

111TH CONGRESS  
2D SESSION

# H. R. 5290

To permit physicians and suppliers a new election to become Medicare participating physicians and suppliers if Medicare physician fee schedule rates are extended.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2010

Ms. GIFFORDS (for herself, Mr. BURGESS, and Mr. LARSON of Connecticut) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To permit physicians and suppliers a new election to become Medicare participating physicians and suppliers if Medicare physician fee schedule rates are extended.

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 “More Doctors, More  
5 Choices Act of 2010”.

1 **SEC. 2. ADDITIONAL ELECTION OPPORTUNITY FOR PHYSI-**  
2 **CIANS AND SUPPLIERS TO BECOME MEDI-**  
3 **CARE PARTICIPATING PHYSICIANS AND SUP-**  
4 **PLIERS IF MEDICARE PHYSICIAN FEE SCHED-**  
5 **ULE RATES ARE EXTENDED.**

6 (a) **IN GENERAL.**—Notwithstanding any other provi-  
7 sion of law, if a Medicare SGR extension law is enacted  
8 during the 111th Congress, the Secretary of Health and  
9 Human Services shall permit a physician or supplier who  
10 furnishes (or may furnish) services for which payment is  
11 made under the Medicare physician fee schedule (or would  
12 be so made but for a contract under section 1802(b) of  
13 the Social Security Act) and is not a Medicare partici-  
14 pating physician or supplier to elect to become such a  
15 Medicare participating physician or supplier.

16 (b) **ELECTION PROCESS.**—The election under sub-  
17 section (a)—

18 (1) shall occur during a period specified by the  
19 Secretary of not less than 30 days beginning not  
20 later than 30 days after the date of the enactment  
21 of the Medicare SGR extension law;

22 (2) shall be made through a process that is con-  
23 sistent with the existing open enrollment process  
24 under which physicians and suppliers otherwise  
25 make a participation election; and

1           (3) shall become effective for items and services  
2           furnished on or after the date that is 15 days after  
3           the last date of the election period under paragraph  
4           (1).

5           (c) TREATMENT OF PRIVATE CONTRACTS.—In the  
6           case of a physician or practitioner who has entered into  
7           a contract under section 1802(b) of the Social Security  
8           Act (42 U.S.C. 1395a(b)) that is in effect as of the date  
9           of the enactment of the Medicare SGR extension law (or  
10          this Act, if later) and who makes an election to be a Medi-  
11          care participating physician or supplier under this section  
12          during the election period under subsection (b)(1)—

13                 (1) such election shall not apply to the contract  
14                 until the date of the contract would otherwise termi-  
15                 nate without regard to this subsection, unless the  
16                 medicare beneficiary involved terminates the con-  
17                 tract through timely notice to the physician or prac-  
18                 titioner; and

19                 (2) notwithstanding such section 1802(b), the  
20                 2-year limitation imposed under the affidavit de-  
21                 scribed in paragraph (3)(B)(i) of such section shall  
22                 not apply to services furnished as a participating  
23                 physician or supplier pursuant to such election.

24           (d) DEFINITIONS.—In this section:

1           (1) MEDICARE PARTICIPATING PHYSICIAN OR  
2           SUPPLIER.—The term “Medicare participating phy-  
3           sician or supplier” has the meaning given the term  
4           participating physician or supplier in section  
5           1842(h)(1) of the Social Security Act (42 U.S.C.  
6           1395u(h)(1)).

7           (2) MEDICARE PHYSICIAN FEE SCHEDULE.—  
8           The term “Medicare physician fee schedule” means  
9           the payment schedule under section 1848 of the So-  
10          cial Security Act (42 U.S.C. 1395w-4).

11          (3) MEDICARE SGR EXTENSION LAW.—The  
12          term “Medicare SGR extension law” means a law  
13          that extends or revises for at least 1 year the  
14          amount of the conversion factor under section  
15          1848(d) of the Social Security Act (42 U.S.C.  
16          1395w-4(d)) so that it is not lower than the conver-  
17          sion factor for May 2010.

18          (4) SECRETARY.—The term “Secretary” means  
19          the Secretary of Health and Human Services.

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