

AMENDMENT TO H.J. RES 59
OFFERED BY M

Insert at the end of the House amendment the following:

1 DIVISION B—MEDICARE AND
2 OTHER HEALTH PROVISIONS

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.— This division may be cited as
5 the “Pathway for SGR Reform Act of 2013”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this division is as follows:

DIVISION B—MEDICARE AND OTHER HEALTH PROVISIONS

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; purpose statement.

TITLE I—MEDICARE EXTENDERS

- Sec. 101. Physician payment update.
- Sec. 102. Extension of work GPCI floor.
- Sec. 103. Extension of therapy cap exceptions process.
- Sec. 104. Extension of ambulance add-ons.
- Sec. 105. Medicare inpatient hospital payment adjustment for low-volume hospitals.
- Sec. 106. Medicare-dependent hospital (MDH) program.
- Sec. 107. 1-year extension of authorization for special needs plans.
- Sec. 108. 1-year extension of Medicare reasonable cost contracts.
- Sec. 109. Extension of existing funding for contract with consensus-based entity.
- Sec. 110. Extension of funding outreach and assistance for low-income programs.

TITLE II—OTHER HEALTH PROVISIONS

- Sec. 201. Extension of the qualifying individual (QI) program.
- Sec. 202. Temporary extension of transitional medical assistance (TMA).
- Sec. 203. Extension of funding for family-to-family health information centers.
- Sec. 204. Delay of reductions to Medicaid DSH allotments.

Sec. 205. Realignment of the Medicare sequester for fiscal year 2023.

Sec. 206. Payment for inpatient services in long-term care hospitals (LTCHs).

Sec. 207. Enforcement delay of Medicare two-midnight rule to permit development of a new Medicare payment methodology for short inpatient hospital stays.

1 **SEC. 2. FINDINGS; PURPOSE STATEMENT.**

2 In order to support the provision of quality care for
3 our nations seniors, Congress finds it appropriate to re-
4 form physician reimbursements under the Medicare pro-
5 gram. SGR reform legislation provides such an oppor-
6 tunity, but not until next year. In order to facilitate such
7 reform, Congress finds that the Centers for Medicare &
8 Medicaid Services should continue to focus its efforts on
9 the following areas:

10 (1) SIMPLIFY AND REDUCE ADMINISTRATIVE
11 BURDEN ON PHYSICIANS.—The application and as-
12 sessment of measures and other activities under
13 SGR reform should be facilitated by the Centers for
14 Medicare and Medicaid Services (CMS) in a way
15 that accounts for the administrative burden such
16 measurement places on physicians. Therefore, the
17 Congress encourages CMS to identify and imple-
18 ment, to the extent practicable, mechanisms to en-
19 sure that the application and assessment of meas-
20 ures be coordinated across programs.

21 (2) TIMELY FEEDBACK FOR PHYSICIANS.—In
22 order for measure and assessment programs to en-
23 courage the highest quality care for Medicare sen-

1 iors, the Congress finds it critical that CMS provide
2 physicians with feedback on performance in as close
3 to real time as possible. Such timely feedback will
4 ensure that physicians can excel under a system of
5 meaningful measurement.

6 (3) ENCOURAGE DEVELOPMENT OF NEW MOD-
7 ELS.—There is great need to test alternatives to
8 Fee-For-Service reimbursement in the Medicare pro-
9 gram. One option is the promotion and adoption of
10 new models of care for physicians. To date, there
11 has been significant development and testing of
12 models for primary care. Congress supports these ef-
13 forts and encourages them to continue in the future.
14 Congress also encourages the development and test-
15 ing of models of specialty care.

16 **TITLE I—MEDICARE EXTENDERS**

17 **SEC. 101. PHYSICIAN PAYMENT UPDATE.**

18 Section 1848(d) of the Social Security Act (42 U.S.C.
19 10 1395w-4(d)) is amended by adding at the end the fol-
20 lowing new paragraph:

21 “(15) UPDATE FOR JANUARY THROUGH MARCH
22 OF 2014.—

23 “(A) IN GENERAL.—Subject to paragraphs
24 (7)(B), (8)(B), (9)(B), (10)(B), (11)(B),
25 (12)(B), (13)(B), and (14)(B), in lieu of the

1 update to the single conversion factor estab-
2 lished in paragraph (1)(C) that would otherwise
3 apply for 2014 for the period beginning on Jan-
4 uary 1, 2014, and ending on March 31, 2014,
5 the update to the single conversion factor shall
6 be 0.5 percent.

7 “(B) NO EFFECT ON COMPUTATION OF
8 CONVERSION FACTOR FOR REMAINING PORTION
9 OF 2014 AND SUBSEQUENT YEARS.—The con-
10 version factor under this subsection shall be
11 computed under paragraph (1)(A) for the pe-
12 riod beginning on April 1, 2014, and ending on
13 December 31, 2014, and for 2015 and subse-
14 quent years as if subparagraph (A) had never
15 applied.”.

16 **SEC. 102. EXTENSION OF WORK GPCI FLOOR.**

17 Section 1848(e)(1)(E) of the Social Security Act (42
18 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “Janu-
19 ary 1, 2014” and inserting “April 1, 2014”.

