

Suspend the Rules And Pass the Bill, H.R. 1570, With Amendments

(The amendments strike all after the enacting clause and insert a new text and a new title)

116TH CONGRESS
2^D SESSION

H. R. 1570

To amend title XVIII of the Social Security Act to waive coinsurance under Medicare for colorectal cancer screening tests, regardless of whether therapeutic intervention is required during the screening.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2019

Mr. PAYNE (for himself, Mr. RODNEY DAVIS of Illinois, Mr. MCEACHIN, Mr. MCKINLEY, Ms. BARRAGÁN, Mr. BISHOP of Georgia, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. BROWNLEY of California, Mr. CICILLINE, Mr. COURTNEY, Mr. DEFAZIO, Ms. DELAURO, Mr. DEUTCH, Mrs. DINGELL, Mr. ENGEL, Mr. EVANS, Mr. FOSTER, Ms. GABBARD, Mr. GALLEGO, Mr. GARAMENDI, Mr. GRIJALVA, Mr. HASTINGS, Mr. HECK, Mr. HIGGINS of New York, Ms. HILL of California, Ms. KELLY of Illinois, Mr. KHANNA, Mr. KILMER, Mr. KRISHNAMOORTHY, Ms. LEE of California, Mr. LIPINSKI, Mr. SEAN PATRICK MALONEY of New York, Ms. MATSUI, Ms. MCCOLLUM, Ms. MOORE, Mr. MOULTON, Ms. NORTON, Mr. O'HALLERAN, Mr. PANETTA, Mr. QUIGLEY, Miss RICE of New York, Mr. RUPPERSBERGER, Ms. SPEIER, Ms. WASSERMAN SCHULTZ, Mrs. WATSON COLEMAN, Mr. VAN DREW, Mr. BABIN, Mr. COLLINS of New York, Mr. COOK, Mr. FITZPATRICK, Mr. GIANFORTE, Ms. HERRERA BEUTLER, Mr. HICE of Georgia, Mr. HUNTER, Mr. JOYCE of Ohio, Mr. KELLY of Mississippi, Mr. KING of Iowa, Mr. LOUDERMILK, Mr. MOONEY of West Virginia, Mr. MULLIN, Mr. PERRY, Mr. SHIMKUS, Ms. STEFANIK, Mr. TIPTON, Mr. TURNER, Mr. ZELDIN, Ms. DELBENE, Ms. CLARKE of New York, Mr. GIBBS, Miss GONZÁLEZ-COLÓN of Puerto Rico, Mr. BERA, Mr. SMITH of Washington, Mr. BRINDISI, Ms. FUDGE, Mr. SIRES, Mr. NADLER, Mr. TAKANO, Ms. VELÁZQUEZ, Mrs. AXNE, Mr. DAVID SCOTT of Georgia, Ms. SCHAKOWSKY, Mr. TONKO, Mr. LARSON of Connecticut, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. PRICE of North Carolina, Mr. CISNEROS, Mr. YARMUTH, Mr. KEATING, Mr. LYNCH, Mr. SHERMAN, Ms. JOHNSON of Texas, Mr. LARSEN of Washington, Mr. SCHIFF, Ms. ROYBAL-ALLARD, Mr. MCNERNEY, Mr. KUSTOFF of Tennessee, Mr. BUTTERFIELD, Mr. ESPAILLAT, Mrs. BEATTY, Mr. SUOZZI, Mr. SCOTT of Virginia, Mr. PASCRELL, Ms.

ADAMS, Mrs. DAVIS of California, Mr. MORELLE, Ms. FRANKEL, Mr. JEFFRIES, Mr. CLYBURN, Ms. WATERS, Mr. JOHNSON of Georgia, Ms. PRESSLEY, Mr. DANNY K. DAVIS of Illinois, Mr. CLAY, Mr. RUSH, Mr. CARSON of Indiana, Mr. MEEKS, Mr. VEASEY, Mr. RICHMOND, Ms. BASS, Mr. BROWN of Maryland, and Mr. GREEN of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on 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 waive coinsurance under Medicare for colorectal cancer screening tests, regardless of whether therapeutic intervention is required during the screening.

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 “Removing Barriers to
5 Colorectal Cancer Screening Act of 2020”.

6 **SEC. 2. WAIVING MEDICARE COINSURANCE FOR CERTAIN**
7 **COLORECTAL CANCER SCREENING TESTS.**

8 (a) IN GENERAL.—Section 1833(a) of the Social Se-
9 curity Act (42 U.S.C. 1395l(a)) is amended—

10 (1) in the second sentence, by striking “section
11 1834(0)” and inserting “section 1834(o)”;

12 (2) by moving such second sentence 2 ems to
13 the left; and

1 (3) by inserting the following third sentence fol-
2 lowing such second sentence: “For services furnished
3 on or after January 1, 2022, paragraph (1)(Y) shall
4 apply with respect to a colorectal cancer screening
5 test regardless of the code that is billed for the es-
6 tablishment of a diagnosis as a result of the test, or
7 for the removal of tissue or other matter or other
8 procedure that is furnished in connection with, as a
9 result of, and in the same clinical encounter as the
10 screening test.”.

