

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5389  
OFFERED BY MR. GUTHRIE OF KENTUCKY**

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 (whether physical or electronic) re-  
14 ceived by the Secretary on or after the date  
15 that is 90 days after the date of the enactment  
16 of this paragraph that identifies itself as a com-  
17 plete, formal request for a national coverage de-  
18 termination (as described in the notice entitled

1 ‘Medicare Program; Revised Process for Mak-  
2 ing National Coverage Determinations’ (78  
3 Fed. Reg. 48164) or a successor regulation), in-  
4 cluding a request for a reconsideration of such  
5 a determination, the Secretary shall, not later  
6 than 90 calendar days after receipt of such doc-  
7 ument—

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

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

21 “(B) RESUBMISSION OF DOCUMENT.—

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

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

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

14                   “(C) PUBLICATION.—The Secretary shall  
15           make available on a publicly accessible website  
16           of the Centers for Medicare & Medicaid Serv-  
17           ices or other appropriate means a concise sum-  
18           mary of each document that the Secretary has  
19           found to be a complete, formal request for a na-  
20           tional coverage determination (as described in  
21           subparagraph (A)(i)) not later than 7 business  
22           days after the date of such finding.”.

23           (b) INCLUSION OF CERTAIN TIME PERIODS IN AN-  
24           NUAL REPORTS.—Section 1869(f)(7)(A) of the Social Se-  
25           curity Act (42 U.S.C. 1395ff(f)(7)(A)) is amended by add-

1 ing at the end the following new sentence: “Each such re-  
2 port submitted on or after the date that is 90 days after  
3 the date of the enactment of this sentence shall include  
4 in such actual time periods with respect to such a request  
5 any intervening time between the receipt of such request  
6 by the Secretary and the Secretary’s determination that  
7 such request was a complete, formal request (as described  
8 in section 1861(l)(7)(B)(i)).”.

