

EXPANDING OVERSIGHT OF OPIOID PRESCRIBING AND  
 PAYMENT ACT OF 2018

JUNE 19, 2018.—Committed to the Committee of the Whole House on the State of  
 the Union and ordered to be printed

Mr. BRADY of Texas, from the Committee on Ways and Means,  
 submitted the following

R E P O R T

[To accompany H.R. 5723]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5723) to require the Medicare Payment Advisory Commission to report on opioid payment, adverse incentives, and data under the Medicare program, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

|   | Page |
|---|------|
| I. SUMMARY AND BACKGROUND .....   | 2    |
| A. Purpose and Summary .....  | 2    |
| B. Background and Need for Legislation .....  | 2    |
| C. Legislative History .....  | 3    |
| II. EXPLANATION OF THE BILL .....   | 3    |
| A. Expanding Oversight of Opioid Prescribing and Payment Act .....                      | 3    |
| III. VOTES OF THE COMMITTEE .....   | 4    |
| IV. BUDGET EFFECTS OF THE BILL .....  | 4    |
| A. Committee Estimate of Budgetary Effects .....  | 4    |
| B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority ..... | 4    |
| C. Cost Estimate Prepared by the Congressional Budget Office .....                      | 4    |
| V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE .....                     | 13   |
| A. Committee Oversight Findings and Recommendations .....                               | 13   |
| B. Statement of General Performance Goals and Objectives .....                          | 13   |
| C. Information Relating to Unfunded Mandates .....                                      | 13   |
| D. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits .....      | 13   |
| E. Duplication of Federal Programs .....  | 13   |
| F. Disclosure of Directed Rule Makings .....  | 13   |

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Expanding Oversight of Opioid Prescribing and Payment Act of 2018”.

**SEC. 2. MEDICARE PAYMENT ADVISORY COMMISSION REPORT ON OPIOID PAYMENT, ADVERSE INCENTIVES, AND DATA UNDER THE MEDICARE PROGRAM.**

Not later than March 15, 2019, the Medicare Payment Advisory Commission shall submit to Congress a report on, with respect to the Medicare program under title XVIII of the Social Security Act, the following:

(1) A description of how the Medicare program pays for pain management treatments (both opioid and non-opioid pain management alternatives) in both inpatient and outpatient hospital settings.

(2) The identification of incentives under the hospital inpatient prospective payment system under section 1886 of the Social Security Act (42 U.S.C. 1395ww) and incentives under the hospital outpatient prospective payment system under section 1833(t) of such Act (42 U.S.C. 1395l(t)) for prescribing opioids and incentives under each such system for prescribing non-opioid treatments, and recommendations as the Commission deems appropriate for addressing any of such incentives that are adverse incentives.

(3) A description of how opioid use is tracked and monitored through Medicare claims data and other mechanisms and the identification of any areas in which further data and methods are needed for improving data and understanding of opioid use.

## **I. SUMMARY AND BACKGROUND**

### **A. PURPOSE AND SUMMARY**

The bill, H.R. 5723, the “Expanding Oversight of Opioid Prescribing and Payment Act of 2018” as ordered reported by the Committee on Ways and Means on May 16, 2018, requires that by March 15, 2019, the Medicare Payment Advisory Commission (MedPAC) submit a report to Congress that describes: (1) how the Medicare Program pays for pain management treatment options in a hospital setting; (2) incentives under Medicare hospital payments for prescribing opioids relative to non-opioid alternatives; and (3) how opioid use may be tracked through Medicare claims data. MedPAC will also identify areas in which further data/methods are needed to fully understand opioid utilization patterns in Medicare. If appropriate, MedPAC will issue recommendations for addressing any adverse incentives in the hospital payment system related to opioid vs. non-opioid prescribing.

### **B. BACKGROUND AND NEED FOR LEGISLATION**

Providers often have a choice regarding the types of medicines or other items used in a procedure for a patient. One such choice centers around the type of medication provided to the patient during and after a procedure. Medicare payments should be neutral, encouraging providers to select the items and services most appropriate for a given patient. Sometimes, payment incentives in Medicare become misaligned, potentially providing a financial incentive to choose one item over another. Stakeholder responses to the February 27, 2018 request for information (RFI) letter from the Ways and Means Committee, as well as the Christie Commission Final Report, indicated that there are likely financial incentives in the Medicare hospital payment system that cause overprescribing of opioids.

