

115TH CONGRESS
1ST SESSION

H. R. 3611

To amend title XVIII of the Social Security Act to create incentives for healthcare providers to promote quality healthcare outcomes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2017

Mr. PAULSEN (for himself, Mr. KIND, and Mr. MARCHANT) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title XVIII of the Social Security Act to create incentives for healthcare providers to promote quality healthcare outcomes, 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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Healthcare Outcomes Act of 2017”.

6 (b) FINDINGS.—Congress makes the following find-
7 ings:

8 (1) Payment penalties for hospital acquired
9 conditions under section 1886(p) of the Social Secu-

1 rity Act, as added by section 3008 of the Patient
2 Protection and Affordable Care Act, are based on a
3 limited number of hospital acquired conditions but
4 are applied to all Medicare inpatient prospective
5 payments to a hospital (as defined in section
6 1886(d) of the Social Security Act), resulting in
7 payment penalties that are not proportional to the
8 financial impact of the hospital acquired conditions.
9 The method of risk adjustment used to determine
10 the hospital acquired conditions performance of hos-
11 pitals does not adequately account for the chronic
12 illness burden and severity of illness of Medicare
13 beneficiaries.

14 (2) Payment penalties for hospital readmissions
15 under section 1886(q) of the Social Security Act, as
16 added by section 3025 of the Patient Protection and
17 Affordable Care Act, are based on a limited number
18 of clinical conditions, including readmissions that
19 are not related to the prior discharge and are not
20 proportional to the overall financial impact of the re-
21 admission performance of the hospital. The method
22 of risk adjustment used to determine the readmis-
23 sion performance of hospitals does not adequately
24 account for the chronic illness burden and severity
25 of illness of Medicare beneficiaries.

1 (3) Payment penalties and bonuses for hospital
2 Value Based Purchasing under section 1886(o) of
3 the Social Security Act, as added by section 3001 of
4 the Patient Protection and Affordable Care Act, are
5 overly complex and burdensome, are based on arbi-
6 trary weighting factors, and are not proportional to
7 the overall financial impact of the value based pur-
8 chasing performance of the hospital. The methods of
9 risk adjustment used to determine the value based
10 purchasing performance of hospitals does not ade-
11 quately account for the chronic illness burden and
12 severity of illness of Medicare beneficiaries.

13 (4) Per case payment penalties for hospital ac-
14 quired conditions under section 1886(d)(4)(D), as
15 added by section 5001(e) of the Deficit Reduction
16 Act of 2005, are duplicative with the payment pen-
17 alties for hospital acquired conditions under section
18 1886(p) of the Social Security Act, as added by sec-
19 tion 3008 of the Patient Protection and Affordable
20 Care Act.

21 (5) The payment penalties for hospital acquired
22 conditions and readmissions and the payment pen-
23 alties and bonuses for hospital value based pur-
24 chasing should be restructured to be based on a
25 comprehensive and clinically credible definition of

1 potentially-avoidable outcomes, including potentially-
2 avoidable complications, potentially-avoidable re-
3 admissions, potentially-avoidable return emergency
4 room visits and post-acute case episode expenditures,
5 be based on the risk adjusted comparison of the po-
6 tentially-avoidable outcomes for a hospital to nation-
7 wide average rates and include both payment pen-
8 alties and bonuses that are proportional to the ac-
9 tual financial impact of the potentially-avoidable out-
10 comes.

11 (6) The existing methods of risk adjustment
12 used to determine the quality of care performance of
13 hospitals under such sections 1886(p), 1886(q),
14 1886(o), and 1886(d)(4)(D) of the Social Security
15 Act should be replaced by a methodology that is
16 composed of exhaustive and mutually exclusive risk
17 categories that are clinically credible and explicitly
18 recognize the severity of illness and chronic illness
19 burden of Medicare beneficiaries, thereby accounting
20 for patient characteristics that may impact access to
21 care.

