

# STRENGTHENING PARTNERSHIPS TO PREVENT OPIOID ABUSE ACT

JUNE 12, 2018.—Ordered to be printed

Mr. WALDEN, from the Committee on Energy and Commerce,  
submitted the following

## R E P O R T

[To accompany H.R. 5715]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 5715) to amend title XVIII of the Social Security Act to provide for certain program integrity transparency measures under Medicare parts C and D, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

## CONTENTS

	Page
Purpose and Summary .....	3
Background and Need for Legislation .....	3
Committee Action .....	3
Committee Votes .....	4
Oversight Findings and Recommendations .....	4
New Budget Authority, Entitlement Authority, and Tax Expenditures .....	4
Congressional Budget Office Estimate .....	4
Federal Mandates Statement .....	26
Statement of General Performance Goals and Objectives .....	26
Duplication of Federal Programs .....	26
Committee Cost Estimate .....	26
Earmark, Limited Tax Benefits, and Limited Tariff Benefits .....	27
Disclosure of Directed Rule Makings .....	27
Advisory Committee Statement .....	27
Applicability to Legislative Branch .....	27
Section-by-Section Analysis of the Legislation .....	27
Changes in Existing Law Made by the Bill, as Reported .....	27
Exchange of Letters with Additional Committees of Referral .....	73

The amendment is as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Strengthening Partnerships to Prevent Opioid Abuse Act”.

**SEC. 2. PROGRAM INTEGRITY TRANSPARENCY MEASURES UNDER MEDICARE PARTS C AND D.**

(a) **IN GENERAL.**—Section 1859 of the Social Security Act (42 U.S.C. 1395w–28) is amended by adding at the end the following new subsection:

“(i) **PROGRAM INTEGRITY TRANSPARENCY MEASURES.**—

“(1) **PROGRAM INTEGRITY PORTAL.**—

“(A) **IN GENERAL.**—Not later than two years after the date of the enactment of this subsection, the Secretary shall, after consultation with stakeholders, establish a secure Internet website portal (or other successor technology) that would allow a secure path for communication between the Secretary, MA plans under this part, prescription drug plans under part D, and an eligible entity with a contract under section 1893 (such as a Medicare drug integrity contractor or an entity responsible for carrying out program integrity activities under this part and part D) for the purpose of enabling through such portal (or other successor technology)—

“(i) the referral by such plans of substantiated fraud, waste, and abuse for initiating or assisting investigations conducted by the eligible entity; and

“(ii) data sharing among such MA plans, prescription drug plans, and the Secretary.

“(B) **REQUIRED USES OF PORTAL.**—The Secretary shall disseminate the following information to MA plans under this part and prescription drug plans under part D through the secure Internet website portal (or other successor technology) established under subparagraph (A):

“(i) Providers of services and suppliers that have been referred pursuant to subparagraph (A)(i) during the previous 12-month period.

“(ii) Providers of services and suppliers who are the subject of an active exclusion under section 1128 or who are subject to a suspension of payment under this title pursuant to section 1862(o) or otherwise.

“(iii) Providers of services and suppliers who are the subject of an active revocation of participation under this title, including for not satisfying conditions of participation.

“(iv) In the case of such a plan that makes a referral under subparagraph (A)(i) through the portal (or other successor technology) with respect to activities of substantiated fraud, waste, or abuse of a provider of services or supplier, if such provider or supplier has been the subject of an administrative action under this title or title XI with respect to similar activities, a notification to such plan of such action so taken.

“(C) **RULEMAKING.**—For purposes of this paragraph, the Secretary shall, through rulemaking, specify what constitutes substantiated fraud, waste, and abuse, using guidance such as what is provided in the Medicare Program Integrity Manual 4.7.1. In carrying out the previous sentence, for purposes of this paragraph, a fraud hotline tip (as defined by the Secretary) without further evidence shall not be treated as sufficient evidence for substantiated fraud, waste, or abuse.

“(D) **HIPAA COMPLIANT INFORMATION ONLY.**—For purposes of this subsection, communications may only occur if the communications are permitted under the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

“(2) **QUARTERLY REPORTS.**—Beginning two years after the date of enactment of this subsection, the Secretary shall make available to MA plans under this part and prescription drug plans under part D in a timely manner (but no less frequently than quarterly) and using information submitted to an entity described in paragraph (1) through the portal (or other successor technology) described in such paragraph or pursuant to section 1893, information on fraud, waste, and abuse schemes and trends in identifying suspicious activity. Information included in each such report shall—

“(A) include administrative actions, pertinent information related to opioid overprescribing, and other data determined appropriate by the Secretary in consultation with stakeholders; and

“(B) be anonymized information submitted by plans without identifying the source of such information.

“(3) **CLARIFICATION.**—Nothing in this subsection shall be construed as precluding or otherwise affecting referrals described in subparagraph (A) that may otherwise be made to law enforcement entities or to the Secretary.”.

(b) CONTRACT REQUIREMENT TO COMMUNICATE PLAN CORRECTIVE ACTIONS AGAINST OPIOIDS OVER-PRESCRIBERS.—Section 1857(e) of the Social Security Act (42 U.S.C. 1395w–27(e)) is amended by adding at the end the following new paragraph:

“(5) COMMUNICATING PLAN CORRECTIVE ACTIONS AGAINST OPIOIDS OVER-PRESCRIBERS.—

“(A) IN GENERAL.—Beginning with plan years beginning on or after January 1, 2021, a contract under this section with an MA organization shall require the organization to submit to the Secretary, through the process established under subparagraph (B), information on the investigations and other actions taken by such plans related to providers of services who prescribe a high volume of opioids.

“(B) PROCESS.—Not later than January 1, 2021, the Secretary shall, in consultation with stakeholders, establish a process under which MA plans and prescription drug plans shall submit to the Secretary information described in subparagraph (A).

“(C) REGULATIONS.—For purposes of this paragraph, including as applied under section 1860D–12(b)(3)(D), the Secretary shall, pursuant to rule-making—

“(i) specify a definition for the term ‘high volume of opioids’ and a method for determining if a provider of services prescribes such a high volume; and

“(ii) establish the process described in subparagraph (B) and the types of information that shall be submitted through such process.”.

(c) REFERENCE UNDER PART D TO PROGRAM INTEGRITY TRANSPARENCY MEASURES.—Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) is amended by adding at the end the following new subsection:

“(m) PROGRAM INTEGRITY TRANSPARENCY MEASURES.—For program integrity transparency measures applied with respect to prescription drug plan and MA plans, see section 1859(i).”.

#### PURPOSE AND SUMMARY

H.R. 5715, Strengthening Partnerships to Prevent Opioid Abuse Act, was introduced on May 9, 2018, by Rep. James Renacci (R–OH), Rep. Terri Sewell (D–AL), Rep. Brett Guthrie (R–KY), and Rep. Scott Peters (D–CA) to help facilitate communication among Medicare Advantage (MA) organizations, Part D plan sponsors, and the Centers for Medicare and Medicaid Services (CMS) relating to substantiated fraud, waste, and abuse investigations.

#### BACKGROUND AND NEED FOR LEGISLATION

The Medicare program serves as the healthcare coverage provider to over 58 million beneficiaries. This number is projected to rise to over 80 million by 2030. In serving the over age 65 population, Medicare accounts for a large share of total opioid prescriptions. In 2016, one out of every three beneficiaries was prescribed an opioid through Medicare Part D. In total, this equates to almost 80 million prescriptions and \$4 billion in Medicare Part D spending. While many Medicare beneficiaries with serious pain-related conditions are being properly prescribed opioids, there is mounting evidence of opioid misuse in the Medicare system. As more seniors and individuals with disabilities come into the program, the challenges of fraud, misuse, and abuse will only increase.

This bill seeks to strengthen program integrity by improving communication among plan sponsors and CMS to better identify potential fraud, waste, and abuse.

#### COMMITTEE ACTION

On April 11 and 12, 2018, the Subcommittee on Health held a hearing entitled “Combating the Opioid Crisis: Improving the Ability of Medicare and Medicaid to Provide Care for Patients” to re-

view legislation related to the opioid epidemic. The Subcommittee received testimony from:

- Kimberly Brandt, Principal Deputy Administrator for Operations, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services;
- Michael Botticelli, Executive Director, Grayken Center for Addiction, Boston Medical Center;
- Toby Douglas, Senior Vice President, Medicaid Solutions, Centene Corporation;
- David Guth, CEO, Centerstone;
- John Kravitz, CIO, Geisinger Health System; and,
- Sam Srivastava, CEO, Magellan Health.

On April 25, 2018, the Subcommittee on Health met in open markup session and forwarded a discussion draft, entitled “CMS/Plan Sharing,” without amendment, to the full Committee by a voice vote. On May 17, 2018, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 5715, as amended, favorable reported to the House by a voice vote. H.R. 5715 was similar to the discussion draft forwarded by the Subcommittee.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 5715 reported.

#### OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held a hearing and made findings that are reflected in this report.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 5715 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 6, 2018.*

Hon. GREG WALDEN,  
*Chairman, Committee on Energy and Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed document with cost estimates for the opioid-related legislation ordered to be reported on May 9 and May 17, 2018.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Tom Bradley and Chad Chirico.

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*Opioid Legislation*

Summary: On May 9 and May 17, 2018, the House Committee on Energy and Commerce ordered 59 bills to be reported related to the nation's response to the opioid epidemic. Generally, the bills would:

- Provide grants to facilities and providers that treat people with substance use disorders,
- Direct various agencies within the Department of Health and Human Services (HHS) to explore nonopioid approaches to treating pain and to educate providers about those alternatives,
- Modify requirements under Medicaid and Medicare for prescribing controlled substances,
- Expand Medicaid coverage for substance abuse treatment, and
- Direct the Food and Drug Administration (FDA) to modify its oversight of opioid drugs and other medications that are used to manage pain.

Because of the large number of related bills ordered reported by the Committee, CBO is publishing a single comprehensive document that includes estimates for each piece of legislation.

CBO estimates that enacting 20 of the bills would affect direct spending, and 2 of the bills would affect revenues; therefore, pay-as-you-go procedures apply for those bills.

CBO estimates that enacting H.R. 4998, the Health Insurance for Former Foster Youth Act, would increase net direct spending by more than \$2.5 billion and on-budget deficits by more than \$5 billion in at least one of the four consecutive 10-year periods beginning in 2029. None of the remaining 58 bills included in this estimate would increase net direct spending by more than \$2.5 billion or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2029.

One of the bills reviewed for this document, H.R. 5795, would impose both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the costs of those mandates on public and private entities would fall below the thresholds in UMRA (\$80 million and \$160 million, respectively, in 2018, adjusted annually for inflation). Five bills, H.R. 5228, H.R. 5333, H.R. 5554, H.R. 5687, and H.R. 5811, would impose private-sector mandates as defined in UMRA. CBO estimates that the costs of the mandates in three of the bills (H.R. 5333, H.R. 5554, and H.R. 5811) would not exceed the UMRA threshold for private entities. Because CBO is uncertain how federal agencies would implement new authority granted in the other two bills, H.R. 5228 and H.R. 5687, CBO cannot determine whether the costs of those mandates would exceed the UMRA threshold.

Estimated cost to the Federal Government: The estimates in this document do not include the effects of interactions among the bills. If all 59 bills were combined and enacted as one piece of legislation, the budgetary effects would be different from the sum of the estimates in this document, although CBO expects that any such differences would be small. The costs of this legislation fall within budget functions 550 (health), 570 (Medicare), 750 (administration of justice), and 800 (general government).

Basis of estimate: For this estimate, CBO assumes that all of the legislation will be enacted late in 2018 and that authorized and estimated amounts will be appropriated each year. Outlays for discretionary programs are estimated based on historical spending patterns for similar programs.

#### *Uncertainty*

CBO aims to produce estimates that generally reflect the middle of a range of the most likely budgetary outcomes that would result if the legislation was enacted. Because data on the utilization of mental health and substance abuse treatment under Medicaid and Medicare is scarce, CBO cannot precisely predict how patients or providers would respond to some policy changes or what budgetary effects would result. In addition, several of the bills would give the Department of Health and Human Services (HHS) considerable latitude in designing and implementing policies. Budgetary effects could differ from those provided in CBO's analyses depending on those decisions.

#### *Direct spending and revenues*

Table 1 lists the 22 bills of the 59 ordered to be reported that would affect direct spending or revenues.

TABLE 1.—ESTIMATED CHANGES IN MANDATORY SPENDING AND REVENUES

	By fiscal year, in millions of dollars—												
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019– 2023	2019– 2028
INCREASES OR DECREASES (–) IN DIRECT SPENDING													
Legislation Primarily Affecting Medicaid:													
H.R. 1925, At-Risk Youth Medicaid Protection Act of 2017 .....	0	*	5	5	5	10	10	10	10	10	10	25	75
H.R. 4998, Health Insurance for Former Foster Youth Act .....	0	0	0	0	0	*	10	21	33	46	61	*	171
H.R. 5477, Rural Development of Opioid Capacity Services Act .....	0	13	35	58	68	83	27	9	3	3	3	256	301
H.R. 5583, a bill to amend title XI of the Social Security Act to require States to annually report on certain adult health quality measures, and for other purposes .....	0	*	*	*	*	*	*	*	*	*	*	*	*
H.R. 5797, IMD CARE Act .....	0	38	158	251	265	279	0	0	0	0	0	991	991
H.R. 5799, Medicaid DRUG Improvement Act <sup>a</sup> .....	0	*	*	1	1	1	1	1	1	1	1	2	5
H.R. 5801, Medicaid Providers Are Required To Note Experiences in Record Systems to Help In-Need Patients (PARTNERSHIP) Act <sup>a</sup> .....	0	*	*	*	*	*	*	*	*	*	*	*	*
H.R. 5808, Medicaid Pharmaceutical Home Act of 2018 <sup>a</sup> .....	0	*	–1	–1	–1	–1	–2	–2	–2	–2	–2	–4	–13
H.R. 5810, Medicaid Health HOME Act .....	0	94	58	62	56	52	48	43	38	32	25	323	509
Legislation Primarily Affecting Medicare:													
H.R. 3528, Every Prescription Conveyed Securely Act .....	0	0	0	–24	–35	–33	–30	–33	–32	–31	–32	–92	–250
H.R. 4841, Standardizing Electronic Prior Authorization for Safe Prescribing Act of 2018 .....	0	0	0	*	*	*	*	*	*	*	*	*	*
H.R. 5603, Access to Telehealth Services for Opioid Use Disorders Act .....	0	2	*	*	*	1	1	1	2	2	2	3	11
H.R. 5605, Advancing High Quality Treatment for Opioid Use Disorders in Medicare Act .....	0	0	0	15	26	24	23	23	10	1	*	65	122
H.R. 5675, a bill to amend title XVIII of the Social Security Act to require prescription drug plan sponsors under the Medicare program to establish drug management programs for at-risk beneficiaries ...	0	0	0	–6	–7	–7	–7	–8	–9	–9	–11	–20	–64
H.R. 5684, Protecting Seniors From Opioid Abuse Act .....	0	0	0	*	*	*	*	*	*	*	*	*	*
H.R. 5796, Responsible Education Achieves Care and Healthy Outcomes for Users' Treatment Act of 2018 .....	0	10	25	50	10	5	0	0	0	0	0	100	100
H.R. 5798, Opioid Screening and Chronic Pain Management Alternatives for Seniors Act .....	0	0	*	1	1	1	1	1	1	1	1	2	5
H.R. 5804, Post-Surgical Injections as an Opioid Alternative Act <sup>a</sup> .....	0	0	25	30	25	20	10	5	0	0	0	100	115
H.R. 5809, Postoperative Opioid Prevention Act of 2018 .....	0	0	0	0	10	15	20	25	30	35	45	25	180
Legislation Primarily Affecting the Food and Drug Administration:													

TABLE 1.—ESTIMATED CHANGES IN MANDATORY SPENDING AND REVENUES—Continued

	By fiscal year, in millions of dollars—											
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019– 2023
H.R. 5333, Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2018 <sup>a</sup>	0	0	*	*	*	*	*	*	*	*	*	*
	INCREASES OR DECREASES (–) IN REVENUES <sup>b</sup>											
H.R. 5752, Stop Illicit Drug Importation Act of 2018	0	*	*	*	*	*	*	*	*	*	*	*

Annual amounts may not sum to totals because of rounding. \* = between –\$500,000 and \$500,000. Budget authority is equivalent to outlays.

<sup>a</sup> This bill also would affect spending subject to appropriation.

<sup>b</sup> One additional bill, H.R. 5228, the Stop Counterfeit Drugs by Regulating and Enhancing Enforcement Now Act, would have a negligible effect on revenues.



Legislation Primarily Affecting Medicaid. The following nine bills would affect direct spending for the Medicaid program.

*H.R. 1925, the At-Risk Youth Medicaid Protection Act of 2017*, would require states to suspend, rather than terminate, Medicaid eligibility for juvenile enrollees (generally under 21 years of age) who become inmates of public correctional institutions. States also would have to redetermine those enrollees' Medicaid eligibility before their release and restore their coverage upon release if they qualify for the program. States would be required to process Medicaid applications submitted by or on behalf of juveniles in public correctional institutions who were not enrolled in Medicaid before becoming inmates and ensure that Medicaid coverage is provided when they are released if they are found to be eligible. On the basis of an analysis of juvenile incarceration trends and of the per enrollee spending for Medicaid foster care children, who have a similar health profile to incarcerated juveniles, CBO estimates that implementing the bill would cost \$75 million over the 2019–2028 period.

*H.R. 4998, the Health Insurance for Former Foster Youth Act*, would require states to provide Medicaid coverage to adults up to age 25 who had aged out of foster care in any state. Under current law, such coverage is mandatory only if the former foster care youth has aged out in the state in which the individual applies for coverage. The policy also would apply to former foster children who had been in foster care upon turning 14 years of age but subsequently left foster care to enter into a legal guardianship with a kinship caregiver. The provisions would take effect respect for foster youth who turn 18 on or after January 1, 2023. On the basis of spending for Medicaid foster care children and data from the Census Bureau regarding annual migration rates between states, CBO estimates that implementing the bill would cost \$171 million over the 2019–2028 period.

*H.R. 5477, the Rural Development of Opioid Capacity Services Act*, would direct the Secretary of HHS to conduct a five-year demonstration to increase the number and ability of providers participating in Medicaid to provide treatment for substance use disorders. On the basis of an analysis of federal and state spending for treatment of substance use disorders and the prevalence of such disorders, CBO estimates that enacting the bill would increase direct spending by \$301 million over the 2019–2028 period.

*H.R. 5583, a bill to amend title XI of the Social Security Act to require States to annually report on certain adult health quality measures, and for other purposes*, would require states to include behavioral health indicators in their annual reports on the quality of care under Medicaid. Although the bill would add a requirement for states, CBO estimates that its enactment would not have a significant budgetary effect because most states have systems in place for reporting such measures to the federal government.

*H.R. 5797, the IMD CARE Act*, would expand Medicaid coverage for people with opioid use disorder who are in institutions for mental disease (IMDs) for up to 30 days per year. Under a current-law policy known as the IMD exclusion, the federal government generally does not make matching payments to state Medicaid programs for most services provided by IMDs to adults between the ages of 21 and 64. Recent administrative changes have made fed-

eral financing for IMDs available in limited circumstances, but the statutory prohibition remains in place. CBO analyzed several data sets, primarily those collected by the Substance Abuse and Mental Health Services Administration (SAMHSA), to estimate current federal spending under Medicaid for IMD services and to estimate spending under H.R. 5797. Using that analysis, CBO estimates that enacting H.R. 5797 would increase direct spending by \$991 million over the 2019–2028 period.

*H.R. 5799, the Medicaid DRUG Improvement Act*, would require state Medicaid programs to implement additional reviews of opioid prescriptions, monitor concurrent prescribing of opioids and certain other drugs, and monitor use of antipsychotic drugs by children. CBO estimates that the bill would increase direct spending by \$5 million over 2019–2028 period to cover the administrative costs of complying with those requirements. On the basis of stakeholder feedback, CBO expects that the bill would not have a significant effect on Medicaid spending for prescription drugs because many of the bill's requirements would duplicate current efforts to curb opioid and antipsychotic drug use. (If enacted, H.R. 5799 also would affect spending subject to appropriation; CBO has not completed an estimate of that amount.)

