SEC. ___. MODIFIER FOR INDEPENDENT PHYSICIAN SERVICES.

(a) In General. Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended by adding at the end the following new subsection:

“(s) Independent Physician Payment Modifier.

“(1) Establishment. Not later than January 1 of the first calendar year beginning after the date of enactment of this subsection, the Secretary shall establish a claims modifier (in this subsection referred to as the ‘independent physician modifier’) for use by an independent physician (as defined in paragraph (4)) when billing for physicians’ services furnished in any facility setting, including a hospital outpatient department, ambulatory surgical center, or inpatient hospital setting.

“(2) Payment Adjustment. In the case of physicians’ services billed with the independent physician modifier under paragraph (1), the amount of payment otherwise applicable under this section (or, in the case of a facility fee billed under section 1833(t) or 1833(i), the professional payment amount otherwise applicable) shall be increased by 10 percent, subject to paragraph (5).

“(3) No Effect on Facility Payment. Nothing in this subsection shall be construed to modify the amount of any facility fee or technical component payable to a hospital or ambulatory surgical center under section 1833(t) or 1833(i).

“(4) Independent Physician Defined. In this subsection, the term ‘independent physician’ means a physician (as defined in section 1861(r)(1)) who, with respect to the entity operating the facility in which the service is furnished

“(A) is not an employee of such entity or of any entity under common ownership or control with such entity;

“(B) does not have a compensation arrangement (including a productivity- or value-based arrangement) with such entity that varies based on the volume or value of referrals, other than a bona fide fair-market-value professional services or medical director agreement that does not condition compensation on facility utilization; and

“(C) practices in a group practice (as defined in section 1877(h)(4)) that is not majority-owned, in whole or in part, directly or indirectly, by a hospital, health system, or entity affiliated with the facility in which the service is furnished.

“(5) Budget Neutrality. The Secretary shall implement this subsection in a manner that does not result in an increase or decrease in the estimated amount of aggregate expenditures under this title, through adjustment of the conversion factor described in

subsection (d) or other budget-neutral mechanism, except that such adjustment shall not reduce payment for services furnished by an independent physician.

“(6) Program Integrity. The Secretary shall establish procedures to verify attestations of independent physician status, including audit authority and civil monetary penalties under section 1128A for knowing misuse of the modifier.