

113TH CONGRESS
2D SESSION

H. R. 4994

To amend title XVIII of the Social Security Act to provide for standardized post-acute care assessment data for quality, payment, and discharge planning, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2014

Mr. CAMP (for himself, Mr. LEVIN, Mr. BRADY of Texas, Mr. McDERMOTT, Mr. BLUMENAUER, Mr. KIND, Mr. TIBERI, and Mrs. BLACK) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 provide for standardized post-acute care assessment data for quality, payment, and discharge planning, 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.**

4 This Act may be cited as the “Improving Medicare
5 Post-Acute Care Transformation Act of 2014” or the
6 “IMPACT Act of 2014”.

1 **SEC. 2. STANDARDIZATION OF POST-ACUTE CARE DATA.**

2 (a) IN GENERAL.—Title XVIII of the Social Security
3 Act is amended by adding at the end the following new
4 section:

5 **“SEC. 1899B. STANDARDIZED POST-ACUTE CARE (PAC) AS-**
6 **SESSMENT DATA FOR QUALITY, PAYMENT,**
7 **AND DISCHARGE PLANNING.**

8 “(a) REQUIREMENT FOR STANDARDIZED ASSESS-
9 MENT DATA.—

10 “(1) IN GENERAL.—The Secretary shall—

11 “(A) require under the applicable reporting
12 provisions post-acute care providers (as defined
13 in paragraph (2)(A)) to report—

14 “(i) standardized patient assessment
15 data in accordance with subsection (b);

16 “(ii) data on quality measures under
17 subsection (c)(1); and

18 “(iii) data on resource use and other
19 measures under subsection (d)(1);

20 “(B) require data described in subpara-
21 graph (A) to be standardized and interoperable
22 so as to allow for the exchange of such data
23 among such post-acute care providers and other
24 providers and the use by such providers of such
25 data that has been so exchanged, including by
26 using common standards and definitions, in

1 order to provide access to longitudinal informa-
2 tion for such providers to facilitate coordinated
3 care and improved Medicare beneficiary out-
4 comes; and

5 “(C) in accordance with subsections (b)(1)
6 and (c)(2), modify PAC assessment instruments
7 (as defined in paragraph (2)(B)) applicable to
8 post-acute care providers to—

9 “(i) provide for the submission of
10 standardized patient assessment data
11 under this title with respect to such pro-
12 viders; and

13 “(ii) enable comparison of such as-
14 sessment data across all such providers to
15 whom such data are applicable.

16 “(2) DEFINITIONS.—For purposes of this sec-
17 tion:

18 “(A) POST-ACUTE CARE (PAC) PRO-
19 VIDER.—The terms ‘post-acute care provider’
20 and ‘PAC provider’ mean—

21 “(i) a home health agency;

22 “(ii) a skilled nursing facility;

23 “(iii) an inpatient rehabilitation facil-
24 ity; and

1 “(iv) a long-term care hospital (other
2 than a hospital classified under section
3 1886(d)(1)(B)(iv)(II)).

4 “(B) PAC ASSESSMENT INSTRUMENT.—
5 The term ‘PAC assessment instrument’
6 means—

7 “(i) in the case of home health agen-
8 cies, the instrument used for purposes of
9 reporting and assessment with respect to
10 the Outcome and Assessment Information
11 Set (OASIS), as described in sections
12 484.55 and 484.250 of title 42, the Code
13 of Federal Regulations, or any successor
14 regulation, or any other instrument used
15 with respect to home health agencies for
16 such purposes;

17 “(ii) in the case of skilled nursing fa-
18 cilities, the resident’s assessment under
19 section 1819(b)(3);

20 “(iii) in the case of inpatient rehabili-
21 tation facilities, any Medicare beneficiary
22 assessment instrument established by the
23 Secretary for purposes of section 1886(j);
24 and

“(iv) in the case of long-term care hospitals, the Medicare beneficiary assessment instrument used with respect to such hospitals for the collection of data elements necessary to calculate quality measures as described in the August 18, 2011, Federal Register (76 Fed. Reg. 51754–51755), including for purposes of section 1886(m)(5)(C), or any other instrument used with respect to such hospitals for such purposes.

“(C) APPLICABLE REPORTING PROVISION.—The term ‘applicable reporting provision’ means—

“(i) for home health agencies, section 1895(b)(3)(B)(v);

“(ii) for skilled nursing facilities, section 1888(e)(6);

“(iii) for inpatient rehabilitation facilities, section 1886(j)(7); and

“(iv) for long-term care hospitals, section 1886(m)(5).

“(D) PAC PAYMENT SYSTEM.—The term ‘PAC payment system’ means—

1 “(i) with respect to a home health
2 agency, the prospective payment system
3 under section 1895;

4 “(ii) with respect to a skilled nursing
5 facility, the prospective payment system
6 under section 1888(e);

7 “(iii) with respect to an inpatient re-
8 habilitation facility, the prospective pay-
9 ment system under section 1886(j); and

10 “(iv) with respect to a long-term care
11 hospital, the prospective payment system
12 under section 1886(m).

13 “(E) SPECIFIED APPLICATION DATE.—The
14 term ‘specified application date’ means the fol-
15 lowing:

16 “(i) QUALITY MEASURES.—In the
17 case of quality measures under subsection
18 (c)(1)—

19 “(I) with respect to the domain
20 described in subsection (c)(1)(A) (re-
21 lating to functional status, cognitive
22 function, and changes in function and
23 cognitive function)—

24 “(aa) for PAC providers de-
25 scribed in clauses (ii) and (iii) of

1 paragraph (2)(A), October 1,
2 2016;

3 “(bb) for PAC providers de-
4 scribed in clause (iv) of such
5 paragraph, October 1, 2018; and

6 “(cc) for PAC providers de-
7 scribed in clause (i) of such para-
8 graph, January 1, 2019;

9 “(II) with respect to the domain
10 described in subsection (c)(1)(B) (re-
11 lating to skin integrity and changes in
12 skin integrity)—

13 “(aa) for PAC providers de-
14 scribed in clauses (ii), (iii), and
15 (iv) of paragraph (2)(A), October
16 1, 2016; and

17 “(bb) for PAC providers de-
18 scribed in clause (i) of such para-
19 graph, January 1, 2017;

