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114TH CONGRESS
2D SESSION

S. 2736

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2016

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

AN ACT

To improve access to durable medical equipment for Medicare beneficiaries under the Medicare program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patient Access to Durable Medical Equipment Act of 2016''.

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

The Secretary of Health and Human Services shall extend the transition period described in clause (i) of section 414.210(g)(9) of title 42, Code of Federal Regulations, from June 30, 2016, to June 30, 2017 (with the full implementation described in clause (ii) of such section applying to items and services furnished with dates of service on or after July 1, 2017).

SEC. 3. FLOOR ON BID CEILING FOR COMPETITIVE ACQUISITION FOR DURABLE MEDICAL EQUIPMENT UNDER THE MEDICARE PROGRAM.

Section 1847(b)(5) of the Social Security Act (42 U.S.C. 1395w–3(b)(5)) is amended—

(1) in subparagraph (A)—

(A) by inserting '', subject to subparagraph (E),'' after ''subsection (a)(2)''; and

(B) by inserting '', subject to subparagraph (E),'' after ''Based on such bids''; and

(2) by adding at the end the following new subparagraph:

''(E) FLOOR ON BID CEILING FOR DURABLE MEDICAL EQUIPMENT.—

''(i) IN GENERAL.—The ceiling for a bid submitted for applicable covered items may not be less than the fee schedule amount that would otherwise be determined under section 1834(a), section 1834(h), or section 1842(s) for such items furnished on July 1, 2016 (determined as if section 2 of the Patient Access to Durable Medical Equipment Act of 2016 had not been enacted).

''(ii) APPLICABLE COVERED ITEMS DEFINED.—For purposes of this subparagraph, the term 'applicable covered items' means competitively priced items and services described in subsection (a)(2) that are furnished with respect to rounds of competition that begin on or after January 1, 2017.''.

SEC. 4. REQUIREMENTS IN DETERMINING ADJUSTMENTS USING INFORMATION FROM COMPETITIVE BIDDING PROGRAMS.

(a) IN GENERAL.—Section 1834(a)(1)(G) of the Social Security Act (42 U.S.C. 1395m(a)(1)(G)) is amended

by adding at the end the following new sentence: ''In the case of items and services furnished on or after January 1, 2019, in making any adjustments under clause (ii) or (iii) of subparagraph (F), under subsection (h)(1)(H)(ii), or under section 1842(s)(3)(B), the Secretary shall—

''(i) solicit and take into account stakeholder input; and

''(ii) take into account the highest amount bid by a winning supplier in a competitive acquisition area and a comparison of each of the following with respect to non-competitive acquisition areas and competitive acquisition areas:

''(I) The average travel distance and cost associated with furnishing items and services in the area.

''(II) Any barriers to access for items and services in the area.

''(III) The average delivery time in furnishing items and services in the area.

''(IV) The average volume of items and services furnished by suppliers in the area.

''(V) The number of suppliers in the area.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1834(h)(1)(H)(ii) of the Social Security Act (42 U.S.C. 1395m(h)(1)(H)(ii)) is amended by striking ''the Secretary'' and inserting ''subject to subsection (a)(1)(G), the Secretary''.

(2) Section 1842(s)(3)(B) of the Social Security Act (42 U.S.C. 1395m(s)(3)(B)) is amended by striking ''the Secretary'' and inserting ''subject to section 1834(a)(1)(G), the Secretary''.

SEC. 5. REPORTS ON THE RESULTS OF THE MONITORING OF ACCESS OF MEDICARE BENEFICIARIES TO DURABLE MEDICAL EQUIPMENT AND OF HEALTH OUTCOMES.

Not later than October 1, 2016, January 1, 2017, April 1, 2017, and July 1, 2017, the Secretary of Health and Human Services shall publish on the Internet website of the Centers for Medicare & Medicaid Services the results of the monitoring of access of Medicare beneficiaries to durable medical equipment and of health outcomes, as described on page 66228 in the final rule published by the Center for Medicare & Medicaid Services on November 6, 2014, and entitled ''Medicare Program; End-Stage Renal Disease Prospective Payment System, Quality In-

centive Program, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies'' (79 Fed. Reg. 66120–66265).

SEC. 6. REVISION OF EFFECTIVE DATE OF PROVISION LIMITING FEDERAL MEDICAID REIMBURSEMENT TO STATES FOR DURABLE MEDICAL EQUIPMENT (DME) TO MEDICARE PAYMENT RATES.

(a) IN GENERAL.—Section 1903(i)(27) of the Social Security Act (42 U.S.C. 1396b(i)(27)) is amended by striking ''January 1, 2019'' and inserting ''October 1, 2018''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 503 of division O of Public Law 114–113.

Passed the Senate June 21, 2016.

Attest: JULIE E. ADAMS,
Secretary.