

sector to provide better care and benefits. Medicare Advantage plans receive a capitated payment rate to cover the patient's total cost of care. In order to encourage quality, seniors enrolled in high-quality plans receive a quality bonus payment that goes directly to seniors in the form of reduced cost sharing or extra benefits.

The Medicare Advantage program is very popular and has been working well for many years. In my district in western Pennsylvania, more than half of Medicare beneficiaries choose Medicare Advantage. Nationwide, Medicare Advantage enrollment has grown to 30 percent of Medicare beneficiaries. That number is even higher with 48 percent of the Hispanic and 38 percent of African American Medicare beneficiaries choosing Medicare Advantage.

Unfortunately, the Affordable Care Act implemented a cap on payments to Medicare Advantage plans. This misguided benchmark cap policy has penalized approximately 5.8 million American seniors being denied important benefits like care coordination, vision, dental, and wellness programs.

This issue has cost seniors in my district and across the country millions of dollars in benefits that they are entitled to. We talk often about paying for value in the Medicare program, and this policy undermines that goal.

The benchmark cap is clearly a problem, and we need more information on it. The Improving Seniors Access to Quality Benefits Act requires the Secretary of HHS to analyze and report to Congress on the impact of including quality bonus payments in the Medicare Advantage benchmark cap. It also establishes a sense of Congress that this issue undermines the goal of delivering high-quality care in the Medicare program.

It is my understanding that the Department of Health and Human Services has limited secretarial authority to make this change on its own. I hope to work together with the Secretary on policies such as this to encourage high-quality plans for seniors.

Mr. Speaker, this legislation has broad support from many stakeholders, including America's Health Insurance Plans, the Better Medicare Alliance, the Healthcare Leadership Council, Meals on Wheels America, the National Minority Quality Forum, the Alliance of Community Health Plans, and many others.

Mr. Speaker, I urge the adoption of this legislation, and I reserve the balance of my time.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 13, 2018.

Hon. GREG WALDEN,
Chairman, Committee on Energy and Commerce,
Washington, DC.

DEAR CHAIRMAN WALDEN: I write to you regarding H.R. 4952, the "Improving Seniors Access to Quality Benefits Act" the Committee on Ways and Means ordered favorably reported that was also referred to the Committee on Energy and Commerce.

I ask that the Committee on Energy and Commerce waive formal consideration of the

bill so that it may proceed expeditiously to the House Floor.

I acknowledge that by waiving formal consideration of the bill, the Committee on Energy and Commerce is in no way waiving its jurisdiction over the subject matter contained in those provisions of the bills that fall within your Rule X jurisdiction. I would support your effort to seek appointment of an appropriate number of conferees on any House-Senate conference involving this legislation.

I will include a copy of our letters in the Congressional Record during consideration of this legislation on the House floor.

Sincerely,

KEVIN BRADY,
Chairman.

HOUSE OF REPRESENTATIVES, COM-
MITTEE ON ENERGY AND COM-
MERCE,

Washington, DC, July 16, 2018.

Hon. KEVIN BRADY,
Chairman, Committee on Ways and Means,
Washington, DC.

DEAR CHAIRMAN BRADY: Thank you for your letters regarding H.R. 4952, the "Improving Seniors Access to Quality Benefits Act," H.R. 6138, the "Ambulatory Surgical Center (ACS) Payment Transparency Act of 2018," and H.R. 6311, the "To amend the Internal Revenue Code of 1986 and the Patient Protection and Affordable Care Act to modify the definition of qualified health plan for purposes of the health insurance premium tax credit and to allow individuals purchasing health insurance in the individual market to purchase a lower premium copper plan."

The Committee on Energy and Commerce will forgo consideration of both bills so that they may proceed expeditiously to the House Floor.

I appreciate your assurance that by forgoing action on these bills, the Committee is in no way waiving its jurisdiction over the subject matter contained in the bills. I also appreciate your offer of support for the appointment of conferees from the Committee to any House-Senate conference involving this legislation.

Sincerely,

GREG WALDEN,
Chairman.

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

Mr. Speaker, I rise today to urge my colleagues to support H.R. 4952, the Improving Seniors Access to Quality Benefits Act.

