

114TH CONGRESS
2^D SESSION

H. R. 5210

IN THE SENATE OF THE UNITED STATES

JULY 6, 2016

Received; read twice and referred to the Committee on Finance

AN ACT

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

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

1 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. INCREASING OVERSIGHT OF TERMINATION OF**
6 **MEDICAID PROVIDERS.**

7 (a) INCREASED OVERSIGHT AND REPORTING.—

8 (1) STATE REPORTING REQUIREMENTS.—Sec-
9 tion 1902(kk) of the Social Security Act (42 U.S.C.
10 1396a(kk)) is amended—

11 (A) by redesignating paragraph (8) as
12 paragraph (9); and

13 (B) by inserting after paragraph (7) the
14 following new paragraph:

15 “(8) PROVIDER TERMINATIONS.—

16 “(A) IN GENERAL.—Beginning on July 1,
17 2018, in the case of a notification under sub-
18 section (a)(41) with respect to a termination for
19 a reason specified in section 455.101 of title 42,
20 Code of Federal Regulations (as in effect on
21 November 1, 2015) or for any other reason
22 specified by the Secretary, of the participation
23 of a provider of services or any other person
24 under the State plan (or under a waiver of the
25 plan), the State, not later than 21 business
26 days after the effective date of such termi-

1 nation, submits to the Secretary with respect to
2 any such provider or person, as appropriate—

3 “(i) the name of such provider or per-
4 son;

5 “(ii) the provider type of such pro-
6 vider or person;

7 “(iii) the specialty of such provider’s
8 or person’s practice;

9 “(iv) the date of birth, Social Security
10 number, national provider identifier, Fed-
11 eral taxpayer identification number, and
12 the State license or certification number of
13 such provider or person;

14 “(v) the reason for the termination;

15 “(vi) a copy of the notice of termi-
16 nation sent to the provider or person;

17 “(vii) the date on which such termi-
18 nation is effective, as specified in the no-
19 tice; and

20 “(viii) any other information required
21 by the Secretary.

22 “(B) EFFECTIVE DATE DEFINED.—For
23 purposes of this paragraph, the term ‘effective
24 date’ means, with respect to a termination de-
25 scribed in subparagraph (A), the later of—

1 “(i) the date on which such termi-
2 nation is effective, as specified in the no-
3 tice of such termination; or

4 “(ii) the date on which all appeal
5 rights applicable to such termination have
6 been exhausted or the timeline for any
7 such appeal has expired.”.

8 (2) CONTRACT REQUIREMENT FOR MANAGED
9 CARE ENTITIES.—Section 1932(d) of the Social Se-
10 curity Act (42 U.S.C. 1396u–2(d)) is amended by
11 adding at the end the following new paragraph:

12 “(5) CONTRACT REQUIREMENT FOR MANAGED
13 CARE ENTITIES.—With respect to any contract with
14 a managed care entity under section 1903(m) or
15 1905(t)(3) (as applicable), no later than July 1,
16 2018, such contract shall include a provision that
17 providers of services or persons terminated (as de-
18 scribed in section 1902(kk)(8)) from participation
19 under this title, title XVIII, or title XXI be termi-
20 nated from participating under this title as a pro-
21 vider in any network of such entity that serves indi-
22 viduals eligible to receive medical assistance under
23 this title.”.

24 (3) TERMINATION NOTIFICATION DATABASE.—
25 Section 1902 of the Social Security Act (42 U.S.C.

1 1396a) is amended by adding at the end the fol-
2 lowing new subsection:

3 “(ll) TERMINATION NOTIFICATION DATABASE.—In
4 the case of a provider of services or any other person
5 whose participation under this title, title XVIII, or title
6 XXI is terminated (as described in subsection (kk)(8)),
7 the Secretary shall, not later than 21 business days after
8 the date on which the Secretary terminates such participa-
9 tion under title XVIII or is notified of such termination
10 under subsection (a)(41) (as applicable), review such ter-
11 mination and, if the Secretary determines appropriate, in-
12 clude such termination in any database or similar system
13 developed pursuant to section 6401(b)(2) of the Patient
14 Protection and Affordable Care Act (42 U.S.C. 1395cc
15 note; Public Law 111–148).”.

