

[DISCUSSION DRAFT]

114TH CONGRESS
2^D SESSION

H. R. _____

To amend title XVIII of the Social Security Act to create a post-acute care value-based purchasing program within the Medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

_____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title XVIII of the Social Security Act to create a post-acute care value-based purchasing program within the Medicare program, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare Post-Acute
5 Care Value-Based Purchasing Act of 2016”.

1 **SEC. 2. POST-ACUTE CARE VALUE-BASED PURCHASING**
2 **PROGRAM.**

3 (a) IN GENERAL.—Section 1899B of the Social Secu-
4 rity Act (42 U.S.C. 1395lll) is amended—

5 (1) in the heading, by inserting “; **POST-**
6 **ACUTE CARE VALUE-BASED PURCHASING PRO-**
7 **GRAM**” before the period at the end; and

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

10 “(n) **POST-ACUTE CARE VALUE-BASED PURCHASING**
11 **PROGRAM (PAC VBP PROGRAM).**—

12 “(1) **ESTABLISHMENT.**—

13 “(A) **IN GENERAL.**—Subject to the suc-
14 ceeding provisions of this subsection, the Sec-
15 retary shall establish a post-acute care value-
16 based purchasing program (in this subsection
17 referred to as the ‘PAC VBP Program’) under
18 which value-based incentive payments are made
19 in a payment year to PAC providers.

20 “(B) **PROGRAM IMPLEMENTATION.**—The
21 PAC VBP Program shall apply to payments for
22 services furnished in payment years beginning
23 on or after October 1, 2019.

24 “(C) **TREATMENT OF NEW PAC PRO-**
25 **VIDERS.**—In the case of a PAC provider that
26 first begins participation in the program under

1 this title during the performance period for a
2 payment year (and had not previously begun
3 such participation in such program under this
4 title as such a provider under a different billing
5 number or tax identifier), such provider shall
6 not be treated under this subsection as a PAC
7 provider until the subsequent payment year and
8 performance period for such subsequent pay-
9 ment year.

10 “(D) PAYMENT YEAR DEFINED.—In this
11 subsection, the term ‘payment year’ means—

12 “(i) for PAC providers described in
13 clause (i) of subsection (a)(2)(A) (relating
14 to home health agencies), a calendar year;
15 and

16 “(ii) for all other PAC providers, a
17 fiscal year.

18 “(E) TYPE OF PROVIDER DEFINED.—In
19 this subsection, the term ‘type of provider’
20 means, with respect to PAC providers, each of
21 the types of PAC providers described in a
22 clause in subsection (a)(2)(A).

23 “(2) APPLICATION OF MEASURES.—Under the
24 PAC VBP Program, the following shall apply:

1 “(A) REQUIRED USE OF MEDICARE SPEND-
2 ING PER BENEFICIARY, DISCHARGE TO COMMU-
3 NITY, ALL-CONDITION RISK-ADJUSTED POTEN-
4 Tially PREVENTABLE HOSPITAL READMIS-
5 SION.—The Secretary shall, beginning not later
6 than October 1, 2019, apply the measures spec-
7 ified under subsection (d)(1) for purposes of
8 such Program.

9 “(B) PERMISSIVE USE OF QUALITY MEAS-
10 URES AND GEOGRAPHIC MEASURES.—The Sec-
11 retary may, beginning not sooner than October
12 1, 2021, apply—

13 “(i) the measures specified under sub-
14 section (c)(1) for purposes of such Pro-
15 gram; and

16 “(ii) the geographic measures speci-
17 fied under subsection (d)(4) for such pur-
18 poses.

19 “(3) PERFORMANCE STANDARDS.—

20 “(A) ESTABLISHMENT.—The Secretary
21 shall establish performance standards consistent
22 with this paragraph with respect to the meas-
23 ures applied under paragraph (2) for a per-
24 formance period for a payment year.

1 “(B) SPECIAL PROHIBITION OF CROSS-
2 PAC-PROVIDER COMPARISONS.—When, pursuant
3 to paragraph (2), applying performance stand-
4 ards established under subparagraph (A) with
5 respect to each PAC provider, the Secretary
6 may not apply such standards by making com-
7 parisons across PAC providers (such as by com-
8 paring home health agencies to rehabilitation
9 facilities).

10 “(C) HIGHER OF ACHIEVEMENT AND IM-
11 PROVEMENT.—The performance standards es-
12 tablished under subparagraph (A) shall include
13 levels of achievement and improvement. In cal-
14 culating the performance score of a PAC pro-
15 vider (including an area) under paragraph (4),
16 the Secretary shall use the higher of either im-
17 provement or achievement.