20 **SEC. 103. EXTENSION OF THERAPY CAP EXCEPTIONS PROC-**
21 **ESS.**

22 Section 1833(g) of the Social Security Act (42 U.S.C.
23 1395l(g)) is amended—

1 (1) in paragraph (5)(A), in the first sentence,
2 by striking “December 31, 2013” and inserting
3 “March 31, 2014”; and

4 (2) in paragraph (6)(A)—

5 (A) by striking “December 31, 2013” and
6 inserting “March 31, 2014”; and

7 (B) by striking “or 2013” and inserting “,
8 2013, or the first three months of 2014”.

9 **SEC. 104. EXTENSION OF AMBULANCE ADD-ONS.**

10 (a) GROUND AMBULANCE.—Section 1834(l)(13)(A)
11 of the Social Security Act (42 U.S.C. 1395m(l)(13)(A))
12 is amended—

13 (1) in the matter preceding clause (i), by strik-
14 ing “January 1, 2014” and inserting “April 1,
15 2014”; and

16 (2) in each of clauses (i) and (ii), by striking
17 “January 1, 2014” and inserting “April 1, 2014”
18 each place it appears.

19 (b) SUPER RURAL GROUND AMBULANCE.—Section
20 1834(l)(12)(A) of the Social Security Act (42 U.S.C.
21 1395m(l)(12)(A)) is amended by striking “January 1,
22 2014” and inserting “April 1, 2014”.

1 **SEC. 105. MEDICARE INPATIENT HOSPITAL PAYMENT AD-**
2 **JUSTMENT FOR LOW-VOLUME HOSPITALS.**

3 Section 1886(d)(12) of the Social Security Act (42
4 U.S.C. 1395ww(d)(12)) is amended—

5 (1) in subparagraph (B), in the matter pre-
6 ceding clause (i), by striking “fiscal year 2014 and
7 subsequent fiscal years” and inserting “the portion
8 of fiscal year 2014 beginning on April 1, 2014, fiscal
9 year 2015, and subsequent fiscal years”;

10 (2) in subparagraph (C)(i)—

11 (A) by inserting “and the portion of fiscal
12 year 2014 before” after “and 2013,” each place
13 it appears; and

14 (B) by inserting “or portion of fiscal year”
15 after “during the fiscal year”; and

16 (3) in subparagraph (D)—

17 (A) by inserting “and the portion of fiscal
18 year 2014 before April 1, 2014,,” after “and
19 2013,”; and

20 (B) by inserting “or the portion of fiscal
21 year” after “in the fiscal year”.

22 **SEC. 106. MEDICARE-DEPENDENT HOSPITAL (MDH) PRO-**
23 **GRAM.**

24 (a) **IN GENERAL.**—Section 1886(d)(5)(G) of the So-
25 cial Security Act (42 U.S.C. 1395ww(d)(5)(G)) is amend-
26 ed—

1 (1) in clause (i), by striking “October 1, 2013”
2 and inserting “April 1, 2014”; and

3 (2) in clause (ii)(II), by striking “October 1,
4 2013” and inserting “April 1, 2014”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) EXTENSION OF TARGET AMOUNT.—Section
7 1886(b)(3)(D) of the Social Security Act (42 U.S.C.
8 1395ww(b)(3)(D)) is amended—

9 (A) in the matter preceding clause (i), by
10 striking “October 1, 2013” and inserting “April
11 1, 2014”; and

12 (B) in clause (iv), by inserting “and the
13 portion of fiscal year 2014 before April 1,
14 2014” after “through fiscal year 2013”.

15 (2) PERMITTING HOSPITALS TO DECLINE RE-
16 CLASSIFICATION.—Section 13501(e)(2) of the Omni-
17 bus Budget Reconciliation Act of 1993 (42 U.S.C.
18 1395ww note) is amended by striking “through fis-
19 cal year 2013” and inserting “through the first 2
20 quarters of fiscal year 2014”.

21 **SEC. 107. 1-YEAR EXTENSION OF AUTHORIZATION FOR SPE-**
22 **CIAL NEEDS PLANS.**

23 Section 1859(f)(1) of the Social Security Act (42
24 U.S.C. 1395w–28(f)(1)) is amended by striking “2015”
25 and inserting “2016”.

1 **SEC. 108. 1-YEAR EXTENSION OF MEDICARE REASONABLE**
2 **COST CONTRACTS.**

3 Section 1876(h)(5)(C)(ii) of the Social Security Act
4 (42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the mat-
5 ter preceding subclause (I), by striking “January 1, 2014”
6 and inserting “January 1, 2015”.

7 **SEC. 109. EXTENSION OF EXISTING FUNDING FOR CON-**
8 **TRACT WITH CONSENSUS-BASED ENTITY.**

9 Section 1890(d) of the Social Security Act (42 U.S.C.
10 1395aaa(d)) is amended by adding at the end the fol-
11 lowing new sentence: “Amounts transferred under the pre-
12 ceding sentence shall remain available until expended.”.

13 **SEC. 110. EXTENSION OF FUNDING OUTREACH AND ASSIST-**
14 **ANCE FOR LOW-INCOME PROGRAMS.**

15 (a) **ADDITIONAL FUNDING FOR STATE HEALTH IN-**
16 **SURANCE PROGRAMS.**—Subsection (a)(1)(B) of section
17 119 of the Medicare Improvements for Patients and Pro-
18 viders Act of 2008 (42 U.S.C. 1395b–3 note), as amended
19 by section 3306 of the Patient Protection and Affordable
20 Care Act Public Law 111–148) and section 610 of the
21 American Taxpayer Relief Act of 2012 (Public Law 112-
22 240), is amended—

- 23 (1) in clause (ii), by striking “and” at the end;
24 (2) in clause (iii), by striking the period at the
25 end and inserting “; and”; and

1 (3) by inserting after clause (iii) the following
2 new clause:

3 “(iv) for the portion of fiscal year
4 2014 before April 1, 2014, of
5 \$3,750,000.”.