16 (4) NO FEDERAL FUNDS FOR ITEMS AND SERV-
17 ICES FURNISHED BY TERMINATED PROVIDERS.—
18 Section 1903 of the Social Security Act (42 U.S.C.
19 1396b) is amended—

20 (A) in subsection (i)(2)—

21 (i) in subparagraph (A), by striking
22 the comma at the end and inserting a
23 semicolon;

24 (ii) in subparagraph (B), by striking
25 “or” at the end; and

1 (iii) by adding at the end the fol-
2 lowing new subparagraph:

3 “(D) beginning not later than July 1,
4 2018, under the plan by any provider of serv-
5 ices or person whose participation in the State
6 plan is terminated (as described in section
7 1902(kk)(8)) after the date that is 60 days
8 after the date on which such termination is in-
9 cluded in the database or other system under
10 section 1902(ll); or”; and

11 (B) in subsection (m), by inserting after
12 paragraph (2) the following new paragraph:

13 “(3) No payment shall be made under this title to
14 a State with respect to expenditures incurred by the State
15 for payment for services provided by a managed care enti-
16 ty (as defined under section 1932(a)(1)) under the State
17 plan under this title (or under a waiver of the plan) unless
18 the State—

19 “(A) beginning on July 1, 2018, has a contract
20 with such entity that complies with the requirement
21 specified in section 1932(d)(5); and

22 “(B) beginning on January 1, 2018, complies
23 with the requirement specified in section
24 1932(d)(6)(A).”.

1 (5) DEVELOPMENT OF UNIFORM TERMINOLOGY
2 FOR REASONS FOR PROVIDER TERMINATION.—Not
3 later than July 1, 2017, the Secretary of Health and
4 Human Services shall, in consultation with the
5 heads of State agencies administering State Med-
6 icaid plans (or waivers of such plans), issue regula-
7 tions establishing uniform terminology to be used
8 with respect to specifying reasons under subpara-
9 graph (A)(v) of paragraph (8) of section 1902(kk)
10 of the Social Security Act (42 U.S.C. 1396a(kk)), as
11 amended by paragraph (1), for the termination (as
12 described in such paragraph) of the participation of
13 certain providers in the Medicaid program under
14 title XIX of such Act or the Children’s Health In-
15 surance Program under title XXI of such Act.

16 (6) CONFORMING AMENDMENT.—Section
17 1902(a)(41) of the Social Security Act (42 U.S.C.
18 1396a(a)(41)) is amended by striking “provide that
19 whenever” and inserting “provide, in accordance
20 with subsection (kk)(8) (as applicable), that when-
21 ever”.

22 (b) INCREASING AVAILABILITY OF MEDICAID PRO-
23 VIDER INFORMATION.—

24 (1) FFS PROVIDER ENROLLMENT.—Section
25 1902(a) of the Social Security Act (42 U.S.C.

1 1396a(a)) is amended by inserting after paragraph
2 (77) the following new paragraph:

3 “(78) provide that, not later than January 1,
4 2017, in the case of a State plan (or a waiver of the
5 plan) that provides medical assistance on a fee-for-
6 service basis, the State shall require each provider
7 furnishing items and services to individuals eligible
8 to receive medical assistance under such plan to en-
9 roll with the State agency and provide to the State
10 agency the provider’s identifying information, includ-
11 ing the name, specialty, date of birth, Social Secu-
12 rity number, national provider identifier, Federal
13 taxpayer identification number, and the State license
14 or certification number of the provider;”.

15 (2) MANAGED CARE PROVIDER ENROLLMENT.—
16 Section 1932(d) of the Social Security Act (42
17 U.S.C. 1396u–2(d)), as amended by subsection
18 (a)(2), is amended by adding at the end the fol-
19 lowing new paragraph:

20 “(6) ENROLLMENT OF PARTICIPATING PRO-
21 VIDERS.—

22 “(A) IN GENERAL.—Beginning not later
23 than January 1, 2018, a State shall require
24 that, in order to participate as a provider in the
25 network of a managed care entity that provides

1 services to, or orders, prescribes, refers, or cer-
2 tifies eligibility for services for, individuals who
3 are eligible for medical assistance under the
4 State plan under this title (or under a waiver
5 of the plan) and who are enrolled with the enti-
6 ty, the provider is enrolled with the State agen-
7 cy administering the State plan under this title
8 (or waiver of the plan). Such enrollment shall
9 include providing to the State agency the pro-
10 vider’s identifying information, including the
11 name, specialty, date of birth, Social Security
12 number, national provider identifier, Federal
13 taxpayer identification number, and the State
14 license or certification number of the provider.

15 “(B) RULE OF CONSTRUCTION.—Nothing
16 in subparagraph (A) shall be construed as re-
17 quiring a provider described in such subpara-
18 graph to provide services to individuals who are
19 not enrolled with a managed care entity under
20 this title.”.

