

[DISCUSSION DRAFT]

119<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

To amend title XVIII of the Social Security Act to transform the Merit-based Incentive Payment System into the Data-driven Performance Payment System under the Medicare physician fee schedule, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mrs. MILLER-MEEKS introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend title XVIII of the Social Security Act to transform the Merit-based Incentive Payment System into the Data-driven Performance Payment System under the Medicare physician fee schedule, and for other purposes.

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 Physician  
5        Data-driven Performance Payment System Act of 2026”.

1 **SEC. 2. TRANSFORMING THE MERIT-BASED INCENTIVE**  
2 **PAYMENT SYSTEM INTO THE DATA-DRIVEN**  
3 **PERFORMANCE PAYMENT SYSTEM.**

4 (a) IMPLEMENTATION OF THE DATA-DRIVEN PER-  
5 FORMANCE PAYMENT SYSTEM.—

6 (1) IN GENERAL.—Effective January 1, 2027,  
7 there is established the Data-driven Performance  
8 Payment System, which shall consist of the payment  
9 system under section 1848(q) of the Social Security  
10 Act (42 U.S.C. 1395w–4(q)), including as amended  
11 by this section.

12 (2) REFERENCES.—Subject to paragraph (3),  
13 any reference to the payment system under section  
14 1848(q) of the Social Security Act (42 U.S.C.  
15 1395w–4(q)), including the terms “Merit-based In-  
16 centive Payment System” and “MIPS”, shall be  
17 deemed a reference to the “Data-driven Performance  
18 Payment System” and “DPPS”, respectively.

19 (3) TRANSITION.—In order to provide for an  
20 orderly transition and avoid provider confusion, the  
21 Secretary of Health and Human Services shall pro-  
22 vide for an appropriate transition in the use of the  
23 terms “Merit-based Incentive Payment System”  
24 (and “MIPS”) and “Data-driven Performance Pay-  
25 ment System” (and “DPPS”) in reference to the  
26 payment system under section 1848(q) of the Social

1 Security Act (42 U.S.C. 1395w-4(q)). Before the  
2 completion of such transition, any reference to the  
3 “Data-driven Performance Payment System” (or  
4 “DPPS”) shall be deemed to include a reference to  
5 the “Merit-based Incentive Payment System”.

6 (b) REFORMING APPLICATION OF ADJUSTMENT FAC-  
7 TORS.—

8 (1) IN GENERAL.—Section 1848(q)(6) of the  
9 Social Security Act (42 U.S.C. 1395w-4(q)(6)) is  
10 amended—

11 (A) in subparagraph (A)—

12 (i) by inserting “for years before  
13 2028,” after “Taking into account para-  
14 graph (1)(G),”;

15 (ii) in clause (ii)—

16 (I) in subclause (I), by striking  
17 “clause (iii)” and inserting “subclause  
18 (III)”;

19 (II) in subclause (II), by striking  
20 “clause (iv)” and inserting “subclause  
21 (IV)”;

22 (III) by redesignating subclauses  
23 (I) and (II) as items (aa) and (bb),  
24 respectively, and adjusting the mar-  
25 gins accordingly;

- 1 (iii) in clause (iii), by striking “clause  
2 (ii)(I)” and inserting “subclause (II)(aa)”;  
3 (iv) in clause (iv)—  
4 (I) by striking “subclause (II)”  
5 and inserting “item (bb)”;  
6 (II) by striking “clause (ii)(II)”  
7 and inserting “subclause (II)(bb)”;  
8 and  
9 (III) by redesignating subclauses  
10 (I) and (II) as items (aa) and (bb),  
11 respectively, and adjusting the mar-  
12 gins accordingly;  
13 (v) by redesignating clauses (i)  
14 through (iv) as subclauses (I) through (IV)  
15 and adjusting the margins accordingly;  
16 (vi) by striking “Taking into account”  
17 and inserting the following:  
18 “(i) ADJUSTMENT FACTORS FOR  
19 YEARS BEFORE 2028.—Taking into ac-  
20 count”; and  
21 (vii) by adding at the end the fol-  
22 lowing new clause:  
23 “(ii) ADJUSTMENT FACTORS FOR 2028  
24 AND SUBSEQUENT YEARS.—For 2028 and  
25 each subsequent year, the DPPS adjust-

