

114TH CONGRESS  
2D SESSION

# H. R. 5210

To improve access to durable medical equipment for Medicare beneficiaries under the Medicare program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2016

Mr. TOM PRICE of Georgia (for himself, Mr. LOEBSACK, Mrs. MCMORRIS RODGERS, Mr. WELCH, Mr. COLLINS of New York, Mr. CRAMER, Mr. FLORES, Mr. HARPER, Mr. LUETKEMEYER, Mr. ROE of Tennessee, Mr. THOMPSON of Pennsylvania, Mr. TIPTON, Ms. DUCKWORTH, Mr. DUNCAN of Tennessee, Mr. JOYCE, Mr. ZINKE, Mr. KELLY of Pennsylvania, Mr. BLUM, Mrs. ELLMERS of North Carolina, Mr. GOHMERT, Mr. LONG, Mr. HARRIS, Mr. RENACCI, Mr. TIBERI, Mr. PETERSON, Mr. MURPHY of Pennsylvania, Mrs. NOEM, Mr. GIBBS, Mr. AUSTIN SCOTT of Georgia, Mr. GUTHRIE, Mr. DESJARLAIS, Ms. JENKINS of Kansas, Mr. DAVID SCOTT of Georgia, Mrs. BLACK, Mrs. BLACKBURN, Mr. SMITH of Missouri, Mr. MULLIN, Mr. POMPEO, Mr. BYRNE, Mrs. WAGNER, and Mr. BOUSTANY) 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 improve access to durable medical equipment for Medicare beneficiaries under the Medicare program, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Patient Access to Du-  
3 rable Medical Equipment Act of 2016” or the “PADME  
4 Act”.

5 **SEC. 2. EXTENSION OF THE TRANSITION TO NEW PAYMENT**  
6 **RATES FOR DURABLE MEDICAL EQUIPMENT**  
7 **UNDER THE MEDICARE PROGRAM.**

8 The Secretary of Health and Human Services shall  
9 extend the transition period described in clause (i) of sec-  
10 tion 414.210(g)(9) of title 42, Code of Federal Regula-  
11 tions, from June 30, 2016, to September 30, 2017 (with  
12 the full implementation described in clause (ii) of such sec-  
13 tion applying to items and services furnished with dates  
14 of service on or after October 1, 2017).

15 **SEC. 3. BID CEILING FOR COMPETITIVE ACQUISITION FOR**  
16 **DURABLE MEDICAL EQUIPMENT UNDER THE**  
17 **MEDICARE PROGRAM.**

18 Section 1847(b)(5) of the Social Security Act (42  
19 U.S.C. 1395w-3(b)(5)) is amended—

20 (1) in subparagraph (A)—

21 (A) by inserting “, subject to subpara-  
22 graph (E),” after “subsection (a)(2)”; and

23 (B) by inserting “, subject to subpara-  
24 graph (E),” after “Based on such bids”; and

25 (2) by adding at the end the following new sub-  
26 paragraph:

1                   “(E) BID CEILING FOR DURABLE MEDICAL  
2 EQUIPMENT.—

3                   “(i) IN GENERAL.—The ceiling for a  
4 bid submitted for applicable covered items  
5 may not be less than the fee schedule  
6 amount that would otherwise be deter-  
7 mined for such items under section  
8 1834(a), section 1834(h), or section  
9 1842(s)(1) on January 1, 2015, updated  
10 by the covered item update for such items  
11 under section 1834(a)(14)(L), section  
12 1834(h), or section 1842(s)(1), respec-  
13 tively, as appropriate for the year with re-  
14 spect to which the bid ceiling is established  
15 for such applicable covered item.

16                   “(ii) APPLICATION TO NEW COVERED  
17 ITEMS.—The Secretary shall establish a  
18 process for purposes of applying clause (i)  
19 with respect to applicable covered items for  
20 which no fee schedule amount would other-  
21 wise be paid under section 1834(a), section  
22 1834(h), or section 1842(s), as appro-  
23 priate, on January 1, 2015.

24                   “(iii) APPLICABLE COVERED ITEMS  
25 DEFINED.—For purposes of this subpara-

1 graph, the term ‘applicable covered items’  
2 means competitively priced items and serv-  
3 ices described in subsection (a)(2) that are  
4 furnished with respect to rounds of com-  
5 petition that begin on or after January 1,  
6 2017.”.

7 **SEC. 4. REQUIREMENTS IN DETERMINING ADJUSTMENTS**  
8 **USING INFORMATION FROM COMPETITIVE**  
9 **BIDDING PROGRAMS.**

10 Section 1834(a)(1)(G) of the Social Security Act (42  
11 U.S.C. 1395m(a)(1)(G)) is amended by adding at the end  
12 the following new sentence: “In the case of items and serv-  
13 ices furnished on or after January 1, 2019, in making any  
14 adjustments under clause (ii) or (iii) of subparagraph (F),  
15 the Secretary shall—

16 “(i) solicit and take into account  
17 stakeholder input; and

18 “(ii) take into account the highest  
19 amount bid by a winning supplier in a  
20 competitive acquisition area and a com-  
21 parison of each of the following with re-  
22 spect non-competitive acquisition areas and  
23 competitive acquisition areas:

1                   “(I) The average travel distance  
2                   and cost associated with furnishing  
3                   items and services in the area.

4                   “(II) Any barriers to access for  
5                   items and services in the area.

6                   “(III) The average delivery time  
7                   in furnishing items and services in the  
8                   area.

9                   “(IV) The average volume of  
10                  items and services furnished by sup-  
11                  pliers in the area.

12                  “(V) The number of suppliers in  
13                  the area.”.

14 **SEC. 5. MONTHLY REPORT ON THE RESULTS OF THE MONI-**  
15 **TORING OF ACCESS OF MEDICARE BENE-**  
16 **FICIARIES TO DURABLE MEDICAL EQUIP-**  
17 **MENT AND OF HEALTH OUTCOMES.**

18                  Not later than the first of each month (beginning  
19 with May 1, 2016, and ending with September 1, 2017),  
20 the Secretary of Health and Human Services shall publish  
21 on the Internet website of the Centers for Medicare &  
22 Medicaid Services the results of the monitoring of access  
23 of Medicare beneficiaries to durable medical equipment  
24 and of health outcomes, as described on page 66228 in  
25 the final rule published by the Center for Medicare & Med-

1 Medicaid Services on November 6, 2014, and entitled “Medi-  
2 care Program; End-Stage Renal Disease Prospective Pay-  
3 ment System, Quality Incentive Program, and Durable  
4 Medical Equipment, Prosthetics, Orthotics, and Supplies”  
5 (79 Fed. Reg. 66120–66265).

6 **SEC. 6. REQUIRING REDUCTION IN FEDERAL EXPENDI-**  
7 **TURES TO FULLY OFFSET INCREASED EX-**  
8 **PENDITURES FROM THIS ACT.**

9 It is the sense of Congress that this Act should not  
10 be enacted unless the increase in Federal expenditures  
11 under this Act is fully offset through a decrease in other  
12 Federal expenditures.

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