21 (c) COORDINATION WITH CHIP.—

22 (1) IN GENERAL.—Section 2107(e)(1) of the
23 Social Security Act (42 U.S.C. 1397gg(e)(1)) is
24 amended—

1 (A) by redesignating subparagraphs (B),
2 (C), (D), (E), (F), (G), (H), (I), (J), (K), (L),
3 (M), (N), and (O) as subparagraphs (D), (E),
4 (F), (G), (H), (I), (J), (K), (M), (N), (O), (P),
5 (Q), and (R), respectively;

6 (B) by inserting after subparagraph (A)
7 the following new subparagraphs:

8 “(B) Section 1902(a)(39) (relating to ter-
9 mination of participation of certain providers).

10 “(C) Section 1902(a)(78) (relating to en-
11 rollment of providers participating in State
12 plans providing medical assistance on a fee-for-
13 service basis).”;

14 (C) by inserting after subparagraph (K)
15 (as redesignated by subparagraph (A)) the fol-
16 lowing new subparagraph:

17 “(L) Section 1903(m)(3) (relating to limi-
18 tation on payment with respect to managed
19 care).”; and

20 (D) in subparagraph (P) (as redesignated
21 by subparagraph (A)), by striking “(a)(2)(C)
22 and (h)” and inserting “(a)(2)(C) (relating to
23 Indian enrollment), (d)(5) (relating to contract
24 requirement for managed care entities), (d)(6)
25 (relating to enrollment of providers partici-

1 pating with a managed care entity), and (h)
2 (relating to special rules with respect to Indian
3 enrollees, Indian health care providers, and In-
4 dian managed care entities)”.

5 (2) EXCLUDING FROM MEDICAID PROVIDERS
6 EXCLUDED FROM CHIP.—Section 1902(a)(39) of the
7 Social Security Act (42 U.S.C. 1396a(a)(39)) is
8 amended by striking “title XVIII or any other State
9 plan under this title” and inserting “title XVIII, any
10 other State plan under this title (or waiver of the
11 plan), or any State child health plan under title XXI
12 (or waiver of the plan)”.

13 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed as changing or limiting the appeal
15 rights of providers or the process for appeals of States
16 under the Social Security Act.

17 (e) OIG REPORT.—Not later than March 31, 2020,
18 the Inspector General of the Department of Health and
19 Human Services shall submit to Congress a report on the
20 implementation of the amendments made by this section.
21 Such report shall include the following:

22 (1) An assessment of the extent to which pro-
23 viders who are included under subsection (l) of sec-
24 tion 1902 of the Social Security Act (42 U.S.C.
25 1396a) (as added by subsection (a)(3)) in the data-

1 base or similar system referred to in such subsection
2 are terminated (as described in subsection (kk)(8) of
3 such section, as added by subsection (a)(1)) from
4 participation in all State plans under title XIX of
5 such Act (or waivers of such plans).

6 (2) Information on the amount of Federal fi-
7 nancial participation paid to States under section
8 1903 of such Act in violation of the limitation on
9 such payment specified in subsections (i)(2)(D) and
10 (m)(3) of such section, as added by subsection (a)(4)
11 of this section.

12 (3) An assessment of the extent to which con-
13 tracts with managed care entities under title XIX of
14 such Act comply with the requirement specified in
15 section 1932(d)(5) of such Act, as added by sub-
16 section (a)(2) of this section.

17 (4) An assessment of the extent to which pro-
18 viders have been enrolled under section 1902(a)(78)
19 or 1932(d)(6)(A) of such Act (42 U.S.C.
20 1396a(a)(78), 1396u-2(d)(6)(A)) with State agen-
21 cies administering State plans under title XIX of
22 such Act (or waivers of such plans).

1 **SEC. 3. REQUIRING PUBLICATION OF FEE-FOR-SERVICE**
2 **PROVIDER DIRECTORY.**

3 (a) IN GENERAL.—Section 1902(a) of the Social Se-
4 curity Act (42 U.S.C. 1396a(a)) is amended—

5 (1) in paragraph (80), by striking “and” at the
6 end;

7 (2) in paragraph (81), by striking the period at
8 the end and inserting “; and”; and

9 (3) by inserting after paragraph (81) the fol-
10 lowing new paragraph:

