

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3281
OFFERED BY M . _____**

Add at the end of title III the following new section:

1 **SEC. 304. ALIGNING MEDICARE FEE-FOR-SERVICE PAY-**
2 **MENT RATES ACROSS AMBULATORY SET-**
3 **TINGS.**

4 (a) IN GENERAL.—Section 1834 of the Social Secu-
5 rity Act (42 U.S.C. 1395m) is amended by adding at the
6 end the following new subsection:

7 “(aa) SITE NEUTRAL PAYMENTS FOR CERTAIN
8 SERVICES FURNISHED IN AMBULATORY SETTINGS.—

9 “(1) IN GENERAL.—For items and services fur-
10 nished in a specified ambulatory setting during 2026
11 or a subsequent year and included in an ambulatory
12 payment classification not specified pursuant to
13 paragraph (2)(A) for such year, except as provided
14 in paragraphs (5) and (6), payment under this part
15 shall be made at the applicable ambulatory setting
16 neutral payment rate specified in paragraph (3).

17 “(2) IDENTIFICATION OF SERVICES TO WHICH
18 SITE NEUTRAL PAYMENTS APPLY.—For 2026 and

1 each subsequent year, the Secretary shall do the fol-
2 lowing:

3 “(A) Specify those ambulatory payment
4 classifications including items and services
5 which are appropriately furnished only in a hos-
6 pital outpatient department setting.

7 “(B) For each ambulatory payment classi-
8 fication not specified pursuant to subparagraph
9 (A), determine and compare for each of the fol-
10 lowing settings, the volume of items and serv-
11 ices included in such classification furnished in
12 such setting during the applicable 4-year period
13 (as defined in paragraph (8)):

14 “(i) Hospital outpatient departments.

15 “(ii) Ambulatory surgical centers.

16 “(iii) A setting not described in clause
17 (i) or (ii).

18 “(3) APPLICABLE AMBULATORY SETTING NEU-
19 TRAL PAYMENT RATE.—

20 “(A) IN GENERAL.—For purposes of this
21 subsection, the applicable ambulatory setting
22 neutral payment rate, for an item or service
23 furnished in a specified ambulatory setting dur-
24 ing 2026 or a subsequent year and included in
25 an ambulatory payment classification not speci-

1 fied pursuant to paragraph (2)(A) for such
2 year, is as follows:

3 “(i) In the case that for such year,
4 the Secretary determines under paragraph
5 (2)(B) that the volume of items and serv-
6 ices included in such classification, with re-
7 spect to the applicable 4-year period, was
8 highest in the hospital outpatient depart-
9 ment setting, the applicable ambulatory
10 setting neutral payment rate is—

11 “(I) for such an item or service
12 furnished during such year in a hos-
13 pital outpatient department, the fee
14 schedule amount established under
15 the prospective payment system under
16 section 1833(t) for such item or serv-
17 ice;

18 “(II) for such an item or service
19 furnished during such year in an am-
20 bulatory surgical center, the amount
21 applied under the payment system de-
22 scribed in section 1833(i)(2)(D) for
23 such item or service; and

24 “(III) for such an item or service
25 furnished during such year in a set-

1 ting described in clause (iii) of para-
2 graph (2)(B), the amount under the
3 physician fee schedule under section
4 1848 for such item or service.

5 “(ii) In the case that for such year,
6 the Secretary determines under paragraph
7 (2)(B) that the volume of items and serv-
8 ices included in such classification, with re-
9 spect to the applicable 4-year period, was
10 highest in the ambulatory surgical center
11 setting, the applicable ambulatory setting
12 neutral payment rate is—

13 “(I) for such an item or service
14 furnished during such year in an am-
15 bulatory surgical center or a hospital
16 outpatient department, the amount
17 applied under the payment system de-
18 scribed in section 1833(i)(2)(D) for
19 such item or service; and

20 “(II) for such an item or service
21 furnished during such year in a set-
22 ting described in clause (iii) of para-
23 graph (2)(B), the amount applied
24 under the physician fee schedule

1 under section 1848 for such item or
2 service.

