

[117H4587]



(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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

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IN THE HOUSE OF REPRESENTATIVES

Mr. LAHOOD introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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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 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 2023".

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

3 (a) REMOVING BARRIERS TO SHARED SAVINGS PRO-  
4 GRAM PARTICIPATION.—Prior to the beginning of the first  
5 performance year (as defined in section 425.20 of title 42,  
6 Code of Federal Regulations (or a successor regulation))  
7 that begins at least 90 days after the date of enactment  
8 of this Act, the Secretary of Health and Human Services  
9 shall revise part 425 of title 42, Code of Federal Regula-  
10 tions, or any successor regulation, to—

11 (1) eliminate any distinction in requirements in  
12 such part between a low revenue ACO and a high  
13 revenue ACO (as such terms are defined in section  
14 425.20 of title 42, Code of Federal Regulations, or  
15 a successor regulation) and, with respect to such a  
16 low revenue ACO or high revenue ACO and except  
17 as otherwise modified in this Act, apply the require-  
18 ments of such part as such requirements applied to  
19 low revenue ACOs on July 1, 2024, except that the  
20 Secretary of Health and Human Services may, if the  
21 Secretary determines appropriate, apply less strin-  
22 gent requirements than those requirements that ap-  
23 plied to low revenue ACOs as of such date; and

24 (2) remove any provision requiring an account-  
25 able care organization to assume responsibility for  
26 repayment of any shared losses or participate in a

1 two-sided risk model before the organization has  
2 participated for at least 3 years in any program sub-  
3 ject to the provisions of part 425 of title 42, Code  
4 of Federal Regulations, or any successor regulation,  
5 provided that such an organization shall be allowed  
6 to elect to participate in such two-sided risk models  
7 or models requiring repayment of such losses.

8 (b) FINANCIAL METHODOLOGY ENHANCEMENTS TO  
9 PROMOTE SUCCESS OF SHARED SAVINGS PROGRAM.—  
10 Prior to the beginning of the first performance year (as  
11 defined for purposes of subsection (a)) that begins at least  
12 90 days after the date of enactment of this Act, the Sec-  
13 retary shall—

14 (1) ensure that any methodology used to estab-  
15 lish, adjust, or update benchmark expenditures be  
16 developed and implemented in a clear and trans-  
17 parent manner, including by making publicly avail-  
18 able sufficient information and data to allow inter-  
19 ested members of the public to replicate the method-  
20 ology used by the Secretary and to evaluate the ac-  
21 curacy of the Secretary's benchmark expenditure  
22 calculations;

23 (2) implement a process that allows ACOs to  
24 appeal the accuracy of benchmark expenditures in a  
25 hearing before an administrative law judge, and en-

1       sure that any such appeal be heard within a 90-day  
2       period beginning on the date a request for hearing  
3       is filed; and

4           (3) require that any regional contributions or  
5       expenditures (below the national level) used directly  
6       or indirectly to establish, update, or adjust bench-  
7       mark expenditures be calculated in a manner that  
8       excludes the expenditure impact of ACOs in the ap-  
9       plicable region, including any regional expenditures  
10      associated with Medicare fee-for-service beneficiaries  
11      assigned to such ACOs.

12      (c) SHARED SAVINGS OPTION.—Prior to the begin-  
13      ning of the first performance year (as defined for purposes  
14      of subsection (a)) that begins after the date of the enact-  
15      ment of this Act, and notwithstanding any other provision  
16      of law, the Secretary of Health and Human Services shall  
17      establish a voluntary full-risk option under the Medicare  
18      Shared Savings Program (as described in section 1899 of  
19      the Social Security Act (42 U.S.C. 1395jjj) under which  
20      the percent of shared savings paid to an ACO under sec-  
21      tion 1899(d)(2) of the Social Security Act (42 U.S.C.  
22      1395jjj(d)(2)) shall be set at 100 percent, with the ACO  
23      bearing commensurate risk of any shared losses.

24      (d) REPORT.—Not later than 90 days after the date  
25      of enactment of this Act, the Administrator of the Centers

1 for Medicare & Medica Services shall submit to the appro-  
2 priate committees of Congress a report on mechanisms  
3 that the agency can take to avoid penalizing ACOs for  
4 achieving cost savings and account for regional variations  
5 in spending in a manner that prevents arbitrary Medicare  
6 Shared Savings Program outcomes for ACOs. Such report  
7 shall include specific actions that the Centers for Medicare  
8 & Medicaid Services can take to develop and implement  
9 effective benchmarks and guardrails for any changes made  
10 to the agency's benchmarking policies.

11 **SEC. 3. ADVANCED PAYMENT MODEL INCENTIVE, PARTICI-**  
12 **PATION, AND THRESHOLD MODIFICATIONS.**

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

15 (1) in paragraph (1)(A), by striking “2025”  
16 and inserting “2027” and by adding after “5 per-  
17 cent (or, with respect to 2025, 3.5 percent” and be-  
18 fore the close parenthesis “or, with respect to 2026  
19 and any subsequent year, the scaled percentage  
20 amount”;

21 (2) in paragraph (2)(C)—

22 (A) in clause (i), by striking “75  
23 percent”and inserting “the applicable percent  
24 (as defined in clause (iv)) for such year”;

25 (B) in clause (ii)(I)—

1 (i) in the matter preceding item (aa),  
2 by striking “75 percent” and inserting  
3 “the applicable percent (as defined in  
4 clause (iv)) for such year”; and

5 (ii) in item (bb)—

6 (I) by striking “and other than  
7 payments made under title XIX” and  
8 inserting “other than payments made  
9 under title XIX”; and

10 (II) by striking “State program  
11 under that title,” and inserting  
12 “State program under that title, and  
13 other than payments made by payers  
14 in which no payment or program  
15 meeting the requirements described in  
16 clause (iii)(II) is available from the  
17 payer for participation by the eligible  
18 professional”); and

19 (C) by adding at the end the following new  
20 clause:

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

24 “(I) for 2026 through 2027, 50  
25 percent; and

1                   “(II) for 2028 and any subse-  
2                   quent year, a percent specified by the  
3                   Secretary, but in no case less than the  
4                   percent specified under this clause for  
5                   the preceding year or more than the  
6                   lesser of 75 percent or 5 percentage  
7                   points higher than the percent speci-  
8                   fied under this clause for the pre-  
9                   ceding year.

