

107TH CONGRESS  
2D SESSION

# H. R. 5218

To amend title XVIII of the Social Security Act to provide for payment under the prospective payment system for hospital outpatient department services under the Medicare Program for new drugs administered in such departments as soon as the drug is approved for marketing by the Commissioner of Food and Drugs.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2002

Mr. CAPUANO introduced the following bill; 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

---

## A BILL

To amend title XVIII of the Social Security Act to provide for payment under the prospective payment system for hospital outpatient department services under the Medicare Program for new drugs administered in such departments as soon as the drug is approved for marketing by the Commissioner of Food and Drugs.

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. MEDICARE PASS-THROUGH PAYMENT UNDER**  
 2 **OPD PPS FOR NEW DRUGS AS OF DATE OF AP-**  
 3 **PROVAL FOR MARKETING.**

4 (a) IN GENERAL.—Section 1833(t)(6)(C)(i) of the  
 5 Social Security Act (42 U.S.C. 1395l(t)(6)(C)(i)) is  
 6 amended—

7 (1) in subclause (II), by striking “on the first  
 8 date” and all that follows, and inserting the fol-  
 9 lowing: “on the first date on which the drug or bio-  
 10 logical is furnished as an outpatient hospital service  
 11 after its approval by the Secretary under section 505  
 12 of the Federal Food, Drug, and Cosmetic Act or sec-  
 13 tion 351 of the Public Health Service Act.”; and

14 (2) by adding at the end the following flush  
 15 sentence:

16 “The Secretary shall implement subclause  
 17 (II) by allowing the submission of claims  
 18 after issuance of a billing code for services  
 19 furnished prior to such issuance, or by  
 20 other appropriate means.”.

21 (b) EFFECTIVE DATE.—The amendments made by  
 22 subsection (a) shall apply to drugs and biologicals ap-  
 23 proved by the Secretary of Health and Human Services  
 24 on or after January 1, 2003.

○