

114TH CONGRESS  
1ST SESSION

# S. 688

To amend title XVIII of the Social Security Act to adjust the Medicare hospital readmission reduction program to respond to patient disparities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 10, 2015

Mr. MANCHIN (for himself, Mr. PORTMAN, Mr. WICKER, Mr. KIRK, Mr. NELSON, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to adjust the Medicare hospital readmission reduction program to respond to patient disparities, 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 “Establishing Bene-  
5 ficiary Equity in the Hospital Readmission Program Act  
6 of 2015”.

1 **SEC. 2. ESTABLISHING BENEFICIARY EQUITY IN THE MEDI-**  
 2 **CARE HOSPITAL READMISSION PROGRAM.**

3 (a) TRANSITIONAL ADJUSTMENT FOR DUAL ELIGI-  
 4 BLE POPULATION AND SOCIOECONOMIC STATUS.—Sec-  
 5 tion 1886(q)(4)(C) of the Social Security Act (42 U.S.C.  
 6 1395ww(q)(4)(C)) is amended by adding at the end the  
 7 following new clause:

8 “(iii) TRANSITIONAL ADJUSTMENT  
 9 FOR DUAL ELIGIBLE POPULATION AND SO-  
 10 CIOECONOMIC STATUS.—

11 “(I) IN GENERAL.—In deter-  
 12 mining a hospital’s excess readmission  
 13 ratio under clause (i) for purposes of  
 14 making payments for discharges oc-  
 15 ccurring during fiscal years 2016 and  
 16 2017, and before the initial applica-  
 17 tion of clause (iv), and in order to en-  
 18 sure that hospitals that treat the most  
 19 vulnerable populations are not un-  
 20 fairly penalized by the program under  
 21 this subsection, the Secretary shall  
 22 provide for such risk adjustment as  
 23 will take into account both a hos-  
 24 pital’s proportion of inpatients who  
 25 are full-benefit dual eligible individ-  
 26 uals (as defined in section 1935(c)(6))

1 and the socioeconomic status of the  
2 patients served by the hospital.

3 “(II) QUANTITATIVE METHOD.—

4 For purposes of applying subclause  
5 (I)(bb), the Secretary, to the max-  
6 imum extent practicable, shall utilize  
7 the most recent data available from  
8 the Bureau of the Census in order to  
9 develop a quantitative method to ad-  
10 just for socioeconomic status. In de-  
11 veloping such quantitative method, the  
12 Secretary—

13 “(aa) shall, to the maximum  
14 extent practicable, use inputs  
15 that address at least income,  
16 education level, or poverty rate;  
17 and

18 “(bb) may include inputs  
19 that address other socioeconomic  
20 and sociodemographic factors de-  
21 termined appropriate by the Sec-  
22 retary.

23 “(III) PATIENTS SERVED BY THE  
24 HOSPITAL.—For purposes of sub-  
25 clause (I)(bb), the Secretary shall, to

1 the maximum extent practicable,  
2 measure the socioeconomic status for  
3 all patients served by each hospital.  
4 The Secretary may supplement incom-  
5 plete or inaccessible patient-level data  
6 with data related to the geographic re-  
7 gion of the patients served by the hos-  
8 pital.

9 “(IV) MINIMIZING REPORTING  
10 BURDEN ON HOSPITALS.—In carrying  
11 out this clause, the Secretary shall not  
12 impose any additional reporting re-  
13 quirements on hospitals.”.

14 (b) SUBSEQUENT ADJUSTMENTS BASED ON IM-  
15 PACT AND MEDPAC REPORTS.—Section 1886(q)(4)(C)  
16 of the Social Security Act (42 U.S.C. 1395ww(q)(4)(C))  
17 is further amended by adding at the end the following new  
18 clause:

19 “(iv) RISK ADJUSTMENTS UNDER RE-  
20 ADMISSION PROGRAM BASED ON IMPACT  
21 AND MEDPAC REPORTS.—In making rec-  
22 ommendations under subparagraph (D) of  
23 section 2(d)(1) of the IMPACT Act of  
24 2014 (Public Law 113–185; 42 U.S.C.  
25 1395lll note) with respect to the applica-

1           tion of risk adjustment under this sub-  
2           section, the Secretary is required to base  
3           such risk adjustment on the reports sub-  
4           mitted under subparagraphs (A)(ii) and  
5           (B)(ii) of such section as well as on the re-  
6           port submitted by the Medicare Payment  
7           Advisory Commission under section 2(c) of  
8           the Establishing Beneficiary Equity in the  
9           Hospital Readmission Program Act of  
10          2015. The Administrator of the Centers  
11          for Medicare & Medicaid Services shall in-  
12          corporate such recommendations in car-  
13          rying out risk adjustment under this sub-  
14          section for discharges occurring in fiscal  
15          years after fiscal year 2017 in order to en-  
16          sure that hospitals that treat the most vul-  
17          nerable populations are not unfairly penal-  
18          ized by the program under this subsection.  
19          For fiscal years beginning more than 5  
20          years after the date of submission of the  
21          report under section 2(d)(1)(B)(ii) of the  
22          IMPACT Act of 2014, the Secretary may  
23          use alternative adjustment mechanisms  
24          under this subsection to account for socio-  
25          economic factors if the Secretary finds that

1           such measures are better at accounting for  
2           socioeconomic factors than the mechanisms  
3           that would otherwise apply.”.