6 (b) ADDITIONAL FUNDING FOR AREA AGENCIES ON
7 AGING.—Subsection (b)(1)(B) of such section 119, as so
8 amended, is amended—

9 (1) in clause (ii), by striking “and” at the end;

10 (2) in clause (iii), by striking the period at the
11 end and inserting “; and”; and

12 (3) by inserting after clause (iii) the following
13 new clause:

14 “(iv) for the portion of fiscal year
15 2014 before April 1, 2014, of
16 \$3,750,000.”.

17 (c) ADDITIONAL FUNDING FOR AGING AND DIS-
18 ABILITY RESOURCE CENTERS.—Subsection (c)(1)(B) of
19 such section 119, as so amended, is amended—

20 (1) in clause (ii), by striking “and” at the end;

21 (2) in clause (iii), by striking the period at the
22 end and inserting “; and”; and

23 (3) by inserting after clause (iii) the following
24 new clause:

1 “(iv) for the portion of fiscal year
2 2014 before April 1, 2014, of
3 \$2,500,000.”.

4 (d) ADDITIONAL FUNDING FOR CONTRACT WITH
5 THE NATIONAL CENTER FOR BENEFITS AND OUTREACH
6 ENROLLMENT.—Subsection (d)(2) of such section 119, as
7 so amended, is amended—

8 (1) in clause (ii), by striking “and” at the end;

9 (2) in clause (iii), by striking the period at the
10 end and inserting “; and”; and

11 (3) by inserting after clause (iii) the following
12 new clause:

13 “(iv) for the portion of fiscal year
14 2014 before April 1, 2014, of
15 \$2,500,000.”.

16 **TITLE II—OTHER HEALTH** 17 **PROVISIONS**

18 **SEC. 201. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI)**

19 **PROGRAM.**

20 (a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the
21 Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is
22 amended by striking “December 2013” and inserting
23 “March 2014”.

1 (b) EXTENDING TOTAL AMOUNT AVAILABLE FOR
2 ALLOCATION.—Section 1933(g) of the Social Security Act
3 (42 U.S.C. 1396u–3(g)) is amended—

4 (1) in paragraph (2)—

5 (A) in subparagraph (S), by striking
6 “and” after the semicolon;

7 (B) in subparagraph (T), by striking the
8 period at the end and inserting “; and”; and

9 (C) by adding at the end the following new
10 subparagraph:

11 “(U) for the period that begins on January
12 1, 2014, and ends on March 31, 2014, the total
13 allocation amount is \$200,000,000.”.

14 **SEC. 202. TEMPORARY EXTENSION OF TRANSITIONAL MED-**
15 **ICAL ASSISTANCE (TMA).**

16 Sections 1902(e)(1)(B) and 1925(f) of the Social Se-
17 curity Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are
18 each amended by striking “December 31, 2013” and in-
19 serting “March 31, 2014”.

20 **SEC. 203. EXTENSION OF FUNDING FOR FAMILY-TO-FAMILY**
21 **HEALTH INFORMATION CENTERS.**

22 Section 501(c)(1)(A) of the Social Security Act (42
23 U.S.C. 701(c)(1)(A)) is amended—

24 (1) in clause (ii), by striking at the end “and”;

1 (2) in clause (iii), by striking the period at the
2 end and inserting “; and”; and

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

5 “(iv) \$2,500,000 for the portion of
6 fiscal year 2014 before April 1, 2014.”.

7 **SEC. 204. DELAY OF REDUCTIONS TO MEDICAID DSH AL-**
8 **LOTMENTS.**

9 (a) IN GENERAL.—Section 1923(f) of the Social Se-
10 curity Act (42 U.S.C. 1396r–4(f)) is amended—

11 (1) in paragraph (7)(A)—

12 (A) in clause (i), by striking “2014” and
13 inserting “2016”; and

14 (B) in clause (ii)—

15 (i) by striking subclauses (I) and (II);

16 (ii) by redesignating subclauses (III)

17 through (VII) as subclauses (I) through

18 (V), respectively; and

19 (iii) in subclause (I) (as redesignated

20 by clause (ii)), by striking “\$600,000,000”

21 and inserting “\$1,200,000,000”; and

22 (2) in paragraph (8)—

23 (A) by redesignating subparagraph (C) as

24 subparagraph (D);

1 (B) by inserting after subparagraph (B)
2 the following new subparagraph:

3 “(C) FISCAL YEAR 2023.—Only with re-
4 spect to fiscal year 2023, the DSH allotment
5 for a State, in lieu of the amount determined
6 under paragraph (3) for the State for that year,
7 shall be equal to the DSH allotment for the
8 State for fiscal year 2022, as determined under
9 subparagraph (B), increased, subject to sub-
10 paragraphs (B) and (C) of paragraph (3), and
11 paragraph (5), by the percentage change in the
12 consumer price index for all urban consumers
13 (all items; U.S. city average), for fiscal year
14 2022.”; and

15 (C) in subparagraph (D) (as redesignated
16 by subparagraph (A)), by striking “fiscal year
17 2022” and inserting “fiscal year 2023”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 subsection (a) shall be effective as of October 1, 2013.