22 **SEC. 2. HOSPITAL OUTCOMES.**

23 (a) PAYMENT ADJUSTMENTS FOR HOSPITAL OUT-
24 COMES.—Section 1886 of the Social Security Act (42

1 U.S.C. 1395ww) is amended by adding at the end the fol-
2 lowing new subsection:

3 “(t) HOSPITAL OUTCOMES.—

4 “(1) IN GENERAL.—In the case of an applicable
5 hospital for an applicable prospective period begin-
6 ning on or after October 1, 2018—

7 “(A) for each discharge of such hospital
8 occurring during such period, in addition to and
9 after application of any increase under para-
10 graph (6) of subsection (o) and any adjustment
11 under paragraph (7) of such subsection to the
12 base operating DRG payment amount (as de-
13 fined in paragraph (7)(D) of such subsection)
14 that would otherwise apply to such hospital
15 during such period without application of this
16 subsection, such operating DRG payment
17 amount shall be adjusted by the value based
18 outcome adjustment factor described in para-
19 graph (2) for the hospital for such period; and

20 “(B) the value based outcome adjustment
21 factor shall apply only with respect to the appli-
22 cable prospective period, and the Secretary shall
23 not take into account such adjustment factor in
24 making payments to hospitals under this sec-

1 tion in a subsequent applicable prospective pe-
2 riod.

3 “(2) VALUE BASED OUTCOME ADJUSTMENT
4 FACTOR.—

5 “(A) IN GENERAL.—For purposes of para-
6 graph (1), the value based outcome adjustment
7 factor described in this paragraph for an appli-
8 cable hospital for an applicable prospective pe-
9 riod, subject to subparagraph (B), is equal to
10 1.0 minus the value based outcome performance
11 fraction determined under paragraph (3) for
12 the hospital and period.

13 “(B) HOSPITAL-SPECIFIC CAP AND
14 FLOOR.—In no circumstance may the value
15 based outcome adjustment factor for an appli-
16 cable hospital for an applicable prospective pe-
17 riod under subparagraph (A) be—

18 “(i) for applicable prospective periods
19 occurring in fiscal years 2019 through
20 2022, less than 0.97 or more than 1.03;
21 and

22 “(ii) for applicable prospective periods
23 occurring in or after fiscal year 2023, less
24 than 0.95 or more than 1.05.

1 “(3) DETERMINATION OF VALUE BASED OUT-
2 COME PERFORMANCE FRACTION.—

3 “(A) IN GENERAL.—The value based out-
4 come performance fraction for an applicable
5 hospital for an applicable prospective period,
6 subject to subparagraph (C), is equal to the
7 ratio of—

8 “(i) the total hospital-specific finan-
9 cial impact, as defined in subparagraph
10 (B), for the hospital and data collection
11 period with respect to such applicable pro-
12 spective period; to

13 “(ii) the aggregate amount of stand-
14 ardized hospital payments (as defined in
15 paragraph (4)(H)(ii)(I)) made to the hos-
16 pital during the data collection period with
17 respect to such applicable prospective pe-
18 riod.

19 “(B) TOTAL HOSPITAL-SPECIFIC FINAN-
20 CIAL IMPACT DESCRIBED.—

21 “(i) IN GENERAL.—For purposes of
22 subparagraph (A), the term ‘total hospital-
23 specific financial impact’ means, with re-
24 spect to a hospital for an applicable pro-
25 spective period, the sum, subject to clause

1 (ii), of the financial impacts determined in
2 accordance with paragraph (4)(G) for such
3 hospital and data collection period with re-
4 spect to each performance category de-
5 scribed in paragraph (5).

6 “(ii) PERFORMANCE CATEGORY CON-
7 TRIBUTION UPPER LIMIT.—

8 “(I) IN GENERAL.—In the case
9 that the financial impact for such a
10 performance category, as determined
11 in accordance with paragraph (4)(G)
12 for a hospital and hospital data collec-
13 tion period, exceeds the amount cal-
14 culated under subclause (II) with re-
15 spect to such hospital and period, the
16 Secretary shall, in applying clause (i)
17 with respect to such hospital and pe-
18 riod, substitute the amount calculated
19 under such subclause for the financial
20 impact that is so determined with re-
21 spect to such performance category.

22 “(II) CALCULATION OF
23 AMOUNT.—The Secretary shall, with
24 respect to a hospital for an applicable
25 prospective period, calculate an

1 amount that is equal to the product of
2 0.03 and the aggregate amount of
3 standardized hospital payments (as
4 defined in paragraph (4)(G)(ii)(I))
5 made to the hospital during the data
6 collection period with respect to such
7 applicable prospective period.