20 “(III) with respect to the domain
21 described in subsection (c)(1)(C) (re-
22 lating to medication reconciliation)—

23 “(aa) for PAC providers de-
24 scribed in clause (i) of such para-
25 graph, January 1, 2017; and

1 “(bb) for PAC providers de-
2 scribed in clauses (ii), (iii), and
3 (iv) of such paragraph, October
4 1, 2018;

5 “(IV) with respect to the domain
6 described in subsection (c)(1)(D) (re-
7 lating to incidence of major falls)—

8 “(aa) for PAC providers de-
9 scribed in clauses (ii), (iii), and
10 (iv) of paragraph (2)(A), October
11 1, 2016; and

12 “(bb) for PAC providers de-
13 scribed in clause (i) of such para-
14 graph, January 1, 2019; and

15 “(V) with respect to the domain
16 described in subsection (c)(1)(E) (re-
17 lating to accurately communicating
18 the existence of and providing for the
19 transfer of health information and
20 care preferences)—

21 “(aa) for PAC providers de-
22 scribed in clauses (ii), (iii), and
23 (iv) of paragraph (2)(A), October
24 1, 2018; and

1 “(bb) for PAC providers de-
 2 scribed in clause (i) of such para-
 3 graph, January 1, 2019.

4 “(ii) RESOURCE USE AND OTHER
 5 MEASURES.—In the case of resource use
 6 and other measures under subsection
 7 (d)(1)—

8 “(I) for PAC providers described
 9 in clauses (ii), (iii), and (iv) of para-
 10 graph (2)(A), October 1, 2016; and

11 “(II) for PAC providers de-
 12 scribed in clause (i) of such para-
 13 graph, January 1, 2017.

14 “(F) MEDICARE BENEFICIARY.—The term
 15 ‘Medicare beneficiary’ means an individual enti-
 16 tled to benefits under part A or, as appropriate,
 17 enrolled for benefits under part B.

18 “(b) STANDARDIZED PATIENT ASSESSMENT DATA.—

19 “(1) REQUIREMENT FOR REPORTING ASSESS-
 20 MENT DATA.—

21 “(A) IN GENERAL.—Beginning not later
 22 than October 1, 2018, for PAC providers de-
 23 scribed in clauses (ii), (iii), and (iv) of sub-
 24 section (a)(2)(A) and January 1, 2019, for
 25 PAC providers described in clause (i) of such

1 subsection, the Secretary shall require PAC
2 providers to submit to the Secretary, under the
3 applicable reporting provisions and through the
4 use of PAC assessment instruments, the stand-
5 ardized patient assessment data described in
6 subparagraph (B). The Secretary shall require
7 such data be submitted with respect to admis-
8 sion and discharge of an individual (and may be
9 submitted more frequently as the Secretary
10 deems appropriate).

11 “(B) STANDARDIZED PATIENT ASSESS-
12 MENT DATA DESCRIBED.—For purposes of sub-
13 paragraph (A), the standardized patient assess-
14 ment data described in this subparagraph is
15 data required for at least the quality measures
16 described in subsection (c)(1) and that is with
17 respect to the following categories:

18 “(i) Functional status, such as mobil-
19 ity, self care, and history of major falls—

20 “(I) in the period immediately
21 prior to the reason for acute hos-
22 pitalization; or

23 “(II) in the case of no antecedent
24 acute hospitalization, in the period

1 prior to the use of post-acute care
2 services.

3 “(ii) Cognitive function, such as abil-
4 ity to express ideas and to understand, and
5 mental status, such as depression and de-
6 mentia.

7 “(iii) Special services, treatments, and
8 interventions, such as need for ventilator
9 use, dialysis, chemotherapy, central line
10 placement, and total parenteral nutrition.

11 “(iv) Medical conditions and co-
12 morbidities, such as diabetes, congestive
13 heart failure, and pressure ulcers.

14 “(v) Impairments, such as inconti-
15 nence and an impaired ability to hear, see,
16 or swallow.

17 “(vi) Other categories deemed nec-
18 essary and appropriate by the Secretary.

19 “(2) ALIGNMENT OF CLAIMS DATA WITH
20 STANDARDIZED PATIENT ASSESSMENT DATA.—To
21 the extent practicable, not later than October 1,
22 2018, for PAC providers described in clauses (ii),
23 (iii), and (iv) of subsection (a)(2)(A), and January
24 1, 2019, for PAC providers described in clause (i) of
25 such subsection, the Secretary shall match claims

1 data with assessment data pursuant to this section
2 for purposes of assessing prior service use and con-
3 current service use, such as antecedent hospital or
4 PAC provider use, and may use such matched data
5 for such other uses as the Secretary determines ap-
6 propriate.

7 “(3) REPLACEMENT OF CERTAIN EXISTING
8 DATA ELEMENTS.—In the case of patient assessment
9 data being used with respect to a PAC assessment
10 instrument that duplicates or overlaps with stand-
11 ardized patient assessment data within a category
12 described in paragraph (1), the Secretary shall, as
13 soon as practicable, revise or replace such existing
14 data with the standardized data.

15 “(4) CLARIFICATION.—Standardized patient as-
16 sessment data submitted pursuant to this subsection
17 shall not be used to require individuals to be pro-
18 vided post-acute care by a specific type of PAC pro-
19 vider in order for such care to be eligible for pay-
20 ment under this title.

21 “(c) QUALITY MEASURES.—

22 “(1) REQUIREMENT FOR REPORTING QUALITY
23 MEASURES.—Not later than the specified application
24 date, as applicable to measures and PAC providers,
25 the Secretary shall specify quality measures on

1 which PAC providers are required under the applica-
2 ble reporting provisions to submit standardized pa-
3 tient assessment data described in subsection (b)(1)
4 and other necessary data specified by the Secretary.
5 Such measures shall be with respect to at least the
6 following domains:

7 “(A) Functional status, cognitive function,
8 and changes in function and cognitive function.

9 “(B) Skin integrity and changes in skin in-
10 tegrity.

11 “(C) Medication reconciliation.

12 “(D) Incidence of major falls.

