

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5389  
OFFERED BY M . \_\_\_\_\_**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Coverage De-  
3 termination Transparency Act”.

**4 SEC. 2. ENSURING TRANSPARENCY IN THE NATIONAL COV-  
5 ERAGE DETERMINATION PROCESS UNDER  
6 THE MEDICARE PROGRAM.**

7 (a) IN GENERAL.—Section 1862(l) of the Social Se-  
8 curity Act (42 U.S.C. 1395y(l)) is amended by adding at  
9 the end the following new paragraph:

10 “(7) TRANSPARENCY IN NATIONAL COVERAGE  
11 DETERMINATIONS.—

12 “(A) IN GENERAL.—With respect to each  
13 document received by the Secretary on or after  
14 the date that is 6 months after the date of the  
15 enactment of this paragraph that identifies  
16 itself as a complete, formal request for a na-  
17 tional coverage determination (as described in  
18 the notice entitled ‘Medicare Program; Revised

1           Process for Making National Coverage Deter-  
2           minations’ (78 Fed. Reg. 48164) or a successor  
3           regulation), including a request for a reconsid-  
4           eration of such a determination, the Secretary  
5           shall, not later than 90 calendar days after re-  
6           ceipt of such document—

7                   “(i) determine whether such document  
8                   is a complete, formal request for a national  
9                   coverage determination; and

10                   “(ii) in the case that the Secretary  
11                   finds that such document is not a com-  
12                   plete, formal request for a national cov-  
13                   erage determination, directly transmit to  
14                   the entity submitting such document an  
15                   explanation of such finding that includes a  
16                   specification of additional information  
17                   needed to make such document a complete,  
18                   formal request for a national coverage de-  
19                   termination.

20                   “(B) RESUBMISSION OF DOCUMENT.—

21                   “(i) IN GENERAL.—In the case of a  
22                   document described in subparagraph (A)  
23                   with respect to which the Secretary has  
24                   made a finding described in clause (ii) of  
25                   such subparagraph, the entity submitting

1           such document may submit to the Sec-  
2           retary a revised document that includes the  
3           additional information specified in such  
4           clause with respect to such document.  
5           Such revised document shall be treated as  
6           a newly-received document for purposes of  
7           subparagraph (A).

8           “(ii) TECHNICAL ASSISTANCE.—The  
9           Secretary shall provide such technical as-  
10          sistance as is practicable in order to assist  
11          entities in submitting revised documents  
12          under clause (i).

13          “(C) PUBLICATION.—The Secretary shall  
14          make available on a publicly accessible website  
15          of the Centers for Medicare & Medicaid Serv-  
16          ices or other appropriate means a concise sum-  
17          mary of each complete, formal request for a na-  
18          tional coverage determination (as determined by  
19          the Secretary as described in subparagraph  
20          (A)(i)) not later than 30 business days after the  
21          date of such finding.”.

22          (b) INCLUSION OF CERTAIN TIME PERIODS IN AN-  
23          NUAL REPORTS.—Section 1869(f)(7)(A) of the Social Se-  
24          curity Act (42 U.S.C. 1395ff(f)(7)(A)) is amended by add-  
25          ing at the end the following new sentence: “Each such re-

1 port submitted on or after the date that is 6 months after  
2 the date of the enactment of this sentence shall include  
3 in such actual time periods with respect to such a request  
4 any intervening time between the receipt of such request  
5 by the Secretary and the Secretary's determination that  
6 such request was a complete, formal request.”.