## C. LEGISLATIVE HISTORY

*Background*

H.R. 5723 was introduced on May 11, 2018, and was referred to the Committee on Ways and Means and additionally the Committee on Energy and Commerce.

*Committee hearings*

On January 17, 2018, the Subcommittee on Oversight held a hearing on the current landscape and CMS actions to prevent opioid misuse.

On February 6, 2018, the Subcommittee on Health held a hearing on removing barriers to prevent and treat opioid abuse and dependence in Medicare.

On April 12, 2018, the Subcommittee on Human Resources held a hearing on local perspective on the jobs gap that discussed problems the opioid epidemic is creating in finding qualified workers.

On April 25, 2018, the Subcommittee on Trade held a hearing on stopping the flow of synthetic opioids in the international mail system.

*Committee action*

The Committee on Ways and Means marked up H.R. 5723, the “Expanding Oversight of Opioid Prescribing and Payment Act of 2018,” on May 16, 2018, and ordered the bill, as amended, favorably reported (with a quorum being present) by voice vote.

**II. EXPLANATION OF THE BILL****A. “EXPANDING OVERSIGHT OF OPIOID PRESCRIBING AND PAYMENT ACT OF 2018”****PRESENT LAW**

The Medicare Payment Advisory Commission (MedPAC) may study topics of interest to the Commissioners but may also be directed by Congress to study a specific matter.

**REASONS FOR CHANGE**

This bill requires MedPAC to study and make recommendations regarding Medicare payment for pain management, reducing adverse financial incentives to prescribe opioids, and tracking opioid prescribing data through Medicare claims.

**EXPLANATION OF PROVISIONS**

Section 1: This section states the short title as the “Expanding Oversight of Opioid Prescribing and Payment Act of 2018.”

Section 2: Medicare Payment Advisory Commission Report on Opioid Payment, Adverse Incentives, and Data under the Medicare Program.

By March 15, 2019, the Medicare Payment Advisory Commission (MedPAC) is required to submit a report to Congress that describes: (1) how the Medicare Program pays for pain management treatment options in a hospital setting; (2) incentives under Medicare hospital payments for prescribing opioids relative to non-opioid alternatives; and (3) how opioid use may be tracked through

Medicare claims data. MedPAC will also identify areas in which further data/methods are needed to fully understand opioid utilization patterns in Medicare. If appropriate, MedPAC will issue recommendations for addressing any adverse incentives in the hospital payment system related to opioid vs. non-opioid prescribing.

#### EFFECTIVE DATE

Medicare Payment Advisory Commission Report on Opioid Payment, Adverse Incentives, and Data under the Medicare Program: MedPAC is required to report to Congress by March 15, 2019.

### III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 5723, the Expanding Oversight of Opioid Prescribing and Payment Act, on May 16, 2018.

The Chairman's amendment in the nature of a substitute was adopted by a voice vote (with a quorum being present).

The bill, H.R. 5723, was ordered favorably reported as amended by voice vote (with a quorum being present).

### IV. BUDGET EFFECTS OF THE BILL

#### A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 5723, as reported. The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO), which is included below.

#### B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the bill involves no new or increased tax expenditures.

#### C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 6, 2018.*

Hon. KEVIN BRADY,  
*Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the opioid-related legislation ordered to be reported on May 16, 2018.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Tom Bradley.

Sincerely,

MARK P. HADLEY  
(For Keith Hall).

Enclosure.

### *Opioid Legislation*

Summary: On May 16, 2018, the House Committee on Ways and Means ordered seven bills to be reported related to the nation's response to the opioid epidemic. Generally, the bills would:

- Expand Medicare coverage of treatment for opioid use disorder;
- Give Medicare providers and health plans additional tools to curtail inappropriate prescribing and use of opioids;
- Require the completion of studies and reports related to opioid use and misuse in Medicare; and
- Require the United States Postal Service and Customs and Border Protection (CBP) to reduce illegal shipment of opioids across international borders.

Because the bills are related, CBO is publishing a single comprehensive document that includes estimates for each piece of legislation.

CBO estimates that enacting four of the bills would affect direct spending; therefore, pay-as-you-go procedures apply for those bills. None of the bills would affect revenues.