13 “(E) Accurately communicating the exist-
14 ence of and providing for the transfer of health
15 information and care preferences of an indi-
16 vidual to the individual, family caregiver of the
17 individual, and providers of services furnishing
18 items and services to the individual, when the
19 individual transitions—

20 “(i) from a hospital or critical access
21 hospital to another applicable setting, in-
22 cluding a PAC provider or the home of the
23 individual; or

24 “(ii) from a PAC provider to another
25 applicable setting, including a different

1 PAC provider, a hospital, a critical access
2 hospital, or the home of the individual.

3 “(2) REPORTING THROUGH PAC ASSESSMENT
4 INSTRUMENTS.—

5 “(A) IN GENERAL.—To the extent pos-
6 sible, the Secretary shall require such reporting
7 by a PAC provider of quality measures under
8 paragraph (1) through the use of a PAC assess-
9 ment instrument and shall modify such PAC
10 assessment instrument as necessary to enable
11 the use of such instrument with respect to such
12 quality measures.

13 “(B) LIMITATION.—The Secretary may
14 not make significant modifications to a PAC as-
15 sessment instrument more than once per cal-
16 endar year or fiscal year, as applicable, unless
17 the Secretary publishes in the Federal Register
18 a justification for such significant modification.

19 “(3) ADJUSTMENTS.—

20 “(A) IN GENERAL.—The Secretary shall
21 consider applying adjustments to the quality
22 measures under this subsection taking into con-
23 sideration the studies under section 2(d) of the
24 IMPACT Act of 2014.

1 “(B) RISK ADJUSTMENT.—Such quality
2 measures shall be risk adjusted, as determined
3 appropriate by the Secretary.

4 “(d) RESOURCE USE AND OTHER MEASURES.—

5 “(1) REQUIREMENT FOR RESOURCE USE AND
6 OTHER MEASURES.—Not later than the specified ap-
7 plication date, as applicable to measures and PAC
8 providers, the Secretary shall specify resource use
9 and other measures on which PAC providers are re-
10 quired under the applicable reporting provisions to
11 submit any necessary data specified by the Sec-
12 retary, which may include standardized assessment
13 data in addition to claims data. Such measures shall
14 be with respect to at least the following domains:

15 “(A) Resource use measures, including
16 total estimated Medicare spending per bene-
17 ficiary.

18 “(B) Discharge to community.

19 “(C) Measures to reflect all-condition risk-
20 adjusted potentially preventable hospital read-
21 mission rates.

22 “(2) ALIGNING METHODOLOGY ADJUST-
23 MENTS.—

24 “(A) LENGTH OF EPISODE.—With respect
25 to the length of an episode, the Secretary shall,

1 to the extent the Secretary determines appro-
2 priate, align resource use and other measures
3 specified under this subsection with respect to
4 the domain described in paragraph (1)(A) with
5 the methodology used for purposes of section
6 1886(o)(2)(B)(ii).

7 “(B) GEOGRAPHIC AND OTHER ADJUST-
8 MENTS.—The Secretary shall standardize meas-
9 ures with respect to the domain described in
10 paragraph (1)(A) for geographic payment rate
11 differences and payment differentials (and other
12 adjustments, as applicable) consistent with the
13 methodology published in the Federal Register
14 on August 18, 2011 (76 Fed. Reg. 51624
15 through 51626), or any subsequent modifica-
16 tions made to the methodology.

17 “(C) MEDICARE SPENDING PER BENE-
18 FICIARY.—The Secretary shall adjust, as appro-
19 priate, measures with respect to the domain de-
20 scribed in paragraph (1)(A) for the factors ap-
21 plied under section 1886(o)(2)(B)(ii).

22 “(3) ADJUSTMENTS.—

23 “(A) IN GENERAL.—The Secretary shall
24 consider applying adjustments to the resource
25 use and other measures specified under this

1 subsection with respect to the domain described
2 in paragraph (1)(A), taking into consideration
3 the studies under section 2(d) of the IMPACT
4 Act of 2014.

5 “(B) RISK ADJUSTMENT.—Such resource
6 use and other measures shall be risk adjusted,
7 as determined appropriate by the Secretary.

8 “(e) MEASUREMENT IMPLEMENTATION PHASES; SE-
9 LECTION OF QUALITY MEASURES AND RESOURCE USE
10 AND OTHER MEASURES.—

11 “(1) MEASUREMENT IMPLEMENTATION
12 PHASES.—In the case of quality measures specified
13 under subsection (c)(1) and resource use and other
14 measures specified under subsection (d)(1), the pro-
15 visions of this section shall be implemented in ac-
16 cordance with the following phases:

17 “(A) INITIAL IMPLEMENTATION PHASE.—
18 The initial implementation phase, with respect
19 to such a measure, shall, in accordance with
20 subsections (c) and (d), as applicable, consist
21 of—

22 “(i) measure specification, including
23 informing the public of the measure’s nu-
24 merator, denominator, exclusions, and any

1 other aspects the Secretary determines
2 necessary;

3 “(ii) data collection, including, in the
4 case of quality measures, requiring PAC
5 providers to report data elements needed
6 to calculate such a measure; and

7 “(iii) data analysis, including, in the
8 case of resource use and other measures,
9 the use of claims data to calculate such a
10 measure.

11 “(B) SECOND IMPLEMENTATION PHASE.—
12 The second implementation phase, with respect
13 to such a measure, shall consist of the provision
14 of feedback reports to PAC providers, in ac-
15 cordance with subsection (f).

16 “(C) THIRD IMPLEMENTATION PHASE.—
17 The third implementation phase, with respect to
18 such a measure, shall consist of public reporting
19 of PAC providers’ performance on such meas-
20 ure in accordance with subsection (g).

21 “(2) CONSENSUS-BASED ENTITY.—

22 “(A) IN GENERAL.—Subject to subpara-
23 graph (B), each measure specified by the Sec-
24 retary under this section shall be endorsed by

1 the entity with a contract under section
2 1890(a).

3 “(B) EXCEPTION.—In the case of a speci-
4 fied area or medical topic determined appro-
5 priate by the Secretary for which a feasible and
6 practical measure has not been endorsed by the
7 entity with a contract under section 1890(a),
8 the Secretary may specify a measure that is not
9 so endorsed as long as due consideration is
10 given to measures that have been endorsed or
11 adopted by a consensus organization identified
12 by the Secretary.