8 “(C) BUDGET NEUTRALITY OF VALUE
9 BASED OUTCOME ADJUSTMENT FACTOR ACROSS
10 ALL HOSPITALS.—The Secretary shall deter-
11 mine a budget neutrality reduction fraction
12 that, when applied in paragraph (4)(B)(ii), will
13 result in a value based outcome adjustment fac-
14 tor determined under subparagraph (A) for an
15 applicable prospective period that reduces the
16 total payments under subsection (d) across all
17 applicable hospitals and all potentially-avoidable
18 outcomes for such period by an amount equal
19 to the reduction in payments under such sub-
20 section for such period that would have resulted
21 from the application of subsections (d)(4)(D),
22 (o), (p), and (q) if the amendments made by
23 the Healthcare Outcomes Act of 2017 had not
24 applied.

1 “(4) PROCESS FOR DETERMINING FINANCIAL
2 IMPACTS.—For purposes of paragraph (3), the Sec-
3 retary shall, for each performance category described
4 in paragraph (5) and each data collection period
5 that is with respect to an applicable prospective pe-
6 riod beginning on or after October 1, 2018, deter-
7 mine each of the following:

8 “(A) NATIONWIDE-AVERAGE RATES.—With
9 respect to each risk category specified under
10 paragraph (6)(B), the ratio of—

11 “(i) the number of discharges occur-
12 ring among (or, in the case of the perform-
13 ance category described in paragraph
14 (5)(D), the total amount of standardized
15 post acute care episode expenditures made
16 with respect to) all applicable hospitals
17 during such applicable data collection pe-
18 riod that are with respect to such risk cat-
19 egory and that involve the potentially-
20 avoidable outcomes in such performance
21 category; to

22 “(ii) the number of applicable dis-
23 charges among all applicable hospitals for
24 such applicable data collection period and
25 risk category.

1 “(B) NATIONWIDE TARGET RATES.—With
2 respect to each risk category specified under
3 paragraph (6)(B), the product of—

4 “(i) subject to subparagraph (H), the
5 applicable ratio determined under subpara-
6 graph (A) for such period and risk cat-
7 egory; and

8 “(ii) the budget neutrality reduction
9 fraction determined under paragraph
10 (3)(C) for such period.

11 “(C) HOSPITAL-SPECIFIC ACTUAL NUM-
12 BER.—With respect to each applicable hospital
13 and each such risk category, the number of dis-
14 charges (or, in the case of the performance cat-
15 egory described in paragraph (5)(D), the total
16 amount of standardized post acute care episode
17 expenditures) occurring with respect to such
18 hospital during such applicable data collection
19 period that involve (or, in the case of such per-
20 formance category, that are with respect to) the
21 potentially-avoidable outcomes in such perform-
22 ance category.

23 “(D) HOSPITAL-SPECIFIC EXPECTED NUM-
24 BER.—With respect to each applicable hospital,
25 each applicable data collection period, and each

1 such risk category, the number that is the prod-
2 uct of—

3 “(i) subject to subparagraph (H), the
4 product determined under subparagraph
5 (B) for such period and risk category; and

6 “(ii) the number of applicable dis-
7 charges of the hospital for such period and
8 risk category.

9 “(E) HOSPITAL-SPECIFIC POTENTIALLY-
10 AVOIDABLE OUTCOME PERFORMANCE.—With
11 respect to each applicable hospital and applica-
12 ble data collection period, the difference be-
13 tween—

14 “(i) the sum of the numbers deter-
15 mined under subparagraph (C) for the hos-
16 pital for such period for all risk categories;
17 and

18 “(ii) the sum of the numbers deter-
19 mined under subparagraph (D) for the
20 hospital for such period for all risk cat-
21 egories.

22 “(F) FINANCIAL IMPACT.—

23 “(i) With respect to each applicable
24 hospital and applicable data collection pe-
25 riod, the financial impact attributable to

1 potentially-avoidable outcomes performance
2 within such performance category, deter-
3 mined as the product of the following:

4 “(I) the difference calculated
5 under subparagraph (E) for such hos-
6 pital and period; and

7 “(II) the financial conversion fac-
8 tor determined in accordance with
9 clause (ii) for the performance cat-
10 egory.

