

MEDICARE ADVANTAGE COVERAGE TRANSPARENCY ACT
OF 2015

JUNE 12, 2015.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. RYAN of Wisconsin, from the Committee on Ways and Means,
submitted the following

R E P O R T

[To accompany H.R. 2505]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2505) to amend title XVIII of the Social Security Act to require the annual reporting of data on enrollment in Medicare Advantage plans, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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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 “Medicare Advantage Coverage Transparency Act of 2015”.

SEC. 2. REQUIREMENT FOR ENROLLMENT DATA REPORTING FOR MEDICARE.

Section 1874 of the Social Security Act (42 U.S.C. 1395kk) is amended by adding at the end the following new subsection:

“(g) REQUIREMENT FOR ENROLLMENT DATA REPORTING.—

“(1) IN GENERAL.—Not later than May 1 of each year (beginning with 2016), the Secretary shall submit to 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 enrollment data (and, in the case of part A, on data on individuals receiving benefits under such part) for the plan year or, in the case of part A and part B, for the fiscal year or year (as applicable) ending before January 1 of such plan year, fiscal year, or year. Such enrollment data shall be presented—

“(A) by zip code, congressional district, and State;

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 2505, as reported by the Committee on Ways and Means on June 2, 2015, requires the Centers for Medicare and Medicaid Services to be more transparent by releasing Medicare enrollment data by zip code, Congressional District, and state.

B. BACKGROUND AND NEED FOR LEGISLATION

On May 21, 2015, Representative Kelly (R-PA), Representative Bilirakis (R-FL), and Representative Kind (D-WI) introduced H.R. 2505, which provides greater transparency into the enrollment numbers for Medicare Advantage, Part D, and Medicare fee-for-service by requiring an annual enrollment data report.

C. LEGISLATIVE HISTORY

Background

H.R. 2505 was introduced on May 21, 2015, and was referred to the Committee on Ways and Means and subsequently to the Committee on Energy and Commerce.

Committee Hearings

On July 24, 2014, the Committee on Ways and Means Subcommittee on Health held a hearing on the status of the Medicare Advantage program.

The panel of witnesses included the following:

Chris Wing, Chief Executive Officer, SCAN Health Plans
 Jeff Burnich, M.D., Senior Vice President & Executive Officer, Sutter Medical Network, (Sacramento, CA) on behalf of CAPG
 Robert Book, PhD, Senior Research Director, Health Systems Innovation Network, LLC
 Outside Healthcare and Economics Expert, American Action Forum
 Joe Baker, President, Medicare Rights Center

Committee Action

The Committee on Ways and Means marked up H.R. 2505, the Medicare Advantage Coverage Transparency Act of 2015 on June 2, 2015, and ordered the bill favorably reported to the House of Representatives as amended by a voice vote (with a quorum being present).

II. EXPLANATION OF THE BILL

Medicare Advantage Coverage Transparency Act of 2015

PRESENT LAW

Current law does not require the Centers for Medicare and Medicaid Services (CMS) to publish Medicare enrollment data by Congressional District, state, or zip code.

REASONS FOR CHANGE

CMS should provide a more transparent accounting of Medicare enrollment data to Congress and other relevant government offices so Committees of jurisdiction can better understand how Medicare is serving the health care needs of the nation as well as individual congressional districts. H.R. 2505 would require an annual report Medicare enrollment data so that Members of Congress have more accurate information regarding their constituents' use of the Medicare programs.

EXPLANATION OF PROVISION

The Medicare Advantage Coverage Transparency Act of 2015 creates a schedule for the annual reporting of enrollment data pertaining to Medicare Advantage plans, Part D plans, and Medicare Parts A and B for fee-for service. By implementing a deadline, federal offices will now receive this valuable data provided by zip code, congressional district, and state. Such transparency allows citizens and Congressional Members to better know and understand the scope of Medicare enrollment on a local level as well as the specific populations affected.

