

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4093
OFFERED BY MR. SMITH OF MISSOURI**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Apples to Apples Com-
3 parison Act”.

**4 SEC. 2. REQUIRING THE SECRETARY OF HEALTH AND
5 HUMAN SERVICES TO PUBLISH INFORMA-
6 TION ON EXPENDITURES UNDER THE MEDI-
7 CARE PROGRAM.**

8 (a) IN GENERAL.—Section 1874 of the Social Secu-
9 rity Act (42 U.S.C. 1395kk) is amended—

10 (1) in subsection (g)—

11 (A) in paragraph (1)—

12 (i) in the matter preceding subpara-
13 graph (A), by striking “report on” and in-
14 serting “report on, and, beginning with
15 2030, publish on the public website of the
16 Centers for Medicare & Medicaid Services
17 in machine-readable files containing infor-
18 mation on,”;

1 (ii) in subparagraph (A), by inserting
2 “(and, beginning with 2030, by county and
3 Metropolitan Statistical Area)” after
4 “State”; and

5 (iii) in subparagraph (B)—

6 (I) in clause (ii), by striking
7 “and” at the end;

8 (II) in clause (iii), by striking the
9 period and inserting “; and”; and

10 (III) by adding at the end the
11 following new clause:

12 “(iv) beginning with 2030, each cat-
13 egory of individuals described in subsection
14 (h)(1).”; and

15 (B) by adding at the end the following new
16 paragraph:

17 “(3) SPECIAL RULE FOR 2030 REPORT AND
18 PUBLICATION OF INFORMATION.—As part of the re-
19 port and publication of information required under
20 paragraph (1) for 2030, the Secretary shall include
21 enrollment data in reports submitted under this sub-
22 section for each preceding year (beginning with
23 2015), broken down by county and Metropolitan
24 Statistical Area and provided for each category of
25 individuals described in subsection (h)(1).”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(h) INFORMATION ON EXPENDITURES.—

4 “(1) IN GENERAL.—Not later than 18 months
5 after the last day of each year (beginning with
6 2030), the Secretary shall, for each county and each
7 Metropolitan Statistical Area, publish on the public
8 website of the Centers for Medicare & Medicaid
9 Services in machine-readable files, for each quarter
10 occurring in the specified historical period and for
11 each quarter occurring in the specified projected pe-
12 riod with respect to such year, the total expenditures
13 and average per-individual expenditures (or, with re-
14 spect to quarters occurring in such specified pro-
15 jected period, the estimated total expenditures and
16 estimated average per-individual expenditures) under
17 this title for items and services furnished to individ-
18 uals entitled to benefits under part A or enrolled
19 under part B residing in such county or Metropoli-
20 tan Statistical Area, broken down by the following
21 categories of individuals:

22 “(A) Individuals entitled to benefits under
23 part A and not enrolled under part B.

24 “(B) Individuals who are—

1 “(i) not entitled to benefits under part

2 A; and

3 “(ii) enrolled under part B.

4 “(C) Individuals who are—

5 “(i) entitled to benefits under part A

6 and enrolled under part B; and

7 “(ii) not enrolled in a Medicare Ad-

8 vantage plan under part C.

9 “(D) Individuals described in subpara-
10 graph (A) who are enrolled in a prescription
11 drug plan under part D.

12 “(E) Individuals described in subpara-
13 graph (B) who are enrolled in such a prescrip-
14 tion drug plan.

15 “(F) Individuals described in subpara-
16 graph (C) who are enrolled in such a prescrip-
17 tion drug plan.

18 “(G) Individuals described in subpara-
19 graph (A) who are not enrolled in such a pre-
20 scription drug plan.

21 “(H) Individuals described in subpara-
22 graph (B) who are not enrolled in such a pre-
23 scription drug plan.

1 “(I) Individuals described in subparagraph
2 (C) who are not enrolled in such a prescription
3 drug plan.

4 “(J) Individuals described in subparagraph
5 (A) who are enrolled in a Federal health care
6 program or a health benefits plan under chap-
7 ter 89 of title 5, United States Code.