11 “(ii) FINANCIAL CONVERSION FAC-
12 TORS.—For purposes of clause (i), the Sec-
13 retary shall determine a financial conver-
14 sion factor for the performance category
15 that—

16 “(I) in the case of the perform-
17 ance category described in paragraph
18 (5)(A), is, with respect to inpatient
19 hospital services that are furnished
20 with respect to a discharge, equal to
21 the average amount of increase in the
22 standardized payments for such inpa-
23 tient hospital services for such dis-
24 charge that is attributable to the po-
25 tentially-avoidable complication;

1 “(II) in the case of the perform-
2 ance category described in paragraph
3 (5)(B), is, with respect to an initial
4 discharge, equal to the average stand-
5 ardized payment for inpatient hospital
6 services that are furnished with re-
7 spect to a potentially-avoidable read-
8 mission following the initial discharge;

9 “(III) in the case of the perform-
10 ance category described in paragraph
11 (5)(C), is, with respect to an initial
12 discharge, equal to the average stand-
13 ardized payment for hospital emer-
14 gency room services that are furnished
15 with respect to a potentially-avoidable
16 return emergency room visit following
17 the initial discharge; and

18 “(IV) in the case of the perform-
19 ance category described in paragraph
20 (5)(D), is equal to 1.0.

21 “(G) DEFINITIONS.—For purposes of this
22 section:

23 “(i) POTENTIALLY-AVOIDABLE OUT-
24 COMES.—The term ‘potentially-avoidable
25 outcomes’ means, as applicable—

1 “(I) a potentially-avoidable com-
2 plication within the category described
3 in paragraph (5)(A);

4 “(II) a potentially-avoidable read-
5 mission within the category described
6 in paragraph (5)(B);

7 “(III) a potentially-avoidable
8 emergency room visit within the cat-
9 egory described in paragraph (5)(C);
10 and

11 “(IV) post-acute care episode ex-
12 penditures within the category de-
13 scribed in paragraph (5)(D).

14 “(ii) STANDARDIZED PAYMENTS.—

15 “(I) STANDARDIZED HOSPITAL
16 PAYMENT.—The term ‘standardized
17 hospital payment’ means payment for
18 inpatient hospital services under sec-
19 tion 1886(d) furnished by an applica-
20 ble hospital that is adjusted to remove
21 payment adjustments that are not di-
22 rectly related to the amount and type
23 of services to be utilized for patient
24 care (such as local or regional price
25 differences, graduate indirect medical

1 education payments, disproportionate
2 share payments, and such other ad-
3 justments as may be determined by
4 the Secretary).

5 “(II) STANDARDIZED POST-
6 ACUTE CARE EPISODE EXPENDI-
7 TURES.—The term ‘standardized post-
8 acute care episode expenditures’
9 means post-acute care episode expend-
10 itures, adjusted to remove any pay-
11 ment adjustments not directly related
12 to the amount and type of services to
13 be utilized for patient care (such as
14 adjustments for local or regional price
15 differences).

16 “(iii) APPLICABLE DISCHARGES.—
17 With respect to an applicable data collec-
18 tion period and risk category, the term ‘ap-
19 plicable discharges’ means, in the case of—

20 “(I) the performance category
21 described in paragraph (5)(A), dis-
22 charges occurring during such appli-
23 cable data collection period that are
24 with respect to such risk category;
25 and

1 “(II) the performance category
2 described in paragraph (5)(B), dis-
3 charges occurring during such appli-
4 cable data collection period that are
5 with respect to such risk category and
6 that are not identified as potentially-
7 avoidable readmissions under the
8 methodology selected under paragraph
9 (6)(A).

10 “(iv) DOCUMENTED.—The term ‘doc-
11 umented’ means, with respect to a read-
12 mission or discharge (as applicable) of an
13 individual entitled to benefits under part
14 A, that the circumstances of such readmis-
15 sion or discharge are documented in the
16 medical record of the individual.

17 “(H) EXCEPTION TO USE OF NATIONWIDE-
18 AVERAGE RATES.—In the case that the method-
19 ology selected under paragraph (6)(B) for such
20 performance category does not meet the criteria
21 described in clause (iii) of such paragraph, and
22 that there is a systematic negative bias in the
23 payment adjustments against hospitals treating
24 a disproportionate share of full-benefit dual eli-

1 gible individuals (as defined in section
2 1935(c)(6)), the Secretary shall—

3 “(i) develop groups of hospitals based
4 on the overall proportion of inpatients in
5 such hospitals who are full-benefit dual eli-
6 gible individuals (as defined in section
7 1935(c)(6));

8 “(ii) determine, with respect to each
9 such group and each risk category speci-
10 fied under paragraph (6)(B), the ratio
11 of—

