

**[DISCUSSION DRAFT]**

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

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

To amend title XVIII of the Social Security Act to create a bundled payment model under the Medicare program for clinical laboratory services provided to Medicare nursing facility and homebound patients, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

M\_\_\_\_. \_\_\_\_\_ 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 create a bundled payment model under the Medicare program for clinical laboratory services provided to Medicare nursing facility and homebound patients, 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,*

1 **SECTION 1. MEDICARE BUNDLED PAYMENT FOR CLINICAL**  
2 **LABORATORY SERVICES PROVIDED TO NURS-**  
3 **ING FACILITY AND HOMEBOUND PATIENTS.**

4 Section 1833(h) of the Social Security Act (42 U.S.C.  
5 1395l(h)) is amended—

6 (1) in paragraph (1), by inserting “paragraph  
7 (10) and” before “section 1834(d)(1)”;

8 (2) in paragraph (3)—

9 (A) by inserting “and the final sentence of  
10 this paragraph” after “subsection (b)(5) of  
11 such section”; and

12 (B) by adding at the end the following new  
13 sentence: “This paragraph shall not apply to  
14 any tests furnished on or after **January 1,**  
15 **2018**.”; and

16 (3) by adding at the end the following new  
17 paragraph:

18 “(10) BUNDLED PAYMENT FOR CERTAIN CLIN-  
19 ICAL LABORATORY SERVICES.—

20 “(A) IN GENERAL.—In the case of an  
21 identified clinical diagnostic laboratory test (as  
22 defined in subparagraph (G)) that is furnished  
23 in a quarter beginning on or after both January  
24 1, 2018, and the date that is six months after  
25 the date of the enactment of this paragraph, in-  
26 stead of calculating or estimating any amount

1 of payment for such test in a manner described  
2 in a preceding paragraph of this subsection, the  
3 Secretary shall estimate such payment amount  
4 in the manner described in subparagraph (B).

5 “(B) MANNER OF PAYMENT ESTIMATION  
6 DESCRIBED.—The manner of payment de-  
7 scribed in this subparagraph, with respect to an  
8 identified clinical diagnostic laboratory test fur-  
9 nished on a date during a year to an individual  
10 by a clinical laboratory, is payment in a per epi-  
11 sode payment, limited to one episode per cal-  
12 endar day, in an amount determined for such  
13 year that—

14 “(i) is to be paid with respect to all  
15 such tests that are furnished by the clinical  
16 laboratory to such individual during such  
17 date; and

18 “(ii) is estimated by the Secretary, in  
19 accordance with subparagraph (C), to  
20 apply with respect to dates occurring in  
21 such year.

22 “(C) ESTIMATION OF PER EPISODE  
23 AMOUNT.—The Secretary shall, for purposes of  
24 subparagraph (B), estimate per episode pay-

1           ment amounts described in such subparagraph  
2           in accordance with the following:

3                   “(i) Not later than four months after  
4                   the date of the enactment of this para-  
5                   graph and each five years thereafter, the  
6                   Secretary shall estimate per episode pay-  
7                   ment amounts to apply with respect to  
8                   identified clinical diagnostic laboratory  
9                   tests furnished on dates occurring during  
10                  the five-year period that, subject to clause  
11                  (iii), begins with the year after the year in  
12                  which such estimation occurs. Such per  
13                  episode payment amounts shall be so esti-  
14                  mated in a manner which provides that,  
15                  with respect to identified clinical diagnostic  
16                  laboratory tests furnished on any date dur-  
17                  ing a single year by a clinical laboratory,  
18                  the per episode payment amount for such  
19                  tests furnished on such date by such lab-  
20                  oratory is equal to either the single rural  
21                  per episode payment amount for such year  
22                  or the single non-rural per episode pay-  
23                  ment amount, as applicable.

24                   “(ii) Each per episode payment  
25                   amount specified pursuant to clause (i)

1 with respect to a year shall be estimated in  
2 accordance with the following:

3 “(I) The Secretary shall, in ac-  
4 cordance with subparagraph (E), esti-  
5 mate the aggregate permissible ex-  
6 penditure for such year.

