AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 9644 OFFERED BY MR. SMITH OF MISSOURI

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Advantage MLR Transparency Act''.

SEC. 2. PROMOTING TRANSPARENCY OF MEDICARE ADVANTAGE PLAN INFORMATION.

(a) OVERHEAD COSTS AND CLAIM PAYMENT INFORMATION.—Section 1857(e) of the Social Security Act (42 U.S.C. 1395w–27(e)) is amended by adding at the end the following new paragraph:

''(7) OVERHEAD COSTS AND CLAIM PAYMENT INFORMATION.—

''(A) IN GENERAL.—Beginning with plan years beginning on or after January 1, 2029, a contract under this section with an MA organization shall require the organization, with respect to each MA plan offered by such organization during such plan year, to submit to the Secretary and publish on the public website of

such organization the following information in a consumer-friendly format specified by the Secretary:

''(i) The amount of total revenue (as determined in accordance with section 422.2420(c) of title 42, Code of Federal Regulations (or a successor regulation)) of such plan.

''(ii) The amount and percentage of such revenue expended on incurred claims (as determined in accordance with paragraphs (2) through (4) of section 422.2420(b) of title 42, Code of Federal Regulations (or a successor regulation)).

''(iii) The amount and percentage of such revenue expended on non-claims costs (as defined in section 422.2401 of title 42, Code of Federal Regulations (or a successor regulation)).

''(iv) The amount of the difference between the MLR numerator (as determined in accordance with paragraph (b) of section 422.2420 of title 42, Code of Federal Regulations (or a successor regulation) and the MLR denominator (as determined in

accordance with paragraph (c) of such section (or a successor regulation)).

''(v) The amount described in clause (iv), expressed as a percentage of such revenue.

''(B) MANNER OF PUBLICATION.—The Secretary may require information submitted and published by an MA organization under subparagraph (A), in addition to being so published and submitted at the MA plan level, to be so submitted and published in the aggregate in such manner as specified by the Secretary (such as across all MA plans offered by such organization).

''(C) APPLICATION OF CERTAIN PROVISIONS.—In applying section 422.2420 of title 42, Code of Federal Regulations (or a successor regulation) for purposes determining any amount or percentage under subparagraph (A), any reference to an 'MA contract', 'MSA contract', 'contract', or 'contract year' shall be treated as a reference to an 'MA plan', 'MSA plan', 'plan', or 'plan year', respectively.''.

(b) ENSURING COMPARABILITY OF BENEFIT INFORMATION.—Section 1851(d)(2)(A)(ii) of the Social Security

Act (42 U.S.C. 1395w–21(d)(2)(A)(ii)) is amended by adding at the end the following new sentence: ''With respect to any such information that is provided in an electronic format on or after the first day of the first plan year that begins at least 1 year after the date of the enactment of this sentence, such information shall, to the greatest extent practicable, be presented in the same uniform format applicable to information required to be made available by group health plans and health insurance issuers under section 2715 of the Public Health Service Act.''.

SEC. 3. INCREASING DATA TRANSPARENCY FOR SUPPLEMENTAL BENEFITS UNDER MEDICARE ADVANTAGE.

(a) IN GENERAL.—Section 1857(e) of the Social Security Act (42 U.S.C. 1395w–27(e)) is amended by adding at the end the following new paragraph:

''(7) REPORTING OF ENROLLEE-LEVEL DATA ON SUPPLEMENTAL BENEFITS.—

''(A) IN GENERAL.—Beginning with plan years beginning on or after January 1, 2029, a contract under this section with an MA organization shall require the organization to submit to the Secretary, for each MA plan offered by the organization, plan-level data on supple-

mental benefits (by item or service, or category of item or service, as determined appropriate by the Secretary, and supplemental benefits provider (identified, if applicable, by such provider's national provider identifier)), including eligibility for such benefits, the types of supplemental benefit categories offered, data on utilization of and payments for such benefits (including the total amount spent by the plan for each enrollee who utilized such benefits and the total out-of-pocket cost for each such enrollee).

''(B) DATA ACCESS.—

''(i) IN GENERAL.—Beginning October 1 of each year (beginning with 2030), the Secretary shall, upon request, make data submitted under subparagraph (A) for the preceding plan year (deidentified, in the case of any such information submitted with respect to an individual enrollee) available to individuals and entities for the purpose of conducting—

''(I) evaluations and other analyses to support the program under this title; and

''(II) other health care related research.

''(ii) PUBLIC USE DATA FILE.—Not later than October 1 of each year (beginning with 2030), the Secretary shall make a public use data file containing the data submitted under subparagraph (A) for the preceding plan year available on the internet website of the Centers for Medicare & Medicaid Services. Any such data reported by an MA plan at the enrollee level shall be aggregated across all enrollees in such plan for purposes of such file.

''(iii) CONFIDENTIALITY.—In making data available under this subparagraph, the Secretary shall have in place procedures to safeguard the privacy and security of any individually identifiable enrollee information.''.

(b) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall affect the collection of information as finalized pursuant to the notice entitled ''Agency Information Collection Activities: Proposed Collection; Comment Request'', published in the Federal Register on March 14, 2023 (88 Fed. Reg. 15726) for

the information collection entitled ''Part C Medicare Advantage Reporting Requirements'' published in the Federal Register on March 14, 2023 (88 Fed. Reg. 15726) and pursuant to the notice entitled ''Agency Information Collection Activities: Submission for OMB Review; Comment Request'' for the information collection entitled ''Part C Medicare Advantage Reporting Requirements'' published in the Federal Register on September 25, 2023 (88 Fed. Reg. 65689).

SEC. 4. REQUIRING THE INCLUSION OF CERTAIN INFORMATION IN ENCOUNTER DATA.

Section 1859 of the Social Security Act (42 U.S.C. 1395w–28) is amended by adding at the end the following new subsection:

''(j) INCLUSION OF CERTAIN INFORMATION IN ENCOUNTER DATA.—

''(1) IN GENERAL.—In the case of any encounter data submitted by a MA plan with respect to an item or service furnished to an individual under such plan during a plan year beginning on or after January 1, 2029, the Secretary shall require that such data include—

''(A) the allowed amount for such item or service;

''(B) the amount of cost sharing (including deductibles, copayments, and coinsurance) imposed for such item or service;

''(C) in the case such individual was furnished, during such plan year before such item or service was so furnished, an in-home health risk assessment from a specified assessment entity, an indicator that such individual was so furnished such an assessment by such an entity; and

''(D) in the case such individual was furnished, during such plan year before such item or service was so furnished, an in-home health risk assessment from an assessment entity not described in subparagraph (C), an indicator (distinct from the indicator described in such subparagraph) that such individual was so furnished such an assessment by such an entity.

''(2) INCLUSION OF DATA IN WAREHOUSE.—The Secretary shall include any data required to be included as part of encounter data under paragraph (1) in the Chronic Condition Data Warehouse (or a successor system) maintained by the Centers for Medicare & Medicaid Services.

''(3) DEFINITIONS.—In this subsection:

"(A) ASSESSMENT ENTITY.—The term 'assessment entity' means an entity with a focus on furnishing in-home health risk assessments, as specified by the Secretary.

"(B) SPECIFIED ASSESSMENT ENTITY.—The term 'specified assessment entity' means, with respect to an MA organization and a plan year, an assessment entity with respect to which such organization (or any person with an ownership or control interest (as defined in section 1124(a)(3)) in such organization) is a person with an ownership or control interest (as so defined).".

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