

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5210

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## AN ACT

To improve access to durable medical equipment for Medicare beneficiaries under the Medicare program, 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. SHORT TITLE.**

2 This Act may be cited as the “Patient Access to Du-  
3 rable Medical Equipment Act of 2016” or the “PADME  
4 Act”.

5 **SEC. 2. INCREASING OVERSIGHT OF TERMINATION OF**  
6 **MEDICAID PROVIDERS.**

7 (a) INCREASED OVERSIGHT AND REPORTING.—

8 (1) STATE REPORTING REQUIREMENTS.—Sec-  
9 tion 1902(kk) of the Social Security Act (42 U.S.C.  
10 1396a(kk)) is amended—

11 (A) by redesignating paragraph (8) as  
12 paragraph (9); and

13 (B) by inserting after paragraph (7) the  
14 following new paragraph:

15 “(8) PROVIDER TERMINATIONS.—

16 “(A) IN GENERAL.—Beginning on July 1,  
17 2018, in the case of a notification under sub-  
18 section (a)(41) with respect to a termination for  
19 a reason specified in section 455.101 of title 42,  
20 Code of Federal Regulations (as in effect on  
21 November 1, 2015) or for any other reason  
22 specified by the Secretary, of the participation  
23 of a provider of services or any other person  
24 under the State plan (or under a waiver of the  
25 plan), the State, not later than 21 business  
26 days after the effective date of such termi-

1 nation, submits to the Secretary with respect to  
2 any such provider or person, as appropriate—

3 “(i) the name of such provider or per-  
4 son;

5 “(ii) the provider type of such pro-  
6 vider or person;

7 “(iii) the specialty of such provider’s  
8 or person’s practice;

9 “(iv) the date of birth, Social Security  
10 number, national provider identifier, Fed-  
11 eral taxpayer identification number, and  
12 the State license or certification number of  
13 such provider or person;

14 “(v) the reason for the termination;

15 “(vi) a copy of the notice of termi-  
16 nation sent to the provider or person;

17 “(vii) the date on which such termi-  
18 nation is effective, as specified in the no-  
19 tice; and

20 “(viii) any other information required  
21 by the Secretary.

22 “(B) EFFECTIVE DATE DEFINED.—For  
23 purposes of this paragraph, the term ‘effective  
24 date’ means, with respect to a termination de-  
25 scribed in subparagraph (A), the later of—

1           “(i) the date on which such termi-  
2           nation is effective, as specified in the no-  
3           tice of such termination; or

4           “(ii) the date on which all appeal  
5           rights applicable to such termination have  
6           been exhausted or the timeline for any  
7           such appeal has expired.”.

8           (2) CONTRACT REQUIREMENT FOR MANAGED  
9           CARE ENTITIES.—Section 1932(d) of the Social Se-  
10          curity Act (42 U.S.C. 1396u–2(d)) is amended by  
11          adding at the end the following new paragraph:

12           “(5) CONTRACT REQUIREMENT FOR MANAGED  
13          CARE ENTITIES.—With respect to any contract with  
14          a managed care entity under section 1903(m) or  
15          1905(t)(3) (as applicable), no later than July 1,  
16          2018, such contract shall include a provision that  
17          providers of services or persons terminated (as de-  
18          scribed in section 1902(kk)(8)) from participation  
19          under this title, title XVIII, or title XXI be termi-  
20          nated from participating under this title as a pro-  
21          vider in any network of such entity that serves indi-  
22          viduals eligible to receive medical assistance under  
23          this title.”.

24           (3) TERMINATION NOTIFICATION DATABASE.—  
25          Section 1902 of the Social Security Act (42 U.S.C.

