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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend title XXVII of the Public Health Service Act, the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974 to make certain adjustments to the surprise medical billing requirements for private health insurance.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend title XXVII of the Public Health Service Act, the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974 to make certain adjustments to the surprise medical billing requirements for private health insurance.

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 “Lower Premiums,
5 Faster Payments Act”.

1 **SEC. 2. ADJUSTING SURPRISE MEDICAL BILLING REQUIRE-**
2 **MENTS.**

3 (a) AMENDMENTS TO THE PUBLIC HEALTH SERVICE
4 ACT.—

5 (1) ELIMINATING INDEPENDENT DISPUTE RES-
6 OLUTION PROCESS.—

7 (A) IN GENERAL.—Section 2799A–1 of the
8 Public Health Service Act (42 U.S.C. 300gg–
9 111) is amended—

10 (i) in subsection (a)—

11 (I) in paragraph (1)(C)(iv)—

12 (aa) in subclause (I), by in-
13 serting “with respect to such
14 services furnished before January
15 1, 2028,” before “not later
16 than”; and

17 (bb) in subclause (II), by in-
18 serting “(or, with respect to such
19 services for which the out-of-net-
20 work rate is the qualifying pay-
21 ment amount for such services,
22 not later than 30 days after the
23 bill for such services is trans-
24 mitted by such provider or facil-
25 ity)” after “subsection (c)(6)”;
26 and

1 (II) in paragraph (3)(K)(ii)—

2 (aa) in subclause (I), by
3 striking “subject to subclause
4 (II)” and inserting “with respect
5 to items and services furnished
6 before January 1, 2028—

7 “(aa) subject to item (bb)”;

8 (bb) by redesignating sub-
9 clause (II) as item (bb); and

10 (cc) by adding at the end
11 the following new subclause:

12 “(II) with respect to items and
13 services furnished on or after January
14 1, 2028, the qualifying payment
15 amount (as defined in subparagraph
16 (E) for such year and determined in
17 accordance with rulemaking described
18 in paragraph (2)(B)) for such item or
19 service; or”;

20 (ii) in subsection (b)(1)—

21 (I) in subparagraph (C), by in-
22 serting “with respect to such services
23 furnished before January 1, 2028,”
24 before “not later than”; and

1 (II) in subparagraph (D), by in-
2 serting “(or, with respect to such
3 services for which the out-of-network
4 rate is the qualifying payment amount
5 for such services, not later than 30
6 days after the bill for such services is
7 transmitted by such provider)” after
8 “subsection (c)(6)”; and
9 (iii) in subsection (c)—

10 (I) in paragraph (1)(A), by in-
11 serting “ending on or before Decem-
12 ber 31, 2027,” after “in a year”; and

13 (II) in paragraph (7)—

14 (aa) in subparagraph (A),
15 by inserting “ending on or before
16 December 31, 2027” after “sub-
17 sequent year”; and

18 (bb) in subparagraph (C),
19 by inserting “ending on or before
20 December 31, 2027” after “sub-
21 sequent year”.

22 (B) AIR AMBULANCE SERVICES.—Section
23 2799A–2 of the Public Health Service Act (42
24 U.S.C. 300gg–112) is amended—

25 (i) in subsection (a)(3)—

1 (I) in subparagraph (A), by in-
2 serting “with respect to such services
3 furnished before January 1, 2028,”
4 before “not later than”; and

5 (II) in subparagraph (B), by in-
6 serting “(or, with respect to such
7 services for which the out-of-network
8 rate is the qualifying payment amount
9 for such services, not later than 30
10 days after the bill for such services is
11 transmitted by such provider)” after
12 “subsection (b)(6)”; and

13 (ii) in subsection (b)—

14 (I) in paragraph (1)(A), by in-
15 serting “ending on or before Decem-
16 ber 31, 2027,” after “in a year”; and

17 (II) in paragraph (7)—

18 (aa) in subparagraph (A),
19 by inserting “ending on or before
20 December 31, 2027” after “sub-
21 sequent year”; and

22 (bb) in subparagraph (C),
23 by inserting “ending on or before
24 December 31, 2027” after “sub-
25 sequent year”.

