

[DISCUSSION DRAFT]

118TH CONGRESS  
1ST SESSION

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

To provide for certain adjustments to the physician fee schedule under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

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

**A BILL**

To provide for certain adjustments to the physician fee schedule 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 “Provider Reimburse-  
5 ment Stability Act of 2023”.

6 **SEC. 2. UPDATING THE BUDGET NEUTRALITY THRESHOLD.**

7 Section 1848(c)(2)(B)(ii)(II) of the Social Security  
8 Act (42 U.S.C. 1395w-4(c)(2)(B)(ii)(II)) is amended—

1           (1) by striking “Subject to” and inserting the  
2 following:

3                           “(aa) IN GENERAL.—Sub-  
4                           ject to”;

5           (2) in item (aa), as inserted by subparagraph  
6 (A), by striking “\$20,000,000” and inserting “the  
7 amount specified in item (bb) for such year”; and

8           (3) by adding at the end the following new  
9 items:

10                           “(bb) AMOUNT SPECI-  
11                           FIED.—For purposes of item  
12                           (aa), subject to item (cc), the  
13                           amount specified in this item  
14                           is—

15                           “(AA) for years before  
16                           2025, \$20,000,000;

17                           “(BB) for 2025,  
18                           \$53,000,000; and

19                           “(CC) for 2026 and  
20                           each subsequent year, the  
21                           amount specified in this  
22                           item for the preceding year.

23                           “(cc) INDEXING LIMITATION  
24                           ON ANNUAL ADJUSTMENTS.—For  
25                           2030 and every subsequent fifth

1 year, the Secretary shall increase  
2 the amount specified in item (bb)  
3 for such year by the cumulative  
4 increase in the MEI (as defined  
5 in section 1842(i)(3)) applicable  
6 to physicians' services over the 5-  
7 year period ending on the last  
8 day of the preceding year.”.

9 **SEC. 3. BUDGET NEUTRALITY CORRECTIONS FOR OVER-**  
10 **ESTIMATES AND UNDERESTIMATES IN UTILI-**  
11 **ZATION.**

12 (a) IN GENERAL.—Section 1848(c)(2)(B) of the So-  
13 cial Security Act (42 U.S.C. 1395w-4(c)(2)(B)) is amend-  
14 ed by adding at the end the following new clause:

15 “(vii) BUDGET NEUTRALITY CORREC-  
16 TIONS FOR OVERESTIMATES AND UNDER-  
17 ESTIMATES IN UTILIZATION.—

18 “(I) IN GENERAL.—In the case  
19 of a budget neutrality adjustment ap-  
20 plied pursuant to clause (ii)(II) for an  
21 adjustment application year (as de-  
22 fined in clause (viii)(I)) beginning  
23 with 2025, with respect to an adjust-  
24 ment to relative value units made  
25 under clause (ii)(I), that is deter-

1                   mined using estimated utilization (as  
2                   defined in clause (viii)(III))—

3                                 “(aa) the Secretary shall, by  
4                                 not later than September 1 of the  
5                                 subsequent year—

6   “(AA) compare such es-  
7   timated utilization to actual  
8   utilization occurring during  
9   such adjustment application  
10                                        year with respect to the ad-  
11                                        justment to the relative  
12                                        value units made under  
13                                        clause (ii)(I); and

14                                        “(BB) if applicable, de-  
15                                        termine the extent to which,  
16                                        if any, the difference be-  
17                                        tween the estimated utiliza-  
18                                        tion and such actual utiliza-  
19                                        tion affected the amount of  
20                                        such budget neutrality ad-  
21                                        justment applied for such  
22                                        adjustment application year;  
23                                        and

24                                        “(bb) in the case that the  
25                                        Secretary determines under sub-