1 1396a) is amended by adding at the end the fol-  
2 lowing new subsection:

3 “(ll) TERMINATION NOTIFICATION DATABASE.—In  
4 the case of a provider of services or any other person  
5 whose participation under this title, title XVIII, or title  
6 XXI is terminated (as described in subsection (kk)(8)),  
7 the Secretary shall, not later than 21 business days after  
8 the date on which the Secretary terminates such participa-  
9 tion under title XVIII or is notified of such termination  
10 under subsection (a)(41) (as applicable), review such ter-  
11 mination and, if the Secretary determines appropriate, in-  
12 clude such termination in any database or similar system  
13 developed pursuant to section 6401(b)(2) of the Patient  
14 Protection and Affordable Care Act (42 U.S.C. 1395cc  
15 note; Public Law 111–148).”.

16 (4) NO FEDERAL FUNDS FOR ITEMS AND SERV-  
17 ICES FURNISHED BY TERMINATED PROVIDERS.—  
18 Section 1903 of the Social Security Act (42 U.S.C.  
19 1396b) is amended—

20 (A) in subsection (i)(2)—

21 (i) in subparagraph (A), by striking  
22 the comma at the end and inserting a  
23 semicolon;

24 (ii) in subparagraph (B), by striking  
25 “or” at the end; and

1 (iii) by adding at the end the fol-  
2 lowing new subparagraph:

3 “(D) beginning not later than July 1,  
4 2018, under the plan by any provider of serv-  
5 ices or person whose participation in the State  
6 plan is terminated (as described in section  
7 1902(kk)(8)) after the date that is 60 days  
8 after the date on which such termination is in-  
9 cluded in the database or other system under  
10 section 1902(ll); or”;

11 (B) in subsection (m), by inserting after  
12 paragraph (2) the following new paragraph:

13 “(3) No payment shall be made under this title to  
14 a State with respect to expenditures incurred by the State  
15 for payment for services provided by a managed care enti-  
16 ty (as defined under section 1932(a)(1)) under the State  
17 plan under this title (or under a waiver of the plan) unless  
18 the State—

19 “(A) beginning on July 1, 2018, has a contract  
20 with such entity that complies with the requirement  
21 specified in section 1932(d)(5); and

22 “(B) beginning on January 1, 2018, complies  
23 with the requirement specified in section  
24 1932(d)(6)(A).”.

1           (5) DEVELOPMENT OF UNIFORM TERMINOLOGY  
2           FOR REASONS FOR PROVIDER TERMINATION.—Not  
3           later than July 1, 2017, the Secretary of Health and  
4           Human Services shall, in consultation with the  
5           heads of State agencies administering State Med-  
6           icaid plans (or waivers of such plans), issue regula-  
7           tions establishing uniform terminology to be used  
8           with respect to specifying reasons under subpara-  
9           graph (A)(v) of paragraph (8) of section 1902(kk)  
10          of the Social Security Act (42 U.S.C. 1396a(kk)), as  
11          amended by paragraph (1), for the termination (as  
12          described in such paragraph) of the participation of  
13          certain providers in the Medicaid program under  
14          title XIX of such Act or the Children’s Health In-  
15          surance Program under title XXI of such Act.

16          (6) CONFORMING AMENDMENT.—Section  
17          1902(a)(41) of the Social Security Act (42 U.S.C.  
18          1396a(a)(41)) is amended by striking “provide that  
19          whenever” and inserting “provide, in accordance  
20          with subsection (kk)(8) (as applicable), that when-  
21          ever”.

22          (b) INCREASING AVAILABILITY OF MEDICAID PRO-  
23          VIDER INFORMATION.—

24          (1) FFS PROVIDER ENROLLMENT.—Section  
25          1902(a) of the Social Security Act (42 U.S.C.

1 1396a(a)) is amended by inserting after paragraph  
2 (77) the following new paragraph:

3 “(78) provide that, not later than January 1,  
4 2017, in the case of a State plan (or a waiver of the  
5 plan) that provides medical assistance on a fee-for-  
6 service basis, the State shall require each provider  
7 furnishing items and services to individuals eligible  
8 to receive medical assistance under such plan to en-  
9 roll with the State agency and provide to the State  
10 agency the provider’s identifying information, includ-  
11 ing the name, specialty, date of birth, Social Secu-  
12 rity number, national provider identifier, Federal  
13 taxpayer identification number, and the State license  
14 or certification number of the provider;”.