1 (2) ADJUSTING CALCULATION OF QUALIFYING
2 PAYMENT AMOUNT.—

3 (A) IN GENERAL.—Section 2799A–
4 1(a)(3)(E) of the Public Health Service Act (42
5 U.S.C. 300gg–111(a)(3)(E)) is amended—

6 (i) in clause (i)—

7 (I) in subclause (I), by striking
8 “and” at the end;

9 (II) in subclause (II)—

10 (aa) by inserting “before
11 2028” after “or a subsequent
12 year”; and

13 (bb) by striking the period
14 at the end and inserting a semi-
15 colon; and

16 (III) by adding at the end the
17 following new subclauses:

18 “(III) for an item or service fur-
19 nished during 2028, the median of the
20 contracted rates recognized by the
21 plan or issuer, respectively (deter-
22 mined only with respect to such plan
23 or such coverage), as the total pay-
24 ment (including the cost-sharing
25 amount imposed for such item or

1 service and the amount to be paid by
2 the plan or issuer, respectively, and
3 the average expected amount of any
4 incentive-based or retroactive pay-
5 ments or payment adjustments, in-
6 cluding risk-sharing payments, bo-
7 nuses, and penalties) under such plan
8 or coverage, respectively, on January
9 31, 2019, for the same or a similar
10 item or service that is provided by a
11 provider in the same specialty and
12 provided in the geographic region in
13 which the item or service is furnished,
14 consistent with the methodology es-
15 tablished by the Secretary under para-
16 graph (2), excluding any such rate in
17 effect with a provider that did not fur-
18 nish such item or service during the
19 plan year containing January 31,
20 2019, increased by the percentage in-
21 crease in the consumer price index for
22 all urban consumers (United States
23 city average) over 2019 and such per-
24 centage increase for each of years
25 2020 through 2027; and

1 “(IV) for an item or service fur-
2 nished during 2029 or a subsequent
3 year, the qualifying payment amount
4 determined under this clause for such
5 an item or service furnished in the
6 previous year, increased by the per-
7 centage increase in the consumer price
8 index for all urban consumers (United
9 States city average) over such pre-
10 vious year.”;

11 (ii) in clause (ii)—

12 (I) in the text preceding sub-
13 clause (I), by inserting “in a year be-
14 fore 2028” before “in a geographic re-
15 gion”;

16 (II) in subclause (II), by striking
17 the period at the end and inserting “;
18 and”;

19 (III) by redesignating subclauses
20 (I) and (II) as items (aa) and (bb),
21 respectively, and adjusting the mar-
22 gins accordingly;

23 (IV) by striking “means, with re-
24 spect to” and inserting the following:
25 “means—

1 “(I) with respect to”; and

2 (V) by adding at the end the fol-
3 lowing new subclause:

4 “(II) with respect to a sponsor of
5 a group health plan or health insur-
6 ance issuer offering group or indi-
7 vidual health insurance coverage in
8 2028 or a subsequent year that such
9 sponsor or issuer, respectively, did not
10 offer during 2019—

11 “(aa) for the first year in
12 which such group health plan,
13 group health insurance coverage,
14 or individual health insurance
15 coverage, respectively, is offered,
16 a rate (determined in accordance
17 with a methodology established
18 by the Secretary) for items and
19 services that are covered by such
20 plan or coverage and furnished
21 during such first year; and

22 “(bb) for each subsequent
23 year such group health plan,
24 group health insurance coverage,
25 or individual health insurance

1 coverage, respectively, is offered,
2 the qualifying payment amount
3 determined under this clause for
4 such items and services furnished
5 in the previous year, increased by
6 the percentage increase in the
7 consumer price index for all
8 urban consumers (United States
9 city average) over such previous
10 year.”;

11 (iii) in clause (iii)—

12 (I) in the matter preceding sub-
13 clause (I), by inserting “(or clause
14 (i)(III), as applicable)” after “de-
15 scribed in clause (i)(I)”;

16 (II) in subclause (III)—

17 (aa) by striking “or cov-
18 erage, has” and inserting the fol-
19 lowing: “or coverage—

20 “(aa) in the case that such
21 first sufficient information year
22 is a year before 2028, has”; and

23 (bb) by adding at the end
24 the following new item:

1 “(bb) in the case that such
2 first sufficient information year
3 is 2028 or a subsequent year, has
4 the meaning given the term
5 qualifying payment amount in
6 clause (i)(III), except that in ap-
7 plying such clause to such item
8 or service, the reference to ‘fur-
9 nished during 2028’ shall, for
10 first sufficient information years
11 subsequent to 2028, be treated
12 as a reference to furnished dur-
13 ing such first sufficient informa-
14 tion year, the reference to ‘Janu-
15 ary 31, 2019’ shall be treated as
16 a reference to the first day of
17 such first sufficient information
18 year, and the increase described
19 in such clause shall not be ap-
20 plied; and”; and
21 (III) in subclause (IV)—
22 (aa) by striking the period
23 at the end and inserting “; and”;

1 (bb) by striking “or cov-
2 erage, has” and inserting the fol-
3 lowing: “or coverage—

4 “(aa) in the case that such
5 first sufficient information year
6 is a year before 2028, has”; and

