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115TH CONGRESS
2D SESSION

H. R. 5775

To amend title XVIII of the Social Security Act to require Medicare Advantage plans and part D prescription drug plans to include information on the risks associated with opioids, coverage of certain nonopioid treatments used to treat pain, and on the safe disposal of prescription drugs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2018

Mr. PAULSEN (for himself, Mr. POLIQUIN, Mr. KIND, and Mr. LAMB) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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

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A BILL

To amend title XVIII of the Social Security Act to require Medicare Advantage plans and part D prescription drug plans to include information on the risks associated with opioids, coverage of certain nonopioid treatments used to treat pain, and on the safe disposal of prescription drugs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Providing Reliable Options for Patients and Educational Resources Act of 2018'' or the ''PROPER Act of 2018''.

SEC. 2. REQUIRING MEDICARE ADVANTAGE PLANS AND PART D PRESCRIPTION DRUG PLANS TO INCLUDE INFORMATION ON RISKS ASSOCIATED WITH OPIOIDS AND COVERAGE OF NONPHARMACOLOGICAL THERAPIES AND NONOPIOID MEDICATIONS OR DEVICES USED TO TREAT PAIN.

Section 1860D–4(a)(1) of the Social Security Act (42 U.S.C. 1395w–104(a)(1)) is amended—

(1) in subparagraph (A), by inserting '', subject to subparagraph (C),'' before ''including'';

(2) in subparagraph (B), by adding at the end the following new clause:

''(vi) For plan year 2021 and each subsequent plan year, subject to subparagraph (C), with respect to the treatment of pain—

''(I) the risks associated with prolonged opioid use; and

''(II) coverage of nonpharmacological therapies, devices, and nonopioid medications—

"(aa) in the case of an MA–PD plan under part C, under such plan; and

"(bb) in the case of a prescription drug plan, under such plan and under parts A and B."; and

(3) by adding at the end the following new subparagraph:

"(C) TARGETED PROVISION OF INFORMATION.—A PDP sponsor of a prescription drug plan may, in lieu of disclosing the information described in subparagraph (B)(vi) to each enrollee under the plan, disclose such information through mail or electronic communications to a subset of enrollees under the plan, such as enrollees who have been prescribed an opioid in the previous two-year period.".

SEC. 3. REQUIRING MEDICARE ADVANTAGE PLANS AND PRESCRIPTION DRUG PLANS TO PROVIDE INFORMATION ON THE SAFE DISPOSAL OF PRESCRIPTION DRUGS.

(a) MEDICARE ADVANTAGE.—Section 1852 of the Social Security Act (42 U.S.C. 1395w–22) is amended by adding at the end the following new subsection:

''(n) PROVISION OF INFORMATION RELATING TO THE SAFE DISPOSAL OF CERTAIN PRESCRIPTION DRUGS.—

''(1) IN GENERAL.—In the case of an individual enrolled under an MA or MA–PD plan who is furnished an in-home health risk assessment on or after January 1, 2021, such plan shall ensure that such assessment includes information on the safe disposal of prescription drugs that are controlled substances that meets the criteria established under paragraph (2). Such information shall include information on drug takeback programs that meet such requirements determined appropriate by the Secretary and information on in-home disposal.

''(2) CRITERIA.—The Secretary shall, through rulemaking, establish criteria the Secretary determines appropriate with respect to information provided to an individual to ensure that such information sufficiently educates such individual on the safe disposal of prescription drugs that are controlled substances.''.

(b) PRESCRIPTION DRUG PLANS.—Section 1860D–4(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w–104(c)(2)(B)) is amended—

(1) by striking ''may include elements that promote'';

(2) by redesignating clauses (i) through (iii) as subclauses (I) through (III) and adjusting the margins accordingly;

(3) by inserting before subclause (I), as so redesignated, the following new clause:

"(i) may include elements that promote—";

(4) in subclause (III), as so redesignated, by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following new clause:

"(ii) with respect to plan years beginning on or after January 1, 2021, shall provide for—

"(I) the provision of information to the enrollee on the safe disposal of prescription drugs that are controlled substances that meets the criteria established under section 1852(n)(2), including information on drug takeback programs that meet such requirements determined appropriate by the Secretary and information on in-home disposal; and

''(II) cost-effective means by which an enrollee may so safely dispose of such drugs.''.

SEC. 4. REVISING MEASURES USED UNDER THE HOSPITAL CONSUMER ASSESSMENT OF HEALTHCARE PROVIDERS AND SYSTEMS SURVEY RELATING TO PAIN MANAGEMENT.

(a) RESTRICTION ON THE USE OF PAIN QUESTIONS IN HCAHPS.—Section 1886(b)(3)(B)(viii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(viii)) is amended by adding at the end the following new subclause:

''(XII) With respect to a Hospital Consumer Assessment of Healthcare Providers and Systems survey (or a successor survey) conducted on or after January 1, 2019, such survey may not include questions about communication by hospital staff with an individual about such individual's pain unless such questions take into account, as applicable, whether an individual experiencing pain was informed about risks associated with the use of opioids and about non-opioid alternatives for the treatment of pain.''.

(b) RESTRICTION ON USE OF PAIN QUESTIONS IN THE HOSPITAL VALUE-BASED PURCHASING PROGRAM FOR FISCAL YEAR 2019.—Section 1886(o)(2)(B) is amended by adding at the end the following new clause:

"(iii) FOR FISCAL YEAR 2019.—For value-based incentive payments made with respect to discharges occurring during fiscal year 2019, the Secretary shall ensure that measures selected under subparagraph (A) do not include a measure based on questions about communication by hospital staff with an individual about such individual's pain included in the Hospital Consumer Assessment of Healthcare Providers and Systems survey.".

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