

110TH CONGRESS
2D SESSION

S. _____

To amend title XVIII of the Social Security Act to establish a Medicare hospital value-based purchasing program in order to promote high-quality care in the inpatient hospital setting.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To amend title XVIII of the Social Security Act to establish a Medicare hospital value-based purchasing program in order to promote high-quality care in the inpatient hospital setting.

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 “Medicare Hospital
5 Quality Improvement Act of 2008”.

6 **SEC. 2. HOSPITAL VALUE-BASED PURCHASING PROGRAM.**

7 (a) PROGRAM.—

1 (1) IN GENERAL.—Section 1886 of the Social
2 Security Act (42 U.S.C. 1395ww) is amended by
3 adding at the end the following new subsection:

4 “(n) HOSPITAL VALUE-BASED PURCHASING PRO-
5 GRAM.—

6 “(1) ESTABLISHMENT.—

7 “(A) IN GENERAL.—Subject to the suc-
8 ceeding provisions of this subsection, the Sec-
9 retary shall establish a hospital value-based
10 purchasing program (in this subsection referred
11 to as the ‘Program’) under which value-based
12 incentive payments are made in a fiscal year to
13 hospitals that meet the performance standards
14 under paragraph (3) for the performance period
15 (as established under paragraph (4)) for such
16 fiscal year.

17 “(B) PROGRAM TO BEGIN IN FISCAL YEAR
18 2012.—The Program shall apply to payments
19 for discharges occurring on or after October 1,
20 2011.

21 “(C) APPLICABILITY OF PROGRAM TO HOS-
22 PITALS.—

23 “(i) IN GENERAL.—For purposes of
24 this subsection, subject to clause (ii), the

1 term ‘hospital’ means a subsection (d) hos-
2 pital (as defined in subsection (d)(1)(B)).

3 “(ii) EXCLUSIONS.—The term ‘hos-
4 pital’ shall not include, with respect to a
5 fiscal year, a hospital—

6 “(I) that is subject to the pay-
7 ment reduction under subsection
8 (b)(3)(B)(viii)(I) for such fiscal year;

9 “(II) for which, during the per-
10 formance period for such fiscal year,
11 the Secretary has cited deficiencies
12 that pose immediate jeopardy to the
13 health or safety of patients;

14 “(III) for which there are not a
15 minimum number (as determined by
16 the Secretary) of measures that apply
17 to the hospital for the performance
18 period for such fiscal year; or

19 “(IV) for which there are not a
20 minimum number (as determined by
21 the Secretary) of cases for the meas-
22 ures that apply to the hospital for the
23 performance period for such fiscal
24 year.

1 “(iii) INDEPENDENT ANALYSIS.—For
2 purposes of determining the minimum
3 numbers under clauses (III) and (IV) of
4 clause (ii), the Secretary shall have con-
5 ducted an independent analysis of what
6 numbers are appropriate.

7 “(2) MEASURES.—

8 “(A) IN GENERAL.—The Secretary shall
9 select measures for purposes of the Program.
10 Such measures shall be selected from the meas-
11 ures specified under subsection (b)(3)(B)(viii).

12 “(B) REQUIREMENT FOR FISCAL YEAR
13 2012.—For value-based incentive payments
14 made with respect to discharges occurring dur-
15 ing fiscal year 2012, the Secretary shall ensure
16 the following:

17 “(i) CONDITIONS OR CLINICAL PER-
18 FORMANCE AREAS.—Measures are selected
19 under subparagraph (A) that cover at least
20 the following 4 specific conditions or proce-
21 dures:

22 “(I) Acute myocardial infarction
23 (AMI).

24 “(II) Heart failure.

25 “(III) Pneumonia.

1 “(IV) Surgeries, as measured by
2 the Surgical Care Improvement
3 Project (formerly referred to as ‘Sur-
4 gical Infection Prevention’ for dis-
5 charges occurring before July 2006).

