

115TH CONGRESS  
2D SESSION

# H. R. 5715

To amend title XVIII of the Social Security Act to provide for certain program integrity transparency measures under Medicare parts C and D.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2018

Mr. RENACCI (for himself, Ms. SEWELL of Alabama, Mr. GUTHRIE, and Mr. PETERS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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

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## A BILL

To amend title XVIII of the Social Security Act to provide for certain program integrity transparency measures under Medicare parts C and D.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Strengthening Part-  
5 nerships to Prevent Opioid Abuse Act”.

1 **SEC. 2. PROGRAM INTEGRITY TRANSPARENCY MEASURES**  
2 **UNDER MEDICARE PARTS C AND D.**

3 (a) IN GENERAL.—Section 1859 of the Social Secu-  
4 rity Act (42 U.S.C. 1395w–28) is amended by adding at  
5 the end the following new subsection:

6 “(i) PROGRAM INTEGRITY TRANSPARENCY MEAS-  
7 URES.—

8 “(1) PROGRAM INTEGRITY PORTAL.—

9 “(A) IN GENERAL.—Not later than two  
10 years after the date of the enactment of this  
11 subsection, the Secretary shall, after consulta-  
12 tion with stakeholders, establish a secure Inter-  
13 net website portal (or other successor tech-  
14 nology) that would allow a secure path for com-  
15 munication between the Secretary, MA plans  
16 under this part, prescription drug plans under  
17 part D, and an eligible entity with a contract  
18 under section 1893 (such as a Medicare drug  
19 integrity contractor or an entity responsible for  
20 carrying out program integrity activities under  
21 this part and part D) for the purpose of ena-  
22 bling through such portal (or other successor  
23 technology)—

24 “(i) the referral by such plans of sub-  
25 stantiated fraud, waste, and abuse for ini-

1           tiating or assisting investigations con-  
2           ducted by the eligible entity; and

3           “(ii) data sharing among such MA  
4           plans, prescription drug plans, and the  
5           Secretary.

6           “(B) REQUIRED USES OF PORTAL.—The  
7           Secretary shall disseminate the following infor-  
8           mation to MA plans under this part and pre-  
9           scription drug plans under part D through the  
10          secure Internet website portal (or other suc-  
11          cessor technology) established under subpara-  
12          graph (A):

13          “(i) Providers of services and sup-  
14          pliers that have been referred pursuant to  
15          subparagraph (A)(i) during the previous  
16          12-month period.

17          “(ii) Providers of services and sup-  
18          pliers who are the subject of an active ex-  
19          clusion under section 1128 or who are sub-  
20          ject to a suspension of payment under this  
21          title pursuant to section 1862(o) or other-  
22          wise.

23          “(iii) Providers of services and sup-  
24          pliers who are the subject of an active rev-  
25          ocation of participation under this title, in-

1 including for not satisfying conditions of par-  
2 ticipation.

3 “(iv) In the case of such a plan that  
4 makes a referral under subparagraph  
5 (A)(i) through the portal (or other suc-  
6 cessor technology) with respect to activities  
7 of substantiated fraud, waste, or abuse of  
8 a provider of services or supplier, if such  
9 provider or supplier has been the subject of  
10 an administrative action under this title or  
11 title XI with respect to similar activities, a  
12 notification to such plan of such action so  
13 taken.

14 “(C) RULEMAKING.—For purposes of this  
15 paragraph, the Secretary shall, through rule-  
16 making, specify what constitutes substantiated  
17 fraud, waste, and abuse, using guidance such as  
18 what is provided in the Medicare Program In-  
19 tegrity Manual 4.7.1.

20 “(D) HIPAA COMPLIANT INFORMATION  
21 ONLY.—For purposes of this subsection, com-  
22 munications may only occur if the communica-  
23 tions are permitted under the Federal regula-  
24 tions (concerning the privacy of individually  
25 identifiable health information) promulgated

1 under section 264(e) of the Health Insurance  
2 Portability and Accountability Act of 1996.

3 “(2) QUARTERLY REPORTS.—Beginning two  
4 years after the date of enactment of this subsection,  
5 the Secretary shall make available to MA plans  
6 under this part and prescription drug plans under  
7 part D in a timely manner (but no less frequently  
8 than quarterly) and using information submitted to  
9 an entity described in paragraph (1) through the  
10 portal (or other successor technology) described in  
11 such paragraph or pursuant to section 1893, infor-  
12 mation on fraud, waste, and abuse schemes and  
13 trends in identifying suspicious activity. Information  
14 included in each such report shall—

15 “(A) include administrative actions, perti-  
16 nent information related to opioid overpre-  
17 scribing, and other data determined appropriate  
18 by the Secretary in consultation with stake-  
19 holders; and

20 “(B) be anonymized information submitted  
21 by plans without identifying the source of such  
22 information.

23 “(3) CLARIFICATION.—Nothing in this sub-  
24 section shall be construed as precluding or otherwise  
25 affecting referrals described in subparagraph (A)

1 that may otherwise be made to law enforcement en-  
2 tities or to the Secretary.”.

3 (b) CONTRACT REQUIREMENT TO COMMUNICATE  
4 PLAN CORRECTIVE ACTIONS AGAINST OPIOIDS OVER-  
5 PRESCRIBERS.—Section 1857(e)(4)(C) of the Social Secu-  
6 rity Act (42 U.S.C. 1395w–27(e)(4)(C)) is amended by  
7 adding at the end the following new paragraph:

8 “(5) COMMUNICATING PLAN CORRECTIVE AC-  
9 TIONS AGAINST OPIOIDS OVER-PRESCRIBERS.—

10 “(A) IN GENERAL.—Beginning with plan  
11 years beginning on or after January 1, 2021, a  
12 contract under this section with an MA organi-  
13 zation shall require the organization to submit  
14 to the Secretary, through the process estab-  
15 lished under subparagraph (B), information on  
16 the investigations and other actions taken by  
17 such plans related to providers of services who  
18 prescribe a high volume of opioids.

19 “(B) PROCESS.—Not later than January  
20 1, 2021, the Secretary shall, in consultation  
21 with stakeholders, establish a process under  
22 which MA plans and prescription drug plans  
23 shall submit to the Secretary information de-  
24 scribed in subparagraph (A).

1           “(C) REGULATIONS.—For purposes of this  
2 paragraph, including as applied under section  
3 1860D–12(b)(3)(D), the Secretary shall, pursu-  
4 ant to rulemaking—

5           “(i) specify a definition for the term  
6 ‘high volume of opioids’ and a method for  
7 determining if a provider of services pre-  
8 scribes such a high volume; and

9           “(ii) establish the process described in  
10 subparagraph (B) and the types of infor-  
11 mation that shall be submitted through  
12 such process.”.

13       (c) REFERENCE UNDER PART D TO PROGRAM IN-  
14 TEGRITY TRANSPARENCY MEASURES.—Section 1860D–4  
15 of the Social Security Act (42 U.S.C. 1395w–104) is  
16 amended by adding at the end the following new sub-  
17 section:

18       “(m) PROGRAM INTEGRITY TRANSPARENCY MEAS-  
19 URES.—For program integrity transparency measures ap-  
20 plied with respect to prescription drug plan and MA plans,  
21 see section 1859(i).”.

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