To amend title XVIII of the Social Security Act and title XXVII of the Public Health Service Act to address incorrect billing by off-campus hospital locations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. SPARTZ introduced the following bill; which was referred to the Committee on

A BILL

To amend title XVIII of the Social Security Act and title XXVII of the Public Health Service Act to address incorrect billing by off-campus hospital locations, and for other purposes.

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

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Preventing Hospital Overbilling of Medicare Act”.

(Original Signature of Member)
SEC. 2. ADDRESSING INCORRECT BILLING BY OFF-CAMPUS HOSPITAL LOCATIONS.

(a) PROMOTING MEDICARE SITE-NEUTRAL PAYMENTS.—

(1) REMOVING CERTAIN EXCEPTIONS TO THE DEFINITION OF AN OFF-CAMPUS OUTPATIENT DEPARTMENT OF A PROVIDER.—

(A) IN GENERAL.—Section 1833(t)(21)(B) of the Social Security Act (42 U.S.C. 1395l(t)(21)(B)) is amended to read as follows:

“(B) OFF-CAMPUS OUTPATIENT DEPARTMENT OF A PROVIDER.—For purposes of paragraph (1)(B)(v) and this paragraph, the term ‘off-campus outpatient department of a provider’ means a department of a provider (as defined in section 413.65(a)(2) of title 42 of the Code of Federal Regulations, as in effect as of the date of the enactment of the Bipartisan Budget Act of 2015) that is not located—

“(i) on the campus (as defined in such section 413.65(a)(2)) of such provider; or

“(ii) within the distance (described in such definition of campus) from a remote location of a hospital facility (as defined in such section 413.65(a)(2)).”.
(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after January 1, 2024.

(2) REMOVING SITE-NEUTRAL EXCEPTION FOR OFF-CAMPUS EMERGENCY DEPARTMENTS.—Section 1833(t)(21)(A) of the Social Security Act (42 U.S.C. 1395l(t)(21)(A)) is amended by inserting “before January 1, 2024” after “furnished”.

(3) CLARIFYING SECRETARIAL AUTHORITY TO PROMOTE SITE-NEUTRAL PAYMENTS.—Section 1833(t)(2)(F) of the Social Security Act (42 U.S.C. 1395l(t)(2)(F)) is amended by adding at the end the following new sentence: “Such method may include actions determined appropriate by the Secretary to promote site-neutral payment policies to reduce expenditures attributable to items and services furnished under this part, such as actions to prevent hospitals from billing for items and services furnished at an off-campus outpatient department of a provider as if such items and services were furnished at such hospital.”.

(b) ENSURING SEPARATE NPIs FOR OFF-CAMPUS OUTPATIENT DEPARTMENTS OF A PROVIDER.—
(1) **In General.**—Section 1173(b) of the Social Security Act (42 U.S.C. 1320d–2(b)) is amended by adding at the end the following new paragraph:

“(3) **Ensuring Separate NPIs for Off-Campus Outpatient Departments of a Provider.**—

The standards specified under paragraph (1) shall ensure that, not later than January 1, 2024, each off-campus outpatient department of a provider (as defined in section 1833(t)(21)(B)) is assigned a separate unique health identifier from such provider.”

(2) **Treatment of Certain Departments as Subparts of a Hospital.**—Not later than January 1, 2024, the Secretary of Health and Human Services shall revise sections 162.408 and 162.410 of title 45, Code of Federal Regulations, to ensure that each off-campus outpatient department of a provider (as defined in section 1833(t)(21)(B) of the Social Security Act (42 U.S.C. 1395l(t)(21)(B))) is treated as a subpart (as described in such sections) of such provider and assigned a unique health identifier pursuant to section 1173(b)(3) of such Act (as added by paragraph (1)).

(c) **Off-Campus Departments of a Provider Billing Requirements.**—
(1) **MEDICARE.**—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(A) in subparagraph (X), by striking “and” at the end;

(B) in subparagraph (Y)(ii)(V), by striking the period and inserting “, and”; and

(C) by inserting after subparagraph (Y) the following new subparagraph:

“(Z) in the case of a hospital with an off-campus outpatient department of a provider (as defined in section 1833(t)(21)(B)), with respect to items and services furnished at such department of a provider on or after January 1, 2024, to bill under this title (including under part C of this title) for such items and services using the unique health identifier established for such department of a provider pursuant to section 1173(b)(3) on a HIPAA X12 837P transaction or CMS 1500 form (or a successor transaction or form).”.

(2) **OTHER PROVIDERS.**—Part E of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–131 et seq.) is amended by adding at the end the following new section:
“SEC. 2799B–10. BILLING REQUIREMENTS FOR OFF-CAMPUS DEPARTMENTS OF A PROVIDER.

“A health care provider may not, with respect to items and services furnished to an individual at an off-campus outpatient department of a provider (as defined in section 1833(t)(21)(B) of the Social Security Act), submit a claim for such items and services to a group health plan or health insurance issuer, and may not hold such individual liable for such items and services, unless such items and services are billed—

“(1) using the separate unique health identifier established for such department pursuant to section 1173(b)(3) of such Act; and

“(2) on a HIPAA X12 837P transaction or CMS 1500 form (or a successor transaction or form).”.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to claims submitted for items and services furnished on or after January 1, 2024.

(d) NAIC MODEL ACT OR REGULATION.—The Secretary of Health and Human Services shall request that, not later than 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners establish a model Act or regulation designed to address the issue of hospitals inappropriately billing for
items and services furnished at off-campus outpatient departments of a provider (as defined in section 1833(t)(21)(B) of the Social Security Act (42 U.S.C. 1935l(t)(21)(B))) by allowing health insurance issuers and group health plans (as such terms are defined in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91)) to reject such claims unless such department of a provider bills in accordance with the provisions of section 2799B–10 of such Act. The Secretary shall request that such model Act or regulation include requirements similar to those found in Colorado House Bill 18–1282.