8 “(K) Individuals described in subpara-
9 graph (B) who are enrolled in such a program
10 or health benefits plan.

11 “(L) Individuals described in subparagraph
12 (C) who are enrolled in such a program or
13 health benefits plan.

14 “(M) Individuals described in subpara-
15 graph (A) who are not enrolled in such a pro-
16 gram or health benefits plan.

17 “(N) Individuals described in subpara-
18 graph (B) who are not enrolled in such a pro-
19 gram or health benefits plan.

20 “(O) Individuals described in subpara-
21 graph (C) who are not enrolled in such a pro-
22 gram or health benefits plan.

23 “(P) Individuals described in subparagraph
24 (A) who are enrolled in a group health plan (as

1 defined in section 2791 of the Public Health
2 Service Act).

3 “(Q) Individuals described in subpara-
4 graph (B) who are enrolled in such a group
5 health plan.

6 “(R) Individuals described in subpara-
7 graph (C) who are enrolled in such a group
8 health plan or a medicare supplemental policy
9 under section 1882.

10 “(S) Individuals described in subparagraph
11 (A) who are not enrolled in such a group health
12 plan.

13 “(T) Individuals described in subparagraph
14 (B) who are not enrolled in such a group health
15 plan.

16 “(U) Individuals described in subpara-
17 graph (C) who are not enrolled in such a group
18 health plan or policy.

19 “(V) Individuals who are enrolled in a spe-
20 cialized MA plan for special needs individuals
21 (as defined in section 1859(b)(6)(A)), broken
22 down by each type of such plan.

23 “(W) Individuals who are enrolled in a
24 Medicare Advantage plan under part C other
25 than a plan described in subparagraph (V).

1 “(X) Individuals who are enrolled in a
2 Medicare Advantage plan under part C.

3 “(Y) Individuals described in subparagraph
4 (X) who are enrolled in a Federal health care
5 program or a health benefits plan under chap-
6 ter 89 of title 5, United States Code.

7 “(Z) Individuals described in subparagraph
8 (X) who are not enrolled in such a program or
9 health benefits plan.

10 “(AA) Individuals described in subpara-
11 graph (X) who are enrolled in a group health
12 plan (as defined in section 2791 of the Public
13 Health Service Act).

14 “(BB) Individuals described in subpara-
15 graph (X) who are not enrolled in such a group
16 health plan.

17 “(CC) Individuals enrolled in a plan de-
18 scribed in subparagraph (B) or (C) of section
19 1851(a)(2) and who are enrolled in a prescrip-
20 tion drug plan under part D.

21 “(DD) Individuals enrolled in a plan de-
22 scribed in subparagraph (B) or (C) of section
23 1851(a)(2) and who are not enrolled in a pre-
24 scription drug plan under part D.

1 “(EE) Individuals who are enrolled in an
2 MA–PD plan.

3 “(FF) Individuals described in subpara-
4 graph (X) who are not enrolled in such an MA–
5 PD plan.

6 “(GG) Individuals described in subpara-
7 graph (CC) or (EE) who are enrolled in a Fed-
8 eral health care program or a health benefits
9 plan under chapter 89 of title 5, United States
10 Code.

11 “(HH) Individuals described in subpara-
12 graph (CC) or (EE) who are not enrolled in
13 such a program or health benefits plan.

14 “(II) Individuals who are enrolled in Medi-
15 care Advantage plan described in section
16 1857(i)(2).

17 “(2) CLARIFICATION OF MEASURE OF EXPENDI-
18 TURES.—For purposes of paragraph (1), with re-
19 spect to the reporting of expenditures (including es-
20 timated expenditures) under this title, such expendi-
21 tures shall be treated as consisting of—

22 “(A) with respect to individuals entitled to
23 benefits under part A or enrolled under part B
24 who are not enrolled in a Medicare Advantage
25 plan under part C, Federal payments for items

1 and services furnished under part A or part B
2 (and, in the case such individual is enrolled in
3 a prescription drug plan under part D, pay-
4 ments made by such plan for covered part D
5 drugs); and

6 “(B) with respect to individuals enrolled in
7 a Medicare Advantage plan under part C, pay-
8 ments made by such plan for items and services
9 furnished under such plan.

