

115TH CONGRESS  
2D SESSION

# S. 2769

To require the Secretary of Health and Human Services to provide for an action plan on recommendations for changes under Medicare and Medicaid to prevent opioids addictions and enhance access to medication-assisted treatment, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 26, 2018

Mr. HELLER (for himself, Mr. MENENDEZ, and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To require the Secretary of Health and Human Services to provide for an action plan on recommendations for changes under Medicare and Medicaid to prevent opioids addictions and enhance access to medication-assisted treatment, and for other purposes.

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. ACTION PLAN ON RECOMMENDATIONS FOR**  
2 **CHANGES UNDER MEDICARE AND MEDICAID**  
3 **TO PREVENT OPIOIDS ADDICTIONS AND EN-**  
4 **HANCE ACCESS TO MEDICATION-ASSISTED**  
5 **TREATMENT.**

6 (a) IN GENERAL.—Not later than January 1, 2019,  
7 the Secretary of Health and Human Services (in this sec-  
8 tion referred to as the “Secretary”), in collaboration with  
9 the Pain Management Best Practices Inter-Agency Task  
10 Force convened under section 101(b) of the Comprehen-  
11 sive Addiction and Recovery Act of 2016 (Public Law  
12 114–198), shall develop an action plan that provides rec-  
13 ommendations described in subsection (b).

14 (b) ACTION PLAN COMPONENTS.—Recommendations  
15 provided under the action plan under subsection (a) shall  
16 include recommendations on the following:

17 (1) Recommendations on changes to the Medi-  
18 care program under title XVIII of the Social Secu-  
19 rity Act and the Medicaid program under title XIX  
20 of such Act that would enhance coverage and reim-  
21 bursement under such programs of all medication-  
22 assisted treatment approved by the Food and Drug  
23 Administration for the treatment of opioid addiction  
24 and other therapies that manage chronic and acute  
25 pain and treat and minimize risk of opioid addiction,  
26 including recommendations on changes to the Medi-

1 care prospective payment system for hospital inpa-  
2 tient department services under section 1886(d) of  
3 such Act (42 U.S.C. 1395ww(d)) and the Medicare  
4 prospective payment system for hospital outpatient  
5 department services under section 1833(t) of such  
6 Act (42 U.S.C. 1395l(t)) that would allow for sepa-  
7 rate reimbursement for such therapies to encourage  
8 development and adoption of such therapies, if medi-  
9 cally appropriate.

10 (2) Recommendations for payment and service  
11 delivery models to be tested by the Center for Medi-  
12 care and Medicaid Innovation and other federally  
13 authorized demonstration projects, including value-  
14 based models, that may encourage the use of appro-  
15 priate medication-assisted treatment approved by the  
16 Food and Drug Administration for the treatment of  
17 opioid addiction and other therapies that manage  
18 chronic and acute pain and treat and minimize risk  
19 of opioid addiction.

20 (3) Recommendations for data collection that  
21 can facilitate research and policy making regarding  
22 prevention of opioid addiction and coverage and re-  
23 imbursement under the Medicare program and the  
24 Medicaid program of appropriate opioid addiction  
25 treatments.

1           (4) Recommendations for provider education  
2           that can expand patient access to the full range of  
3           medication-assisted treatment approved by the Food  
4           and Drug Administration for the treatment of opioid  
5           addiction and other therapies that manage chronic  
6           and acute pain and treat and minimize risk of opioid  
7           addiction.

8           (5) Recommendations for policies under the  
9           Medicare program and under the Medicaid program  
10          that can expand access for rural, or medically under-  
11          served communities to the full range of medication-  
12          assisted treatment approved by the Food and Drug  
13          Administration for the treatment of opioid addiction  
14          and other therapies that manage chronic and acute  
15          pain and treatment and minimize risk of opioid ad-  
16          diction.

17       (c) STAKEHOLDER MEETINGS.—

18           (1) IN GENERAL.—Beginning not later than 3  
19          months after the date of the enactment of this Act,  
20          the Secretary shall convene a public stakeholder  
21          meeting to solicit public comment on the components  
22          of the action plan recommendations described in  
23          subsection (b).