11 “(82) provide that, not later than January 1,
12 2017, in the case of a State plan (or waiver of the
13 plan) that provides medical assistance on a fee-for-
14 service basis or through a primary care case-man-
15 agement system described in section 1915(b)(1)
16 (other than a primary care case management entity
17 (as defined by the Secretary)), the State shall pub-
18 lish (and update on at least an annual basis) on the
19 public Website of the State agency administering the
20 State plan, a directory of the physicians described in
21 subsection (mm) and, at State option, other pro-
22 viders described in such subsection that—

23 “(A) includes—

24 “(i) with respect to each such physi-
25 cian or provider—

1 “(I) the name of the physician or
2 provider;

3 “(II) the specialty of the physi-
4 cian or provider;

5 “(III) the address at which the
6 physician or provider provides serv-
7 ices; and

8 “(IV) the telephone number of
9 the physician or provider; and

10 “(ii) with respect to any such physi-
11 cian or provider participating in such a
12 primary care case-management system, in-
13 formation regarding—

14 “(I) whether the physician or
15 provider is accepting as new patients
16 individuals who receive medical assist-
17 ance under this title; and

18 “(II) the physician’s or provider’s
19 cultural and linguistic capabilities, in-
20 cluding the languages spoken by the
21 physician or provider or by the skilled
22 medical interpreter providing interpre-
23 tation services at the physician’s or
24 provider’s office; and

1 “(B) may include, at State option, with re-
2 spect to each such physician or provider—

3 “(i) the Internet website of such phy-
4 sician or provider; or

5 “(ii) whether the physician or provider
6 is accepting as new patients individuals
7 who receive medical assistance under this
8 title.”.

9 (b) DIRECTORY PHYSICIAN OR PROVIDER DE-
10 SCRIBED.—Section 1902 of the Social Security Act (42
11 U.S.C. 1396a), as amended by section 2(a)(3), is further
12 amended by adding at the end the following new sub-
13 section:

14 “(mm) DIRECTORY PHYSICIAN OR PROVIDER DE-
15 SCRIBED.—A physician or provider described in this sub-
16 section is—

17 “(1) in the case of a physician or provider of
18 a provider type for which the State agency, as a con-
19 dition on receiving payment for items and services
20 furnished by the physician or provider to individuals
21 eligible to receive medical assistance under the State
22 plan, requires the enrollment of the physician or pro-
23 vider with the State agency, a physician or a pro-
24 vider that—

1 “(A) is enrolled with the agency as of the
2 date on which the directory is published or up-
3 dated (as applicable) under subsection (a)(82);
4 and

5 “(B) received payment under the State
6 plan in the 12-month period preceding such
7 date; and

8 “(2) in the case of a physician or provider of
9 a provider type for which the State agency does not
10 require such enrollment, a physician or provider that
11 received payment under the State plan (or waiver of
12 the plan) in the 12-month period preceding the date
13 on which the directory is published or updated (as
14 applicable) under subsection (a)(82).”.

15 (c) RULE OF CONSTRUCTION.—

16 (1) IN GENERAL.—The amendment made by
17 subsection (a) shall not be construed to apply in the
18 case of a State (as defined for purposes of title XIX
19 of the Social Security Act) in which all the individ-
20 uals enrolled in the State plan under such title (or
21 under a waiver of such plan), other than individuals
22 described in paragraph (2), are enrolled with a med-
23 icaid managed care organization (as defined in sec-
24 tion 1903(m)(1)(A) of such Act (42 U.S.C.
25 1396b(m)(1)(A))), including prepaid inpatient health

1 plans and prepaid ambulatory health plans (as de-
2 fined by the Secretary of Health and Human Serv-
3 ices).

4 (2) INDIVIDUALS DESCRIBED.—An individual
5 described in this paragraph is an individual who is
6 an Indian (as defined in section 4 of the Indian
7 Health Care Improvement Act (25 U.S.C. 1603)) or
8 an Alaska Native.

9 (d) EXCEPTION FOR STATE LEGISLATION.—In the
10 case of a State plan under title XIX of the Social Security
11 Act (42 U.S.C. 1396 et seq.), which the Secretary of
12 Health and Human Services determines requires State
13 legislation in order for the respective plan to meet one or
14 more additional requirements imposed by amendments
15 made by this section, the respective plan shall not be re-
16 garded as failing to comply with the requirements of such
17 title solely on the basis of its failure to meet such an addi-
18 tional requirement before the first day of the first calendar
19 quarter beginning after the close of the first regular ses-
20 sion of the State legislature that begins after the date of
21 enactment of this Act. For purposes of the previous sen-
22 tence, in the case of a State that has a 2-year legislative
23 session, each year of the session shall be considered to be
24 a separate regular session of the State legislature.