7 “(II) The Secretary shall esti-  
8 mate a base payment amount for such  
9 year by dividing the aggregate permis-  
10 sible expenditure for such year, as es-  
11 timated pursuant to subclause (I), by  
12 the number of episodes with respect to  
13 which per episode payments are pro-  
14 jected to be made for such year pur-  
15 suant to this paragraph. In the case  
16 of the base payment amount estab-  
17 lished for 2017, such amount may not  
18 be less than \$43.42.

19 “(III) For purposes of clause (i),  
20 the Secretary shall specify a per epi-  
21 sode payment amount for identified  
22 clinical diagnostic laboratory tests fur-  
23 nished in a rural area (as determined  
24 by the zip code for such area) in such  
25 year (referred to in this paragraph as

1 a ‘single rural per episode payment  
2 amount’), and a per episode payment  
3 amount for such tests furnished in an  
4 area other than such a rural area in  
5 such year (referred to in this para-  
6 graph as a ‘single non-rural per epi-  
7 sode payment amount’). The Sec-  
8 retary shall determine such amounts  
9 by adjusting the base payment  
10 amount for such year, as estimated  
11 pursuant to subclause (II), in a man-  
12 ner that ensures that—

13 “(aa) the single rural per  
14 episode payment amount for such  
15 year is greater (but not more  
16 than 10 percent greater) than  
17 the single non-rural per episode  
18 payment amount for such year;  
19 and

20 “(bb) the total amount of  
21 payments made for such year  
22 pursuant to this paragraph is not  
23 greater than the aggregate per-  
24 missible expenditure for such

1 year, as estimated pursuant to  
2 subparagraph (E).

3 **【“(iii) In the case of the first esti-**  
4 **mation that the Secretary estimates under**  
5 **clause (i), rather than applying with re-**  
6 **spect to identified clinical diagnostic lab-**  
7 **oratory tests furnished on dates beginning**  
8 **with the year after the year in which such**  
9 **estimation occurs, such estimation shall**  
10 **apply with respect to such tests furnished**  
11 **on dates beginning with the date described**  
12 **in subparagraph (A).】**

13 **【“(D) PUBLICATION OF APPROACH TO INI-**  
14 **TIAL REBASING.—Not later than two years**  
15 **after the date of the enactment of this para-**  
16 **graph, the Secretary shall make publicly avail-**  
17 **able, with respect to the second five-year period**  
18 **for which the Secretary estimates per episode**  
19 **payment amounts in accordance with subpara-**  
20 **graph (C), the following information regarding**  
21 **the estimation of such amounts for such pe-**  
22 **riod:】**

23 **【“(i) The available data, information,**  
24 **and methodology that the Secretary antici-**  
25 **pates using in order to—】**

1                   【“(I) establish, for purposes of  
2                   such estimations, an aggregate per-  
3                   missible expenditure for the first year  
4                   in which such estimations will apply;  
5                   and】

6                   【“(II) determine, for purposes of  
7                   such estimations, a percentage to  
8                   apply        under        subparagraph  
9                   (C)(ii)(III)(aa).】

10                  【“(ii) The information required to be  
11                  made public under paragraph (G)(iv).】

12                  【“(E) ESTIMATION OF AGGREGATE PER-  
13                  MISSIBLE EXPENDITURES.—For purposes of  
14                  the estimation under subparagraph (C) of per  
15                  episode payment amounts for a five-year period,  
16                  the Secretary shall, with respect to such period,  
17                  estimate an aggregate permissible expenditure  
18                  for each year in such five-year period. Such ag-  
19                  gregate permissible expenditure shall—】

20                  【“(i) in the case of the first year of  
21                  such period, be equal to 97.5 percent of  
22                  the amount that, but for the application of  
23                  this paragraph 【and of the final sentence  
24                  of paragraph (3)】, otherwise would be paid  
25                  under this subsection for such tests; and】

1           【“(ii) in a succeeding year of such pe-  
2           riod, equal to the amount that was paid  
3           under this subsection for such tests in the  
4           prior year, adjusted by 【the average of】—  
5           】