1                   ment factor specified under this subpara-  
2                   graph for a DPPS eligible professional for  
3                   such year shall be equal to—

4                   “**(I)** subject to subparagraph  
5                   **(F)(v)**, in the case of a DPPS eligible  
6                   professional with a composite per-  
7                   formance score for such year above  
8                   the performance threshold established  
9                   under subparagraph **(D)** for such  
10                  year, 1.25;

11                  “**(II)** in the case of a DPPS eligi-  
12                  ble professional with a composite per-  
13                  formance score for such year equal to  
14                  such performance threshold, 1;

15                  “**(III)** in the case of a DPPS eli-  
16                  gible professional not described in  
17                  subclause **(IV)** with a composite per-  
18                  formance score for such year below  
19                  such performance threshold, 0.75; and

20                  “**(IV)** in the case of a DPPS eli-  
21                  gible professional who is treated under  
22                  paragraph **(5)(B)(i)** as achieving the  
23                  lowest potential score applicable to  
24                  each applicable measure or activity

1 that is required to be reported by the  
2 professional for such year, 0.5.”;

3 (B) in subparagraph (B)(iv), by striking  
4 “and subsequent years” and inserting “and  
5 each subsequent year through 2027”;

6 (C) in subparagraph (D)(i), by striking  
7 “that are positive, negative, and zero”; and

8 (D) in subparagraph (E)—

9 (i) by inserting “and ending with  
10 2027” after “beginning with 2019”;

11 (ii) in clause (ii)—

12 (I) by striking “subparagraph  
13 (A)” and inserting “subparagraph  
14 (A)(i)”; and

15 (II) by redesignating subclauses  
16 (I) and (II) as items (aa) and (bb),  
17 respectively;

18 (iii) by redesignating clauses (i) and  
19 (ii) as subclauses (I) and (II), respectively;

20 (iv) by striking “In the case of” and  
21 inserting the following:

22 “(i) APPLICATION OF ADJUSTMENT  
23 FACTORS FOR YEARS BEFORE 2028.—In  
24 the case of”;

1 (v) by adding at the end the following  
2 new clause:

3 “(ii) APPLICATION OF ADJUSTMENT  
4 FACTORS FOR 2028 AND SUBSEQUENT  
5 YEARS.—

6 “(I) IN GENERAL.—In the case  
7 of covered professional services (as de-  
8 fined in subsection (k)(3)(A)) fur-  
9 nished by a DPPS eligible profes-  
10 sional during a year (beginning with  
11 2028), subject to subclauses (II) and  
12 (III), for purposes of determining the  
13 amount paid under this part with re-  
14 spect to such covered professional  
15 services and DPPS eligible profes-  
16 sional for such year, the update to the  
17 nonqualifying APM conversion factor  
18 established under subsection (d) appli-  
19 cable to such services and such profes-  
20 sional for such year shall be multi-  
21 plied by the adjustment factor speci-  
22 fied under subparagraph (A)(ii) with  
23 respect to such professional and such  
24 year.

1                   “(II) NONAPPLICATION TO CER-  
2                   TAIN UPDATES.—Subclause (I) shall  
3                   not apply with respect to covered pro-  
4                   fessional services furnished during a  
5                   year in the case that the update to the  
6                   conversion factor described in such  
7                   subclause for such year is less than 0  
8                   percent.