12 “(I) the number of discharges oc-
13 curring among (or, in the case of the
14 performance category described in
15 paragraph (5)(D), the total amount of
16 standardized post acute care episode
17 expenditures made with respect to) all
18 applicable hospitals in such group
19 during such applicable data collection
20 period that are with respect to such
21 risk category and that involve the po-
22 tentially-avoidable outcomes in such
23 performance category; to

24 “(II) the number of applicable
25 discharges occurring among (or, in

1 the case of the performance category
2 described in paragraph (5)(D), the
3 total amount of standardized post
4 acute care episode expenditures made
5 with respect to) all applicable hos-
6 pitals in such group for such applica-
7 ble data collection period and risk cat-
8 egory;

9 “(iii) treat each reference in this
10 paragraph to the ratio determined under
11 subparagraph (A) for a period and risk
12 category as a reference to the ratio deter-
13 mined under clause (ii) for a group, period,
14 and risk category; and

15 “(iv) treat each reference in this para-
16 graph to the product determined under
17 subparagraph (B) for a period and risk
18 category as a reference to the ratio deter-
19 mined under such subparagraph for a
20 group, period, and risk category.

21 “(5) PERFORMANCE CATEGORIES DE-
22 SCRIBED.—The performance categories described in
23 this paragraph are the following:

24 “(A) POTENTIALLY-AVOIDABLE COMPLICA-
25 TIONS.—The performance category of complica-

1 tions (referred to in this section as ‘potentially-
2 avoidable complications’) that, with respect to
3 items and services furnished to an individual
4 entitled to benefits under part A in an applica-
5 ble hospital, meet all of the following require-
6 ments:

7 “(i) The complication occurs during
8 the stay of the individual and was not
9 present at the time of the admission of
10 such individual to such hospital as an inpa-
11 tient.

12 “(ii) The complication is a harmful
13 event (such as a surgical complication) or
14 an acute illness (such as an infection or an
15 acute exacerbation of underlying chronic
16 disease).

17 “(iii) The complication is potentially
18 avoidable with adequate care and treat-
19 ment.

20 “(iv) The complication is not a nat-
21 ural progression of the underlying illnesses
22 of the individual that are present on ad-
23 mission of such individual to such hospital.

24 “(v) The complication may be reason-
25 ably construed as related to the care ren-

1 dered during the stay of the individual at
2 the hospital.

3 “(B) POTENTIALLY-AVOIDABLE READMIS-
4 SIONS.—

5 “(i) IN GENERAL.—The performance
6 category of readmissions (referred to in
7 this section as ‘potentially-avoidable re-
8 admissions’) of individuals entitled to bene-
9 fits under part A to any hospitals following
10 a discharge (referred to in this section as
11 an ‘initial discharge’) of such individuals to
12 an applicable hospital if the initial dis-
13 charge and readmission involved satisfy all
14 of the following requirements:

15 “(I) The readmission of the indi-
16 vidual could reasonably have been pre-
17 vented by—

18 “(aa) the provision of appro-
19 priate care during the episode of
20 care ending in such initial dis-
21 charge that was consistent with
22 accepted standards;

23 “(bb) adequate discharge
24 planning with respect to such ini-
25 tial discharge;

1 “(cc) adequate post-dis-
2 charge follow-up with respect to
3 such initial discharge; or

4 “(dd) improved coordination
5 between the providers furnishing
6 the inpatient or outpatient hos-
7 pital services during the episode
8 of care ending in such initial dis-
9 charge and the providers fur-
10 nishing care during the post-dis-
11 charge period with respect to
12 such initial discharge.

13 “(II) The readmission is for a
14 condition or procedure related to the
15 episode of care ending in such initial
16 discharge, including a readmission for
17 a condition or procedure that is any of
18 the following:

19 “(aa) The same (or a closely
20 related) condition or procedure as
21 the condition addressed in, or the
22 procedure provided during the
23 episode of care ending in such
24 initial discharge.

1 “(bb) An infection or other
2 complication of care provided
3 during the episode of care ending
4 in such initial discharge.

5 “(cc) A condition or proce-
6 dure indicative of a failed proce-
7 dure provided during the episode
8 of care ending in such initial dis-
9 charge.

10 “(dd) An acute decompensa-
11 tion of a coexisting chronic dis-
12 ease that was precipitated by the
13 care furnished during the episode
14 of care ending in such initial dis-
15 charge.

