

[DISCUSSION DRAFT]

118TH CONGRESS
1ST SESSION

H. R. _____

To amend title XVIII of the Social Security Act to provide for site neutral payments under the Medicare program for certain services furnished in ambulatory settings.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend title XVIII of the Social Security Act to provide for site neutral payments under the Medicare program for certain services furnished in ambulatory settings.

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. ALIGNING MEDICARE FEE-FOR-SERVICE PAY-**
4 **MENT RATES ACROSS AMBULATORY SET-**
5 **TINGS.**

6 (a) IN GENERAL.—Section 1834 of the Social Secu-
7 rity Act (42 U.S.C. 1395m) is amended by adding at the
8 end the following new subsection:

1 “(aa) SITE NEUTRAL PAYMENTS FOR CERTAIN
2 SERVICES FURNISHED IN AMBULATORY SETTINGS.—

3 “(1) IN GENERAL.—For items and services fur-
4 nished in a specified ambulatory setting during 2026
5 or a subsequent year and included in an ambulatory
6 payment classification not specified pursuant to
7 paragraph (2)(A) for such year, except as provided
8 in paragraphs (5) and (6), payment under this part
9 shall be made at the applicable ambulatory setting
10 neutral payment rate specified in paragraph (3).

11 “(2) IDENTIFICATION OF SERVICES TO WHICH
12 SITE NEUTRAL PAYMENTS APPLY.—For 2026 and
13 each subsequent year, the Secretary shall do the fol-
14 lowing:

15 “(A) Specify those ambulatory payment
16 classifications including items and services
17 which are appropriately furnished only in a hos-
18 pital outpatient department setting.

19 “(B) For each ambulatory payment classi-
20 fication not specified pursuant to subparagraph
21 (A), determine and compare for each of the fol-
22 lowing settings, the volume of items and serv-
23 ices included in such classification furnished in
24 such setting during the preceding 4-year period:

25 “(i) Hospital outpatient departments.

1 “(ii) Ambulatory surgical centers.

2 “(iii) Freestanding physician offices.

3 “(3) APPLICABLE AMBULATORY SETTING NEU-
4 TRAL PAYMENT RATE.—

5 “(A) IN GENERAL.—For purposes of this
6 subsection, the applicable ambulatory setting
7 neutral payment rate, for an item or service
8 furnished in a specified ambulatory setting dur-
9 ing 2026 or a subsequent year and included in
10 an ambulatory payment classification not speci-
11 fied pursuant to paragraph (2)(A) for such
12 year, is as follows:

13 “(i) In the case that for such year,
14 the Secretary determines under paragraph
15 (2)(B) that the volume of items and serv-
16 ices included in such classification, with re-
17 spect to the previous 4-year period, was
18 highest in the hospital outpatient depart-
19 ment setting, the applicable ambulatory
20 setting neutral payment rate is—

21 “(I) for such an item or service
22 furnished during such year in a hos-
23 pital outpatient department, the fee
24 schedule amount established under
25 the prospective payment system under

1 section 1833(t) for such item or serv-
2 ice;

3 “(II) for such an item or service
4 furnished during such year in an am-
5 bulatory surgical center, the amount
6 applied under the payment system de-
7 scribed in section 1833(i)(2)(D) for
8 such item or service; and

9 “(III) for such an item or service
10 furnished during such year in a free-
11 standing physician office, the amount
12 under the physician fee schedule
13 under section 1848 for such item or
14 service.

15 “(ii) In the case that for such year,
16 the Secretary determines under paragraph
17 (2)(B) that the volume of items and serv-
18 ices included in such classification, with re-
19 spect to the previous 4-year period, was
20 highest in the ambulatory surgical center
21 setting, the applicable ambulatory setting
22 neutral payment rate is—

23 “(I) for such an item or service
24 furnished during such year in an am-
25 bulatory surgical center or a hospital

1 outpatient department, the amount
2 applied under the payment system de-
3 scribed in section 1833(i)(2)(D) for
4 such item or service; and

5 “(II) for such an item or service
6 furnished during such year in a free-
7 standing physician office, the amount
8 applied under the physician fee sched-
9 ule under section 1848 for such item
10 or service.

11 “(iii) In the case that for such year,
12 the Secretary determines under paragraph
13 (2)(B) that the volume of items and serv-
14 ices included in such classification, with re-
15 spect to the previous 4-year period, was
16 highest in the freestanding physician office
17 setting, the applicable ambulatory setting
18 neutral payment rate for such an item or
19 service furnished in any specified ambula-
20 tory setting is the amount determined
21 under paragraph (4) for such item or serv-
22 ice.

23 “(B) SPECIAL RULE.—In the case that the
24 Secretary determines for a year under subpara-
25 graph (A)(iii) with respect to an item or service

1 that the amount determined under paragraph
2 (4) shall be payable for such item or service for
3 such year, notwithstanding any other provision
4 of this paragraph, such item or service shall be
5 deemed to be payable under such paragraph for
6 each subsequent year unless the Secretary de-
7 termines, through notice and comment rule-
8 making, that extenuating circumstances war-
9 rant such item or service to be payable at a rate
10 other than that determined under paragraph
11 (4).

12 “(4) AMOUNT DETERMINED.—For purposes of
13 paragraph (3)(A)(iii), the payment amount deter-
14 mined under this paragraph for an item or service
15 furnished during a year and included in an ambula-
16 tory payment classification not specified pursuant to
17 paragraph (2)(A) for such year is the payment
18 amount for such item or service under the physician
19 fee schedule under section 1848, except that in cal-
20 culating such amount the following shall apply:

21 “(A) The payment amount for each item
22 or service included in the classification shall be
23 equal to the average of the payment amounts
24 under such section for the Healthcare Common
25 Procedure Coding System codes included in

1 such classification, weighted by the volume for
2 each of such codes.