*H.R. 5801, the Medicaid Providers Are Required To Note Experiences in Record Systems to Help-In-Need Patients (PARTNERSHIP) Act*, would require providers who are permitted to prescribe controlled substances and who participate in Medicaid to query prescription drug monitoring programs (PDMPs) before prescribing controlled substances to Medicaid patients. PDMPs are statewide electronic databases that collect data on controlled substances dispensed in the state. The bill also would require PDMPs to comply with certain data and system criteria, and it would provide additional federal matching funds to certain states to help cover administrative costs. On the basis of a literature review and stakeholder feedback, CBO estimates that the net budgetary effect of enacting H.R. 5801 would be insignificant. Costs for states to come into compliance with the systems and administrative requirements would be roughly offset by savings from small reductions in the number of controlled substances paid for by Medicaid under the proposal. (If enacted, H.R. 5801 also would affect spending subject to appropriation; CBO has not completed an estimate of that amount.)

*H.R. 5808, the Medicaid Pharmaceutical Home Act of 2018*, would require state Medicaid programs to operate pharmacy programs that would identify people at high risk of abusing controlled substances and require those patients to use a limited number of providers and pharmacies. Although nearly all state Medicaid programs currently meet such a requirement, a small number of high-risk Medicaid beneficiaries are not now monitored. Based on an analysis of information about similar state and federal programs, CBO estimates that net Medicaid spending under the bill would decrease by \$13 million over the 2019–2028 period. That amount represents a small increase in administrative costs and a small reduction in the number of controlled substances paid for by Medicaid under the proposal. (If enacted, H.R. 5808 also would affect spending subject to appropriation; CBO has not completed an estimate of that amount.)

*H.R. 5810, the Medicaid Health HOME Act*, would allow states to receive six months of enhanced federal Medicaid funding for programs that coordinate care for people with substance use disorders. Based on enrollment and spending data from states that currently participate in Medicaid’s Health Homes program, CBO estimates that the expansion would cost approximately \$469 million over the 2019–2028 period. The bill also would require states to cover all FDA-approved drugs used in medication-assisted treatment for five years, although states could seek a waiver from that requirement. (Medication-assisted treatment combines behavioral therapy and pharmaceutical treatment for substance use disorders.) Under current law, states already cover most FDA-approved drugs used in such programs in some capacity, although a few exclude methadone dispensed by opioid treatment programs. CBO estimates that a small share of those states would begin to cover methadone if this bill was enacted at a federal cost of about \$39 million over the 2019–2028 period. In sum, CBO estimates that the enacting H.R. 5810 would increase direct spending by \$509 million over the 2019–2028 period.

*Legislation Primarily Affecting Medicare.* The following ten bills would affect direct spending for the Medicare program.

*H.R. 3528, the Every Prescription Conveyed Securely Act*, would require prescriptions for controlled substances covered under Medicare Part D to be transmitted electronically, starting on January 1, 2021. Based on CBO’s analysis of prescription drug spending, spending for controlled substances is a small share of total drug spending. CBO also assumes a small share of those prescriptions would not be filled because they are not converted to an electronic format. Therefore, CBO expects that enacting H.R. 3528 would reduce the number of prescriptions filled and estimates that Medicare spending would be reduced by \$250 million over the 2019–2028 period.

*H.R. 4841, the Standardizing Electronic Prior Authorization for Safe Prescribing Act of 2018*, would require health care professionals to submit prior authorization requests electronically, starting on January 1, 2021, for drugs covered under Medicare Part D. Taking into account that many prescribers already use electronic methods to submit such requests, CBO estimates that enacting H.R. 4841 would not significantly affect direct spending for Part D.

*H.R. 5603, the Access to Telehealth Services for Opioid Use Disorders Act*, would permit the Secretary of HHS to lift current geographic and other restrictions on coverage of telehealth services under Medicare for treatment of substance use disorders or co-occurring mental health disorders. Under the bill, the Secretary of HHS would be directed to encourage other payers to coordinate payments for opioid use disorder treatments and to evaluate the extent to which the demonstration reduces hospitalizations, increases the use of medication-assisted treatments, and improves the health outcomes of individuals with opioid use disorders during and after the demonstration. Based on current use of Medicare telehealth services for treatment of substance use disorders, CBO estimates that expanding that coverage would increase direct spending by \$11 million over the 2019–2028 period.

*H.R. 5605, the Advancing High Quality Treatment for Opioid Use Disorders in Medicare Act*, would establish a five-year demonstra-

tion program to increase access to treatment for opioid use disorder. The demonstration would provide incentive payments and funding for care management services based on criteria such as patient engagement, use of evidence-based treatments, and treatment length and intensity. Under the bill, the Secretary of HHS would be directed to encourage other payers to coordinate payments for opioid use disorder treatments and to evaluate the extent to which the demonstration reduces hospitalizations, increases the use of medication-assisted treatments, and improves the health outcomes of individuals with opioid use disorders during and after the demonstration. Based on historical utilization of opioid use disorder treatments and projected spending on incentive payments and care management fees, CBO estimates that increased use of treatment services and the demonstration's incentive payments would increase direct spending by \$122 million over the 2019–2028 period.

*H.R. 5675, a bill to amend title XVIII of the Social Security Act to require prescription drug plan sponsors under the Medicare program to establish drug management programs for at-risk beneficiaries*, would require Part D prescription drug plans to provide drug management programs for Medicare beneficiaries who are at risk for prescription drug abuse. (Under current law, Part D plans are permitted but not required to establish such programs as of 2019.) Based on an analysis of the number of plans currently providing those programs, CBO estimates that enacting H.R. 5675 would lower federal spending by \$64 million over the 2019–2028 period by reducing the number of prescriptions filled and Medicare's payments for controlled substances.

*H.R. 5684, the Protecting Seniors From Opioid Abuse Act*, would expand medication therapy management programs under Medicare Part D to include beneficiaries who are at risk for prescription drug abuse. Because relatively few beneficiaries would be affected by this bill, CBO estimates that its enactment would not significantly affect direct spending for Part D.

*H.R. 5796, the Responsible Education Achieves Care and Healthy Outcomes for Users' Treatment Act of 2018*, would allow the Secretary of HHS to award grants to certain organizations that provide technical assistance and education to high-volume prescribers of opioids. The bill would appropriate \$100 million for fiscal year 2019. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5796 would cost \$100 million over the 2019–2028 period.

*H.R. 5798, the Opioid Screening and Chronic Pain Management Alternatives for Seniors Act*, would add an assessment of current opioid prescriptions and screening for opioid use disorder to the Welcome to Medicare Initial Preventive Physical Examination. Based on historical use of the examinations and pain management alternatives, CBO expects that enacting the bill would increase use of pain management services and estimates that direct spending would increase by \$5 million over the 2019–2028 period.

*H.R. 5804, the Post-Surgical Injections as an Opioid Alternative Act*, would freeze the Medicare payment rate for certain analgesic injections provided in ambulatory surgical centers (ASCs). (For injections identified by specific billing codes, Medicare would pay the 2016 rate, which is higher than the current rate, during the 2020–2024 period.) Based on current utilization in the ASC setting, CBO

estimates that enacting the legislation would increase direct spending by about \$115 million over the 2019–2028 period. (If enacted, H.R. 5804 also would affect spending subject to appropriation; see Table 3.)

*H.R. 5809, the Postoperative Opioid Prevention Act of 2018*, would create an additional payment under Medicare for nonopioid analgesics. Under current law, certain new drugs and devices may receive an additional payment—separate from the bundled payment for a surgical procedure—in outpatient hospital departments and ambulatory surgical centers. The bill would allow nonopioid analgesics to qualify for a five-year period of additional payments. Based on its assessment of current spending for analgesics and on the probability of new nonopioid analgesics coming to market, CBO estimates that H.R. 5809 would increase direct spending by about \$180 million over the 2019–2028 period.

Legislation Primarily Affecting the Food and Drug Administration. One bill related to the FDA would affect direct spending.

*H.R. 5333, the Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2018*, would change the way that the FDA regulates the marketing of over-the-counter (OTC) medicines, and it would authorize that agency to grant 18 months of exclusive market protection for certain qualifying OTC drugs, thus delaying the entry of other versions of the same qualifying OTC product. Medicaid currently provides some coverage for OTC medicines, but only if a medicine is the least costly alternative in its drug class. On the basis of stakeholder feedback, CBO expects that delaying the availability of additional OTC versions of a drug would not significantly affect the average net price paid by Medicaid. As a result, CBO estimates that enacting H.R. 5333 would have a negligible effect on the federal budget. (If enacted, H.R. 5333 also would affect spending subject to appropriation; see Table 3.)

Legislation with Revenue Effects. Two bills would affect revenues. However, CBO estimates that one bill, H.R. 5228, the Stop Counterfeit Drugs by Regulating and Enhancing Enforcement Now Act, would have only a negligible effect.

*H.R. 5752, the Stop Illicit Drug Importation Act of 2018*, would amend the Federal Food, Drug, and Cosmetic Act (FDCA) to strengthen the FDA’s seizure powers and enhance its authority to detain, refuse, seize, or destroy illegal products offered for import. The legislation would subject more people to debarment under the FDCA and thus increase the potential for violations, and subsequently, the assessment of civil penalties, which are recorded in the budget as revenues. CBO estimates that those collections would result in an insignificant increase in revenues. Because H.R. 5752 would prohibit the importation of drugs that are in the process of being scheduled, it also could reduce amounts collected in customs duties. CBO anticipates that the result would be a negligible decrease in revenues. With those results taken together, CBO estimates, enacting H.R. 5752 would generate an insignificant net increase in revenues over the 2019–2028 period.

#### *Spending subject to appropriation*

For this document, CBO has grouped bills with spending that would be subject to appropriation into four general categories:

- Bills that would have no budgetary effect,

- Bills with provisions that would authorize specified amounts to be appropriated (see Table 2),
- Bills with provisions for which CBO has estimated an authorization of appropriations (see Table 3), and
- Bills with provisions that would affect spending subject to appropriation for which CBO has not yet completed an estimate.

No Budgetary Effect. CBO estimates that 6 of the 59 bills would have no effect on direct spending, revenues, or spending subject to appropriation.

*H.R. 3192, the CHIP Mental Health Parity Act*, would require all Children’s Health Insurance Program (CHIP) plans to cover mental health and substance abuse treatment. In addition, states would not be allowed to impose financial or utilization limits on mental health treatment that are lower than limits placed on physical health treatment. Based on information from the Centers for Medicare and Medicaid Services, CBO estimates that enacting the bill would have no budgetary effect because all CHIP enrollees are already in plans that meet those requirements.

*H.R. 3331, a bill to amend title XI of the Social Security Act to promote testing of incentive payments for behavioral health providers for adoption and use of certified electronic health record technology*, would give the Center for Medicare and Medicaid Innovation (CMMI) explicit authorization to test a program offering incentive payments to behavioral health providers that adopt and use certified electronic health record technology. Because it is already clear to CMMI that it has that authority, CBO estimates that enacting the legislation would not affect federal spending.

*H.R. 5202, the Ensuring Patient Access to Substance Use Disorder Treatments Act of 2018*, would clarify permission for pharmacists to deliver controlled substances to providers under certain circumstances. Because this provision would codify current practice, CBO estimates that H.R. 5202 would not affect direct spending or revenues during the 2019–2028 period.

*H.R. 5685, the Medicare Opioid Safety Education Act of 2018*, would require the Secretary of HHS to include information on opioid use, pain management, and nonopioid pain management treatments in future editions of *Medicare & You*, the program’s handbook for beneficiaries, starting on January 1, 2019. Because H.R. 5685 would add information to an existing administrative document, CBO estimates that enacting the bill would have no budgetary effect.

*H.R. 5686, the Medicare Clear Health Options in Care for Enrollees Act of 2018*, would require prescription drug plans that provide coverage under Medicare Part D to furnish information to beneficiaries about the risks of opioid use and the availability of alternative treatments for pain. CBO estimates that enacting the bill would not affect direct spending because the required activities would not impose significant administrative costs.

*H.R. 5716, the Commit to Opioid Medical Prescriber Accountability and Safety for Seniors Act*, would require the Secretary of HHS on an annual basis to identify high prescribers of opioids and furnish them with information about proper prescribing methods. Because HHS already has the capacity to meet those requirements,

CBO estimates that enacting that provision would not impose additional administrative costs on the agency.

Specified Authorizations. Table 2 lists the ten bills that would authorize specified amounts to be appropriated over the 2019–2023 period. Spending from those authorized amounts would be subject to appropriation.

TABLE 2.—ESTIMATED SPENDING SUBJECT TO APPROPRIATION FOR BILLS WITH SPECIFIED AUTHORIZATIONS

	By fiscal year, in millions of dollars—						
	2018	2019	2020	2021	2022	2023	2019–2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
H.R. 4684, Ensuring Access to Quality Sober Living Act:							
Authorization Level .....	0	3	0	0	0	0	3
Estimated Outlays .....	0	1	2	*	*	*	3
H.R. 5102, Substance Use Disorder Workforce Loan Repayment Act of 2018:							
Authorization Level .....	0	25	25	25	25	25	125
Estimated Outlays .....	0	9	19	23	25	25	100
H.R. 5176, Preventing Overdoses While in Emergency Rooms Act of 2018:							
Authorization Level .....	0	50	0	0	0	0	50
Estimated Outlays .....	0	16	26	6	2	1	50
H.R. 5197, Alternatives to Opioids (ALTO) in the Emergency Department Act:							
Authorization Level .....	0	10	10	10	0	0	30
Estimated Outlays .....	0	3	8	10	7	2	30
H.R. 5261, Treatment, Education, and Community Help to Combat Addiction Act of 2018:							
Authorization Level .....	0	4	4	4	4	4	20
Estimated Outlays .....	0	1	3	4	4	4	16
H.R. 5327, Comprehensive Opioid Recovery Centers Act of 2018:							
Authorization Level .....	0	10	10	10	10	10	50
Estimated Outlays .....	0	3	8	10	10	10	41
H.R. 5329, Poison Center Network Enhancement Act of 2018:							
Authorization Level .....	0	30	30	30	30	30	151
Estimated Outlays .....	0	12	25	29	29	29	125
H.R. 5353, Eliminating Opioid-Related Infectious Diseases Act of 2018:							
Authorization Level .....	0	40	40	40	40	40	200
Estimated Outlays .....	0	15	34	38	39	40	166
H.R. 5580, Surveillance and Testing of Opioids to Prevent Fentanyl Deaths Act of 2018:							
Authorization Level .....	30	30	30	30	30	0	120
Estimated Outlays .....	0	11	25	29	29	19	113
H.R. 5587, Peer Support Communities of Recovery Act:							
Authorization Level .....	0	15	15	15	15	15	75
Estimated Outlays .....	0	5	13	14	15	15	62

Annual amounts may not sum to totals because of rounding. \* = between zero and \$500,000.

*H.R. 4684, the Ensuring Access to Quality Sober Living Act*, would direct the Secretary of HHS to develop and disseminate best practices for organizations that operate housing designed for people recovering from substance use disorders. The bill would authorize a total of \$3 million over the 2019–2021 period for that purpose. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 4684 would cost \$3 million over the 2019–2023 period.

*H.R. 5102, the Substance Use Disorder Workforce Loan Repayment Act of 2018*, would establish a loan repayment program for

mental health professionals who practice in areas with few mental health providers or with high rates of death from overdose and would authorize \$25 million per year over the 2019–2028 period for that purpose. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5102 would cost \$100 million over the 2019–2023 period; the remaining amounts would be spent in years after 2023.

*H.R. 5176, the Preventing Overdoses While in Emergency Rooms Act of 2018*, would require the Secretary of HHS to develop protocols and a grant program for health care providers to address the needs of people who survive a drug overdose, and it would authorize \$50 million in 2019 for that purpose. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5176 would cost \$50 million over the 2019–2023 period.

*H.R. 5197, the Alternatives to Opioids (ALTO) in the Emergency Department Act*, would direct the Secretary of HHS to carry out a demonstration program for hospitals and emergency departments to develop alternative protocols for pain management that limit the use of opioids and would authorize \$10 million annually in grants for fiscal years 2019 through 2021. Based on historical spending patterns for similar programs, CBO estimates that implementing H.R. 5197 would cost \$30 million over the 2019–2023 period.

*H.R. 5261, the Treatment, Education, and Community Help to Combat Addiction Act of 2018*, would direct the Secretary of HHS to designate regional centers of excellence to improve the training of health professionals who treat substance use disorders. The bill would authorize \$4 million annually for grants to those programs over the 2019–2023 period. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5261 would cost \$16 million over the 2019–2023 period; the remaining amounts would be spent in years after 2023.

*H.R. 5327, the Comprehensive Opioid Recovery Centers Act of 2018*, would direct the Secretary of HHS to award grants to at least 10 providers that offer treatment services for people with opioid use disorder, and it would authorize \$10 million per year over the 2019–2023 period for that purpose. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5327 would cost \$41 million over the 2019–2023 period; the remaining amounts would be spent in years after 2023.

*H.R. 5329, the Poison Center Network Enhancement Act of 2018*, would reauthorize the poison control center toll-free number, national media campaign, and grant program under the Public Health Service Act. Among other actions, H.R. 5329 would increase the share of poison control center funding that could be provided by federal grants. The bill would authorize a total of about \$30 million per year over the 2019–2023 period. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5329 would cost \$125 million over the 2019–2023 period; the remaining amounts would be spent in years after 2023.

*H.R. 5353, the Eliminating Opioid Related Infectious Diseases Act of 2018*, would amend Public Health Service Act by broadening the focus of surveillance and education programs from preventing and treating hepatitis C virus to preventing and treating infections associated with injection drug use. It would authorize \$40 million per



year over 2019–2023 period for that purpose. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5353 would cost \$166 million over the 2019–2023 period; the remaining amounts would be spent in years after 2023.

*H.R. 5580, the Surveillance and Testing of Opioids to Prevent Fentanyl Deaths Act of 2018*, would establish a grant program for public health laboratories that conduct testing for fentanyl and other synthetic opioids. It also would direct the Centers for Disease Control and Prevention to expand its drug surveillance program, with a particular focus on collecting data on fentanyl. The bill would authorize a total of \$30 million per year over the 2018–2022 period for those activities. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5580 would cost \$113 million over the 2019–2023 period; the remaining amounts would be spent in years after 2023.

*H.R. 5587, Peer Support Communities of Recovery Act*, would direct the Secretary of HHS to award grants to nonprofit organizations that support community-based, peer-delivered support, including technical support for the establishment of recovery community organizations, independent, nonprofit groups led by people in recovery and their families. The bill would authorize \$15 million per year for the 2019–2023 period. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5587 would cost \$62 million over the 2019–2023 period; the remaining amounts would be spent in years after 2023.

Estimated Authorizations. Table 3 shows CBO’s estimates of the appropriations that would be necessary to implement 19 of the bills. Spending would be subject to appropriation of those amounts.

*H.R. 449, the Synthetic Drug Awareness Act of 2018*, would require the Surgeon General to report to the Congress on the health effects of synthetic psychoactive drugs on children between the ages of 12 and 18. Based on spending patterns for similar activities, CBO estimates that implementing H.R. 449 would cost approximately \$1 million over the 2019–2023 period.

*H.R. 4005, the Medicaid Reentry Act*, would direct the Secretary of HHS to convene a group of stakeholders to develop and report to the Congress on best practices for addressing issues related to health care faced by those returning from incarceration to their communities. The bill also would require the Secretary to issue a letter to state Medicaid directors about relevant demonstration projects. Based on an analysis of anticipated workload, CBO estimates that implementing H.R. 4005 would cost less than \$500,000 over the 2018–2023 period.

