

115TH CONGRESS
2D SESSION

S. 2769

To require the Secretary of Health and Human Services to provide for an action plan on recommendations for changes under Medicare and Medicaid to prevent opioids addictions and enhance access to medication-assisted treatment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2018

Mr. HELLER (for himself, Mr. MENENDEZ, and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require the Secretary of Health and Human Services to provide for an action plan on recommendations for changes under Medicare and Medicaid to prevent opioids addictions and enhance access to medication-assisted treatment, 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. ACTION PLAN ON RECOMMENDATIONS FOR**
2 **CHANGES UNDER MEDICARE AND MEDICAID**
3 **TO PREVENT OPIOIDS ADDICTIONS AND EN-**
4 **HANCE ACCESS TO MEDICATION-ASSISTED**
5 **TREATMENT.**

6 (a) IN GENERAL.—Not later than January 1, 2019,
7 the Secretary of Health and Human Services (in this sec-
8 tion referred to as the “Secretary”), in collaboration with
9 the Pain Management Best Practices Inter-Agency Task
10 Force convened under section 101(b) of the Comprehen-
11 sive Addiction and Recovery Act of 2016 (Public Law
12 114–198), shall develop an action plan that provides rec-
13 ommendations described in subsection (b).

14 (b) ACTION PLAN COMPONENTS.—Recommendations
15 provided under the action plan under subsection (a) shall
16 include recommendations on the following:

17 (1) Recommendations on changes to the Medi-
18 care program under title XVIII of the Social Secu-
19 rity Act and the Medicaid program under title XIX
20 of such Act that would enhance coverage and reim-
21 bursement under such programs of all medication-
22 assisted treatment approved by the Food and Drug
23 Administration for the treatment of opioid addiction
24 and other therapies that manage chronic and acute
25 pain and treat and minimize risk of opioid addiction,
26 including recommendations on changes to the Medi-

1 care prospective payment system for hospital inpa-
2 tient department services under section 1886(d) of
3 such Act (42 U.S.C. 1395ww(d)) and the Medicare
4 prospective payment system for hospital outpatient
5 department services under section 1833(t) of such
6 Act (42 U.S.C. 1395l(t)) that would allow for sepa-
7 rate reimbursement for such therapies to encourage
8 development and adoption of such therapies, if medi-
9 cally appropriate.

10 (2) Recommendations for payment and service
11 delivery models to be tested by the Center for Medi-
12 care and Medicaid Innovation and other federally
13 authorized demonstration projects, including value-
14 based models, that may encourage the use of appro-
15 priate medication-assisted treatment approved by the
16 Food and Drug Administration for the treatment of
17 opioid addiction and other therapies that manage
18 chronic and acute pain and treat and minimize risk
19 of opioid addiction.

20 (3) Recommendations for data collection that
21 can facilitate research and policy making regarding
22 prevention of opioid addiction and coverage and re-
23 imbursement under the Medicare program and the
24 Medicaid program of appropriate opioid addiction
25 treatments.

1 (4) Recommendations for provider education
2 that can expand patient access to the full range of
3 medication-assisted treatment approved by the Food
4 and Drug Administration for the treatment of opioid
5 addiction and other therapies that manage chronic
6 and acute pain and treat and minimize risk of opioid
7 addiction.

8 (5) Recommendations for policies under the
9 Medicare program and under the Medicaid program
10 that can expand access for rural, or medically under-
11 served communities to the full range of medication-
12 assisted treatment approved by the Food and Drug
13 Administration for the treatment of opioid addiction
14 and other therapies that manage chronic and acute
15 pain and treatment and minimize risk of opioid ad-
16 diction.

17 (c) STAKEHOLDER MEETINGS.—

18 (1) IN GENERAL.—Beginning not later than 3
19 months after the date of the enactment of this Act,
20 the Secretary shall convene a public stakeholder
21 meeting to solicit public comment on the components
22 of the action plan recommendations described in
23 subsection (b).

