

117TH CONGRESS  
1ST SESSION

# H. R. 4587

To direct the Secretary of Health and Human Services to revise certain regulations in relation to the Medicare shared savings program and other advanced alternative payment arrangements to encourage participation in such program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2021

Mr. WELCH (for himself, Ms. DELBENE, Mr. LAHOOD, and Mr. WENSTRUP) 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

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## A BILL

To direct the Secretary of Health and Human Services to revise certain regulations in relation to the Medicare shared savings program and other advanced alternative payment arrangements to encourage participation in such program, 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 “Value in Health Care  
5 Act of 2021”.

1 **SEC. 2. ENCOURAGING PARTICIPATION IN THE MEDICARE**  
2 **SHARED SAVINGS PROGRAM.**

3 (a) INCREASING SHARED SAVINGS RATES FOR CER-  
4 TAIN ACCOUNTABLE CARE ORGANIZATIONS.—Prior to the  
5 beginning of the first performance year (as defined in sec-  
6 tion 425.20 of title 42, Code of Federal Regulations (or  
7 a successor regulation)) that begins after the date of the  
8 enactment of this Act, the Secretary of Health and  
9 Human Services shall revise section 425.605(d)(1) of title  
10 42, Code of Federal Regulations (or a successor regula-  
11 tion), to provide that the shared savings rate for an ac-  
12 countable care organization participating in—

13 (1) Level A (as described in paragraph (i)(A) of  
14 such section) or Level B (as described in paragraph  
15 (ii)(A) of such section) of the BASIC track shall be  
16 at least 50 percent of all the savings under the up-  
17 dated benchmark (as so described), as determined  
18 on the basis of such organization’s quality perform-  
19 ance;

20 (2) Level C (as described in paragraph (iii)(A)  
21 of such section) or Level D (as described in para-  
22 graph (iv)(A) of such section) of the BASIC track  
23 shall be at least 55 percent of all the savings under  
24 the updated benchmark (as so described), as deter-  
25 mined on the basis of such organization’s quality  
26 performance; or

1           (3) Level E (as described in paragraph (v)(A)  
2       of such section) shall be at least 60 percent of all  
3       the savings under the updated benchmark (as so de-  
4       scribed), as determined on the basis of such organi-  
5       zation's quality performance.

6       (b) MODIFYING RISK ADJUSTMENT METHOD-  
7       OLOGY.—Prior to the beginning of the first performance  
8       year (as defined for purposes of subsection (a)) that be-  
9       gins after the date of the enactment of this Act, the Sec-  
10      retary of Health and Human Services shall revise—

11           (1) section 425.605(a)(1)(i) of title 42, Code of  
12      Federal Regulations, or a successor regulation, to  
13      provide that positive adjustments, if applicable, in  
14      prospective HCC risk scores (as applied for purposes  
15      of such section) are subject to a cap of no less than  
16      5 percent, and any negative adjustments, if applica-  
17      ble, in prospective HCC risk scores (as applied for  
18      purposes of such section) shall be between 0 and  
19      negative 5 percent;

20           (2) section 425.610(a)(2)(i) of title 42, Code of  
21      Federal Regulations, or a successor regulation, to  
22      provide that positive adjustments, if applicable, in  
23      prospective HCC risk scores (as applied for purposes  
24      of such section) are subject to a cap of no less than  
25      5 percent, and any negative adjustments, if applica-

1 ble, in prospective HCC risk scores (as applied for  
2 purposes of such section) shall be between 0 and  
3 negative 5 percent; and

4 (3) section 425.609(c)(3)(i)(A) of title 42, Code  
5 of Federal Regulations, or a successor regulation, to  
6 provide that the cap described in such section ref-  
7 erences no less than 5 percent, and any negative ad-  
8 justments, if applicable, in prospective HCC risk  
9 scores (as applied for purposes of such section) shall  
10 be between 0 and negative 5 percent.