18 “(D) TIMING.—The Secretary shall estab-
19 lish and announce the performance standards
20 established under subparagraph (A) for a pay-
21 ment year not later than 60 days before the be-
22 ginning of the performance period for the pay-
23 ment year.

24 “(4) PAC PERFORMANCE SCORES.—

1 “(A) IN GENERAL.—The Secretary shall
2 develop a methodology for assessing the total
3 performance of each PAC provider based on
4 performance standards established under para-
5 graph (3) with respect to all measures applied
6 under paragraph (2) for a performance period
7 for a payment year.

8 “(B) COMPUTATION OF COMPOSITE PER-
9 FORMANCE SCORES.—

10 “(i) IN GENERAL.—Using the method-
11 ology developed under subparagraph (A),
12 the Secretary shall provide for a composite
13 assessment (in this subsection referred to
14 as the ‘PAC composite performance score’)
15 for each PAC provider for each perform-
16 ance period.

17 “(ii) WEIGHTING OF MEASURES.—In
18 calculating PAC composite performance
19 scores, the Secretary shall weight the
20 scores in such a manner as to ensure
21 that—

22 “(I) not less than 60 percent of
23 such score is based on performance
24 with respect to the measures applied
25 under paragraph (2)(A); and

1 “(II) a greater percentage of
2 such score is based on performance
3 with respect to the measure applied in
4 subsection (d)(1)(A) than on perform-
5 ance with respect to each of the meas-
6 ures applied in subsection (d)(1)(B)
7 and subsection (d)(1)(C).

8 “(C) RANKING OF COMPOSITE PERFORM-
9 ANCE SCORES.—The Secretary shall, for each
10 performance period and each track that will
11 apply under paragraph (6) to the payment year
12 for such performance period, rank the PAC
13 composite performance scores determined under
14 subparagraph (A) for such performance period
15 and track from lowest to highest.

16 “(5) CALCULATION OF VALUE-BASED INCEN-
17 TIVE PAYMENTS.—

18 “(A) IN GENERAL.—With respect to a
19 PAC provider for a performance period for a
20 payment year, the Secretary shall increase the
21 payment basis specified in subparagraph (B)
22 otherwise applicable to such provider for serv-
23 ices furnished by such provider during such
24 payment year by the value-based incentive pay-

1 ment percentage specified under subparagraph
2 (C) for the provider and payment year.

3 “(B) PAYMENT BASIS.—The payment
4 basis specified in this subparagraph for a type
5 of provider is as follows, as applied after the
6 application of paragraph (6):

7 “(i) SKILLED NURSING FACILITIES.—
8 For skilled nursing facilities, the adjusted
9 Federal per diem rate under section
10 1888(e)(4).

11 “(ii) INPATIENT REHABILITATION FA-
12 CILITIES.—For inpatient rehabilitation fa-
13 cilities, the prospective per unit payment
14 rate under section 1886(j)(3).

15 “(iii) LONG-TERM CARE HOSPITALS.—
16 For long-term care hospitals, the standard
17 Federal rate under section 1886(m), or, if
18 applicable, the applicable site neutral pay-
19 ment rate under paragraph (6) of such
20 section.

21 “(iv) HOME HEALTH AGENCIES.—For
22 home health agencies, the standard pro-
23 spective payment amount (or amounts)
24 under section 1895(b)(3).

1 “(C) VALUE-BASED INCENTIVE PAYMENT
2 PERCENTAGE.—The Secretary shall specify a
3 value-based incentive payment percentage for
4 each PAC provider for a payment year, which
5 may include a zero percentage but not a per-
6 centage below zero. In specifying the value-
7 based incentive payment percentage for each
8 PAC provider for a payment year under this
9 subparagraph, the Secretary shall ensure that—

10 “(i) such percentage is based on the
11 ranking of PAC composite performance
12 score of the provider under paragraph (4)
13 for the performance period for the pay-
14 ment year; and

15 “(ii) the application of all such per-
16 centages for a type of PAC provider for a
17 payment year results in an appropriate dis-
18 tribution of value-based incentive increases
19 under subparagraph (A) such that—

20 “(I) PAC providers with the
21 highest rankings under paragraph (4)
22 receive the highest value-based incen-
23 tive payment percentages under this
24 subparagraph; and

1 “(II) PAC providers with the
2 lowest rankings under such paragraph
3 receive the lowest value-based incen-
4 tive payment percentages under this
5 subparagraph.