3 “(B) The practice expense relative value
4 units applied under section 1848(c)(2)(C) shall
5 be the weighted average of the nonfacility prac-
6 tice expense relative value units and the facility
7 practice expense relative value units, except
8 that in the case of a Healthcare Common Pro-
9 cedure Coding System that has a 90-day global
10 bundle payment under the physician fee sched-
11 ule under section 1848, the nonfacility practice
12 expense relative value units shall be applied.

13 “(C) The base rate for an item or service
14 included in the ambulatory payment classifica-
15 tion shall be multiplied by the percentage equal
16 to the fraction—

17 “(i) the numerator of which is the av-
18 erage cost of ancillary items and services
19 packaged with the item or service included
20 in the classification if furnished in the hos-
21 pital outpatient department setting; and

22 “(ii) the denominator of which is the
23 average total cost of the item or services
24 included in the classification if furnished in

1 such hospital outpatient department set-
2 ting.

3 “(5) EXCEPTION.—Beginning January 1, 2026,
4 the Secretary shall reclassify the ambulatory pay-
5 ment classifications for emergency department visits,
6 critical care visits, and trauma care visits at a hos-
7 pital outpatient department as Comprehensive
8 APCs, in which all the items and services on the
9 same claim are packaged into a single payment unit.
10 Any item or service that is provided with such a visit
11 so reclassified shall not be treated as an item or
12 service included in an ambulatory payment classi-
13 fication that is otherwise not specified under para-
14 graph (2)(A), and shall not be subject to the provi-
15 sions of the preceding paragraphs of this subsection.
16 The Secretary may, pursuant to rulemaking, specify
17 exceptions to any reclassification under the first sen-
18 tence of this paragraph.

19 “(6) LIMITATION.—

20 “(A) IN GENERAL.—For 2026 and each
21 subsequent year, in the case of items and serv-
22 ices included in an ambulatory payment classi-
23 fication that is not specified under paragraph
24 (2)(A) for such year and furnished by a speci-
25 fied hospital, if the Secretary projects that ap-

1 plication of this subsection would result in total
2 payments under this part to such hospital for
3 items and services furnished by such hospital
4 during such year to be less than the applicable
5 percent specified in subparagraph (B) of such
6 payments that would have been made without
7 application of this subsection, the Secretary
8 shall apply an adjustment, as needed, to the ap-
9 plicable ambulatory setting neutral payment
10 rate that would otherwise apply under this sub-
11 section with respect to such items and services
12 furnished by such hospital during such year in
13 order for the projected total payments under
14 this part to such hospital for items and services
15 furnished by such hospital during such year
16 (after application of this subsection) to not be
17 less than the applicable percent specified in
18 subparagraph (B) of such total payments that
19 would be projected to have been made to such
20 hospital for such items and services so fur-
21 nished during such year without application of
22 this subsection.

23 “(B) APPLICABLE PERCENT.—The appli-
24 cable percent specified in this clause is as fol-
25 lows:

1 “(i) For 2026 and 2027, 95.9 per-
2 cent.

3 “(ii) For 2028 and each subsequent
4 year, 95.9 percent or any greater percent-
5 age specified by the Secretary for such
6 year.

7 “(C) RECONCILIATION.—In the case deter-
8 mines at the end of a year (beginning with
9 2026) that total payments under this subsection
10 for items and services furnished during such
11 year by a specified hospital were less than the
12 applicable percent of total payments that would
13 have been made for such items and services
14 without application of this subsection, the Sec-
15 retary shall pay to such hospital an amount
16 such that the total amount of payment made
17 under this subsection for such items and serv-
18 ices is not less than such total amount that oth-
19 erwise would have been paid without application
20 of this subsection.

21 “(D) SPECIFIED HOSPITAL.—For purposes
22 of this paragraph, the term ‘specified hospital’
23 means, with respect to a cost reporting period
24 with respect to a year, a subsection (d) hospital
25 that has a disproportionate patient percentage

1 under section 1886(d)(5)(F)(vi) for such period
2 that is greater than the median of the dis-
3 proportionate patient percentage of all sub-
4 section (d) hospitals for such period.

5 “(7) SPECIFIED AMBULATORY SETTING DE-
6 FINED.—For purposes of this subsection, the term
7 ‘specified ambulatory setting’ means each of the set-
8 tings specified in a clause of paragraph (2)(B).”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) PAYMENT SYSTEM FOR AMBULATORY SUR-
11 GICAL CENTER SERVICES.—Section 1833(i)(2)(D)(i)
12 of the Social Security Act (42 U.S.C.
13 1395l(i)(2)(D)(i)) is amended by striking “for pay-
14 ment” and inserting “for, subject to section
15 1834(aa), payment”.

16 (2) HOPD FEE SCHEDULE.—Section
17 1833(t)(1)(A) of the Social Security Act (42 U.S.C.
18 1395l) is amended by striking “the amount of pay-
19 ment” and inserting “subject to section 1834(aa),
20 the amount of payment”.

21 (3) PHYSICIAN FEE SCHEDULE.—Section
22 1848(a)(1)(B) of the Social Security Act (42 U.S.C.
23 1395w-4(a)(1)(B)) is amended by inserting “and
24 section 1834(aa)” after “succeeding provisions of
25 this subsection”.