11 (c) REMOVING BARRIERS TO SHARED SAVINGS PRO-  
12 GRAM PARTICIPATION.—Prior to the beginning of the first  
13 performance year (as defined for purposes of subsection  
14 (a)) that begins after the date of the enactment of this  
15 Act, the Secretary of Health and Human Services shall  
16 revise part 425 of title 42, Code of Federal Regulations,  
17 or any successor regulation, to—

18 (1) eliminate any distinction in requirements in  
19 such part between a low revenue ACO and a high  
20 revenue ACO (as such terms are defined in section  
21 425.20 of title 42, Code of Federal Regulations, or  
22 a successor regulation) and, with respect to such a  
23 low revenue ACO or high revenue ACO and except  
24 as otherwise modified in this Act, apply the require-  
25 ments of such part as such requirements applied to

1 low revenue ACOs on July 1, 2019, except that the  
2 Secretary of Health and Human Services may, if the  
3 Secretary determines appropriate, apply less strin-  
4 gent requirements than those requirements that ap-  
5 plied to low revenue ACOs as of such date; and

6 (2) remove any provision requiring an account-  
7 able care organization to assume responsibility for  
8 repayment of any shared losses or participate in a  
9 two-sided risk model before the organization has  
10 participated for at least 3 years in any program sub-  
11 ject to the provisions of part 425 of title 42, Code  
12 of Federal Regulations, or any successor regulation,  
13 provided that such an organization shall be allowed  
14 to elect to participate in such two-sided risk models  
15 or models requiring repayment of such losses.

16 (d) ENSURING FAIR AND ACCURATE BENCH-  
17 MARKS.—Prior to the beginning of the first performance  
18 year (as defined for purposes of subsection (a)) that be-  
19 gins after the date of the enactment of this Act, the Sec-  
20 retary of Health and Human Services shall revise part 425  
21 of title 42, Code of Federal Regulations, to remove Medi-  
22 care beneficiaries who are assigned to an accountable care  
23 organization from the methodology for calculating the re-  
24 gional expenditures used to establish, adjust, and update

1 the benchmark expenditures for ACO performance periods  
2 beginning on or after July 1, 2019.

3 **SEC. 3. PROVIDING EDUCATIONAL AND TECHNICAL SUP-**  
4 **PORT FOR THE MEDICARE SHARED SAVINGS**  
5 **PROGRAM.**

6 Section 1899 of the Social Security Act (42 U.S.C.  
7 1395jjj) is amended by adding at the end the following  
8 new subsection:

9 “(n) EDUCATIONAL AND TECHNICAL SUPPORT.—

10 “(1) IN GENERAL.—The Secretary shall estab-  
11 lish a program to assist eligible ACOs in meeting  
12 start-up and ongoing operational costs associated  
13 with establishing and participating in the shared  
14 savings program established under subsection (a).  
15 The Secretary shall establish through notice-and-  
16 comment rulemaking the requirements for participa-  
17 tion and use of funds in the program established in  
18 the preceding sentence.

19 “(2) REDUCTION IN SHARED SAVINGS PAY-  
20 MENTS.—The Secretary shall reduce any shared sav-  
21 ings payment owed to an ACO under subsection (d)  
22 in an amount equal to any funds provided to such  
23 ACO under the program established under para-  
24 graph (1).”.

1 **SEC. 4. ADVANCED PAYMENT MODEL INCENTIVE, PARTICI-**  
2 **PATION, AND THRESHOLD MODIFICATIONS.**

3 (a) IN GENERAL.—Section 1833(z) of the Social Se-  
4 curity Act (42 U.S.C. 1395l(z)) is amended—

5 (1) in paragraph (1)(A), by striking “2024”  
6 and inserting “2030”; and

7 (2) in paragraph (2)(C)—

8 (A) in clause (i), by striking “75 percent”  
9 and inserting “the applicable percent (as de-  
10 fined in clause (iv)) for such year”;

11 (B) in clause (ii)(I)—

12 (i) in the matter preceding item (aa),  
13 by striking “75 percent” and inserting  
14 “the applicable percent (as defined in  
15 clause (iv)) for such year”; and

16 (ii) in item (bb)—

17 (I) by striking “and other than  
18 payments made under title XIX” and  
19 inserting “other than payments made  
20 under title XIX”; and