7 (cc) by adding at the end
8 the following new item:

9 “(bb) in the case that such
10 first sufficient information year
11 is 2028 or a subsequent year, has
12 the meaning given such term in
13 clause (i)(IV), except that in ap-
14 plying such clause to such item
15 or service, the reference to ‘fur-
16 nished during 2029 or a subse-
17 quent year’ shall, for first suffi-
18 cient information years subse-
19 quent to 2028, be treated as a
20 reference to furnished during the
21 year after such first sufficient in-
22 formation year or a subsequent
23 year.”; and

24 (iv) in clause (v)(II)—

1 (I) in item (aa), by inserting “(or
2 clause (i)(III), as applicable)” after
3 “described in clause (i)(I)”; and

4 (II) in item (bb), by inserting
5 “(or clause (i)(III), as applicable)”
6 after “described in clause (i)(I)”.

7 (B) UPDATED RULEMAKING.—Section
8 2799A–1(a)(2)(B) of the Public Health Service
9 Act (42 U.S.C. 300gg–111(a)(2)(B)) is amend-
10 ed—

11 (i) by redesignating clauses (i)
12 through (iv) as subclauses (I) through
13 (IV), respectively, and adjusting the mar-
14 gins accordingly;

15 (ii) by striking “Not later than” and
16 inserting the following:

17 “(i) INITIAL RULEMAKING.—Not later
18 than”;

19 (iii) by inserting before “Such rule-
20 making” the following new clause:

21 “(ii) UPDATED RULES.—

22 “(I) IN GENERAL.—Not later
23 than 180 days after the date of enact-
24 ment of this clause, the Secretary, in
25 consultation with the Secretary of

1 Labor and the Secretary of the Treas-
2 ury, shall update the rules issued
3 under clause (i) to revise the method-
4 ology the group health plan or health
5 insurance issuer offering group or in-
6 dividual health insurance coverage
7 shall use to determine the qualifying
8 payment amount for an item or serv-
9 ice furnished during 2028 or a subse-
10 quent year.

11 “(II) EXPEDITED RULE-
12 MAKING.—The Secretary may promul-
13 gate an interim final rule to carry out
14 this clause.”;

15 (iv) by striking “Such rulemaking”
16 and inserting the following:

17 “(iii) GUIDELINES.—The initial rule-
18 making under clause (i), and the updated
19 rules under clause (ii),”;

20 (v) by striking “In carrying out clause
21 (iii)” and inserting “In carrying out clause
22 (i)(III)”;

23 (vi) by adding at the end the following
24 new clause:

1 “(vi) JUDICIAL REVIEW.—There shall
2 be no judicial review of the methodology
3 for determining the qualifying payment
4 amount established under this subpara-
5 graph.”.

6 (C) ANNUAL AUDITS.—Section 2799A–
7 1(a)(2)(A) of the Public Health Service Act (42
8 U.S.C. 300gg–111(a)(2)(A)) is amended—

9 (i) in clause (ii)—

10 (I) in subclause (I)—

11 (aa) by striking “a year (be-
12 ginning with 2022)” and insert-
13 ing “each year beginning with
14 2022 and ending with 2027”;

15 (bb) by striking “such
16 clause, with” and inserting:
17 “such clause—

18 “(aa) with”; and

19 (cc) by adding at the end
20 the following new item:

21 “(bb) with respect to 2028
22 and each subsequent year, of a
23 sample with respect to such year
24 of claims data from not less than
25 25 group health plans and health

1 insurance issuers offering group
2 or individual health insurance
3 coverage; and”; and
4 (II) in subclause (II), by striking
5 “may” and inserting “shall”; and
6 (ii) in clause (iii)—
7 (I) by inserting “(and, beginning
8 for 2028, shall make publicly avail-
9 able)” after “submit to Congress”;
10 (II) by striking the period at the
11 end and inserting “; and”;
12 (III) by striking “on the num-
13 ber” and inserting: “on—
14 “(I) the number”; and
15 (IV) by adding at the end the fol-
16 lowing new subclause:
17 “(II) the findings of each such
18 audit.”.