24 (2) PARTICIPANTS.—Participants of meetings
25 described in paragraph (1) shall include representa-

1 tives from the Food and Drug Administration and
2 National Institutes of Health, biopharmaceutical in-
3 dustry members, medical researchers, health care
4 providers, the medical device industry, the Medicare
5 program, the Medicaid program, and patient advoca-
6 tes.

7 (d) REQUEST FOR INFORMATION.—Not later than 3
8 months after the date of the enactment of this section,
9 the Secretary shall issue a request for information seeking
10 public feedback regarding ways in which the Centers for
11 Medicare & Medicaid Services can help address the opioid
12 crisis through the development of and application of the
13 action plan.

14 (e) REPORT TO CONGRESS.—Not later than March
15 1, 2019, the Secretary shall submit to Congress, and make
16 public, a report that includes a summary of steps taken
17 under the action plan, recommendations that have
18 emerged under the action plan, and the Secretary’s
19 planned next steps with respect to the action plan.

20 (f) DEFINITION OF MEDICATION-ASSISTED TREAT-
21 MENT.—In this section, the term “medication-assisted
22 treatment” includes opioid treatment programs, behav-
23 ioral therapy, and medications to treat substance abuse
24 disorder.

1 **SEC. 2. REPORT ON COVERAGE, CODING, AND REIMBURSE-**
2 **MENT POLICIES UNDER MEDICARE.**

3 (a) IN GENERAL.—Not later than 1 year after the
4 date of the enactment of this Act, the Secretary of Health
5 and Human Services (in this section referred to as the
6 “Secretary”) shall—

7 (1) identify—

8 (A) medical devices that are non-opioid
9 based treatments approved by the Food and
10 Drug Administration for the management of
11 acute pain and chronic pain;

12 (B) medical devices that are non-opioid
13 based treatments approved by the Food and
14 Drug Administration that monitor substance
15 use withdrawal and prevent overdoses of con-
16 trolled substances; and

17 (C) medical devices that are non-opioid
18 based treatments approved by the Food and
19 Drug Administration that treat substance use
20 disorder; and

21 (2) submit to the Committee on Finance of the
22 Senate and the Committees on Ways and Means and
23 Energy and Commerce of the House of Representa-
24 tives, and publish on a public Internet website of the
25 Department of Health and Human Services, a re-
26 port containing recommendations on ways to encour-

1 age the use of such medical devices by individuals
2 entitled to benefits under part A of title XVIII of
3 the Social Security Act and enrolled under part B
4 of such title (including individuals enrolled in a
5 Medicare Advantage plan under part C of such title
6 or in a prescription drug plan under part D of such
7 title) and individuals enrolled under a State plan
8 under title XIX of such Act.

9 (b) CONTENTS.—The report under subsection (a)
10 shall include an analysis of the following, with respect to
11 the Medicare program under title XVIII of the Social Se-
12 curity Act and the Medicaid program under title XIX of
13 such Act:

14 (1) Various opioid alternatives for pain treat-
15 ment that are covered under such programs, that
16 are not covered under such programs, that have lim-
17 ited coverage under such program, or with respect to
18 which there are payment barriers under such pro-
19 grams.

20 (2) Various medical devices that monitor sub-
21 stance use withdrawal and prevent overdose of con-
22 trolled substances that are covered so covered, that
23 are not so covered, that have such limited coverage,
24 or with respect to which there are such payment
25 barriers.

1 (3) Various medical devices that treat substance
2 use disorder and opioid use disorder that are so cov-
3 ered, that are not so covered, that have such limited
4 coverage, or with respect to which there are such
5 payment barriers.

6 (4) Access to payment codes used by health
7 care providers that promote alternative options for
8 pain management therapies without the use of
9 opioids, including minimally invasive pain therapies.

10 (5) Ways to improve communications between
11 Medicare prescription drug plans and Medicare Ad-
12 vantage plans, Medicare and Medicaid health care
13 providers, and Medicare beneficiaries and Medicaid
14 beneficiaries on the potential harm associated with
15 the use of opioids and other controlled substances,
16 including the need to safely store and dispose of sup-
17 plies relating to the use of opioids and other con-
18 trolled substances.

○