9                   “(III) NONAPPLICATION OF CER-  
10                  TAIN ADJUSTMENT FACTORS FOR  
11                  LACK OF TIMELY FEEDBACK RE-  
12                  PORTS.—

13                   “(aa) IN GENERAL.—Sub-  
14                   clause (I) shall not apply with re-  
15                   spect to covered professional  
16                   services furnished by a DPPS eli-  
17                   gible professional during a year if  
18                   the DPPS eligible professional  
19                   does not receive timely feedback  
20                   in accordance with item (bb) with  
21                   respect to each quarter of the  
22                   performance period for such year  
23                   and would, without application of  
24                   this item, otherwise be subject to  
25                   the DPPS adjustment factor de-

1                   described       in       subparagraph  
2                   (A)(ii)(III) for such year.

3                   “(bb)   TIMELY   FEEDBACK  
4                   DESCRIBED.—For   purposes   of  
5                   item (aa), a   DPPS eligible pro-  
6                   fessional receives timely feedback  
7                   in accordance with this item with  
8                   respect to a quarter of a per-  
9                   formance period if, not later than  
10                  the date that is 60 days after the  
11                  last day of such quarter, such  
12                  professional receives the con-  
13                  fidential feedback required under  
14                  paragraph (12) on the perform-  
15                  ance of such professional during  
16                  such quarter with respect to ad-  
17                  ministrative claims-based meas-  
18                  ures included in the performance  
19                  categories described in subpara-  
20                  graph (A)(i)(I) of such para-  
21                  graph, including—

22                               “(AA) a description of  
23                               the patients and episodes at-  
24                               tributed with respect to such  
25                               measures for purposes of as-

1           sessing the performance of  
2           such professional during  
3           such quarter;

4           “(BB) an identification  
5           of the items and services  
6           furnished by such profes-  
7           sional or another individual  
8           that will contribute to the  
9           assessment of the perform-  
10          ance of such professional  
11          during such quarter with re-  
12          spect to such measures; and

13          “(CC) an identification  
14          of whether each item or  
15          service identified under  
16          subitem (BB) for the quar-  
17          ter was furnished by such  
18          professional or another indi-  
19          vidual (and, in the case that  
20          the performance of such pro-  
21          fessional for such quarter  
22          with respect to such meas-  
23          ures is assessed based on  
24          participation in a group  
25          practice or other group,

1                   whether each such item or  
2                   service was furnished by  
3                   such professional, another  
4                   individual in such group, or  
5                   another individual outside of  
6                   such group).

7                   “(IV)    HOLD    HARMLESS.—In  
8                   computing the amount of any coinsur-  
9                   ance under section 1833(a)(1) and the  
10                  expenses incurred for applying the de-  
11                  ductible under section 1833(b) with  
12                  respect to covered professional serv-  
13                  ices furnished by a DPPS eligible pro-  
14                  fessional for a year, such coinsurance  
15                  and incurred expenses shall be com-  
16                  puted as if the update to the conver-  
17                  sion factor applicable to such services  
18                  and professional for such year were  
19                  not subject to the adjustment factor  
20                  under subclause (I).”.

21                  (2)    CONFORMING    AMENDMENT.—Section  
22                  1848(d)(20) of the Social Security Act (42 U.S.C.  
23                  1395w-4(d)(20)) is amended by inserting “, subject  
24                  to subsection (q)(6)(E)(ii),” before “the update to  
25                  the nonqualifying APM conversion factor”.

1           (c) REFORMING PERFORMANCE THRESHOLDS.—Sec-  
2 tion 1848(q)(6)(D) of the Social Security Act (42 U.S.C.  
3 1395w-4(q)(6)(D)) is amended—

4           (1) in clause (i), by striking “clauses (iii) and  
5 (iv)” and inserting “clauses (iii) through (vi)”; and

6           (2) by adding at the end the following new  
7 clauses:

8                           “(v) TEMPORARY EXTENSION OF SPE-  
9                           CIAL RULES.—

10                           “(I) IN GENERAL.—With respect  
11 to each of 2028 through 2033 (or  
12 such later year as determined by the  
13 Secretary pursuant to subclause (II)),  
14 the Secretary shall establish a per-  
15 formance threshold for purposes of  
16 determining DPPS adjustment factors  
17 under subparagraph (A) for such year  
18 in accordance with the requirements  
19 described in clause (iii), except that  
20 such performance threshold may not  
21 be greater than 75 points.