*H.R. 4275, the Empowering Pharmacists in the Fight Against Opioid Abuse Act*, would require the Secretary of HHS to develop and disseminate materials for training pharmacists, health care practitioners, and the public about the circumstances under which a pharmacist may decline to fill a prescription. Based on historical spending patterns for similar activities, CBO estimates that costs to the federal government for the development and distribution of those materials would not be significant.

TABLE 3.—ESTIMATED SPENDING SUBJECT TO APPROPRIATION FOR BILLS WITH ESTIMATED AUTHORIZATIONS

	By fiscal year, in millions of dollars—						
	2018	2019	2020	2021	2022	2023	2019–2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
H.R. 449, Synthetic Drug Awareness Act of 2018:							
Estimated Authorization Level .....	0	*	*	*	0	0	1
Estimated Outlays .....	0	*	*	*	0	0	1
H.R. 4005, Medicaid Reentry Act:							
Estimated Authorization Level .....	*	*	0	0	0	0	*
Estimated Outlays .....	*	*	0	0	0	0	*
H.R. 4275, Empowering Pharmacists in the Fight Against Opioid Abuse Act:							
Estimated Authorization Level .....	0	*	*	*	*	*	*
Estimated Outlays .....	0	*	*	*	*	*	*
H.R. 5009, Jessie's Law:							
Estimated Authorization Level .....	0	*	*	*	*	*	*
Estimated Outlays .....	0	*	*	*	*	*	*
H.R. 5041, Safe Disposal of Unused Medication Act:							
Estimated Authorization Level .....	0	*	*	*	*	*	*
Estimated Outlays .....	0	*	*	*	*	*	*
H.R. 5272, Reinforcing Evidence-Based Standards Under Law in Treating Substance Abuse Act of 2018:							
Estimated Authorization Level .....	0	1	1	1	1	1	4
Estimated Outlays .....	0	1	1	1	1	1	4
H.R. 5333, Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2018: <sup>a</sup>							
Food and Drug Administration:							
Collections from fees:							
Estimated Authorization Level .....	0	–22	–22	–26	–35	–42	–147
Estimated Outlays .....	0	–22	–22	–26	–35	–42	–147
Spending of fees:							
Estimated Authorization Level .....	0	22	22	26	35	42	147
Estimated Outlays .....	0	6	17	30	44	41	137
Net effect on FDA:							
Estimated Authorization Level .....	0	0	0	0	0	0	0
Estimated Outlays .....	0	–17	–6	4	9	*	–10
Government Accountability Office:							
Estimated Authorization Level .....	0	0	0	0	0	*	*
Estimated Outlays .....	0	0	0	0	0	*	*
<b>Total, H.R. 5333:</b>							
Estimated Authorization Level .....	0	0	0	0	0	*	*
Estimated Outlays .....	0	–17	–6	4	9	*	–10
H.R. 5473, Better Pain Management Through Better Data Act of 2018:							
Estimated Authorization Level .....	0	*	*	*	*	0	1
Estimated Outlays .....	0	*	*	*	*	*	1
H.R. 5483, Special Registration for Telemedicine Clarification Act of 2018:							
Estimated Authorization Level .....	0	*	*	*	*	*	*
Estimated Outlays .....	0	*	*	*	*	*	*
H.R. 5554, Animal Drug and Animal Generic Drug User Fee Amendments of 2018:							
Collections from fees:							
Animal drug fees .....	0	–30	–31	–32	–33	–34	–159
Generic animal drug fees .....	0	–18	–19	–19	–20	–21	–97
Total, Estimated Authorization Level .....	0	–49	–50	–51	–53	–55	–257
Total, Estimated Outlays .....	0	–40	–50	–51	–53	–55	–257
Spending of fees:							
Animal drug fees .....	0	30	31	32	33	34	159
Generic animal drug fees .....	0	18	19	19	20	21	97
Total, Estimated Authorization Level .....	0	49	50	51	53	55	257
Total, Estimated Outlays .....	0	39	47	51	52	54	243

TABLE 3.—ESTIMATED SPENDING SUBJECT TO APPROPRIATION FOR BILLS WITH ESTIMATED AUTHORIZATIONS—Continued

	By fiscal year, in millions of dollars—						
	2018	2019	2020	2021	2022	2023	2019–2023
Net changes in fees:							
Estimated Authorization Level .....	0	0	0	0	0	0	0
Estimated Outlays .....	0	–10	–3	*	*	*	–14
Other effects:							
Estimated Authorization Level .....	0	3	1	1	1	1	6
Estimated Outlays .....	0	2	1	1	1	1	6
<b>Total, H.R. 5554:</b>							
Estimated Authorization Level .....	0	3	1	1	1	1	6
Estimated Outlays .....	0	–8	–2	1	*	*	–8
H.R. 5582, Abuse Deterrent Access Act of 2018:							
Estimated Authorization Level .....	0	0	*	0	0	0	*
Estimated Outlays .....	0	0	*	0	0	0	*
H.R. 5590, Opioid Addiction Action Plan Act:							
Estimated Authorization Level .....	*	*	*	*	*	*	2
Estimated Outlays .....	*	*	*	*	*	*	2
H.R. 5687, Securing Opioids and Unused Narcotics with Deliberate Disposal and Packaging Act of 2018:							
Estimated Authorization Level .....	0	*	*	*	*	*	*
Estimated Outlays .....	0	*	*	*	*	*	*
H.R. 5715, Strengthening Partnerships to Prevent Opioid Abuse Act:							
Estimated Authorization Level .....	0	2	2	2	2	2	9
Estimated Outlays .....	0	2	2	2	2	2	9
H.R. 5789, a bill to require the Secretary of Health and Human Services to issue guidance to improve care for infants with neonatal abstinence syndrome and their mothers, and to require the Comptroller General of the United States to conduct a study on gaps in Medicaid coverage for pregnant and postpartum women with substance use disorder:							
Estimated Authorization Level .....	0	2	0	0	0	0	2
Estimated Outlays .....	0	2	0	0	0	0	2
H.R. 5795, Overdose Prevention and Patient Safety Act:							
Estimated Authorization Level .....	0	1	0	0	0	0	1
Estimated Outlays .....	0	1	0	0	0	0	1
H.R. 5800, Medicaid IMD ADDITIONAL INFO Act:							
Estimated Authorization Level .....	0	1	0	0	0	0	1
Estimated Outlays .....	0	*	*	0	0	0	1
H.R. 5804, Post-Surgical Injections as an Opioid Alternative Act: <sup>a</sup>							
Estimated Authorization Level .....	0	0	0	0	1	1	1
Estimated Outlays .....	0	0	0	0	1	1	1
H.R. 5811, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to postapproval study requirements for certain controlled substances, and for other purposes:							
Estimated Authorization Level .....	0	*	*	*	*	*	*
Estimated Outlays .....	0	*	*	*	*	*	*

Annual amounts may not sum to totals because of rounding. \* = between –\$500,000 and \$500,000.

<sup>a</sup> This bill also would affect mandatory spending (see Table 1).

*H.R. 5009, Jessie’s Law*, would require HHS, in collaboration with outside experts, to develop best practices for displaying information about opioid use disorder in a patient’s medical record. HHS also would be required to develop and disseminate written materials annually to health care providers about what disclosures could be made while still complying with federal laws that govern health care privacy. Based on spending patterns for similar activities, CBO estimates that implementing H.R. 5009 would have an insignificant effect on spending over the 2019–2023 period.

*H.R. 5041, the Safe Disposal of Unused Medication Act*, would require hospice programs to have written policies and procedures for the disposal of controlled substances after a patient's death. Certain licensed employees of hospice programs would be permitted to assist in the disposal of controlled substances that were lawfully dispensed. Using information from the Department of Justice (DOJ), CBO estimates that implementing the bill would cost less than \$500,000 over the 2019–2023 period.

*H.R. 5272, the Reinforcing Evidence-Based Standards Under Law in Treating Substance Abuse Act of 2018*, would require the newly established National Mental Health and Substance Use Policy Laboratory to issue guidance to applicants for SAMHSA grants that support evidence-based practices. Using information from HHS about the historical cost of similar activities, CBO estimates that enacting this bill would cost approximately \$4 million over the 2019–2023 period.

*H.R. 5333, the Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2018*, would change the FDA's oversight of the commercial marketing of OTC medicines and authorize the collection and spending of fees through 2023 to cover the costs of expediting the FDA's administrative procedures for certain regulatory activities relating to OTC products. Under H.R. 5333, CBO estimates, the FDA would assess about \$147 million in fees over the 2019–2023 period that could be collected and made available for obligation only to the extent and in the amounts provided in advance in appropriation acts. Because the FDA could spend those fees, CBO estimates that the estimated budget authority for collections and spending would offset each other exactly in each year, although CBO expects that spending initially would lag behind collections. Assuming appropriation action consistent with the bill, CBO estimates that implementing H.R. 5333 would reduce net discretionary outlays by \$10 million over the 2019–2023 period, primarily because of that lag. The bill also would require the Government Accountability Office to study exclusive market protections for certain qualifying OTC drugs authorized by the bill—a provision that CBO estimates would cost less than \$500,000. (If enacted, H.R. 5333 also would affect mandatory spending; see Table 1.)

*H.R. 5473, the Better Pain Management Through Better Data Act of 2018*, would require that the FDA conduct a public meeting and issue guidance to industry addressing data collection and labeling for medical products that reduce pain while enabling the reduction, replacement, or avoidance of oral opioids. Using information from the agency, CBO estimates that implementing H.R. 5473 would cost about \$1 million over the 2019–2023 period.

*H.R. 5483, the Special Registration for Telemedicine Clarification Act of 2018*, would direct DOJ, within one year of the bill's enactment, to issue regulations concerning the practice of telemedicine (for remote diagnosis and treatment of patients). Using information from DOJ, CBO estimates that implementing the bill would cost less than \$500,000 over the 2019–2023 period.

*H.R. 5554, the Animal Drug and Animal Generic Drug User Fee Amendments of 2018*, would authorize the FDA to collect and spend fees to cover the cost of expedited approval for the development and marketing of certain drugs for use in animals. The legislation would extend through fiscal year 2023, and make several changes

to, the FDA's existing approval processes and fee programs for brand-name and generic veterinary drugs, which expire at the end of fiscal year 2018. CBO estimates that implementing H.R. 5554 would reduce net discretionary outlays by \$8 million over the 2019–2023 period, primarily because the spending of fees lags somewhat behind their collection.

Fees authorized under the bill would supplement funds appropriated to cover the FDA's cost of reviewing certain applications and investigational submissions for brand-name and generic drugs for use in animals. Those fees could be collected and made available for obligation only to the extent and in the amounts provided in advance in appropriation acts. Under H.R. 5554, CBO estimates, the FDA would assess about \$257 million in fees over the 2019–2023 period. Because the FDA could spend those funds, CBO estimates that budget authority for collections and spending would offset each other exactly in each year. CBO estimates that the delay between collecting and spending fees under the reauthorized programs would reduce net discretionary outlays by \$14 million over the 2019–2023 period, assuming appropriation actions consistent with the bill.

Enacting H.R. 5554 would increase the FDA's workload because the legislation would expand eligibility for conditional approval for certain drugs. The agency's administrative costs also would increase because of regulatory activities required by a provision concerning petitions for additives intended for use in animal food. H.R. 5554 also would require the FDA to publish guidance or produce regulations on a range of topics, transmit a report to the Congress, and hold public meetings. CBO expects that the costs associated with those activities would not be covered by fees, and it estimates that implementing such provisions would cost \$6 million over the 2019–2023 period.

*H.R. 5582, the Abuse Deterrent Access Act of 2018*, would require the Secretary of HHS to report to the Congress on existing barriers to access to “abuse-deterrent opioid formulations” by Medicare Part C and D beneficiaries. Such formulations make the drugs more difficult to dissolve for injection, for example, and thus can impede their abuse. Assuming the availability of appropriated funds and based on historical spending patterns for similar activities, CBO estimates that implementing the legislation would cost less than \$500,000 over the 2019–2023 period.

*H.R. 5590, the Opioid Addiction Action Plan Act*, would require the Secretary of HHS to develop an action plan by January 1, 2019, for increasing access to medication-assisted treatment among Medicare and Medicaid enrollees. The bill also would require HHS to convene a stakeholder meeting and issue a request for information within three months of enactment, and to submit a report to the Congress by June 1, 2019. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5590 would cost approximately \$2 million over the 2019–2023 period.

*H.R. 5687, the Securing Opioids and Unused Narcotics with Deliberate Disposal and Packaging Act of 2018*, would permit the FDA to require certain packaging and disposal technologies, controls, or measures to mitigate the risk of abuse and misuse of drugs. Based on information from the FDA, CBO estimates that implementing H.R. 5687 would not significantly affect spending over the 2019–

2023 period. This bill would also require that the GAO study the effectiveness and use of packaging technologies for controlled substances—a provision that CBO estimates would cost less than \$500,000.

*H.R. 5715, the Strengthening Partnerships to Prevent Opioid Abuse Act*, would require the Secretary of HHS to establish a secure Internet portal to allow HHS, Medicare Advantage plans, and Medicare Part D plans to exchange information about fraud, waste, and abuse among providers and suppliers no later than two years after enactment. H.R. 5715 also would require organizations with Medicare Advantage contracts to submit information on investigations related to providers suspected of prescribing large volumes of opioids through a process established by the Secretary no later than January 2021. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5715 would cost approximately \$9 million over the 2019–2023 period.

*H.R. 5789, a bill to require the Secretary of Health and Human Services to issue guidance to improve care for infants with neonatal abstinence syndrome and their mothers, and to require the Comptroller General of the United States to conduct a study on gaps in Medicaid coverage for pregnant and postpartum women with substance use disorder*, would direct the Secretary of HHS to issue guidance to states on best practices under Medicaid and CHIP for treating infants with neonatal abstinence syndrome. H.R. 5789 also would direct the Government Accountability Office to study Medicaid coverage for pregnant and postpartum women with substance use disorders. Based on information from HHS and historical spending patterns for similar activities, CBO estimates that enacting H.R. 5789 would cost approximately \$2 million over the 2019–2023 period.

*H.R. 5795, the Overdose Prevention and Patient Safety Act*, would amend the Public Health Service Act so that requirements pertaining to the confidentiality and disclosure of medical records relating to substance use disorders align with the provisions of the Health Insurance Portability and Accountability Act of 1996. The bill would require the Office of the Secretary of HHS to issue regulations prohibiting discrimination based on data disclosed from such medical records, to issue regulations requiring covered entities to provide written notice of privacy practices, and to develop model training programs and materials for health care providers and patients and their families. Based on spending patterns for similar activities, CBO estimates that implementing H.R. 5795 would cost approximately \$1 million over the 2019–2023 period.

*H.R. 5800, Medicaid IMD ADDITIONAL INFO Act*, would direct the Medicaid and CHIP Payment and Access Commission to study institutions for mental diseases in a representative sample of states. Based on information from the commission about the cost of similar work, CBO estimates that implementing H.R. 5800 would cost about \$1 million over the 2019–2023 period.

*H.R. 5804, the Post-Surgical Injections as an Opioid Alternative Act*, would freeze the Medicare payment rate for certain analgesic injections provided in ambulatory surgical centers. The bill also would mandate two studies of Medicare coding and payments arising from enactment of this legislation. Based on the cost of similar activities, CBO estimates that those reports would cost \$1 million

over the 2019–2023 period. (If enacted, H.R. 5804 also would affect mandatory spending; see Table 1.)

*H.R. 5811, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to postapproval study requirements for certain controlled substances, and for other purposes*, would allow the FDA to require that pharmaceutical manufacturers study certain drugs after they are approved to assess any potential reduction in those drugs’ effectiveness for the conditions of use prescribed, recommended, or suggested in labeling. CBO anticipates that implementing H.R. 5811 would not significantly affect the FDA’s costs over the 2019–2023 period.

**Other Authorizations.** The following nine bills would increase authorization levels, but CBO has not completed estimates of amounts. All authorizations would be subject to future appropriation action.

- H.R. 4284, Indexing Narcotics, Fentanyl, and Opioids Act of 2017
- H.R. 5002, Advancing Cutting Edge Research Act
- H.R. 5228, Stop Counterfeit Drugs by Regulating and Enhancing Enforcement Now Act (see Table 1 for an estimate of the revenue effects of H.R. 5228)
- H.R. 5752, Stop Illicit Drug Importation Act of 2018 (see Table 1 for an estimate of the revenue effects of H.R. 5752)
- H.R. 5799, Medicaid DRUG Improvement Act (see Table 1 for an estimate of the direct spending effects of H.R. 5799)
- H.R. 5801, Medicaid Providers and Pharmacists Are Required to Note Experiences in Record Systems to Help In-Need Patients (PARTNERSHIP) Act (see Table 1 for an estimate of the direct spending effects of H.R. 5801)
- H.R. 5806, 21st Century Tools for Pain and Addiction Treatments Act
- H.R. 5808, Medicaid Pharmaceutical Home Act of 2018 (see Table 1 for an estimate of the direct spending effects of H.R. 5808)
- H.R. 5812, Creating Opportunities that Necessitate New and Enhanced Connections That Improve Opioid Navigation Strategies Act (CONNECTIONS) Act

**Pay-As-You-Go considerations:** The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Twenty-two of the bills discussed in this document contain direct spending or revenues and are subject to pay-as-you-go procedures. Details about the amount of direct spending and revenues in those bills can be found in Table 1.

**Increase in long-term direct spending and deficits:** CBO estimates that enacting H.R. 4998, the Health Insurance for Former Foster Youth Act, would increase net direct spending by more than \$2.5 billion and on-budget deficits by more than \$5 billion in at least one of the four consecutive 10-year periods beginning in 2029.

CBO estimates that none of the remaining 58 bills included in this estimate would increase net direct spending by more than \$2.5 billion or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2029.

**Mandates:** One of the 59 bills included in this document, H.R. 5795, would impose both intergovernmental and private-sector

mandates as defined in UMRA. CBO estimates that the costs of that bill's mandates on public and private entities would fall below UMRA's thresholds (\$80 million and \$160 million, respectively, for public- and private-sector entities in 2018, adjusted annually for inflation).

In addition, five bills would impose private-sector mandates as defined in UMRA. CBO estimates that the costs of the mandates in three of those bills (H.R. 5333, H.R. 5554, and H.R. 5811) would fall below the UMRA threshold. Because CBO does not know how federal agencies would implement new authority granted in the other two of those five bills, H.R. 5228 and 5687, CBO cannot determine whether the costs of their mandates would exceed the threshold.

For large entitlement grant programs, including Medicaid and CHIP, UMRA defines an increase in the stringency of conditions on states or localities as an intergovernmental mandate if the affected governments lack authority to offset those costs while continuing to provide required services. Because states possess significant flexibility to alter their responsibilities within Medicaid and CHIP, the requirements imposed by various bills in the markup on state administration of those programs would not constitute mandates as defined in UMRA.

#### *Mandates Affecting Public and Private Entities*

*H.R. 5795, the Overdose Prevention and Patient Safety Act*, would impose intergovernmental and private-sector mandates by requiring entities that provide treatment for substance use disorders to notify patients of their privacy rights and also to notify patients in the event that the confidentiality of their records is breached. In certain circumstances, H.R. 5795 also would prohibit public and private entities from denying entry to treatment on the basis of information in patient health records. Those requirements would either supplant or narrowly expand responsibilities under existing law, and compliance with them would not impose significant additional costs. CBO estimates that the costs of the mandates would fall below the annual thresholds established in UMRA.

#### *Mandates Affecting Private Entities*

Five bills included in this document would impose private-sector mandates:

*H.R. 5228, the Stop Counterfeit Drugs by Regulating and Enhancing Enforcement Now Act*, would require drug distributors to cease distributing any drug that the Secretary of HHS determines might present an imminent or substantial hazard to public health. CBO cannot determine what drugs could be subject to such an order nor can it determine how private entities would respond. Consequently, CBO cannot determine whether the aggregate cost of the mandate would exceed the annual threshold for private-sector mandates.

*H.R. 5333, the Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2018*, would require developers and manufacturers of OTC drugs to pay certain fees to the FDA. CBO estimates that about \$30 million would be collected each year, on average, for a total of \$147 million over the 2019–2023 period. Those amounts



would not exceed the annual threshold for private-sector mandates in any year during that period.