20 **SEC. 205. REALIGNMENT OF THE MEDICARE SEQUESTER**
21 **FOR FISCAL YEAR 2023.**

22 Paragraph (6) (relating to implementing direct
23 spending reductions, as redesignated by section
24 101(d)(2)(C), and as amended by section 101(e), of the
25 Bipartisan Budget Act of 2013) of section 251A of the

1 Balanced Budget and Emergency Deficit Control Act of
2 1985 (2 U.S.C. 901a) is amended by adding at the end
3 the following new subparagraph:

4 “(C) Notwithstanding the 2 percent limit speci-
5 fied in subparagraph (A) for payments for the Medi-
6 care programs specified in section 256(d), the se-
7 questration order of the President under such sub-
8 paragraph for fiscal year 2023 shall be applied to
9 such payments so that—

10 “(i) with respect to the first 6 months in
11 which such order is effective for such fiscal
12 year, the payment reduction shall be 2.90 per-
13 cent; and

14 “(ii) with respect to the second 6 months
15 in which such order is so effective for such fis-
16 cal year, the payment reduction shall be 1.11
17 percent.”.

18 **SEC. 206. PAYMENT FOR INPATIENT SERVICES IN LONG-**
19 **TERM CARE HOSPITALS (LTCHS).**

20 (a) ESTABLISHMENT OF CRITERIA FOR APPLICATION
21 OF SITE NEUTRAL PAYMENT.—

22 (1) IN GENERAL.—Section 1886(m) of the So-
23 cial Security Act (42 U.S.C. 1395ww(m)) is amend-
24 ed by adding at the end the following:

1 “(6) APPLICATION OF SITE NEUTRAL IPPS PAY-
2 MENT RATE IN CERTAIN CASES.—

3 “(A) GENERAL APPLICATION OF SITE NEU-
4 TRAL IPPS PAYMENT AMOUNT FOR DISCHARGES
5 FAILING TO MEET APPLICABLE CRITERIA.—

6 “(i) IN GENERAL.—For a discharge in
7 cost reporting periods beginning on or
8 after October 1, 2015, except as provided
9 in clause (ii) and subparagraph (C), pay-
10 ment under this title to a long-term care
11 hospital for inpatient hospital services shall
12 be made at the applicable site neutral pay-
13 ment rate (as defined in subparagraph
14 (B)).

15 “(ii) EXCEPTION FOR CERTAIN DIS-
16 CHARGES MEETING CRITERIA.—Clause (i)
17 shall not apply (and payment shall be
18 made to a long-term care hospital without
19 regard to this paragraph) for a discharge
20 if—

21 “(I) the discharge meets the ICU
22 criterion under clause (iii) or the ven-
23 tilator criterion under clause (iv); and

1 “(II) the discharge does not have
2 a principal diagnosis relating to a psy-
3 chiatric diagnosis or to rehabilitation.

4 “(iii) INTENSIVE CARE UNIT (ICU)
5 CRITERION.—

6 “(I) IN GENERAL.—The criterion
7 specified in this clause (in this para-
8 graph referred to as the ‘ICU cri-
9 terion’), for a discharge from a long-
10 term care hospital, is that the stay in
11 the long-term care hospital ending
12 with such discharge was immediately
13 preceded by a discharge from a stay
14 in a subsection (d) hospital that in-
15 cluded at least 3 days in an intensive
16 care unit (ICU), as determined by the
17 Secretary.

18 “(II) DETERMINING ICU DAYS.—
19 In determining intensive care unit
20 days under subclause (I), the Sec-
21 retary shall use data from revenue
22 center codes 020x or 021x (or such
23 successor codes as the Secretary may
24 establish).

1 “(iv) VENTILATOR CRITERION.—The
2 criterion specified in this clause (in this
3 paragraph referred to as the ‘ventilator cri-
4 terion’), for a discharge from a long-term
5 care hospital, is that—

6 “(I) the stay in the long-term
7 care hospital ending with such dis-
8 charge was immediately preceded by a
9 discharge from a stay in a subsection
10 (d) hospital; and

11 “(II) the individual discharged
12 was assigned to a Medicare-Severity-
13 Long-Term-Care-Diagnosis-Related-
14 Group (MS-LTC-DRG) based on the
15 receipt of ventilator services of at
16 least 96 hours.

17 “(B) APPLICABLE SITE NEUTRAL PAY-
18 MENT RATE DEFINED.—

19 “(i) IN GENERAL.—In this paragraph,
20 the term ‘applicable site neutral payment
21 rate’ means—

22 “(I) for discharges in cost report-
23 ing periods beginning during fiscal
24 year 2016 or fiscal year 2017, the

1 blended payment rate specified in
2 clause (iii); and

3 “(II) for discharges in cost re-
4 porting periods beginning during fis-
5 cal year 2018 or a subsequent fiscal
6 year, the site neutral payment rate
7 (as defined in clause (ii)).

8 “(ii) SITE NEUTRAL PAYMENT RATE
9 DEFINED.—In this paragraph, the term
10 ‘site neutral payment rate’ means the
11 lower of—

12 “(I) the IPPS comparable per
13 diem amount determined under para-
14 graph (d)(4) of section 412.529 of
15 title 42, Code of Federal Regulations,
16 including any applicable outlier pay-
17 ments under section 412.525 of such
18 title; or

19 “(II) 100 percent of the esti-
20 mated cost for the services involved.