22                           “(II) FLEXIBILITY TO EXTEND  
23 SPECIAL RULE.—In the case that ex-  
24 traordinary circumstances, including a  
25 natural disaster, a public health emer-

1 agency, or cybersecurity incident, affect  
2 reporting, data collection, or the as-  
3 sessment of performance under this  
4 subsection for 2034, the Secretary  
5 may extend the application of sub-  
6 clause (I) until the first year for  
7 which such extraordinary cir-  
8 cumstances do not affect reporting,  
9 data collection, or assessment of per-  
10 formance under this subsection (as  
11 determined by the Secretary).

12 “(III) OPTIONAL TRANSITION PE-  
13 RIOD.—With respect to the year im-  
14 mediately following the last year with  
15 respect to which subclause (I) applies  
16 (after application of subclause (II), if  
17 applicable), the Secretary may, pursu-  
18 ant to notice and comment rule-  
19 making, establish a performance  
20 threshold for purposes of determining  
21 DPPS adjustment factors under sub-  
22 paragraph (A) for such year and such  
23 subsequent consecutive years as speci-  
24 fied by the Secretary in a manner  
25 that provides for a gradual and incre-

1 mental transition from the perform-  
2 ance threshold established under sub-  
3 clause (I) to the performance thresh-  
4 old established under clause (vi).

5 “(vi) REPLACEMENT PERFORMANCE  
6 THRESHOLD.—

7 “(I) IN GENERAL.—With respect  
8 to the year immediately following the  
9 last year with respect to which clause  
10 (v) applies and each subsequent year,  
11 the performance threshold established  
12 under this subparagraph for purposes  
13 of determining DPPS adjustment fac-  
14 tors under subparagraph (A) shall be  
15 computed in accordance with the re-  
16 placement performance threshold  
17 methodology established by the Sec-  
18 retary under in subclause (II).

19 “(II) REPLACEMENT PERFORM-  
20 ANCE THRESHOLD METHODOLOGY.—  
21 For purposes of subclause (I), the  
22 Secretary shall, pursuant to notice  
23 and comment rulemaking and based  
24 on the recommendations submitted  
25 under subclause (III), establish a

1 methodology (referred to in this clause  
2 as the ‘replacement performance  
3 threshold methodology’) to be used in-  
4 stead of the mean or median described  
5 in clause (i) for computing the per-  
6 formance threshold applied under this  
7 subparagraph.

8 “(III) RECOMMENDATIONS FOR  
9 REPLACEMENT PERFORMANCE  
10 THRESHOLD METHODOLOGY.—Not  
11 later than December 31, 2029, the  
12 Comptroller General of the United  
13 States shall, in accordance with sub-  
14 clause (IV), submit to Congress and  
15 the Secretary a report including de-  
16 tailed recommendations on a method-  
17 ology to be used instead of the mean  
18 or median described in clause (i) for  
19 computing the performance threshold  
20 described in subclause (I) and that is  
21 based on data that are accurate and  
22 reliable.

23 “(IV) RECOMMENDATION RE-  
24 QUIREMENTS.—In making the rec-  
25 ommendations required under sub-

1 clause (III), the Comptroller General  
2 of the United States shall—

3 “(aa) seek to prevent unin-  
4 tended consequences that may re-  
5 sult from weighing quality and  
6 cost performance categories;

7 “(bb) consider the impact of  
8 such recommendations on dif-  
9 ferent types of DPPS eligible  
10 professionals, including such pro-  
11 fessionals in a small group prac-  
12 tice and such professionals that  
13 serve rural or underserved com-  
14 munities; and

15 “(cc) consult with stake-  
16 holders, including organizations  
17 representing physicians.”.