1 clause (I)(bb) that the difference  
2 between the estimated utilization  
3 and such actual utilization af-  
4 fected the amount of the budget  
5 neutrality adjustment applied for  
6 such adjustment application year,  
7 the Secretary shall adjust the  
8 amount of payment made under  
9 this section for services furnished  
10 during the adjustment correction  
11 period (as defined in clause  
12 (viii)(II)) with respect to such  
13 year by such amount as deter-  
14 mined necessary by the Secretary  
15 to reconcile the difference (which  
16 may be positive or negative) be-  
17 tween—

18 “(AA) the budget neu-  
19 trality adjustment that had  
20 been applied for such appli-  
21 cation adjustment year,  
22 using the estimated utiliza-  
23 tion; and

24 “(BB) the budget neu-  
25 trality adjustment that

1 would have been applied for  
2 such year if such adjustment  
3 had been calculated using  
4 such actual utilization.

5 “(II) DEFINITIONS.—For pur-  
6 poses of this clause:

7 “(aa) ADJUSTMENT APPLI-  
8 CATION YEAR.—The term ‘ad-  
9 justment application year’ means,  
10 with respect to an adjustment to  
11 relative value units made under  
12 clause (ii)(I) for which a budget  
13 neutrality adjustment under  
14 clause (ii)(II) is required, the  
15 year for which such adjustments  
16 are applied.

17 “(bb) ADJUSTMENT COR-  
18 RECTION PERIOD.—The term  
19 ‘adjustment correction period’  
20 means, with respect to an adjust-  
21 ment application year, the second  
22 year beginning after such adjust-  
23 ment application year.

24 “(cc) ESTIMATED UTILIZA-  
25 TION.—The term ‘estimated utili-

1 zation’ means, with respect to an  
2 adjustment to relative value units  
3 made under clause (ii)(I), an es-  
4 timate of utilization associated  
5 with such adjustment used for  
6 purposes of applying clause  
7 (ii)(II).”.

8 (b) NONAPPLICATION OF BUDGET NEUTRALITY TO  
9 RECONCILIATION ADJUSTMENTS.—Section 1848(c)(2)(B)  
10 of the Social Security Act (42 U.S.C. 1395w–4(c)(2)(B))  
11 is amended—

12 (1) in clause (iv)—

13 (A) in subclause (V), by striking “and” at  
14 the end;

15 (B) in subclause (VI), by striking the pe-  
16 riod and inserting “; and”; and

17 (C) by adding at the end the following new  
18 subclause:

19 “(VII) clause (vii)(I)(bb) for an  
20 adjustment correction period shall not  
21 be taken into account in applying  
22 clause (ii)(II) with respect to such pe-  
23 riod.”; and

24 (2) in clause (v), by adding at the end the fol-  
25 lowing new subclause:

1                   “(XII) REDUCTIONS ATTRIB-  
2                   UTABLE TO AN ADJUSTMENT CORREC-  
3                   TION.—For an adjustment correction  
4                   period, reduced expenditures attrib-  
5                   utable to application of clause  
6                   (vii)(I)(bb) with respect to such pe-  
7                   riod.”.

8   **SEC. 4. TIMELY UPDATES TO DIRECT COSTS USED TO CAL-**  
9                   **CULATE PRACTICE EXPENSE RVUS.**

10           Section 1848(c)(2)(B) of the Social Security Act (42  
11   U.S.C. 1395w-4(c)(2)(B)), as amended by section 3, is  
12   further amended by adding at the end the following new  
13   clause:

14                   “(viii) TIMELY UPDATES TO DIRECT  
15                   COSTS USED TO CALCULATE PRACTICE EX-  
16                   PENSE RELATIVE VALUE UNITS.—

17                   “(I) SIMULTANEOUS UPDATES TO  
18                   DIRECT COST INPUTS AT LEAST ONCE  
19                   EVERY 5 YEARS.—The Secretary shall,  
20                   not less often than every 5 years, up-  
21                   date the prices and rates, as applica-  
22                   ble, for each of the direct costs inputs  
23                   described in subclause (II) used in the  
24                   methodology for calculating the prac-  
25                   tice expense relative value units under



1           this subsection for physicians’ serv-  
2           ices. Updates made pursuant to the  
3           previous sentence shall be made in the  
4           same year for all direct cost inputs  
5           described in such subclause.