21 “(iii) BLENDED PAYMENT RATE.—
22 The blended payment rate specified in this
23 clause, for a long-term care hospital for in-
24 patient hospital services for a discharge, is
25 comprised of—

1 “(I) half of the site neutral pay-
2 ment rate (as defined in clause (ii))
3 for the discharge; and

4 “(II) half of the payment rate
5 that would otherwise be applicable to
6 such discharge without regard to this
7 paragraph, as determined by the Sec-
8 retary.

9 “(C) LIMITING PAYMENT FOR ALL HOS-
10 PITAL DISCHARGES TO SITE NEUTRAL PAYMENT
11 RATE FOR HOSPITALS FAILING TO MEET APPLI-
12 CABLE LTCH DISCHARGE THRESHOLDS.—

13 “(i) NOTICE OF LTCH DISCHARGE
14 PAYMENT PERCENTAGE.—For cost report-
15 ing periods beginning during or after fiscal
16 year 2016, the Secretary shall inform each
17 long-term care hospital of its LTCH dis-
18 charge payment percentage (as defined in
19 clause (iv)) for such period.

20 “(ii) LIMITATION.—For cost reporting
21 periods beginning during or after fiscal
22 year 2020, if the Secretary determines for
23 a long-term care hospital that its LTCH
24 discharge payment percentage for the pe-
25 riod is not at least 50 percent—

1 “(I) the Secretary shall inform
2 the hospital of such fact; and

3 “(II) subject to clause (iii), for
4 all discharges in the hospital in each
5 succeeding cost reporting period, the
6 payment amount under this sub-
7 section shall be the payment amount
8 that would apply under subsection (d)
9 for the discharge if the hospital were
10 a subsection (d) hospital.

11 “(iii) PROCESS FOR REINSTATE-
12 MENT.—The Secretary shall establish a
13 process whereby a long-term care hospital
14 may seek to have the provisions of sub-
15 clause (II) of clause (ii) discontinued with
16 respect to that hospital.

17 “(iv) LTCH DISCHARGE PAYMENT
18 PERCENTAGE.—In this subparagraph, the
19 term ‘LTCH discharge payment percent-
20 age’ means, with respect to a long-term
21 care hospital for a cost reporting period
22 beginning during or after fiscal year 2020,
23 the ratio (expressed as a percentage) of—

24 “(I) the number of discharges for
25 such hospital and period for which

1 payment is not made at the site neu-
2 tral payment rate, to

3 “(II) the total number of dis-
4 charges for such hospital and period.

5 “(D) INCLUSION OF SUBSECTION (D)
6 PUERTO RICO HOSPITALS.—In this paragraph,
7 any reference in this paragraph to a subsection
8 (d) hospital shall be deemed to include a ref-
9 erence to a subsection (d) Puerto Rico hos-
10 pital.”.

11 (2) MEDPAC STUDY AND REPORT ON IMPACT
12 OF CHANGES.—

13 (A) STUDY.—The Medicare Payment As-
14 sessment Commission shall examine the effect
15 of applying section 1886(m)(6) of the Social Se-
16 curity Act, as added by the amendment made
17 by paragraph (1), on—

18 (i) the quality of patient care in long-
19 term care hospitals;

20 (ii) the use of hospice care and post-
21 acute care settings;

22 (iii) different types of long-term care
23 hospitals; and

24 (iv) the growth in Medicare spending
25 for services in such hospitals.

1 (B) REPORT.—Not later than June 30,
2 2019, the Commission shall submit to Congress
3 a report on such study. The Commission shall
4 include in such report such recommendations
5 for changes in the application of such section as
6 the Commission deems appropriate as well as
7 the impact of the application of such section on
8 the need to continue applying the 25 percent
9 rule described under sections 412.534 and
10 412.536 of title 42, Code of Federal Regula-
11 tions.

12 (3) CALCULATION OF LENGTH OF STAY EX-
13 CLUDING CASES PAID ON A SITE NEUTRAL BASIS.—

14 (A) IN GENERAL.—For discharges occur-
15 ring in cost reporting periods beginning on or
16 after October 1, 2015, subject to subparagraph
17 (B), in calculating the length of stay require-
18 ment applicable to a long-term care hospital or
19 satellite facility under section
20 1886(d)(1)(B)(iv)(I) of the Social Security Act
21 (42 U.S.C. 1395ww(d)(1)(B)(iv)(I)) and section
22 1861(ccc)(2) of such Act (42 U.S.C.
23 1395x(ccc)(2)), the Secretary of Health and
24 Human Services shall exclude the following:

1 (i) SITE NEUTRAL PAYMENT.—Any
2 patient for whom payment is made at the
3 site neutral payment rate (as defined in
4 section 1886(m)(6)(B)(ii)) of such Act, as
5 added by paragraph (1)).

6 (ii) MEDICARE ADVANTAGE.—Any pa-
7 tient for whom payment is made under a
8 Medicare Advantage plan under part C of
9 title XVIII of such Act.

10 (B) LIMITATION ON CONVERTING SUB-
11 SECTION (D) HOSPITALS.—Subparagraph (A)
12 shall not apply to a hospital that is classified as
13 of December 10, 2013, as a subsection (d) hos-
14 pital (as defined in section 1886(d)(1)(B) of the
15 Social Security Act, 42 U.S.C.
16 1395ww(d)(1)(B)) for purposes of determining
17 whether the requirements of section
18 1886(d)(1)(B)(iv)(I) or 1861(ccc)(2) of such
19 Act (42 U.S.C. 1395ww(d)(1)(B)(iv)(I),
20 1395x(ccc)(2)) are met.