19 (b) AMENDMENTS TO THE INTERNAL REVENUE
20 CODE OF 1986.—

21 (1) ELIMINATING INDEPENDENT DISPUTE RES-
22 OLUTION PROCESS.—

23 (A) IN GENERAL.—Section 9816 of the In-
24 ternal Revenue Code of 1986 is amended—

25 (i) in subsection (a)—

1 (I) in paragraph (1)(C)(iv)—

2 (aa) in subclause (I), by in-
3 serting “with respect to such
4 services furnished before January
5 1, 2028,” before “not later
6 than”; and

7 (bb) in subclause (II), by in-
8 serting “(or, with respect to such
9 services for which the out-of-net-
10 work rate is the qualifying pay-
11 ment amount for such services,
12 not later than 30 days after the
13 bill for such services is trans-
14 mitted by such provider or facil-
15 ity)” after “subsection (c)(6)”;
16 and

17 (II) in paragraph (3)(K)(ii)—

18 (aa) in subclause (I), by
19 striking “subject to subclause
20 (II)” and inserting “with respect
21 to items and services furnished
22 before January 1, 2028—

23 “(aa) subject to item (bb)”;

24 (bb) by redesignating sub-
25 clause (II) as item (bb); and

1 (cc) by adding at the end
2 the following new subclause:

3 “(II) with respect to items and
4 services furnished on or after January
5 1, 2028, the qualifying payment
6 amount (as defined in subparagraph
7 (E) for such year and determined in
8 accordance with rulemaking described
9 in paragraph (2)(B)) for such item or
10 service; or”;

11 (ii) in subsection (b)(1)—

12 (I) in subparagraph (C), by in-
13 serting “with respect to such services
14 furnished before January 1, 2028,”
15 before “not later than”; and

16 (II) in subparagraph (D), by in-
17 serting “(or, with respect to such
18 services for which the out-of-network
19 rate is the qualifying payment amount
20 for such services, not later than 30
21 days after the bill for such services is
22 transmitted by such provider)” after
23 “subsection (c)(6)”; and

24 (iii) in subsection (c)—

1 (I) in paragraph (1)(A), by in-
2 serting “ending on or before Decem-
3 ber 31, 2027,” after “in a year”; and

4 (II) in paragraph (7)—

5 (aa) in subparagraph (A),
6 by inserting “ending on or before
7 December 31, 2027” after “sub-
8 sequent year”; and

9 (bb) in subparagraph (C),
10 by inserting “ending on or before
11 December 31, 2027” after “sub-
12 sequent year”.

13 (B) AIR AMBULANCE SERVICES.—Section
14 9817 of the Internal Revenue Code of 1986 is
15 amended—

16 (i) in subsection (a)(3)—

17 (I) in subparagraph (A), by in-
18 serting “with respect to such services
19 furnished before January 1, 2028,”
20 before “not later than”; and

21 (II) in subparagraph (B), by in-
22 serting “(or, with respect to such
23 services for which the out-of-network
24 rate is the qualifying payment amount
25 for such services, not later than 30

1 days after the bill for such services is
2 transmitted by such provider)” after
3 “subsection (b)(6)”;

4 (ii) in subsection (b)—

5 (I) in paragraph (1)(A), by in-
6 serting “ending on or before Decem-
7 ber 31, 2027,” after “in a year”; and

8 (II) in paragraph (7)—

9 (aa) in subparagraph (A),
10 by inserting “ending on or before
11 December 31, 2027” after “sub-
12 sequent year”; and

13 (bb) in subparagraph (C),
14 by inserting “ending on or before
15 December 31, 2027” after “sub-
16 sequent year”.

17 (2) ADJUSTING CALCULATION OF QUALIFYING
18 PAYMENT AMOUNT.—

19 (A) IN GENERAL.—Section 9816(a)(3)(E)
20 of the Internal Revenue Code of 1986 is
21 amended—

22 (i) in clause (i)—

23 (I) in subclause (I), by striking
24 “and” at the end;

25 (II) in subclause (II)—

1 (aa) by inserting “before
2 2028” after “or a subsequent
3 year”; and

4 (bb) by striking the period
5 at the end and inserting a semi-
6 colon; and

7 (III) by adding at the end the
8 following new subclauses:

9 “(III) for an item or service fur-
10 nished during 2028, the median of the
11 contracted rates recognized by the
12 plan (determined only with respect to
13 such plan), as the total payment (in-
14 cluding the cost-sharing amount im-
15 posed for such item or service and the
16 amount to be paid by the plan, and
17 the average expected amount of any
18 incentive-based or retroactive pay-
19 ments or payment adjustments, in-
20 cluding risk-sharing payments, bo-
21 nuses, and penalties) under such plan
22 on January 31, 2019, for the same or
23 a similar item or service that is pro-
24 vided by a provider in the same spe-
25 cialty and provided in the geographic

