110TH CONGRESS
1ST SESSION

S. J. RES. 22

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 SENATE OF THE UNITED STATES

OCTOBER 22, 2007

Mr. BAUCUS (for himself, Mr. CRAPO, Mr. WYDEN, Mr. SALAZAR, Ms. CANTWELL, Mr. INHOFE, Mrs. DOLE, Mr. BURR, Mr. COBURN, and Mrs. HUTCHISON) introduced the following joint resolution; which was read twice and referred to the Committee on Finance

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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;

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 are inconsistent with 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 regarding 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 & Med-

icaid Services has failed to take any action: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule (CAG–000383N) 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, and such rule shall have no force or effect.

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