More than 19 million Medicare beneficiaries were enrolled in Medicare Advantage plans in 2017—that is almost one-third of all Medicare beneficiaries—and that number is growing every year. This bill would require the Department of Health and Human Services to conduct a study and submit a report to Congress on the effect of including quality bonus payments in the benchmark cap.

The Centers for Medicare and Medicaid Services, or CMS, believes the benchmark payments made to Medicare Advantage plans include the bonuses Medicare Advantage plans may earn from delivering care that meets certain basic quality standards. On the other hand, plans argue that these quality bonuses should not be included in the benchmark cap. The Medicare Payment Advisory Commission has recommended, among other things, that this interaction be investigated.

This bill, by requiring a study of the issue, will help Congress come to a conclusion on possible solutions.

In closing, I thank the sponsors for their hard work. I urge my colleagues on both sides of the aisle to support H.R. 4952, and I yield back the balance of my time.

Mr. KELLY of Pennsylvania. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, it is estimated that the ACA's benchmark cap negatively impacts more than 40 percent of counties across our country. The Improving Seniors Access to Quality Benefits Act will require the Secretary to fully evaluate the impact of including quality bonus payments under the benchmark cap on our seniors residing in these counties.

This bill was brought through the committee process in a bipartisan fashion. Now on the floor, I strongly recommend my colleagues on both sides of the aisle to vote in favor of H.R. 4952 to ensure seniors are not missing out on additional healthcare benefits or reduced cost sharing as a result of the ACA's benchmark cap.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. KELLY) that the House suspend the rules and pass the bill, H.R. 4952, 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.

AMBULATORY SURGICAL CENTER PAYMENT TRANSPARENCY ACT OF 2018

Mr. NUNES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6138) to amend title XVIII of the Social Security Act to provide for ambulatory surgical center representation during the review of hospital outpatient payment rates under part B of the Medicare program, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6138

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 "Ambulatory Surgical Center Payment Transparency Act of 2018" or the "ASC Payment Transparency Act of 2018".

SEC. 2. ADVISORY PANEL ON HOSPITAL OUTPATIENT PAYMENT REPRESENTATION.

(a) ASC REPRESENTATIVE.—The second sentence of section 1833(t)(9)(A) of the Social Security Act (42 U.S.C. 1395l(t)(9)(A)) is amended by inserting "and at least one ambulatory surgical center representative" after "an appropriate selection of representatives of providers".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to advisory panels consulted on or after the date that is 1 year after the date of enactment of this Act.

SEC. 3. REASONS FOR EXCLUDING ADDITIONAL PROCEDURES FROM ASC APPROVED LIST.

Section 1833(i)(1) of the Social Security Act (42 U.S.C. 1395l(i)(1)) is amended by adding at the end the following: “In updating such lists for application in years beginning with the second year beginning after the date of the enactment of this sentence, for each procedure that was not proposed to be included in such lists in the proposed rule with respect to such lists and that was subsequently requested to be included in such lists during the public comment period with respect to such proposed rule and that is not included in the final rule updating such lists, the Secretary shall cite in such final rule the specific criteria in paragraph (b) or (c) of section 416.166 of title 42, Code of Federal Regulations (or any successor regulation), based on which the procedure was excluded. If paragraph (b) of such section is cited for exclusion of a procedure, the Secretary shall identify the peer reviewed research, if any, or the evidence upon which such determination is based.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. NUNES) and the gentleman from Massachusetts (Mr. NEAL) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. NUNES. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 6138, currently under consideration.

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

There was no objection.

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

Mr. Speaker, ambulatory surgery centers provide patients with high-quality, same-day surgical and preventive care. H.R. 6138, the Ambulatory Surgical Center Payment Transparency Act of 2018, makes two simple and straightforward ASC reforms.

The bill adds an ASC representative to the advisory panel on hospital outpatient payment, which will allow ASCs proper representation and a seat at the table for future CMS payment policy changes. This bill also requires the Centers for Medicare and Medicaid Services to disclose their criteria for inclusion or exclusion of procedures on the ASC approved list.

Currently, CMS does not fully provide explanations for their decisions, leading to a lack of transparency in the process. These simple changes will continue to protect patient access to cost-effective and high-quality services performed in the ASC setting.