21 (b) EXTENSION OF CERTAIN LTCH PAYMENT
22 RULES AND MORATORIUM ON THE ESTABLISHMENT OF
23 CERTAIN HOSPITALS AND FACILITIES.—

24 (1) EXTENSION OF CERTAIN PAYMENT
25 RULES.—

1 (A) PAYMENT FOR HOSPITALS-WITHIN-
2 HOSPITALS.—Paragraph (2)(C) of section
3 114(c) of the Medicare, Medicaid, and SCHIP
4 Extension Act of 2007 (42 U.S.C. 1395ww
5 note), as amended by sections 3106(a) and
6 10312(a) of Public Law 111–148, is amended
7 by striking “5-year period” and inserting “9-
8 year period”.

9 (B) 25 PERCENT PATIENT THRESHOLD
10 PAYMENT ADJUSTMENT; MAKING THE GRAND-
11 FATHERED EXEMPTION FOR LONG-TERM CARE
12 HOSPITALS PERMANENT.—Section 114(c)(1) of
13 the Medicare, Medicaid, and SCHIP Extension
14 Act of 2007 (42 U.S.C. 1395ww note), as
15 amended by sections 3106(a) and 10312(a) of
16 Public Law 111–148, is amended—

17 (i) in the matter preceding subpara-
18 graph (A), by striking “for a 5-year pe-
19 riod”; and

20 (ii) in subparagraph (A), by inserting
21 “for a 9-year period,” before “section
22 412.536”.

23 (C) REPORT ASSESSING CONTINUED SUS-
24 PENSION OF 25 PERCENT RULE.—Not later
25 than 1 year before the end of the 9-year period

1 referred to in section 114(c)(1) of the Medicare,
2 Medicaid, and SCHIP Extension Act of 2007
3 (42 U.S.C. 1395ww note), as amended by sub-
4 paragraph (B), the Secretary of Health and
5 Human Services shall submit to Congress a re-
6 port on the need for any further extensions (or
7 modifications of the extensions) of the 25 per-
8 cent rule described in sections 412.534 and
9 412.536 of title 42, Code of Federal Regula-
10 tions, particularly taking into account the appli-
11 cation of section 1886(m)(6) of the Social Secu-
12 rity Act, as added by subsection (a)(1).

13 (2) EXTENSION OF MORATORIUM ON ESTAB-
14 LISHMENT OF AND INCREASE IN BEDS FOR
15 LTCHS.—Section 114(d) of the Medicare, Medicaid,
16 and SCHIP Extension Act of 2007 (42 U.S.C.
17 1395ww note), as amended by sections 3106(b) and
18 10312(b) of Public Law 111–148, is amended—

19 (A) in paragraph (1), in the matter pre-
20 ceeding subparagraph (A), by inserting after “5-
21 year period” the following: “(and for the period
22 beginning January 1, 2015, and ending Sep-
23 tember 30, 2017)”; and

24 (B) by adding at the end the following new
25 paragraph:

1 “(6) LIMITATION ON APPLICATION OF EXCEP-
2 TIONS.—Paragraphs (2) and (3) shall not apply dur-
3 ing the period beginning January 1, 2015, and end-
4 ing September 30, 2017.”.

5 (c) ADDITIONAL QUALITY MEASURE.—Section
6 1886(m)(5)(D) of the Social Security Act (42 U.S.C.
7 1395ww(m)(5)(D)) is amended by adding at the end the
8 following new clause:

9 “(iv) ADDITIONAL QUALITY MEAS-
10 URES.—Not later than October 1, 2015,
11 the Secretary shall establish a functional
12 status quality measure for change in mo-
13 bility among inpatients requiring ventilator
14 support.”.

15 (d) REVIEW OF TREATMENT OF CERTAIN LTCHs.—

16 (1) EVALUATION.—As part of the annual rule-
17 making for fiscal year 2015 or fiscal year 2016 to
18 carry out the payment rates under subsection (d) of
19 section 1886 of the Social Security Act (42 U.S.C.
20 1395ww), the Secretary shall evaluate both the pay-
21 ment rates and regulations governing hospitals
22 which are classified under subclause (II) of sub-
23 section (d)(1)(B)(iv) of such section.

24 (2) ADJUSTMENT AUTHORITY.—Based upon
25 such evaluation, the Secretary may adjust payment

1 rates under subsection (b)(3) of section 1886 of the
2 Social Security Act (42 U.S.C. 1395ww) for a hos-
3 pital so classified (such as payment based upon the
4 TEFRA-payment model) and may adjust the regula-
5 tions governing such hospitals, including applying
6 the regulations governing hospitals which are classi-
7 fied under clause (I) of subsection (d)(1)(B) of such
8 section.

9 **SEC. 207. ENFORCEMENT DELAY OF MEDICARE TWO-MID-**
10 **NIGHT RULE TO PERMIT DEVELOPMENT OF A**
11 **NEW MEDICARE PAYMENT METHODOLOGY**
12 **FOR SHORT INPATIENT HOSPITAL STAYS.**

13 (a) DELAY IN ENFORCEMENT OF TWO-MIDNIGHT
14 RULE.—

15 (1) IN GENERAL.—The Secretary of Health and
16 Human Services (referred to in this section as the
17 “Secretary”) shall not enforce the provisions of the
18 two-midnight rule (as defined in paragraph (2)) with
19 respect to admissions to a hospital (as defined in
20 subsection (d)) for which payment is made under the
21 Medicare program under title XVIII of the Social
22 Security Act (42 U.S.C. 1395 et seq.) for admissions
23 occurring before October 1, 2014.