6 “(6) ESTABLISHMENT OF PERFORMANCE-RISK
7 SYSTEM.—

8 “(A) INITIAL TWO-TRACK SYSTEM.—The
9 Secretary shall, for a payment year beginning
10 during an applicable year, reduce the payment
11 basis (as defined in paragraph (5)(B)), not tak-
12 ing into account any increase under paragraph
13 (5), for—

14 “(i) a PAC provider that is a high
15 performance-risk PAC provider for such
16 payment year, by the percentage described
17 in clause (i) of such subparagraph for such
18 applicable year; and

19 “(ii) a PAC provider that is a low per-
20 formance-risk PAC provider for such pay-
21 ment year, by the percentage described in
22 clause (ii) of such subparagraph for such
23 applicable year.

24 “(B) REDUCTION AMOUNTS.—

1 “(i) HIGH PERFORMANCE-RISK
2 TRACK.—For purposes of subparagraph
3 (A)(i), the percentage described in this
4 clause is the following:

5 “(I) For 2020, 2 percent.

6 “(II) For 2021, 3 percent.

7 “(III) For 2022, 4 percent.

8 “(IV) For 2023 and each subse-
9 quent applicable fiscal year, 5 percent.

10 “(ii) LOW PERFORMANCE-RISK
11 TRACK.—For purposes of subparagraph
12 (A)(ii), the percentage described in this
13 clause is the following:

14 “(I) For 2020, 1 percent.

15 “(II) For 2021, 1.25 percent.

16 “(III) For 2022, 1.5 percent.

17 “(IV) For 2023, 1.75 percent;

18 and

19 “(V) For 2024 and each subse-
20 quent applicable year, 2 percent.

21 “(C) MERGER INTO SINGLE TRACK SYS-
22 TEM.—Not earlier than October 1, 2026, the
23 Secretary shall, through rulemaking, establish a
24 single reduction method to be applied under
25 this subsection, including an appropriate transi-

1 tion schedule. Such reduction method may not,
2 for a payment year beginning during an appli-
3 cable year, reduce the payment basis (as de-
4 fined in paragraph (5)(B)) for a PAC provider
5 for such payment year, taking into account any
6 increase under paragraph (5), by a percentage
7 that is greater than 2 percent.

8 “(D) HIGH PERFORMANCE-RISK AND LOW
9 PERFORMANCE-RISK PAC PROVIDERS DE-
10 FINED.—For purposes of this subsection:

11 “(i) HIGH PERFORMANCE-RISK PAC
12 PROVIDER.—The term ‘high performance-
13 risk PAC provider’ means, with respect to
14 a payment year beginning during an appli-
15 cable year, any PAC provider that is not a
16 low performance-risk PAC provider for
17 such payment year.

18 “(ii) LOW PERFORMANCE-RISK PAC
19 PROVIDER.—The term ‘low performance-
20 risk PAC provider’ means, with respect to
21 a payment year beginning during an appli-
22 cable year, any of the following:

23 “(I) A PAC provider that re-
24 ceived payments under the Skilled
25 Nursing Facility Value-Based Pur-

1 chasing program under section
2 1888(h) during the previous payment
3 year.

4 “(II) A PAC provider that par-
5 ticipated in the Home Health Value-
6 Based Purchasing model described
7 section 484.300, 484.305, 484.310,
8 484.315, 484.320, or 484.325 of title
9 42, Code of Federal Regulations (or
10 any successor regulation), during the
11 previous payment year.

12 “(III) A PAC provider that par-
13 ticipated in the Comprehensive Care
14 Joint Replacement (CJR) model con-
15 ducted pursuant to section 1115A (in-
16 cluding a PAC provider that so par-
17 ticipated in such model pursuant to
18 the expansion of such model under
19 section 3(d) of the Medicare Post-
20 Acute Care Value-Based Purchasing
21 Act of 2016) during the previous pay-
22 ment year.

23 “(IV) A PAC provider partici-
24 pating in the Bundled Payments for
25 Care Improvement (BPCI) initiative

1 conducted pursuant to section 1115A
2 during the previous payment year.

3 “(V) Any PAC provider that,
4 with respect to the previous applicable
5 year, was described in any of the pre-
6 vious subclauses of this clause.

7 “(E) APPLICABLE YEAR.—For purposes of
8 this subsection, the term ‘applicable year’
9 means a year beginning with 2020 and ending
10 with the year that ends immediately before the
11 first year for which the single reduction method
12 under subparagraph (C) applies.