6                           “(II) DIRECT COSTS INPUT CAT-  
7                           EGORIES DESCRIBED.—For purposes  
8                           of this clause, the direct costs inputs  
9                           described in this subclause are clinical  
10                          staff wage rates, prices of medical  
11                          supplies, and prices of equipment.

12                          “(III) CONSULTATION.—In mak-  
13                          ing the updates under this clause, the  
14                          Secretary shall consult with relevant  
15                          stakeholders, including physician spe-  
16                          cialty societies.”.

17 **SEC. 5. LIMITATION ON YEAR-TO-YEAR CONVERSION FAC-**  
18 **TOR VARIANCE.**

19           Section 1848(c)(2)(B) of the Social Security Act (42  
20 U.S.C. 1395w-4(c)(2)(B)), as amended by sections 3 and  
21 4, is further amended— by adding at the end the following  
22 new clause:

23                           “(ix) LIMITATION ON CONVERSION  
24                           FACTOR VARIANCE.—

1                   “(I) IN GENERAL.—In the case  
2                   that application of clause (ii)(II) for a  
3                   year (beginning with 2025) would re-  
4                   sult in a conversion factor established  
5                   under subsection (d) for such year,  
6                   not taking into account any adjust-  
7                   ment provided under such subsection,  
8                   to vary by more than 2.5 percent com-  
9                   pared to such factor so established for  
10                  the preceding year (in this subclause  
11                  referred to as the ‘preceding year’s  
12                  conversion factor’), the Secretary  
13                  shall—

14                   “(aa) if such application  
15                   would result in a decrease in  
16                   such conversion factor, modify  
17                   any budget neutrality adjustment  
18                   applied to such conversion factor  
19                   pursuant to such clause such  
20                   that such conversion factor is de-  
21                   creased by 2.5 percent, not tak-  
22                   ing into account any adjustment  
23                   provided under such subsection,  
24                   compared to the preceding year’s  
25                   conversion factor; and

1                   “(bb) if such application  
2                   would result in an increase in  
3                   such conversion factor, modify  
4                   any budget neutrality adjustment  
5                   applied to such conversion factor  
6                   pursuant to such clause such  
7                   that such conversion factor is in-  
8                   creased by 2.5 percent, not tak-  
9                   ing into account any adjustment  
10                  provided under such subsection,  
11                  compared to the preceding year’s  
12                  conversion factor.

13                  “(II) SPECIAL RULE FOR 2025.—  
14                  In applying subclause (I) with respect  
15                  to the conversion factor established  
16                  under subsection (d) for 2025, in de-  
17                  termining whether the application of  
18                  clause (ii)(II) for such year would re-  
19                  sult in such conversion factor varying  
20                  by more than 2.5 percent compared to  
21                  such factor so established for 2024,  
22                  the Secretary shall take into account  
23                  the increase to such conversion factor  
24                  so established for 2024 provided  
25                  under subsection (t).

1                   “(III) CLARIFICATION RELATING  
2                   TO TRANSITION TO MULTIPLE CON-  
3                   VERSION FACTORS.—For 2026, in ap-  
4                   plying subclause (I) with respect to  
5                   the qualifying APM conversion factor  
6                   (as described in subsection (d)(1)(A))  
7                   and the nonqualifying APM conver-  
8                   sion factor (as so described) estab-  
9                   lished under subsection (d) for such  
10                  year, each reference in such subclause  
11                  to the ‘preceding year’s conversion  
12                  factor’ shall be deemed to be a ref-  
13                  erence to ‘the single conversion factor  
14                  (as described in subsection (d)(1)(A))  
15                  so established for 2025’.”.