CBO estimates that although enacting one bill of the seven included in this document (H.R. 5776) would increase net direct spending and on-budget deficits over the four consecutive 10-year periods beginning in 2029, those effects would not exceed the threshold established by the Congress for long-term costs. CBO estimates that none of the remaining bills would increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

None of the bills contain intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimates in this document do not include the effects of interactions among the bills. If all seven bills were combined and enacted as one piece of legislation, the budgetary effects would be different from the sum of the estimates in this document, although CBO expects that those differences would be small. The effects of this legislation fall within functions 550 (health), 570 (Medicare), and 750 (administration of justice).

Basis of estimate: For this estimate, CBO assumes that all of the legislation will be enacted late in 2018 and that authorized and estimated amounts will be appropriated each year. Outlays for discretionary programs are estimated based on historical spending patterns for similar programs.

### *Uncertainty*

CBO aims to produce estimates that generally reflect the middle of a range of the most likely budgetary outcomes that would result if the legislation was enacted. Because data on the utilization of

mental health and substance abuse treatment under Medicaid and Medicare is scarce, CBO cannot precisely predict how patients or providers would respond to some policy changes or what budgetary effects would result. In addition, several of the bills would give the Department of Health and Human Services (HHS) considerable latitude in designing and implementing policies. Budgetary effects could differ from those provided in CBO's analyses depending on those decisions.

*Direct Spending*

Table 1 lists the four bills included in this estimate that would affect direct spending.

*H.R. 5676, the Stop Excessive Narcotics in our Retirement Communities Protection Act of 2018*, would allow prescription drug plans to suspend payments to pharmacies while fraud investigations are pending. CBO expects that enacting the legislation would reduce payments by those plans to pharmacies and result in lower premiums for benefits under Medicare's Part D. CBO estimates that the reduction in premiums would lower federal spending for Part D by \$9 million over the 2019–2028 period.

TABLE 1.—ESTIMATED CHANGES IN MANDATORY SPENDING

|   | By fiscal year, in millions of dollars— |      |      |      |      |      |      |      |      |      |      |               |               |
|---|---|------|------|------|------|------|------|------|------|------|------|---------------|---------------|
|   | 2018                                    | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2019–<br>2023 | 2019–<br>2028 |
| <b>INCREASES OR DECREASES (–) IN DIRECT SPENDING</b>                                      |   |      |      |      |      |      |      |      |      |      |      |               |               |
| H.R. 5676, Stop Excessive Narcotics in our Retirement Communities Protection Act of 2018: |   |      |      |      |      |      |      |      |      |      |      |               |               |
| Budget Authority .....  | 0                                       | 0    | –1   | –1   | –1   | –1   | –1   | –1   | –1   | –1   | –1   | –1            | –4            |
| Outlays .....   | 0                                       | 0    | –1   | –1   | –1   | –1   | –1   | –1   | –1   | –1   | –1   | –1            | –4            |
| H.R. 5773, Preventing Addiction for Susceptible Seniors Act of 2018: <sup>a</sup>         |   |      |      |      |      |      |      |      |      |      |      |               |               |
| Budget Authority .....  | 0                                       | 0    | 0    | –6   | –7   | –7   | –7   | –8   | –9   | –9   | –11  | –20           | –64           |
| Outlays .....   | 0                                       | 0    | 0    | –6   | –7   | –7   | –7   | –8   | –9   | –9   | –11  | –20           | –64           |
| H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018: <sup>a</sup>               |   |      |      |      |      |      |      |      |      |      |      |               |               |
| Budget Authority .....  | 0                                       | 8    | 0    | 20   | 20   | 25   | 30   | 30   | 35   | 35   | 40   | 73            | 243           |
| Outlays .....   | 0                                       | 2    | 4    | 22   | 20   | 25   | 30   | 30   | 35   | 35   | 40   | 73            | 243           |
| H.R. 5788, Securing the International Mail Against Opioids Act of 2018: <sup>a</sup>      |   |      |      |      |      |      |      |      |      |      |      |               |               |
| Budget Authority .....  | 0                                       | 0    | *    | *    | *    | *    | *    | *    | *    | *    | *    | *             | *             |
| Outlays .....   | 0                                       | 0    | *    | *    | *    | *    | *    | *    | *    | *    | *    | *             | *             |

Annual amounts may not sum to totals because of rounding. \* = between –\$500,000 and \$500,000

<sup>a</sup>This bill also would affect spending subject to appropriation.