6 “(ii) HCAHPS.—Measures selected
7 under subparagraph (A) shall be related to
8 the Hospital Consumer Assessment of
9 Healthcare Providers and Systems Survey
10 (HCAHPS).

11 “(C) LIMITATIONS.—

12 “(i) TIME REQUIREMENT FOR PRIOR
13 REPORTING AND NOTICE.—The Secretary
14 may not select a measure under subpara-
15 graph (A) for use under the Program with
16 respect to a performance period for a fiscal
17 year (as determined under paragraph (4))
18 unless—

19 “(I) such measure has been spec-
20 ified under subsection (b)(3)(B)(viii)
21 and included on the Hospital Compare
22 Internet website for at least 1 year
23 prior to the beginning of such per-
24 formance period; and

1 “(II) the Secretary has provided
2 notice that the measure may apply
3 with respect to such performance pe-
4 riod at least 1 year prior to the begin-
5 ning of such performance period.

6 “(ii) MEASURE NOT APPLICABLE UN-
7 LESS HOSPITAL FURNISHES SERVICES AP-
8 PROPRIATE TO THE MEASURE.—A measure
9 selected under subparagraph (A) shall not
10 apply to a hospital if such hospital does
11 not furnish services appropriate to such
12 measure.

13 “(D) REPLACING MEASURES.—Subclause
14 (VI) of subsection (b)(3)(B)(viii) shall apply to
15 measures selected under subparagraph (A) in
16 the same manner as such clause applies to
17 measures selected under such section.

18 “(3) PERFORMANCE STANDARDS.—

19 “(A) ESTABLISHMENT.—The Secretary
20 shall establish performance standards with re-
21 spect to measures selected under paragraph (2)
22 for a performance period for a fiscal year (as
23 established under paragraph (4)).

24 “(B) ACHIEVEMENT AND IMPROVE-
25 MENT.—The performance standards established

1 under subparagraph (A) shall include levels of
2 achievement and improvement.

3 “(C) TIMING.—The Secretary shall estab-
4 lish and announce the performance standards
5 under subparagraph (A) not later than 60 days
6 prior to the beginning of the performance pe-
7 riod for the fiscal year involved.

8 “(D) CONSIDERATIONS IN ESTABLISHING
9 STANDARDS.—In establishing performance
10 standards with respect to measures under this
11 paragraph, the Secretary shall take into ac-
12 count appropriate factors, such as—

13 “(i) practical experience with the
14 measures involved, including whether a sig-
15 nificant proportion of hospitals failed to
16 meet the performance standard during pre-
17 vious performance periods;

18 “(ii) historical performance standards;

19 “(iii) improvement rates; and

20 “(iv) the opportunity for continued
21 improvement.

22 “(4) PERFORMANCE PERIOD.—For purposes of
23 the Program, the Secretary shall establish the per-
24 formance period for a fiscal year. Such performance

1 period shall begin and end prior to the beginning of
2 such fiscal year.

3 “(5) HOSPITAL PERFORMANCE SCORE.—

4 “(A) IN GENERAL.—Subject to subpara-
5 graph (B) and paragraph (8)(B)(ii), the Sec-
6 retary shall develop a methodology for assessing
7 the total performance of each hospital based on
8 performance standards with respect to the
9 measures selected under paragraph (2) for a
10 performance period established under para-
11 graph (4). Using such methodology, the Sec-
12 retary shall provide for an assessment (in this
13 subsection referred to as the ‘hospital perform-
14 ance score’) for each hospital for each perform-
15 ance period.

16 “(B) APPLICATION.—

17 “(i) APPROPRIATE DISTRIBUTION.—

18 The Secretary shall ensure that the appli-
19 cation of the methodology developed under
20 subparagraph (A) results in an appropriate
21 distribution of value-based incentive pay-
22 ments under paragraph (6) among hos-
23 pitals achieving different levels of hospital
24 performance scores, with hospitals achiev-
25 ing the highest hospital performance scores

1 receiving the largest value-based incentive
2 payments.