1 region in which the item or service is
2 furnished, consistent with the method-
3 ology established by the Secretary
4 under paragraph (2), excluding any
5 such rate in effect with a provider
6 that did not furnish such item or serv-
7 ice during the plan year containing
8 January 31, 2019, increased by the
9 percentage increase in the consumer
10 price index for all urban consumers
11 (United States city average) over
12 2019 and such percentage increase for
13 each of years 2020 through 2027; and
14 “(IV) for an item or service fur-
15 nished during 2029 or a subsequent
16 year, the qualifying payment amount
17 determined under this clause for such
18 an item or service furnished in the
19 previous year, increased by the per-
20 centage increase in the consumer price
21 index for all urban consumers (United
22 States city average) over such pre-
23 vious year.”;
24 (ii) in clause (ii)—

1 (I) in the text preceding sub-
2 clause (I), by inserting “in a year be-
3 fore 2028” before “in a geographic re-
4 gion”;

5 (II) in subclause (II), by striking
6 the period at the end and inserting “;
7 and”;

8 (III) by redesignating subclauses
9 (I) and (II) as items (aa) and (bb),
10 respectively, and adjusting the mar-
11 gins accordingly;

12 (IV) by striking “means, with re-
13 spect to” and inserting the following:
14 “means—

15 “(I) with respect to”; and

16 (V) by adding at the end the fol-
17 lowing new subclause:

18 “(II) with respect to a sponsor of
19 a group health plan offered in 2028 or
20 a subsequent year that such sponsor
21 did not offer during 2019—

22 “(aa) for the first year in
23 which such group health plan is
24 offered, a rate (determined in ac-
25 cordance with a methodology es-

1 tablished by the Secretary) for
2 items and services that are cov-
3 ered by such plan and furnished
4 during such first year; and

5 “(bb) for each subsequent
6 year such group health plan is of-
7 fered, the qualifying payment
8 amount determined under this
9 clause for such items and services
10 furnished in the previous year,
11 increased by the percentage in-
12 crease in the consumer price
13 index for all urban consumers
14 (United States city average) over
15 such previous year.”;

16 (iii) in clause (iii)—

17 (I) in the matter preceding sub-
18 clause (I), by inserting “(or clause
19 (i)(III), as applicable)” after “de-
20 scribed in clause (i)(I)”;

21 (II) in subclause (III)—

22 (aa) by striking “such plan,
23 has” and inserting the following:
24 “such plan—

1 “(aa) in the case that such
2 first sufficient information year
3 is a year before 2028, has”; and

4 (bb) by adding at the end
5 the following new item:

6 “(bb) in the case that such
7 first sufficient information year
8 is 2028 or a subsequent year, has
9 the meaning given the term
10 qualifying payment amount in
11 clause (i)(III), except that in ap-
12 plying such clause to such item
13 or service, the reference to ‘fur-
14 nished during 2028’ shall, for
15 first sufficient information years
16 subsequent to 2028, be treated
17 as a reference to furnished dur-
18 ing such first sufficient informa-
19 tion year, the reference to ‘Janu-
20 ary 31, 2019’ shall be treated as
21 a reference to the first day of
22 such first sufficient information
23 year, and the increase described
24 in such clause shall not be ap-
25 plied; and”; and

1 (III) in subclause (IV)—

2 (aa) by striking the period
3 at the end and inserting “; and”;

4 (bb) by striking “such plan,
5 has” and inserting the following:
6 “such plan—

7 “(aa) in the case that such
8 first sufficient information year
9 is a year before 2028, has”; and
10 (cc) by adding at the end
11 the following new item:

12 “(bb) in the case that such
13 first sufficient information year
14 is 2028 or a subsequent year, has
15 the meaning given such term in
16 clause (i)(IV), except that in ap-
17 plying such clause to such item
18 or service, the reference to ‘fur-
19 nished during 2029 or a subse-
20 quent year’ shall, for first suffi-
21 cient information years subse-
22 quent to 2028, be treated as a
23 reference to furnished during the
24 year after such first sufficient in-

1 formation year or a subsequent
2 year.”; and

3 (iv) in clause (v)(II)—

4 (I) in item (aa), by inserting “(or
5 clause (i)(III), as applicable)” after
6 “described in clause (i)(I)”;

7 (II) in item (bb), by inserting
8 “(or clause (i)(III), as applicable)”
9 after “described in clause (i)(I)”.

10 (B) UPDATED RULEMAKING.—Section
11 9816(a)(2)(B) of the Internal Revenue Code of
12 1986 is amended—

13 (i) by redesignating clauses (i)
14 through (iv) as subclauses (I) through
15 (IV), respectively, and adjusting the mar-
16 gins accordingly;

17 (ii) by striking “Not later than” and
18 inserting the following:

19 “(i) INITIAL RULEMAKING.—Not later
20 than”;

21 (iii) by inserting before “Such rule-
22 making” the following new clause:

23 “(ii) UPDATED RULES.—

24 “(I) IN GENERAL.—Not later
25 than 180 days after the date of enact-

1 ment of this clause, the Secretary, in
2 consultation with the Secretary of
3 Labor and the Secretary of Health
4 and Human Services, shall update the
5 rules issued under clause (i) to revise
6 the methodology the group health plan
7 shall use to determine the qualifying
8 payment amount for an item or serv-
9 ice furnished during 2028 or a subse-
10 quent year.