24           (2) PARTICIPANTS.—Participants of meetings  
25          described in paragraph (1) shall include representa-

1       tives from the Food and Drug Administration and  
2       National Institutes of Health, biopharmaceutical in-  
3       dustry members, medical researchers, health care  
4       providers, the medical device industry, the Medicare  
5       program, the Medicaid program, and patient advo-  
6       cates.

7       (d) REQUEST FOR INFORMATION.—Not later than 3  
8       months after the date of the enactment of this section,  
9       the Secretary shall issue a request for information seeking  
10      public feedback regarding ways in which the Centers for  
11      Medicare & Medicaid Services can help address the opioid  
12      crisis through the development of and application of the  
13      action plan.

14      (e) REPORT TO CONGRESS.—Not later than March  
15      1, 2019, the Secretary shall submit to Congress, and make  
16      public, a report that includes a summary of steps taken  
17      under the action plan, recommendations that have  
18      emerged under the action plan, and the Secretary’s  
19      planned next steps with respect to the action plan.

20      (f) DEFINITION OF MEDICATION-ASSISTED TREAT-  
21      MENT.—In this section, the term “medication-assisted  
22      treatment” includes opioid treatment programs, behav-  
23      ioral therapy, and medications to treat substance abuse  
24      disorder.

1 **SEC. 2. REPORT ON COVERAGE, CODING, AND REIMBURSE-**  
2 **MENT POLICIES UNDER MEDICARE.**

3 (a) IN GENERAL.—Not later than 1 year after the  
4 date of the enactment of this Act, the Secretary of Health  
5 and Human Services (in this section referred to as the  
6 “Secretary”) shall—

7 (1) identify—

8 (A) medical devices that are non-opioid  
9 based treatments approved by the Food and  
10 Drug Administration for the management of  
11 acute pain and chronic pain;

12 (B) medical devices that are non-opioid  
13 based treatments approved by the Food and  
14 Drug Administration that monitor substance  
15 use withdrawal and prevent overdoses of con-  
16 trolled substances; and

17 (C) medical devices that are non-opioid  
18 based treatments approved by the Food and  
19 Drug Administration that treat substance use  
20 disorder; and

21 (2) submit to the Committee on Finance of the  
22 Senate and the Committees on Ways and Means and  
23 Energy and Commerce of the House of Representa-  
24 tives, and publish on a public Internet website of the  
25 Department of Health and Human Services, a re-  
26 port containing recommendations on ways to encour-

1       age the use of such medical devices by individuals  
2       entitled to benefits under part A of title XVIII of  
3       the Social Security Act and enrolled under part B  
4       of such title (including individuals enrolled in a  
5       Medicare Advantage plan under part C of such title  
6       or in a prescription drug plan under part D of such  
7       title) and individuals enrolled under a State plan  
8       under title XIX of such Act.

9       (b) CONTENTS.—The report under subsection (a)  
10      shall include an analysis of the following, with respect to  
11      the Medicare program under title XVIII of the Social Se-  
12      curity Act and the Medicaid program under title XIX of  
13      such Act:

14           (1) Various opioid alternatives for pain treat-  
15           ment that are covered under such programs, that  
16           are not covered under such programs, that have lim-  
17           ited coverage under such program, or with respect to  
18           which there are payment barriers under such pro-  
19           grams.

20           (2) Various medical devices that monitor sub-  
21           stance use withdrawal and prevent overdose of con-  
22           trolled substances that are covered so covered, that  
23           are not so covered, that have such limited coverage,  
24           or with respect to which there are such payment  
25           barriers.

1           (3) Various medical devices that treat substance  
2           use disorder and opioid use disorder that are so cov-  
3           ered, that are not so covered, that have such limited  
4           coverage, or with respect to which there are such  
5           payment barriers.

6           (4) Access to payment codes used by health  
7           care providers that promote alternative options for  
8           pain management therapies without the use of  
9           opioids, including minimally invasive pain therapies.

10          (5) Ways to improve communications between  
11          Medicare prescription drug plans and Medicare Ad-  
12          vantage plans, Medicare and Medicaid health care  
13          providers, and Medicare beneficiaries and Medicaid  
14          beneficiaries on the potential harm associated with  
15          the use of opioids and other controlled substances,  
16          including the need to safely store and dispose of sup-  
17          plies relating to the use of opioids and other con-  
18          trolled substances.

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