21 (II) by striking “State program  
22 under that title),” and inserting  
23 “State program under that title, and  
24 other than payments made by payers  
25 in which no payment or program  
26 meeting the requirements described in

1 clause (iii)(II) is available from the  
 2 payer for participation by the eligible  
 3 professional)”; and

4 (C) by adding at the end the following new  
 5 clause:

6 “(iv) APPLICABLE PERCENT DE-  
 7 FINED.—For purposes of clauses (i) and  
 8 (ii), the term ‘applicable percent’ means—

9 “(I) for 2025, a percent specified  
 10 by the Secretary, but in no case less  
 11 than 50 percent or more than 55 per-  
 12 cent; and

13 “(II) for a subsequent year, a  
 14 percent specified by the Secretary, but  
 15 in no case less than the percent speci-  
 16 fied under this clause for the pre-  
 17 ceding year or more than 5 percent-  
 18 age points higher than the percent  
 19 specified under this clause for such  
 20 preceding year.”.

21 (b) PARTIAL QUALIFYING APM PARTICIPANT MODI-  
 22 FICATIONS.—Section 1848(q)(1)(C)(iii)(III) of the Social  
 23 Security Act (42 U.S.C. 1395w-4(q)(1)(C)(iii)(III)) is  
 24 amended—



(1) in item (aa), by striking “50 percent was instead a reference to 40 percent” and inserting “the applicable percent were instead a reference to 10 percentage points less than the applicable percent”; and

(2) in item (bb)—

(A) by striking “75 percent” and inserting “the applicable percent”;

(B) by striking “50 percent” and inserting “10 percentage points less than the applicable percent”.

**SEC. 5. ADDRESSING OVERLAP IN VALUE BASED CARE PROGRAMS.**

(a) IN GENERAL.—

(1) CMI.—Section 1115A(a)(5) of the Social Security Act (42 U.S.C. 1315a(a)(5)) is amended by adding at the end the following new sentence: “In establishing such limits, the Secretary shall take into account payment and service delivery models in progress in such geographic areas.”.

(2) REPEAL OF MEDICARE DUPLICATION PROHIBITION.—Section 1899(b) of the Social Security Act (42 U.S.C. 1395jjj(b)) is amended by striking paragraph (4).

1 (b) REPORT.—Not later than 1 year after the date  
2 of the enactment of this Act, the Secretary of Health and  
3 Human Services shall conduct an assessment and submit  
4 to Congress a report on alternative payment model overlap  
5 in the Medicare program. Such report shall include a de-  
6 scription of and recommendations relating to—

7 (1) any issues regarding the existence of mul-  
8 tiple alternative payment model participation oppor-  
9 tunities for health care providers; and

10 (2) obstacles created by competing incentives  
11 with respect to alternative payment models.

12 **SEC. 6. STUDY ON RACIAL HEALTH DISPARITIES.**

13 Not later than 18 months after the date of enactment  
14 of this Act, the Comptroller General of the United States  
15 shall submit to the appropriate committees of Congress  
16 a report on health outcomes and racial disparities among  
17 Medicare beneficiaries assigned to providers reimbursed  
18 under alternative payment models compared to such bene-  
19 ficiaries receiving care from fee-for-service providers. Such  
20 report shall include, to the extent to which data is avail-  
21 able, an analysis comparing the beneficiaries assigned to  
22 a provider participating in the Medicare shared savings  
23 program to beneficiaries not participating in Medicare Ad-  
24 vantage and not assigned to any provider reimbursed

1 under an alternative payment model with respect to at  
2 least the following individual outcomes measures:

- 3 (1) Control of hypertension.
- 4 (2) Colorectal cancer screenings.
- 5 (3) Influenza immunization.
- 6 (4) Completion of an annual wellness visit.
- 7 (5) Breast cancer screening.
- 8 (6) Screening for depression and performance  
9 of a follow-up plan (if appropriate).
- 10 (7) Hemoglobin A1c control.
- 11 (8) Emergency room visits.
- 12 (9) Such other measures as the Comptroller  
13 General determines appropriate.

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