*H.R. 5554, the Animal Drug and Animal Generic Drug User Fee Amendments of 2018*, would require developers and manufacturers of brand-name and generic veterinary drugs to pay application, product, establishment, and sponsor fees to the FDA. CBO estimates that about \$51 million would be collected annually, on average, for a total of \$257 million over the 2019–2023 period. Those amounts would not exceed the annual threshold for private-sector mandates in any year during that period.

*H.R. 5687, the Securing Opioids and Unused Narcotics with Deliberate Disposal and Packaging Act of 2018*, would permit the Secretary of HHS to require drug developers and manufacturers to implement new packaging and disposal technology for certain drugs. Based on information from the agency, CBO expects that the Secretary would use the new regulatory authority provided in the bill; however, it is uncertain how or when those requirements would be implemented. Consequently, CBO cannot determine whether the aggregate cost of the mandate would exceed the annual threshold for private entities.

*H.R. 5811, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to postapproval study requirements for certain controlled substances, and for other purposes*, would expand an existing mandate that requires drug developers to conduct postapproval studies or clinical trials for certain drugs. Under current law, in certain instances, the FDA can require studies or clinical trials after a drug has been approved. H.R. 5811 would permit the FDA to use that authority if the reduction in a drug's effectiveness meant that its benefits no longer outweighed its costs. CBO estimates that the incremental cost of the mandate would fall below the annual threshold established in UMRA because of the small number of drugs affected and the narrow expansion of the authority that exists under current law.

None of the remaining 53 bills included in this document would impose an intergovernmental or private-sector mandate.

Previous CBO estimate: On June 6, 2018, CBO issued an estimate for seven opioid-related bills ordered reported by the House Committee on Ways and Means on May 16, 2018. Two of those bills contain provisions that are identical or similar to the legislation ordered reported by the Committee on Energy and Commerce, and for those provisions, CBO's estimates are the same.

In particular, five bills listed in this estimate contain provisions that are identical or similar to those in several sections of H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018:

- H.R. 5675, which would require prescription drug plans to implement drug management programs, is identical to section 2 of H.R. 5773.
- H.R. 4841, regarding electronic prior authorization for prescriptions under Medicare's Part D, is similar to section 3 of H.R. 5773.
- H.R. 5715, which would mandate the creation of a new Internet portal to allow various stakeholders to exchange information, is identical to section 4 of H.R. 5773.
- H.R. 5684, which would expand medication therapy management, is the same as section 5 of H.R. 5773.

- H.R. 5716, regarding prescriber notification, is identical to section 6 of H.R. 5773.

In addition, in this estimate, a provision related to Medicare beneficiary education in H.R. 5686, the Medicare Clear Health Options in Care for Enrollees Act of 2018, is the same as a provision in section 2 of H.R. 5775, the Providing Reliable Options for Patients and Educational Resources Act of 2018, in CBO's estimate for the Committee on Ways and Means.

Estimate prepared by: Federal Costs: Rebecca Yip (Centers for Disease Control and Prevention), Mark Grabowicz (Drug Enforcement Agency), Julia Christensen, Ellen Werble (Food and Drug Administration), Emily King, Andrea Noda, Lisa Ramirez-Branum, Robert Stewart (Medicaid and Children's Health Insurance Program), Philippa Haven, Lara Robillard, Colin Yee, Rebecca Yip (Medicare), Philippa Haven (National Institutes of Health), Alice Burns, Andrea Noda (Office of the Secretary of the Department of Health and Human Services), Philippa Haven, Lori Housman, Emily King (Substance Abuse and Mental Health Services Administration, Health Resources and Services Administration); Federal Revenues: Jacob Fabian, Peter Huether, and Cecilia Pastrone; Fact Checking: Zachary Byrum and Kate Kelly; Mandates: Andrew Laughlin.

Estimate reviewed by: Tom Bradley, Chief Health Systems and Medicare Cost Estimates Unit; Chad M. Chirico, Chief, Low-Income Health Programs and Prescription Drugs Cost Estimates Unit; Sarah Masi, Special Assistant for Health; Susan Willie, Chief, Mandates Unit; Leo Lex, Deputy Assistant Director for Budget Analysis; Theresa A. Gullo, Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to help facilitate communication among MA organizations, Part D plan sponsors, and CMS relating to substantiated fraud, waste, and abuse investigations.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision H.R. 5715 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

#### COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 5715 contains no earmarks, limited tax benefits, or limited tariff benefits.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, the following directed rule makings are contained in H.R. 5715:

- Section 2(a)(i)(1)(C): The Secretary shall, through rule making, specify what constitutes substantiated fraud, waste, and abuse, using guidance such as what is provided in the Medicare Program Integrity Manual 4.7.1.
- Section 2(b)(5)(C): The Secretary shall, pursuant to rule-making, (i) specify a definition for the term “high volume of opioids” and a method for determining if a provider of services prescribes such a high volume; and (ii) establish the process described in subparagraph (B) and the types of information that shall be submitted through such process.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

Section 1 provides that the Act may be cited as the “Strengthening Partnerships to Prevent Opioid Abuse Act.”

##### *Section 2. Program integrity transparency measures under Medicare parts C and D*

Section 2 directs the Secretary to establish a secure online portal to improve communication between CMS, MA plans, Part D plans, and the Medicare Drug Integrity Contractor (MEDIC) no later than two years after enactment. The Secretary is also required to submit quarterly reports to plans including pertinent information such as trends in identifying suspicious activity and information on fraud, waste, and abuse schemes. By no later than January 1, 2021, the Secretary shall also establish a process for plans to submit information on investigations and other actions relating to high volumes of opioid prescriptions.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic)

and existing law in which no change is proposed is shown in roman):

## SOCIAL SECURITY ACT

\* \* \* \* \*

### TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

\* \* \* \* \*

#### PART C—MEDICARE+CHOICE PROGRAM

\* \* \* \* \*

##### CONTRACTS WITH MEDICARE+CHOICE ORGANIZATIONS

SEC. 1857. (a) IN GENERAL.—The Secretary shall not permit the election under section 1851 of a Medicare+Choice plan offered by a Medicare+Choice organization under this part, and no payment shall be made under section 1853 to an organization, unless the Secretary has entered into a contract under this section with the organization with respect to the offering of such plan. Such a contract with an organization may cover more than 1 Medicare+Choice plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

(b) MINIMUM ENROLLMENT REQUIREMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not enter into a contract under this section with a Medicare+Choice organization unless the organization has—

(A) at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, or

(B) at least 1,500 individuals (or 500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization if the organization primarily serves individuals residing outside of urbanized areas.

(2) APPLICATION TO MSA PLANS.—In applying paragraph (1) in the case of a Medicare+Choice organization that is offering an MSA plan, paragraph (1) shall be applied by substituting covered lives for individuals.

(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.

(c) CONTRACT PERIOD AND EFFECTIVENESS.—

(1) PERIOD.—Each contract under this section shall be for a term of at least 1 year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any

time terminate any such contract if the Secretary determines that the organization—

(A) has failed substantially to carry out the contract;

(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part; or

(C) no longer substantially meets the applicable conditions of this part.

(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under an MSA plan be effective before January 1999 with respect to such coverage.

(4) PREVIOUS TERMINATIONS.—

(A) IN GENERAL.—The Secretary may not enter into a contract with a Medicare+Choice organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding 2-year period, except as provided in subparagraph (B) and except in such other circumstances which warrant special consideration, as determined by the Secretary.

(B) EARLIER RE-ENTRY PERMITTED WHERE CHANGE IN PAYMENT POLICY.—Subparagraph (A) shall not apply with respect to the offering by a Medicare+Choice organization of a Medicare+Choice plan in a Medicare+Choice payment area if during the 6-month period beginning on the date the organization notified the Secretary of the intention to terminate the most recent previous contract, there was a legislative change enacted (or a regulatory change adopted) that has the effect of increasing payment amounts under section 1853 for that Medicare+Choice payment area.

(5) CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

(1) PERIODIC AUDITING.—The Secretary shall provide for the annual auditing of the financial records (including data relating to medicare utilization and costs, including allowable costs under section 1858(c)) of at least one-third of the Medicare+Choice organizations offering Medicare+Choice plans under this part. The Comptroller General shall monitor auditing activities conducted under this subsection.

(2) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

(A) shall have the right to timely inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract, and (ii) the facili-

ties of the organization when there is reasonable evidence of some need for such inspection, and

(B) shall have the right to timely audit and inspect any books and records of the Medicare+Choice organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

(3) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

(4) DISCLOSURE.—

(A) IN GENERAL.—Each Medicare+Choice organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

(ii) A copy of the report, if any, filed with the Secretary containing the information required to be reported under section 1124 by disclosing entities.

(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term “party in interest” means—

(i) any director, officer, partner, or employee responsible for management or administration of a Medicare+Choice organization, any person who is directly or indirectly the beneficial owner of more than

5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a Medicare+Choice organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

(ii) any entity in which a person described in clause (i)—

(I) is an officer or director;

(II) is a partner (if such entity is organized as a partnership);

(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

(iv) any spouse, child, or parent of an individual described in clause (i).

(C) ACCESS TO INFORMATION.—Each Medicare+Choice organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

(5) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

(6) REVIEW TO ENSURE COMPLIANCE WITH CARE MANAGEMENT REQUIREMENTS FOR SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS.—In conjunction with the periodic audit of a specialized Medicare Advantage plan for special needs individuals under paragraph (1), the Secretary shall conduct a review to ensure that such organization offering the plan meets the requirements described in section 1859(f)(5).

(e) ADDITIONAL CONTRACT TERMS.—

(1) IN GENERAL.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

(2) COST-SHARING IN ENROLLMENT-RELATED COSTS.—

(A) IN GENERAL.—A Medicare+Choice organization and a PDP sponsor under part D shall pay the fee established by the Secretary under subparagraph (B).

(B) AUTHORIZATION.—The Secretary is authorized to charge a fee to each Medicare+Choice organization with a contract under this part and each PDP sponsor with a contract under part D that is equal to the organization's or sponsor's pro rata share (as determined by the Secretary) of the aggregate amount of fees which the Secretary is directed to collect in a fiscal year. Any amounts collected

shall be available without further appropriation to the Secretary for the purpose of carrying out section 1851 (relating to enrollment and dissemination of information), section 1860D-1(c), and section 4360 of the Omnibus Budget Reconciliation Act of 1990 (relating to the health insurance counseling and assistance program).

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes described in subparagraph (B) for each fiscal year beginning with fiscal year 2001 and ending with fiscal year 2005 an amount equal to \$100,000,000, and for each fiscal year beginning with fiscal year 2006 an amount equal to \$200,000,000, reduced by the amount of fees authorized to be collected under this paragraph and section 1860D-12(b)(3)(D) for the fiscal year.

(D) LIMITATION.—In any fiscal year the fees collected by the Secretary under subparagraph (B) shall not exceed the lesser of—

(i) the estimated costs to be incurred by the Secretary in the fiscal year in carrying out the activities described in section 1851 and section 1860D-1(c) and section 4360 of the Omnibus Budget Reconciliation Act of 1990; or

(ii)(I) \$200,000,000 in fiscal year 1998;

(II) \$150,000,000 in fiscal year 1999;

(III) \$100,000,000 in fiscal year 2000;

(IV) the Medicare+Choice portion (as defined in subparagraph (E)) of \$100,000,000 in fiscal year 2001 and each succeeding fiscal year before fiscal year 2006; and

(V) the applicable portion (as defined in subparagraph (F)) of \$200,000,000 in fiscal year 2006 and each succeeding fiscal year.

(E) MEDICARE+CHOICE PORTION DEFINED.—In this paragraph, the term “Medicare+Choice portion” means, for a fiscal year, the ratio, as estimated by the Secretary, of—

(i) the average number of individuals enrolled in Medicare+Choice plans during the fiscal year, to

(ii) the average number of individuals entitled to benefits under part A, and enrolled under part B, during the fiscal year.

(F) APPLICABLE PORTION DEFINED.—In this paragraph, the term “applicable portion” means, for a fiscal year—

(i) with respect to MA organizations, the Secretary’s estimate of the total proportion of expenditures under this title that are attributable to expenditures made under this part (including payments under part D that are made to such organizations); or

(ii) with respect to PDP sponsors, the Secretary’s estimate of the total proportion of expenditures under this title that are attributable to expenditures made to such sponsors under part D.

(3) AGREEMENTS WITH FEDERALLY QUALIFIED HEALTH CENTERS.—

(A) PAYMENT LEVELS AND AMOUNTS.—A contract under this section with an MA organization shall require the or-



ganization to provide, in any written agreement described in section 1853(a)(4) between the organization and a federally qualified health center, for a level and amount of payment to the federally qualified health center for services provided by such health center that is not less than the level and amount of payment that the plan would make for such services if the services had been furnished by a entity providing similar services that was not a federally qualified health center.

(B) **COST-SHARING.**—Under the written agreement referred to in subparagraph (A), a federally qualified health center must accept the payment amount referred to in such subparagraph plus the Federal payment provided for in section 1833(a)(3)(B) as payment in full for services covered by the agreement, except that such a health center may collect any amount of cost-sharing permitted under the contract under this section, so long as the amounts of any deductible, coinsurance, or copayment comply with the requirements under section 1854(e).

(4) **REQUIREMENT FOR MINIMUM MEDICAL LOSS RATIO.**—If the Secretary determines for a contract year (beginning with 2014) that an MA plan has failed to have a medical loss ratio of at least .85—

(A) the MA plan shall remit to the Secretary an amount equal to the product of—

- (i) the total revenue of the MA plan under this part for the contract year; and
- (ii) the difference between .85 and the medical loss ratio;

(B) for 3 consecutive contract years, the Secretary shall not permit the enrollment of new enrollees under the plan for coverage during the second succeeding contract year; and

(C) the Secretary shall terminate the plan contract if the plan fails to have such a medical loss ratio for 5 consecutive contract years.

(5) **COMMUNICATING PLAN CORRECTIVE ACTIONS AGAINST OPIOIDS OVER-PRESCRIBERS.**—

(A) **IN GENERAL.**—*Beginning with plan years beginning on or after January 1, 2021, a contract under this section with an MA organization shall require the organization to submit to the Secretary, through the process established under subparagraph (B), information on the investigations and other actions taken by such plans related to providers of services who prescribe a high volume of opioids.*

(B) **PROCESS.**—*Not later than January 1, 2021, the Secretary shall, in consultation with stakeholders, establish a process under which MA plans and prescription drug plans shall submit to the Secretary information described in subparagraph (A).*

(C) **REGULATIONS.**—*For purposes of this paragraph, including as applied under section 1860D–12(b)(3)(D), the Secretary shall, pursuant to rulemaking—*

(i) *specify a definition for the term “high volume of opioids” and a method for determining if a provider of services prescribes such a high volume; and*

(ii) *establish the process described in subparagraph (B) and the types of information that shall be submitted through such process.*

(f) **PROMPT PAYMENT BY MEDICARE+CHOICE ORGANIZATION.—**

(1) **REQUIREMENT.**—A contract under this part shall require a Medicare+Choice organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to enrollees pursuant to the contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier (or in the case of a Medicare+Choice private fee-for-service plan, if a claim is submitted to such organization by an enrollee).

(2) **SECRETARY’S OPTION TO BYPASS NONCOMPLYING ORGANIZATION.**—In the case of a Medicare+Choice eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide for direct payment of the amounts owed to providers and suppliers (or, in the case of a Medicare+Choice private fee-for-service plan, amounts owed to the enrollees) for covered services and supplies furnished to individuals enrolled under this part under the contract. If the Secretary provides for the direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this part to reflect the amount of the Secretary’s payments (and the Secretary’s costs in making the payments).

(3) **INCORPORATION OF CERTAIN PRESCRIPTION DRUG PLAN CONTRACT REQUIREMENTS.**—The following provisions shall apply to contracts with a Medicare Advantage organization offering an MA–PD plan in the same manner as they apply to contracts with a PDP sponsor offering a prescription drug plan under part D:

(A) **PROMPT PAYMENT.**—Section 1860D–12(b)(4).

(B) **SUBMISSION OF CLAIMS BY PHARMACIES LOCATED IN OR CONTRACTING WITH LONG-TERM CARE FACILITIES.**—Section 1860D–12(b)(5).

(C) **REGULAR UPDATE OF PRESCRIPTION DRUG PRICING STANDARD.**—Section 1860D–12(b)(6).

(g) **INTERMEDIATE SANCTIONS.—**

(1) **IN GENERAL.**—If the Secretary determines that a Medicare+Choice organization with a contract under this section—

(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

(B) imposes premiums on individuals enrolled under this part in excess of the amount of the Medicare+Choice

monthly basic and supplemental beneficiary premiums permitted under section 1854;

(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

(E) misrepresents or falsifies information that is furnished—

(i) to the Secretary under this part, or

(ii) to an individual or to any other entity under this part;

(F) fails to comply with the applicable requirements of section 1852(j)(3) or 1852(k)(2)(A)(ii);

(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

(H) except as provided under subparagraph (C) or (D) of section 1860D–1(b)(1), enrolls an individual in any plan under this part without the prior consent of the individual or the designee of the individual;

(I) transfers an individual enrolled under this part from one plan to another without the prior consent of the individual or the designee of the individual or solely for the purpose of earning a commission;

(J) fails to comply with marketing restrictions described in subsections (h) and (j) of section 1851 or applicable implementing regulations or guidance; or

(K) employs or contracts with any individual or entity who engages in the conduct described in subparagraphs (A) through (J) of this paragraph;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2). The Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2), if the Secretary determines that any employee or agent of such organization, or any provider or supplier who contracts with such organization, has engaged in any conduct described in subparagraphs (A) through (K) of this paragraph.

(2) REMEDIES.—The remedies described in this paragraph are—

(A) civil money penalties of not more than \$25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than \$100,000 for each such determination, except with respect to a determination under subparagraph (E), an assessment of not more than the

amount claimed by such plan or plan sponsor based upon the misrepresentation or falsified information involved, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), \$15,000 for each individual not enrolled as a result of the practice involved,

(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a Medicare+Choice organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

(A) Civil money penalties of not more than \$25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

(B) Civil money penalties of not more than \$10,000 for each week beginning after the initiation of civil money penalty procedures by the Secretary during which the deficiency that is the basis of a determination under subsection (c)(2) exists.

(C) Suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

(D) Civil monetary penalties of not more than \$100,000, or such higher amount as the Secretary may establish by regulation, where the finding under subsection (c)(2)(A) is based on the organization's termination of its contract under this section other than at a time and in a manner provided for under subsection (a).

(4) CIVIL MONEY PENALTIES.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (2) or (3) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

(h) PROCEDURES FOR TERMINATION.—

(1) IN GENERAL.—The Secretary may terminate a contract with a Medicare+Choice organization under this section in accordance with formal investigation and compliance procedures established by the Secretary under which—

(A) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary’s determination under subsection (c)(2); and

(B) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before terminating the contract.

(2) EXCEPTION FOR IMMINENT AND SERIOUS RISK TO HEALTH.—Paragraph (1) shall not apply if the Secretary determines that a delay in termination, resulting from compliance with the procedures specified in such paragraph prior to termination, would pose an imminent and serious risk to the health of individuals enrolled under this part with the organization.

(3) DELAY IN CONTRACT TERMINATION AUTHORITY FOR PLANS FAILING TO ACHIEVE MINIMUM QUALITY RATING.—During the period beginning on the date of the enactment of this paragraph and through the end of plan year 2018, the Secretary may not terminate a contract under this section with respect to the offering of an MA plan by a Medicare Advantage organization solely because the MA plan has failed to achieve a minimum quality rating under the 5-star rating system under section 1853(o)(4).