EFFECTIVE DATE

The bill would take effect beginning on January 1, 2016.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 2505, Medicare Advantage Coverage Transparency Act of 2015, on June 2, 2015.

The bill, H.R. 2505, was ordered favorably reported to the House of Representatives as amended by a voice-vote (with a quorum being present).

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 2505, as reported. The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO), which is included below as Insert A.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the bill involves no new or increased tax expenditures.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 12, 2015.

Hon. PAUL RYAN,
*Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2505, the Medicare Advantage Coverage Transparency Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Paul Masi.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 2505—Medicare Advantage Coverage Transparency Act of 2015

H.R. 2505 would require the Secretary of Health and Human Services to submit to the Congress data on enrollment in the Medicare Part A, Part B, Part C and Part D programs by zip code, congressional district, and state. The Secretary would be required to submit the data not later than May 1st of each calendar year beginning with 2016. CBO estimates that enacting H.R. 2505 would not have a significant budgetary effect, because the Centers for Medicare and Medicaid Services collect data on enrollment in Medicare under current law.

Enacting H.R. 2505 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2505 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local or tribal governments.

The CBO staff contact for this estimate is Paul Masi. The estimate was approved by Holly Harvey, Deputy Assistant Director for Budget Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 2505 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

E. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

F. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

**VI. CHANGES IN EXISTING LAW MADE BY THE BILL,
AS REPORTED**

A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS
REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

SOCIAL SECURITY ACT

* * * * *

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

* * * * *

PART E—MISCELLANEOUS PROVISIONS

* * * * *

ADMINISTRATION

SEC. 1874. (a) Except as otherwise provided in this title and in the Railroad Retirement Act of 1974, the insurance programs established by this title shall be administered by the Secretary. The Secretary may perform any of his functions under this title directly, or by contract providing for payment in advance or by way of reimbursement, and in such installments, as the Secretary may deem necessary.

(b) The Secretary may contract with any person, agency, or institution to secure on a reimbursable basis such special data, actuarial information, and other information as may be necessary in the carrying out of his functions under this title.

(c) In the course of any hearing, investigation, or other proceeding that he is authorized to conduct under this title, the Secretary may administer oaths and affirmations.

(d) INCLUSION OF MEDICARE PROVIDER AND SUPPLIER PAYMENTS IN FEDERAL PAYMENT LEVY PROGRAM.—

(1) IN GENERAL.—The Centers for Medicare & Medicaid Services shall take all necessary steps to participate in the Federal Payment Levy Program under section 6331(h) of the Internal Revenue Code of 1986 as soon as possible and shall ensure that—

(A) at least 50 percent of all payments under parts A and B are processed through such program beginning within 1 year after the date of the enactment of this section;

(B) at least 75 percent of all payments under parts A and B are processed through such program beginning within 2 years after such date; and

(C) all payments under parts A and B are processed through such program beginning not later than September 30, 2011.

(2) ASSISTANCE.—The Financial Management Service and the Internal Revenue Service shall provide assistance to the Centers for Medicare & Medicaid Services to ensure that all payments described in paragraph (1) are included in the Federal Payment Levy Program by the deadlines specified in that subsection.

(e) AVAILABILITY OF DATA.—

(1) IN GENERAL.—Subject to paragraph (4), the Secretary shall make available to qualified entities (as defined in paragraph (2)) data described in paragraph (3) for the evaluation of the performance of providers of services and suppliers.

(2) QUALIFIED ENTITIES.—For purposes of this subsection, the term “qualified entity” means a public or private entity that—

(A) is qualified (as determined by the Secretary) to use claims data to evaluate the performance of providers of services and suppliers on measures of quality, efficiency, effectiveness, and resource use; and

(B) agrees to meet the requirements described in paragraph (4) and meets such other requirements as the Secretary may specify, such as ensuring security of data.

