

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

# H. R. 5732

To amend title XVIII of the Social Security Act to crack down on fraud in the Medicare program to protect seniors, people with disabilities, and taxpayers.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2014

Mr. DEUTCH (for himself and Mr. ROSKAM) 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 amend title XVIII of the Social Security Act to crack down on fraud in the Medicare program to protect seniors, people with disabilities, and taxpayers.

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 “Stop Schemes and  
5 Crimes Against Medicare and Seniors (Stop SCAMS)  
6 Act”.

1 **SEC. 2. ENSURING THAT NEW MEDICAL CODING SYSTEMS**  
2 **DO NOT COMPROMISE FRAUD PREVENTION**  
3 **EFFORTS.**

4 (a) IN GENERAL.—Section 1173(c) of the Social Se-  
5 curity Act (42 U.S.C. 1320d–2(c)) is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (A), by striking “;  
8 or” and inserting “or, if no code sets for such  
9 data elements have been developed, establish  
10 code sets for the data elements;”; and

11 (B) by striking subparagraph (B) and add-  
12 ing the following new subparagraphs:

13 “(B) ensure that any entity producing and  
14 transmitting valid transactions that include  
15 code sets are subject to a consistent, industry-  
16 wide framework that supports a seamless tran-  
17 sition to new and modified code sets; and

18 “(C) establish, by a rule promulgated after  
19 notice and an opportunity for a hearing on the  
20 record, an end-to-end testing procedure for new  
21 and modified code sets that shall require the  
22 participation of any entity producing and trans-  
23 mitting valid transactions that use such new or  
24 modified code set.”; and

25 (2) by adding at the end the following para-  
26 graphs:

1           “(3) ADOPTING NEW AND MODIFIED CODE  
2 SETS.—The Secretary shall not adopt a new or  
3 modified code set unless the Secretary—

4           “(A) assesses the impact of the code set on  
5 fraud prevention and pre-payment review, de-  
6 termines that anti-fraud edits work as intended,  
7 and confirms that a plan is in place to ensure  
8 continuing effective detection of fraud following  
9 the adoption of the code set;

10           “(B) ensures that the end-to-end testing  
11 procedure established by the Secretary under  
12 paragraph (1) has been completed; and

13           “(C) completes end-to-end testing with any  
14 Federal Government entity that produces and  
15 transmits valid transactions that include the  
16 code set with private sector tracking partners.

17           “(4) ROUTINE UPDATES TO EXISTING CODE  
18 SETS.—Paragraph (3) shall not apply to routine,  
19 regularly scheduled updates to existing code sets.”.

20           (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall be effective as of October 1, 2015.

22 **SEC. 3. VERIFICATION OF PROVIDER OWNERSHIP INTER-**  
23 **ESTS.**

24           (a) IN GENERAL.—Section 1124(c) of the Social Se-  
25 curity Act (42 U.S.C. 1320a-3(c)) is amended—

1           (1) by redesignating paragraph (5) as para-  
2           graph (6); and

3           (2) by inserting after paragraph (4) the fol-  
4           lowing paragraph:

5           “(5) VERIFICATION OF INFORMATION.—

6           “(A) IN GENERAL.—With respect to infor-  
7           mation supplied by a disclosing entity under  
8           subsections (a) and (b), the Secretary shall—

9                   “(i) verify such information by com-  
10                   paring it to available data on the provider  
11                   collected through disclosures made to the  
12                   Secretary under section 1128G(a)(2), or,  
13                   in the case of a disclosing entity to which  
14                   section 1128G(a)(2) does not apply, verify  
15                   such information through comparison with  
16                   at least one other public or private data-  
17                   base which contains information as to the  
18                   identity of each person with an ownership  
19                   or control interest in the entity; and

20                   “(ii) confirm the accuracy of any so-  
21                   cial security account number or employer  
22                   identification number supplied under sub-  
23                   section (a) by verifying—

1                   “(I) each social security account  
2                   number with the Commissioner of So-  
3                   cial Security; and

4                   “(II) each employer identification  
5                   number with the Secretary of the  
6                   Treasury.