(i) MEDICARE+CHOICE PROGRAM COMPATIBILITY WITH EMPLOYER OR UNION GROUP HEALTH PLANS.—

(1) CONTRACTS WITH MA ORGANIZATIONS.—To facilitate the offering of Medicare+Choice plans under contracts between Medicare+Choice organizations and employers, labor organizations, or the trustees of a fund established by one or more employers or labor organizations (or combination thereof) to furnish benefits to the entity’s employees, former employees (or combination thereof) or members or former members (or combination thereof) of the labor organizations, the Secretary may waive or modify requirements that hinder the design of, the offering of, or the enrollment in such Medicare+Choice plans.

(2) EMPLOYER SPONSORED MA PLANS.—To facilitate the offering of MA plans by employers, labor organizations, or the trustees of a fund established by one or more employers or labor organizations (or combination thereof) to furnish benefits to the entity’s employees, former employees (or combination thereof) or members or former members (or combination thereof) of the labor organizations, the Secretary may waive or modify requirements that hinder the design of, the offering of, or the enrollment in such MA plans. Notwithstanding section 1851(g), an MA plan described in the previous sentence may restrict the enrollment of individuals under this part to individuals who are beneficiaries and participants in such plan.

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## DEFINITIONS; MISCELLANEOUS PROVISIONS

SEC. 1859. (a) DEFINITIONS RELATING TO MEDICARE+CHOICE ORGANIZATIONS.—In this part—

(1) MEDICARE+CHOICE ORGANIZATION.—The term “Medicare+Choice organization” means a public or private entity that is certified under section 1856 as meeting the requirements and standards of this part for such an organization.

(2) PROVIDER-SPONSORED ORGANIZATION.—The term “provider-sponsored organization” is defined in section 1855(d)(1).

(b) DEFINITIONS RELATING TO MEDICARE+CHOICE PLANS.—

(1) MEDICARE+CHOICE PLAN.—The term “Medicare+Choice plan” means health benefits coverage offered under a policy, contract, or plan by a Medicare+Choice organization pursuant to and in accordance with a contract under section 1857.

(2) MEDICARE+CHOICE PRIVATE FEE-FOR-SERVICE PLAN.—The term “Medicare+Choice private fee-for-service plan” means a Medicare+Choice plan that—

(A) reimburses hospitals, physicians, and other providers at a rate determined by the plan on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary such rates for such a provider based on utilization relating to such provider; and

(C) does not restrict the selection of providers among those who are lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established by the plan.

Nothing in subparagraph (B) shall be construed to preclude a plan from varying rates for such a provider based on the specialty of the provider, the location of the provider, or other factors related to such provider that are not related to utilization, or to preclude a plan from increasing rates for such a provider based on increased utilization of specified preventive or screening services.

(3) MSA PLAN.—

(A) IN GENERAL.—The term “MSA plan” means a Medicare+Choice plan that—

(i) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the plan) equal to the amount of an annual deductible (described in subparagraph (B));

(ii) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B, and that would have been payable by the enrollee as deductibles, coinsurance, or copayments, if the enrollee had elected to receive benefits through the provisions of such parts; and

(iii) provides, after such deductible is met for a year and for all subsequent expenses for items and services referred to in clause (i) in the year, for a level of reimbursement that is not less than—

(I) 100 percent of such expenses, or

(II) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less.

(B) DEDUCTIBLE.—The amount of annual deductible under an MSA plan—

(i) for contract year 1999 shall be not more than \$6,000; and

(ii) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this subparagraph increased by the national per capita Medicare+Choice growth percentage under section 1853(c)(6) for the year.

If the amount of the deductible under clause (ii) is not a multiple of \$50, the amount shall be rounded to the nearest multiple of \$50.

(4) MA REGIONAL PLAN.—The term “MA regional plan” means an MA plan described in section 1851(a)(2)(A)(i)—

(A) that has a network of providers that have agreed to a contractually specified reimbursement for covered benefits with the organization offering the plan;

(B) that provides for reimbursement for all covered benefits regardless of whether such benefits are provided within such network of providers; and

(C) the service area of which is one or more entire MA regions.

(5) MA LOCAL PLAN.—The term “MA local plan” means an MA plan that is not an MA regional plan.

(6) SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.—

(A) IN GENERAL.—The term “specialized MA plan for special needs individuals” means an MA plan that exclusively serves special needs individuals (as defined in subparagraph (B)) and that, as of January 1, 2010, meets the applicable requirements of paragraph (2), (3), or (4) of subsection (f), as the case may be.

(B) SPECIAL NEEDS INDIVIDUAL.—The term “special needs individual” means an MA eligible individual who—

(i) is institutionalized (as defined by the Secretary);

(ii) is entitled to medical assistance under a State plan under title XIX; or

(iii) meets such requirements as the Secretary may determine would benefit from enrollment in such a specialized MA plan described in subparagraph (A) for individuals with severe or disabling chronic conditions who—

(I) before January 1, 2022, have one or more comorbid and medically complex chronic conditions that are substantially disabling or life threatening, have a high risk of hospitalization or other significant adverse health outcomes, and require specialized delivery systems across domains of care; and

(II) on or after January 1, 2022, have one or more comorbid and medically complex chronic conditions that is life threatening or significantly limits overall health or function, have a high risk of hospitalization or other adverse health outcomes, and require intensive care coordination and that is listed under subsection (f)(9)(A).

The Secretary may apply rules similar to the rules of section 1894(c)(4) for continued eligibility of special needs individuals.

(c) OTHER REFERENCES TO OTHER TERMS.—

(1) MEDICARE+CHOICE ELIGIBLE INDIVIDUAL.—The term “Medicare+Choice eligible individual” is defined in section 1851(a)(3).

(2) MEDICARE+CHOICE PAYMENT AREA.—The term “Medicare+Choice payment area” is defined in section 1853(d).

(3) NATIONAL PER CAPITA MEDICARE+CHOICE GROWTH PERCENTAGE.—The “national per capita Medicare+Choice growth percentage” is defined in section 1853(c)(6).

(4) MEDICARE+CHOICE MONTHLY BASIC BENEFICIARY PREMIUM; MEDICARE+CHOICE MONTHLY SUPPLEMENTAL BENEFICIARY PREMIUM.—The terms “Medicare+Choice monthly basic beneficiary premium” and “Medicare+Choice monthly supplemental beneficiary premium” are defined in section 1854(a)(2).

(5) MA LOCAL AREA.—The term “MA local area” is defined in section 1853(d)(2).

(d) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICARE+CHOICE PLAN.—Nothing in this part shall be construed as preventing a State from coordinating benefits under a medicaid plan under title XIX with those provided under a Medicare+Choice plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such plan.

(e) RESTRICTION ON ENROLLMENT FOR CERTAIN MEDICARE+CHOICE PLANS.—

(1) IN GENERAL.—In the case of a Medicare+Choice religious fraternal benefit society plan described in paragraph (2), notwithstanding any other provision of this part to the contrary and in accordance with regulations of the Secretary, the society offering the plan may restrict the enrollment of individuals under this part to individuals who are members of the church, convention, or group described in paragraph (3)(B) with which the society is affiliated.

(2) MEDICARE+CHOICE RELIGIOUS FRATERNAL BENEFIT SOCIETY PLAN DESCRIBED.—For purposes of this subsection, a Medicare+Choice religious fraternal benefit society plan described in this paragraph is a Medicare+Choice plan described in section 1851(a)(2) that—

(A) is offered by a religious fraternal benefit society described in paragraph (3) only to members of the church, convention, or group described in paragraph (3)(B); and

(B) permits all such members to enroll under the plan without regard to health status-related factors.



Nothing in this subsection shall be construed as waiving any plan requirements relating to financial solvency.

(3) RELIGIOUS FRATERNAL BENEFIT SOCIETY DEFINED.—For purposes of paragraph (2)(A), a “religious fraternal benefit society” described in this section is an organization that—

(A) is described in section 501(c)(8) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Act;

(B) is affiliated with, carries out the tenets of, and shares a religious bond with, a church or convention or association of churches or an affiliated group of churches;

(C) offers, in addition to a Medicare+Choice religious fraternal benefit society plan, health coverage to individuals not entitled to benefits under this title who are members of such church, convention, or group; and

(D) does not impose any limitation on membership in the society based on any health status-related factor.

(4) PAYMENT ADJUSTMENT.—Under regulations of the Secretary, in the case of individuals enrolled under this part under a Medicare+Choice religious fraternal benefit society plan described in paragraph (2), the Secretary shall provide for such adjustment to the payment amounts otherwise established under section 1854 as may be appropriate to assure an appropriate payment level, taking into account the actuarial characteristics and experience of such individuals.

(f) REQUIREMENTS REGARDING ENROLLMENT IN SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.—

(1) REQUIREMENTS FOR ENROLLMENT.—In the case of a specialized MA plan for special needs individuals (as defined in subsection (b)(6)), notwithstanding any other provision of this part and in accordance with regulations of the Secretary, the plan may restrict the enrollment of individuals under the plan to individuals who are within one or more classes of special needs individuals.

(2) ADDITIONAL REQUIREMENTS FOR INSTITUTIONAL SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(i), the applicable requirements described in this paragraph are as follows:

(A) Each individual that enrolls in the plan on or after January 1, 2010, is a special needs individual described in subsection (b)(6)(B)(i). In the case of an individual who is living in the community but requires an institutional level of care, such individual shall not be considered a special needs individual described in subsection (b)(6)(B)(i) unless the determination that the individual requires an institutional level of care was made—

(i) using a State assessment tool of the State in which the individual resides; and

(ii) by an entity other than the organization offering the plan.

(B) The plan meets the requirements described in paragraph (5).

(C) If applicable, the plan meets the requirement described in paragraph (7).

(3) **ADDITIONAL REQUIREMENTS FOR DUAL SNPS.**—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(ii), the applicable requirements described in this paragraph are as follows:

(A) Each individual that enrolls in the plan on or after January 1, 2010, is a special needs individual described in subsection (b)(6)(B)(ii).

(B) The plan meets the requirements described in paragraph (5).

(C) The plan provides each prospective enrollee, prior to enrollment, with a comprehensive written statement (using standardized content and format established by the Secretary) that describes—

(i) the benefits and cost-sharing protections that the individual is entitled to under the State Medicaid program under title XIX; and

(ii) which of such benefits and cost-sharing protections are covered under the plan.

Such statement shall be included with any description of benefits offered by the plan.

(D) The plan has a contract with the State Medicaid agency to provide benefits, or arrange for benefits to be provided, for which such individual is entitled to receive as medical assistance under title XIX. Such benefits may include long-term care services consistent with State policy.

(E) If applicable, the plan meets the requirement described in paragraph (7).

(F) The plan meets the requirements applicable under paragraph (8).

(4) **ADDITIONAL REQUIREMENTS FOR SEVERE OR DISABLING CHRONIC CONDITION SNPS.**—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(iii), the applicable requirements described in this paragraph are as follows:

(A) Each individual that enrolls in the plan on or after January 1, 2010, is a special needs individual described in subsection (b)(6)(B)(iii).

(B) The plan meets the requirements described in paragraph (5).

(C) If applicable, the plan meets the requirement described in paragraph (7).

(5) **CARE MANAGEMENT REQUIREMENTS FOR ALL SNPS.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the requirements described in this paragraph are that the organization offering a specialized MA plan for special needs individuals—

(i) have in place an evidenced-based model of care with appropriate networks of providers and specialists; and

(ii) with respect to each individual enrolled in the plan—

(I) conduct an initial assessment and an annual reassessment of the individual's physical, psychosocial, and functional needs;

(II) develop a plan, in consultation with the individual as feasible, that identifies goals and objectives, including measurable outcomes as well as specific services and benefits to be provided; and

(III) use an interdisciplinary team in the management of care.

(B) IMPROVEMENTS TO CARE MANAGEMENT REQUIREMENTS FOR SEVERE OR DISABLING CHRONIC CONDITION SNPS.—For 2020 and subsequent years, in the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(iii), the requirements described in this paragraph include the following:

(i) The interdisciplinary team under subparagraph (A)(ii)(III) includes a team of providers with demonstrated expertise, including training in an applicable specialty, in treating individuals similar to the targeted population of the plan.

(ii) Requirements developed by the Secretary to provide face-to-face encounters with individuals enrolled in the plan not less frequently than on an annual basis.

(III) As part of the model of care under clause (i) of subparagraph (A), the results of the initial assessment and annual reassessment under clause (ii)(I) of such subparagraph of each individual enrolled in the plan are addressed in the individual's individualized care plan under clause (ii)(II) of such subparagraph.

(iv) As part of the annual evaluation and approval of such model of care, the Secretary shall take into account whether the plan fulfilled the previous year's goals (as required under the model of care).

(v) The Secretary shall establish a minimum benchmark for each element of the model of care of a plan. The Secretary shall only approve a plan's model of care under this paragraph if each element of the model of care meets the minimum benchmark applicable under the preceding sentence.

(6) TRANSITION AND EXCEPTION REGARDING RESTRICTION ON ENROLLMENT.—

(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall establish procedures for the transition of applicable individuals to—

(i) a Medicare Advantage plan that is not a specialized MA plan for special needs individuals (as defined in subsection (b)(6)); or

(ii) the original medicare fee-for-service program under parts A and B.

(B) APPLICABLE INDIVIDUALS.—For purposes of clause (i), the term “applicable individual” means an individual who—

(i) is enrolled under a specialized MA plan for special needs individuals (as defined in subsection (b)(6)); and

(ii) is not within the 1 or more of the classes of special needs individuals to which enrollment under the plan is restricted to.

(C) EXCEPTION.—The Secretary shall provide for an exception to the transition described in subparagraph (A) for a limited period of time for individuals enrolled under a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(ii) who are no longer eligible for medical assistance under title XIX.

(D) TIMELINE FOR INITIAL TRANSITION.—The Secretary shall ensure that applicable individuals enrolled in a specialized MA plan for special needs individuals (as defined in subsection (b)(6)) prior to January 1, 2010, are transitioned to a plan or the program described in subparagraph (A) by not later than January 1, 2013.

(7) AUTHORITY TO REQUIRE SPECIAL NEEDS PLANS BE NCQA APPROVED.—For 2012 and subsequent years, the Secretary shall require that a Medicare Advantage organization offering a specialized MA plan for special needs individuals be approved by the National Committee for Quality Assurance (based on standards established by the Secretary).

(8) INCREASED INTEGRATION OF DUAL SNPS.—

(A) DESIGNATED CONTACT.—The Secretary, acting through the Federal Coordinated Health Care Office established under section 2602 of Public Law 111–148, shall serve as a dedicated point of contact for States to address misalignments that arise with the integration of specialized MA plans for special needs individuals described in subsection (b)(6)(B)(ii) under this paragraph and, consistent with such role, shall establish—

(i) a uniform process for disseminating to State Medicaid agencies information under this title impacting contracts between such agencies and such plans under this subsection; and

(ii) basic resources for States interested in exploring such plans as a platform for integration, such as a model contract or other tools to achieve those goals.

(B) UNIFIED GRIEVANCES AND APPEALS PROCESS.—

(i) IN GENERAL.—Not later than April 1, 2020, the Secretary shall establish procedures, to the extent feasible as determined by the Secretary, unifying grievances and appeals procedures under sections 1852(f), 1852(g), 1902(a)(3), 1902(a)(5), and 1932(b)(4) for items and services provided by specialized MA plans for special needs individuals described in subsection (b)(6)(B)(ii) under this title and title XIX. With respect to items and services described in the preceding sentence, procedures established under this clause shall apply in place of otherwise applicable grievances and appeals procedures. The Secretary shall solicit comment in developing such procedures from States, plans, beneficiaries and their representatives, and other relevant stakeholders.

(ii) PROCEDURES.—The procedures established under clause (i) shall be included in the plan contract under paragraph (3)(D) and shall—

(I) adopt the provisions for the enrollee that are most protective for the enrollee and, to the extent feasible as determined by the Secretary, are compatible with unified timeframes and consolidated access to external review under an integrated process;

(II) take into account differences in State plans under title XIX to the extent necessary;

(III) be easily navigable by an enrollee; and

(IV) include the elements described in clause (iii), as applicable.

(iii) ELEMENTS DESCRIBED.—Both unified appeals and unified grievance procedures shall include, as applicable, the following elements described in this clause:

(I) Single written notification of all applicable grievances and appeal rights under this title and title XIX. For purposes of this subparagraph, the Secretary may waive the requirements under section 1852(g)(1)(B) when the specialized MA plan covers items or services under this part or under title XIX.

(II) Single pathways for resolution of any grievance or appeal related to a particular item or service provided by specialized MA plans for special needs individuals described in subsection (b)(6)(B)(ii) under this title and title XIX.

(III) Notices written in plain language and available in a language and format that is accessible to the enrollee, including in non-English languages that are prevalent in the service area of the specialized MA plan.

(IV) Unified timeframes for grievances and appeals processes, such as an individual's filing of a grievance or appeal, a plan's acknowledgment and resolution of a grievance or appeal, and notification of decisions with respect to a grievance or appeal.

(V) Requirements for how the plan must process, track, and resolve grievances and appeals, to ensure beneficiaries are notified on a timely basis of decisions that are made throughout the grievance or appeals process and are able to easily determine the status of a grievance or appeal.

(iv) CONTINUATION OF BENEFITS PENDING APPEAL.—The unified procedures under clause (i) shall, with respect to all benefits under parts A and B and title XIX subject to appeal under such procedures, incorporate provisions under current law and implementing regulations that provide continuation of benefits pending appeal under this title and title XIX.

(C) REQUIREMENT FOR UNIFIED GRIEVANCES AND APPEALS.—For 2021 and subsequent years, the contract of a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(ii) with a State Medicaid agency under paragraph (3)(D) shall require the use of unified grievances and appeals procedures as described in subparagraph (B).

(D) REQUIREMENTS FOR INTEGRATION.—

(i) IN GENERAL.—For 2021 and subsequent years, a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(ii) shall meet one or more of the following requirements, to the extent permitted under State law, for integration of benefits under this title and title XIX:

(I) The specialized MA plan must meet the requirements of contracting with the State Medicaid agency described in paragraph (3)(D) in addition to coordinating long-term services and supports or behavioral health services, or both, by meeting an additional minimum set of requirements determined by the Secretary through the Federal Coordinated Health Care Office established under section 2602 of the Patient Protection and Affordable Care Act based on input from stakeholders, such as notifying the State in a timely manner of hospitalizations, emergency room visits, and hospital or nursing home discharges of enrollees, assigning one primary care provider for each enrollee, or sharing data that would benefit the coordination of items and services under this title and the State plan under title XIX. Such minimum set of requirements must be included in the contract of the specialized MA plan with the State Medicaid agency under such paragraph.

(II) The specialized MA plan must meet the requirements of a fully integrated plan described in section 1853(a)(1)(B)(iv)(II) (other than the requirement that the plan have similar average levels of frailty, as determined by the Secretary, as the PACE program), or enter into a capitated contract with the State Medicaid agency to provide long-term services and supports or behavioral health services, or both.

(III) In the case of a specialized MA plan that is offered by a parent organization that is also the parent organization of a Medicaid managed care organization providing long term services and supports or behavioral services under a contract under section 1903(m), the parent organization must assume clinical and financial responsibility for benefits provided under this title and title XIX with respect to any individual who is enrolled in both the specialized MA plan and the Medicaid managed care organization.

(ii) **SUSPENSION OF ENROLLMENT FOR FAILURE TO MEET REQUIREMENTS DURING INITIAL PERIOD.**—During the period of plan years 2021 through 2025, if the Secretary determines that a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(ii) has failed to comply with clause (i), the Secretary may provide for the application against the Medicare Advantage organization offering the plan of the remedy described in section 1857(g)(2)(B) in the same manner as the Secretary may apply such remedy, and in accordance with the same procedures as would apply, in the case of an MA organization determined by the Secretary to have engaged in conduct described in section 1857(g)(1). If the Secretary applies such remedy to a Medicare Advantage organization under the preceding sentence, the organization shall submit to the Secretary (at a time, and in a form and manner, specified by the Secretary) information describing how the plan will come into compliance with clause (i).

