

116TH CONGRESS  
1ST SESSION

# H. R. 3406

To amend title XVIII of the Social Security Act to improve measurements under the skilled nursing facility value-based purchasing program under the Medicare program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2019

Mr. NEAL (for himself and Mr. BRADY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to improve measurements under the skilled nursing facility value-based purchasing program under 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,*

1 **SECTION 1. IMPROVING MEASUREMENTS UNDER THE**  
 2 **SKILLED NURSING FACILITY VALUE-BASED**  
 3 **PURCHASING PROGRAM UNDER THE MEDI-**  
 4 **CARE PROGRAM.**

5 (a) IN GENERAL.—Section 1888(h) of the Social Se-  
 6 curity Act (42 U.S.C. 1395yy(h)) is amended—

7 (1) in paragraph (1), by adding at the end the  
 8 following new subparagraph:

9 “(C) EXCLUSIONS.—With respect to pay-  
 10 ments for services furnished on or after October  
 11 1, 2021, this subsection shall not apply to a fa-  
 12 cility for which there are not a minimum num-  
 13 ber (as determined by the Secretary) of—

14 “(i) cases for the measures that apply  
 15 to the facility for the performance period  
 16 for the applicable fiscal year; or

17 “(ii) measures that apply to the facil-  
 18 ity for the performance period for the ap-  
 19 plicable fiscal year.”;

20 (2) in paragraph (2)(A)—

21 (A) by striking “The Secretary shall  
 22 apply” and inserting “The Secretary—

23 “(i) shall apply”;

24 (B) by striking the period at the end and  
 25 inserting “; and”; and

26 (C) by adding at the end the following:

1 “(ii) may, with respect to payments  
2 for services furnished on or after October  
3 1, 2022, apply additional measures deter-  
4 mined appropriate by the Secretary, which  
5 may include measures of functional status,  
6 patient safety, care coordination, or patient  
7 experience.

8 Subject to the succeeding sentence, in the case  
9 that the Secretary applies additional measures  
10 under clause (ii), the Secretary shall consider  
11 and apply, as appropriate, quality measures  
12 specified under section 1899B(c)(1). In no case  
13 may the Secretary apply more than 10 meas-  
14 ures under this subparagraph.”;

15 (3) in subparagraph (A) of each of paragraphs  
16 (3) and (4), by striking “measure” and inserting  
17 “measures”; and

18 (4) by adding at the end the following new  
19 paragraph:

20 “(12) VALIDATION.—

21 “(A) IN GENERAL.—The Secretary shall  
22 apply to the measures applied under this sub-  
23 section and the data submitted under sub-  
24 section (e)(6) a process to validate such meas-  
25 ures and data, as appropriate, which may be

1 similar to the process specified in section  
2 1886(b)(3)(B)(viii)(XI) for validating inpatient  
3 hospital measures.

4 “(B) FUNDING.—For purposes of carrying  
5 out this paragraph, the Secretary shall provide  
6 for the transfer, from the Federal Hospital In-  
7 surance Trust Fund established under section  
8 1817, of \$5,000,000 to the Centers for Medi-  
9 care & Medicaid Services Program Management  
10 Account for each of fiscal years 2022 through  
11 2024.”.

12 (b) REPORT BY MEDPAC.—Not later than March  
13 15, 2021, the Medicare Payment Advisory Commission  
14 shall submit to Congress a report on establishing a proto-  
15 type value-based payment program under a unified pro-  
16 spective payment system for post-acute care services under  
17 the Medicare program under title XVIII of the Social Se-  
18 curity Act (42 U.S.C. 1395 et seq.). Such report—

19 (1) shall—

20 (A) consider design elements such as—

21 (i) measures that are important to the  
22 Medicare program and to beneficiaries  
23 under such program;

24 (ii) methodologies for scoring provider  
25 performance and effects on payment; and

1 (iii) other elements determined appro-  
2 priate by the Commission; and

3 (B) analyze the effects of implementing  
4 such prototype program; and

5 (2) may—

6 (A) discuss the possible effects, with re-  
7 spect to the Medicare program, on program  
8 spending, post-acute care providers, patient out-  
9 comes, and other effects determined appropriate  
10 by the Commission; and

11 (B) include recommendations with respect  
12 to such prototype program, as determined ap-  
13 propriate by the Commission, to Congress and  
14 the Secretary of Health and Human Services.

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