7                   “(B) DISCREPANCIES.—If the comparison  
8                   described in subparagraph (A)(i) reveals a dis-  
9                   crepancy between information supplied by a dis-  
10                  closing entity under subsections (a) and (b) and  
11                  available data on the provider collected through  
12                  disclosures made to the Secretary under section  
13                  1128G(a)(2), the Secretary shall independently  
14                  verify the accuracy of such data collected under  
15                  section 1128G(a)(2) before taking any action  
16                  against a provider based on such discrepancy.”.

17                  (b) EFFECTIVE DATE.—The amendments made by  
18                  this section shall be effective as of the date that is 1 year  
19                  after the date of enactment of this Act.

20   **SEC. 4. SUPPORTING PUBLIC AND PRIVATE INFORMATION**  
21                   **SHARING TO PREVENT HEALTH CARE FRAUD.**

22                  (a) DEFINITIONS.—In this section:

23                   (1) HEALTHCARE FRAUD PREVENTION PART-  
24                  NERSHIP; PARTNERSHIP.—The terms “Healthcare  
25                  Fraud Prevention Partnership” and “Partnership”

1 mean the information sharing partnership estab-  
2 lished between the Department of Health and  
3 Human Services, the Department of Justice, and  
4 other public and private stakeholders, including pri-  
5 vate insurers, under the authority of section  
6 1128C(a)(2) of the Social Security Act (42 U.S.C.  
7 1320a-7c(a)(2)) for the purpose of detecting and  
8 preventing health care fraud.

9 (2) PRIVATE INSURER.—The term “private in-  
10 surer” has the meaning given the term “health in-  
11 surance issuer” under section 2791(b)(2) of the  
12 Public Health Service Act (42 U.S.C. 300GG-  
13 91(b)(2)).

14 (b) SAFE HARBOR FOR THE SHARING OF INFORMA-  
15 TION.—

16 (1) GENERAL IMMUNITY.—

17 (A) IN GENERAL.—A non-governmental  
18 entity participating in the Partnership (includ-  
19 ing a private insurer) that—

20 (i) provides data or information de-  
21 scribed in clause (i) or (ii) of subparagraph  
22 (B) to the Department of Health and  
23 Human Services, the Department of Jus-  
24 tice, any other Federal or State law en-  
25 forcement agency, any contractor of such

1 Department or agency, or another entity  
2 participating in the Partnership (including  
3 a private insurer); or

4 (ii) uses such data or information as  
5 permitted by this subsection,

6 shall be immune from civil liability with respect  
7 to the provision or authorized use of such data  
8 or information.

9 (B) DATA OR INFORMATION.—

10 (i) DATA.—The data described in this  
11 clause is aggregated claims data or other  
12 information described in clause (ii) that  
13 does not include individually identifiable  
14 information with respect to any health care  
15 provider, supplier, or beneficiary, whether  
16 or not analysis of such information results  
17 in the identification of a health care pro-  
18 vider, supplier, or other person or organi-  
19 zation as having committed fraud or hav-  
20 ing committed acts suspected of being  
21 fraudulent.

22 (ii) INFORMATION.—The information  
23 described in this clause is information con-  
24 cerning fraud or suspected fraudulent acts  
25 that identifies a specific health care pro-

1           vider, supplier, or other person or organi-  
2           zation if the provider, supplier, or other  
3           person or organization so identified—

4                   (I) is the subject of a bona fide  
5                   fraud investigation conducted by the  
6                   entity participating in the Partner-  
7                   ship, including a private insurer, that  
8                   is providing the information;

9                   (II) is the subject of a fraud-re-  
10                  lated allegation that has been filed by  
11                  or received by the entity participating  
12                  in the Partnership, including a private  
13                  insurer, that is providing the informa-  
14                  tion; or

15                  (III) has been convicted of a  
16                  fraud-related offense.