13 “(3) TREATMENT OF APPLICATION OF PRE-
14 RULEMAKING PROCESS (MEASURE APPLICATIONS
15 PARTNERSHIP PROCESS).—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), the provisions of section 1890A shall
18 apply in the case of a quality measure specified
19 under subsection (c) or a resource use or other
20 measure specified under subsection (d).

21 “(B) EXCEPTIONS.—

22 “(i) EXPEDITED PROCEDURES.—For
23 purposes of satisfying subparagraph (A),
24 the Secretary may use expedited proce-
25 dures, such as ad-hoc reviews, as nec-

1 essary, in the case of a quality measure
2 specified under subsection (c) or a resource
3 use or other measure specified in sub-
4 section (d) required with respect to data
5 submissions under the applicable reporting
6 provisions before one year after the speci-
7 fied application date applicable to such a
8 measure and provider involved.

9 “(ii) OPTION TO WAIVE PROVI-
10 SIONS.—The Secretary may waive the ap-
11 plication of the provisions of section 1890A
12 in the case of a quality measure or re-
13 source use or other measure described in
14 clause (i), if the application of such provi-
15 sions (including through the use of an ex-
16 pedited procedure described in such clause)
17 would result in the inability of the Sec-
18 retary to satisfy any deadline specified in
19 this section with respect to such measure.

20 “(f) FEEDBACK REPORTS TO PAC PROVIDERS.—

21 “(1) IN GENERAL.—Beginning one year after
22 the specified application date, as applicable to PAC
23 providers and quality measures and resource use and
24 other measures under this section, the Secretary, in-
25 cluding through a process consistent with the proc-

1 ess applied under section 1886(b)(3)(B)(viii)(VII)
2 for similar purposes, shall provide confidential feed-
3 back reports to such PAC providers on the perform-
4 ance of such providers with respect to such measures
5 required under the applicable provisions.

6 “(2) FREQUENCY.—To the extent feasible, the
7 Secretary shall provide feedback reports described in
8 paragraph (1) not less frequently than on a quar-
9 terly basis. Notwithstanding the previous sentence,
10 with respect to measures described in such para-
11 graph that are reported on an annual basis, the Sec-
12 retary may provide such feedback reports on annual
13 basis.

14 “(g) PUBLIC REPORTING OF PAC PROVIDER PER-
15 FORMANCE.—

16 “(1) IN GENERAL.—Subject to the succeeding
17 paragraphs of this subsection, the Secretary shall
18 provide for public reporting of PAC provider per-
19 formance on quality measures under subsection
20 (c)(1) and the resource use and other measures
21 under subsection (d)(1), including by establishing
22 procedures for making available to the public infor-
23 mation regarding the performance of individual PAC
24 providers with respect to such measures.

1 “(2) OPPORTUNITY TO REVIEW.—The proce-
2 dures under paragraph (1) shall ensure that a PAC
3 provider has the opportunity to review and submit
4 corrections to the data and information that is to be
5 made public with respect to the provider prior to
6 such data being made public.

7 “(3) TIMING.—Such procedures shall provide
8 that the data and information described in para-
9 graph (1), with respect to a measure and PAC pro-
10 vider, is made publicly available beginning not later
11 than two years after the specified application date
12 applicable to such a measure and provider.

13 “(4) COORDINATION WITH EXISTING PRO-
14 GRAMS.—Such procedures shall provide that data
15 and information described in paragraph (1) with re-
16 spect to quality measures and resource use and
17 other measures under subsections (c)(1) and (d)(1)
18 shall be made publicly available consistent with the
19 following provisions:

20 “(A) In the case of home health agencies,
21 section 1895(b)(3)(B)(v)(III).

22 “(B) In the case of skilled nursing facili-
23 ties, sections 1819(i) and 1919(i).

24 “(C) In the case of inpatient rehabilitation
25 facilities, section 1886(j)(7)(E).

1 “(D) In the case of long-term care hos-
2 pitals, section 1886(m)(5)(E).

3 “(h) REMOVING, SUSPENDING, OR ADDING MEAS-
4 URES.—

5 “(1) IN GENERAL.—The Secretary may remove,
6 suspend, or add a quality measure or resource use
7 or other measure described in subsection (c)(1) or
8 (d)(1), so long as, subject to paragraph (2), the Sec-
9 retary publishes in the Federal Register (with a no-
10 tice and comment period) a justification for such re-
11 moval, suspension, or addition.

12 “(2) EXCEPTION.—In the case of such a quality
13 measure or resource use or other measure for which
14 there is a reason to believe that the continued collec-
15 tion of such measure raises potential safety con-
16 cerns, the Secretary may promptly suspend or re-
17 move such measure and satisfy paragraph (1) by
18 publishing in the Federal Register a justification for
19 such suspension or removal in the next rulemaking
20 cycle following such suspension or removal.

21 “(i) USE OF STANDARDIZED ASSESSMENT DATA,
22 QUALITY MEASURES, AND RESOURCE USE AND OTHER
23 MEASURES TO INFORM DISCHARGE PLANNING AND IN-
24 CORPORATE MEDICARE BENEFICIARY PREFERENCE.—

“(1) IN GENERAL.—Not later than January 1, 2016, and periodically thereafter (but not less frequently than once every 5 years), the Secretary shall promulgate regulations to modify conditions of participation and subsequent interpretive guidance applicable to PAC providers, hospitals, and critical access hospitals. Such regulations and interpretive guidance shall require such providers to take into account quality, resource use, and other measures under the applicable reporting provisions (which, as available, shall include measures specified under subsections (c) and (d), and other relevant measures) in the discharge planning process. Specifically, such regulations and interpretive guidance shall address the settings to which a patient may be discharged in order to assist such PAC providers, patients, and families of such patients with discharge planning from inpatient settings, including subsection (d) hospitals, critical access hospitals, and hospitals described in section 1886(d)(1)(B)(v), and from PAC provider settings. In addition, such regulations and interpretive guidance shall include procedures to address—

“(A) treatment preferences of patients;

and

1 “(B) goals of care of patients.

2 “(2) DISCHARGE PLANNING.—All requirements
3 applied pursuant to paragraph (1) shall be used to
4 help inform and mandate the discharge planning
5 process.

6 “(3) CLARIFICATION.—Such regulations shall
7 not require an individual to be provided post-acute
8 care by a specific type of PAC provider in order for
9 such care to be eligible for payment under this title.

