AMENDMENT TO H.R. 5804
OFFERED BY M._________

Strike section 2 and insert the following:

SEC. 2. REVIEW AND ADJUSTMENT OF PAYMENTS UNDER THE MEDICARE OUTPATIENT PROSPECTIVE PAYMENT SYSTEM TO AVOID FINANCIAL INCENTIVES TO USE OPIOIDS INSTEAD OF NON-OPIOID ALTERNATIVE TREATMENTS.

(a) OUTPATIENT PROSPECTIVE PAYMENT SYSTEM.—Section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) is amended by adding at the end the following new paragraph:

“(22) REVIEW AND REVISIIONS OF PAYMENTS FOR NON-OPIOID ALTERNATIVE TREATMENTS.—

“(A) IN GENERAL.—With respect to payments made under this subsection for covered OPD services (or groups of services), including covered OPD services assigned to a comprehensive ambulatory payment classification, the Secretary—

“(i) shall, as soon as practicable, conduct a review (part of which may include a request for information) of payments for
opioids and evidence-based non-opioid alternatives for pain management (including drugs and devices, nerve blocks, surgical injections, and neuromodulation) with a goal of ensuring that there are not financial incentives to use opioids instead of non-opioid alternatives;

“(ii) may, as the Secretary determines appropriate, conduct subsequent reviews of such payments; and

“(iii) shall consider the extent to which revisions under this subsection to such payments (such as the creation of additional groups of covered OPD services to classify separately those procedures that utilize opioids and non-opioid alternatives for pain management) would reduce payment incentives to use opioids instead of non-opioid alternatives for pain management.

“(B) PRIORITY.—In conducting the review under clause (i) of subparagraph (A) and considering revisions under clause (iii) of such subparagraph, the Secretary shall focus on covered OPD services (or groups of services) assigned
to a comprehensive ambulatory payment classification, ambulatory payment classifications that primarily include surgical services, and other services determined by the Secretary which generally involve treatment for pain management.

“(C) REVISIONS.—If the Secretary identifies revisions to payments pursuant to subparagraph (A)(iii), the Secretary shall, as determined appropriate, begin making such revisions for services furnished on or after January 1, 2020. Revisions under the previous sentence shall be treated as adjustments for purposes of application of paragraph (9)(B).

“(D) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed to preclude the Secretary—

“(i) from conducting a demonstration before making the revisions described in subparagraph (C); or

“(ii) prior to implementation of this paragraph, from changing payments under this subsection for covered OPD services (or groups of services) which include
opioids or non-opioid alternatives for pain management.”.

(b) AMBULATORY SURGICAL CENTERS.—Section 1833(i) of the Social Security Act (42 U.S.C. 1395l(i)) is amended by adding at the end the following new paragraph:

“(8) The Secretary shall apply the provisions of paragraph (22) of section 1833(t), including the second sentence of subparagraph (C) of such paragraph, to payment for services under this subsection in an appropriate manner (as determined by the Secretary).”.

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