

110TH CONGRESS  
1ST SESSION

# H. J. RES. 54

Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services within the Department of Health and Human Services relating to Medicare coverage for the use of erythropoiesis stimulating agents in cancer and related neoplastic conditions.

---

## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2007

Ms. ESHOO (for herself and Mr. ROGERS of Michigan) introduced the following joint resolution; 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

---

## JOINT RESOLUTION

Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services within the Department of Health and Human Services relating to Medicare coverage for the use of erythropoiesis stimulating agents in cancer and related neoplastic conditions.

Whereas the Centers for Medicare & Medicaid Services issued a final Medicare national coverage determination on the use of erythropoiesis stimulating agents in cancer and related neoplastic conditions (CAG-000383N) on July 30, 2007;

★

Whereas the Centers for Medicare & Medicaid Services submitted to the Congress a copy of the national coverage determination rule, a detailed description of the rule, and the proposed effective date of the rule;

Whereas 52 Senators and 235 Members of the House of Representatives, representing bipartisan majorities in both chambers, have written to the Centers for Medicare & Medicaid Services expressing significant concerns with the proposed national coverage determination on the use of erythropoiesis stimulating agents in cancer and related neoplastic conditions, issued on May 14, 2007, regarding the use of erythropoiesis stimulating agent therapy for Medicare cancer patients;

Whereas the leading national medical organization representing physicians who treat patients with cancer, has noted that the national coverage determination's hemoglobin level restriction is inconsistent with both the FDA-approved labeling and national guidelines and that its dosing and titration regimen restrictions ignore established studies, the FDA label, and clinical guidelines and, therefore, has formally requested that the Centers for Medicare & Medicaid Services reconsider these restrictions;

Whereas the leading national medical organization representing physicians who treat patients with disorders affecting the blood and bone marrow, the Nation's leading health care services network dedicated exclusively to cancer treatment and research, and other national, nonprofit organizations dedicated to improving patient access to care have expressed similar concerns over the national coverage determination and have called for its reconsideration; and

Whereas despite the strong concerns of the oncology and hematology community, the Centers for Medicare & Medicaid Services has failed to take any action: Now, therefore, be it

1       *Resolved by the Senate and House of Representatives*  
2 *of the United States of America in Congress assembled,*  
3 That Congress disapproves the rule (CAG–000383N) sub-  
4 mitted by the Centers for Medicare & Medicaid Services  
5 within the Department of Health and Human Services re-  
6 lating to Medicare coverage for the use of erythropoiesis  
7 stimulating agents in cancer and related neoplastic condi-  
8 tions, and such rule shall have no force or effect.

○