16 “(III) The readmission is not a
17 documented readmission with respect
18 to a documented discharge that was
19 initiated by the individual contrary to
20 medical advice provided to such indi-
21 vidual during the episode of care with
22 respect to such initial discharge.

23 “(IV) The readmission could not
24 reasonably be considered a planned
25 readmission.

1 “(V) The readmission occurs dur-
2 ing the 30-day period following an in-
3 patient discharge of such an indi-
4 vidual from the applicable hospital
5 with respect to such initial discharge.

6 “(VI) The readmission was not
7 due to a traumatic injury that oc-
8 curred after the episode of care end-
9 ing in such initial discharge.

10 “(VII) The readmission does not
11 fall under such other exclusions as the
12 Secretary determines appropriate.

13 “(ii) READMISSION CHAINS.—For
14 purposes of this subsection, in the case
15 that an individual has multiple readmis-
16 sions with respect to an initial discharge
17 that, but for the application of this clause,
18 would be considered potentially-avoidable
19 readmissions with respect to such initial
20 discharge, the following shall apply:

21 “(I) Only one of such readmis-
22 sion may be considered a potentially-
23 avoidable readmission with respect to
24 such initial discharge.

1 “(II) None of such readmissions
2 may be considered a new initial dis-
3 charge for purposes of this subsection.

4 “(C) POTENTIALLY-AVOIDABLE RETURN
5 EMERGENCY ROOM VISITS.—The performance
6 category of return emergency room visits (re-
7 ferred to in this section as ‘potentially-avoidable
8 return emergency room visits’) of individuals
9 entitled to benefits under part A to any hos-
10 pitals following a discharge (referred to in this
11 section as an ‘initial discharge’) of such individ-
12 uals to an applicable hospital if the initial dis-
13 charge and return emergency room visit in-
14 volved would satisfy the requirements described
15 in subclauses (I), (II), (III), (V), (VI), and
16 (VII) if—

17 “(i) the references in such subclauses
18 to readmissions instead were references to
19 return emergency room visits; and

20 “(ii) the reference in such subclause
21 (V) to a 30-day period instead were a ref-
22 erence to a 15-day period.

23 “(D) POST-ACUTE CARE EPISODE EXPEND-
24 ITURES.—

1 “(i) IN GENERAL.—The performance
2 category, in the case of individuals entitled
3 to benefits under part A and enrolled in
4 part B who are discharged from an appli-
5 cable hospital (referred to in this section as
6 an ‘initial discharge’), of expenditures (re-
7 ferred to in this section as ‘post-acute care
8 episode expenditures’) that are made (in-
9 cluding any cost-sharing amounts expended
10 by the individual) with respect to items
11 and services furnished to such individuals
12 for which payment is made under this title
13 and that are so furnished during the re-
14 spective post-acute care episode periods ap-
15 plicable to such individuals, subject to
16 clause (ii), if the initial discharge and indi-
17 vidual (as applicable) satisfy all of the fol-
18 lowing requirements:

19 “(I) The initial discharge is as-
20 signed to an applicable DRG (as de-
21 fined in clause (iii)).

22 “(II) The individual was entitled
23 to benefits under part A and enrolled
24 in part B for the entirety of the post-

1 acute care episode period that is with
2 respect to the initial discharge.

3 “(III) The individual did not
4 have a readmission that is not a po-
5 tentially-avoidable readmission during
6 the post-acute care episode period
7 that is with respect to the initial dis-
8 charge.

9 “(IV) The initial discharge was
10 not a documented discharge that was
11 initiated by the individual contrary to
12 medical advice provided to such indi-
13 vidual during the episode of care with
14 respect to such initial discharge.

15 “(V) Such other requirements as
16 the Secretary may specify.

17 “(ii) EXCEPTIONS.—Such category
18 shall not include expenditures with respect
19 to any of the following:

20 “(I) Expenditures that are with
21 respect to readmissions of an indi-
22 vidual that occur during the 30-day
23 period following an inpatient dis-
24 charge of such an individual.

1 “(II) Expenditures that are with
2 respect to return emergency room vis-
3 its of an individual that occur during
4 the 15-day period following an inpa-
5 tient discharge of such an individual.

6 “(III) Such other expenditures as
7 may be specified by the Secretary.