*H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018*, would require Part D prescription drug plans to provide drug management programs for Medicare beneficiaries who are at risk for prescription drug abuse. (Under current law, Part D plans are permitted but not required to establish such programs as of 2019.) Based on an analysis of the number of plans currently providing those programs, CBO estimates that enacting H.R. 5773 would lower federal spending by \$64 million over the 2019–2028 period by reducing the number of prescriptions filled and Medicare’s payments for controlled substances.

Two provisions of H.R. 5773 would have no significant budgetary effect; they are described later in this document.

*H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018*, would appropriate \$8 million in 2019, which would be available until expended, for Federally Qualified Health Centers and Rural Health Clinics to support training in the treatment of opioid use disorder. CBO expects that \$8 million would be spent between 2019 and 2021.

H.R. 5776 also would expand the availability of medication-assisted treatment (MAT) for Medicare beneficiaries with opioid use disorder. The bill would allow treatment programs certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) to become Medicare-participating providers.<sup>1</sup> H.R. 5776 also would direct the Secretary of HHS to create a new schedule of bundled payments for MAT through certified programs and grant the Secretary considerable discretion for defining bundles and establishing payment rates.

CBO projects that, beginning in 2021, about 3,000 Medicare beneficiaries who would not be-treated for opioid abuse under current law would newly enroll each year in treatment offered by SAMHSA-certified programs and that the annual cost per participant would range from about \$6,000 to about \$10,000, depending largely on the medications dispensed and the period for which beneficiaries adhered to the protocol. CBO’s projection of the number of beneficiaries who would receive treatment takes into consideration the number of beneficiaries estimated to have opioid-use disorder, the number already receiving some form of treatment, and the availability of providers to treat those who newly enroll in MAT. To develop a per capita treatment cost, CBO analyzed rates for MAT paid by other payers, as well as Medicare spending for health care services typically used by people receiving MAT. CBO estimates that the new MAT benefit would increase direct spending by \$235 million over the 2019–2028 period.

CBO estimates that enacting H.R. 5776 would increase net Medicare spending by \$243 million over the 2019–2028 period. (If enacted, H.R. 5776 would also affect spending subject to appropriation; CBO has not completed an estimate of that amount.)

*H.R. 5788, the Securing the International Mail Against Opioids Act of 2018*, would establish a new fee for certain items mailed to the United States from overseas, beginning January 1, 2020. Ini-

<sup>1</sup>MAT combines behavioral therapy and pharmaceutical treatment for substance use disorders. Under current law, methadone (an opioid used to treat and manage dependence on other drugs, such as heroin) can be dispensed only by SAMHSA-certified treatment programs, which do not participate in Medicare. Other drugs used in MAT, including buprenorphine and naltrexone, can be dispensed more widely.



tially, the fee for most such items would be one dollar, but the amount could be adjusted annually thereafter. Using information provided by CBP, CBO estimates that about \$100 million in new fees would be collected over the 2020–2028 period. The collections would be divided equally between CBP and the Postal Service and spent by those agencies on activities related to the processing of inbound mail. CBO estimates that the net effect on federal spending in each year would be insignificant. (If enacted, H.R. 5788 would also affect spending subject to appropriation; those effects are described below.)

#### *Spending Subject to Appropriation*

For this document, CBO has grouped bills with spending that would be subject to appropriation into three general categories:

- Bills with provisions that would have no budgetary effect;
- Bills with provisions for which CBO has estimated an authorization of appropriations (see Table 2); and
- Bills with provisions that would affect spending subject to appropriation for which CBO has not yet completed an estimate.

**No Budgetary Effect.** CBO estimates that three of the bills have provisions that would not significantly affect direct spending, revenues, or spending subject to appropriation.

*H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018*, would require health care professionals to submit prior authorization requests electronically, starting on January 1, 2021, for drugs covered under Medicare Part D. Taking into account that many prescribers already use electronic methods to submit such requests, CBO estimates that enacting that Section 3 of H.R. 5773 would not significantly affect direct spending for Part D.

Section 5 of that bill would expand medication therapy management programs under Medicare Part D to include beneficiaries who are at risk for prescription drug abuse. Because relatively few beneficiaries would be affected by this provision, CBO estimates that its enactment would not significantly affect direct spending for Part D.

Section 6 of that bill would require the Secretary of HHS on an annual basis to identify high prescribers of opioids and furnish them with information about proper prescribing methods. Because HHS already has the capacity to meet those requirements, CBO estimates that enacting that provision would not impose additional administrative costs on the agency.