15 (2) MANAGED CARE PROVIDER ENROLLMENT.—  
16 Section 1932(d) of the Social Security Act (42  
17 U.S.C. 1396u–2(d)), as amended by subsection  
18 (a)(2), is amended by adding at the end the fol-  
19 lowing new paragraph:

20 “(6) ENROLLMENT OF PARTICIPATING PRO-  
21 VIDERS.—

22 “(A) IN GENERAL.—Beginning not later  
23 than January 1, 2018, a State shall require  
24 that, in order to participate as a provider in the  
25 network of a managed care entity that provides

1 services to, or orders, prescribes, refers, or cer-  
2 tifies eligibility for services for, individuals who  
3 are eligible for medical assistance under the  
4 State plan under this title (or under a waiver  
5 of the plan) and who are enrolled with the enti-  
6 ty, the provider is enrolled with the State agen-  
7 cy administering the State plan under this title  
8 (or waiver of the plan). Such enrollment shall  
9 include providing to the State agency the pro-  
10 vider’s identifying information, including the  
11 name, specialty, date of birth, Social Security  
12 number, national provider identifier, Federal  
13 taxpayer identification number, and the State  
14 license or certification number of the provider.

15 “(B) RULE OF CONSTRUCTION.—Nothing  
16 in subparagraph (A) shall be construed as re-  
17 quiring a provider described in such subpara-  
18 graph to provide services to individuals who are  
19 not enrolled with a managed care entity under  
20 this title.”.

21 (c) COORDINATION WITH CHIP.—

22 (1) IN GENERAL.—Section 2107(e)(1) of the  
23 Social Security Act (42 U.S.C. 1397gg(e)(1)) is  
24 amended—

1 (A) by redesignating subparagraphs (B),  
2 (C), (D), (E), (F), (G), (H), (I), (J), (K), (L),  
3 (M), (N), and (O) as subparagraphs (D), (E),  
4 (F), (G), (H), (I), (J), (K), (M), (N), (O), (P),  
5 (Q), and (R), respectively;

6 (B) by inserting after subparagraph (A)  
7 the following new subparagraphs:

8 “(B) Section 1902(a)(39) (relating to ter-  
9 mination of participation of certain providers).

10 “(C) Section 1902(a)(78) (relating to en-  
11 rollment of providers participating in State  
12 plans providing medical assistance on a fee-for-  
13 service basis).”;

14 (C) by inserting after subparagraph (K)  
15 (as redesignated by subparagraph (A)) the fol-  
16 lowing new subparagraph:

17 “(L) Section 1903(m)(3) (relating to limi-  
18 tation on payment with respect to managed  
19 care).”; and

20 (D) in subparagraph (P) (as redesignated  
21 by subparagraph (A)), by striking “(a)(2)(C)  
22 and (h)” and inserting “(a)(2)(C) (relating to  
23 Indian enrollment), (d)(5) (relating to contract  
24 requirement for managed care entities), (d)(6)  
25 (relating to enrollment of providers partici-

1           pating with a managed care entity), and (h)  
2           (relating to special rules with respect to Indian  
3           enrollees, Indian health care providers, and In-  
4           dian managed care entities)”.

5           (2) EXCLUDING FROM MEDICAID PROVIDERS  
6           EXCLUDED FROM CHIP.—Section 1902(a)(39) of the  
7           Social Security Act (42 U.S.C. 1396a(a)(39)) is  
8           amended by striking “title XVIII or any other State  
9           plan under this title” and inserting “title XVIII, any  
10          other State plan under this title (or waiver of the  
11          plan), or any State child health plan under title XXI  
12          (or waiver of the plan)”.

13          (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
14          tion shall be construed as changing or limiting the appeal  
15          rights of providers or the process for appeals of States  
16          under the Social Security Act.