13 “(F) IMPLEMENTATION.—The Secretary
14 shall make such reductions for all PAC pro-
15 viders in the payment year involved, regardless
16 of whether or not the PAC provider has been
17 determined by the Secretary to have earned a
18 value-based incentive payment increase under
19 paragraph (5) for such payment year. In mak-
20 ing such reductions, the Secretary may use
21 such estimates in payments as may be nec-
22 essary to account for the fact that payment lev-
23 els for home health services are established
24 based on a calendar year and payment levels for
25 services of skilled nursing facilities, inpatient

1 rehabilitation facilities, and long-term care hos-
2 pitals are established based on a fiscal year
3 basis.

4 “(7) ANNOUNCEMENT OF NET RESULT OF AD-
5 JUSTMENTS.—Under the PAC VBP Program, the
6 Secretary shall, not later than 60 days prior to the
7 payment year involved, inform each PAC provider of
8 the adjustments to payments to the PAC provider
9 for services furnished by such provider during the
10 payment year under paragraphs (5) and (6).

11 “(8) NO EFFECT IN SUBSEQUENT FISCAL
12 YEARS.—The value-based incentive payment increase
13 under paragraph (5) and the payment reduction
14 under paragraph (6) shall each apply only with re-
15 spect to the payment year involved, and the Sec-
16 retary shall not take into account such value-based
17 incentive payment increase or payment reduction in
18 making payments to a PAC provider under this title
19 in a subsequent payment year.

20 “(9) PUBLIC REPORTING.—

21 “(A) PAC SPECIFIC INFORMATION.—The
22 Secretary shall make available to the public, by
23 posting on the relevant Compare Medicare
24 website (or a successor website) in an easily un-
25 derstandable format, information regarding the

1 performance of individual PAC providers under
2 the PAC VBP Program, with respect to a pay-
3 ment year, including—

4 “(i) the PAC composite performance
5 score of the PAC provider for such pay-
6 ment year; and

7 “(ii) the ranking of the PAC provider
8 under paragraph (4)(C) with respect to the
9 applicable track described in such para-
10 graph for the performance period for such
11 payment year.

12 “(B) AGGREGATE INFORMATION.—The
13 Secretary shall periodically post on the relevant
14 websites referred to in subparagraph (A) aggre-
15 gate information on the PAC VBP Program for
16 the types of providers, including—

17 “(i) the range of PAC composite per-
18 formance scores under paragraph (4)(B);
19 and

20 “(ii) the number of PAC providers of
21 each type receiving value-based incentive
22 payment increases under paragraph (5)
23 and the range and total amount of such
24 value-based incentive payment increases.

1 “(10) LIMITATION ON REVIEW.—There shall be
2 no administrative or judicial review under section
3 1869, section 1878, or otherwise of the following:

4 “(A) The establishment of the performance
5 standards under paragraph (3) and the per-
6 formance period.

7 “(B) The methodology developed under
8 paragraph (4) that is used to calculate PAC
9 composite performance scores and the calcula-
10 tion of such scores.

11 “(C) The ranking determinations under
12 paragraph (4)(C).

13 “(D) The methodology used to determine
14 the value-based incentive payment percentages
15 under paragraph (5).”.

16 (b) APPLICATION OF GEOGRAPHIC MEASURES.—Sec-
17 tion 1899B of the Social Security Act (42 U.S.C. 1395lll)
18 is amended—

19 (1) in subsection (a)(2)(E), by adding at the
20 end the following new clause:

21 “(iii) GEOGRAPHIC MEASURES.—In
22 the case of geographic measures under
23 subsection (d)(4)—

1 “(I) for PAC providers described
2 in clauses (ii), (iii), and (iv) of para-
3 graph (2)(A), October 1, 2018; and

4 “(II) for PAC providers de-
5 scribed in clause (i) of such para-
6 graph, January 1, 2019.”; and

7 (2) in subsection (d), by adding at the end the
8 following new paragraph:

9 “(4) Not later than the specified application
10 date, as applicable to measures and PAC providers,
11 the Secretary shall specify geographic measures on
12 which PAC providers are required under the applica-
13 ble reporting provisions to submit standardized pa-
14 tient assessment data described in subsection (b)(1)
15 and other necessary data specified by the Secretary.
16 Such measures shall be representative of the equiva-
17 lent of the measures applied under paragraph (1),
18 but applied for all PAC providers, regardless of type,
19 in each hospital referral region or comparable area
20 (as determined by the Secretary) in which an indi-
21 vidual receives a service from any PAC provider in-
22 volved under this title.”.