**(E) STUDY AND REPORT TO CONGRESS.**—

(i) **IN GENERAL.**—Not later than March 15, 2022, and, subject to clause (iii), biennially thereafter through 2032, the Medicare Payment Advisory Commission established under section 1805, in consultation with the Medicaid and CHIP Payment and Access Commission established under section 1900, shall conduct (and submit to the Secretary and the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on) a study to determine how specialized MA plans for special needs individuals described in subsection (b)(6)(B)(ii) perform among each other based on data from Healthcare Effectiveness Data and Information Set (HEDIS) quality measures, reported on the plan level, as required under section 1852(e)(3) (or such other measures or data sources that are available and appropriate, such as encounter data and Consumer Assessment of Healthcare Providers and Systems data, as specified by such Commissions as enabling an accurate evaluation under this subparagraph). Such study shall include, as feasible, the following comparison groups of specialized MA plans for special needs individuals described in subsection (b)(6)(B)(ii):

(I) A comparison group of such plans that are described in subparagraph (D)(i)(I).

(II) A comparison group of such plans that are described in subparagraph (D)(i)(II).

(III) A comparison group of such plans operating within the Financial Alignment Initiative demonstration for the period for which such plan is so operating and the demonstration is in effect, and, in the case that an integration option that is not with respect to specialized MA plans for special

needs individuals is established after the conclusion of the demonstration involved.

(IV) A comparison group of such plans that are described in subparagraph (D)(i)(III).

(V) A comparison group of MA plans, as feasible, not described in a previous subclause of this clause, with respect to the performance of such plans for enrollees who are special needs individuals described in subsection (b)(6)(B)(ii).

(ii) ADDITIONAL REPORTS.—Beginning with 2033 and every five years thereafter, the Medicare Payment Advisory Commission, in consultation with the Medicaid and CHIP Payment and Access Commission, shall conduct a study described in clause (i).

(9) LIST OF CONDITIONS FOR CLARIFICATION OF THE DEFINITION OF A SEVERE OR DISABLING CHRONIC CONDITIONS SPECIALIZED NEEDS INDIVIDUAL.—

(A) IN GENERAL.—Not later than December 31, 2020, and every 5 years thereafter, subject to subparagraphs (B) and (C), the Secretary shall convene a panel of clinical advisors to establish and update a list of conditions that meet each of the following criteria:

(i) Conditions that meet the definition of a severe or disabling chronic condition under subsection (b)(6)(B)(iii) on or after January 1, 2022.

(ii) Conditions that require prescription drugs, providers, and models of care that are unique to the specific population of enrollees in a specialized MA plan for special needs individuals described in such subsection on or after such date and—

(I) as a result of access to, and enrollment in, such a specialized MA plan for special needs individuals, individuals with such condition would have a reasonable expectation of slowing or halting the progression of the disease, improving health outcomes and decreasing overall costs for individuals diagnosed with such condition compared to available options of care other than through such a specialized MA plan for special needs individuals; or

(II) have a low prevalence in the general population of beneficiaries under this title or a disproportionately high per-beneficiary cost under this title.

(B) INCLUSION OF CERTAIN CONDITIONS.—The conditions listed under subparagraph (A) shall include HIV/AIDS, end stage renal disease, and chronic and disabling mental illness.

(C) REQUIREMENT.—In establishing and updating the list under subparagraph (A), the panel shall take into account the availability of varied benefits, cost-sharing, and supplemental benefits under the model described in paragraph (2) of section 1859(h), including the expansion under paragraph (1) of such section.

(g) SPECIAL RULES FOR SENIOR HOUSING FACILITY PLANS.—



(1) **IN GENERAL.**—In the case of a Medicare Advantage senior housing facility plan described in paragraph (2), notwithstanding any other provision of this part to the contrary and in accordance with regulations of the Secretary, the service area of such plan may be limited to a senior housing facility in a geographic area.

(2) **MEDICARE ADVANTAGE SENIOR HOUSING FACILITY PLAN DESCRIBED.**—For purposes of this subsection, a Medicare Advantage senior housing facility plan is a Medicare Advantage plan that—

(A) restricts enrollment of individuals under this part to individuals who reside in a continuing care retirement community (as defined in section 1852(l)(4)(B));

(B) provides primary care services onsite and has a ratio of accessible physicians to beneficiaries that the Secretary determines is adequate;

(C) provides transportation services for beneficiaries to specialty providers outside of the facility; and

(D) has participated (as of December 31, 2009) in a demonstration project established by the Secretary under which such a plan was offered for not less than 1 year.

(h) **NATIONAL TESTING OF MEDICARE ADVANTAGE VALUE-BASED INSURANCE DESIGN MODEL.**—

(1) **IN GENERAL.**—In implementing the Medicare Advantage Value-Based Insurance Design model that is being tested under section 1115A(b), the Secretary shall revise the testing of the model under such section to cover, effective not later than January 1, 2020, all States.

(2) **TERMINATION AND MODIFICATION PROVISION NOT APPLICABLE UNTIL JANUARY 1, 2022.**—The provisions of section 1115A(b)(3)(B) shall apply to the Medicare Advantage Value-Based Insurance Design model, including such model as revised under paragraph (1), beginning January 1, 2022, but shall not apply to such model, as so revised, prior to such date.

(3) **FUNDING.**—The Secretary shall allocate funds made available under section 1115A(f)(1) to design, implement, and evaluate the Medicare Advantage Value-Based Insurance Design model, as revised under paragraph (1).

(i) **PROGRAM INTEGRITY TRANSPARENCY MEASURES.**—

(1) **PROGRAM INTEGRITY PORTAL.**—

(A) **IN GENERAL.**—*Not later than two years after the date of the enactment of this subsection, the Secretary shall, after consultation with stakeholders, establish a secure Internet website portal (or other successor technology) that would allow a secure path for communication between the Secretary, MA plans under this part, prescription drug plans under part D, and an eligible entity with a contract under section 1893 (such as a Medicare drug integrity contractor or an entity responsible for carrying out program integrity activities under this part and part D) for the purpose of enabling through such portal (or other successor technology)—*

*(i) the referral by such plans of substantiated fraud, waste, and abuse for initiating or assisting investigations conducted by the eligible entity; and*

(ii) data sharing among such MA plans, prescription drug plans, and the Secretary.

(B) *REQUIRED USES OF PORTAL.*—The Secretary shall disseminate the following information to MA plans under this part and prescription drug plans under part D through the secure Internet website portal (or other successor technology) established under subparagraph (A):

(i) Providers of services and suppliers that have been referred pursuant to subparagraph (A)(i) during the previous 12-month period.

(ii) Providers of services and suppliers who are the subject of an active exclusion under section 1128 or who are subject to a suspension of payment under this title pursuant to section 1862(o) or otherwise.

(iii) Providers of services and suppliers who are the subject of an active revocation of participation under this title, including for not satisfying conditions of participation.

(iv) In the case of such a plan that makes a referral under subparagraph (A)(i) through the portal (or other successor technology) with respect to activities of substantiated fraud, waste, or abuse of a provider of services or supplier, if such provider or supplier has been the subject of an administrative action under this title or title XI with respect to similar activities, a notification to such plan of such action so taken.

(C) *RULEMAKING.*—For purposes of this paragraph, the Secretary shall, through rulemaking, specify what constitutes substantiated fraud, waste, and abuse, using guidance such as what is provided in the Medicare Program Integrity Manual 4.7.1. In carrying out the previous sentence, for purposes of this paragraph, a fraud hotline tip (as defined by the Secretary) without further evidence shall not be treated as sufficient evidence for substantiated fraud, waste, or abuse.

(D) *HIPAA COMPLIANT INFORMATION ONLY.*—For purposes of this subsection, communications may only occur if the communications are permitted under the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

(2) *QUARTERLY REPORTS.*—Beginning two years after the date of enactment of this subsection, the Secretary shall make available to MA plans under this part and prescription drug plans under part D in a timely manner (but no less frequently than quarterly) and using information submitted to an entity described in paragraph (1) through the portal (or other successor technology) described in such paragraph or pursuant to section 1893, information on fraud, waste, and abuse schemes and trends in identifying suspicious activity. Information included in each such report shall—

(A) include administrative actions, pertinent information related to opioid overprescribing, and other data deter-

*mined appropriate by the Secretary in consultation with stakeholders; and*

*(B) be anonymized information submitted by plans without identifying the source of such information.*

*(3) CLARIFICATION.—Nothing in this subsection shall be construed as precluding or otherwise affecting referrals described in subparagraph (A) that may otherwise be made to law enforcement entities or to the Secretary.*

#### PART D—VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM

##### Subpart 1—Part D Eligible Individuals and Prescription Drug Benefits

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#### BENEFICIARY PROTECTIONS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE

##### SEC. 1860D—4. (a) DISSEMINATION OF INFORMATION.—

###### (1) GENERAL INFORMATION.—

(A) APPLICATION OF MA INFORMATION.—A PDP sponsor shall disclose, in a clear, accurate, and standardized form to each enrollee with a prescription drug plan offered by the sponsor under this part at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such plan, insofar as the Secretary determines appropriate with respect to benefits provided under this part, and including the information described in subparagraph (B).

(B) DRUG SPECIFIC INFORMATION.—The information described in this subparagraph is information concerning the following:

(i) Access to specific covered part D drugs, including access through pharmacy networks.

(ii) How any formulary (including any tiered formulary structure) used by the sponsor functions, including a description of how a part D eligible individual may obtain information on the formulary consistent with paragraph (3).

(iii) Beneficiary cost-sharing requirements and how a part D eligible individual may obtain information on such requirements, including tiered or other copayment level applicable to each drug (or class of drugs), consistent with paragraph (3).

(iv) The medication therapy management program required under subsection (c).

(v) The drug management program for at-risk beneficiaries under subsection (c)(5).

(2) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of a part D eligible individual who is eligible to enroll in a prescription drug plan, the PDP sponsor offering such plan shall provide information similar (as determined by the Secretary) to the information described in subparagraphs (A), (B), and (C) of section 1852(c)(2) to such individual.

## (3) PROVISION OF SPECIFIC INFORMATION.—

(A) RESPONSE TO BENEFICIARY QUESTIONS.—Each PDP sponsor offering a prescription drug plan shall have a mechanism for providing specific information on a timely basis to enrollees upon request. Such mechanism shall include access to information through the use of a toll-free telephone number and, upon request, the provision of such information in writing.

(B) AVAILABILITY OF INFORMATION ON CHANGES IN FORMULARY THROUGH THE INTERNET.—A PDP sponsor offering a prescription drug plan shall make available on a timely basis through an Internet website information on specific changes in the formulary under the plan (including changes to tiered or preferred status of covered part D drugs).

## (4) CLAIMS INFORMATION.—A PDP sponsor offering a prescription drug plan must furnish to each enrollee in a form easily understandable to such enrollees—

(A) an explanation of benefits (in accordance with section 1806(a) or in a comparable manner); and

(B) when prescription drug benefits are provided under this part, a notice of the benefits in relation to—

(i) the initial coverage limit for the current year; and

(ii) the annual out-of-pocket threshold for the current year.

Notices under subparagraph (B) need not be provided more often than as specified by the Secretary and notices under subparagraph (B)(ii) shall take into account the application of section 1860D–2(b)(4)(C) to the extent practicable, as specified by the Secretary.

## (b) ACCESS TO COVERED PART D DRUGS.—

## (1) ASSURING PHARMACY ACCESS.—

(A) PARTICIPATION OF ANY WILLING PHARMACY.—A prescription drug plan shall permit the participation of any pharmacy that meets the terms and conditions under the plan.

(B) DISCOUNTS ALLOWED FOR NETWORK PHARMACIES.—For covered part D drugs dispensed through in-network pharmacies, a prescription drug plan may, notwithstanding subparagraph (A), reduce coinsurance or copayments for part D eligible individuals enrolled in the plan below the level otherwise required. In no case shall such a reduction result in an increase in payments made by the Secretary under section 1860D–15 to a plan.

## (C) CONVENIENT ACCESS FOR NETWORK PHARMACIES.—

(i) IN GENERAL.—The PDP sponsor of the prescription drug plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (consistent with rules established by the Secretary).

(ii) APPLICATION OF TRICARE STANDARDS.—The Secretary shall establish rules for convenient access to in-network pharmacies under this subparagraph that are no less favorable to enrollees than the rules for con-

venient access to pharmacies included in the statement of work of solicitation (#MDA906-03-R-0002) of the Department of Defense under the TRICARE Retail Pharmacy (TRRx) as of March 13, 2003.

(iii) ADEQUATE EMERGENCY ACCESS.—Such rules shall include adequate emergency access for enrollees.

(iv) CONVENIENT ACCESS IN LONG-TERM CARE FACILITIES.—Such rules may include standards with respect to access for enrollees who are residing in long-term care facilities and for pharmacies operated by the Indian Health Service, Indian tribes and tribal organizations, and urban Indian organizations (as defined in section 4 of the Indian Health Care Improvement Act).

(D) LEVEL PLAYING FIELD.—Such a sponsor shall permit enrollees to receive benefits (which may include a 90-day supply of drugs or biologicals) through a pharmacy (other than a mail order pharmacy), with any differential in charge paid by such enrollees.

(E) NOT REQUIRED TO ACCEPT INSURANCE RISK.—The terms and conditions under subparagraph (A) may not require participating pharmacies to accept insurance risk as a condition of participation.

(2) USE OF STANDARDIZED TECHNOLOGY.—

(A) IN GENERAL.—The PDP sponsor of a prescription drug plan shall issue (and reissue, as appropriate) such a card (or other technology) that may be used by an enrollee to assure access to negotiated prices under section 1860D-2(d).

(B) STANDARDS.—

(i) IN GENERAL.—The Secretary shall provide for the development, adoption, or recognition of standards relating to a standardized format for the card or other technology required under subparagraph (A). Such standards shall be compatible with part C of title XI and may be based on standards developed by an appropriate standard setting organization.

(ii) CONSULTATION.—In developing the standards under clause (i), the Secretary shall consult with the National Council for Prescription Drug Programs and other standard setting organizations determined appropriate by the Secretary.

(iii) IMPLEMENTATION.—The Secretary shall develop, adopt, or recognize the standards under clause (i) by such date as the Secretary determines shall be sufficient to ensure that PDP sponsors utilize such standards beginning January 1, 2006.

(3) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If a PDP sponsor of a prescription drug plan uses a formulary (including the use of tiered cost-sharing), the following requirements must be met:

(A) DEVELOPMENT AND REVISION BY A PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—

(i) IN GENERAL.—The formulary must be developed and reviewed by a pharmacy and therapeutic committee. A majority of the members of such committee

shall consist of individuals who are practicing physicians or practicing pharmacists (or both).

(ii) INCLUSION OF INDEPENDENT EXPERTS.—Such committee shall include at least one practicing physician and at least one practicing pharmacist, each of whom—

(I) is independent and free of conflict with respect to the sponsor and plan; and

(II) has expertise in the care of elderly or disabled persons.

(B) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall—

(i) base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and on such other information as the committee determines to be appropriate; and

(ii) take into account whether including in the formulary (or in a tier in such formulary) particular covered part D drugs has therapeutic advantages in terms of safety and efficacy.

(C) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES AND CLASSES.—

(i) IN GENERAL.—Subject to subparagraph (G), the formulary must include drugs within each therapeutic category and class of covered part D drugs, although not necessarily all drugs within such categories and classes.

(ii) MODEL GUIDELINES.—The Secretary shall request the United States Pharmacopeia to develop, in consultation with pharmaceutical benefit managers and other interested parties, a list of categories and classes that may be used by prescription drug plans under this paragraph and to revise such classification from time to time to reflect changes in therapeutic uses of covered part D drugs and the additions of new covered part D drugs.

(iii) LIMITATION ON CHANGES IN THERAPEUTIC CLASSIFICATION.—The PDP sponsor of a prescription drug plan may not change the therapeutic categories and classes in a formulary other than at the beginning of each plan year except as the Secretary may permit to take into account new therapeutic uses and newly approved covered part D drugs.

(D) PROVIDER AND PATIENT EDUCATION.—The PDP sponsor shall establish policies and procedures to educate and inform health care providers and enrollees concerning the formulary.

(E) NOTICE BEFORE REMOVING DRUG FROM FORMULARY OR CHANGING PREFERRED OR TIER STATUS OF DRUG.—Any removal of a covered part D drug from a formulary and any change in the preferred or tiered cost-sharing status of such a drug shall take effect only after appropriate notice is made available (such as under subsection (a)(3)) to

the Secretary, affected enrollees, physicians, pharmacies, and pharmacists.

(F) PERIODIC EVALUATION OF PROTOCOLS.—In connection with the formulary, the sponsor of a prescription drug plan shall provide for the periodic evaluation and analysis of treatment protocols and procedures.

(G) REQUIRED INCLUSION OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—

(i) FORMULARY REQUIREMENTS.—

(I) IN GENERAL.—Subject to subclause (II), a PDP sponsor offering a prescription drug plan shall be required to include all covered part D drugs in the categories and classes identified by the Secretary under clause (ii)(I).

(II) EXCEPTIONS.—The Secretary may establish exceptions that permit a PDP sponsor offering a prescription drug plan to exclude from its formulary a particular covered part D drug in a category or class that is otherwise required to be included in the formulary under subclause (I) (or to otherwise limit access to such a drug, including through prior authorization or utilization management).

(ii) IDENTIFICATION OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—

(I) IN GENERAL.—Subject to clause (iv), the Secretary shall identify, as appropriate, categories and classes of drugs for which the Secretary determines are of clinical concern.

(II) CRITERIA.—The Secretary shall use criteria established by the Secretary in making any determination under subclause (I).

(iii) IMPLEMENTATION.—The Secretary shall establish the criteria under clause (ii)(II) and any exceptions under clause (i)(II) through the promulgation of a regulation which includes a public notice and comment period.

(iv) REQUIREMENT FOR CERTAIN CATEGORIES AND CLASSES UNTIL CRITERIA ESTABLISHED.—Until such time as the Secretary establishes the criteria under clause (ii)(II) the following categories and classes of drugs shall be identified under clause (ii)(I):

(I) Anticonvulsants.

(II) Antidepressants.

(III) Antineoplastics.

(IV) Antipsychotics.

(V) Antiretrovirals.

(VI) Immunosuppressants for the treatment of transplant rejection.

(H) USE OF SINGLE, UNIFORM EXCEPTIONS AND APPEALS PROCESS.—Notwithstanding any other provision of this part, each PDP sponsor of a prescription drug plan shall—

(i) use a single, uniform exceptions and appeals process (including, to the extent the Secretary determines feasible, a single, uniform model form for use

under such process) with respect to the determination of prescription drug coverage for an enrollee under the plan; and

(ii) provide instant access to such process by enrollees through a toll-free telephone number and an Internet website.

(c) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

(1) IN GENERAL.—The PDP sponsor shall have in place, directly or through appropriate arrangements, with respect to covered part D drugs, the following:

(A) A cost-effective drug utilization management program, including incentives to reduce costs when medically appropriate, such as through the use of multiple source drugs (as defined in section 1927(k)(7)(A)(i)).

(B) Quality assurance measures and systems to reduce medication errors and adverse drug interactions and improve medication use.

(C) A medication therapy management program described in paragraph (2).

(D) A program to control fraud, abuse, and waste.

(E) A utilization management tool to prevent drug abuse (as described in paragraph (6)(A)).

Nothing in this section shall be construed as impairing a PDP sponsor from utilizing cost management tools (including differential payments) under all methods of operation.

(2) MEDICATION THERAPY MANAGEMENT PROGRAM.—

(A) DESCRIPTION.—

(i) IN GENERAL.—A medication therapy management program described in this paragraph is a program of drug therapy management that may be furnished by a pharmacist and that is designed to assure, with respect to targeted beneficiaries described in clause (ii), that covered part D drugs under the prescription drug plan are appropriately used to optimize therapeutic outcomes through improved medication use, and to reduce the risk of adverse events, including adverse drug interactions. Such a program may distinguish between services in ambulatory and institutional settings.

(ii) TARGETED BENEFICIARIES DESCRIBED.—Targeted beneficiaries described in this clause are part D eligible individuals who—

(I) have multiple chronic diseases (such as diabetes, asthma, hypertension, hyperlipidemia, and congestive heart failure);

(II) are taking multiple covered part D drugs; and

(III) are identified as likely to incur annual costs for covered part D drugs that exceed a level specified by the Secretary.