11 (b) SPECIAL COINSURANCE RULE FOR CERTAIN
12 TESTS.—Section 1833 of the Social Security Act (42
13 U.S.C. 1395l) is amended—

14 (1) in subsection (a)(1)(Y), by inserting “sub-
15 ject to subsection (dd),” before “with respect to”;
16 and

17 (2) by adding at the end the following new sub-
18 section:

19 “(dd) SPECIAL COINSURANCE RULE FOR CERTAIN
20 COLORECTAL CANCER SCREENING TESTS.—

21 “(1) IN GENERAL.—In the case of a colorectal
22 cancer screening test to which paragraph (1)(Y) of
23 subsection (a) would not apply but for the third sen-
24 tence of such subsection that is furnished during a
25 year beginning on or after January 1, 2022, and be-

1 fore January 1, 2030, the amount paid shall be
2 equal to the specified percent (as defined in para-
3 graph (2)) for such year of the lesser of the actual
4 charge for the service or the amount determined
5 under the fee schedule that applies to such test
6 under this part (or, in the case such test is a cov-
7 ered OPD service (as defined in subsection
8 (t)(1)(B)), the amount determined under subsection
9 (t)).

10 “(2) SPECIFIED PERCENT DEFINED.—For pur-
11 poses of paragraph (1), the term ‘specified percent’
12 means—

13 “(A) for 2022 and 2023, 80 percent;

14 “(B) for 2024 and 2025, 85 percent;

15 “(C) for 2026 and 2027, 90 percent; and

16 “(D) for 2028 and 2029, 95 percent.”.

17 (c) CONFORMING AMENDMENTS.—Paragraphs (2)
18 and (3) of section 1834(d) of the Social Security Act (42
19 U.S.C. 1395m(d)) are each amended—

20 (1) in subparagraph (C)(ii), in the matter pre-
21 ceding subclause (I), by striking “Notwithstanding”
22 and inserting “Subject to section 1833(a)(1)(Y), but
23 notwithstanding”; and

1 (2) in subparagraph (D), by striking “If dur-
2 ing” and inserting “Subject to section
3 1833(a)(1)(Y), if during”.

4 **SEC. 3. REQUIRING CERTAIN MANUFACTURERS TO REPORT**
5 **DRUG PRICING INFORMATION WITH RE-**
6 **SPECT TO DRUGS UNDER THE MEDICARE**
7 **PROGRAM.**

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

10 (1) in subsection (b)—

11 (A) in paragraph (2)(A), by inserting “or
12 subsection (f)(2), as applicable” before the pe-
13 riod at the end;

14 (B) in paragraph (3), in the matter pre-
15 ceding subparagraph (A), by inserting “or sub-
16 section (f)(2), as applicable,” before “deter-
17 mined by”; and

18 (C) in paragraph (6)(A), in the matter
19 preceding clause (i), by inserting “or subsection
20 (f)(2), as applicable,” before “determined by”;
21 and

22 (2) in subsection (f)—

23 (A) by striking “For requirements” and
24 inserting the following:

25 “(1) IN GENERAL.—For requirements”; and

1 (B) by adding at the end the following new
2 paragraph:

3 “(2) MANUFACTURERS WITHOUT A REBATE
4 AGREEMENT UNDER TITLE XIX.—

5 “(A) IN GENERAL.—If the manufacturer
6 of a drug or biological described in subpara-
7 graph (C), (E), or (G) of section 1842(o)(1) or
8 in section 1881(b)(14)(B) that is payable under
9 this part has not entered into and does not
10 have in effect a rebate agreement described in
11 subsection (b) of section 1927, for calendar
12 quarters beginning with the second calendar
13 quarter beginning on or after the date of the
14 enactment of this paragraph, such manufac-
15 turer shall report to the Secretary the informa-
16 tion described in subsection (b)(3)(A)(iii) of
17 such section 1927 with respect to such drug or
18 biological in a time and manner specified by the
19 Secretary. For purposes of applying this para-
20 graph, a drug or biological described in the pre-
21 vious sentence includes items, services, supplies,
22 and products that are payable under this part
23 as a drug or biological.

24 “(B) AUDIT.—Information reported under
25 subparagraph (A) is subject to audit by the In-

1 spector General of the Department of Health
2 and Human Services.