24 (2) TWO-MIDNIGHT RULE DEFINED.—In this
25 section, the term “two-midnight rule” means the fol-

1 lowing numbered amendments to 42 CFR Chapter
2 IV contained in the IPPS FY 2014 Final Rule (and
3 includes any sub-regulatory guidance issued in the
4 implementation of such amendments and any por-
5 tion of the preamble of section XI.C. of such rule re-
6 lating to such amendments):

7 (A) Amendment 2 (on page 50965), which
8 adds a section 412.3 of title 42, Code of Fed-
9 eral Regulations (relating to admissions).

10 (B) Amendment 3 (on page 50965), which
11 revises section 412.46 of such title (relating to
12 medical review requirements).

13 (C) Amendment 23 (on page 50969),
14 which amends paragraphs (d) and (e)(2) of sec-
15 tion 424.11 of such title (relating to conditions
16 of payment: General procedures).

17 (D) Amendment 24 (on pages 50969 and
18 50970), which revises section 424.13 of such
19 title (relating to requirements for inpatient
20 services of hospitals other than inpatient psy-
21 chiatric facilities).

22 (E) Amendment 25 (on page 50970),
23 which revises paragraphs (a), (b), (d)(1), and
24 (e) of section 424.14 of such title (relating to

1 requirements for inpatient services of inpatient
2 psychiatric facilities).

3 (F) Amendment 26 (on page 50970),
4 which revises section 424.15 of such title (relat-
5 ing to requirements for inpatient CAH serv-
6 ices).

7 (3) IPPS FY 2014 FINAL RULE DEFINED.—In
8 this section, the term “IPPS FY 2014 Final Rule”
9 means the final rule (CMS-1599-F, CMS-1455-F)
10 published by the Centers for Medicare & Medicaid
11 Services in the Federal Register on August 19,
12 2013, entitled “Medicare Program; Hospital Inpa-
13 tient Prospective Payment Systems for Acute Care
14 Hospitals and the Long-Term Care Hospital Pro-
15 spective Payment System and Fiscal Year 2014
16 Rates; Quality Reporting Requirements for Specific
17 Providers; Hospital Conditions of Participation; Pay-
18 ment Policies Related to Patient Status” (78 Fed-
19 eral Register 50496 et seq.).

20 (4) APPLICATION TO MEDICARE REVIEW CON-
21 TRACTORS.—

22 (A) IN GENERAL.—Paragraph (1) shall
23 also apply to Medicare review contractors (as
24 defined in subparagraph (B)). No medicare re-
25 view contractor may deny a claim for payment

1 for inpatient hospital services furnished by a
2 hospital, or inpatient critical access hospital
3 services furnished by a critical access hospital,
4 for which payment may be made under title
5 XVIII of the Social Security Act for discharges
6 occurring before the date specified in paragraph
7 (1)—

8 (i) for medical necessity due to the
9 length of an inpatient stay in such hospital
10 or due to a determination that the services
11 could have been provided on an outpatient
12 basis; or

13 (ii) for requirements for orders, cer-
14 tifications, or recertifications, and associ-
15 ated documentation relating to the matters
16 described in clause (i).

17 (B) MEDICARE REVIEW CONTRACTOR DE-
18 FINED.—In subparagraph (A), the term “Medi-
19 care review contractor” means any contractor
20 or entity that has entered into a contract or
21 subcontract with the Centers for Medicare &
22 Medicaid Services with respect to the Medicare
23 program to review claims for items and services
24 furnished for which payment is made under

1 title XVIII of the Social Security Act, includ-
2 ing—

3 (i) Medicare administrative contrac-
4 tors under section 1874A of the Social Se-
5 curity Act (42 U.S.C. 1395kk-1); and

6 (ii) recovery audit contractors under
7 section 1893(h) of such Act (42 U.S.C.
8 1395ddd(h)).

9 (5) CONTINUATION OF MEDICARE PROBE AND
10 EDUCATE PROGRAM FOR INPATIENT HOSPITAL AD-
11 MISSIONS.—

12 (A) IN GENERAL.—Subject to subpara-
13 graph (B), nothing in this subsection shall be
14 construed to preclude the Secretary from con-
15 tinuing the conduct by Medicare administrative
16 contractors of the Medicare Probe and Educate
17 program (as defined in subparagraph (C)) for
18 hospital admissions during the delay of enforce-
19 ment under paragraph (1).

20 (B) MAINTENANCE OF SAMPLE PREPAY-
21 MENT RECORD LIMITS.—The Secretary may not
22 increase the sample of claims selected for pre-
23 payment review under the Medicare Probe and
24 Educate program above the number and type
25 established by the Secretary under such pro-

1 gram as of November 4, 2013, such as 10
2 claims for most hospitals and 25 claims for
3 large hospitals.

4 (C) MEDICARE PROBE AND EDUCATE PRO-
5 GRAM DEFINED.—In this paragraph, the term
6 “Medicare Probe and Educate program” means
7 the program established by the Secretary as in
8 effect on November 4, 2013 (and described in
9 a public document made available by the Cen-
10 ters for Medicare & Medicaid Services on its
11 Website entitled “Frequently Asked Questions 2
12 Midnight Inpatient Admission Guidance & Pa-
13 tient Status Reviews for Admissions on or after
14 October 1, 2013”) under which Medicare ad-
15 ministrative contractors—

16 (i) conduct prepayment patient status
17 reviews for inpatient hospital claims with
18 dates of admission on or after October 1,
19 2013, and before March 31, 2014; and

20 (ii) based on the results of such pre-
21 payment patient status reviews, conduct
22 educational outreach efforts during the fol-
23 lowing 3 months.

