

**Medicare Improvements for Patients and Providers Act of 2008 (Enrolled
as Agreed to or Passed by Both House and Senate)**

SECTION 135 IMAGING PROVISIONS

(b) Demonstration Project To Assess the Appropriate Use of Imaging Services-

(1) CONDUCT OF DEMONSTRATION PROJECT-

(A) IN GENERAL- The Secretary of Health and Human Services (in this section referred to as the `Secretary') shall conduct a demonstration project using the models described in paragraph (2)(E) to collect data regarding physician compliance with appropriateness criteria selected under paragraph (2)(D) in order to determine the appropriateness of advanced diagnostic imaging services furnished to Medicare beneficiaries.

(B) ADVANCED DIAGNOSTIC IMAGING SERVICES- In this subsection, the term `advanced diagnostic imaging services' has the meaning given such term in section 1834(e)(1)(B) of the Social Security Act, as added by subsection (a).

(C) AUTHORITY TO FOCUS DEMONSTRATION PROJECT- The Secretary may focus the demonstration project with respect to certain advanced diagnostic imaging services, such as services that account for a large amount of expenditures under the Medicare program, services that have recently experienced a high rate of growth, or services for which appropriateness criteria exists.

(2) IMPLEMENTATION AND DESIGN OF DEMONSTRATION PROJECT-

(A) IMPLEMENTATION AND DURATION-

(i) IMPLEMENTATION- The Secretary shall implement the demonstration project under this subsection not later than January 1, 2010.

(ii) DURATION- The Secretary shall conduct the demonstration project under this subsection for a 2-year period.

(B) APPLICATION AND SELECTION OF PARTICIPATING PHYSICIANS-

(i) APPLICATION- Each physician that desires to participate in the demonstration project under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(ii) SELECTION- The Secretary shall select physicians to participate in the demonstration project under this subsection from among physicians submitting applications under clause (i). The Secretary shall ensure that the physicians selected--

(I) represent a wide range of geographic areas, demographic characteristics (such as urban, rural, and suburban), and practice settings (such as private and academic practices); and

(II) have the capability to submit data to the Secretary (or an entity under a subcontract with the Secretary) in an electronic format in accordance with standards established by the Secretary.

(C) ADMINISTRATIVE COSTS AND INCENTIVES- The Secretary shall--

(i) reimburse physicians for reasonable administrative costs incurred in participating in the demonstration project under this subsection; and

(ii) provide reasonable incentives to physicians to encourage participation in the demonstration project under this subsection.

(D) USE OF APPROPRIATENESS CRITERIA-

(i) IN GENERAL- The Secretary, in consultation with medical specialty societies and other stakeholders, shall select criteria with respect to the clinical appropriateness of advanced diagnostic imaging services for use in the demonstration project under this subsection.

(ii) CRITERIA SELECTED- Any criteria selected under clause (i) shall--

(I) be developed or endorsed by a medical specialty society; and

(II) be developed in adherence to appropriateness principles developed by a consensus organization, such as the AQA alliance.

(E) MODELS FOR COLLECTING DATA REGARDING PHYSICIAN COMPLIANCE WITH SELECTED CRITERIA- Subject to subparagraph (H), in carrying out the demonstration project

under this subsection, the Secretary shall use each of the following models for collecting data regarding physician compliance with appropriateness criteria selected under subparagraph (D):

- (i) A model described in subparagraph (F).
- (ii) A model described in subparagraph (G).
- (iii) Any other model that the Secretary determines to be useful in evaluating the use of appropriateness criteria for advanced diagnostic imaging services.

(F) POINT OF SERVICE MODEL DESCRIBED- A model described in this subparagraph is a model that--

- (i) uses an electronic or paper intake form that--
 - (I) contains a certification by the physician furnishing the imaging service that the data on the intake form was confirmed with the Medicare beneficiary before the service was furnished;
 - (II) contains standardized data elements for diagnosis, service ordered, service furnished, and such other information determined by the Secretary, in consultation with medical specialty societies and other stakeholders, to be germane to evaluating the effectiveness of the use of appropriateness criteria selected under subparagraph (D); and
 - (III) is accessible to physicians participating in the demonstration project under this subsection in a format that allows for the electronic submission of such form; and
- (ii) provides for feedback reports in accordance with paragraph (3)(B).

(G) POINT OF ORDER MODEL DESCRIBED- A model described in this subparagraph is a model that--

- (i) uses a computerized order-entry system that requires the transmittal of relevant supporting information at the time of referral for advanced diagnostic imaging services and provides automated decision-support feedback to the referring physician regarding the appropriateness of furnishing such imaging services; and
- (ii) provides for feedback reports in accordance with paragraph (3)(B).