8 “(iii) ADDITIONAL DEFINITIONS.—

9 “(I) APPLICABLE DRG.—For
10 purposes of clause (i)(I), the term ‘ap-
11 plicable DRG’ means a diagnosis-re-
12 lated group (including, as applicable,
13 a sub-categorization of a diagnosis-re-
14 lated group) for which there is a rea-
15 sonable expectation that the pattern
16 of post-acute care expenditures is sta-
17 ble and predictable based on the rea-
18 son for the initial discharge.

19 “(II) POST-ACUTE CARE EPISODE
20 PERIOD.—

21 “(aa) IN GENERAL.—For
22 purposes of clause (i), the term
23 ‘post-acute care episode period’
24 means, with respect to an initial
25 discharge of an individual and

1 subject to item (bb), the period
2 consisting of the 30-day period
3 that begins with the date of such
4 initial discharge.

5 “(bb) NO OVERLAP OF PERI-
6 ODS.—For purposes of this sub-
7 section, an individual may not be
8 considered, at any one time, to be
9 within more than one post-acute
10 care episode.

11 “(6) SELECTION OF METHODS FOR IDENTI-
12 FYING POTENTIALLY-AVOIDABLE OUTCOMES AND
13 METHOD OF RISK ADJUSTMENT.—

14 “(A) METHODS FOR IDENTIFYING POTEN-
15 Tially-AVOIDABLE OUTCOMES.—The Secretary
16 shall select a methodology for identifying poten-
17 tially-avoidable complications and a method-
18 ology for identifying potentially-avoidable re-
19 admissions, and shall specify the circumstances
20 under which such complications and such re-
21 admissions would be considered potentially
22 avoidable. Each such methodology shall meet
23 the following criteria:

24 “(i) The methodology shall provide—

1 “(I) in the case of potentially-
2 avoidable complications, a comprehen-
3 sive identification of all conditions
4 that could reasonably be considered a
5 complication of care that meets the
6 requirements under paragraph (5)(A)
7 to be included as a potentially-avoid-
8 able complication; and

9 “(II) in the case of potentially-
10 avoidable readmissions, a comprehen-
11 sive identification of all initial dis-
12 charges described in paragraph (5)(B)
13 and corresponding readmissions de-
14 scribed in such paragraph that each
15 meet the requirements for such read-
16 mission to be included as a poten-
17 tially-avoidable readmission.

18 “(ii) To the extent possible, the meth-
19 odology shall be a methodology that has
20 been successfully implemented for the pur-
21 pose of adjusting payments to hospitals by
22 a State plan under title XIX or by a major
23 commercial payer or be a methodology that
24 has been certified by an entity with a con-
25 tract under section 1890(a).

1 “(iii) The methodology shall be open,
2 transparent, and available for review and
3 comment by the public.

4 “(iv) The Secretary may select propri-
5 etary methodologies that meet the criteria
6 in clauses (i) through (iii).

7 “(B) SELECTION CRITERIA FOR METHOD
8 OF RISK ADJUSTMENT.—For purposes of para-
9 graph (4), the Secretary shall, with respect to
10 each category described in a subparagraph of
11 paragraph (5), select a methodology for speci-
12 fying risk categories and for assigning individ-
13 uals entitled to benefits under part A to such
14 categories, and shall so specify such risk cat-
15 egories and so assign such individuals to such
16 categories. Each such methodology shall meet
17 the following criteria:

18 “(i) The methodology shall result in
19 an exhaustive and mutually exclusive list of
20 risk categories.

21 “(ii) The methodology shall be clini-
22 cally credible and explicitly account for the
23 severity of illness, chronic illness burden,
24 and extensive comorbid diseases and high
25 severity of illness of patients.

1 “(iii) The methodology shall account
2 for patient characteristics that may impact
3 access to care.

4 “(iv) The methodology shall assign a
5 risk category to an individual based on the
6 condition of the individual at the time of—

7 “(I) in the case of potentially-
8 avoidable complications, hospital ad-
9 mission; and

10 “(II) in the case of potentially-
11 avoidable readmissions, hospital dis-
12 charge with respect to the initial dis-
13 charge.

14 “(v) To the extent possible, the meth-
15 odology shall be a methodology that has
16 been successfully implemented for the pur-
17 pose of adjusting payments to hospitals by
18 a State plan under title XIX or by a major
19 commercial payer or be a methodology that
20 has been certified by an entity with a con-
21 tract under section 1890(a).