10 “(j) STAKEHOLDER INPUT.—Before the initial rule-
11 making process to implement this section, the Secretary
12 shall allow for stakeholder input, such as through town
13 halls, open door forums, and mail-box submissions.

14 “(k) FUNDING.—For purposes of carrying out this
15 section, the Secretary shall provide for the transfer to the
16 Centers for Medicare & Medicaid Services Program Man-
17 agement Account, from the Federal Hospital Insurance
18 Trust Fund under section 1817 and the Federal Supple-
19 mentary Medical Insurance Trust Fund under section
20 1841, in such proportion as the Secretary determines ap-
21 propriate, of \$130,000,000. Fifty percent of such amount
22 shall be available on the date of the enactment of this sec-
23 tion and fifty percent of such amount shall be equally pro-
24 portioned for each of fiscal years 2015 through 2019.
25 Such sums shall remain available until expended.

1 “(l) LIMITATION.—There shall be no administrative
2 or judicial review under sections 1869 and 1878 or other-
3 wise of the specification of standardized patient assess-
4 ment data required, the determination of measures, and
5 the systems to report such standardized data under this
6 section.

7 “(m) NON-APPLICATION OF PAPERWORK REDUC-
8 TION ACT.—Chapter 35 of title 44, United States Code
9 (commonly referred to as the ‘Paperwork Reduction Act
10 of 1995’) shall not apply to this section and the sections
11 referenced in subsection (a)(2)(B) that require modifica-
12 tion in order to achieve the standardization of patient as-
13 sessment data.”.

14 (b) STUDIES OF ALTERNATIVE PAC PAYMENT MOD-
15 ELS.—

16 (1) MEDPAC.—Using data from the Post-
17 Acute Payment Reform Demonstration authorized
18 under section 5008 of the Deficit Reduction Act of
19 2005 (Public Law 109–171) or other data, as avail-
20 able, not later than June 30, 2016, the Medicare
21 Payment Advisory Commission shall submit to Con-
22 gress a report that evaluates and recommends fea-
23 tures of PAC payment systems (as defined in section
24 1899B(a)(2)(D) of the Social Security Act, as added
25 by subsection (a)) that establish, or a unified post-

1 acute care payment system under title XVIII of the
2 Social Security Act that establishes, payment rates
3 according to characteristics of individuals (such as
4 cognitive ability, functional status, and impairments)
5 instead of according to the post-acute care setting
6 where the Medicare beneficiary involved is treated.
7 To the extent feasible, such report shall consider the
8 impacts of moving from PAC payments systems (as
9 defined in subsection (a)(2)(D) of such section
10 1899B) in existence as of the date of the enactment
11 of this Act to new post-acute care payment systems
12 under title XVIII of the Social Security Act.

13 (2) RECOMMENDATIONS FOR PAC PROSPECTIVE
14 PAYMENT.—

15 (A) REPORT BY SECRETARY.—Not later
16 than 2 years after the date by which the Sec-
17 retary of Health and Human Services has col-
18 lected 2 years of data on quality measures
19 under subsection (c) of section 1899B, as added
20 by subsection (a), the Secretary shall, in con-
21 sultation with the Medicare Payment Advisory
22 Commission and appropriate stakeholders, sub-
23 mit to Congress a report, including—

24 (i) recommendations and a technical
25 prototype, on a post-acute care prospective

1 payment system under title XVIII of the
2 Social Security Act that would—

3 (I) in lieu of the rates that would
4 otherwise apply under PAC payments
5 systems (as defined in subsection
6 (a)(2)(D) of such section 1899B),
7 base payments under such title, with
8 respect to items and services fur-
9 nished to an individual by a PAC pro-
10 vider (as defined in subsection
11 (a)(2)(A) of such section), according
12 to individual characteristics (such as
13 cognitive ability, functional status,
14 and impairments) of such individual
15 instead of the post-acute care setting
16 in which the individual is furnished
17 such items and services;

18 (II) account for the clinical ap-
19 propriateness of items and services so
20 furnished and Medicare beneficiary
21 outcomes;

22 (III) be designed to incorporate
23 (or otherwise account for) standard-
24 ized patient assessment data under
25 section 1899B; and

1 (IV) further clinical integration,
2 such as by motivating greater coordi-
3 nation around a single condition or
4 procedure to integrate hospital sys-
5 tems with PAC providers (as so de-
6 fined).

7 (ii) recommendations on which Medi-
8 care fee-for-service regulations for post-
9 acute care payment systems under title
10 XVIII of the Social Security Act should be
11 altered (such as the skilled nursing facility
12 3-day stay and inpatient rehabilitation fa-
13 cility 60 percent rule);

14 (iii) an analysis of the impact of the
15 recommended payment system described in
16 clause (i) on Medicare beneficiary cost-
17 sharing, access to care, and choice of set-
18 ting;

19 (iv) a projection of any potential re-
20 duction in expenditures under title XVIII
21 of the Social Security Act that may be at-
22 tributable to the application of the rec-
23 ommended payment system described in
24 clause (i); and

1 (v) a review of the value of subsection
2 (d) hospitals (as defined in section
3 1886(d)(1)(B) of the Social Security Act
4 (42 U.S.C. 1395ww(d)(1)(B)), hospitals
5 described in section 1886(d)(1)(B)(v) of
6 such Act (42 U.S.C. 1395ww(d)(1)(B)(v)),
7 and critical access hospitals described in
8 section 1820(c)(2)(B) of such Act (42
9 U.S.C. 1395i-4(c)(2)(B)) collecting and re-
10 porting to the Secretary standardized pa-
11 tient assessment data with respect to inpa-
12 tient hospital services furnished by such a
13 hospital or critical access hospital to indi-
14 viduals who are entitled to benefits under
15 part A of title XVIII of such Act or, as ap-
16 propriate, enrolled for benefits under part
17 B of such title.

18 (B) REPORT BY MEDPAC.—Not later than
19 the first June 30th following the date on which
20 the report is required under subparagraph (A),
21 the Medicare Payment Advisory Commission
22 shall submit to Congress a report, including
23 recommendations and a technical prototype, on
24 a post-acute care prospective payment system
25 under title XVIII of the Social Security Act

1 that would satisfy the criteria described in sub-
2 paragraph (A).