17          (e) OIG REPORT.—Not later than March 31, 2020,  
18          the Inspector General of the Department of Health and  
19          Human Services shall submit to Congress a report on the  
20          implementation of the amendments made by this section.  
21          Such report shall include the following:

22                  (1) An assessment of the extent to which pro-  
23                  viders who are included under subsection (l) of sec-  
24                  tion 1902 of the Social Security Act (42 U.S.C.  
25                  1396a) (as added by subsection (a)(3)) in the data-

1 base or similar system referred to in such subsection  
2 are terminated (as described in subsection (kk)(8) of  
3 such section, as added by subsection (a)(1)) from  
4 participation in all State plans under title XIX of  
5 such Act (or waivers of such plans).

6 (2) Information on the amount of Federal fi-  
7 nancial participation paid to States under section  
8 1903 of such Act in violation of the limitation on  
9 such payment specified in subsections (i)(2)(D) and  
10 (m)(3) of such section, as added by subsection (a)(4)  
11 of this section.

12 (3) An assessment of the extent to which con-  
13 tracts with managed care entities under title XIX of  
14 such Act comply with the requirement specified in  
15 section 1932(d)(5) of such Act, as added by sub-  
16 section (a)(2) of this section.

17 (4) An assessment of the extent to which pro-  
18 viders have been enrolled under section 1902(a)(78)  
19 or 1932(d)(6)(A) of such Act (42 U.S.C.  
20 1396a(a)(78), 1396u-2(d)(6)(A)) with State agen-  
21 cies administering State plans under title XIX of  
22 such Act (or waivers of such plans).

1 **SEC. 3. REQUIRING PUBLICATION OF FEE-FOR-SERVICE**  
2 **PROVIDER DIRECTORY.**

3 (a) IN GENERAL.—Section 1902(a) of the Social Se-  
4 curity Act (42 U.S.C. 1396a(a)) is amended—

5 (1) in paragraph (80), by striking “and” at the  
6 end;

7 (2) in paragraph (81), by striking the period at  
8 the end and inserting “; and”; and

9 (3) by inserting after paragraph (81) the fol-  
10 lowing new paragraph:

11 “(82) provide that, not later than January 1,  
12 2017, in the case of a State plan (or waiver of the  
13 plan) that provides medical assistance on a fee-for-  
14 service basis or through a primary care case-man-  
15 agement system described in section 1915(b)(1)  
16 (other than a primary care case management entity  
17 (as defined by the Secretary)), the State shall pub-  
18 lish (and update on at least an annual basis) on the  
19 public Website of the State agency administering the  
20 State plan, a directory of the physicians described in  
21 subsection (mm) and, at State option, other pro-  
22 viders described in such subsection that—

23 “(A) includes—

24 “(i) with respect to each such physi-  
25 cian or provider—

1                   “(I) the name of the physician or  
2 provider;

3                   “(II) the specialty of the physi-  
4 cian or provider;

5                   “(III) the address at which the  
6 physician or provider provides serv-  
7 ices; and

8                   “(IV) the telephone number of  
9 the physician or provider; and

10                  “(ii) with respect to any such physi-  
11 cian or provider participating in such a  
12 primary care case-management system, in-  
13 formation regarding—

14                   “(I) whether the physician or  
15 provider is accepting as new patients  
16 individuals who receive medical assist-  
17 ance under this title; and

18                   “(II) the physician’s or provider’s  
19 cultural and linguistic capabilities, in-  
20 cluding the languages spoken by the  
21 physician or provider or by the skilled  
22 medical interpreter providing interpre-  
23 tation services at the physician’s or  
24 provider’s office; and

1           “(B) may include, at State option, with re-  
2           spect to each such physician or provider—

3                   “(i) the Internet website of such phy-  
4                   sician or provider; or

5                   “(ii) whether the physician or provider  
6                   is accepting as new patients individuals  
7                   who receive medical assistance under this  
8                   title.”.