(B) ELEMENTS.—Such program may include elements that promote—

(i) enhanced enrollee understanding to promote the appropriate use of medications by enrollees and to re-



duce the risk of potential adverse events associated with medications, through beneficiary education, counseling, and other appropriate means;

(ii) increased enrollee adherence with prescription medication regimens through medication refill reminders, special packaging, and other compliance programs and other appropriate means; and

(iii) detection of adverse drug events and patterns of overuse and underuse of prescription drugs.

(C) REQUIRED INTERVENTIONS.—For plan years beginning on or after the date that is 2 years after the date of the enactment of the Patient Protection and Affordable Care Act, prescription drug plan sponsors shall offer medication therapy management services to targeted beneficiaries described in subparagraph (A)(ii) that include, at a minimum, the following to increase adherence to prescription medications or other goals deemed necessary by the Secretary:

(i) An annual comprehensive medication review furnished person-to-person or using telehealth technologies (as defined by the Secretary) by a licensed pharmacist or other qualified provider. The comprehensive medication review—

(I) shall include a review of the individual's medications and may result in the creation of a recommended medication action plan or other actions in consultation with the individual and with input from the prescriber to the extent necessary and practicable; and

(II) shall include providing the individual with a written or printed summary of the results of the review.

The Secretary, in consultation with relevant stakeholders, shall develop a standardized format for the action plan under subclause (I) and the summary under subclause (II).

(ii) Follow-up interventions as warranted based on the findings of the annual medication review or the targeted medication enrollment and which may be provided person-to-person or using telehealth technologies (as defined by the Secretary).

(D) ASSESSMENT.—The prescription drug plan sponsor shall have in place a process to assess, at least on a quarterly basis, the medication use of individuals who are at risk but not enrolled in the medication therapy management program, including individuals who have experienced a transition in care, if the prescription drug plan sponsor has access to that information.

(E) AUTOMATIC ENROLLMENT WITH ABILITY TO OPT-OUT.—The prescription drug plan sponsor shall have in place a process to—

(i) subject to clause (ii), automatically enroll targeted beneficiaries described in subparagraph (A)(ii), including beneficiaries identified under subparagraph

(D), in the medication therapy management program required under this subsection; and

(ii) permit such beneficiaries to opt-out of enrollment in such program.

(E) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—Such program shall be developed in cooperation with licensed and practicing pharmacists and physicians.

(F) COORDINATION WITH CARE MANAGEMENT PLANS.—The Secretary shall establish guidelines for the coordination of any medication therapy management program under this paragraph with respect to a targeted beneficiary with any care management plan established with respect to such beneficiary under a chronic care improvement program under section 1807.

(G) CONSIDERATIONS IN PHARMACY FEES.—The PDP sponsor of a prescription drug plan shall take into account, in establishing fees for pharmacists and others providing services under such plan, the resources used, and time required to, implement the medication therapy management program under this paragraph. Each such sponsor shall disclose to the Secretary upon request the amount of any such management or dispensing fees. The provisions of section 1927(b)(3)(D) apply to information disclosed under this subparagraph.

(3) REDUCING WASTEFUL DISPENSING OF OUTPATIENT PRESCRIPTION DRUGS IN LONG-TERM CARE FACILITIES.—The Secretary shall require PDP sponsors of prescription drug plans to utilize specific, uniform dispensing techniques, as determined by the Secretary, in consultation with relevant stakeholders (including representatives of nursing facilities, residents of nursing facilities, pharmacists, the pharmacy industry (including retail and long-term care pharmacy), prescription drug plans, MA-PD plans, and any other stakeholders the Secretary determines appropriate), such as weekly, daily, or automated dose dispensing, when dispensing covered part D drugs to enrollees who reside in a long-term care facility in order to reduce waste associated with 30-day fills.

(4) REQUIRING VALID PRESCRIBER NATIONAL PROVIDER IDENTIFIERS ON PHARMACY CLAIMS.—

(A) IN GENERAL.—For plan year 2016 and subsequent plan years, the Secretary shall require a claim for a covered part D drug for a part D eligible individual enrolled in a prescription drug plan under this part or an MA-PD plan under part C to include a prescriber National Provider Identifier that is determined to be valid under the procedures established under subparagraph (B)(i).

(B) PROCEDURES.—

(i) VALIDITY OF PRESCRIBER NATIONAL PROVIDER IDENTIFIERS.—The Secretary, in consultation with appropriate stakeholders, shall establish procedures for determining the validity of prescriber National Provider Identifiers under subparagraph (A).

(ii) INFORMING BENEFICIARIES OF REASON FOR DENIAL.—The Secretary shall establish procedures to en-

sure that, in the case that a claim for a covered part D drug of an individual described in subparagraph (A) is denied because the claim does not meet the requirements of this paragraph, the individual is properly informed at the point of service of the reason for the denial.

(C) REPORT.—Not later than January 1, 2018, the Inspector General of the Department of Health and Human Services shall submit to Congress a report on the effectiveness of the procedures established under subparagraph (B)(i).

(5) DRUG MANAGEMENT PROGRAM FOR AT-RISK BENEFICIARIES.—

(A) AUTHORITY TO ESTABLISH.—A PDP sponsor may establish a drug management program for at-risk beneficiaries under which, subject to subparagraph (B), the PDP sponsor may, in the case of an at-risk beneficiary for prescription drug abuse who is an enrollee in a prescription drug plan of such PDP sponsor, limit such beneficiary's access to coverage for frequently abused drugs under such plan to frequently abused drugs that are prescribed for such beneficiary by one or more prescribers selected under subparagraph (D), and dispensed for such beneficiary by one or more pharmacies selected under such subparagraph.

(B) REQUIREMENT FOR NOTICES.—

(i) IN GENERAL.—A PDP sponsor may not limit the access of an at-risk beneficiary for prescription drug abuse to coverage for frequently abused drugs under a prescription drug plan until such sponsor—

(I) provides to the beneficiary an initial notice described in clause (ii) and a second notice described in clause (iii); and

(II) verifies with the providers of the beneficiary that the beneficiary is an at-risk beneficiary for prescription drug abuse.

(ii) INITIAL NOTICE.—An initial notice described in this clause is a notice that provides to the beneficiary—

(I) notice that the PDP sponsor has identified the beneficiary as potentially being an at-risk beneficiary for prescription drug abuse;

(II) information describing all State and Federal public health resources that are designed to address prescription drug abuse to which the beneficiary has access, including mental health services and other counseling services;

(III) notice of, and information about, the right of the beneficiary to appeal such identification under subsection (h) and the option of an automatic escalation to external review;

(IV) a request for the beneficiary to submit to the PDP sponsor preferences for which prescribers and pharmacies the beneficiary would prefer the PDP sponsor to select under subparagraph (D) in

the case that the beneficiary is identified as an at-risk beneficiary for prescription drug abuse as described in clause (iii)(I);

(V) an explanation of the meaning and consequences of the identification of the beneficiary as potentially being an at-risk beneficiary for prescription drug abuse, including an explanation of the drug management program established by the PDP sponsor pursuant to subparagraph (A);

(VI) clear instructions that explain how the beneficiary can contact the PDP sponsor in order to submit to the PDP sponsor the preferences described in subclause (IV) and any other communications relating to the drug management program for at-risk beneficiaries established by the PDP sponsor; and

(VII) contact information for other organizations that can provide the beneficiary with assistance regarding such drug management program (similar to the information provided by the Secretary in other standardized notices provided to part D eligible individuals enrolled in prescription drug plans under this part).

(iii) SECOND NOTICE.—A second notice described in this clause is a notice that provides to the beneficiary notice—

(I) that the PDP sponsor has identified the beneficiary as an at-risk beneficiary for prescription drug abuse;

(II) that such beneficiary is subject to the requirements of the drug management program for at-risk beneficiaries established by such PDP sponsor for such plan;

(III) of the prescriber (or prescribers) and pharmacy (or pharmacies) selected for such individual under subparagraph (D);

(IV) of, and information about, the beneficiary's right to appeal such identification under subsection (h) and the option of an automatic escalation to external review;

(V) that the beneficiary can, in the case that the beneficiary has not previously submitted to the PDP sponsor preferences for which prescribers and pharmacies the beneficiary would prefer the PDP sponsor select under subparagraph (D), submit such preferences to the PDP sponsor; and

(VI) that includes clear instructions that explain how the beneficiary can contact the PDP sponsor.

(iv) TIMING OF NOTICES.—

(I) IN GENERAL.—Subject to subclause (II), a second notice described in clause (iii) shall be provided to the beneficiary on a date that is not less than 30 days after an initial notice described in clause (ii) is provided to the beneficiary.

(II) EXCEPTION.—In the case that the PDP sponsor, in conjunction with the Secretary, determines that concerns identified through rulemaking by the Secretary regarding the health or safety of the beneficiary or regarding significant drug diversion activities require the PDP sponsor to provide a second notice described in clause (iii) to the beneficiary on a date that is earlier than the date described in subclause (I), the PDP sponsor may provide such second notice on such earlier date.

(C) AT-RISK BENEFICIARY FOR PRESCRIPTION DRUG ABUSE.—

(i) IN GENERAL.—For purposes of this paragraph, the term “at-risk beneficiary for prescription drug abuse” means a part D eligible individual who is not an exempted individual described in clause (ii) and—

(I) who is identified as such an at-risk beneficiary through the use of clinical guidelines that indicate misuse or abuse of prescription drugs described in subparagraph (G) and that are developed by the Secretary in consultation with PDP sponsors and other stakeholders, including individuals entitled to benefits under part A or enrolled under part B, advocacy groups representing such individuals, physicians, pharmacists, and other clinicians, retail pharmacies, plan sponsors, entities delegated by plan sponsors, and biopharmaceutical manufacturers; or

(II) with respect to whom the PDP sponsor of a prescription drug plan, upon enrolling such individual in such plan, received notice from the Secretary that such individual was identified under this paragraph to be an at-risk beneficiary for prescription drug abuse under the prescription drug plan in which such individual was most recently previously enrolled and such identification has not been terminated under subparagraph (F).

(ii) EXEMPTED INDIVIDUAL DESCRIBED.—An exempted individual described in this clause is an individual who—

(I) receives hospice care under this title;

(II) is a resident of a long-term care facility, of a facility described in section 1905(d), or of another facility for which frequently abused drugs are dispensed for residents through a contract with a single pharmacy; or

(III) the Secretary elects to treat as an exempted individual for purposes of clause (i).

(iii) PROGRAM SIZE.—The Secretary shall establish policies, including the guidelines developed under clause (i)(I) and the exemptions under clause (ii)(III), to ensure that the population of enrollees in a drug management program for at-risk beneficiaries operated by a prescription drug plan can be effectively managed by such plans.

(iv) CLINICAL CONTACT.—With respect to each at-risk beneficiary for prescription drug abuse enrolled in a prescription drug plan offered by a PDP sponsor, the PDP sponsor shall contact the beneficiary's providers who have prescribed frequently abused drugs regarding whether prescribed medications are appropriate for such beneficiary's medical conditions.

(D) SELECTION OF PRESCRIBERS AND PHARMACIES.—

(i) IN GENERAL.—With respect to each at-risk beneficiary for prescription drug abuse enrolled in a prescription drug plan offered by such sponsor, a PDP sponsor shall, based on the preferences submitted to the PDP sponsor by the beneficiary pursuant to clauses (ii)(IV) and (iii)(V) of subparagraph (B) (except as otherwise provided in this subparagraph) select—

(I) one, or, if the PDP sponsor reasonably determines it necessary to provide the beneficiary with reasonable access under clause (ii), more than one, individual who is authorized to prescribe frequently abused drugs (referred to in this paragraph as a “prescriber”) who may write prescriptions for such drugs for such beneficiary; and

(II) one, or, if the PDP sponsor reasonably determines it necessary to provide the beneficiary with reasonable access under clause (ii), more than one, pharmacy that may dispense such drugs to such beneficiary.

For purposes of subclause (II), in the case of a pharmacy that has multiple locations that share real-time electronic data, all such locations of the pharmacy shall collectively be treated as one pharmacy.

(ii) REASONABLE ACCESS.—In making the selections under this subparagraph—

(I) a PDP sponsor shall ensure that the beneficiary continues to have reasonable access to frequently abused drugs (as defined in subparagraph (G)), taking into account geographic location, beneficiary preference, impact on costsharing, and reasonable travel time; and

(II) a PDP sponsor shall ensure such access (including access to prescribers and pharmacies with respect to frequently abused drugs) in the case of individuals with multiple residences, in the case of natural disasters and similar situations, and in the case of the provision of emergency services.

(iii) BENEFICIARY PREFERENCES.—If an at-risk beneficiary for prescription drug abuse submits preferences for which in-network prescribers and pharmacies the beneficiary would prefer the PDP sponsor select in response to a notice under subparagraph (B), the PDP sponsor shall—

(I) review such preferences;

(II) select or change the selection of prescribers and pharmacies for the beneficiary based on such preferences; and

(III) inform the beneficiary of such selection or change of selection.

(iv) EXCEPTION REGARDING BENEFICIARY PREFERENCES.—In the case that the PDP sponsor determines that a change to the selection of prescriber or pharmacy under clause (iii)(II) by the PDP sponsor is contributing or would contribute to prescription drug abuse or drug diversion by the beneficiary, the PDP sponsor may change the selection of prescriber or pharmacy for the beneficiary without regard to the preferences of the beneficiary described in clause (iii). If the PDP sponsor changes the selection pursuant to the preceding sentence, the PDP sponsor shall provide the beneficiary with—

(I) at least 30 days written notice of the change of selection; and

(II) a rationale for the change.

(v) CONFIRMATION.—Before selecting a prescriber or pharmacy under this subparagraph, a PDP sponsor must notify the prescriber and pharmacy that the beneficiary involved has been identified for inclusion in the drug management program for at-risk beneficiaries and that the prescriber and pharmacy has been selected as the beneficiary's designated prescriber and pharmacy.

(E) TERMINATIONS AND APPEALS.—The identification of an individual as an at-risk beneficiary for prescription drug abuse under this paragraph, a coverage determination made under a drug management program for at-risk beneficiaries, the selection of prescriber or pharmacy under subparagraph (D), and information to be shared under subparagraph (I), with respect to such individual, shall be subject to reconsideration and appeal under subsection (h) and the option of an automatic escalation to external review to the extent provided by the Secretary.

(F) TERMINATION OF IDENTIFICATION.—

(i) IN GENERAL.—The Secretary shall develop standards for the termination of identification of an individual as an at-risk beneficiary for prescription drug abuse under this paragraph. Under such standards such identification shall terminate as of the earlier of—

(I) the date the individual demonstrates that the individual is no longer likely, in the absence of the restrictions under this paragraph, to be an at-risk beneficiary for prescription drug abuse described in subparagraph (C)(i); and

(II) the end of such maximum period of identification as the Secretary may specify.

(ii) RULE OF CONSTRUCTION.—Nothing in clause (i) shall be construed as preventing a plan from identifying an individual as an at-risk beneficiary for prescription drug abuse under subparagraph (C)(i) after such termination on the basis of additional informa-

tion on drug use occurring after the date of notice of such termination.

(G) FREQUENTLY ABUSED DRUG.—For purposes of this subsection, the term “frequently abused drug” means a drug that is a controlled substance that the Secretary determines to be frequently abused or diverted.

(H) DATA DISCLOSURE.—

(i) DATA ON DECISION TO IMPOSE LIMITATION.—In the case of an at-risk beneficiary for prescription drug abuse (or an individual who is a potentially at-risk beneficiary for prescription drug abuse) whose access to coverage for frequently abused drugs under a prescription drug plan has been limited by a PDP sponsor under this paragraph, the Secretary shall establish rules and procedures to require the PDP sponsor to disclose data, including any necessary individually identifiable health information, in a form and manner specified by the Secretary, about the decision to impose such limitations and the limitations imposed by the sponsor under this part.

(ii) DATA TO REDUCE FRAUD, ABUSE, AND WASTE.—The Secretary shall establish rules and procedures to require PDP sponsors operating a drug management program for at-risk beneficiaries under this paragraph to provide the Secretary with such data as the Secretary determines appropriate for purposes of identifying patterns of prescription drug utilization for plan enrollees that are outside normal patterns and that may indicate fraudulent, medically unnecessary, or unsafe use.

(I) SHARING OF INFORMATION FOR SUBSEQUENT PLAN ENROLLMENTS.—The Secretary shall establish procedures under which PDP sponsors who offer prescription drug plans shall share information with respect to individuals who are at-risk beneficiaries for prescription drug abuse (or individuals who are potentially at-risk beneficiaries for prescription drug abuse) and enrolled in a prescription drug plan and who subsequently disenroll from such plan and enroll in another prescription drug plan offered by another PDP sponsor.

(J) PRIVACY ISSUES.—Prior to the implementation of the rules and procedures under this paragraph, the Secretary shall clarify privacy requirements, including requirements under the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), related to the sharing of data under subparagraphs (H) and (I) by PDP sponsors. Such clarification shall provide that the sharing of such data shall be considered to be protected health information in accordance with the requirements of the regulations promulgated pursuant to such section 264(c).

(K) EDUCATION.—The Secretary shall provide education to enrollees in prescription drug plans of PDP sponsors and providers regarding the drug management program



for at-risk beneficiaries described in this paragraph, including education—

(i) provided by Medicare administrative contractors through the improper payment outreach and education program described in section 1874A(h); and

(ii) through current education efforts (such as State health insurance assistance programs described in subsection (a)(1)(A) of section 119 of the Medicare Improvements for Patients and Providers Act of 2008 (42 U.S.C. 1395b–3 note)) and materials directed toward such enrollees.

(L) APPLICATION UNDER MA–PD PLANS.—Pursuant to section 1860D–21(c)(1), the provisions of this paragraph apply under part D to MA organizations offering MA–PD plans to MA eligible individuals in the same manner as such provisions apply under this part to a PDP sponsor offering a prescription drug plan to a part D eligible individual.

(M) CMS COMPLIANCE REVIEW.—The Secretary shall ensure that existing plan sponsor compliance reviews and audit processes include the drug management programs for at-risk beneficiaries under this paragraph, including appeals processes under such programs.

(6) UTILIZATION MANAGEMENT TOOL TO PREVENT DRUG ABUSE.—

(A) IN GENERAL.—A tool described in this paragraph is any of the following:

(i) A utilization tool designed to prevent the abuse of frequently abused drugs by individuals and to prevent the diversion of such drugs at pharmacies.

(ii) Retrospective utilization review to identify—

(I) individuals that receive frequently abused drugs at a frequency or in amounts that are not clinically appropriate; and

(II) providers of services or suppliers that may facilitate the abuse or diversion of frequently abused drugs by beneficiaries.

(iii) Consultation with the contractor described in subparagraph (B) to verify if an individual enrolling in a prescription drug plan offered by a PDP sponsor has been previously identified by another PDP sponsor as an individual described in clause (ii)(I).

(B) REPORTING.—A PDP sponsor offering a prescription drug plan (and an MA organization offering an MA–PD plan) in a State shall submit to the Secretary and the Medicare drug integrity contractor with which the Secretary has entered into a contract under section 1893 with respect to such State a report, on a monthly basis, containing information on—

(i) any provider of services or supplier described in subparagraph (A)(ii)(II) that is identified by such plan sponsor (or organization) during the 30-day period before such report is submitted; and

(ii) the name and prescription records of individuals described in paragraph (5)(C).

(C) CMS COMPLIANCE REVIEW.—The Secretary shall ensure that plan sponsor compliance reviews and program audits biennially include a certification that utilization management tools under this paragraph are in compliance with the requirements for such tools.