3 (3) MEDICARE BENEFICIARY DEFINED.—For
4 purposes of this subsection, the term “Medicare ben-
5 eficiary” has the meaning given such term in section
6 1899B(a)(2) of the Social Security Act, as added by
7 subsection (a).

8 (c) PAYMENT CONSEQUENCES UNDER THE APPLICA-
9 BLE REPORTING PROVISIONS.—

10 (1) HOME HEALTH AGENCIES.—Section
11 1895(b)(3)(B)(v) of the Social Security Act (42
12 U.S.C. 1395fff(b)(3)(B)(v)) is amended—

13 (A) in subclause (I), by striking “subclause
14 (II)” and inserting “subclauses (II) and (IV)”;

15 (B) in subclause (II), by striking “For
16 2007” and inserting “Subject to subclause
17 (IV)(cc), for 2007”;

18 (C) in subclause (III), by inserting “and
19 subclause (IV)(aa)” after “subclause (II)”;

20 (D) by adding at the end the following new
21 subclause:

22 “(IV) SUBMISSION OF ADDI-
23 TIONAL DATA.—

24 “(aa) IN GENERAL.—For
25 the year beginning on the speci-

1 fied application date (as defined
2 in subsection (a)(2)(E) of section
3 1899B), as applicable with re-
4 spect to home health agencies
5 and quality measures under sub-
6 section (c)(1) of such section and
7 measures under subsection (d)(1)
8 of such section, and each subse-
9 quent year, each home health
10 agency shall submit to the Sec-
11 retary data on such quality meas-
12 ures and any necessary data
13 specified by the Secretary under
14 such subsection (d)(1).

15 “(bb) STANDARDIZED PA-
16 TIENT ASSESSMENT DATA.—For
17 2019 and each subsequent year,
18 in addition to such data de-
19 scribed in item (aa), each home
20 health agency shall submit to the
21 Secretary standardized patient
22 assessment data required under
23 subsection (b)(1) of section
24 1899B.

1 “(cc) NON-DUPLICATION.—

2 To the extent such standardized
3 data under subsection (b)(1) of
4 such section 1899B, data on
5 quality measures required under
6 subsection (c)(1) of such section,
7 or necessary data required under
8 subsection (d)(1) of such section
9 are duplicative of any other data
10 required to be reported under
11 this subclause, the submission of
12 such standardized data, data on
13 such quality measures, or nec-
14 essary data, respectively, shall be
15 required under this subclause in
16 lieu of the submission of such
17 other data.

18 “(dd) SUBMISSION.—Such
19 data shall be submitted in the
20 form and manner, and at the
21 time, specified by the Secretary
22 for purposes of subclause (II).”.

23 (2) INPATIENT REHABILITATION FACILITIES.—

24 Section 1886(j)(7) of the Social Security Act (42
25 U.S.C. 1395ww(j)(7)) is amended—

1 (A) in subparagraph (A)(i), by striking
2 “subparagraph (C)” and inserting “subpara-
3 graphs (C) and (F)”;

4 (B) in subparagraph (C), by striking “For
5 fiscal year” and inserting “Subject to subpara-
6 graph (F)(iii), for fiscal year”;

7 (C) in subparagraph (E), by inserting
8 “and subparagraph (F)(i)” after “subpara-
9 graph (C)”;

10 (D) by adding at the end the following new
11 subparagraph:

12 “(F) SUBMISSION OF ADDITIONAL DATA.—

13 “(i) IN GENERAL.—For the fiscal year
14 beginning on the specified application date
15 (as defined in subsection (a)(2)(E) of sec-
16 tion 1899B), as applicable with respect to
17 inpatient rehabilitation facilities and qual-
18 ity measures under subsection (c)(1) of
19 such section and measures under sub-
20 section (d)(1) of such section, and each
21 subsequent fiscal year, in addition to such
22 data on the quality measures described in
23 subparagraph (C), each rehabilitation facil-
24 ity shall submit to the Secretary data on
25 the quality measures under such subsection

1 (c)(1) and any necessary data specified by
2 the Secretary under such subsection (d)(1).

3 “(ii) STANDARDIZED PATIENT AS-
4 SESSMENT DATA.—For fiscal year 2019
5 and each subsequent fiscal year, in addi-
6 tion to such data described in clause (i),
7 each rehabilitation facility shall submit to
8 the Secretary standardized patient assess-
9 ment data required under subsection (b)(1)
10 of section 1899B.

11 “(iii) NON-DUPLICATION.—To the ex-
12 tent such standardized data under sub-
13 section (b)(1) of such section 1899B, data
14 on quality measures required under sub-
15 section (c)(1) of such section, or necessary
16 data required under subsection (d)(1) of
17 such section are duplicative of any other
18 data required to be reported under this
19 subparagraph, the submission of such
20 standardized data, data on such quality
21 measures, or necessary data, respectively,
22 shall be required under this subparagraph
23 in lieu of the submission of such other
24 data.

1 “(iv) SUBMISSION.—Such data shall
2 be submitted in the form and manner, and
3 at the time, specified by the Secretary for
4 purposes of subparagraph (C).”.

5 (3) LONG-TERM CARE HOSPITALS.—Section
6 1886(m)(5) of the Social Security Act (42 U.S.C.
7 1395ww(m)(5)) is amended—

8 (A) in subparagraph (A)(i), by striking
9 “subparagraph (C)” and inserting “subpara-
10 graphs (C) and (F)”;

11 (B) in subparagraph (C), by striking “For
12 rate year” and inserting “Subject to subpara-
13 graph (F)(iii), for rate year”;

14 (C) in subparagraph (E), by inserting
15 “and subparagraph (F)(i)” after “subpara-
16 graph (C)”;

17 (D) by adding at the end the following new
18 subparagraph:

19 “(F) SUBMISSION OF ADDITIONAL DATA.—

20 “(i) IN GENERAL.—For the rate year
21 beginning on the specified application date
22 (as defined in subsection (a)(2)(E) of sec-
23 tion 1899B), as applicable with respect to
24 long-term care hospitals and quality meas-
25 ures under subsection (c)(1) of such sec-

tion and measures under subsection (d)(1) of such section, and each subsequent rate year, in addition to the data on the quality measures described in subparagraph (C), each long-term care hospital (other than a hospital classified under subsection (b)(3)(B)(iv)(II)) shall submit to the Secretary data on the quality measures under such subsection (c)(1) and any necessary data specified by the Secretary under such subsection (d)(1).