I hope that this legislation marks the first of many steps in further bolstering ASC and patient access to these high-quality facilities.

I thank Chairman BRADY, Ranking Member NEAL, and the Ways and Means

staff for working to provide transparency in this space. I also thank Mr. LARSON for his work and partnership on this important bill.

Mr. Speaker, I encourage all Members to support this legislation, and I reserve the balance of my time.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 13, 2018.

Hon. GREG WALDEN,
Chairman, Committee on Energy and Commerce,
Washington, DC.

DEAR CHAIRMAN WALDEN: I write to you regarding H.R. 6138, the “Ambulatory Surgical Center (ACS) Payment Transparency Act of 2018” the Committee on Ways and Means ordered favorably reported which was also referred to the Committee on Energy and Commerce.

I ask that the Committee on Energy and Commerce waive formal consideration of the bill so that it may proceed expeditiously to the House Floor.

I acknowledge that by waiving formal consideration of the bill, the Committee on Energy and Commerce is in no way waiving its jurisdiction over the subject matter contained in those provisions of the bills that fall within your Rule X jurisdiction. I would support your effort to seek appointment of an appropriate number of conferees on any House-Senate conference involving this legislation.

I will include a copy of our letters in the Congressional Record during consideration of this legislation on the House floor.

Sincerely,

KEVIN BRADY,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, July 16, 2018.

Hon. KEVIN BRADY,
Chairman, Committee on Ways and Means,
Washington, DC.

DEAR CHAIRMAN BRADY: Thank you for your letters regarding H.R. 4952, the “Improving Seniors Access to Quality Benefits Act,” H.R. 6138, the “Ambulatory Surgical Center (ACS) Payment Transparency Act of 2018,” and H.R. 6311, the “To amend the Internal Revenue Code of 1986 and the Patient Protection and Affordable Care Act to modify the definition of qualified health plan for purposes of the health insurance premium tax credit and to allow individuals purchasing health insurance in the individual market to purchase a lower premium copper plan.”

The Committee on Energy and Commerce will forgo consideration of both bills so that they may proceed expeditiously to the House Floor.

I appreciate your assurance that by forgoing action on these bills, the Committee is in no way waiving its jurisdiction over the subject matter contained in the bills. I also appreciate your offer of support for the appointment of conferees from the Committee to any House-Senate conference involving this legislation.

Sincerely,

GREG WALDEN,
Chairman.

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

Mr. Speaker, the House has passed this bill before, making clarifications on existing religious exemptions for healthcare. I understand that religious groups have important healthcare concerns that should be taken seriously.

While I support this bill, we should be talking about issues in healthcare

that our constituents bring up every day: skyrocketing prescription drug costs, increasing premiums, and threats to guaranteed coverage.

I just wanted to make those points, never losing the opportunity.

This bill is pretty simple, Mr. Speaker. Right now the Centers for Medicare and Medicaid Services, or CMS, has an advisory panel for hospital outpatient issues that is comprised of outside experts. The problem is this panel does not include representation for an ambulatory surgical center, or ASC, in its membership, despite the panel counseling on Medicare or ASC payment issues.

This legislation would require the addition of someone from ASC on the advisory panel on hospital outpatient concerns.

Given that Medicare pays ASCs more than \$4 billion a year through the outpatient payment rule, it just makes sense that ASCs be represented on this panel.

The bill requires more transparency in determining what types of surgeries are safe to perform on an outpatient basis. More than 3 million Medicare beneficiaries receive care at an ASC for cataract surgery and other surgeries. This bill makes sure that Medicare hears the voice of the ASC provider, so that millions of Medicare beneficiaries can continue to receive the outpatient care they want.

Mr. Speaker, I urge support of H.R. 6138, and I yield back the balance of my time.

□ 1545

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

I want to reiterate the small but important step we are taking here today in passing this legislation. Ambulatory surgical centers provide excellent care at lower cost to patients and taxpayers.

While there is a much longer conversation that needs to happen regarding parity in reimbursement in outpatient settings, what we are doing here is simple. ASCs are an integral part of the healthcare system, and we are saying that, as stakeholders, they deserve a seat at the table when changes to payment policies are being debated and when decisions are being made by CMS on the services they are able to provide patients. We believe they should get a transparent explanation as to why those decisions were made.