*H.R. 5775, the Providing Reliable Options for Patients and Educational Resources Act of 2018*, would require prescription drug plans that provide coverage under Medicare Part D to furnish information to beneficiaries about the risks of opioid use and the availability of alternative treatments for pain. The bill also would require Medicare Advantage plans and prescription drug plans to provide information regarding safe disposal of controlled substances in home health risk assessments and medication therapy management programs, respectively. In CBO's estimation, neither proposal would have a budgetary effect because those activities would not impose significant administrative costs on plans or federal agencies.

In addition, H.R. 5775 would restrict the use of certain pain-related questions on the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey, which is administered by the Centers for Medicare & Medicaid Services (CMS). The survey is one measure used in CMS’s Hospital Value-Based Purchasing (VBP) Program, which adjusts payments to acute care hospitals on the basis of the quality of care they provide to Medicare beneficiaries. Because the VBP program is funded by reducing base payments to all hospitals, CBO estimates that changing the HCAHPS survey would not affect the total amount paid by Medicare.

*H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018*, in section 3, would require CMS, beginning on January 1, 2020, to review and possibly modify payments made through Medicare’s Hospital Outpatient Prospective Payment System for certain opioid and nonopioid pain management treatments and technologies. CMS could revise payments if the Secretary of HHS determined that there was a financial incentive to use opioids in place of nonopioid medications. The budget neutrality requirement under current law would apply to such revisions, and the rest of the payment rates within the system would be subject to offsetting adjustments. Because the changes would be made in a budget-neutral manner, CBO estimates that this provision would have no budgetary effect.

Section 6 of H.R. 5776 would explicitly authorize the Center for Medicare and Medicaid Innovation (CMMI) to test approaches for expanding beneficiaries’ awareness of psychological services and to help those beneficiaries curtail use of hospital-based mental health or behavioral health services. Because CMMI already has that authority, CBO estimates that enacting the legislation would not affect federal spending.

Estimated Authorizations. Table 2 shows CBO’s estimates of the authorization of appropriations for provisions in four bills. For those estimates, CBO assumes that appropriated funds would be available to implement those provisions.

*H.R. 5723, the Expanding Oversight of Opioid Prescribing and Payment Act of 2018*, would require the Medicare Payment Advisory Commission to report to the Congress on payments for pain treatment, incentives for prescribing opioids in inpatient and outpatient settings, and documented tracking of opioid use from Medicare claims data. CBO estimates that producing such a report would cost less than \$500,000 over the 2019–2023 period.

TABLE 2.—ESTIMATED SPENDING SUBJECT TO APPROPRIATION FOR BILLS WITH ESTIMATED AUTHORIZATIONS

|   | By fiscal year, in millions of dollars— |      |      |      |      |      |           |
|---|---|------|------|------|------|------|-----------|
|   | 2018                                    | 2019 | 2020 | 2021 | 2022 | 2023 | 2019–2023 |
| INCREASES IN SPENDING SUBJECT TO APPROPRIATION                                    |   |      |      |      |      |      |           |
| H.R. 5723, Expanding Oversight of Opioid Prescribing and Payment Act of 2018:     |   |      |      |      |      |      |           |
| Estimated Authorization Level .....   | 0                                       | *    | 0    | 0    | 0    | 0    | *         |
| Estimated Outlays .....   | 0                                       | *    | 0    | 0    | 0    | 0    | *         |
| H.R. 5773, Preventing Addiction for Susceptible Seniors Act of 2018: <sup>a</sup> |   |      |      |      |      |      |           |
| Estimated Authorization Level .....   | 0                                       | 2    | 2    | 2    | 2    | 2    | 9         |
| Estimated Outlays .....   | 0                                       | 2    | 2    | 2    | 2    | 2    | 9         |