3 “(ii) HIGHER OF ACHIEVEMENT OR
4 IMPROVEMENT.—The methodology devel-
5 oped under subparagraph (A) shall provide
6 that the hospital performance score is de-
7 termined using the higher of its achieve-
8 ment or improvement score for each meas-
9 ure.

10 “(iii) WEIGHTS.—The methodology
11 developed under subparagraph (A) shall
12 provide for the assignment of weights for
13 categories of measures as the Secretary de-
14 termines appropriate.

15 “(iv) NO MINIMUM PERFORMANCE
16 STANDARD.—The Secretary shall not set a
17 minimum performance standard in deter-
18 mining the hospital performance score for
19 any hospital.

20 “(v) REFLECTION OF MEASURES AP-
21 PPLICABLE TO THE HOSPITAL.—The hos-
22 pital performance score for a hospital shall
23 reflect the measures that apply to the hos-
24 pital.

1 “(6) CALCULATION OF VALUE-BASED INCEN-
2 TIVE PAYMENTS.—

3 “(A) IN GENERAL.—Subject to paragraph
4 (8)(B)(iii), in the case of a hospital that the
5 Secretary determines meets (or exceeds) the
6 performance standards under paragraph (3) for
7 the performance period (as established under
8 paragraph (4)) for a fiscal year, the Secretary
9 shall increase the base operating DRG payment
10 amount (as defined in paragraph (7)(D)), as
11 determined after application of paragraph
12 (7)(B)(i), for a hospital for each discharge oc-
13 curring in such fiscal year by the value-based
14 incentive payment amount.

15 “(B) VALUE-BASED INCENTIVE PAYMENT
16 AMOUNT.—The value-based incentive payment
17 amount for each discharge of a hospital in a fis-
18 cal year shall be equal to the product of—

19 “(i) the base operating DRG payment
20 amount (as defined in paragraph (7)(D))
21 for the discharge for the hospital for such
22 fiscal year; and

23 “(ii) the value-based incentive pay-
24 ment percentage specified under subpara-

1 graph (C) for the hospital for such fiscal
2 year.

3 “(C) VALUE-BASED INCENTIVE PAYMENT
4 PERCENTAGE.—

5 “(i) IN GENERAL.—The Secretary
6 shall specify a value-based incentive pay-
7 ment percentage for a hospital for a fiscal
8 year.

9 “(ii) REQUIREMENTS.—In specifying
10 the value-based incentive payment percent-
11 age for each hospital for a fiscal year
12 under clause (i), the Secretary shall ensure
13 that—

14 “(I) such percentage is based on
15 the hospital performance score of the
16 hospital under paragraph (5); and

17 “(II) the total amount of value-
18 based incentive payments under this
19 paragraph to all hospitals in such fis-
20 cal year is equal to the total amount
21 available for value-based incentive
22 payments for such fiscal year under
23 paragraph (7)(A), as estimated by the
24 Secretary.

1 “(7) FUNDING FOR VALUE-BASED INCENTIVE
2 PAYMENTS.—

3 “(A) AMOUNT.—The total amount avail-
4 able for value-based incentive payments under
5 paragraph (6) for all hospitals for a fiscal year
6 shall be equal to the total amount of reduced
7 payments for all hospitals under subparagraph
8 (B) for such fiscal year, as estimated by the
9 Secretary.

10 “(B) ADJUSTMENT TO PAYMENTS.—

11 “(i) IN GENERAL.—The Secretary
12 shall reduce the base operating DRG pay-
13 ment amount (as defined in subparagraph
14 (D) for a hospital for each discharge in a
15 fiscal year (beginning with fiscal year
16 2012) by an amount equal to the applica-
17 ble percent (as defined in subparagraph
18 (C)) of the base operating DRG payment
19 amount for the discharge for the hospital
20 for such fiscal year. The Secretary shall
21 make such reductions for all hospitals in
22 the fiscal year involved, regardless of
23 whether or not the hospital has been deter-
24 mined by the Secretary to have earned a

1 value-based incentive payment under para-
2 graph (6)) for such fiscal year.