3 “(C) VERIFICATION.—The Secretary may
4 survey wholesalers and manufacturers that di-
5 rectly distribute drugs described in subpara-
6 graph (A), when necessary, to verify manufac-
7 turer prices and manufacturer’s average sales
8 prices (including wholesale acquisition cost) if
9 required to make payment reported under sub-
10 paragraph (A). The Secretary may impose a
11 civil monetary penalty in an amount not to ex-
12 ceed \$100,000 on a wholesaler, manufacturer,
13 or direct seller, if the wholesaler, manufacturer,
14 or direct seller of such a drug refuses a request
15 for information about charges or prices by the
16 Secretary in connection with a survey under
17 this subparagraph or knowingly provides false
18 information. The provisions of section 1128A
19 (other than subsections (a) (with respect to
20 amounts of penalties or additional assessments)
21 and (b)) shall apply to a civil money penalty
22 under this subparagraph in the same manner as
23 such provisions apply to a penalty or proceeding
24 under section 1128A(a).

1 “(D) CONFIDENTIALITY.—Notwith-
2 standing any other provision of law, information
3 disclosed by manufacturers or wholesalers
4 under this paragraph (other than the wholesale
5 acquisition cost for purposes of carrying out
6 this section) is confidential and shall not be dis-
7 closed by the Secretary in a form which dis-
8 closes the identity of a specific manufacturer or
9 wholesaler or prices charged for drugs by such
10 manufacturer or wholesaler, except—

11 “(i) as the Secretary determines to be
12 necessary to carry out this section (includ-
13 ing the determination and implementation
14 of the payment amount), or to carry out
15 section 1847B;

16 “(ii) to permit the Comptroller Gen-
17 eral of the United States to review the in-
18 formation provided; and

19 “(iii) to permit the Director of the
20 Congressional Budget Office to review the
21 information provided.”.

22 (b) ENFORCEMENT.—Section 1847A of such Act (42
23 U.S.C. 1395w-3a) is further amended—

24 (1) in subsection (d)(4)—

1 (A) in subparagraph (A), by striking “IN
2 GENERAL” and inserting “MISREPRESENTA-
3 TION”;

4 (B) in subparagraph (B), by striking “sub-
5 paragraph (B)” and inserting “subparagraph
6 (A), (B), or (C)”;

7 (C) by redesignating subparagraph (B) as
8 subparagraph (D); and

9 (D) by inserting after subparagraph (A)
10 the following new subparagraphs:

11 “(B) FAILURE TO PROVIDE TIMELY INFOR-
12 MATION.—If the Secretary determines that a
13 manufacturer described in subsection (f)(2) has
14 failed to report on information described in sec-
15 tion 1927(b)(3)(A)(iii) with respect to a drug or
16 biological in accordance with such subsection,
17 the Secretary shall apply a civil money penalty
18 in an amount of \$10,000 for each day the man-
19 ufacturer has failed to report such information
20 and such amount shall be paid to the Treasury.

21 “(C) FALSE INFORMATION.—Any manu-
22 facturer required to submit information under
23 subsection (f)(2) that knowingly provides false
24 information is subject to a civil money penalty
25 in an amount not to exceed \$100,000 for each

1 item of false information. Such civil money pen-
2 alties are in addition to other penalties as may
3 be prescribed by law.”; and

4 (2) in subsection (c)(6)(A), by striking the pe-
5 riod at the end and inserting “, except that, for pur-
6 poses of subsection (f)(2), the Secretary may, if the
7 Secretary determines appropriate, exclude repack-
8 agers of a drug or biological from such term.”.

9 (c) MANUFACTURERS WITH A REBATE AGREE-
10 MENT.—

11 (1) IN GENERAL.—Section 1927(b)(3)(A) of the
12 Social Security Act (42 U.S.C. 1396r-8(b)(3)(A)) is
13 amended by adding at the end the following new
14 sentence: “For purposes of applying clause (iii), a
15 drug or biological described in the flush matter fol-
16 lowing such clause includes items, services, supplies,
17 and products that are payable under this part as a
18 drug or biological.”.

19 (2) TECHNICAL AMENDMENT.—Section
20 1927(b)(3)(A)(iii) of the Social Security Act (42
21 U.S.C. 1396r-8(b)(3)(A)(iii)) is amended by striking
22 “section 1881(b)(13)(A)(ii)” and inserting “section
23 1881(b)(14)(B)”.

24 (d) REPORT.—Not later than January 1, 2023, the
25 Inspector General of the Department of Health and

1 Human Services shall assess and submit to Congress a
2 report on the accuracy of average sales price information
3 submitted by manufacturers under section 1847A of the
4 Social Security Act (42 U.S.C. 1395w-3a). Such report
5 shall include any recommendations on how to improve the
6 accuracy of such information.

Amend the title so as to read: “A bill to amend title XVIII of the Social Security Act to waive coinsurance under Medicare for colorectal cancer screening tests, regardless of whether therapeutic intervention is required during the screening, and for other purposes.”.