9           (b) DIRECTORY PHYSICIAN OR PROVIDER DE-  
10          SCRIBED.—Section 1902 of the Social Security Act (42  
11          U.S.C. 1396a), as amended by section 2(a)(3), is further  
12          amended by adding at the end the following new sub-  
13          section:

14           “(mm) DIRECTORY PHYSICIAN OR PROVIDER DE-  
15          SCRIBED.—A physician or provider described in this sub-  
16          section is—

17                   “(1) in the case of a physician or provider of  
18                   a provider type for which the State agency, as a con-  
19                   dition on receiving payment for items and services  
20                   furnished by the physician or provider to individuals  
21                   eligible to receive medical assistance under the State  
22                   plan, requires the enrollment of the physician or pro-  
23                   vider with the State agency, a physician or a pro-  
24                   vider that—

1           “(A) is enrolled with the agency as of the  
2           date on which the directory is published or up-  
3           dated (as applicable) under subsection (a)(82);  
4           and

5           “(B) received payment under the State  
6           plan in the 12-month period preceding such  
7           date; and

8           “(2) in the case of a physician or provider of  
9           a provider type for which the State agency does not  
10          require such enrollment, a physician or provider that  
11          received payment under the State plan (or waiver of  
12          the plan) in the 12-month period preceding the date  
13          on which the directory is published or updated (as  
14          applicable) under subsection (a)(82).”.

15          (c) RULE OF CONSTRUCTION.—

16               (1) IN GENERAL.—The amendment made by  
17               subsection (a) shall not be construed to apply in the  
18               case of a State (as defined for purposes of title XIX  
19               of the Social Security Act) in which all the individ-  
20               uals enrolled in the State plan under such title (or  
21               under a waiver of such plan), other than individuals  
22               described in paragraph (2), are enrolled with a med-  
23               icaid managed care organization (as defined in sec-  
24               tion 1903(m)(1)(A) of such Act (42 U.S.C.  
25               1396b(m)(1)(A))), including prepaid inpatient health

1 plans and prepaid ambulatory health plans (as de-  
2 fined by the Secretary of Health and Human Serv-  
3 ices).

4 (2) INDIVIDUALS DESCRIBED.—An individual  
5 described in this paragraph is an individual who is  
6 an Indian (as defined in section 4 of the Indian  
7 Health Care Improvement Act (25 U.S.C. 1603)) or  
8 an Alaska Native.

9 (d) EXCEPTION FOR STATE LEGISLATION.—In the  
10 case of a State plan under title XIX of the Social Security  
11 Act (42 U.S.C. 1396 et seq.), which the Secretary of  
12 Health and Human Services determines requires State  
13 legislation in order for the respective plan to meet one or  
14 more additional requirements imposed by amendments  
15 made by this section, the respective plan shall not be re-  
16 garded as failing to comply with the requirements of such  
17 title solely on the basis of its failure to meet such an addi-  
18 tional requirement before the first day of the first calendar  
19 quarter beginning after the close of the first regular ses-  
20 sion of the State legislature that begins after the date of  
21 enactment of this Act. For purposes of the previous sen-  
22 tence, in the case of a State that has a 2-year legislative  
23 session, each year of the session shall be considered to be  
24 a separate regular session of the State legislature.

1 **SEC. 4. EXTENSION OF THE TRANSITION TO NEW PAYMENT**  
2 **RATES FOR DURABLE MEDICAL EQUIPMENT**  
3 **UNDER THE MEDICARE PROGRAM.**

4 (a) IN GENERAL.—The Secretary of Health and  
5 Human Services shall extend the transition period de-  
6 scribed in clause (i) of section 414.210(g)(9) of title 42,  
7 Code of Federal Regulations, from June 30, 2016, to Sep-  
8 tember 30, 2016 (with the full implementation described  
9 in clause (ii) of such section applying to items and services  
10 furnished with dates of service on or after October 1,  
11 2016).