3 “(ii) NO EFFECT ON OTHER PAY-
4 MENTS.—Payments described in items (aa)
5 and (bb) of subparagraph (D)(i)(II) for a
6 hospital shall be determined as if this sub-
7 section had not been enacted.

8 “(C) APPLICABLE PERCENT DEFINED.—
9 Subject to paragraph (8)(B)(iv)(II), for pur-
10 poses of subparagraph (B), the term ‘applicable
11 percent’ means—

12 “(i) with respect to fiscal year 2012,
13 1.0 percent;

14 “(ii) with respect to fiscal year 2013,
15 1.25 percent;

16 “(iii) with respect to fiscal year 2014,
17 1.5 percent;

18 “(iv) with respect to fiscal year 2015,
19 1.75 percent; and

20 “(v) with respect to fiscal year 2016
21 and succeeding fiscal years, 2 percent.

22 “(D) BASE OPERATING DRG PAYMENT
23 AMOUNT DEFINED.—

24 “(i) IN GENERAL.—Except as pro-
25 vided in clause (ii), in this subsection, the

1 term ‘base operating DRG payment
2 amount’ means, with respect to a hospital
3 for a fiscal year—

4 “(I) the payment amount that
5 would otherwise be made under sub-
6 section (d) for a discharge if this sub-
7 section did not apply; reduced by

8 “(II) any portion of such pay-
9 ment amount that is attributable to—

10 “(aa) payments under para-
11 graphs (5)(A), (5)(B), (5)(F),
12 and (12) of subsection (d); and

13 “(bb) such other payments
14 under subsection (d) determined
15 appropriate by the Secretary.

16 “(ii) SPECIAL RULES FOR CERTAIN
17 HOSPITALS.—

18 “(I) SOLE COMMUNITY HOS-
19 PITALS.—In the case of a sole com-
20 munity hospital, in applying subpara-
21 graph (A)(i), the payment amount
22 that would otherwise be made under
23 subsection (d) shall be determined
24 without regard to subparagraphs (I)

1 and (L) of subsection (b)(3) and sub-
2 paragraph (D) of subsection (d)(5).

3 “(II) HOSPITALS PAID UNDER
4 SECTION 1814.—In the case of a hos-
5 pital that is paid under section
6 1814(b)(3), the term ‘base operating
7 DRG payment amount’ means the
8 payment amount under such section.

9 “(8) TRANSITION.—

10 “(A) IN GENERAL.—In the case of dis-
11 charges occurring on or after October 1, 2011,
12 and before October 1, 2014, the Secretary shall
13 provide for an appropriate transition to the
14 Program.

15 “(B) SPECIAL RULES FOR APPLICATION OF
16 PROGRAM REQUIREMENTS DURING TRANSI-
17 TION.—Under the transition under subpara-
18 graph (A), the following requirements shall
19 apply:

20 “(i) DRGS.—Diagnosis-related groups
21 shall be assigned into the following 2
22 groupings:

23 “(I) Diagnosis-related groups for
24 which at least 1 measure selected by
25 the Secretary under paragraph (2)

1 (other than a measure that applies to
2 all diagnosis-related groups) applies to
3 such group, as determined by the Sec-
4 retary.

5 “(II) All diagnosis-related
6 groups.

7 “(ii) HOSPITAL PERFORMANCE
8 SCORES.—Separate hospital performance
9 scores shall be calculated under the meth-
10 odology developed under paragraph (5)(A)
11 with respect to each grouping described in
12 clause (i).

13 “(iii) VALUE-BASED INCENTIVE PAY-
14 MENTS.—Separate value-based incentive
15 payments shall be made under paragraph
16 (6) with respect to each grouping described
17 in clause (i) from the amounts available for
18 such payments with respect to such group-
19 ing under clause (iv).

20 “(iv) FUNDING.—

21 “(I) IN GENERAL.—The total
22 amount available for value-based in-
23 centive payments for a fiscal year
24 under paragraph (7)(A), after applica-
25 tion of subclause (II), shall be allo-

1 cated between the each grouping de-
2 scribed clause (i), as the Secretary de-
3 termines appropriate.

