

115TH CONGRESS
2D SESSION

H. R. 7122

To amend title III of the Public Health Service Act and titles XI and XVIII of the Social Security Act to accelerate the adoption of value-based payment and delivery arrangements among health care stakeholders intended to coordinate care, improve patient outcomes, share accountability, or lower costs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 2018

Mr. PAULSEN 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

A BILL

To amend title III of the Public Health Service Act and titles XI and XVIII of the Social Security Act to accelerate the adoption of value-based payment and delivery arrangements among health care stakeholders intended to coordinate care, improve patient outcomes, share accountability, or lower costs, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Shared Accountability
3 for Improved Patient Outcomes Act of 2018”.

4 **SEC. 2. VALUE-BASED ARRANGEMENTS.**

5 Subpart I of part S of title III of the Public Health
6 Service Act (42 U.S.C. 280j et seq.) is amended by adding
7 at the end the following new section:

8 **“SEC. 399LL. EDUCATIONAL CAMPAIGNS TO ENCOURAGE**
9 **VALUE-BASED HEALTH CARE DELIVERY AND**
10 **QUALITY IMPROVEMENT.**

11 “(a) IN GENERAL.—Beginning not later than Janu-
12 ary 1, 2019, the Secretary shall conduct annual education
13 campaigns targeted to health care providers and payers
14 to encourage the development of value-based arrange-
15 ments (as defined in section 1128B(b)(5)(B) of the Social
16 Security Act) that are designed to meet one or more of
17 the following goals:

18 “(1) Promotion of accountability with respect to
19 quality, cost, coordination, and overall care of pa-
20 tient populations, including patient populations that
21 receive services which are reimbursed by various
22 health care payers.

23 “(2) Improvement of management and coordi-
24 nation of care for patients through such arrange-
25 ments approved by the parties to the arrangement.

1 “(3) Encouragement of investment in health
2 care infrastructure and redesigned care processes for
3 high-quality and efficient service delivery for pa-
4 tients, including individuals entitled to benefits
5 under part A of title XVIII of the Social Security
6 Act or enrolled under part B of such title, such as
7 appropriate reduction of costs or growth in expendi-
8 tures for items and services provided to patients,
9 consistent with quality of care, physician medical
10 judgment, and patient freedom of choice.

11 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to carry out this section
13 such sums as may be necessary for each of fiscal years
14 2019 through 2023.”.

15 **SEC. 3. ANTIKICKBACK EXCEPTION FOR VALUE-BASED AR-**
16 **RANGEMENTS.**

17 (a) IN GENERAL.—Section 1128B(b) of the Social
18 Security Act (42 U.S.C. 1320a–7b(b)) is amended by add-
19 ing at the end the following new paragraph:

20 “(5)(A) Paragraphs (1) and (2) shall not apply to
21 any remuneration exchanged under a value-based arrange-
22 ment (as defined in subparagraph (B)) directly or indi-
23 rectly between, among, or on behalf of one or more parties
24 paid under such arrangement.

1 “(B) For purposes of this paragraph, the term ‘value-
2 based arrangement’ means an arrangement that meets the
3 following criteria:

4 “(i) The arrangement is set out in writing in
5 advance of the execution of the arrangement and
6 specifies the health care items and services covered
7 by the arrangement.

8 “(ii) The arrangement is reasonably related to
9 one or more of the goals described in section
10 399LL(a) of the Public Health Service Act.

11 “(iii) The arrangement—

12 “(I) is a value-based risk-sharing trans-
13 action (as defined in subparagraph (C));

14 “(II) provides for payment for items and
15 services furnished under the arrangement be-
16 tween, among, or on behalf of one or more par-
17 ties participating in a value-based risk-sharing
18 network arrangement (as defined in subpara-
19 graph (C)); or

20 “(III) is another arrangement determined
21 appropriate by the Secretary.

22 “(C) In this paragraph:

23 “(i) The term ‘financial risk’ means upside or
24 downside risk such that each party is eligible or lia-
25 ble for payment through a specified methodology

1 that may include shared savings, withholds, or bo-
2 nuses.

3 “(ii) The term ‘value-based risk-sharing net-
4 work arrangement’ means an arrangement under
5 which an entity is established between or organized
6 and operated by two or more parties (which may in-
7 clude providers, suppliers, corporations, or individ-
8 uals)—

9 “(I) to accept capitation payments with re-
10 spect to certain items and services furnished to
11 an individual;

12 “(II) to accept as payment for such items
13 and services a predetermined percentage of the
14 value-based risk-sharing network’s revenue
15 under the arrangement; or

16 “(III) to provide financial incentives to
17 parties to the arrangement for purposes of
18 achieving one or more of the goals described in
19 section 399LL(a) of the Public Health Service
20 Act through the use of—

21 “(aa) arrangements under which such
22 parties agree to a withhold of a significant
23 amount of the compensation due them, to
24 be used to cover losses of the arrangement,
25 to cover losses of other parties within the

1 arrangement, to be returned to all parties
2 to the arrangement if such parties meet
3 their utilization management or cost-con-
4 tainment goals for a specified time period,
5 or to be distributed among all parties if
6 the arrangement meets its utilization man-
7 agement or cost-containment goals for a
8 specified time period;

9 “(bb) arrangements where such par-
10 ties agree to preestablished cost or utiliza-
11 tion targets and to subsequent significant
12 financial rewards or penalties (which may
13 include a reduction in payments to down-
14 stream providers or suppliers in the net-
15 work) based on the performance of all such
16 parties with respect to such targets; or

17 “(cc) other mechanisms that dem-
18 onstrate significant shared financial risk
19 (as defined in clause (i)) or significantly
20 assist such parties in meeting risk-sharing
21 targets, including shared-savings pay-
22 ments, withholds, or bonuses.

23 Remuneration to parties who participate in a value-
24 based risk-sharing network arrangement may be in-
25 kind or monetary payments, which may but are not

1 required to place the parties to such arrangement at
2 financial risk (as defined in clause (i)).

3 “(iii) The term ‘value-based risk-sharing trans-
4 action’ means a payment made under an arrange-
5 ment under which each party agrees—

6 “(I) to contribute to the achievement of
7 preidentified clinical or economic target metrics
8 that are specifically tailored to improve patient
9 outcomes or reduce the costs of health care de-
10 livery without negatively affecting patient out-
11 comes;

12 “(II) to implement processes or procedures
13 that otherwise optimize the delivery, efficiency,
14 or quality of patient-centered care; and

15 “(III) to predetermine the allocation of fi-
16 nancial risk (as defined in clause (i)) assumed
17 by each party based on the participant’s relative
18 contribution to the achievement of targeted out-
19 comes.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to arrangements entered into on
22 or after the date of enactment of this Act.

1 **SEC. 4. STARK LAW EXCEPTION FOR VALUE-BASED AR-**
2 **RANGEMENTS.**

3 (a) Section 1877(e) of the Social Security Act (42
4 U.S.C. 1395nn(e)) is amended by adding at the end the
5 following new paragraphs:

6 “(9) VALUE-BASED ARRANGEMENTS.—Remu-
7 nation to a physician (or an immediate family
8 member of such physician) paid under a value-based
9 arrangement (as defined in section
10 1128B(b)(5)(B)).”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply with respect to arrangements en-
13 tered into on or after the date of enactment of this Act.

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