To amend title XVIII of the Social Security Act to improve risk adjustment under Medicare Advantage.

IN THE SENATE OF THE UNITED STATES

Mr. CASSIDY (for himself and Mr. MERKLEY) 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 improve risk adjustment under Medicare Advantage.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “No Unreasonable Pay-
ments, Coding, or Diagnoses for the Elderly Act” or the
“No UPCODE Act”.

SEC. 2. IMPROVING RISK ADJUSTMENT UNDER MEDICARE ADVANTAGE.

(a) USE OF 2 YEARS OF DIAGNOSTIC DATA.—Section 1853(a)(3)(C)(iii) of the Social Security Act (42 U.S.C. 1395w–23(a)(3)(C)(iii)) is amended—

(1) by striking “METHODOLOGY.—Such risk”

and inserting “METHODOLOGY.—

“(I) IN GENERAL.—Subject to subclause (II), such risk”; and

(2) by adding at the end the following new subclauses:

“(II) USE OF HEALTH STATUS DATA.—For 2024 and each subsequent year, the Secretary shall use 2 years of diagnostic data (when available) under such risk adjustment methodology.”.

(b) EXCLUSION OF DIAGNOSES COLLECTED FROM CHART REVIEWS AND HEALTH RISK ASSESSMENTS.—

(1) IN GENERAL.—Section 1853(a)(1)(C) of such Act (42 U.S.C. 1395w–23(a)(1)(C)) is amended by adding at the end the following new clause:

“(iv) EXCLUSION OF DIAGNOSES COLLECTED FROM CHART REVIEWS AND

HEALTH RISK ASSESSMENTS.—
“(I) IN GENERAL.—For 2024 and each subsequent year, for purposes of establishing the payment adjustment factors and adjusting payment based on health status under clause (i), the Secretary shall not take into account a diagnosis collected from a chart review or a health risk assessment.

“(II) IDENTIFICATION OF DIAGNOSES COLLECTED FROM CHART REVIEWS AND HEALTH RISK ASSESSMENTS.—The Secretary shall establish procedures to provide for the identification and verification of diagnoses collected from chart reviews and health risk assessments.”.

(c) APPLICATION OF CODING ADJUSTMENT.—Section 1853(a)(1)(C)(ii) of such Act (42 U.S.C. 1395w–23(a)(1)(C)(ii)) is amended—

(1) in subclause (III), by striking “In calculating” and inserting “Subject to subclause (V), in calculating”; and

(2) by adding at the end the following new subclause:
“(V) In calculating such adjustment for 2024 and each subsequent year, the Secretary shall evaluate the impact on risk scores for Medicare Advantage enrollees of differences in coding patterns between Medicare Advantage plans and providers under parts A and B and publicly report the results of such evaluation. The Secretary shall ensure that such adjustment, which may include adjustment on a plan or contract level, fully accounts for the impact of coding pattern differences not otherwise accounted for to the extent that the Secretary identifies such differences through annual evaluation.”.