4 “(II) ADJUSTMENT TO REDUC-
5 TION IN THE BASE OPERATING DRG
6 PAYMENT AMOUNT.—The Secretary
7 shall make appropriate adjustments to
8 the applicable percent under para-
9 graph (7)(C) to take into account the
10 application of the transition under
11 this paragraph.

12 “(9) ANNOUNCEMENT OF NET RESULT OF AD-
13 JUSTMENTS.—Under the Program, the Secretary
14 shall, not later than 60 days prior to the fiscal year
15 involved, inform each hospital of the adjustments to
16 payments to the hospital for discharges occurring in
17 such fiscal year under paragraphs (6) and (7)(B)(i).

18 “(10) NO EFFECT IN SUBSEQUENT FISCAL
19 YEARS.—The value-based incentive payment under
20 paragraph (6) and the payment reduction under
21 paragraph (7)(B)(i) shall each apply only with re-
22 spect to the fiscal year involved, and the Secretary
23 shall not take into account such value-based incen-
24 tive payment or payment reduction in making pay-

1 prior to such information being made pub-
2 lie.

3 “(iii) WEBSITE.—Such information
4 shall be posted on the Hospital Compare
5 Internet website in an easily understand-
6 able format.

7 “(B) AGGREGATE INFORMATION.—The
8 Secretary shall periodically post on the Hospital
9 Compare Internet website aggregate informa-
10 tion on the Program, including—

11 “(i) the number of hospitals receiving
12 value-based incentive payments under
13 paragraph (6) and the range and total
14 amount of such value-based incentive pay-
15 ments; and

16 “(ii) the number of hospitals receiving
17 less than the maximum value-based incen-
18 tive payment available to the hospital for
19 the fiscal year involved and the range and
20 amount of such payments.

21 “(12) IMPLEMENTATION.—

22 “(A) APPEALS.—The Secretary shall es-
23 tablish a process by which hospitals may appeal
24 the calculation of a hospital’s performance as-
25 sessment with respect to the performance

1 standards established under paragraph (3)(A)
2 and the hospital performance score under para-
3 graph (5). The Secretary shall ensure that such
4 process provides for resolution of such appeals
5 in a timely manner.

6 “(B) LIMITATION ON REVIEW.—Except as
7 provided in subparagraph (A), there shall be no
8 administrative or judicial review under section
9 1869, section 1878, or otherwise of the fol-
10 lowing:

11 “(i) The methodology used to deter-
12 mine the amount of the value-based incen-
13 tive payment under paragraph (6) and the
14 determination of such amount.

15 “(ii) The determination of the amount
16 of funding available for such value-based
17 incentive payments under paragraph
18 (7)(A) and the payment reduction under
19 paragraph (7)(B)(i).

20 “(iii) The establishment of the per-
21 formance standards under paragraph (3)
22 and the performance period under para-
23 graph (4).

1 “(iv) The measures specified under
2 subsection (b)(3)(B)(viii) and the measures
3 selected under paragraph (2).

4 “(v) The methodology developed under
5 paragraph (5) that is used to calculate
6 hospital performance scores and the cal-
7 culation of such scores.

8 “(vi) The validation methodology
9 specified in subsection (b)(3)(B)(viii)(XI).

10 “(vii) The design and implementation
11 of the transition under paragraph (8).

12 “(C) CONSULTATION WITH SMALL HOS-
13 PITALS.—The Secretary shall consult with small
14 rural and urban hospitals on the application of
15 the Program to such hospitals.

16 “(D) TECHNICAL ASSISTANCE.—The Sec-
17 retary shall provide technical assistance to hos-
18 pitals participating in the Program. In pro-
19 viding such assistance, the Secretary shall give
20 priority to—

21 “(i) rural and urban hospitals with
22 limited infrastructure and financial re-
23 sources to implement and support quality
24 improvement activities;

1 “(ii) hospitals with poor performance
2 scores; and

3 “(iii) hospitals with disparities in care
4 among subgroups of patients.