18 (d) MAINTAINING BUDGET NEUTRALITY.—Section  
19 1848(q)(6)(F) of the Social Security Act (42 U.S.C.  
20 1395w-4(q)(6)(F)) is amended—

21 (1) in clause (i)—

22 (A) in the clause heading, by inserting  
23 “FOR YEARS BEFORE 2028” after “FACTOR”;  
24 and

25 (B) in subclause (I)—

1 (i) by striking “With respect” and in-  
2 sserting “For years before 2028, with re-  
3 spect”; and

4 (ii) by striking “subparagraph  
5 (A)(ii)(I)” and inserting “subparagraph  
6 (A)(i)(II)(aa)”;

7 (2) in clause (ii)—

8 (A) in the clause heading, by inserting  
9 “FOR YEARS BEFORE 2028” after “REQUIRE-  
10 MENT”; and

11 (B) in subclause (I), by striking “Subject  
12 to” and inserting “For years before 2028, sub-  
13 ject to”;

14 (3) in clause (iii)—

15 (A) in subclause (I), by inserting “before  
16 2028” before “that are below”; and

17 (B) in subclause (II), by inserting “before  
18 2028” after “with respect to a year”; and

19 (4) by adding at the end the following new  
20 clause:

21 “(v) BUDGET NEUTRALITY FOR 2028  
22 AND SUBSEQUENT YEARS.—For 2028 and  
23 each subsequent year, the Secretary shall  
24 decrease DPPS adjustment factors under  
25 subparagraph (A)(ii)(I) for DPPS eligible

1 professionals whose composite performance  
2 score for such year is above the perform-  
3 ance threshold established under subpara-  
4 graph (D) for such year in order to ensure  
5 that the estimated increase in the aggre-  
6 gate allowed charges resulting from the ap-  
7 plication of such adjustment factors (after  
8 application of this clause) to such profes-  
9 sionals for such year is not more than the  
10 estimated decrease in such charges result-  
11 ing from the application for such year of  
12 DPPS adjustment factors under sub-  
13 clauses (III) and (IV) of subparagraph  
14 (A)(ii) to DPPS eligible professionals  
15 whose composite performance score for  
16 such year is below such performance  
17 threshold.”.

18 (e) INVESTING IN UNDER-RESOURCED PRACTICES TO  
19 ASSIST IN VALUE-BASED CARE AND QUALITY IMPROVE-  
20 MENT.—Section 1848(q)(6) of the Social Security Act (42  
21 U.S.C. 1395w–4(q)(6)) is amended by adding at the end  
22 the following new subparagraph:

23 “(G) INVESTING IN UNDER-RESOURCED  
24 PRACTICES TO ASSIST IN VALUE-BASED CARE  
25 AND QUALITY IMPROVEMENT.—

1           “(i) IN GENERAL.—In the case of a  
2           DPPS eligible professional who furnishes  
3           covered professional services during a year  
4           that is a DPPS savings year (as defined in  
5           clause (v)) and for which the professional  
6           meets the criteria specified in clause (ii), in  
7           addition to the amount of payment that  
8           would otherwise be made for such services  
9           under this part for such year, there also  
10          shall be paid to such professional, from the  
11          amount specified in clause (iv)(I) for such  
12          DPPS savings year, a lump-sum incentive  
13          payment (in such amount as specified by  
14          the Secretary) which shall be used by such  
15          professional to improve care management,  
16          address health-related social needs, imple-  
17          ment and further the use of certified EHR  
18          technology (as defined in subsection  
19          (o)(4)), improve performance with respect  
20          to the performance categories described in  
21          paragraph (2)(A), or implement and par-  
22          ticipate in value-based care models.

