

115TH CONGRESS  
2D SESSION

# H. R. 6948

To amend title XVIII of the Social Security Act to ensure equitable payment for, and preserve Medicare beneficiary access to, diagnostic radiopharmaceuticals under the Medicare hospital outpatient prospective payment system.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2018

Mr. HOLDING (for himself and Mr. MOULTON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to ensure equitable payment for, and preserve Medicare beneficiary access to, diagnostic radiopharmaceuticals under the Medicare hospital outpatient prospective payment system.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare Diagnostic  
5 Radiopharmaceutical Payment Equity Act of 2018”.

1 **SEC. 2. SEPARATE PAYMENT FOR CERTAIN DIAGNOSTIC**  
2 **RADIOPHARMACEUTICALS.**

3 Section 1833(t)(16) of the Social Security Act (42  
4 U.S.C. 1395l(t)(16)) is amended by adding at the end the  
5 following new subparagraph:

6 “(G) SEPARATE PAYMENT FOR CERTAIN  
7 DIAGNOSTIC RADIOPHARMACEUTICALS.—

8 “(i) IN GENERAL.—Notwithstanding  
9 any other provision of this subsection, with  
10 respect to services furnished on or after  
11 January 1, 2019, the Secretary shall not  
12 package, and shall make a separate pay-  
13 ment as specified in clause (ii) for, a diag-  
14 nostic radiopharmaceutical with an esti-  
15 mated mean per day product cost equal to  
16 or exceeding the threshold specified in  
17 clause (iii).

18 “(ii) SEPARATE PAYMENT.—For pur-  
19 poses of clause (i), payment specified in  
20 this clause for a diagnostic radiopharma-  
21 ceutical described in clause (i) shall be  
22 equal to—

23 “(I) the average sales price for  
24 the drug established under section  
25 1847A, to the extent the average sales  
26 price is available, as calculated and

1 adjusted by the Secretary to the extent such adjustment is adopted for  
2 other specified covered outpatient  
3 drugs under paragraph (14)(A); or  
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5 “(II) if the data necessary to calculate the average price for the drug  
6 in the year under the sections specified in subclause (I) is not available,  
7 the average acquisition cost for the drug for that year (which, at the option of the Secretary, may vary by  
8 hospital group (as defined by the Secretary based on volume of covered  
9 OPD services or other relevant characteristics)), as determined by the  
10 Secretary taking into account the hospital acquisition cost survey data  
11 under paragraph (14)(D).  
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19 “(iii) THRESHOLD.—For purposes of  
20 this subparagraph, the threshold specified  
21 in this clause—

22 “(I) for 2019, is \$500; and

23 “(II) for subsequent years, is the  
24 amount specified in this clause for the  
25 preceding year increased by the per-

1                   centage of the OPD fee schedule in-  
2                   crease factor under paragraph  
3                   (3)(C)(iv) for the applicable year.

4                   “(iv) BUDGET NEUTRALITY.—The  
5                   Secretary shall make such adjustments as  
6                   are necessary under this subsection, with  
7                   respect to a year, to ensure that the  
8                   amount of expenditures under this sub-  
9                   section for such year with application of  
10                  this subparagraph is equal to the amount  
11                  of expenditures that would be made under  
12                  this subsection for such year without appli-  
13                  cation of this subparagraph.

14                  “(v) DEFINITION.—For purposes of  
15                  this subparagraph, a diagnostic radio-  
16                  pharmaceutical is a drug or biological that  
17                  is described in section 315.2(a) of title 21,  
18                  Code of Federal Regulations, or any suc-  
19                  cessor regulation.”.

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