“(ii) STANDARDIZED PATIENT ASSESSMENT DATA.—For rate year 2019 and each subsequent rate year, in addition to such data described in clause (i), each long-term care hospital (other than a hospital classified under subsection (b)(3)(B)(iv)(II)) shall submit to the Secretary standardized patient assessment data required under subsection (b)(1) of section 1899B.

“(iii) NON-DUPLICATION.—To the extent such standardized data under subsection (b)(1) of such section 1899B, data on quality measures required under sub-

1 section (c)(1) of such section, or necessary
 2 data required under subsection (d)(1) of
 3 such section are duplicative of any other
 4 data required to be reported under this
 5 subparagraph, the submission of such
 6 standardized data, data on such quality
 7 measures, or necessary data, respectively,
 8 shall be required under this subparagraph
 9 in lieu of the submission of such other
 10 data.

11 “(iv) SUBMISSION.—Such data shall
 12 be submitted in the form and manner, and
 13 at the time, specified by the Secretary for
 14 purposes of subparagraph (C).”.

15 (4) SKILLED NURSING FACILITIES.—

16 (A) IN GENERAL.—Paragraph (6) of sec-
 17 tion 1888(e) of the Social Security Act is
 18 amended to read as follows:

19 “(6) REPORTING OF ASSESSMENT AND QUALITY
 20 DATA.—

21 “(A) REDUCTION IN UPDATE FOR FAILURE
 22 TO REPORT.—

23 “(i) IN GENERAL.—For fiscal years
 24 beginning on or after the specified applica-
 25 tion date (as defined in subsection

(a)(2)(E) of section 1899B), as applicable with respect to skilled nursing facilities and quality measures under subsection (c)(1) of such section and measures under subsection (d)(1) of such section, in the case of a skilled nursing facility that does not submit, in accordance with subparagraph (B) with respect to such a fiscal year, data on the quality measures specified under such subsection (c)(1), any necessary data specified by the Secretary under such subsection (d)(1), and (for fiscal years beginning on or after October 1, 2018) standardized patient assessment data specified under subsection (b)(1) of such section, after determining the percentage described in paragraph (5)(B)(i), and after application of paragraph (5)(B)(ii), the Secretary shall reduce such percentage for payment rates during such fiscal year by 2 percentage points.

“(ii) SPECIAL RULE.—The application of this subparagraph may result in the percentage described in paragraph (5)(B)(i), after application of paragraph (5)(B)(ii),

1 being less than 0.0 for a fiscal year, and
2 may result in payment rates under this
3 subsection for a fiscal year being less than
4 such payment rates for the preceding fiscal
5 year.

6 “(iii) NONCUMULATIVE APPLICA-
7 TION.—Any reduction under clause (i)
8 shall apply only with respect to the fiscal
9 year involved and the Secretary shall not
10 take into account such reduction in com-
11 puting the payment amount under this
12 subsection for a subsequent fiscal year.

13 “(B) ASSESSMENT AND MEASURE DATA.—

14 “(i) IN GENERAL.—A skilled nursing
15 facility, or a facility described in paragraph
16 (7)(B), shall submit to the Secretary, in a
17 manner and within the timeframes pre-
18 scribed by the Secretary—

19 “(I) the resident assessment data
20 necessary to develop and implement
21 the rates under this subsection;

22 “(II) for fiscal years beginning
23 on or after the specified application
24 date (as defined in subsection
25 (a)(2)(E) of section 1899B), as appli-

1 cable with respect to skilled nursing
2 facilities and quality measures under
3 subsection (c)(1) of such section and
4 measures under subsection (d)(1) of
5 such section, data on such quality
6 measures under such subsection (c)(1)
7 and any necessary data specified by
8 the Secretary under such subsection
9 (d)(1); and

10 “(III) for fiscal years beginning
11 on or after October 1, 2018, stand-
12 ardized patient assessment data re-
13 quired under subsection (b)(1) of sec-
14 tion 1899B.

15 To the extent such standardized data
16 under subsection (b)(1) of such section,
17 data on quality measures required under
18 subsection (c)(1) of such section, or nec-
19 essary data required under subsection
20 (d)(1) of such section are duplicative of
21 any other data required to be reported
22 under this subparagraph, the submission of
23 such standardized data, data on such qual-
24 ity measures, or necessary data, respec-
25 tively, shall be required under this sub-

1 paragraph in lieu of the submission of such
2 other data.

3 “(ii) USE OF STANDARD INSTRU-
4 MENT.—For purposes of meeting the re-
5 quirement under clause (i), a skilled nurs-
6 ing facility, or a facility described in para-
7 graph (7)(B), may submit the resident as-
8 sessment data required under section
9 1819(b)(3), using the standard instrument
10 designated by the State under section
11 1819(e)(5).”.

12 (B) FUNDING FOR NURSING HOME COM-
13 PARE WEBSITE.—Section 1819(i) of the Social
14 Security Act (42 U.S.C. 1395i–3(i)) is amended
15 by adding at the end the following new para-
16 graph:

17 “(3) FUNDING.—The Secretary shall transfer
18 to the Centers for Medicare & Medicaid Services
19 Program Management Account, from the Federal
20 Hospital Insurance Trust Fund under section 1817
21 a one-time allocation of \$11,000,000. The amount
22 shall be available on the date of the enactment of
23 this paragraph. Such sums shall remain available
24 until expended. Such sums shall be used to imple-
25 ment section 1128I(g).”.

