

COMMUNICATION FROM THE
CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 10, 2015.

Hon. PAUL D. RYAN,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 10, 2015 at 9:15 a.m.:

That the Senate passed with an amendment H.R. 2820.

With best wishes, I am

Sincerely,

KAREN L. HAAS.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 39 minutes p.m.), the House stood in recess.

□ 1445

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LOUDERMILK) at 2 o'clock and 48 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER
PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

SECURING FAIRNESS IN
REGULATORY TIMING ACT OF 2015

Mr. TIBERI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3831) to amend title XVIII of the Social Security Act to extend the annual comment period for payment rates under Medicare Advantage, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3831

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 "Securing Fairness in Regulatory Timing Act of 2015".

SEC. 2. EXTENDING THE ANNUAL COMMENT PERIOD FOR PAYMENT RATES UNDER MEDICARE ADVANTAGE.

Section 1853(b)(2) of the Social Security Act (42 U.S.C. 1395w-23(b)(2)) is amended—

(1) by inserting "(or, in 2017 and each subsequent year, at least 60 days)" after "45 days"; and

(2) by inserting "(in 2017 and each subsequent year, of no less than 30 days)" after "opportunity".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. TIBERI) and the gentleman from California (Mr. THOMPSON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. TIBERI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 3831, the Securing Fairness in Regulatory Timing Act of 2015. This is a small but really important piece of legislation. I am pleased to have the gentleman from California (Mr. THOMPSON), my friend, here to discuss this important measure.

The House passed this measure earlier this year, in June, by unanimous consent. Now, we return to the bill to add the technical corrections asked for by the Centers for Medicare and Medicaid Services and the Senate so we can send this bill to the President's desk before the end of the year.

Today, the Medicare Advantage program, known by many as the MA program, serves more than 16 million seniors across the United States of America, including my mom and dad. Enrollment has increased more than threefold in the past 10 years and is expected to nearly double in the next 10 years.

To ensure that seniors in MA plans across the country are able to continue to receive the high-quality care that they deserve, CMS is expected to pay about \$156 billion to more than 3,600 MA plans this year alone. That amounts to nearly 30 percent of overall Medicare spending.

Typically, every year CMS sends out what it calls a rate notice to plans and Medicare Advantage companies that details the various payment rates, as well as benefit changes that the agency intends to make for the following plan year that impacts people like my mom and dad. This notice follows the standard process of a draft notice. It gets published; then the public has a certain amount of time to submit comments and questions; and then the agency publishes a final notice based on that feedback that they receive.

However, MA and Part D aren't treated the same as the other major payment systems within Medicare itself. Right now, the current process takes about 45 days, but only 15 of those days are allotted for the commenting portion; 15 days for thousands of plans, millions of stakeholders to submit comments on proposed changes to a program that amounts to one-third of all Medicare spending.

I could almost understand this if the rate notice were a short and concise document, if it were easy to understand and simple to implement. But it is not. In fact, the rate notice has grown from around 16 pages in 2006 to

nearly 150 pages this year. That is over a 900 percent increase. All the while, the time for the public comment period has remained static, exactly the same.

This means less and less time for the plans and Congress to conduct the necessary review in order to provide CMS with the kind of feedback that would better help the agency assess the impact of their proposed changes to consumers. This is important because without accurate feedback, CMS could inadvertently move forward with a proposed change to the Medicare Advantage program that might negatively impact those seniors—again, like my mom and dad—who depend on these plans for access to their providers, to their doctors.

The legislation before us is simple, and it is straightforward. It extends the public notice period from 45 days to 60 days. Therefore, it would double the extension of the comment period from 15 days to 30 days. This is a common-sense, good-government fix we can make that will give plans more time to understand the changes that CMS proposes and other constructive feedback in order to make the Medicare Advantage program, overall, more responsive to senior citizens' needs.

I encourage my colleagues on both sides of the aisle to pass this legislation again and send it to the Senate so we can get it to the President's desk.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of California. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 3831, the Securing Fairness in Regulatory Timing Act of 2015. Every year, the Centers for Medicare and Medicaid Services publishes its Medicare Advantage call letter and rate notice, which outlines payment rates and changes for the nearly 2,000 plans that serve our most vulnerable population.

Nearly 10 years ago, the call letter and rate notice were less than 20 pages long. However, since then, enrollment in Medicare Advantage has nearly tripled, from 5.4 million to 16 million. Medicare Advantage policies have become more complex, and the call letter and rate notice has grown nearly tenfold, sometimes up to over 200 pages long.

At the same time, the time between the publishing of these draft notices and the final notices, which is currently 45 days, has remained unchanged. During this 45-day period, in which there are only 15 days to comment on the proposed changes in the program, plans, stockholders, members, and staff, are expected to review 150 pages of regulatory changes and understand the impacts of those proposed policy changes on a program that provides essential medical care to over a third of Medicare beneficiaries.

We know from our experience, every February and March, that this does not lend itself to an efficient, effective, nor transparent process. Moreover, it

shortchanges CMS of thoughtful, constructive feedback that is necessary to improve a program that our seniors enjoy and rely on.

H.R. 3831 is a simple, straightforward bill that will improve the current process by expanding the cycle from 45 to 60 days, and that gives plans, stakeholders, Members, and our staff 30 full days—double the current time allowed—to analyze and provide feedback on the draft call letter and rate notice.

This is a no-cost, good-government, bipartisan bill that will make the process more transparent, fair, and advantageous for the beneficiaries we serve. As my good friend from Ohio pointed out, we have already passed this bill. It is only coming back for some technical changes. I would ask, and strongly recommend, that all our colleagues vote in favor of this bill so we can pass it to the Senate and get on with our work.

Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. TIBERI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3831, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TIBERI. Mr. Speaker, just to close, I agree 100 percent with my friend from California. I urge all our colleagues to support this important piece of legislation.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. TIBERI) that the House suspend the rules and pass the bill, H.R. 3831, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SURFACE TRANSPORTATION BOARD REAUTHORIZATION ACT OF 2015

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (S. 808) to establish the Surface Transportation Board as an independent establishment, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 808

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Surface Transportation Board Reauthorization Act of 2015”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References to title 49, United States Code.

Sec. 3. Establishment of Surface Transportation Board as an independent establishment.

Sec. 4. Surface Transportation Board membership.

Sec. 5. Nonpublic collaborative discussions.

Sec. 6. Reports.

Sec. 7. Authorization of appropriations.

Sec. 8. Agent in the District of Columbia.

Sec. 9. Department of Transportation Inspector General authority.

Sec. 10. Amendment to table of sections.

Sec. 11. Procedures for rate cases.

Sec. 12. Investigative authority.

Sec. 13. Arbitration of certain rail rates and practices disputes.

Sec. 14. Effect of proposals for rates from multiple origins and destinations.

Sec. 15. Reports.

Sec. 16. Criteria.

Sec. 17. Construction.

SEC. 2. REFERENCES TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. ESTABLISHMENT OF SURFACE TRANSPORTATION BOARD AS AN INDEPENDENT ESTABLISHMENT.

(a) REDESIGNATION OF CHAPTER 7 OF TITLE 49, UNITED STATES CODE.—Title 49 is amended—

(1) by moving chapter 7 after chapter 11 in subtitle II;

(2) by redesignating chapter 7 as chapter 13;

(3) by redesignating sections 701 through 706 as sections 1301 through 1306, respectively;

(4) by striking sections 725 and 727;

(5) by redesignating sections 721 through 724 as sections 1321 through 1324, respectively; and

(6) by redesignating section 726 as section 1325.

(b) INDEPENDENT ESTABLISHMENT.—Section 1301, as redesignated by subsection (a)(3), is amended by striking subsection (a) and inserting the following:

“(a) ESTABLISHMENT.—The Surface Transportation Board is an independent establishment of the United States Government.”.

(c) CONFORMING AMENDMENTS.—

(1) ADMINISTRATIVE PROVISIONS.—Section 1303, as redesignated by subsection (a)(3), is amended—

(A) by striking subsections (a), (c), (f), and (g);

(B) by redesignating subsections (b), (d), and (e) as subsections (a), (b), and (c), respectively; and

(C) by adding at the end the following:

“(d) SUBMISSION OF CERTAIN DOCUMENTS TO CONGRESS.—

“(1) IN GENERAL.—If the Board submits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for a congressional hearing, or comment on legislation to the President or to the Office of Management and Budget, the Board shall concurrently submit a copy of such document to—

“(A) the Committee on Commerce, Science, and Transportation of the Senate; and

“(B) the Committee on Transportation and Infrastructure of the House of Representatives.

“(2) NO APPROVAL REQUIRED.—No officer or agency of the United States has any authority to require the Board to submit budget estimates or requests, legislative recommenda-

tions, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review before submitting such recommendations, testimony, or comments to Congress.”.

SEC. 4. SURFACE TRANSPORTATION BOARD MEMBERSHIP.

(a) IN GENERAL.—Section 1301(b), as redesignated by subsection 3(a), is amended—

(1) in paragraph (1)—

(A) by striking “3 members” and inserting “5 members”; and

(B) by striking “2 members” and inserting “3 members”; and

(2) by striking paragraph (2) and inserting the following:

“(2) At all times—

“(A) at least 3 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation, transportation regulation, or economic regulation; and

“(B) at least 2 members shall be individuals with professional or business experience (including agriculture) in the private sector.”.

(b) REPEAL OF OBSOLETE PROVISION.—Section 1301(b), as amended by this section, is further amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively; and

(3) in paragraph (4), as redesignated, by striking “who becomes a member of the Board pursuant to paragraph (4), or an individual”.

SEC. 5. NONPUBLIC COLLABORATIVE DISCUSSIONS.

Section 1303(a), as redesignated by subsections (a) and (c) of section 3, is amended to read as follows:

“(a) OPEN MEETINGS.—

“(1) IN GENERAL.—The Board shall be deemed to be an agency for purposes of section 552b of title 5.

“(2) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

“(A) IN GENERAL.—Notwithstanding section 552b of title 5, a majority of the members may hold a meeting that is not open to public observation to discuss official agency business if—

“(i) no formal or informal vote or other official agency action is taken at the meeting;

“(ii) each individual present at the meeting is a member or an employee of the Board; and

“(iii) the General Counsel of the Board is present at the meeting.

“(B) DISCLOSURE OF NONPUBLIC COLLABORATIVE DISCUSSIONS.—Except as provided under subparagraph (C), not later than 2 business days after the conclusion of a meeting under subparagraph (A), the Board shall make available to the public, in a place easily accessible to the public—

“(i) a list of the individuals present at the meeting; and

“(ii) a summary of the matters discussed at the meeting, except for any matters the Board properly determines may be withheld from the public under section 552b(c) of title 5.

“(C) SUMMARY.—If the Board properly determines matters may be withheld from the public under section 555b(c) of title 5, the Board shall provide a summary with as much general information as possible on those matters withheld from the public.

“(D) ONGOING PROCEEDINGS.—If a discussion under subparagraph (A) directly relates to an ongoing proceeding before the Board, the Board shall make the disclosure under subparagraph (B) on the date of the final Board decision.