment and minimize the potential for unnecessary duplication;

(2) include a portfolio analysis that provides information on chronic kidney disease research projects, organized by the strategic plan objectives; and

(3) address such other topics as the interagency committee determines appropriate.

(c) MEETINGS.—The interagency committee established under subsection (a) shall meet not less than semiannually.

SEC. 103. UNDERSTANDING THE PROGRESSION OF KIDNEY DISEASE AND TREATMENT OF KIDNEY FAILURE IN MINORITY POPULATIONS.

Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall—

(1) complete a study on—

(A) the social, behavioral, and biological factors leading to kidney disease;

(B) efforts to slow the progression of kidney disease in minority populations that are disproportionately affected by such disease; and

(C) treatment patterns associated with providing care, under the Medicare program under title XVIII of the Social Security Act, the Medicaid program under title XIX of such Act, and through private health insurance, to minority populations that are disproportionately affected by kidney failure; and

(2) submit a report to the Congress on the results of such study.

TITLE II—PROMOTING ACCESS TO CHRONIC KIDNEY DISEASE TREATMENTS

SEC. 201. INCREASING ACCESS TO MEDICARE KIDNEY DISEASE EDUCATION BENEFIT.

(a) IN GENERAL.—Section 1861(ggg) of the Social Security Act (42 U.S.C. 1395x(ggg)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '' or stage V'' after ''stage IV''; and

(B) in subparagraph (B), by inserting ''or of a physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)) assisting in the treatment of the individual's kidney condition'' after ''kidney condition''; and

(2) in paragraph (2)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking ''(A)'' after ''(2)'';

(ii) by striking ''and'' at the end of clause (i);

(iii) by striking the period at the end of clause (ii) and inserting ''; and'';

(iv) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(v) by adding at the end the following:

''(C) a renal dialysis facility subject to the requirements of section 1881(b)(1) with personnel who—

''(i) provide the services described in paragraph (1); and

''(ii) is a physician (as defined in subsection (r)(1)) or a physician assistant, nurse practitioner, or clinical nurse specialist (as defined in subsection (aa)(5)).''.

(b) PAYMENT TO RENAL DIALYSIS FACILITIES.—Section 1881(b) of such Act (42 U.S.C. 1395rr(b)) is amended by adding at the end the following new paragraph:

''(15) For purposes of paragraph (14), the single payment for renal dialysis services under such paragraph shall not take into account the amount of payment for kidney disease education services (as defined in section 1861(ggg)). Instead, payment for such services shall be made to the renal dialysis facility on an assignment-related basis under section 1848.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to kidney disease education services furnished on or after January 1, 2016.

SEC. 202. IMPROVING ACCESS TO CHRONIC KIDNEY DISEASE TREATMENT IN UNDERSERVED RURAL AND URBAN AREAS.

(a) DEFINITION OF PRIMARY CARE SERVICES.—Section 331(a)(3)(D) of the Public Health Service Act (42 U.S.C. 254d(a)(3)(D)) is amended by inserting ''and includes renal dialysis services'' before the period at the end.

(b) NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.—Section 338A(a)(2) of the Public Health Service Act (42 U.S.C. 254l(a)(2)) is amended by inserting '', including nephrologists and non-physician practitioners providing renal dialysis services'' before the period at the end.

(c) NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.—Section 338B(a)(2) of the Public Health Service Act (42 U.S.C. 254l–1(a)(2)) is amended by inserting '', including nephrologists and non-physician practitioners providing renal dialysis services'' before the period at the end.

SEC. 203. PROMOTING ACCESS TO HOME DIALYSIS TREATMENTS.

Section 1834(m)(4)(C)(ii) of the Social Security Act (42 U.S.C. 1395m(m)(4)(C)(ii)) is amended by adding at the end the following new subclause:

"(IX) A renal dialysis facility (as defined in section 1881).".

SEC. 204. EXPAND ACCESS FOR PATIENTS WITH ACUTE KIDNEY INJURY.

Section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended—

(1) in paragraph (1), by inserting "or acute kidney injury" after "individuals who have been determined to have end stage renal disease";

(2) in paragraph (2)(A), by inserting "or acute kidney injury" after "end stage renal disease";

(3) in paragraph (2)(B), by inserting "or acute kidney injury" after "end stage renal disease";

(4) in paragraph (3), in the matter preceding subparagraph (A), by inserting "or acute kidney injury" after "end stage renal disease";

(5) in paragraph (11)(A), by inserting "or acute kidney injury" after "end stage renal disease";

(6) in paragraph (11)(B), by inserting "or acute kidney injury" after "end stage renal disease";

(7) in paragraph (14)(B)—

(A) in clause (ii), by inserting ''or acute kidney injury'' after ''end stage renal disease'';

(B) in clause (iii), by inserting ''or acute kidney injury'' after ''end stage renal disease''; and

(C) in clause (iv), by inserting ''or acute kidney injury'' after ''end stage renal disease''; and

(8) in paragraph (14)(H)(i), by inserting ''or acute kidney injury'' after ''end stage renal disease''.