(H) LIMITATION- In no case may the Secretary use prior authorization--

- (i) as a model for collecting data regarding physician compliance with appropriateness criteria selected under

subparagraph (D) under the demonstration project under this subsection; or
(ii) under any model used for collecting such data under the demonstration project.

(I) REQUIRED CONTRACTS AND PERFORMANCE STANDARDS FOR CERTAIN ENTITIES-

(i) IN GENERAL- The Secretary shall enter into contracts with entities to carry out the model described in subparagraph (G).

(ii) PERFORMANCE STANDARDS- The Secretary shall establish and enforce performance standards for such entities under the contracts entered into under clause (i), including performance standards with respect to--

(I) the satisfaction of Medicare beneficiaries who are furnished advanced diagnostic imaging services by a physician participating in the demonstration project;

(II) the satisfaction of physicians participating in the demonstration project;

(III) if applicable, timelines for the provision of feedback reports under paragraph (3)(B); and

(IV) any other areas determined appropriate by the Secretary.

(3) COMPARISON OF UTILIZATION OF ADVANCED DIAGNOSTIC IMAGING SERVICES AND FEEDBACK REPORTS-

(A) COMPARISON OF UTILIZATION OF ADVANCED DIAGNOSTIC IMAGING SERVICES- The Secretary shall consult with medical specialty societies and other stakeholders to develop mechanisms for comparing the utilization of advanced diagnostic imaging services by physicians participating in the demonstration project under this subsection against--

(i) the appropriateness criteria selected under paragraph (2)(D); and

(ii) to the extent feasible, the utilization of such services by physicians not participating in the demonstration project.

(B) FEEDBACK REPORTS- The Secretary shall, in consultation with medical specialty societies and other stakeholders, develop mechanisms to provide feedback reports to physicians participating in the demonstration project under this subsection. Such feedback reports shall include--

(i) a profile of the rate of compliance by the physician with appropriateness criteria selected under paragraph (2)(D), including a comparison of--

- (I) the rate of compliance by the physician with such criteria; and
- (II) the rate of compliance by the physician's peers (as defined by the Secretary) with such criteria; and
- (ii) to the extent feasible, a comparison of--
 - (I) the rate of utilization of advanced diagnostic imaging services by the physician; and
 - (II) the rate of utilization of such services by the physician's peers (as defined by the Secretary) who are not participating in the demonstration project.

(4) CONDUCT OF DEMONSTRATION PROJECT AND WAIVER-

(A) CONDUCT OF DEMONSTRATION PROJECT- Chapter 35 of title 44, United States Code, shall not apply to the conduct of the demonstration project under this subsection.

(B) WAIVER- The Secretary may waive such provisions of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq.; 1395 et seq.) as may be necessary to carry out the demonstration project under this subsection.

(5) EVALUATION AND REPORT-

(A) EVALUATION- The Secretary shall evaluate the demonstration project under this subsection to--

- (i) assess the timeliness and efficacy of the demonstration project;
- (ii) assess the performance of entities under a contract entered into under paragraph (2)(I)(i);
- (iii) analyze data--
 - (I) on the rates of appropriate, uncertain, and inappropriate advanced diagnostic imaging services furnished by physicians participating in the demonstration project;
 - (II) on patterns and trends in the appropriateness and inappropriateness of such services furnished by such physicians;
 - (III) on patterns and trends in national and regional variations of care with respect to the furnishing of such services; and
 - (IV) on the correlation between the appropriateness of the services furnished and image results; and
- (iv) address--

(I) the thresholds used under the demonstration project to identify acceptable and outlier levels of performance with respect to the appropriateness of advanced diagnostic imaging services furnished;

(II) whether prospective use of appropriateness criteria could have an effect on the volume of such services furnished;

(III) whether expansion of the use of appropriateness criteria with respect to such services to a broader population of Medicare beneficiaries would be advisable;

(IV) whether, under such an expansion, physicians who demonstrate consistent compliance with such appropriateness criteria should be exempted from certain requirements;

(V) the use of incident-specific versus practice-specific outlier information in formulating future recommendations with respect to the use of appropriateness criteria for such services under the Medicare program; and

(VI) the potential for using methods (including financial incentives), in addition to those used under the models under the demonstration project, to ensure compliance with such criteria.

(B) REPORT- Not later than 1 year after the completion of the demonstration project under this subsection, the Secretary shall submit to Congress a report containing the results of the evaluation of the demonstration project conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(6) FUNDING- The Secretary shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t) of \$10,000,000, for carrying out the demonstration project under this subsection (including costs associated with administering the demonstration project, reimbursing physicians for administrative costs and providing incentives to encourage participation under paragraph (2)(C), entering into contracts under paragraph (2)(I), and evaluating the demonstration project under paragraph (5)).