3 “(iii) In the case that for such year,
4 the Secretary determines under paragraph
5 (2)(B) that the volume of items and serv-
6 ices included in such classification, with re-
7 spect to the applicable 4-year period, was
8 highest in the setting described in clause
9 (iii) of such paragraph, the applicable am-
10 bulatory setting neutral payment rate for
11 such an item or service furnished in any
12 specified ambulatory setting is the amount
13 determined under paragraph (4) for such
14 item or service.

15 “(B) SPECIAL RULE.—In the case that the
16 Secretary determines for a year under subpara-
17 graph (A)(iii) with respect to an item or service
18 that the amount determined under paragraph
19 (4) shall be payable for such item or service for
20 such year, notwithstanding any other provision
21 of this paragraph, such item or service shall be
22 deemed to be payable under such paragraph for
23 each subsequent year unless the Secretary de-
24 termines, through notice and comment rule-
25 making, that extenuating circumstances war-

1 rant such item or service to be payable at a rate
2 other than that determined under paragraph
3 (4).

4 “(4) AMOUNT DETERMINED.—For purposes of
5 paragraph (3)(A)(iii), the payment amount deter-
6 mined under this paragraph for an item or service
7 furnished during a year and included in an ambula-
8 tory payment classification not specified pursuant to
9 paragraph (2)(A) for such year is the payment
10 amount for such item or service under the physician
11 fee schedule under section 1848 for practice expense
12 only multiplied by the conversion factor specified
13 under such schedule under section 1848(d), except
14 that in calculating such amount the following shall
15 apply:

16 “(A) The practice expense relative value
17 units applied under section 1848(c)(2)(C) shall
18 be the difference between weighted average
19 (across specified ambulatory settings) of the
20 nonfacility practice expense relative value units
21 and the weighted average of facility practice ex-
22 pense relative value units, except that in the
23 case of a Healthcare Common Procedure Cod-
24 ing System that has a 90-day global bundle
25 payment under the physician fee schedule under

1 section 1848, the nonfacility practice expense
2 relative value units shall be applied.

3 “(B) The units for such item or service
4 calculated under subparagraph (A) shall be
5 multiplied by a factor equal to 1 plus the per-
6 centage equal to the fraction—

7 “(i) the numerator of which is the av-
8 erage cost of ancillary items and services
9 packaged with the item or service included
10 in the classification if furnished in the hos-
11 pital outpatient department setting; and

12 “(ii) the denominator of which is the
13 average total cost of the item or services
14 included in the classification if furnished in
15 such hospital outpatient department set-
16 ting.

17 “(5) EXCEPTION.—Beginning January 1, 2026,
18 the Secretary shall reclassify the ambulatory pay-
19 ment classifications for emergency department visits,
20 critical care visits, and trauma care visits at a hos-
21 pital outpatient department as Comprehensive
22 APCs, in which all the items and services on the
23 same claim are packaged into a single payment unit.
24 Any item or service that is provided with such a visit
25 so reclassified shall not be treated as an item or

1 service included in an ambulatory payment classi-
2 fication that is otherwise not specified under para-
3 graph (2)(A), and shall not be subject to the provi-
4 sions of the preceding paragraphs of this subsection.
5 The Secretary may, pursuant to rulemaking, specify
6 exceptions to any reclassification under the first sen-
7 tence of this paragraph.

8 “(6) LIMITATION.—

9 “(A) IN GENERAL.—For 2026 and each
10 subsequent year, in the case of items and serv-
11 ices included in an ambulatory payment classi-
12 fication that is not specified under paragraph
13 (2)(A) for such year and furnished by a speci-
14 fied hospital, if the Secretary projects that ap-
15 plication of this subsection would result in total
16 payments under this part to such hospital for
17 items and services furnished by such hospital
18 during such year to be less than the applicable
19 percent specified in subparagraph (B) of such
20 payments that would have been made without
21 application of this subsection, the Secretary
22 shall apply an adjustment, as needed, to the ap-
23 plicable ambulatory setting neutral payment
24 rate that would otherwise apply under this sub-
25 section with respect to such items and services

1 furnished by such hospital during such year in
2 order for the projected total payments under
3 this part to such hospital for items and services
4 furnished by such hospital during such year
5 (after application of this subsection) to not be
6 less than the applicable percent specified in
7 subparagraph (B) of such total payments that
8 would be projected to have been made to such
9 hospital for such items and services so fur-
10 nished during such year without application of
11 this subsection.