23 (c) CONFORMING AMENDMENTS TO PAYMENT SYS-
24 TEMS.—

1 (1) SNF PAYMENT.—Section 1888(e) of the
2 Social Security Act (42 U.S.C. 1395yy(e)) is amend-
3 ed—

4 (A) in paragraph (4), by adding at the end
5 the following new subparagraph:

6 “(I) VALUE-BASED PURCHASING ADJUST-
7 MENT.—The adjusted Federal per diem rate
8 under subparagraph (B) is subject to adjust-
9 ment under paragraphs (5) and (6) of section
10 1899B(n).”; and

11 (B) in paragraph (6)(B)(i)(II), by striking
12 “subsection (d)(1)” each place it appears and
13 inserting “paragraphs (1) and (4) of subsection
14 (d)”.

15 (2) INPATIENT REHABILITATION FACILITIES.—
16 Section 1886(j) of the Social Security Act (42
17 U.S.C. 1395ww(j)) is amended—

18 (A) in paragraph (3), by adding at the end
19 the following new subparagraph:

20 “(D) VALUE-BASED PURCHASING ADJUST-
21 MENT.—The prospective per unit payment rate
22 under this paragraph is subject to adjustment
23 under paragraphs (5) and (6) of section
24 1899B(n).”; and

1 (B) in paragraph (7)(F)(i), by striking
2 “subsection (d)(1)” each place it appears and
3 inserting “paragraphs (1) and (4) of subsection
4 (d)”.

5 (3) LONG-TERM CARE HOSPITALS.—Section
6 1886(m) of the Social Security Act (42 U.S.C.
7 1395ww(m)) is amended—

8 (A) in paragraph (5)(F)(i)—

9 (i) by striking “subsection (d)(1)”
10 each place it appears and inserting “para-
11 graphs (1) and (4) of subsection (d)”;

12 (B) by adding at the end the following new
13 paragraph:

14 “(7) VALUE-BASED PURCHASING ADJUST-
15 MENT.—The standard Federal rate under this sub-
16 section, or, if applicable, the applicable site neutral
17 payment rate under paragraph (6), is subject to ad-
18 justment under paragraphs (5) and (6) of section
19 1899B(n).”.

20 (4) HOME HEALTH AGENCIES.—Section
21 1895(b)(3) of the Social Security Act (42 U.S.C.
22 1395fff(b)(3)) is amended—

23 (A) in subparagraph (B)(v)(IV)(aa), by
24 striking “subsection (d)(1)” each place it ap-

1 pears and inserting “paragraphs (1) and (4) of
2 subsection (d)”;

3 (B) by adding at the end the following new
4 subparagraph:

5 “(D) VALUE-BASED PURCHASING ADJUST-
6 MENT.—The standard prospective payment
7 amount (or amounts) under this paragraph is
8 subject to adjustment under paragraphs (5)
9 and (6) of section 1899B(n).”.

10 (d) TECHNICAL CORRECTIONS TO APPLICATION OF
11 PAC MEASURES.—

12 (1) QUALITY MEASURES.—Section 1899B of
13 the Social Security Act (42 U.S.C. 1395lll) is
14 amended—

15 (A) in subsection (a)(2)(E)(i)—

16 (i) in subclause (I), by striking “do-
17 main” and inserting “measure”;

18 (ii) in subclause (II), by striking “do-
19 main” and inserting “measure”;

20 (iii) in subclause (III), by striking
21 “domain” and inserting “measure”;

22 (iv) in subclause (IV), by striking
23 “domain” and inserting “measure”; and

24 (v) in subclause (V), by striking “do-
25 main” and inserting “measure”; and

1 (B) in subsection (e)(1), by striking “do-
2 mains”.

3 (2) MEDICARE SPENDING PER BENEFICIARY
4 MEASURE.—Section 1899B(d) of the Social Security
5 Act (42 U.S.C. 1395ll(d)) is amended—

6 (A) in paragraph (1)—

7 (i) in the matter preceding subpara-
8 graph (A), by striking “domains”; and

9 (ii) in subparagraph (A), by striking
10 “Resource use measures, including total”
11 and inserting “Total”;

12 (B) in paragraph (2)(C), by striking
13 “measures with respect to the domain” and in-
14 serting “the measure”; and

15 (C) in paragraph (3)(A), by striking “other
16 measures specified under this subsection with
17 respect to the domain” and inserting “the
18 measure”.