6                   【“(I) the skilled nursing facility  
7                   market basket index (as defined in  
8                   section 1888(e)(5)(B)(i)) for the fiscal  
9                   year (or other annual period used by  
10                  the Secretary for purposes of such  
11                  section) ending in such succeeding  
12                  year; and】

13                   【“(II) the OPD fee schedule in-  
14                   crease factor (as defined in subsection  
15                   (t)(3)(C)(iv)) for such succeeding  
16                   year.】

17                  “(F) PAYMENT CONDITIONAL UPON  
18                  TRAINED PERSONNEL TRAVELING AND CON-  
19                  DUCTING TESTS.—The Secretary may not make  
20                  a payment pursuant to this subsection for an  
21                  identified clinical diagnostic laboratory test fur-  
22                  nished to an individual unless such test is fur-  
23                  nished by trained personnel that travels to the  
24                  location of the individual in order to collect any  
25                  samples that are to be collected in the adminis-

1           tration of such test to such individual. Nothing  
2           in the preceding sentence may be construed as  
3           conditioning such payment on such collected  
4           samples also being transported by such trained  
5           personnel.

6           “(G) IDENTIFIED CLINICAL DIAGNOSTIC  
7           LABORATORY TEST DEFINED.—

8           “(i) IN GENERAL.—For purposes of  
9           this paragraph, the term ‘identified clinical  
10          diagnostic laboratory test’ means, with re-  
11          spect to a five-year period, a clinical diag-  
12          nostic laboratory test that is identified by  
13          the Secretary pursuant to clause (ii) for  
14          such period.

15          “(ii) IDENTIFICATION OF TESTS.—  
16          Not later than four months after the date  
17          of the enactment of this paragraph and  
18          each five years thereafter, the Secretary  
19          shall identify, for the five-year period be-  
20          ginning with the year after the year of  
21          such identification, the 100 qualifying clin-  
22          ical diagnostic laboratory tests with respect  
23          to which the greatest total amount of pay-  
24          ments were made [under this title] [dur-

1                   ing】 / 【for items and services furnished  
2                   during】 the most recent year—

3                   “(I) that ends prior to the year  
4                   in which such identification is made;  
5                   and

6                   “(II) with respect to which the  
7                   Secretary possesses such information  
8                   as is necessary in order to so identify  
9                   such tests.

10                  “(iii) QUALIFYING CLINICAL LABORA-  
11                  TORY TEST DEFINED.—For purposes of  
12                  this paragraph, the term ‘qualifying clin-  
13                  ical diagnostic laboratory test’ means a  
14                  clinical diagnostic laboratory test for which  
15                  an additional amount under paragraph (3)  
16                  would be allowed by reason of travel to an  
17                  individual who either is homebound or is a  
18                  resident in a nursing facility.

19                  【“(iv) PUBLICATION OF APPROACH TO  
20                  INITIAL REBASING.—Not later than two  
21                  years after the date of the enactment of  
22                  this paragraph, the Secretary shall make  
23                  publicly available as part of the informa-  
24                  tion made available under subparagraph  
25                  (D), with respect to the second five-year

1 period for which the Secretary is to iden-  
2 tify tests under clause (ii), the available  
3 data, resources, and methodology that the  
4 Secretary **【anticipates using】** in order to  
5 so identify such tests.】

6 “(H) DEVELOPMENT AND IMPLEMENTA-  
7 TION OF EDITS TO PREVENT SYSTEM GAM-  
8 ING.—The Secretary shall develop and imple-  
9 ment edits to be used with respect to claims  
10 submitted for payments the amounts of which  
11 are determined pursuant to this paragraph.  
12 Such edits shall serve the purpose of pre-  
13 venting, with respect to a clinical laboratory,  
14 improper distribution of the administration of  
15 identified clinical diagnostic laboratory tests by  
16 such laboratory over multiple calendar days  
17 and, to the extent practicable, shall be similar  
18 to the medically unlikely edits developed with  
19 respect to the National Correct Coding Initia-  
20 tive.”.