119TH CONGRESS
1ST SESSION

S. _____

To amend title XVIII of the Social Security Act to align Medicare fee-for-service payment rates across ambulatory settings.

IN THE SENATE OF THE UNITED STATES

Mr. KENNEDY 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 align Medicare fee-for-service payment rates across ambulatory settings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Same Care, Lower Cost Act".

SEC. 2. ALIGNING MEDICARE FEE-FOR-SERVICE PAYMENT RATES ACROSS AMBULATORY SETTINGS.

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

"(aa) SITE NEUTRAL PAYMENTS FOR CERTAIN SERVICES FURNISHED IN AMBULATORY SETTINGS.—

"(1) IN GENERAL.—For items and services furnished in a specified ambulatory setting during 2027 or a subsequent year and included in an ambulatory payment classifications identified pursuant to paragraph (2) for such year, payment under this part shall be made at the applicable site neutral payment rate under this part (as determined by the Secretary) if the requirements for such payment are otherwise met.

"(2) IDENTIFICATION OF SERVICES TO WHICH SITE NEUTRAL PAYMENTS APPLY.—For 2027 and subsequent years:

"(A) IDENTIFICATION.—

"(i) IN GENERAL.—The Secretary shall identify not fewer than 66 ambulatory payment classifications for site neutral payments which are appropriately furnished in either a hospital outpatient department, ambulatory surgical center, or other setting determined appropriate by the Secretary.

"(ii) ADDITIONAL APCS.—The Secretary may add additional ambulatory pay-

ment classifications to those identified under clause (i) as the Secretary determines clinically appropriate

"(B) EXCEPTION.—The Secretary shall reclassify the ambulatory payment classifications for emergency department visits, critical care visits, and trauma care visits at a hospital outpatient department as Comprehensive APCs, in which all the items and services on the same claim are packaged into a single payment unit. Any item or service that is provided with such a visit so reclassified shall not be treated as an item or service identified under subparagraph (A), and shall not be subject to the provisions of paragraph (1). The Secretary may, pursuant to rulemaking, specify exceptions to any reclassification under the first sentence of this subparagraph.

"(3) CONSIDERATION OF MEDPAC RECOMMENDATIONS.—In carrying out this subsection (including the identification of services under paragraph (2)), the Secretary shall take into consideration the recommendations of the Medicare Payment Advisory Commission in Chapter 8 (entitled 'Aligning fee-for-service payment rates across ambulatory

settings') of its 'Medicare and the Health Care Delivery System' report submitted to Congress in June 2023.

"(4) DEFINITION OF SPECIFIED AMBULATORY SETTING.—In this subsection, the term 'specified ambulatory setting' means a hospital outpatient department, ambulatory surgical center, or other setting determined appropriate by the Secretary.".

(b) CONFORMING AMENDMENTS.—

(1) PAYMENT SYSTEM FOR AMBULATORY SURGICAL CENTER SERVICES.—Section 1833(i)(2)(D)(i) of the Social Security Act (42 U.S.C. 1395l(i)(2)(D)(i)) is amended by striking "for payment" and inserting "for, subject to section 1834(aa), payment".

(2) HOPD FEE SCHEDULE.—Section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) is amended—

(A) in paragraph (1)(A), by striking "the amount of payment" and inserting "subject to section 1834(aa), the amount of payment"; and

(B) in paragraph (9)(B), by adding at the end the following: "In determining adjustments under this subparagraph for 2027 or a subsequent year, the Secretary shall not take into ac-

count under this subparagraph or paragraph (2)(E) any changes in expenditures as a result of the application of section 1834(aa)."

(3) PHYSICIAN FEE SCHEDULE.—Section 1848(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–4(a)(1)(B)) is amended by inserting "and section 1834(aa)" after "succeeding provisions of this subsection".