H. R. 1

To direct the Secretary of Health and Human Services to revise certain regulations in relation to the Medicare shared savings program and other advanced alternative payment arrangements to encourage participation in such program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Welch introduced the following bill; which was referred to the Committee on ____________________

A BILL

To direct the Secretary of Health and Human Services to revise certain regulations in relation to the Medicare shared savings program and other advanced alternative payment arrangements to encourage participation in such 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 “Value in Health Care
5 Act of 2021”.
SEC. 2. ENCOURAGING PARTICIPATION IN THE MEDICARE SHARED SAVINGS PROGRAM.

(a) INCREASING SHARED SAVINGS RATES FOR CERTAIN ACCOUNTABLE CARE ORGANIZATIONS.—Prior to the beginning of the first performance year (as defined in section 425.20 of title 42, Code of Federal Regulations (or a successor regulation)) that begins after the date of the enactment of this Act, the Secretary of Health and Human Services shall revise section 425.605(d)(1) of title 42, Code of Federal Regulations (or a successor regulation), to provide that the shared savings rate for an accountable care organization participating in—

(1) Level A (as described in paragraph (i)(A) of such section) or Level B (as described in paragraph (ii)(A) of such section) of the BASIC track shall be at least 50 percent of all the savings under the updated benchmark (as so described), as determined on the basis of such organization’s quality performance;

(2) Level C (as described in paragraph (iii)(A) of such section) or Level D (as described in paragraph (iv)(A) of such section) of the BASIC track shall be at least 55 percent of all the savings under the updated benchmark (as so described), as determined on the basis of such organization’s quality performance; or
(3) Level E (as described in paragraph (v)(A) of such section) shall be at least 60 percent of all the savings under the updated benchmark (as so described), as determined on the basis of such organization’s quality performance.

(b) MODIFYING RISK ADJUSTMENT METHODOLOGY.—Prior to the beginning of the first performance year (as defined for purposes of subsection (a)) that begins after the date of the enactment of this Act, the Secretary of Health and Human Services shall revise—

(1) section 425.605(a)(1)(i) of title 42, Code of Federal Regulations, or a successor regulation, to provide that positive adjustments, if applicable, in prospective HCC risk scores (as applied for purposes of such section) are subject to a cap of no less than 5 percent, and any negative adjustments, if applicable, in prospective HCC risk scores (as applied for purposes of such section) shall be between 0 and negative 5 percent;

(2) section 425.610(a)(2)(i) of title 42, Code of Federal Regulations, or a successor regulation, to provide that positive adjustments, if applicable, in prospective HCC risk scores (as applied for purposes of such section) are subject to a cap of no less than 5 percent, and any negative adjustments, if applicable,
ble, in prospective HCC risk scores (as applied for purposes of such section) shall be between 0 and negative 5 percent; and

(3) section 425.609(c)(3)(i)(A) of title 42, Code of Federal Regulations, or a successor regulation, to provide that the cap described in such section references no less than 5 percent, and any negative adjustments, if applicable, in prospective HCC risk scores (as applied for purposes of such section) shall be between 0 and negative 5 percent.

(c) REMOVING BARRIERS TO SHARED SAVINGS PROGRAM PARTICIPATION.—Prior to the beginning of the first performance year (as defined for purposes of subsection (a)) that begins after the date of the enactment of this Act, the Secretary of Health and Human Services shall revise part 425 of title 42, Code of Federal Regulations, or any successor regulation, to—

(1) eliminate any distinction in requirements in such part between a low revenue ACO and a high revenue ACO (as such terms are defined in section 425.20 of title 42, Code of Federal Regulations, or a successor regulation) and, with respect to such a low revenue ACO or high revenue ACO and except as otherwise modified in this Act, apply the requirements of such part as such requirements applied to
low revenue ACOs on July 1, 2019, except that the
Secretary of Health and Human Services may, if the
Secretary determines appropriate, apply less string-
gent requirements than those requirements that ap-
plied to low revenue ACOs as of such date; and

(2) remove any provision requiring an account-
able care organization to assume responsibility for
repayment of any shared losses or participate in a
two-sided risk model before the organization has
participated for at least 3 years in any program sub-
ject to the provisions of part 425 of title 42, Code
of Federal Regulations, or any successor regulation,
provided that such an organization shall be allowed
to elect to participate in such two-sided risk models
or models requiring repayment of such losses.

(d) ENSURING FAIR AND ACCURATE BENCH-
MARKS.—Prior to the beginning of the first performance
year (as defined for purposes of subsection (a)) that be-
gins after the date of the enactment of this Act, the Sec-
retary of Health and Human Services shall revise part 425
of title 42, Code of Federal Regulations, to remove Medi-
care beneficiaries who are assigned to an accountable care
organization from the methodology for calculating the re-
geonial expenditures used to establish, adjust, and update
the benchmark expenditures for ACO performance periods
beginning on or after July 1, 2019.