11 “(II) EXPEDITED RULE-
12 MAKING.—The Secretary may promul-
13 gate an interim final rule to carry out
14 this clause.”;

15 (iv) by striking “Such rulemaking”
16 and inserting the following:

17 “(iii) GUIDELINES.—The initial rule-
18 making under clause (i), and the updated
19 rules under clause (ii),”;

20 (v) by striking “In carrying out clause
21 (iii)” and inserting “In carrying out clause
22 (i)(III)”;

23 (vi) by adding at the end the following
24 new clause:

1 “(vi) JUDICIAL REVIEW.—There shall
2 be no judicial review of the methodology
3 for determining the qualifying payment
4 amount established under this subpara-
5 graph.”.

6 (C) ANNUAL AUDITS.—Section
7 9816(a)(2)(A) of the Internal Revenue Code of
8 1986 is amended—

9 (i) in clause (ii)—

10 (I) in subclause (I)—

11 (aa) by striking “a year (be-
12 ginning with 2022)” and insert-
13 ing “each year beginning with
14 2022 and ending with 2027”;

15 (bb) by striking “such
16 clause, with” and inserting:
17 “such clause—

18 “(aa) with”; and

19 (cc) by adding at the end
20 the following new item:

21 “(bb) with respect to 2028
22 and each subsequent year, of a
23 sample with respect to such year
24 of claims data from not less than
25 25 group health plans; and”;

1 (II) in subclause (II), by striking
2 “may” and inserting “shall”; and
3 (ii) in clause (iii)—
4 (I) by inserting “(and, beginning
5 for 2028, shall make publicly avail-
6 able)” after “submit to Congress”;
7 (II) by striking the period at the
8 end and inserting “; and”;
9 (III) by striking “on the num-
10 ber” and inserting: “on—
11 “(I) the number”; and
12 (IV) by adding at the end the fol-
13 lowing new subclause:
14 “(II) the findings of each such
15 audit.”.

16 (c) AMENDMENTS TO THE EMPLOYEE RETIREMENT
17 INCOME SECURITY ACT OF 1974.—

18 (1) ELIMINATING INDEPENDENT DISPUTE RES-
19 OLUTION PROCESS.—

20 (A) IN GENERAL.—Section 716 of the Em-
21 ployee Retirement Income Security Act of 1974
22 (29 U.S.C. 1185e) is amended—

23 (i) in subsection (a)—

24 (I) in paragraph (1)(C)(iv)—

1 (aa) in subclause (I), by in-
2 serting “with respect to such
3 services furnished before January
4 1, 2028,” before “not later
5 than”; and

6 (bb) in subclause (II), by in-
7 serting “(or, with respect to such
8 services for which the out-of-net-
9 work rate is the qualifying pay-
10 ment amount for such services,
11 not later than 30 days after the
12 bill for such services is trans-
13 mitted by such provider or facil-
14 ity)” after “subsection (c)(6)”;
15 and

16 (II) in paragraph (3)(K)(ii)—

17 (aa) in subclause (I), by
18 striking “subject to subclause
19 (II)” and inserting “with respect
20 to items and services furnished
21 before January 1, 2028—

22 “(aa) subject to item (bb)”;

23 (bb) by redesignating sub-
24 clause (II) as item (bb); and

1 (cc) by adding at the end
2 the following new subclause:

3 “(II) with respect to items and
4 services furnished on or after January
5 1, 2028, the qualifying payment
6 amount (as defined in subparagraph
7 (E) for such year and determined in
8 accordance with rulemaking described
9 in paragraph (2)(B)) for such item or
10 service; or”;

11 (ii) in subsection (b)(1)—

12 (I) in subparagraph (C), by in-
13 serting “with respect to such services
14 furnished before January 1, 2028,”
15 before “not later than”; and

16 (II) in subparagraph (D), by in-
17 serting “(or, with respect to such
18 services for which the out-of-network
19 rate is the qualifying payment amount
20 for such services, not later than 30
21 days after the bill for such services is
22 transmitted by such provider)” after
23 “subsection (c)(6)”; and

24 (iii) in subsection (c)—

1 (I) in paragraph (1)(A), by in-
2 serting “ending on or before Decem-
3 ber 31, 2027,” after “in a year”; and

4 (II) in paragraph (7)—

5 (aa) in subparagraph (A),
6 by inserting “ending on or before
7 December 31, 2027” after “sub-
8 sequent year”; and

9 (bb) in subparagraph (C),
10 by inserting “ending on or before
11 December 31, 2027” after “sub-
12 sequent year”.

