

COMPREHENSIVE CARE FOR SENIORS ACT OF 2018

SEPTEMBER 10, 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. 6561]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 6561) to direct the Secretary of Health and Human Services to finalize certain proposed provisions relating to the Programs of All-Inclusive Care for the Elderly (PACE) under the Medicare and Medicaid programs, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Comprehensive Care for Seniors Act of 2018”.

SEC. 2. DIRECTING THE SECRETARY OF HEALTH AND HUMAN SERVICES TO ISSUE A FINAL REGULATION BASED ON THE PROPOSED REGULATION RELATING TO THE PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE) UNDER THE MEDICARE AND MEDICAID PROGRAMS.

Not later than December 31, 2018, the Secretary of Health and Human Services shall issue a final regulation based on the provisions of the proposed regulation titled “Medicare and Medicaid Programs; Programs of All-Inclusive Care for the Elderly (PACE)” (81 Fed. Reg. 54666).

Amend the title so as to read:

A bill to direct the Secretary of Health and Human Services to issue a final regulation based on the proposed regulation relating to the Programs of All-Inclusive Care for the Elderly (PACE) under the Medicare and Medicaid programs.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 6561, the Comprehensive Care for Seniors Act of 2018,” as ordered reported by the Committee on Ways and Means on September 5, 2018, directs the Secretary of the Department of Health and Human Services (the Secretary”) to finalize the Program of All-Inclusive Care for the Elderly (PACE) regulations, originally proposed in August 2016, no later than December 31, 2018. The bill provides the Secretary with the flexibility to make updates and changes to the proposed regulation.

B. BACKGROUND AND NEED FOR LEGISLATION

PACE is a capitated benefit for frail elders that features a comprehensive service delivery system and integrated Medicare and Medicaid financing. PACE was tested through demonstration projects that began in the mid-1980s and were permanently authorized in the Balanced Budget Act of 1997. PACE enables states to provide services to Medicaid beneficiaries who are also enrolled in Medicare as a state plan option. Operationally, the PACE program is unique as a three-way partnership between the Federal government, the State, and the PACE organization. More than 34,000 older adults are currently enrolled in about 100 PACE organizations in 31 states. Enrollment in PACE has increased by over 60 percent since 2011.

CMS published a regulation on August 16, 2016, proposing changes to the PACE model to increase flexibility of the Interdisciplinary Team (IDT) to better coordinate care for the beneficiary, as well as other updates and clarifications to improve operation. This regulation represents the first major proposed update to the PACE program since 2006. Specifically, the pending regulation includes changes to application and waiver procedures, sanctions, enforcement actions and termination, administrative requirements, PACE services, participant rights, quality assessment and perform-

ance improvement, participant enrollment and disenrollment, payment, federal and state monitoring, data collection, record maintenance, and reporting. The most needed changes include: (1) allowing PACE organizations to include community physicians as part of their hallmark IDT; (2) using nurse practitioners and physician assistants as primary care providers; (3) providing services in settings other than the PACE Center; and (4) configuring the IDT to meet the needs of individual participants. To date, CMS has not published a regulation finalizing the PACE changes proposed in 2016.

C. LEGISLATIVE HISTORY

Background

H.R. 6561 was introduced on July 26, 2018, and was referred to the Committee on Ways and Means and additionally the Committee on Energy and Commerce.

Committee hearings

On June 7, 2017, the Subcommittee on Health held a hearing on Promoting Integrated and Coordinated Care for Medicare Beneficiaries to review the current status of the PACE program and Special Needs Plans.

Committee action

The Committee on Ways and Means marked up H.R. 6561, the Comprehensive Care for Seniors Act of 2018,” on September 5, 2018, and ordered the bill, as amended, favorably reported (with a quorum being present).

II. EXPLANATION OF THE BILL

A. COMPREHENSIVE CARE FOR SENIORS ACT OF 2018

PRESENT LAW

The Secretary has the authority to issue initial interim and final PACE program regulations. However, it is not required by law to finalize pending regulations within a certain timeframe.

REASONS FOR CHANGE

The 2016 proposed regulation provides much needed flexibilities and updates to the PACE program.

EXPLANATION OF PROVISIONS

Section 1: Short Title: The Comprehensive Care for Seniors Act of 2018.”

Section 2: Directing the Secretary of Health and Human Services to finalize certain proposed provisions relating to the Programs of All-Inclusive Care for the Elderly (PACE) under the Medicare and Medicaid programs.

This section stipulates that the Secretary has until December 31, 2018, to finalize the provisions proposed in the rule titled Medicare and Medicaid Programs; Programs of All-Inclusive Care for the Elderly (PACE)” (81 Fed. Reg. 54666). This section also provides the

Secretary with the authority to make updates and changes to the proposed regulation.

EFFECTIVE DATE

The Secretary must finalize PACE regulations no later than December 31, 2018.

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. 6561, the Comprehensive Care for Seniors Act of 2018," on September 5, 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. 6561, 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. 6690, 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, September 10, 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 H.R. 6561, the Comprehensive Care for Seniors Act of 2018.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 6561—Comprehensive Care for Seniors Act of 2018

H.R. 6561 would direct the Secretary of Health and Human Services to issue a final regulation based on the provisions of the proposed regulation for the Programs of All-Inclusive Care for the Elderly program by December 31, 2018.

CBO estimates that enacting this bill would have no significant effect on the federal budget. Enacting H.R. 6561 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 6561 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 6561 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Lori Housman (for federal costs) and Andrew Laughlin (for intergovernmental or private-sector mandates). The estimate was reviewed by Theresa 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 du-

plicative 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.

VI. CORRESPONDENCE

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

September 7, 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 health bills the Committee on Ways and Means ordered favorably reported to the House. 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. 6662, Empowering Seniors' Enrollment Decision Act of 2018;
- H.R. 6690, Fighting Fraud to Protect Care for Seniors Act of 2018;
- H.R. 6561, Comprehensive Care for Seniors Act of 2018; and
- H.R. 3635, Local Coverage Determination Clarification Act of 2018.

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

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WASHINGTON, DC 20515-6115

Majority (201) 225-2927
Minority (201) 225-3641

September 7, 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 H.R. 3635, Local Coverage Determination Clarification Act of 2018; H.R. 6561, Comprehensive Care for Seniors Act of 2018; H.R. 6662, Empowering Seniors' Enrollment Decision Act of 2018; and H.R. 6690, Fighting Fraud to Protect Care for Seniors Act of 2018.

The Committee on Energy and Commerce will forgo consideration of both bills so that they may proceed expeditiously to the House Floor.

I appreciate your assurance that by forgoing action on these bills, the Committee is in no way waiving its jurisdiction over the subject matter contained in the bills. I also appreciate your offer of support for the appointment of conferees from the Committee to any House-Senate conference involving this legislation.

Sincerely,



Greg Walden
Chairman

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, the bill, as reported, makes no changes to existing law.