10                   “(v) ALTERNATIVE APPLICABLE PER-  
11                   CENT.—Notwithstanding any other provi-  
12                   sion of law, the Secretary may define the  
13                   applicable percent for purposes of a given  
14                   alternative payment model (or for purposes  
15                   of partial qualifying APM participants  
16                   under section 1848(q)(1)(C)(iii)(III)) to  
17                   mean a percentage amount that is lower  
18                   than the amount (or range) otherwise spec-  
19                   ified in such preceding clause (or, as appli-  
20                   cable,                   under                   section  
21                   1848(q)(1)(C)(iii)(III)), if there is good  
22                   cause to support such alternative applica-  
23                   ble percent, including where an alternative  
24                   payment model’s design warrants use of  
25                   such alternative applicable percent. In no

1 case shall the Secretary designate an alter-  
2 native applicable percent that exceeds the  
3 maximum applicable percent specified in  
4 the preceding clause (or, as applicable,  
5 under section 1848(q)(1)(C)(iii)(III)) for  
6 the applicable year; and

7 “(vi) SCALED PERCENTAGE  
8 AMOUNT.—For purposes of this subsection  
9 (including paragraph (1)), the term ‘scaled  
10 percentage amount’ means a progressively  
11 scaled percentage amount designated by  
12 the Secretary. The Secretary shall deter-  
13 mine an appropriate progressive percent-  
14 age scale for different categories of eligible  
15 professionals based on programmatic inter-  
16 ests in efficiency, equity, and alignment of  
17 appropriate incentives. The maximum  
18 scaled percentage amount shall be 5 per-  
19 cent, and such maximum amount shall  
20 apply to an eligible professional that meets  
21 or exceeds the applicable percent (as de-  
22 fined in paragraph (2)(C)(iv)). In no case  
23 may an eligible professional below the ap-  
24 plicable percent qualify for the maximum  
25 scaled percentage amount”; and



1           (3) in paragraph (4)(B), by adding after “5  
2           percent (or, with respect to 2025, 3.5 percent” and  
3           before the close parenthesis “or, with respect to  
4           2026 and any subsequent year, the scaled percent-  
5           age amount”.

6           (b) TECHNICAL ASSISTANCE.—The Secretary of  
7           Health and Human Services shall provide education and  
8           technical assistance to ACOs and other types of providers  
9           (as defined under section 414.1305 of title 42, Code of  
10          Federal Regulations (or a successor regulation)) that the  
11          Secretary determines to target or otherwise operate in  
12          rural or medically underserved areas or to involve material  
13          participation by small practice or safety net groups of pro-  
14          viders of services and suppliers. Such education and tech-  
15          nical assistance may include infrastructure support or ac-  
16          cess to data analytics to support ACO implementation in  
17          such rural or medically underserved areas or to benefit  
18          small practice or safety net groups of providers of services  
19          and suppliers, or other groups of providers of services and  
20          suppliers deemed to require additional support, such as  
21          providers of services or suppliers that are new to APMs,  
22          including specialists.

23          (c) PARTIAL QUALIFYING APM PARTICIPANT MODI-  
24          FICATION.—Section 1848(q)(1)(C)(iii)(III) of the Social

1 Security Act (42 U.S.C. 1395w-4(q)(1)(C)(iii)(III)) is  
2 amended—

3 (1) in item (aa), by striking “50 percent was  
4 instead a reference to 40 percent” and inserting  
5 “the applicable percent were instead a reference to  
6 10 percentage points less than the applicable per-  
7 cent”; and

8 (2) in item (bb)—

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

11 (B) by striking “50 percent” and inserting  
12 “10 percentage points less than the applicable  
13 percent”.

14 **SEC. 4 STUDY ON ALTERNATIVE PAYMENT MODELS AND**  
15 **MEDICARE+CHOICE.**

16 Not later than 18 months after the date of enactment  
17 of this Act, the Comptroller General of the Government  
18 Accountability Office shall study and submit to the appro-  
19 priate committees of Congress a report evaluating the ben-  
20 efits and flexibilities provided to support alternative pay-  
21 ment models (as defined under section 414.1305 of title  
22 42, Code of Federal Regulations (or a successor regula-  
23 tion)) and Medicare+Choice Organizations (as defined in  
24 section 1859(a)(1) of the Social Security Act (42 U.S.C.  
25 1395w-28(a)(1))). The objective of such report shall be to

1 better understand the effect of these programs' different  
2 policies on different types of participating patients and  
3 providers, including specialty, safety net, small practice,  
4 and rural providers, with the goal of identifying areas to  
5 enhance alignment between such programs' policies and  
6 benchmarks including through mechanisms that could fa-  
7 cilitate greater alignment in policies and benchmarks and  
8 to encourage the adoption of value-based arrangements  
9 across payers or that could otherwise increase parity in  
10 the flexibilities available to alternative payment models  
11 and Medicare+Choice Organizations.