1 **SEC. 4. EXTENSION OF THE TRANSITION TO NEW PAYMENT**
2 **RATES FOR DURABLE MEDICAL EQUIPMENT**
3 **UNDER THE MEDICARE PROGRAM.**

4 (a) IN GENERAL.—The Secretary of Health and
5 Human Services shall extend the transition period de-
6 scribed in clause (i) of section 414.210(g)(9) of title 42,
7 Code of Federal Regulations, from June 30, 2016, to Sep-
8 tember 30, 2016 (with the full implementation described
9 in clause (ii) of such section applying to items and services
10 furnished with dates of service on or after October 1,
11 2016).

12 (b) STUDY AND REPORT.—

13 (1) STUDY.—

14 (A) IN GENERAL.—The Secretary of
15 Health and Human Services shall conduct a
16 study that examines the impact of applicable
17 payment adjustments upon—

18 (i) the number of suppliers of durable
19 medical equipment that, on a date that is
20 not before January 1, 2016, and not later
21 than September 1, 2016, ceased to conduct
22 business as such suppliers; and

23 (ii) the availability of durable medical
24 equipment, during the period beginning on
25 January 1, 2016, and ending on Sep-
26 tember 1, 2016, to individuals entitled to

1 benefits under part A of title XVIII of the
2 Social Security Act (42 U.S.C. 1395 et
3 seq.) or enrolled under part B of such title.

4 (B) DEFINITIONS.—For purposes of this
5 subsection, the following definitions apply:

6 (i) SUPPLIER; DURABLE MEDICAL
7 EQUIPMENT.—The terms “supplier” and
8 “durable medical equipment” have the
9 meanings given such terms by section 1861
10 of the Social Security Act (42 U.S.C.
11 1395x).

12 (ii) APPLICABLE PAYMENT ADJUST-
13 MENT.—The term “applicable payment ad-
14 justment” means a payment adjustment
15 described in section 414.210(g) of title 42,
16 Code of Federal Regulations, that is
17 phased in by paragraph (9)(i) of such sec-
18 tion. For purposes of the preceding sen-
19 tence, a payment adjustment that is
20 phased in pursuant to the extension under
21 subsection (a) shall be considered a pay-
22 ment adjustment that is phased in by such
23 paragraph (9)(i).

24 (2) REPORT.—The Secretary of Health and
25 Human Services shall, not later than September 10,

1 2016, submit to the Committees on Ways and
2 Means and on Energy and Commerce of the House
3 of Representatives, and to the Committee on Fi-
4 nance of the Senate, a report on the findings of the
5 study conducted under paragraph (1).

6 **SEC. 5. EXCLUSION OF PAYMENTS FROM STATE EUGENICS**
7 **COMPENSATION PROGRAMS FROM CONSID-**
8 **ERATION IN DETERMINING ELIGIBILITY FOR,**
9 **OR THE AMOUNT OF, FEDERAL PUBLIC BENE-**
10 **FITS.**

11 (a) IN GENERAL.—Notwithstanding any other provi-
12 sion of law, payments made under a State eugenics com-
13 pensation program shall not be considered as income or
14 resources in determining eligibility for, or the amount of,
15 any Federal public benefit.

16 (b) DEFINITIONS.—For purposes of this section:

17 (1) FEDERAL PUBLIC BENEFIT.—The term
18 “Federal public benefit” means—

19 (A) any grant, contract, loan, professional
20 license, or commercial license provided by an
21 agency of the United States or by appropriated
22 funds of the United States; and

23 (B) any retirement, welfare, health, dis-
24 ability, public or assisted housing, postsec-
25 ondary education, food assistance, unemploy-

1 ment benefit, or any other similar benefit for
2 which payments or assistance are provided to
3 an individual, household, or family eligibility
4 unit by an agency of the United States or by
5 appropriated funds of the United States.

6 (2) STATE EUGENICS COMPENSATION PRO-
7 GRAM.—The term “State eugenics compensation
8 program” means a program established by State law
9 that is intended to compensate individuals who were
10 sterilized under the authority of the State.

11 **SEC. 6. DEPOSIT OF SAVINGS INTO MEDICARE IMPROVE-**
12 **MENT FUND.**

13 Section 1898(b)(1) of the Social Security Act (42
14 U.S.C. 1395iii(b)(1)) is amended by striking “\$0” and in-
15 serting “\$3,000,000”.

Passed the House of Representatives July 5, 2016.

Attest:

KAREN L. HAAS,

Clerk.