22 “(vi) The methodology shall be open,
23 transparent, and available for review and
24 comment by the public.

1 “(vii) The Secretary may select pro-
2 prietary methodologies that meet the cri-
3 teria in clauses (i) through (vi).

4 “(C) PUBLICATION OF SPECIFICATIONS.—
5 Not later than 15 days prior to each applicable
6 prospective year, the Secretary shall make
7 available, such as by publicly posting on the
8 Internet Web site of the Centers for Medicare
9 & Medicaid Services the annual updates to each
10 methodology selected under a subparagraph of
11 this paragraph.

12 “(7) REPORTING BY SECRETARY.—

13 “(A) REPORTS TO HOSPITALS.—For each
14 data collection period that is with respect to an
15 applicable prospective period beginning on or
16 after October 1, 2018, the Secretary shall pro-
17 vide to each applicable hospital, not later than
18 the first day of such applicable prospective pe-
19 riod, a confidential report with respect to the
20 potentially-avoidable outcomes of such hospital
21 during such data collection period.

22 “(B) REPORTS TO PUBLIC.—For each data
23 collection period that is with respect to an ap-
24 plicable prospective period described in para-
25 graph (1), the Secretary shall, not later than 90

1 days after the first day of such applicable pro-
2 spective period, make available to the public
3 (including by posting on the Hospital Compare
4 Web site) in an easily understandable format
5 information regarding the performance of each
6 applicable hospital during such data collection
7 period with respect to potentially-avoidable out-
8 comes.

9 “(8) DEFINITIONS.—In this subsection:

10 “(A) APPLICABLE HOSPITAL.—The term
11 ‘applicable hospital’ means a subsection (d) hos-
12 pital.

13 “(B) DATA COLLECTION PERIOD.—The
14 term ‘data collection period’ means, with re-
15 spect to an applicable prospective period, a pe-
16 riod specified by the Secretary that is the most
17 recent period for which data are available for
18 purposes of determining the potentially-avoid-
19 able outcome adjustment factor described in
20 paragraph (2) to be applied for such applicable
21 prospective period.

22 “(C) APPLICABLE PROSPECTIVE PERIOD.—
23 The term ‘applicable prospective period’ means
24 a fiscal year.

1 “(9) LIMITATION ON JUDICIAL REVIEW.—There
2 shall be no administrative or judicial review under
3 section 1869, section 1878, or otherwise of a poten-
4 tially-avoidable outcome adjustment factor applied
5 under this section.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) SUNSETTING EXISTING HOSPITAL VALUE-
8 BASED PURCHASING PROGRAM.—Section 1886(o)(2)
9 of the Social Security Act (42 U.S.C. 1395ww(o)(2))
10 is amended—

11 (A) in the heading, by inserting “AND END
12 WITH FISCAL YEAR 2018” after “2013”; and

13 (B) by adding “, and before October 1,
14 2018” before the period at the end.

15 (2) SUNSETTING EXISTING ADJUSTMENT FOR
16 COMPLICATIONS.—Section 1886(p) of the Social Se-
17 curity Act (42 U.S.C. 1395ww(p)) is amended—

18 (A) in paragraph (1), by inserting “(before
19 fiscal year 2019)” after “a subsequent fiscal
20 year”; and

21 (B) in paragraph (5), by inserting “(before
22 fiscal year 2019)” after “each subsequent fiscal
23 year”.

1 (3) SUNSETTING EXISTING ADJUSTMENT FOR
2 READMISSIONS.—Section 1886(q) of the Social Se-
3 curity Act (42 U.S.C. 1395ww(q)) is amended—

4 (A) in paragraph (1), by inserting “and
5 ending before October 1, 2018” after “October
6 1, 2012,”;

7 (B) in paragraph (3)(C)(iii), by inserting
8 “before fiscal year 2019” after “and subsequent
9 fiscal years”; and

10 (C) in paragraph (5)(B), by inserting “and
11 ending with fiscal year 2018” after “fiscal year
12 2015”.

13 (4) SUNSETTING EXISTING ADJUSTMENT FOR
14 CERTAIN HOSPITAL ACQUIRED INFECTIONS.—Sec-
15 tion 1886(d)(4)(D) of the Social Security Act (42
16 U.S.C. 1395ww(d)(4)(D)) is amended by inserting
17 “and before October 1, 2018” after “2008,”.

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