(3) DATA DESCRIBED.—The data described in this paragraph are standardized extracts (as determined by the Secretary) of claims data under parts A, B, and D for items and services furnished under such parts for one or more specified geographic areas and time periods requested by a qualified entity. Beginning July 1, 2016, if the Secretary determines appropriate, the data described in this paragraph may also include standardized extracts (as determined by the Secretary) of claims data under titles XIX and XXI for assistance provided under such titles for one or more specified geographic areas and time periods requested by a qualified entity. The Secretary shall take such actions as the Secretary deems necessary to protect the identity of individuals entitled to or enrolled for benefits under such parts or under titles XIX or XXI.

(4) REQUIREMENTS.—

(A) FEE.—Data described in paragraph (3) shall be made available to a qualified entity under this subsection at a fee equal to the cost of making such data available. Any fee collected pursuant to the preceding sentence shall be deposited, for periods prior to July 1, 2016, into the Federal Supplementary Medical Insurance Trust Fund under section 1841, and, beginning July 1, 2016, into the Centers for Medicare & Medicaid Services Program Management Account.

(B) SPECIFICATION OF USES AND METHODOLOGIES.—A qualified entity requesting data under this subsection shall—

(i) submit to the Secretary a description of the methodologies that such qualified entity will use to evalu-

ate the performance of providers of services and suppliers using such data;

(ii)(I) except as provided in subclause (II), if available, use standard measures, such as measures endorsed by the entity with a contract under section 1890(a) and measures developed pursuant to section 931 of the Public Health Service Act; or

(II) use alternative measures if the Secretary, in consultation with appropriate stakeholders, determines that use of such alternative measures would be more valid, reliable, responsive to consumer preferences, cost-effective, or relevant to dimensions of quality and resource use not addressed by such standard measures;

(iii) include data made available under this subsection with claims data from sources other than claims data under this title in the evaluation of performance of providers of services and suppliers;

(iv) only include information on the evaluation of performance of providers and suppliers in reports described in subparagraph (C);

(v) make available to providers of services and suppliers, upon their request, data made available under this subsection; and

(vi) prior to their release, submit to the Secretary the format of reports under subparagraph (C).

(C) REPORTS.—Any report by a qualified entity evaluating the performance of providers of services and suppliers using data made available under this subsection shall—

(i) include an understandable description of the measures, which shall include quality measures and the rationale for use of other measures described in subparagraph (B)(ii)(II), risk adjustment methods, physician attribution methods, other applicable methods, data specifications and limitations, and the sponsors, so that consumers, providers of services and suppliers, health plans, researchers, and other stakeholders can assess such reports;

(ii) be made available confidentially, to any provider of services or supplier to be identified in such report, prior to the public release of such report, and provide an opportunity to appeal and correct errors;

(iii) only include information on a provider of services or supplier in an aggregate form as determined appropriate by the Secretary; and

(iv) except as described in clause (ii), be made available to the public.

(D) APPROVAL AND LIMITATION OF USES.—The Secretary shall not make data described in paragraph (3) available to a qualified entity unless the qualified entity agrees to release the information on the evaluation of performance of providers of services and suppliers. Such entity shall only use such data, and information derived from such evaluation, for the reports under subparagraph (C). Data

released to a qualified entity under this subsection shall not be subject to discovery or admission as evidence in judicial or administrative proceedings without consent of the applicable provider of services or supplier.

(f) REQUIREMENT FOR THE SECRETARY TO ESTABLISH POLICIES AND CLAIMS EDITS RELATING TO INCARCERATED INDIVIDUALS, INDIVIDUALS NOT LAWFULLY PRESENT, AND DECEASED INDIVIDUALS.—The Secretary shall establish and maintain procedures, including procedures for using claims processing edits, updating eligibility information to improve provider accessibility, and conducting recoupment activities such as through recovery audit contractors, in order to ensure that payment is not made under this title for items and services furnished to an individual who is one of the following:

- (1) An individual who is incarcerated.
- (2) An individual who is not lawfully present in the United States and who is not eligible for coverage under this title.
- (3) A deceased individual.