12 “(B) APPLICABLE PERCENT.—The appli-
13 cable percent specified in this clause is as fol-
14 lows:

15 “(i) For 2026 and 2027, 95.9 per-
16 cent.

17 “(ii) For 2028 and each subsequent
18 year, 95.9 percent or any greater percent-
19 age specified by the Secretary for such
20 year.

21 “(C) RECONCILIATION.—In the case the
22 Secretary determines at the end of a year (be-
23 ginning with 2026) that total payments under
24 this subsection for items and services furnished
25 during such year by a specified hospital were

1 less than the applicable percent of total pay-
2 ments that would have been made for such
3 items and services without application of this
4 subsection, the Secretary shall pay to such hos-
5 pital an amount such that the total amount of
6 payment made under this subsection for such
7 items and services is not less than such total
8 amount that otherwise would have been paid
9 without application of this subsection.

10 “(D) SPECIFIED HOSPITAL.—For purposes
11 of this paragraph, the term ‘specified hospital’
12 means, with respect to a cost reporting period
13 with respect to a year, a subsection (d) hospital
14 that has a disproportionate patient percentage
15 under section 1886(d)(5)(F)(vi) for such period
16 that is greater than the median of the dis-
17 proportionate patient percentages of all sub-
18 section (d) hospitals for such period.

19 “(7) SPECIAL RULE RELATING TO NON-
20 EXCEPTED OFF-CAMPUS OUTPATIENT DEPARTMENTS
21 OF A PROVIDER.—In applying this subsection (in-
22 cluding in making determinations and comparisons
23 of volumes of items and services under paragraph
24 (2)(B)), a nonexcepted off-campus outpatient de-
25 partment of a provider (as defined in paragraph (8))

1 shall be treated as a setting described in clause (iii)
2 of paragraph (2)(B) in lieu of a hospital outpatient
3 department.

4 “(8) DEFINITIONS.—For purposes of this sub-
5 section:

6 “(A) APPLICABLE 4-YEAR PERIOD.—The
7 term ‘applicable 4-year period’ means, with re-
8 spect to a year, the 4-year period beginning on
9 the date that is 7 years before the first day of
10 such year.

11 “(B) NONEXCEPTED OFF-CAMPUS OUT-
12 PATIENT DEPARTMENT OF A PROVIDER.—The
13 term ‘nonexcepted off-campus outpatient de-
14 partment of a provider’ means an off-campus
15 outpatient department of a provider (as defined
16 in subparagraph (B) of section 1833(t)(21))
17 that, with respect to applicable items and serv-
18 ices (as defined for purposes of applying such
19 section), is paid under an applicable payment
20 system (as described in subparagraph (C) of
21 such section).

22 “(C) SPECIFIED AMBULATORY SETTING.—
23 the term ‘specified ambulatory setting’ means
24 each of the settings specified in a clause of
25 paragraph (2)(B).”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) PAYMENT SYSTEM FOR AMBULATORY SUR-
3 GICAL CENTER SERVICES.—Section 1833(i)(2)(D)(i)
4 of the Social Security Act (42 U.S.C.
5 1395l(i)(2)(D)(i)) is amended by striking “for pay-
6 ment” and inserting “for, subject to section
7 1834(aa), payment”.

8 (2) HOPD FEE SCHEDULE.—Section
9 1833(t)(1)(A) of the Social Security Act (42 U.S.C.
10 1395l) is amended by striking “the amount of pay-
11 ment” and inserting “subject to section 1834(aa),
12 the amount of payment”.

13 (3) PHYSICIAN FEE SCHEDULE.—Section
14 1848(a)(1)(B) of the Social Security Act (42 U.S.C.
15 1395w-4(a)(1)(B)) is amended by inserting “and
16 section 1834(aa)” after “succeeding provisions of
17 this subsection”.

