

118TH CONGRESS
1ST SESSION

S. 1002

To amend title XVIII of the Social Security Act to improve risk adjustment under Medicare Advantage.

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2023

Mr. CASSIDY (for himself and Mr. MERKLEY) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to improve risk adjustment under Medicare Advantage.

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 “No Unreasonable Pay-
5 ments, Coding, Or Diagnoses for the Elderly Act” or the
6 “No UPCODE Act”.

1 **SEC. 2. IMPROVING RISK ADJUSTMENT UNDER MEDICARE**
 2 **ADVANTAGE.**

3 (a) USE OF 2 YEARS OF DIAGNOSTIC DATA.—Sec-
 4 tion 1853(a)(3)(C)(iii) of the Social Security Act (42
 5 U.S.C. 1395w-23(a)(3)(C)(iii)) is amended—

6 (1) by striking “METHODOLOGY.—Such risk”
 7 and inserting “METHODOLOGY.—

8 “(I) IN GENERAL.—Subject to
 9 subclause (II), such risk”; and

10 (2) by adding at the end the following new sub-
 11 clauses:

12 “(II) USE OF HEALTH STATUS
 13 DATA.—For 2024 and each subse-
 14 quent year, the Secretary shall use 2
 15 years of diagnostic data (when avail-
 16 able) under such risk adjustment
 17 methodology.”.

18 (b) EXCLUSION OF DIAGNOSES COLLECTED FROM
 19 CHART REVIEWS AND HEALTH RISK ASSESSMENTS.—

20 (1) IN GENERAL.—Section 1853(a)(1)(C) of
 21 such Act (42 U.S.C. 1395w-23(a)(1)(C)) is amend-
 22 ed by adding at the end the following new clause:

23 “(iv) EXCLUSION OF DIAGNOSES COL-
 24 LECTED FROM CHART REVIEWS AND
 25 HEALTH RISK ASSESSMENTS.—

1 “(I) IN GENERAL.—For 2024
 2 and each subsequent year, for pur-
 3 poses of establishing the payment ad-
 4 justment factors and adjusting pay-
 5 ment based on health status under
 6 clause (i), the Secretary shall not take
 7 into account a diagnosis collected
 8 from a chart review or a health risk
 9 assessment.

10 “(II) IDENTIFICATION OF DIAG-
 11 NOSES COLLECTED FROM CHART RE-
 12 VIEWS AND HEALTH RISK ASSESS-
 13 MENTS.—The Secretary shall estab-
 14 lish procedures to provide for the
 15 identification and verification of diag-
 16 noses collected from chart reviews and
 17 health risk assessments.”.

18 (c) APPLICATION OF CODING ADJUSTMENT.—Sec-
 19 tion 1853(a)(1)(C)(ii) of such Act (42 U.S.C. 1395w-
 20 23(a)(1)(C)(ii)) is amended—

21 (1) in subclause (III), by striking “In calcu-
 22 lating” and inserting “Subject to subclause (V), in
 23 calculating”; and

24 (2) by adding at the end the following new sub-
 25 clause:

1 “(V) In calculating such adjust-
2 ment for 2024 and each subsequent
3 year, the Secretary shall evaluate the
4 impact on risk scores for Medicare
5 Advantage enrollees of differences in
6 coding patterns between Medicare Ad-
7 vantage plans and providers under
8 parts A and B and publicly report the
9 results of such evaluation. The Sec-
10 retary shall ensure that such adjust-
11 ment, which may include adjustment
12 on a plan or contract level, fully ac-
13 counts for the impact of coding pat-
14 tern differences not otherwise ac-
15 counted for to the extent that the Sec-
16 retary identifies such differences
17 through annual evaluation.”.

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