

[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 “_____ Act
5 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’.”.