4           (c) MEDPAC STUDY ON 30-DAY READMISSION  
5 THRESHOLD.—The Medicare Payment Advisory Commis-  
6 sion shall conduct a study on the appropriateness of using  
7 a threshold of 30 days for readmissions under section  
8 1886(q)(5)(E) of the Social Security Act (42 U.S.C.  
9 1395ww(q)(5)(E)). The Commission shall submit to Con-  
10 gress a report on such study in its report to Congress in  
11 June 2016.

12          (d) ADDRESSING ISSUE OF NONCOMPLIANT PA-  
13 TIENTS.—Section 1886(q)(4)(C) of the Social Security  
14 Act (42 U.S.C. 1395ww(q)(4)(C)), as amended by sub-  
15 sections (b) and (c), is further amended by adding at the  
16 end the following new clause:

17                           “(v) CONSIDERATION OF EXCLUSION  
18                           OF NONCOMPLIANT PATIENT CASES BASED  
19                           ON V OR OTHER APPROPRIATE CODES.—In  
20                           promulgating regulations to carry out this  
21                           subsection for the applicable period with  
22                           respect to fiscal year 2017, the Secretary  
23                           shall consider the use of V or other ICD-  
24                           related codes for potential exclusions of

1 cases in order to address the issue of non-  
2 compliant patients.”.

3 (e) EXCLUDING CERTAIN CLINICAL CONDITIONS.—

4 (1) STUDY.—

5 (A) IN GENERAL.—The Secretary of  
6 Health and Human Services shall conduct a  
7 study, consistent with this paragraph, that as-  
8 sesses and makes recommendations with respect  
9 to excluding patients whose clinical conditions  
10 or diagnoses may require frequent hospitaliza-  
11 tions, from the calculation of excess readmis-  
12 sions under section 1886(q)(5)(E) of the Social  
13 Security Act (42 U.S.C. 1395ww(q)(5)(E)).

14 (B) USE OF A TECHNICAL EXPERT  
15 PANEL.—The Secretary shall convene a multi-  
16 stakeholder technical expert panel comprised of  
17 individuals knowledgeable about clinical care of  
18 hospitalized patients and quality measurement,  
19 to provide input and recommendations on the  
20 study conducted under this paragraph.

21 (C) CLINICAL CONDITIONS TO BE CONSID-  
22 ERED.—In conducting the study, the Secretary  
23 shall consider exclusions for patients with  
24 transplants, burns, psychosis, and substance  
25 abuse disorders. The Secretary may include ad-

1           ditional clinical conditions where appropriate  
2           care may require frequent hospitalizations.

3           (D) TRANSPARENCY.—The Secretary shall  
4           make a draft of report on such study available  
5           for public comment for a period of not less than  
6           30 days. The final study and recommendations  
7           shall address the Secretary’s response to public  
8           comments.

9           (E) DEADLINE.—The Secretary shall sub-  
10          mit a final report on the study to Congress no  
11          later than Oct. 1, 2016. Such final report shall  
12          include recommendations regarding the relevant  
13          clinical conditions that should be excluded from  
14          the calculation of excess readmissions described  
15          in subparagraph (A).

16          (2) APPLICATION TO CALCULATION OF EXCESS  
17          READMISSIONS.—Beginning with fiscal year 2018,  
18          the Secretary shall exclude any relevant clinical con-  
19          ditions identified in the recommendations made in  
20          the final report under paragraph (1)(E) in deter-  
21          mining a hospital’s publicly reported readmission  
22          rate and excess readmissions ratio under section  
23          1886(q)(4)(C) of the Social Security Act (42 U.S.C.  
24          1395ww(q)(4)(C)). The Secretary also is encouraged  
25          to consider applying the exclusions so identified to



1 other Medicare public reporting and pay-for-per-  
2 formance programs in which readmission measures  
3 are used.

4 (f) BUDGET NEUTRAL IMPLEMENTATION.—The Sec-  
5 retary of Health and Human Services shall make such  
6 payment adjustment to subsection (d) hospitals under the  
7 inpatient prospective payment system under section 1886  
8 of the Social Security Act (42 U.S.C. 1395ww) as may  
9 be necessary to ensure that the implementation of the this  
10 section (including the amendments made by this section)  
11 does not result in an increase in aggregate expenditures  
12 under such section 1886.

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