

**[DISCUSSION DRAFT]**

118<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

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

To amend title XVIII of the Social Security Act to allow for the use of alternative measures of performance under the Merit-based Incentive Payment System under the Medicare program.

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IN THE HOUSE OF REPRESENTATIVES

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

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**A BILL**

To amend title XVIII of the Social Security Act to allow for the use of alternative measures of performance under the Merit-based Incentive Payment System under the Medicare program.

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 “\_\_\_\_\_ Act  
5 of 2023”.

1 **SEC. 2. ALLOWING FOR THE USE OF ALTERNATIVE MEAS-**  
2 **URES OF PERFORMANCE UNDER THE MERIT-**  
3 **BASED INCENTIVE PAYMENT SYSTEM UNDER**  
4 **THE MEDICARE PROGRAM.**

5 Section 1848(q)(2)(C)(ii) of the Social Security Act  
6 (42 U.S.C. 1395w-4(q)(2)(C)(ii)) is amended—

7 (1) by striking “The Secretary may use” and  
8 inserting the following:

9 “(I) YEARS BEFORE  
10 **【\_\_\_\_\_】**.—In the case of a per-  
11 formance period for a year before  
12 **【\_\_\_\_\_】**, the Secretary may use”;  
13 and

14 (2) by adding at the end the following new sub-  
15 clauses:

16 “(II) **【\_\_\_\_\_】** AND SUBSE-  
17 QUENT YEARS.—In the case of a per-  
18 formance period for **【\_\_\_\_\_】** or a  
19 subsequent year, the Secretary may  
20 use measures used to determine pay-  
21 ments under this title for an entity  
22 other than a physician, such as meas-  
23 ures for outpatient and inpatient hos-  
24 pitals, for purposes of any perform-  
25 ance category described in subpara-  
26 graph (A) with respect to a MIPS eli-

1                   gible professional who is a qualifying  
2                   professional (as defined in subclause  
3                   (III)) with respect to such year. The  
4                   preceding sentence shall not apply  
5                   with respect to the use of such meas-  
6                   ures for a performance category for a  
7                   performance period with respect to a  
8                   qualifying professional if use of such  
9                   measures would result in a lower score  
10                  for such category for such period with  
11                  respect to such professional than  
12                  would otherwise have applied had  
13                  such measures not been used.

14                   “(III) DEFINITIONS.—In this  
15                   clause:

16                   “(aa) APPLICABLE SITE.—  
17                   The term ‘applicable site’ means  
18                   a hospital, an ambulatory sur-  
19                   gical center, an inpatient reha-  
20                   bilitation facility, a comprehen-  
21                   sive outpatient rehabilitation fa-  
22                   cility, a skilled nursing facility,  
23                   and any other site specified by  
24                   the Secretary.

1                   “(bb) QUALIFYING PROFES-  
2                   SIONAL.—The term ‘qualifying  
3                   professional’ means, with respect  
4                   to a year—

5                   “(AA) a MIPS eligible  
6                   professional who, with re-  
7                   spect to all covered profes-  
8                   sional services (as defined in  
9                   subsection (k)(3)(A)) fur-  
10                  nished by such professional  
11                  during the performance pe-  
12                  riod for such year, so fur-  
13                  nished at least 50 percent of  
14                  such services at an applica-  
15                  ble site (as defined in item  
16                  (aa)), as identified by site-  
17                  of-service codes for such  
18                  services; and

19                  “(BB) any other MIPS  
20                  eligible professional specified  
21                  by the Secretary.”.