TABLE 2.—ESTIMATED SPENDING SUBJECT TO APPROPRIATION FOR BILLS WITH ESTIMATED AUTHORIZATIONS—Continued

|  | By fiscal year, in millions of dollars— |      |      |      |      |      |           |
|--|---|------|------|------|------|------|-----------|
|  | 2018                                    | 2019 | 2020 | 2021 | 2022 | 2023 | 2019–2023 |
| H.R. 5776, Medicare and Opioid Safe Treatment Act of 2018: <sup>a</sup>              |   |      |      |      |      |      |           |
| Estimated Authorization Level .....  | 0                                       | 1    | 0    | 0    | 0    | 0    | 1         |
| Estimated Outlays .....  | 0                                       | 1    | 0    | 0    | 0    | 0    | 1         |
| H.R. 5788, Securing the International Mail Against Opioids Act of 2018: <sup>a</sup> |   |      |      |      |      |      |           |
| Estimated Authorization Level .....  | 0                                       | 100  | 0    | 0    | 0    | 0    | 100       |
| Estimated Outlays .....  | 0                                       | 40   | 40   | 20   | 0    | 0    | 100       |

Annual amounts may not sum to totals because of rounding. \* = between zero and \$500,000  
<sup>a</sup>This bill also would affect mandatory spending

*H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018*, would require the Secretary of HHS to establish a secure Internet portal to allow HHS, Medicare Advantage plans, and Medicare Part D plans to exchange information about fraud, waste, and abuse among providers and suppliers no later than two years after enactment. H.R. 5773 also would require organizations with Medicare Advantage contracts to submit information on investigations related to providers suspected of prescribing large volumes of opioids through a process established by the Secretary no later than January 2021. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5773 would cost approximately \$9 million over the 2019–2023 period.

*H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018*, would direct the Secretary of HHS to report to the Congress on the availability of supplemental benefits to pay for treatment or prevention of substance abuse among enrollees in Medicare Advantage plans. The Secretary also would report on coverage of and payment for pain treatment and substance use disorders under Medicare. CBO estimates that producing those reports would cost \$1 million over five years.

*H.R. 5788, the Securing the International Mail Against Opioids Act of 2018*, would direct the Postal Service, CBP, and other federal agencies to collaborate to develop technology to detect opioids and other drugs that enter the United States in the mail. Using information provided by CBP, CBO estimates that it would cost roughly \$100 million over the 2019–2021 period to deploy drug detection systems at international mail facilities.

Other Authorizations. CBO has determined that provisions in two bills—H.R. 5774, Combating Opioid Abuse for Care in Hospitals Act of 2018; and H.R. 5776, the Medicare and Safe Opioid Treatment Act of 2018—would increase authorization levels, but has not completed estimates of amounts. Any spending that would result from those authorizations would be subject to future appropriation action.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Four of the bills discussed in this document contain direct spending and are subject to pay-as-you-go procedures. Details about the amount of direct spending in those bills can be found in Table 1.

Increase in long-term direct spending and deficits: CBO estimates that although enacting H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018, would increase net direct spending and on-budget deficits over the four consecutive 10-year periods beginning in 2029, those effects would not exceed the threshold established by the Congress for long-term costs (\$2.5 billion for net direct spending and \$5 billion for on-budget deficits). CBO estimates that none of the remaining bills would increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: None of the bills contains intergovernmental or private-sector mandates as defined in UMRA.

Previous CBO estimate: On June 6, 2018, CBO issued an estimate for 59 opioid-related bills ordered reported by the House Committee on Energy and Commerce on May 9 and May 17, 2018. Several of those bills contain provisions that are identical or similar to those in the legislation ordered reported by the Committee on Ways and Means, and for those provisions, CBO's estimates are the same.

In particular, several sections in H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018, contain provisions that are identical or similar to those in five bills listed in the other estimate:

- Section 2, which would require prescription drug plans to implement drug management programs, is identical to a provision in H.R. 5675.
- Section 3, regarding electronic prior authorization for prescriptions under Medicare's Part D, is similar to a provision in H.R. 4841.
- Section 4, which would mandate the creation of a new Internet portal to allow various stakeholders to exchange information, is identical to a provision in H.R. 5715.
- Section 5, which would expand medication therapy management, is the same as a provision in H.R. 5684.
- Section 6, regarding prescriber notification, is identical to H.R. 5716.

In addition, in this estimate, a provision related to Medicare beneficiary education in section 2 of H.R. 5775, the Providing Reliable Options for Patients and Educational Resources Act of 2018, is the same as a provision in H.R. 5686, the Medicare Clear Health Options in Care for Enrollees Act of 2018, in CBO's estimate for the Committee on Energy and Commerce.