* * * * *

B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, 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 E—MISCELLANEOUS PROVISIONS

* * * * *

ADMINISTRATION

SEC. 1874. (a) Except as otherwise provided in this title and in the Railroad Retirement Act of 1974, the insurance programs established by this title shall be administered by the Secretary. The Secretary may perform any of his functions under this title directly, or by contract providing for payment in advance or by way of reimbursement, and in such installments, as the Secretary may deem necessary.

(b) The Secretary may contract with any person, agency, or institution to secure on a reimbursable basis such special data, actuarial information, and other information as may be necessary in the carrying out of his functions under this title.

(c) In the course of any hearing, investigation, or other proceeding that he is authorized to conduct under this title, the Secretary may administer oaths and affirmations.

(d) INCLUSION OF MEDICARE PROVIDER AND SUPPLIER PAYMENTS IN FEDERAL PAYMENT LEVY PROGRAM.—

(1) IN GENERAL.—The Centers for Medicare & Medicaid Services shall take all necessary steps to participate in the Federal Payment Levy Program under section 6331(h) of the Internal Revenue Code of 1986 as soon as possible and shall ensure that—

(A) at least 50 percent of all payments under parts A and B are processed through such program beginning within 1 year after the date of the enactment of this section;

(B) at least 75 percent of all payments under parts A and B are processed through such program beginning within 2 years after such date; and

(C) all payments under parts A and B are processed through such program beginning not later than September 30, 2011.

(2) ASSISTANCE.—The Financial Management Service and the Internal Revenue Service shall provide assistance to the Centers for Medicare & Medicaid Services to ensure that all payments described in paragraph (1) are included in the Federal Payment Levy Program by the deadlines specified in that subsection.

(e) AVAILABILITY OF DATA.—

(1) IN GENERAL.—Subject to paragraph (4), the Secretary shall make available to qualified entities (as defined in paragraph (2)) data described in paragraph (3) for the evaluation of the performance of providers of services and suppliers.

(2) QUALIFIED ENTITIES.—For purposes of this subsection, the term “qualified entity” means a public or private entity that—

(A) is qualified (as determined by the Secretary) to use claims data to evaluate the performance of providers of services and suppliers on measures of quality, efficiency, effectiveness, and resource use; and

(B) agrees to meet the requirements described in paragraph (4) and meets such other requirements as the Secretary may specify, such as ensuring security of data.

(3) DATA DESCRIBED.—The data described in this paragraph are standardized extracts (as determined by the Secretary) of claims data under parts A, B, and D for items and services furnished under such parts for one or more specified geographic areas and time periods requested by a qualified entity. Beginning July 1, 2016, if the Secretary determines appropriate, the data described in this paragraph may also include standardized extracts (as determined by the Secretary) of claims data under titles XIX and XXI for assistance provided under such titles for one or more specified geographic areas and time periods requested by a qualified entity. The Secretary shall take such actions as the Secretary deems necessary to protect the identity of individuals entitled to or enrolled for benefits under such parts or under titles XIX or XXI.

(4) REQUIREMENTS.—

(A) FEE.—Data described in paragraph (3) shall be made available to a qualified entity under this subsection at a fee equal to the cost of making such data available. Any

fee collected pursuant to the preceding sentence shall be deposited, for periods prior to July 1, 2016, into the Federal Supplementary Medical Insurance Trust Fund under section 1841, and, beginning July 1, 2016, into the Centers for Medicare & Medicaid Services Program Management Account.