23                   “(ii) CRITERIA.—

24                           “(I) ATTESTATION.—A DPPS el-  
25                           igible professional meets the criteria

1 specified in this clause for a year if,  
2 with respect to such year and profes-  
3 sional, data was submitted under this  
4 subsection and, for purposes of this  
5 subparagraph, it is demonstrated  
6 through an attestation that the pro-  
7 fessional is in a small practice de-  
8 scribed in subclause (II).

9 “(II) SMALL PRACTICES.—Sub-  
10 ject to clause (iii), a small practice de-  
11 scribed in this subclause is a practice  
12 of 15 or fewer professionals.

13 “(iii) SECRETARIAL AUTHORITY TO  
14 GIVE PRIORITY TO CERTAIN SMALL PRAC-  
15 TICES.—The Secretary may, with respect  
16 to a DPPS savings year and based on the  
17 amount specified in clause (iv)(I) with re-  
18 spect to such year, for purposes of this  
19 subparagraph give priority to DPPS eligi-  
20 ble professionals in certain small practices  
21 by applying clause (ii)(II) for such year as  
22 if instead of describing a practice of 15 or  
23 fewer professionals, such clause described  
24 any one or more of the following:

1           “(I) A practice of 15 or fewer  
2 professionals located in a rural area.

3           “(II) A practice of 15 or fewer  
4 professionals located in a health pro-  
5 fessional shortage area (as designated  
6 under in section 332(a)(1)(A) of such  
7 Act).

8           “(III) A practice of 15 or fewer  
9 professionals located in a medically  
10 underserved area.

11           “(IV) A practice of 15 or fewer  
12 professionals with a low composite  
13 score.

14           “(iv) FUNDING FOR INCENTIVE PAY-  
15 MENTS.—

16           “(I) AMOUNT AVAILABLE.—The  
17 amount specified in this subclause,  
18 with respect to a DPSS savings year,  
19 is the amount by which the amount  
20 described in subclause (II) for such  
21 year exceeds the amount described in  
22 subclause (III) for such year.

23           “(II) AGGREGATE DECREASE.—  
24 The amount described in this sub-  
25 clause is the estimated decrease in the

1 aggregate allowed charges resulting  
2 from the application of DPPS adjust-  
3 ment factors under subclauses (III)  
4 and (IV) of subparagraph (A)(ii) to  
5 DPPS eligible professionals whose  
6 composite performance score for a  
7 year is below the performance thresh-  
8 old under subparagraph (D) for such  
9 year.

10 “(III) AGGREGATE INCREASE.—  
11 The amount described in this sub-  
12 clause is the estimated increase in the  
13 aggregate allowed charges resulting  
14 from the application of DPPS adjust-  
15 ment factors under subparagraph  
16 (A)(ii)(I) (after application of sub-  
17 paragraph (F)(v)) to DPPS eligible  
18 professionals whose composite per-  
19 formance score for a year is above the  
20 performance threshold under subpara-  
21 graph (D) for such year.

22 “(IV) FUNDING LIMITATION.—In  
23 no case may the amounts used to  
24 carry out this subparagraph with re-  
25 spect to a year exceed the amount

1 specified for such year under sub-  
2 clause (I).

3 “(v) DPPS SAVINGS YEAR.—For pur-  
4 poses of this subparagraph, the term  
5 ‘DPPS savings year’ means a year (begin-  
6 ning with 2028) for which the amount de-  
7 scribed in clause (iv)(II) exceeds the  
8 amount described in clause (iv)(III).

9 “(vi) COORDINATION WITH OTHER IN-  
10 CENTIVE PAYMENTS.—The amount of any  
11 additional payment under this subpara-  
12 graph and any other provision under this  
13 section or section 1833, including section  
14 1833(m) shall be determined without re-  
15 gard to any additional payment under such  
16 other provision and this subparagraph, re-  
17 spectively.”.