5 “(13) PROMULGATION OF REGULATIONS.—The
6 Secretary of Health and Human Services shall pro-
7 mulgate regulations to carry out the Program, in-
8 cluding the selection of measures under paragraph
9 (2), the methodology developed under paragraph (5)
10 that is used to calculate hospital performance scores,
11 and the methodology used to determine the amount
12 of value-based incentive payments under paragraph
13 (6).”.

14 (2) AMENDMENTS FOR REPORTING OF HOS-
15 PITAL QUALITY INFORMATION.—Section
16 1886(b)(3)(B)(viii) of the Social Security Act (42
17 U.S.C. 1395ww(b)(3)(B)(viii)) is amended—

18 (A) in subclause (II), by adding at the end
19 the following sentence: “The Secretary may re-
20 quire hospitals to submit data on measures that
21 are not used for the determination of value-
22 based incentive payments under subsection
23 (n).”;

24 (B) in subclause (III), by adding at the
25 end the following sentence: “The Secretary may

1 specify measures identified in the third sentence
2 of subclause (VII) and measures of emergency
3 care, care coordination, patient safety, use of
4 health information technology, and performance
5 areas where gaps are identified.”;

6 (C) in subclause (V), by striking “begin-
7 ning with fiscal year 2008” and inserting “for
8 fiscal years 2008 through 2011”;

9 (D) in subclause (VII), in the first sen-
10 tence, by striking “data submitted” and insert-
11 ing “information regarding measures sub-
12 mitted”; and

13 (E) by adding at the end the following new
14 subclauses:

15 “(VIII) Effective for payments beginning with fiscal
16 year 2012, with respect to quality measures for outcomes
17 of care, the Secretary shall provide for such risk adjust-
18 ment as the Secretary determines to be appropriate to
19 maintain incentives for hospitals to treat patients with se-
20 vere illnesses or conditions.

21 “(IX)(aa) Subject to item (bb), effective for payments
22 beginning with fiscal year 2012, each measure specified
23 by the Secretary under this clause shall be endorsed by
24 the entity with a contract under section 1890(a). In speci-
25 fying measures under the preceding sentence, the Sec-

1 retary shall give due consideration to measures that have
2 been recommended for use by the Hospital Quality Alli-
3 ance.

4 “(bb) In the case of a specified area or medical topic
5 determined appropriate by the Secretary for which a fea-
6 sible and practical measure has not been endorsed by such
7 entity, the Secretary may specify a measure that is not
8 so endorsed as long as due consideration is given to meas-
9 ures that have been endorsed or adopted by a consensus
10 organization identified by the Secretary.

11 “(X) To the extent practicable, the Secretary shall,
12 with input from consensus organizations and other stake-
13 holders, take steps to ensure that the measures specified
14 by the Secretary under this clause are coordinated and
15 aligned with quality measures applicable to—

16 “(aa) physicians under section 1848(k); and

17 “(bb) other providers of services and suppliers
18 under this title.

19 “(XI) The Secretary shall establish a process to vali-
20 date measures specified under this clause as appropriate.
21 Such process shall include auditing of a number of ran-
22 domly selected hospitals sufficient to ensure validity of the
23 reporting program under this clause as a whole and shall
24 provide a hospital with an opportunity to appeal the vali-
25 dation of measures reported by such hospital.”.

1 (3) WEBSITE IMPROVEMENTS.—Section
2 1886(b)(3)(B) of the Social Security Act (42 U.S.C.
3 1395ww(b)(3)(B)) is amended by adding at the end
4 the following new clause:

5 “(ix)(I) The Secretary shall develop standard Inter-
6 net website reports tailored to meet the needs of various
7 stakeholders such as hospitals, patients, researchers and
8 policymakers. The Secretary shall seek input from such
9 stakeholders in determining the type of information that
10 is useful and the formats that best facilitate the use of
11 the information.