17           (2) LIMITATION.—The immunity described in  
18           paragraph (1) shall apply only where—

19                   (A) the data or information involved was  
20                   provided in good faith and without malice; and

21                   (B) the data or information provided is  
22                   true, based on a reasonable belief, to the knowl-  
23                   edge of the person providing the information, or  
24                   if false, the information is provided without



1 knowledge of, and without reckless disregard  
2 for, its falsity.

3 (3) USE OF PARTNERSHIP DATA OR INFORMA-  
4 TION.—For purposes of this subsection, data or in-  
5 formation relating to a specific provider or supplier  
6 received by a private insurer solely through the  
7 Partnership shall be used, with respect to such pro-  
8 vider or supplier, only for the purpose of informing  
9 decisionmaking by the private insurer related to  
10 fraud investigations, including whether to conduct  
11 such an investigation. Nothing in the preceding sen-  
12 tence shall prevent a private insurer or other entity  
13 participating in the Partnership from taking other  
14 actions, not specific to such provider or supplier,  
15 based on such data or information.

16 (c) REPORT.—Not later than October 1 of each cal-  
17 endar year that begins after the date of enactment of this  
18 Act, the Secretary of Health and Human Services shall  
19 submit to the Special Committee on Aging, the Committee  
20 on Finance, and the Committee on Homeland Security  
21 and Governmental Affairs of the Senate, and the Com-  
22 mittee on Ways and Means and the Committee on Energy  
23 and Commerce of the House of Representatives, a report  
24 that describes the activities of the Healthcare Fraud Pre-  
25 vention Partnership. Such report shall include—

1           (1) a description of how input was obtained  
2           from private insurers regarding the appropriate  
3           usage of data shared through the Healthcare Fraud  
4           Prevention Partnership; and

5           (2) plans for the Partnership to be expanded to  
6           encompass a representative sample of national pri-  
7           vate insurers and to include health care provider or-  
8           ganizations.

9   **SEC. 5. MEDPAC STUDY AND REPORT.**

10          (a) **STUDY.**—The Medicare Payment Advisory Com-  
11          mission shall conduct a study on administrative efforts to  
12          strengthen program integrity in the Medicare program.  
13          Such study may include—

14                 (1) an evaluation of ways to detect fraudulent  
15                 claims before payment is made;

16                 (2) a review of the efficiency and effectiveness  
17                 of post-payment recovery methods;

18                 (3) analysis by the Centers for Medicare &  
19                 Medicaid Services and public reporting of claims and  
20                 spending patterns; and

21                 (4) a review of the organizational structure and  
22                 resources of the Centers for Medicare & Medicaid  
23                 Services as they relate to program integrity.

24          (b) **REPORT.**—Not later than June 15, 2016, the  
25          Medicare Payment Advisory Commission shall submit to

1 Congress a report on the study conducted under sub-  
2 section (a), together with recommendations for such legis-  
3 lative and administrative action as the Commission deter-  
4 mines appropriate.

5 **SEC. 6. ABILITY TO MEASURE FRAUD PREVENTION EF-**  
6 **FORTS.**

7 Section 4241 of the Small Business Jobs Act of 2010  
8 (42 U.S.C. 1320a–7m) is amended—

9 (1) in subsection (b)(4), by inserting “and on  
10 civil recoveries, administrative actions, and criminal  
11 convictions for fraud” after “reimbursement”; and

12 (2) in subsection (c), by adding at the end the  
13 following paragraph:

14 “(7) IMPLEMENTATION OF AMENDMENTS.—The  
15 Secretary shall implement amendments made to this  
16 subsection by the Stop Schemes and Crimes Against  
17 Medicare and Seniors (Stop SCAMS) Act not later  
18 than 6 months after the date of enactment of such  
19 Act. If the Secretary determines that new technology  
20 or data processing systems are required to carry out  
21 such amendments, the Secretary shall issue a re-  
22 quest for proposals to carry out such amendments  
23 not later than 6 months after the enactment of such  
24 Act, and the contractors selected under such request  
25 for proposal shall implement such amendments not

1 later than 12 months after the date of enactment of  
2 such Act.”.

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