TITLE III—CREATING ECONOMIC STABILITY FOR PROVIDERS CARING FOR INDIVIDUALS WITH CHRONIC KIDNEY DISEASE

SEC. 301. STABILIZING MEDICARE PAYMENTS FOR SERVICES PROVIDED TO BENEFICIARIES WITH STAGE V CHRONIC KIDNEY DISEASE RECEIVING DIALYSIS SERVICES.

Section 1881(b)(14) of the Social Security Act (42 U.S.C. 1395rr(b)(14)) is amended—

(1) in subparagraph (D), in the matter preceding clause (i), by striking ''Such system'' and inserting ''Subject to subparagraph (J), such system''; and

(2) by adding at the end the following new subparagraph:

''(J)(i) For payment for renal dialysis services furnished on or after January 1, 2016, under the system under this paragraph—

''(I) the payment adjustment described in clause (i) of subparagraph (D) shall not take into account comorbidities;

''(II) the payment adjustment described in clause (ii) of such subparagraph shall not be included;

''(III) the standardization factor described in the final rule published in the Federal Register on November 8, 2012 (77 Fed. Reg. 67470), shall be established using the most currently available data (and not historical data) and adjusted on an annual basis, based on such available data, to account for any change in utilization of drugs and any modification in adjustors applied under this paragraph; and

''(IV) the Secretary shall take into account reasonable costs consistent with paragraph (2)(B) when calculating such payments.

''(ii) Not later than January 1, 2016, the Secretary shall amend the ESRD facility cost report to—

''(I) include the per treatment network fee (as described in paragraph (7)) as an allowable cost; and

''(II) eliminate the limitation for reporting medical director fees on such reports in order to take into account the wages of a board-certified nephrologist.''.

SEC. 302. ALLOWING INDIVIDUALS WITH KIDNEY FAILURE TO RETAIN ACCESS TO PRIVATE INSURANCE.

(a) IN GENERAL.—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the last sentence, by inserting ''and before January 1, 2016'' after ''prior to such date''; and

(2) by adding at the end the following new sentence: ''Effective for items and services furnished on or after January 1, 2016 (with respect to periods beginning on or after the date that is 42 months prior to such date), clauses (i) and (ii) shall be applied by substituting '42-month' for '12-month' each place it appears.''.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act. For purposes of determining an individual's

status under section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)), as amended by subsection (a), an individual who is within the coordinating period as of the date of enactment of this Act shall have that period extended to the full 42 months described in the last sentence of such section, as added by the amendment made by subsection (a)(2).

SEC. 303. PROVIDING INDIVIDUALS WITH KIDNEY FAILURE ACCESS TO MANAGED CARE AND COORDINATED CARE PROGRAMS.

(a) EXPANDING ACCESS TO MEDICARE ADVANTAGE.—

(1) ELIGIBILITY UNDER MEDICARE ADVANTAGE.—

(A) IN GENERAL.—Section 1851(a)(3) of the Social Security Act (42 U.S.C. 1395w–21(a)(3)) is amended—

(i) by striking subparagraph (B); and

(ii) by striking ''ELIGIBLE INDIVIDUAL.—'' and all that follows through ''In this title'' and inserting ''ELIGIBLE INDIVIDUAL.—In this title''.

(B) CONFORMING AMENDMENT.—Section 1852(b)(1) of the Social Security Act (42 U.S.C. 1395w–22(b)(1)) is amended—

(i) by striking subparagraph (B); and

(ii) by striking ''BENEFICIARIES.—'' and all that follows through ''A Medicare+Choice organization'' and inserting ''BENEFICIARIES.—A Medicare Advantage organization''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply with respect to plan years beginning on or after January 1, 2016.

(2) EDUCATION.—Section 1851(d)(2)(A)(iii) of the Social Security Act (42 U.S.C. 1395w–21(d)(2)(A)(iii)) is amended by inserting before the period at the end the following '', including any additional information that individuals determined to have end stage renal disease may need to make informed decisions with respect to such an election''.

(3) QUALITY METRICS.—Section 1852(e)(3)(A) of the Social Security Act (42 U.S.C. 1395w–22(e)(3)(A)) is amended by adding at the end the following new clause:

''(v) REQUIREMENTS WITH RESPECT TO INDIVIDUALS WITH ESRD.—In addition to the data required to be collected, analyzed, and reported under clause (i) and

notwithstanding the limitations under subparagraph (B), as part of the quality improvement program under paragraph (1), each MA organization shall provide for the collection, analysis, and reporting of data, determined in consultation with the kidney care community, that permits the measurement of health outcomes and other indices of quality with respect to individuals determined to have end stage renal disease.''.

(b) PERMANENT EXTENSION OF MEDICARE ADVANTAGE ESRD SPECIAL NEEDS PLANS AUTHORITY.—Section 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w–28(f)(1)) is amended by inserting '', in the case of a specialized MA plan for special needs individuals who have not been determined to have end stage renal disease,'' before ''for periods before January 1, 2017''.