12 “(II) The Secretary shall modify the Hospital Com-
13 pare Internet website to make the use and navigation of
14 that website readily available to individuals accessing it.”.

15 (4) GAO STUDY AND REPORT.—

16 (A) STUDY.—The Comptroller General of
17 the United States shall conduct a study on the
18 performance of the hospital value-based pur-
19 chasing program established under section
20 1886(n) of the Social Security Act, as added by
21 paragraph (1). Such study shall include an
22 analysis of the impact of such program on—

23 (i) the quality of care furnished to
24 Medicare beneficiaries, including diverse
25 Medicare beneficiary populations (such as

1 diverse in terms of race, ethnicity, and so-
2 cioeconomic status);

3 (ii) expenditures under the Medicare
4 program, including any reduced expendi-
5 tures under Part A of title XVIII of such
6 Act that are attributable to the improve-
7 ment in the delivery of inpatient hospital
8 services by reason of such hospital value-
9 based purchasing program;

10 (iii) the quality performance among
11 safety net hospitals and any barriers such
12 hospitals face in meeting the performance
13 standards applicable under such hospital
14 value-based purchasing program; and

15 (iv) the quality performance among
16 small rural and small urban hospitals and
17 any barriers such hospitals face in meeting
18 the performance standards applicable
19 under such hospital value-based purchasing
20 program

21 (B) REPORTS.—

22 (i) INTERIM REPORT.—Not later than
23 October 1, 2013, the Comptroller General
24 of the United States shall submit to Con-
25 gress an interim report containing the re-

1 sults of the study conducted under sub-
2 paragraph (A), together with recommenda-
3 tions for such legislation and administra-
4 tive action as the Comptroller General de-
5 termines appropriate.

6 (ii) FINAL REPORT.—Not later than
7 July 1, 2015, the Comptroller General of
8 the United States shall submit to Congress
9 a report containing the results of the study
10 conducted under subparagraph (A), to-
11 gether with recommendations for such leg-
12 islation and administrative action as the
13 Comptroller General determines appro-
14 priate.

15 (5) HHS STUDY AND REPORT.—

16 (A) STUDY.—The Secretary of Health and
17 Human Services shall conduct a study on the
18 performance of the hospital value-based pur-
19 chasing program established under section
20 1886(n) of the Social Security Act, as added by
21 paragraph (1). Such study shall include an
22 analysis of ways to improve such program and
23 ways to address any unintended consequences
24 that may occur as a result of such program.

1 (B) REPORT.—Not later than January 1,
2 2014, the Secretary of Health and Human
3 Services shall submit to Congress a report con-
4 taining the results of the study conducted under
5 subparagraph (A), together with recommenda-
6 tions for such legislation and administrative ac-
7 tion as the Secretary determines appropriate.

8 (b) VALUE-BASED PURCHASING DEMONSTRATION
9 PROGRAMS.—

10 (1) VALUE-BASED PURCHASING DEMONSTRA-
11 TION PROGRAM FOR INPATIENT CRITICAL ACCESS
12 HOSPITALS.—

13 (A) ESTABLISHMENT.—

14 (i) IN GENERAL.—Not later than 2
15 years after the date of enactment of this
16 Act, the Secretary of Health and Human
17 Services (in this subsection referred to as
18 the “Secretary”) shall establish a dem-
19 onstration program under which the Sec-
20 retary establishes a value-based purchasing
21 program under the Medicare program
22 under title XVIII of the Social Security
23 Act for critical access hospitals (as defined
24 in paragraph (1) of section 1861(mm) of
25 such Act (42 U.S.C. 1395x(mm)) with re-

1 spect to inpatient critical access hospital
2 services (as defined in paragraph (2) of
3 such section) in order to test innovative
4 methods of measuring and rewarding qual-
5 ity health care furnished by such hospitals.

6 (ii) DURATION.—The demonstration
7 program under this paragraph shall be
8 conducted for a 3-year period.