13 (B) AIR AMBULANCE SERVICES.—Section
14 717 of the Employee Retirement Income Secu-
15 rity Act of 1974 (29 U.S.C. 1185f) is amend-
16 ed—

17 (i) in subsection (a)(3)—

18 (I) in subparagraph (A), by in-
19 serting “with respect to such services
20 furnished before January 1, 2028,”
21 before “not later than”; and

22 (II) in subparagraph (B), by in-
23 serting “(or, with respect to such
24 services for which the out-of-network
25 rate is the qualifying payment amount

1 for such services, not later than 30
2 days after the bill for such services is
3 transmitted by such provider)” after
4 “subsection (b)(6)”; and
5 (ii) in subsection (b)—

6 (I) in paragraph (1)(A), by in-
7 serting “ending on or before Decem-
8 ber 31, 2027,” after “in a year”; and

9 (II) in paragraph (7)—

10 (aa) in subparagraph (A),
11 by inserting “ending on or before
12 December 31, 2027” after “sub-
13 sequent year”; and

14 (bb) in subparagraph (C),
15 by inserting “ending on or before
16 December 31, 2027” after “sub-
17 sequent year”.

18 (2) ADJUSTING CALCULATION OF QUALIFYING
19 PAYMENT AMOUNT.—

20 (A) IN GENERAL.—Section 716(a)(3)(E) of
21 the Employee Retirement Income Security Act
22 of 1974 (29 U.S.C. 1185e(a)(3)(E)) is amend-
23 ed—

24 (i) in clause (i)—

1 (I) in subclause (I), by striking
2 “and” at the end;

3 (II) in subclause (II)—

4 (aa) by inserting “before
5 2028” after “or a subsequent
6 year”; and

7 (bb) by striking the period
8 at the end and inserting a semi-
9 colon; and

10 (III) by adding at the end the
11 following new subclauses:

12 “(III) for an item or service fur-
13 nished during 2028, the median of the
14 contracted rates recognized by the
15 plan or issuer, respectively (deter-
16 mined only with respect to such plan
17 or such coverage), as the total pay-
18 ment (including the cost-sharing
19 amount imposed for such item or
20 service and the amount to be paid by
21 the plan or issuer, respectively, and
22 the average expected amount of any
23 incentive-based or retroactive pay-
24 ments or payment adjustments, in-
25 cluding risk-sharing payments, bo-

1 nuses, and penalties) under such plan
2 or coverage, respectively, on January
3 31, 2019, for the same or a similar
4 item or service that is provided by a
5 provider in the same specialty and
6 provided in the geographic region in
7 which the item or service is furnished,
8 consistent with the methodology es-
9 tablished by the Secretary under para-
10 graph (2), excluding any such rate in
11 effect with a provider that did not fur-
12 nish such item or service during the
13 plan year containing January 31,
14 2019, increased by the percentage in-
15 crease in the consumer price index for
16 all urban consumers (United States
17 city average) over 2019 and such per-
18 centage increase for each of years
19 2020 through 2027; and

20 “(IV) for an item or service fur-
21 nished during 2029 or a subsequent
22 year, the qualifying payment amount
23 determined under this clause for such
24 an item or service furnished in the
25 previous year, increased by the per-

1 centage increase in the consumer price
2 index for all urban consumers (United
3 States city average) over such pre-
4 vious year.”;

5 (ii) in clause (ii)—

6 (I) in the text preceding sub-
7 clause (I), by inserting “in a year be-
8 fore 2028” before “in a geographic re-
9 gion”;

10 (II) in subclause (II), by striking
11 the period at the end and inserting “;
12 and”;

13 (III) by redesignating subclauses
14 (I) and (II) as items (aa) and (bb),
15 respectively, and adjusting the mar-
16 gins accordingly;

17 (IV) by striking “means, with re-
18 spect to” and inserting the following:
19 “means—

20 “(I) with respect to”; and

21 (V) by adding at the end the fol-
22 lowing new subclause:

23 “(II) with respect to a sponsor of
24 a group health plan or health insur-
25 ance issuer offering group health in-

1 surance coverage in 2028 or a subse-
2 quent year that such sponsor or
3 issuer, respectively, did not offer dur-
4 ing 2019—

5 “(aa) for the first year in
6 which such group health plan or
7 group health insurance coverage,
8 respectively, is offered, a rate
9 (determined in accordance with a
10 methodology established by the
11 Secretary) for items and services
12 that are covered by such plan or
13 coverage and furnished during
14 such first year; and