(6) PROVIDING PRESCRIPTION DRUG PLANS WITH PARTS A AND B CLAIMS DATA TO PROMOTE THE APPROPRIATE USE OF MEDICATIONS AND IMPROVE HEALTH OUTCOMES.—

(A) PROCESS.—Subject to subparagraph (B), the Secretary shall establish a process under which a PDP sponsor of a prescription drug plan may submit a request for the Secretary to provide the sponsor, on a periodic basis and in an electronic format, beginning in plan year 2020, data described in subparagraph (D) with respect to enrollees in such plan. Such data shall be provided without regard to whether such enrollees are described in clause (ii) of paragraph (2)(A).

(B) PURPOSES.—A PDP sponsor may use the data provided to the sponsor pursuant to subparagraph (A) for any of the following purposes:

(i) To optimize therapeutic outcomes through improved medication use, as such phrase is used in clause (i) of paragraph (2)(A).

(ii) To improving care coordination so as to prevent adverse health outcomes, such as preventable emergency department visits and hospital readmissions.

(iii) For any other purpose determined appropriate by the Secretary.

(C) LIMITATIONS ON DATA USE.—A PDP sponsor shall not use data provided to the sponsor pursuant to subparagraph (A) for any of the following purposes:

(i) To inform coverage determinations under this part.

(ii) To conduct retroactive reviews of medically accepted indications determinations.

(iii) To facilitate enrollment changes to a different prescription drug plan or an MA-PD plan offered by the same parent organization.

(iv) To inform marketing of benefits.

(v) For any other purpose that the Secretary determines is necessary to include in order to protect the identity of individuals entitled to, or enrolled for, benefits under this title and to protect the security of personal health information.

(D) DATA DESCRIBED.—The data described in this clause are standardized extracts (as determined by the Secretary) of claims data under parts A and B for items and services furnished under such parts for time periods specified by the Secretary. Such data shall include data as current as practicable.

(d) CONSUMER SATISFACTION SURVEYS.—In order to provide for comparative information under section 1860D–1(c)(3)(A)(v), the Secretary shall conduct consumer satisfaction surveys with respect to PDP sponsors and prescription drug plans in a manner similar

to the manner such surveys are conducted for MA organizations and MA plans under part C.

(e) ELECTRONIC PRESCRIPTION PROGRAM.—

(1) APPLICATION OF STANDARDS.—As of such date as the Secretary may specify, but not later than 1 year after the date of promulgation of final standards under paragraph (4)(D), prescriptions and other information described in paragraph (2)(A) for covered part D drugs prescribed for part D eligible individuals that are transmitted electronically shall be transmitted only in accordance with such standards under an electronic prescription drug program that meets the requirements of paragraph (2).

(2) PROGRAM REQUIREMENTS.—Consistent with uniform standards established under paragraph (3)—

(A) PROVISION OF INFORMATION TO PRESCRIBING HEALTH CARE PROFESSIONAL AND DISPENSING PHARMACIES AND PHARMACISTS.—An electronic prescription drug program shall provide for the electronic transmittal to the prescribing health care professional and to the dispensing pharmacy and pharmacist of the prescription and information on eligibility and benefits (including the drugs included in the applicable formulary, any tiered formulary structure, and any requirements for prior authorization) and of the following information with respect to the prescribing and dispensing of a covered part D drug:

(i) Information on the drug being prescribed or dispensed and other drugs listed on the medication history, including information on drug-drug interactions, warnings or cautions, and, when indicated, dosage adjustments.

(ii) Information on the availability of lower cost, therapeutically appropriate alternatives (if any) for the drug prescribed.

(B) APPLICATION TO MEDICAL HISTORY INFORMATION.—Effective on and after such date as the Secretary specifies and after the establishment of appropriate standards to carry out this subparagraph, the program shall provide for the electronic transmittal in a manner similar to the manner under subparagraph (A) of information that relates to the medical history concerning the individual and related to a covered part D drug being prescribed or dispensed, upon request of the professional or pharmacist involved.

(C) LIMITATIONS.—Information shall only be disclosed under subparagraph (A) or (B) if the disclosure of such information is permitted under the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

(D) TIMING.—To the extent feasible, the information exchanged under this paragraph shall be on an interactive, real-time basis.

(3) STANDARDS.—

(A) IN GENERAL.—The Secretary shall provide consistent with this subsection for the promulgation of uniform

standards relating to the requirements for electronic prescription drug programs under paragraph (2).

(B) OBJECTIVES.—Such standards shall be consistent with the objectives of improving—

- (i) patient safety;
- (ii) the quality of care provided to patients; and
- (iii) efficiencies, including cost savings, in the delivery of care.

(C) DESIGN CRITERIA.—Such standards shall—

- (i) be designed so that, to the extent practicable, the standards do not impose an undue administrative burden on prescribing health care professionals and dispensing pharmacies and pharmacists;
- (ii) be compatible with standards established under part C of title XI, standards established under subsection (b)(2)(B)(i), and with general health information technology standards; and
- (iii) be designed so that they permit electronic exchange of drug labeling and drug listing information maintained by the Food and Drug Administration and the National Library of Medicine.

(D) PERMITTING USE OF APPROPRIATE MESSAGING.—Such standards shall allow for the messaging of information only if it relates to the appropriate prescribing of drugs, including quality assurance measures and systems referred to in subsection (c)(1)(B).

(E) PERMITTING PATIENT DESIGNATION OF DISPENSING PHARMACY.—

(i) IN GENERAL.—Consistent with clause (ii), such standards shall permit a part D eligible individual to designate a particular pharmacy to dispense a prescribed drug.

(ii) NO CHANGE IN BENEFITS.—Clause (i) shall not be construed as affecting—

- (I) the access required to be provided to pharmacies by a prescription drug plan; or
- (II) the application of any differences in benefits or payments under such a plan based on the pharmacy dispensing a covered part D drug.

(4) DEVELOPMENT, PROMULGATION, AND MODIFICATION OF STANDARDS.—

(A) INITIAL STANDARDS.—Not later than September 1, 2005, the Secretary shall develop, adopt, recognize, or modify initial uniform standards relating to the requirements for electronic prescription drug programs described in paragraph (2) taking into consideration the recommendations (if any) from the National Committee on Vital and Health Statistics (as established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k))) under subparagraph (B).

(B) ROLE OF NCVHS.—The National Committee on Vital and Health Statistics shall develop recommendations for uniform standards relating to such requirements in consultation with the following:

- (i) Standard setting organizations (as defined in section 1171(8))
- (ii) Practicing physicians.
- (iii) Hospitals.
- (iv) Pharmacies.
- (v) Practicing pharmacists.
- (vi) Pharmacy benefit managers.
- (vii) State boards of pharmacy.
- (viii) State boards of medicine.
- (ix) Experts on electronic prescribing.
- (x) Other appropriate Federal agencies.

(C) PILOT PROJECT TO TEST INITIAL STANDARDS.—

(i) IN GENERAL.—During the 1-year period that begins on January 1, 2006, the Secretary shall conduct a pilot project to test the initial standards developed under subparagraph (A) prior to the promulgation of the final uniform standards under subparagraph (D) in order to provide for the efficient implementation of the requirements described in paragraph (2).

(ii) EXCEPTION.—Pilot testing of standards is not required under clause (i) where there already is adequate industry experience with such standards, as determined by the Secretary after consultation with affected standard setting organizations and industry users.

(iii) VOLUNTARY PARTICIPATION OF PHYSICIANS AND PHARMACIES.—In order to conduct the pilot project under clause (i), the Secretary shall enter into agreements with physicians, physician groups, pharmacies, hospitals, PDP sponsors, MA organizations, and other appropriate entities under which health care professionals electronically transmit prescriptions to dispensing pharmacies and pharmacists in accordance with such standards.

(iv) EVALUATION AND REPORT.—

(I) EVALUATION.—The Secretary shall conduct an evaluation of the pilot project conducted under clause (i).

(II) REPORT TO CONGRESS.—Not later than April 1, 2007, the Secretary shall submit to Congress a report on the evaluation conducted under subclause (I).

(D) FINAL STANDARDS.—Based upon the evaluation of the pilot project under subparagraph (C)(iv)(I) and not later than April 1, 2008, the Secretary shall promulgate uniform standards relating to the requirements described in paragraph (2).

(5) RELATION TO STATE LAWS.—The standards promulgated under this subsection shall supersede any State law or regulation that—

(A) is contrary to the standards or restricts the ability to carry out this part; and

(B) pertains to the electronic transmission of medication history and of information on eligibility, benefits, and pre-

scriptions with respect to covered part D drugs under this part.

(6) ESTABLISHMENT OF SAFE HARBOR.—The Secretary, in consultation with the Attorney General, shall promulgate regulations that provide for a safe harbor from sanctions under paragraphs (1) and (2) of section 1128B(b) and an exception to the prohibition under subsection (a)(1) of section 1877 with respect to the provision of nonmonetary remuneration (in the form of hardware, software, or information technology and training services) necessary and used solely to receive and transmit electronic prescription information in accordance with the standards promulgated under this subsection—

(A) in the case of a hospital, by the hospital to members of its medical staff;

(B) in the case of a group practice (as defined in section 1877(h)(4)), by the practice to prescribing health care professionals who are members of such practice; and

(C) in the case of a PDP sponsor or MA organization, by the sponsor or organization to pharmacists and pharmacies participating in the network of such sponsor or organization, and to prescribing health care professionals.

(f) GRIEVANCE MECHANISM.—Each PDP sponsor shall provide meaningful procedures for hearing and resolving grievances between the sponsor (including any entity or individual through which the sponsor provides covered benefits) and enrollees with prescription drug plans of the sponsor under this part in accordance with section 1852(f).

(g) COVERAGE DETERMINATIONS AND RECONSIDERATIONS.—

(1) APPLICATION OF COVERAGE DETERMINATION AND RECONSIDERATION PROVISIONS.—A PDP sponsor shall meet the requirements of paragraphs (1) through (3) of section 1852(g) with respect to covered benefits under the prescription drug plan it offers under this part in the same manner as such requirements apply to an MA organization with respect to benefits it offers under an MA plan under part C.

(2) REQUEST FOR A DETERMINATION FOR THE TREATMENT OF TIERED FORMULARY DRUG.—In the case of a prescription drug plan offered by a PDP sponsor that provides for tiered cost-sharing for drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, a part D eligible individual who is enrolled in the plan may request an exception to the tiered cost-sharing structure. Under such an exception, a nonpreferred drug could be covered under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition either would not be as effective for the individual or would have adverse effects for the individual or both. A PDP sponsor shall have an exceptions process under this paragraph consistent with guidelines established by the Secretary for making a determination with respect to such a request. Denial of such an exception shall be treated as a coverage denial for purposes of applying subsection (h).

(h) APPEALS.—

(1) IN GENERAL.—Subject to paragraph (2), a PDP sponsor shall meet the requirements of paragraphs (4) and (5) of sec-

tion 1852(g) with respect to benefits (including a determination related to the application of tiered cost-sharing described in subsection (g)(2)) in a manner similar (as determined by the Secretary) to the manner such requirements apply to an MA organization with respect to benefits under the original medicare fee-for-service program option it offers under an MA plan under part C. In applying this paragraph only the part D eligible individual shall be entitled to bring such an appeal.

(2) LIMITATION IN CASES ON NONFORMULARY DETERMINATIONS.—A part D eligible individual who is enrolled in a prescription drug plan offered by a PDP sponsor may appeal under paragraph (1) a determination not to provide for coverage of a covered part D drug that is not on the formulary under the plan only if the prescribing physician determines that all covered part D drugs on any tier of the formulary for treatment of the same condition would not be as effective for the individual as the nonformulary drug, would have adverse effects for the individual, or both.

(3) TREATMENT OF NONFORMULARY DETERMINATIONS.—If a PDP sponsor determines that a plan provides coverage for a covered part D drug that is not on the formulary of the plan, the drug shall be treated as being included on the formulary for purposes of section 1860D–2(b)(4)(C)(i).

(i) PRIVACY, CONFIDENTIALITY, AND ACCURACY OF ENROLLEE RECORDS.—The provisions of section 1852(h) shall apply to a PDP sponsor and prescription drug plan in the same manner as it applies to an MA organization and an MA plan.

(j) TREATMENT OF ACCREDITATION.—Subparagraph (A) of section 1852(e)(4) (relating to treatment of accreditation) shall apply to a PDP sponsor under this part with respect to the following requirements, in the same manner as it applies to an MA organization with respect to the requirements in subparagraph (B) (other than clause (vii) thereof) of such section:

(1) Subsection (b) of this section (relating to access to covered part D drugs).

(2) Subsection (c) of this section (including quality assurance and medication therapy management).

(3) Subsection (i) of this section (relating to confidentiality and accuracy of enrollee records).

(k) PUBLIC DISCLOSURE OF PHARMACEUTICAL PRICES FOR EQUIVALENT DRUGS.—

(1) IN GENERAL.—A PDP sponsor offering a prescription drug plan shall provide that each pharmacy that dispenses a covered part D drug shall inform an enrollee of any differential between the price of the drug to the enrollee and the price of the lowest priced generic covered part D drug under the plan that is therapeutically equivalent and bioequivalent and available at such pharmacy.

(2) TIMING OF NOTICE.—

(A) IN GENERAL.—Subject to subparagraph (B), the information under paragraph (1) shall be provided at the time of purchase of the drug involved, or, in the case of dispensing by mail order, at the time of delivery of such drug.

(B) WAIVER.—The Secretary may waive subparagraph (A) in such circumstances as the Secretary may specify.

(l) REQUIREMENTS WITH RESPECT TO SALES AND MARKETING ACTIVITIES.—The following provisions shall apply to a PDP sponsor (and the agents, brokers, and other third parties representing such sponsor) in the same manner as such provisions apply to a Medicare Advantage organization (and the agents, brokers, and other third parties representing such organization):

(1) The prohibition under section 1851(h)(4)(C) on conducting activities described in section 1851(j)(1).

(2) The requirement under section 1851(h)(4)(D) to conduct activities described in section 1851(j)(2) in accordance with the limitations established under such subsection.

(3) The inclusion of the plan type in the plan name under section 1851(h)(6).

(4) The requirements regarding the appointment of agents and brokers and compliance with State information requests under subparagraphs (A) and (B), respectively, of section 1851(h)(7).

(m) PROGRAM INTEGRITY TRANSPARENCY MEASURES.—*For program integrity transparency measures applied with respect to prescription drug plan and MA plans, see section 1859(i).*

\* \* \* \* \*



EXCHANGE OF LETTERS WITH ADDITIONAL COMMITTEES OF  
REFERRAL

GREG WALDEN, OREGON  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

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Minority (202) 225-3641

June 7, 2018

The Honorable Kevin Brady  
Chairman  
Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, DC 20515

Dear Chairman Brady:

On May 9 and 17, 2018, the Committee on Energy and Commerce ordered favorably reported over 50 bills to address the opioid epidemic facing communities across our nation. Several of the bills were also referred to the Committee on Ways and Means.

I ask that the Committee on Ways and Means not insist on its referral of the following bills so that they may be scheduled for consideration by the Majority Leader:

- **H.R. 1925**, At-Risk Youth Medicaid Protection Act of 2017;
- **H.R. 3331**, To amend title XI of the Social Security Act to promote testing of incentive payments for behavioral health providers for adoption and use of certified electronic health record technology;
- **H.R. 3528**, Every Prescription Conveyed Securely Act;
- **H.R. 4841**, Standardizing Electronic Prior Authorization for Safe Prescribing Act of 2018;
- **H.R. 5582**, Abuse Deterrent Access Act of 2018;
- **H.R. 5590**, Opioid Addiction Action Plan Act;
- **H.R. 5603**, Access to Telehealth Services for Opioid Use Disorder;


The Honorable Kevin Brady  
Page 2

- **H.R. 5605**, Advancing High Quality Treatment for Opioid Use Disorders in Medicare Act;
- **H.R. 5675**, To amend title XVIII of the Social Security Act to require prescription drug plan sponsors under the Medicare program to establish drug management programs for at-risk beneficiaries;
- **H.R. 5684**, Protecting Seniors from Opioid Abuse Act;
- **H.R. 5685**, Medicare Opioid Safety Education Act;
- **H.R. 5686**, Medicare Clear Health Options in Care for Enrollees (CHOICE) Act;
- **H.R. 5715**, Strengthening Partnerships to Prevent Opioid Abuse Act;
- **H.R. 5716**, Commit to Opioid Medical Prescriber Accountability and Safety for Seniors (COMPASS) Act;
- **H.R. 5796**, Responsible Education Achieves Care and Healthy Outcomes for Users' Treatment (REACH OUT) Act of 2018;
- **H.R. 5798**, Opioid Screening and Chronic Pain Management Alternatives for Seniors Act;
- **H.R. 5804**, Post-Surgical Injections as an Opioid Alternative Act; and
- **H.R. 5809**, Postoperative Opioid Prevention Act of 2018.

This concession in no way affects your jurisdiction over the subject matter of these bills, and it will not serve as precedent for future referrals. In addition, should a conference on the bills be necessary, I would support your request to have the Committee on Ways and Means on the conference committee. Finally, I would be pleased to include this letter and your response in the bill reports and the Congressional Record.

Thank you for your consideration of my request and for the extraordinary cooperation shown by you and your staff over matters of shared jurisdiction. I look forward to further opportunities to work with you this Congress.

Sincerely,

  
Greg Walden  
Chairman

KEVIN BRADY, TEXAS  
CHAIRMAN

SAM JOHNSON, TEXAS  
DEVIN NUNEZ, CALIFORNIA  
DAVID G. REUCHELT, WASHINGTON  
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BRANDON CASEY,  
MINORITY CHIEF OF STAFF

June 8, 2018

The Honorable Greg Walden  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Walden,

Thank you for your letter concerning several bills favorably reported out of the Committee on Energy and Commerce to address the opioid epidemic and which the Committee on Ways and Means was granted an additional referral.

As a result of your having consulted with us on provisions within these bills that fall within the Rule X jurisdiction of the Committee on Ways and Means, I agree to waive formal consideration of the following bills so that they may move expeditiously to the floor:

- **H.R. 1925**, At-Risk Youth Medicaid Protection Act of 2017;
- **H.R. 3331**, To amend title XI of the Social Security Act to promote testing of incentive payments for behavioral health providers for adoption and use of certified electronic health record technology;
- **H.R. 3528**, Every Prescription Conveyed Securely Act;
- **H.R. 4841**, Standardizing Electronic Prior Authorization for Safe Prescribing Act of 2018;
- **H.R. 5582**, Abuse Deterrent Access Act of 2018;
- **H.R. 5590**, Opioid Addiction Action Plan Act;
- **H.R. 5603**, Access to Telehealth Services for Opioid Use Disorder;
- **H.R. 5605**, Advancing High Quality Treatment for Opioid Use Disorders in Medicare Act;

- **H.R. 5675**, To amend title XVIII of the Social Security Act to require prescription drug plan sponsors under the Medicare program to establish drug management programs for at-risk beneficiaries;
- **H.R. 5684**, Protecting Seniors from Opioid Abuse Act;
- **H.R. 5685**, Medicare Opioid Safety Education Act;
- **H.R. 5686**, Medicare Clear Health Options in Care for Enrollees (CHOICE) Act;
- **H.R. 5715**, Strengthening Partnerships to Prevent Opioid Abuse Act;
- **H.R. 5716**, Commit to Opioid Medical Prescriber Accountability and Safety for Seniors (COMPASS) Act;
- **H.R. 5796**, Responsible Education Achieves Care and Healthy Outcomes for Users' Treatment (REACH OUT) Act of 2018;
- **H.R. 5798**, Opioid Screening and Chronic Pain Management Alternatives for Seniors Act;
- **H.R. 5804**, Post-Surgical Injections as an Opioid Alternative Act; and
- **H.R. 5809**, Postoperative Opioid Prevention Act of 2018.

The Committee on Ways and Means takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and the Committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues that fall within our jurisdiction. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation and requests your support for such a request.

Finally, I would appreciate your commitment to include this exchange of letters in the bill reports and the Congressional Record.

Sincerely,



Kevin Brady  
Chairman

cc: The Honorable Paul Ryan, Speaker  
The Honorable Richard E. Neal  
The Honorable Frank Pallone  
Thomas J. Wickham, Jr., Parliamentarian