19 **SEC. 3. EPISODE-BASED PAYMENT.**

20 (a) TOTAL KNEE ANTHROPLASTY.—

21 (1) IN GENERAL.—Beginning not later than
22 January 1, 2018, payment under subsections (i) and
23 (t) of section 1833 of the Social Security Act (42
24 U.S.C. 1395l) shall be allowed for procedures involv-

1 ing total knee arthroplasty (billed under Common
2 Procedural Terminology (CPT) code 27447).

3 (2) MODIFICATIONS TO THE INPATIENT ONLY
4 LIST.—The Secretary of Health and Human Serv-
5 ices shall modify the Inpatient Only List under sec-
6 tion 18781 of title 65, Federal Register (or any suc-
7 cessor regulation) to be in accordance with para-
8 graph (1).

9 (b) STUDY REGARDING ALTERNATIVE PAYMENT
10 MODELS.—Not later than January 1, 2021, the Secretary
11 of Health and Human Services shall submit to Congress
12 a report, including the following:

13 (1) The effects resulting from the implementa-
14 tion of the provisions of subsection (a) on both the
15 Comprehensive Care Joint Replacement (CJR)
16 model described in subclause (III) of section
17 1899B(n)(6)(D)(ii), as added by section 3(a)(2), and
18 the Bundled Payments for Care Improvement
19 (BPCI) model described in subclause (IV) of such
20 section.

21 (2) Results of a modeling simulation that would
22 substitute the relevant inpatient Medicare-Severity
23 Diagnosis-Related Group (MS-DRG) rate when cal-
24 culating a participant hospital's actual episode
25 spending for the services for which payment is al-

1 lowed under subsections (i) and (t) of section 1833
2 of the Social Security Act (42 U.S.C. 1395l) pursu-
3 ant to subsection (a) in the Comprehensive Care
4 Joint Replacement (CJR) model and the Bundled
5 Payments for Care Improvement (BPCI) model de-
6 scribed in paragraph (1).

7 (3) Recommendations for which quality meas-
8 ures should be applied to supplement the new billing
9 patterns resulting from the implementation of sub-
10 section (a).

11 (c) INTERIM RISK ADJUSTMENT METHODOLOGY.—
12 Prior to January 1, 2021, the Secretary of Health and
13 Human Services may implement an additional risk adjust-
14 ment methodology for the Comprehensive Care Joint Re-
15 placement (CJR) model and the Bundled Payments for
16 Care Improvement (BPCI) model described in subsection
17 (b)(1). In determining such methodology, the Secretary
18 may consider the risk adjustment methodology used with
19 respect to the Hospital-Level Risk-Standardized Com-
20 plication Rate (RSCR) Following Elective Primary Total
21 Hip Arthroplasty (THA) and/or Total Knee Arthroplasty
22 (TKA) (NQF #1550) under section 510 of title 42, Code
23 of Federal Regulations, as developed pursuant to section
24 1886(b)(3)(B)(viii) of the Social Security Act (42 U.S.C.
25 1395ww(b)(3)(B)(viii)).

1 (d) EXPANSION OF ALTERNATIVE PAYMENT MOD-
2 ELS.—

3 (1) IN GENERAL.—Beginning not later than
4 January 1, 2021, the Secretary of Health and
5 Human Services shall allow all providers of services
6 and suppliers that submit claims for payment under
7 subsection (i) or (t) of section 1833 of the Social Se-
8 curity Act (42 U.S.C. 1395l) pursuant to subsection
9 (a) of this section for services described in such sub-
10 section (a) to participate in the Medicare inpatient
11 hospital Comprehensive Care for Joint Replacement
12 Model (CJR) (as described in subsection
13 (n)(6)(D)(ii)(III) of section 1899B of the Social Se-
14 curity Act (42 U.S.C. 1395lll), as added by section
15 3). In so expanding such Model, the Secretary shall
16 consider rebasing the reimbursement amounts for an
17 episode-based payment that is made to such pro-
18 viders of services and suppliers that so participate in
19 such Model and that are allowed to so participate on
20 account of the preceding sentence.

21 (2) RULE OF CONSTRUCTION.—Nothing in
22 paragraph (1) shall be construed to affect the au-
23 thority of the Secretary of Health and Human Serv-
24 ices to require the participation of providers of serv-
25 ices, suppliers, or beneficiaries in the testing or ex-

1 pansion of any innovative payment and service deliv-
2 ery model under section 1115A of the Social Secu-
3 rity Act (42 U.S.C. 1315a) other than the model de-
4 scribed in paragraph (1).