

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1041

To amend title XVIII of the Social Security Act to repeal the Medicare competitive acquisition program for durable medical equipment and prosthetics, orthotics, and supplies (DMEPOS).

---

## IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2011

Mr. THOMPSON of Pennsylvania (for himself and Mr. ALTMIRE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Appropriations and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To amend title XVIII of the Social Security Act to repeal the Medicare competitive acquisition program for durable medical equipment and prosthetics, orthotics, and supplies (DMEPOS).

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness in Medicare  
5 Bidding Act” or “FIMBA”.

1 **SEC. 2. REPEAL OF MEDICARE DMEPOS COMPETITIVE AC-**  
2 **QUISITION PROGRAM.**

3 (a) IN GENERAL.—Section 1847 of the Social Secu-  
4 rity Act (42 U.S.C. 1395w–3) is repealed.

5 (b) EFFECTIVE DATE.—

6 (1) IN GENERAL.—The repeal made by sub-  
7 section (a) shall take effect on the date of the enact-  
8 ment of this Act.

9 (2) IMPACT ON CURRENT CONTRACTS.—In the  
10 case of any contract awarded under section 1847 of  
11 the Social Security Act before the date of the repeal  
12 of such section—

13 (A) the contract is terminated;

14 (B) no payment shall be made under title  
15 XVIII of such Act on or after the date of the  
16 enactment of this Act based on such a contract;  
17 and

18 (C) to the extent that any damages may be  
19 applicable as a result of the termination of such  
20 contracts, such damages shall be payable from  
21 the Federal Supplementary Medical Insurance  
22 Trust Fund under section 1841 of such Act.

23 (3) CONSTRUCTION.—Nothing in this sub-  
24 section shall be construed to provide an independent  
25 cause of action or right to administrative or judicial

1 review with regard to the termination provided  
2 under this subsection.

3 **SEC. 3. OFFSET THROUGH RESCISSION OF UNSPENT FED-**  
4 **ERAL FUNDS.**

5 (a) IN GENERAL.—Of the unobligated balances of all  
6 discretionary appropriations, \$20,000,000,000 is hereby  
7 rescinded.

8 (b) IMPLEMENTATION.—The Director of the Office of  
9 Management and Budget shall determine and identify  
10 each account, program, project, and activity to which the  
11 rescission under subsection (a) shall apply and the amount  
12 of such rescission that shall apply to each such account,  
13 program, project, and activity. Not later than 60 days  
14 after the date of the enactment of this Act, the Director  
15 of the Office of Management and Budget shall submit a  
16 report to the Secretary of the Treasury and Congress of  
17 the accounts, programs, projects, and activities and  
18 amounts determined and identified for rescission under  
19 the preceding sentence.

20 (c) EXCEPTION.—This section shall not apply to any  
21 account of the Department of Defense or the Department  
22 of Veterans Affairs.

○