1 (d) IMPROVING PAYMENT ACCURACY UNDER THE
2 PAC PAYMENT SYSTEMS AND OTHER MEDICARE PAY-
3 MENT SYSTEMS.—

4 (1) STUDIES AND REPORTS OF EFFECT OF CER-
5 TAIN INFORMATION ON QUALITY AND RESOURCE
6 USE.—

7 (A) STUDY USING EXISTING MEDICARE
8 DATA.—

9 (i) STUDY.—The Secretary of Health
10 and Human Services (in this subsection re-
11 ferred to as the “Secretary”) shall conduct
12 a study that examines the effect of individ-
13 uals’ socioeconomic status on quality meas-
14 ures and resource use and other measures
15 for individuals under the Medicare pro-
16 gram under title XVIII of the Social Secu-
17 rity Act (42 U.S.C. 1395 et seq.) (such as
18 to recognize that less healthy individuals
19 may require more intensive interventions).
20 The study shall use information collected
21 on such individuals in carrying out such
22 program, such as urban and rural location,
23 eligibility for Medicaid under title XIX of
24 such Act (42 U.S.C. 1396 et seq.) (recog-
25 nizing and accounting for varying Medicaid

1 eligibility across States), and eligibility for
2 benefits under the supplemental security
3 income (SSI) program. The Secretary shall
4 carry out this paragraph acting through
5 the Assistant Secretary for Planning and
6 Evaluation.

7 (ii) REPORT.—Not later than 2 years
8 after the date of the enactment of this Act,
9 the Secretary shall submit to Congress a
10 report on the study conducted under clause
11 (i).

12 (B) STUDY USING OTHER DATA.—

13 (i) STUDY.—The Secretary shall con-
14 duct a study that examines the impact of
15 risk factors, such as those described in sec-
16 tion 1848(p)(3) of the Social Security Act
17 (42 U.S.C. 1395w-4(p)(3)), race, health
18 literacy, limited English proficiency (LEP),
19 and Medicare beneficiary activation, on
20 quality measures and resource use and
21 other measures under the Medicare pro-
22 gram (such as to recognize that less
23 healthy individuals may require more in-
24 tensive interventions). In conducting such
25 study the Secretary may use existing Fed-

1 eral data and collect such additional data
2 as may be necessary to complete the study.

3 (ii) REPORT.—Not later than 5 years
4 after the date of the enactment of this Act,
5 the Secretary shall submit to Congress a
6 report on the study conducted under clause
7 (i).

8 (C) EXAMINATION OF DATA IN CON-
9 DUCTING STUDIES.—In conducting the studies
10 under subparagraphs (A) and (B), the Sec-
11 retary shall examine what non-Medicare data
12 sets, such as data from the American Commu-
13 nity Survey (ACS), can be useful in conducting
14 the types of studies under such paragraphs and
15 how such data sets that are identified as useful
16 can be coordinated with Medicare administra-
17 tive data in order to improve the overall data
18 set available to do such studies and for the ad-
19 ministration of the Medicare program.

20 (D) RECOMMENDATIONS TO ACCOUNT FOR
21 INFORMATION IN PAYMENT ADJUSTMENT
22 MECHANISMS.—If the studies conducted under
23 subparagraphs (A) and (B) find a relationship
24 between the factors examined in the studies and
25 quality measures and resource use and other

1 measures, then the Secretary shall also provide
2 recommendations for how the Centers for Medi-
3 care & Medicaid Services should—

4 (i) obtain access to the necessary data
5 (if such data is not already being collected)
6 on such factors, including recommenda-
7 tions on how to address barriers to the
8 Centers in accessing such data; and

9 (ii) account for such factors—

10 (I) in quality measures, resource
11 use measures, and other measures
12 under subsections (c) and (d) of sec-
13 tion 1899B of the Social Security Act,
14 as added by subsection (a), and under
15 other applicable provisions of title
16 XVIII of such Act (42 U.S.C. 1395 et
17 seq.); and

18 (II) in determining payment ad-
19 justments based on such measures in
20 other applicable provisions of such
21 title.

22 (E) FUNDING.—There are hereby appro-
23 priated to the Secretary from the Federal Hos-
24 pital Insurance Trust Fund under section 1817
25 of the Social Security Act (42 U.S.C. 1395i)

1 and the Federal Supplementary Medical Insur-
2 ance Trust Fund under section 1841 of such
3 Act (42 U.S.C. 1395t) (in proportions deter-
4 mined appropriate by the Secretary) to carry
5 out this paragraph \$6,000,000, to remain avail-
6 able until expended.

7 (2) CMS ACTIVITIES.—

8 (A) IN GENERAL.—Taking into account
9 the relevant studies conducted and rec-
10 ommendations made in reports under para-
11 graph (1) and, as appropriate, other informa-
12 tion, including information collected before com-
13 pletion of such studies and recommendations,
14 the Secretary, on an ongoing basis, shall, as the
15 Secretary determines appropriate and based on
16 an individual's health status and other fac-
17 tors—

18 (i) assess appropriate adjustments to
19 quality measures, resource use measures,
20 and other measures under title XVIII of
21 the Social Security Act (42 U.S.C. 1395 et
22 seq.) (including measures specified in sub-
23 sections (c) and (d) of section 1899B of
24 such Act, as added by subsection (a)); and

1 (ii) assess and implement appropriate
2 adjustments to payments under such title.

3 (B) ACCESSING DATA.—The Secretary
4 shall collect or otherwise obtain access to the
5 data necessary to carry out this paragraph
6 through existing and new data sources.

7 (C) PERIODIC ANALYSES.—The Secretary
8 shall carry out periodic analyses, at least every
9 3 years, based on the factors referred to in sub-
10 paragraph (A) so as to monitor changes in pos-
11 sible relationships.

12 (D) FUNDING.—There are hereby appro-
13 priated to the Secretary from the Federal Hos-
14 pital Insurance Trust Fund under section 1817
15 of the Social Security Act (42 U.S.C. 1395i)
16 and the Federal Supplementary Medical Insur-
17 ance Trust Fund under section 1841 of such
18 Act (42 U.S.C. 1395t) (in proportions deter-
19 mined appropriate by the Secretary) to carry
20 out this paragraph \$10,000,000, to remain
21 available until expended.

22 (3) STRATEGIC PLAN FOR ACCESSING RACE
23 AND ETHNICITY DATA.—Not later than 18 months
24 after the date of the enactment of this Act, the Sec-
25 retary shall develop and report to Congress on a

1 strategic plan for collecting or otherwise accessing
2 data on race and ethnicity for purposes of specifying
3 quality measures and resource use and other meas-
4 ures under subsections (c) and (d) of section 1899B
5 of the Social Security Act, as added by subsection
6 (a), and, as the Secretary determines appropriate,
7 other similar provision of, including payment adjust-
8 ments under, title XVIII of such Act (42 U.S.C.
9 1395 et seq.).

○