10 “(3) DEFINITIONS.—For purposes of this sub-
11 section:

12 “(A) FEDERAL HEALTH CARE PROGRAM.—
13 The term ‘Federal health care program’ has the
14 meaning given such term in section 1128B(f),
15 except that such term does not include the pro-
16 gram established under this title.

17 “(B) SPECIFIED HISTORICAL PERIOD.—
18 The term ‘specified historical period’ means,
19 with respect to a year, the 10-year period end-
20 ing on the last day of such year.

21 “(C) SPECIFIED PROJECTED PERIOD.—
22 The term ‘specified projected period’ means,
23 with respect to a year, the period (as specified
24 by the Secretary but not to exceed 5 years) be-

1 ginning on the first day of the subsequent
2 year.”.

3 (b) REPORTING REQUIREMENT.—Section 1859 of the
4 Social Security Act (42 U.S.C. 1395w–28) is amended by
5 adding at the end the following new subsection:

6 “(j) REPORTING OF PAYMENT INFORMATION.—An
7 MA organization offering an MA plan for a plan year be-
8 ginning on or after January 1, 2030, shall report to the
9 Secretary, at a time and in a form and manner specified
10 by the Secretary, such information as the Secretary deter-
11 mines necessary to make public information in accordance
12 with section 1874(h).”.

13 **SEC. 3. MEDPAC ANALYSIS OF MEDICARE ADVANTAGE AND**
14 **FEE-FOR-SERVICE EXPENDITURES.**

15 Section 1805(b) of the Social Security Act (42 U.S.C.
16 1395b–6(b)) is amended by adding at the end the fol-
17 lowing new paragraph:

18 “(12) ANALYSIS OF MEDICARE ADVANTAGE
19 AND FEE-FOR-SERVICE EXPENDITURES.—

20 “(A) IN GENERAL.—The Commission
21 shall, not later than the second March 15 oc-
22 ccurring after the date of the enactment of this
23 paragraph and not less frequently than once
24 every 3 years thereafter, submit to Congress a
25 report that—

1 “(i) includes a retrospective analysis
2 of average expenditures under this title for
3 individuals enrolled in a Medicare Advan-
4 tage plan under part C compared to aver-
5 age expenditures under this title for indi-
6 viduals entitled to benefits under part A
7 and enrolled under part B who are eligible
8 to enroll under such a plan but who are
9 not so enrolled;

10 “(ii) includes, to the extent prac-
11 ticable, an evaluation of differences in
12 value provided under Medicare Advantage
13 plans compared to the value provided
14 under parts A and B, such as the existence
15 of out-of-pocket expenditure caps, supple-
16 mental benefits available under such plans,
17 and the integration of benefits for covered
18 part D drugs under certain such plans;

19 “(iii) identifies any gaps in Federal
20 data collection affecting such evaluation;
21 and

22 “(iv) include, as appropriate, rec-
23 ommendations relating to—

24 “(I) data and data collection
25 mechanisms that would provide a

1 more comprehensive assessment of
2 value provided under Medicare Advan-
3 tage plans compared to the value pro-
4 vided under parts A and B, including
5 with respect to patient outcomes;

6 “(II) policies to improve incen-
7 tives for the delivery of improved pa-
8 tient outcomes under Medicare Advan-
9 tage plans; and

10 “(III) policies to harmonize the
11 measurement and comparison of qual-
12 ity outcomes with respect to individ-
13 uals enrolled under such plans and in-
14 dividuals entitled to benefits under
15 part A or enrolled under part B and
16 not enrolled under such plans.