Estimate prepared by: Federal Costs Medicare: Philippa Haven, Lori Housman, Jamease Kowalczyk, Lara Robillard, Sarah Sajewski, Colin Yee, and Rebecca Yip. U.S. Postal Service and Customs and Border Protection: Mark Grabowicz; Mandates: Andrew Laughlin; Fact Checking: Zachary Byrum and Kate Kelly.

Estimate reviewed by: Tom Bradley, Chief, Health Systems and Medicare Cost Estimates Unit; Kim P. Cawley, Chief, Natural Resources Cost Estimates Unit; Susan Willie, Chief, Mandates Unit; Leo Lex, Deputy Assistant Director for Budget Analysis; Theresa A. Gullo, Assistant Director for Budget Analysis.

## **V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

### **A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

### **B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES**

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

### **C. INFORMATION RELATING TO UNFUNDED MANDATES**

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

### **D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS**

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

### **E. DUPLICATION OF FEDERAL PROGRAMS**

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

### **F. DISCLOSURE OF DIRECTED RULE MAKINGS**

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

## LETTERS OF EXCHANGE

## Congress of the United States

## U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS

1102 LONGWORTH HOUSE OFFICE BUILDING  
(202) 225-3625

Washington, DC 20515-0518

<http://waysandmeans.house.gov>KEVIN BRADY, TEXAS  
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MINORITY CHIEF OF STAFF

June 8, 2018

The Honorable Greg Walden  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Walden,

I write to you regarding several opioid bills the Committee on Ways and Means ordered favorably reported to address the opioid epidemic. The following bills were also referred to the Committee on Energy and Commerce.

I ask that the Committee on Energy and Commerce waive formal consideration of the following bills so that they may proceed expeditiously to the House Floor:

- H.R. 5774, Combating Opioid Abuse for Care in Hospitals (COACH) Act;
- H.R. 5775, Providing Reliable Options for Patients and Educations Resources (PROPER) Act;
- H.R. 5776, Medicare and Opioid Safe Treatment (MOST) Act;
- H.R. 5773, Preventing Addition for Susceptible Seniors (PASS) Act;
- H.R. 5676, Stop Excessive Narcotics in our Retirement (SENIOR) Communities Protection Act; and
- H.R. 5723, Expanding Oversight of Opioid Prescribing and Payment Act.

I acknowledge that by waiving formal consideration of the bills, the Committee on Energy and Commerce is in no way waiving its jurisdiction over the subject matter contained in those provisions of the bills that fall within your Rule X jurisdiction. I would support your effort to seek appointment of an appropriate number of conferees on any House-Senate conference involving this legislation.

I will include a copy of our letters in the *Congressional Record* during consideration of this legislation on the House floor.

Sincerely,

  
Kevin Brady  
Chairman

cc: The Honorable Paul Ryan, Speaker  
The Honorable Richard E. Neal  
The Honorable Frank Pallone  
Thomas J. Wickham, Jr., Parliamentarian

GREG WALDEN, OREGON  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (2017) 275-2027  
Minority (2021) 275-3641

June 8, 2018

The Honorable Kevin Brady  
Chairman  
Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, DC 20515

Dear Chairman Brady:

Thank you for your letter regarding the following bills, which were also referred to the Committee on Energy and Commerce:

- H.R. 5774, Combatting Opioid Abuse for Care in Hospitals (COACH) Act;
  - H.R. 5775, Providing Reliable Options for Patients and Educations Resources (PROPER) Act;
  - H.R. 5776, Medicare and Opioid Safe Treatment (MOST) Act;
  - H.R. 5773, Preventing Addition for Susceptible Seniors (PASS) Act;
  - H.R. 5676, Stop Excessive Narcotics in our Retirement (SENIOR) Communities Protection Act; and
- H.R. 5723, Expanding Oversight of Opioid Prescribing and Payment Act.

I wanted to notify you that the Committee will forgo action on these bills so that they may proceed expeditiously to the House floor.

I appreciate your acknowledgment that by forgoing formal consideration of these bills, the Committee on Energy and Commerce is in no way waiving its jurisdiction over the subject matter contained in those provisions of the bills that fall within its Rule X jurisdiction. I also

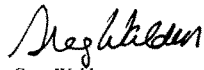


Letter to the Honorable Kevin Brady  
Page 2

appreciate your offer to support the Committee's request for the appointment of conferees in the event of a House-Senate conference involving this legislation.

Thank you for your assistance on this matter.

Sincerely,



Greg Walden  
Chairman