12 (b) STUDY AND REPORT.—

13 (1) STUDY.—

14 (A) IN GENERAL.—The Secretary of  
15 Health and Human Services shall conduct a  
16 study that examines the impact of applicable  
17 payment adjustments upon—

18 (i) the number of suppliers of durable  
19 medical equipment that, on a date that is  
20 not before January 1, 2016, and not later  
21 than September 1, 2016, ceased to conduct  
22 business as such suppliers; and

23 (ii) the availability of durable medical  
24 equipment, during the period beginning on  
25 January 1, 2016, and ending on Sep-  
26 tember 1, 2016, to individuals entitled to

1 benefits under part A of title XVIII of the  
2 Social Security Act (42 U.S.C. 1395 et  
3 seq.) or enrolled under part B of such title.

4 (B) DEFINITIONS.—For purposes of this  
5 subsection, the following definitions apply:

6 (i) SUPPLIER; DURABLE MEDICAL  
7 EQUIPMENT.—The terms “supplier” and  
8 “durable medical equipment” have the  
9 meanings given such terms by section 1861  
10 of the Social Security Act (42 U.S.C.  
11 1395x).

12 (ii) APPLICABLE PAYMENT ADJUST-  
13 MENT.—The term “applicable payment ad-  
14 justment” means a payment adjustment  
15 described in section 414.210(g) of title 42,  
16 Code of Federal Regulations, that is  
17 phased in by paragraph (9)(i) of such sec-  
18 tion. For purposes of the preceding sen-  
19 tence, a payment adjustment that is  
20 phased in pursuant to the extension under  
21 subsection (a) shall be considered a pay-  
22 ment adjustment that is phased in by such  
23 paragraph (9)(i).

24 (2) REPORT.—The Secretary of Health and  
25 Human Services shall, not later than September 10,

1 2016, submit to the Committees on Ways and  
2 Means and on Energy and Commerce of the House  
3 of Representatives, and to the Committee on Fi-  
4 nance of the Senate, a report on the findings of the  
5 study conducted under paragraph (1).

6 **SEC. 5. EXCLUSION OF PAYMENTS FROM STATE EUGENICS**  
7 **COMPENSATION PROGRAMS FROM CONSID-**  
8 **ERATION IN DETERMINING ELIGIBILITY FOR,**  
9 **OR THE AMOUNT OF, FEDERAL PUBLIC BENE-**  
10 **FITS.**

11 (a) IN GENERAL.—Notwithstanding any other provi-  
12 sion of law, payments made under a State eugenics com-  
13 pensation program shall not be considered as income or  
14 resources in determining eligibility for, or the amount of,  
15 any Federal public benefit.

16 (b) DEFINITIONS.—For purposes of this section:

17 (1) FEDERAL PUBLIC BENEFIT.—The term  
18 “Federal public benefit” means—

19 (A) any grant, contract, loan, professional  
20 license, or commercial license provided by an  
21 agency of the United States or by appropriated  
22 funds of the United States; and

23 (B) any retirement, welfare, health, dis-  
24 ability, public or assisted housing, postsec-  
25 ondary education, food assistance, unemploy-

1           ment benefit, or any other similar benefit for  
2           which payments or assistance are provided to  
3           an individual, household, or family eligibility  
4           unit by an agency of the United States or by  
5           appropriated funds of the United States.

6           (2) STATE EUGENICS COMPENSATION PRO-  
7           GRAM.—The term “State eugenics compensation  
8           program” means a program established by State law  
9           that is intended to compensate individuals who were  
10          sterilized under the authority of the State.

11 **SEC. 6. DEPOSIT OF SAVINGS INTO MEDICARE IMPROVE-**  
12 **MENT FUND.**

13          Section 1898(b)(1) of the Social Security Act (42  
14 U.S.C. 1395iii(b)(1)) is amended by striking “\$0” and in-  
15 serting “\$3,000,000”.

        Passed the House of Representatives July 5, 2016.

Attest:

*Clerk.*

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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