SEC. 3. PROVIDING EDUCATIONAL AND TECHNICAL SUPPORT FOR THE MEDICARE SHARED SAVINGS PROGRAM.

Section 1899 of the Social Security Act (42 U.S.C. 1395jjjj) is amended by adding at the end the following new subsection:

“(n) EDUCATIONAL AND TECHNICAL SUPPORT.—

“(1) IN GENERAL.—The Secretary shall establish a program to assist eligible ACOs in meeting start-up and ongoing operational costs associated with establishing and participating in the shared savings program established under subsection (a). The Secretary shall establish through notice-and-comment rulemaking the requirements for participation and use of funds in the program established in the preceding sentence.

“(2) REDUCTION IN SHARED SAVINGS PAYMENTS.—The Secretary shall reduce any shared savings payment owed to an ACO under subsection (d) in an amount equal to any funds provided to such ACO under the program established under paragraph (1).”.
SEC. 4. ADVANCED PAYMENT MODEL INCENTIVE, PARTICIPATION, AND THRESHOLD MODIFICATIONS.

(a) In General.—Section 1833(z) of the Social Security Act (42 U.S.C. 1395l(z)) is amended—

(1) in paragraph (1)(A), by striking “2024” and inserting “2030”; and

(2) in paragraph (2)(C)—

(A) in clause (i), by striking “75 percent” and inserting “the applicable percent (as defined in clause (iv)) for such year”; and

(B) in clause (ii)(I)—

(i) in the matter preceding item (aa), by striking “75 percent” and inserting “the applicable percent (as defined in clause (iv)) for such year”; and

(ii) in item (bb)—

(I) by striking “and other than payments made under title XIX” and inserting “other than payments made under title XIX”; and

(II) by striking “State program under that title),” and inserting “State program under that title, and other than payments made by payers in which no payment or program meeting the requirements described in
clause (iii)(II) is available from the payer for participation by the eligible professional’’; and

(C) by adding at the end the following new clause:

‘‘(iv) APPLICABLE PERCENT DEFINED.—For purposes of clauses (i) and (ii), the term ‘applicable percent’ means—

‘‘(I) for 2025, a percent specified by the Secretary, but in no case less than 50 percent or more than 55 percent; and

‘‘(II) for a subsequent year, a percent specified by the Secretary, but in no case less than the percent specified under this clause for the preceding year or more than 5 percentage points higher than the percent specified under this clause for such preceding year.’’.

(b) PARTIAL QUALIFYING APM PARTICIPANT MODIFICATIONS.—Section 1848(q)(1)(C)(iii)(III) of the Social Security Act (42 U.S.C. 1395w–4(q)(1)(C)(iii)(III)) is amended—
(1) in item (aa), by striking “50 percent was instead a reference to 40 percent” and inserting “the applicable percent were instead a reference to 10 percentage points less than the applicable percent”; and

(2) in item (bb)—

(A) by striking “75 percent” and inserting “the applicable percent”; 

(B) by striking “50 percent” and inserting “10 percentage points less than the applicable percent”.

SEC. 5. ADDRESSING OVERLAP IN VALUE BASED CARE PROGRAMS.

(a) IN GENERAL.—

(1) CMI.—Section 1115A(a)(5) of the Social Security Act (42 U.S.C. 1315a(a)(5)) is amended by adding at the end the following new sentence: “In establishing such limits, the Secretary shall take into account payment and service delivery models in progress in such geographic areas.”.

(2) REPEAL OF MEDICARE DUPLICATION PROHIBITION.—Section 1899(b) of the Social Security Act (42 U.S.C. 1395jjjj(b)) is amended by striking paragraph (4).
(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct an assessment and submit to Congress a report on alternative payment model overlap in the Medicare program. Such report shall include a description of and recommendations relating to—

(1) any issues regarding the existence of multiple alternative payment model participation opportunities for health care providers; and

(2) obstacles created by competing incentives with respect to alternative payment models.

SEC. 6. STUDY ON RACIAL HEALTH DISPARITIES.

Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on health outcomes and racial disparities among Medicare beneficiaries assigned to providers reimbursed under alternative payment models compared to such beneficiaries receiving care from fee-for-service providers. Such report shall include, to the extent to which data is available, an analysis comparing the beneficiaries assigned to a provider participating in the Medicare shared savings program to beneficiaries not participating in Medicare Advantage and not assigned to any provider reimbursed
under an alternative payment model with respect to at least the following individual outcomes measures:

1. Control of hypertension.
2. Colorectal cancer screenings.
3. Influenza immunization.
4. Completion of an annual wellness visit.
5. Breast cancer screening.
6. Screening for depression and performance of a follow-up plan (if appropriate).
8. Emergency room visits.
9. Such other measures as the Comptroller General determines appropriate.