(c) VOLUNTARY ESRD COORDINATED CARE GAINSHARING PROGRAM.—

(1) IN GENERAL.—Section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended by adding at the end the following new paragraph:

''(15)(A) Not later than January 1, 2017, the Secretary shall, in accordance with this paragraph, establish an ESRD Care Coordination gainsharing program for

nephrologists, renal dialysis facilities, and providers of services that develop coordinated care organizations to provide a full range of clinical and supportive services (as described in subparagraph (D)) to individuals determined to have end stage renal disease.

''(B) Under such program, subject to subparagraph (C), the payment amounts renal dialysis facilities and providers of services described in subparagraph (A) would otherwise receive under paragraph (14) and nephrologists described in subparagraph (A) would otherwise receive under section 1848 with respect to dialysis services furnished by such a facility, provider, or nephrologist during a year, shall be increased by a portion of the amount (as determined by the Secretary) of actual reductions in expenditure under this title attributable to the coordinated care organization developed by such facility, provider, or nephrologist involved, taking into account non-dialysis expenditures under parts A and B, during the preceding calendar year. The payment amount under this subparagraph shall be provided to a nephrologist, renal dialysis facility, and provider of services that developed the coordinated care organization no later than March 31 of the year after the year during which such services are provided by such nephrologist, facility, or provider.

''(C) The aggregate incentive payment amounts provided under such program for a year may not exceed the amount equal to 2 percent less than the estimated total amount of non-dialysis expenditures under parts A and B for 2016 for items and services that are not related to dialysis or transplant services.

''(D) For purposes of subparagraph (A), the full range of clinical and supportive services includes at least the following:

''(i) Primary care and other preventative services.

''(ii) Specialty care for co-morbidities or non-renal acute conditions, including at least podiatry, cardiology, and orthopedics.

''(iii) Vascular access.

''(iv) Laboratory testing and diagnostic imaging.

''(v) Pharmacy care management.

''(vi) Patient, family, and caregiver education.

''(vii) Psychiatric, behavioral therapy, and counseling services.

''(E) In providing payment incentive amounts under such program, the Secretary shall apply a risk adjustment methodology that—

''(i) uses risk adjuster factors applied under part C; and

''(ii) adjusts such payments to exclude the top 2 percent of outliers.

''(F) In establishing such program, the Secretary shall ensure that each of the following is satisfied:

''(i) The program allows for all types and sizes of renal dialysis facilities and providers of services described in subparagraph (A), including profit and not-for-profit, urban and rural, as well as all other types and sizes of such facilities and providers, to participate.

''(ii) The program rewards high quality, efficient facilities and providers through gain-sharing.

''(iii) For purposes of determining the actual reductions in expenditures under this title attributable to a coordinated care organization described in subparagraph (A), the program includes a market-based benchmark system that will not be rebased against which such expenditures shall be compared.

''(iv) The program results in reductions of expenditures under parts A and B for services that are not dialysis-related services.

''(v) The program allows new applicants to participate in the program after the initial implementation period.

''(vi) The program establishes clear quality metrics in consultation with the kidney care community.

''(vii) The program provides for waivers of Federal laws or requirements, in consultation with interested stakeholders.

''(viii) Under such program the Secretary attributes individuals described in subparagraph (A) who receive treatment through a care coordination organization described in such subparagraph to such organization rather than to any other payment model that requires beneficiary attribution.

''(ix) Under such program the Secretary provides quarterly Medicare parts A and B claims data to facilities and providers described in subparagraph (A) participating in such program.

''(G) Not later than three years after the date of the implementation of the ESRD Care Coordination gainsharing program, the Secretary shall submit to the Congress a report on the waivers granted under subparagraph (F)(vii) and the effectiveness of such waivers in allowing the coordination of care.''.

(2) CONFORMING AMENDMENTS.—

(A) SECTION 1881.—Section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended—

(i) in each of paragraphs (12)(A) and (13)(A), by striking ''paragraph (14)'' and inserting ''paragraphs (14) and (15)''; and

(ii) in paragraph (14)(A)(i), by inserting ''and paragraph (15)'' after ''Subject to subparagraph (E)''.

(B) SECTION 1848.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended by adding at the end the following new subsection:

''(q) VOLUNTARY ESRD COORDINATED CARE PROGRAM.—For provisions related to incentive payment amounts to nephrologists under the ESRD Care Coordination gainsharing program, see section 1881(b)(15).''.

(d) PATIENT INFORMATION REQUIREMENT.—The Secretary of Health and Human Services shall require hospitals that furnish items and services to individuals entitled to benefits under part A of title XVIII of the Social Security Act or eligible for benefits under part B of such title and who subsequently receive dialysis services at a renal dialysis facility (as defined in section 1881 of such

Act (42 U.S.C. 1395rr)) to provide to such facility health information with respect to such individual, including a discharge summary and co-morbidity information, upon request of the facility, not later than 7 days after notification by the hospital of the provision of such services to such individual or of the determination that such individual has end stage renal disease, as applicable.

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