9 (iii) SITES.—The Secretary shall con-
10 duct the demonstration program under this
11 paragraph at an appropriate number (as
12 determined by the Secretary) of critical ac-
13 cess hospitals. The Secretary shall ensure
14 that such hospitals are representative of
15 the spectrum of such hospitals that partici-
16 pate in the Medicare program.

17 (B) WAIVER AUTHORITY.—The Secretary
18 may waive such requirements of titles XI and
19 XVIII of the Social Security Act as may be nec-
20 essary to carry out the demonstration program
21 under this paragraph.

22 (C) REPORT.—Not later than 18 months
23 after the completion of the demonstration pro-
24 gram under this paragraph, the Secretary shall

1 submit to Congress a report on the demonstra-
2 tion program together with—

3 (i) recommendations on the establish-
4 ment of a permanent value-based pur-
5 chasing program under the Medicare pro-
6 gram for critical access hospitals with re-
7 spect to inpatient critical access hospital
8 services; and

9 (ii) recommendations for such other
10 legislation and administrative action as the
11 Secretary determines appropriate.

12 (2) VALUE-BASED PURCHASING DEMONSTRA-
13 TION PROGRAM FOR HOSPITALS EXCLUDED FROM
14 HOSPITAL VALUE-BASED PURCHASING PROGRAM AS
15 A RESULT OF INSUFFICIENT NUMBERS OF MEAS-
16 URES AND CASES.—

17 (A) ESTABLISHMENT.—

18 (i) IN GENERAL.—Not later than 2
19 years after the date of enactment of this
20 Act, the Secretary shall establish a dem-
21 onstration program under which the Sec-
22 retary establishes a value-based purchasing
23 program under the Medicare program
24 under title XVIII of the Social Security
25 Act for applicable hospitals (as defined in

1 clause (ii)) with respect to inpatient hos-
2 pital services (as defined in section
3 1861(b) of the Social Security Act (42
4 U.S.C. 1395x(b)) in order to test innova-
5 tive methods of measuring and rewarding
6 quality health care furnished by such hos-
7 pitals.

8 (ii) APPLICABLE HOSPITAL DE-
9 FINED.—For purposes of this paragraph,
10 the term “applicable hospital” means a
11 hospital described in subclause (III) or
12 (IV) of section 1886(n)(1)(C)(ii) of the So-
13 cial Security Act, as added by subsection
14 (a)(1).

15 (iii) DURATION.—The demonstration
16 program under this paragraph shall be
17 conducted for a 3-year period.

18 (iv) SITES.—The Secretary shall con-
19 duct the demonstration program under this
20 paragraph at an appropriate number (as
21 determined by the Secretary) of applicable
22 hospitals. The Secretary shall ensure that
23 such hospitals are representative of the
24 spectrum of such hospitals that participate
25 in the Medicare program.

1 (B) WAIVER AUTHORITY.—The Secretary
2 may waive such requirements of titles XI and
3 XVIII of the Social Security Act as may be nec-
4 essary to carry out the demonstration program
5 under this paragraph.

6 (C) REPORT.—Not later than 18 months
7 after the completion of the demonstration pro-
8 gram under this paragraph, the Secretary shall
9 submit to Congress a report on the demonstra-
10 tion program together with—

11 (i) recommendations on the establish-
12 ment of a permanent value-based pur-
13 chasing program under the Medicare pro-
14 gram for applicable hospitals with respect
15 to inpatient hospital services; and

16 (ii) recommendations for such other
17 legislation and administrative action as the
18 Secretary determines appropriate.

19 (c) IMPLEMENTATION.—For purposes of carrying out
20 the provisions of, and amendments made by, paragraphs
21 (1) through (3) of subsection (a) and subsection (b), the
22 Secretary of Health and Human Services shall provide for
23 the transfer, from the Federal Hospital Insurance Trust
24 Fund under section 1817 of the Social Security Act (42
25 U.S.C. 1395i), of \$ _____ to the Centers for

- 1 Medicare & Medicaid Services Program Management Ac-
- 2 count for fiscal 2009 and each subsequent fiscal year.