17 “(B) CONSIDERATIONS.—In preparing
18 each analysis described in subparagraph (A),
19 the Commission shall—

20 “(i) use data provided by the Chief
21 Actuary of the Centers for Medicare &
22 Medicaid Services and the Boards of
23 Trustees of the Federal Hospital Insurance
24 Trust Fund established under section 1817
25 and the Federal Supplementary Medical

1 Insurance Trust fund established under
2 section 1841 and such other data as the
3 Commission determines appropriate;

4 “(ii) take into account demographic
5 differences of individuals enrolled in Medi-
6 care Advantage plans compared to individ-
7 uals entitled to benefits under part A and
8 enrolled under part B who are not enrolled
9 in such a plan;

10 “(iii) take into account differences in
11 HCC risk scores; and

12 “(iv) prepare one such analysis that
13 takes into account favorable selection dif-
14 ferences with respect to enrollment in such
15 plans and one such analysis that does not
16 take such differences into account.

17 “(C) PUBLICATION REQUIREMENTS.—With
18 respect to each analysis described in subpara-
19 graph (A), the Commission shall make public
20 the methodology used in preparing such anal-
21 ysis in a manner that—

22 “(i) allows replication of such anal-
23 ysis;

24 “(ii) protects the confidentiality of
25 personal information of individuals entitled

1 to benefits under part A or enrolled under
2 part B; and
3 “(iii) protects data confidentiality and
4 complies with applicable data use agree-
5 ments.”.

6 **SEC. 4. TRUSTEES REPORT OF EXPENDITURE INFORMA-**
7 **TION.**

8 (a) IN GENERAL.—Section 1874 of the Social Secu-
9 rity Act (42 U.S.C. 1395kk), as amended by section 2,
10 is further amended by adding at the end the following new
11 subsection:

12 “(i) TRUSTEES’ REPORT OF EXPENDITURE INFOR-
13 MATION.—

14 “(1) IN GENERAL.—The Boards of Trustees of
15 the Federal Hospital Insurance Trust Fund estab-
16 lished under section 1817 and the Federal Supple-
17 mentary Medical Insurance Trust Fund established
18 under section 1841 shall jointly, as part of the re-
19 ports described in sections 1817(b)(2) and
20 1841(b)(2) submitted for a year (beginning with
21 2030), include information on aggregate and average
22 expenditures under this title for the following cat-
23 egories of individuals, broken down, in the case of
24 the category described in subparagraph (C), by ex-

1 penditures under part A and expenditures under
2 part B:

3 “(A) Individuals entitled to benefits under
4 part A and not enrolled under part B.

5 “(B) Individuals enrolled under part B and
6 not entitled to benefits under part A.

7 “(C) Individuals entitled to benefits under
8 part A, enrolled under part B, and not enrolled
9 in a Medicare Advantage plan under part C.

10 “(2) PROVISION OF DISAGGREGATED INFORMA-
11 TION.—The Boards of Trustees described in para-
12 graph (1) shall, as part of applicable expenditure
13 data (including data tables) made public by such
14 Boards, disaggregate such data, to the extent prac-
15 ticable, based on the categories of individuals de-
16 scribed in paragraph (1).”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) FEDERAL HOSPITAL INSURANCE TRUST
19 FUND.—Section 1817(b) of the Social Security Act
20 (42 U.S.C. 1395i(b)) is amended—

21 (A) in paragraph (2), by striking “Each
22 report” and all that follows through the period;
23 and

24 (B) by adding at the end the following new
25 sentences: “Each report provided under para-

1 graph (2) beginning with the report in 2005
2 shall include the information specified in section
3 801(a) of the Medicare Prescription Drug, Im-
4 provement, and Modernization Act of 2003.
5 Each report provided under paragraph (2) be-
6 ginning with the report in 2029 shall include
7 the information specified in section 1874(i).”.

8 (2) FEDERAL SUPPLEMENTARY MEDICAL IN-
9 SURANCE TRUST FUND.—Section 1841(b) of the So-
10 cial Security Act (42 U.S.C. 1395t(b)) is amended—

11 (A) in paragraph (2), by striking “Each
12 report” and all that follows through the period;
13 and

14 (B) by adding at the end the following new
15 sentences: “Each report provided under para-
16 graph (2) beginning with the report in 2005
17 shall include the information specified in section
18 801(a) of the Medicare Prescription Drug, Im-
19 provement, and Modernization Act of 2003.
20 Each report provided under paragraph (2) be-
21 ginning with the report in 2029 shall include
22 the information specified in section 1874(i).”.