(B) SPECIFICATION OF USES AND METHODOLOGIES.—A qualified entity requesting data under this subsection shall—

(i) submit to the Secretary a description of the methodologies that such qualified entity will use to evaluate the performance of providers of services and suppliers using such data;

(ii)(I) except as provided in subclause (II), if available, use standard measures, such as measures endorsed by the entity with a contract under section 1890(a) and measures developed pursuant to section 931 of the Public Health Service Act; or

(II) use alternative measures if the Secretary, in consultation with appropriate stakeholders, determines that use of such alternative measures would be more valid, reliable, responsive to consumer preferences, cost-effective, or relevant to dimensions of quality and resource use not addressed by such standard measures;

(iii) include data made available under this subsection with claims data from sources other than claims data under this title in the evaluation of performance of providers of services and suppliers;

(iv) only include information on the evaluation of performance of providers and suppliers in reports described in subparagraph (C);

(v) make available to providers of services and suppliers, upon their request, data made available under this subsection; and

(vi) prior to their release, submit to the Secretary the format of reports under subparagraph (C).

(C) REPORTS.—Any report by a qualified entity evaluating the performance of providers of services and suppliers using data made available under this subsection shall—

(i) include an understandable description of the measures, which shall include quality measures and the rationale for use of other measures described in subparagraph (B)(ii)(II), risk adjustment methods, physician attribution methods, other applicable methods, data specifications and limitations, and the sponsors, so that consumers, providers of services and suppliers, health plans, researchers, and other stakeholders can assess such reports;

(ii) be made available confidentially, to any provider of services or supplier to be identified in such report, prior to the public release of such report, and provide an opportunity to appeal and correct errors;

(iii) only include information on a provider of services or supplier in an aggregate form as determined appropriate by the Secretary; and

(iv) except as described in clause (ii), be made available to the public.

(D) APPROVAL AND LIMITATION OF USES.—The Secretary shall not make data described in paragraph (3) available to a qualified entity unless the qualified entity agrees to release the information on the evaluation of performance of providers of services and suppliers. Such entity shall only use such data, and information derived from such evaluation, for the reports under subparagraph (C). Data released to a qualified entity under this subsection shall not be subject to discovery or admission as evidence in judicial or administrative proceedings without consent of the applicable provider of services or supplier.

(f) REQUIREMENT FOR THE SECRETARY TO ESTABLISH POLICIES AND CLAIMS EDITS RELATING TO INCARCERATED INDIVIDUALS, INDIVIDUALS NOT LAWFULLY PRESENT, AND DECEASED INDIVIDUALS.—The Secretary shall establish and maintain procedures, including procedures for using claims processing edits, updating eligibility information to improve provider accessibility, and conducting recoupment activities such as through recovery audit contractors, in order to ensure that payment is not made under this title for items and services furnished to an individual who is one of the following:

(1) An individual who is incarcerated.

(2) An individual who is not lawfully present in the United States and who is not eligible for coverage under this title.

(3) A deceased individual.

(g) REQUIREMENT FOR ENROLLMENT DATA REPORTING.—

(1) IN GENERAL.—*Not later than May 1 of each year (beginning with 2016), the Secretary shall submit to 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 enrollment data (and, in the case of part A, on data on individuals receiving benefits under such part) for the plan year or, in the case of part A and part B, for the fiscal year or year (as applicable) ending before January 1 of such plan year, fiscal year, or year. Such enrollment data shall be presented—*

(A) by zip code, congressional district, and State;

(B) in a manner that provides for such data based on enrollment (including receipt of benefits other than through enrollment) under part A, enrollment under part B, enrollment under an MA plan under part C, and enrollment under part D; and

(C) in the case of enrollment data described in subparagraph (B) relating to MA plans, presented in a manner that provides for such data for each MA–PD plan and for each MA plan that is not an MA–PD plan.

(2) DELAY OF DEADLINE.—*If the Secretary is unable to submit a report under paragraph (1) by May 1 of a year for data of the plan year, fiscal year, or year (as applicable) ending before January 1 of such year, the Secretary shall, not later than April*

30 of such year, notify the committees described in such paragraph of—

(A) such inability, including an explanation for such inability; and

(B) the date by which the Secretary will provide such report, which shall be not later than June 1 of such year.

* * * * *