15 “(bb) for each subsequent
16 year such group health plan or
17 group health insurance coverage,
18 respectively, is offered, the quali-
19 fying payment amount deter-
20 mined under this clause for such
21 items and services furnished in
22 the previous year, increased by
23 the percentage increase in the
24 consumer price index for all
25 urban consumers (United States

1 city average) over such previous
2 year.”;

3 (iii) in clause (iii)—

4 (I) in the matter preceding sub-
5 clause (I), by inserting “(or clause
6 (i)(III), as applicable)” after “de-
7 scribed in clause (i)(I)”;

8 (II) in subclause (III)—

9 (aa) by striking “or cov-
10 erage, has” and inserting the fol-
11 lowing: “or coverage—

12 “(aa) in the case that such
13 first sufficient information year
14 is a year before 2028, has”; and

15 (bb) by adding at the end
16 the following new item:

17 “(bb) in the case that such
18 first sufficient information year
19 is 2028 or a subsequent year, has
20 the meaning given the term
21 qualifying payment amount in
22 clause (i)(III), except that in ap-
23 plying such clause to such item
24 or service, the reference to ‘fur-
25 nished during 2028’ shall, for

1 first sufficient information years
2 subsequent to 2028, be treated
3 as a reference to furnished dur-
4 ing such first sufficient informa-
5 tion year, the reference to ‘Janu-
6 ary 31, 2019’ shall be treated as
7 a reference to the first day of
8 such first sufficient information
9 year, and the increase described
10 in such clause shall not be ap-
11 plied; and”;

12 (III) in subclause (IV)—

13 (aa) by striking the period
14 at the end and inserting “; and”;

15 (bb) by striking “or cov-
16 erage, has” and inserting the fol-
17 lowing: “or coverage—

18 “(aa) in the case that such
19 first sufficient information year
20 is a year before 2028, has”;

21 (cc) by adding at the end
22 the following new item:

23 “(bb) in the case that such
24 first sufficient information year
25 is 2028 or a subsequent year, has

1 the meaning given such term in
2 clause (i)(IV), except that in ap-
3 plying such clause to such item
4 or service, the reference to ‘fur-
5 nished during 2029 or a subse-
6 quent year’ shall, for first suffi-
7 cient information years subse-
8 quent to 2028, be treated as a
9 reference to furnished during the
10 year after such first sufficient in-
11 formation year or a subsequent
12 year.”; and

13 (iv) in clause (v)(II)—

14 (I) in item (aa), by inserting “(or
15 clause (i)(III), as applicable)” after
16 “described in clause (i)(I)”; and

17 (II) in item (bb), by inserting
18 “(or clause (i)(III), as applicable)”
19 after “described in clause (i)(I)”.

20 (B) UPDATED RULEMAKING.—Section
21 716(a)(2) of the Employee Retirement Income
22 Security Act of 1974 (29 U.S.C. 1185e(a)(2))
23 is amended—

24 (i) by redesignating subparagraphs

25 (A) through (D) as clauses (i) through

1 (iv), respectively, and adjusting the mar-
2 gins accordingly;

3 (ii) by striking “Not later than” and
4 inserting the following:

5 “(A) INITIAL RULEMAKING.—Not later
6 than”;

7 (iii) by inserting before “Such rule-
8 making” the following new clause:

9 “(B) UPDATED RULES.—

10 “(i) IN GENERAL.—Not later than
11 180 days after the date of enactment of
12 this clause, the Secretary, in consultation
13 with the Secretary of the Treasury and the
14 Secretary of Health and Human Services,
15 shall update the rules issued under sub-
16 paragraph (A) to revise the methodology
17 the group health plan or health insurance
18 issuer offering group health insurance cov-
19 erage shall use to determine the qualifying
20 payment amount for an item or service
21 furnished during 2028 or a subsequent
22 year.

23 “(ii) EXPEDITED RULEMAKING.—The
24 Secretary may promulgate an interim final
25 rule to carry out this subparagraph.”;

1 (iv) by striking “Such rulemaking”
2 and inserting the following:

3 “(C) GUIDELINES.—The initial rulemaking
4 under subparagraph (A), and the updated rules
5 under subparagraph (B),”;

6 (v) by striking “In carrying out clause
7 (iii)” and inserting “In carrying out sub-
8 paragraph (A)(iii)”; and

9 (vi) by adding at the end the following
10 new subparagraph:

11 “(D) JUDICIAL REVIEW.—There shall be
12 no judicial review of the methodology for deter-
13 mining the qualifying payment amount estab-
14 lished under this paragraph.”.