24 (b) SHORT INPATIENT HOSPITAL STAY PAYMENT
25 METHODOLOGY.—

1 (1) IN GENERAL.—The Secretary shall develop
2 a payment methodology under the Medicare program
3 for hospitals for short inpatient hospital stays (as
4 defined in paragraph (2)). Such payment method-
5 ology may be a reduced payment amount for such
6 inpatient hospital services than would otherwise
7 apply if paid for under section 1886(d) of the Social
8 Security Act (42 U.S.C. 1395ww(d)) or may be an
9 alternative payment methodology. The Secretary
10 shall promulgate such payment methodology as part
11 of the annual regulations implementing the Medicare
12 hospital inpatient prospective payment system for
13 fiscal year 2016.

14 (2) SHORT INPATIENT HOSPITAL STAY DE-
15 FINED.—In this section, the term “short inpatient
16 hospital stay” means, with respect to an inpatient
17 admission of an individual entitled to benefits under
18 part A of title XVIII of the Social Security Act to
19 a hospital, a length of stay that is less than the
20 length of stay required to satisfy the 2-midnight
21 benchmark described in section 412.3 of title 42,
22 Code of Federal Regulation, as amended under the
23 Amendment 2 referred to in subsection (a)(2)(A).

24 (c) CROSSWALK OF ICD-10 CODES AND CPT CODES;
25 CROSSWALK OF DRG AND CPT CODES.—

1 (1) ICD10–TO–CPT CROSSWALK.—

2 (A) IN GENERAL.—Not later than 2 years
3 after the date of the enactment of this Act, the
4 Secretary shall develop general equivalency
5 maps (referred to in this subsection as an
6 “crosswalks”) to link the relevant ICD-10 codes
7 to relevant CPT codes, and the relevant CPT
8 codes to relevant ICD-10 codes, in order to per-
9 mit comparisons of inpatient hospital services,
10 for which payment is made under section 1886
11 of the Social Security Act (42 U.S.C. 1395ww),
12 and hospital outpatient department services, for
13 which payment is made under section 1833(t)
14 of such Act (42 U.S.C. 1395l(t)). In this sub-
15 section the terms “ICD–10 codes” and “CPT
16 codes” include procedure as well as diagnostic
17 codes.

18 (B) PROCESS.—

19 (i) IN GENERAL.—In carrying out
20 subparagraph (A), the Secretary shall de-
21 velop a proposed ICD10–to–CPT crosswalk
22 which shall be made available for public
23 comment for a period of not less than 60
24 days.

1 (ii) NOTICE.—The Secretary shall
2 provide notice of the comment period
3 through the following:

4 (I) Publication of notice of pro-
5 posed rulemaking in the Federal Reg-
6 ister.

7 (II) A solicitation posted on the
8 Internet Website of the Centers for
9 Medicare & Medicaid Services.

10 (III) An announcement on the
11 Internet Website of the Centers for
12 Medicare & Medicaid Services of the
13 availability of the proposed crosswalk
14 and the deadline for comments.

15 (IV) A broadcast through an ap-
16 propriate Listserv operated by the
17 Centers for Medicare & Medicaid
18 Services.

19 (iii) USE OF THE ICD-9-CM COORDI-
20 NATION AND MAINTENANCE COMMITTEE.—
21 The Secretary also shall instruct the ICD-
22 9-CM Coordination and Maintenance
23 Committee to convene a meeting to receive
24 input from the public regarding the pro-
25 posed ICD10-to-CPT crosswalk.

1 (iv) PUBLICATION OF FINAL CROSS-
2 WALKS.—Taking into consideration com-
3 ments received on the proposed crosswalk,
4 the Secretary shall publish a final ICD10-
5 to-CPT crosswalk under subparagraph (A)
6 and shall post such crosswalk on the Inter-
7 net Website of the Centers for Medicare &
8 Medicaid Services.

9 (v) UPDATING.—The Secretary shall
10 update such crosswalk on an annual basis.

11 (2) DRG-TO-APC CROSSWALK.—

12 (A) IN GENERAL.—The Secretary shall,
13 using the ICD10-to-CPT crosswalk developed
14 under paragraph (1), develop a second cross-
15 walk between diagnosis-related group (DRG)
16 codes for inpatient hospital services and Ambu-
17 latory Payment Class (APC) codes for out-
18 patient hospital services.

19 (B) DATA TO BE USED.—In developing
20 such crosswalk, the Secretary shall use claims
21 data for inpatient hospital services for dis-
22 charges occurring in fiscal years beginning with
23 fiscal year 2015 and for outpatient hospital
24 services furnished in years beginning with 2015.

1 (C) PUBLICATION.—Not later than June
2 30, 2017, the Secretary shall publish the DRG–
3 to–APC crosswalk developed under this para-
4 graph.

5 (d) HOSPITAL DEFINED.—For purposes of this sec-
6 tion, the term “hospital” means the following (insofar as
7 such terms are used under title XVIII of the Social Secu-
8 rity Act):

- 9 (1) An acute care hospital.
- 10 (2) A critical access hospital.
- 11 (3) A long-term care hospital.
- 12 (4) An inpatient psychiatric facility.