Mr. Speaker, this is a commonsense bill. I urge all my colleagues to support it, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WEBER of Texas). The question is on the motion offered by the gentleman from California (Mr. NUNES) that the House suspend the rules and pass the bill, H.R. 6138, 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.

TRIBAL SOCIAL SECURITY FAIRNESS ACT OF 2018

Mr. REICHERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6124) to amend title II of the Social Security Act to authorize voluntary agreements for coverage of Indian tribal council members, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6124

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 “Tribal Social Security Fairness Act of 2018”.

SEC. 2. VOLUNTARY AGREEMENTS FOR COVERAGE OF SERVICES BY AMERICAN INDIAN TRIBAL COUNCIL MEMBERS.

(a) IN GENERAL.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended by inserting after section 218 the following new section:

“VOLUNTARY AGREEMENTS FOR COVERAGE OF INDIAN TRIBAL COUNCIL MEMBERS

“Purpose of Agreement

“SEC. 218A. (a)(1) The Commissioner of Social Security shall, at the request of any Indian tribe, enter into an agreement with such Indian tribe for the purpose of extending the insurance system established by this title to services performed by individuals as members of such Indian tribe’s tribal council. Any agreement with an Indian tribe under this section applies to all members of the tribal council, and shall include all services performed by individuals in their capacity as council members.

“(2) Notwithstanding section 210(a), for the purposes of this title, the term ‘employment’ includes any service included under an agreement entered into under this section.

“Definitions

“(b) For the purposes of this section:

“(1) The term ‘member’ means, with respect to a tribal council, an individual appointed or elected to serve as a member or the head of the tribal council.

“(2) The term ‘tribal council’ means the appointed or elected governing body of a federally recognized Indian tribe.

“Effective Date of Agreement

“(c)(1) Any agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement, provided that such date may not be earlier than the first day of the next calendar month after the month in which the agreement is executed by both parties.

“(2) At the request of the Indian tribe at the time of the agreement, such agreement may apply with respect to services performed before such effective date for which there were timely paid in good faith (and not subsequently refunded) to the Secretary of the Treasury amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1986 had such services constituted employment for purposes of chapter 21 of such Code. No agreement under this section may require payment to be made after the effective date specified in such agreement of any taxes with respect to services performed before such effective date.

“Duration of Agreement

“(d) No agreement under this section may be terminated on or after the effective date of the agreement.”.

(b) CONFORMING AMENDMENTS.—

(1) SOCIAL SECURITY ACT.—Section 210(a) of the Social Security Act (42 U.S.C. 410(a)) is amended—

(A) in paragraph (20), by striking “or” at the end;

(B) in paragraph (21), by striking the period at the end and inserting “; or”; and

(C) by inserting after paragraph (21) the following new paragraph:

“(22) Service performed by members of Indian tribal councils as tribal council members in the employ of an Indian tribal government, except that this paragraph shall not apply in the case of service included under an agreement under section 218A.”.

(2) INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of 1986 is amended—

(A) in section 3121(b)—

(i) in paragraph (20), by striking “or” at the end;

(ii) in paragraph (21), by striking the period at the end and inserting “; or”; and

(iii) by inserting after paragraph (21) the following new paragraph:

“(22) service performed by members of Indian tribal councils as tribal council members in the employ of an Indian tribal government, except that this paragraph shall not apply in the case of service included under an agreement under section 218A of the Social Security Act.”; and

(B) in section 3121(d)(4), by inserting “or 218A” after “section 218”.

(c) RULE OF CONSTRUCTION.—Nothing in this Act or the amendments made by this Act shall be construed to affect application of any Federal income tax withholding requirements under the Internal Revenue Code of 1986.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington (Mr. REICHERT) and the gentleman from Massachusetts (Mr. NEAL) each will control 20 minutes.

The Chair recognizes the gentleman from Washington.

GENERAL LEAVE

Mr. REICHERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 6124, currently under consideration.

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

There was no objection.

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

Mr. Speaker, I am proud to rise today in support of my bill, the Tribal Social Security Fairness Act. This bipartisan bill supports our community’s Tribal leaders and their fair access to the Social Security system and the benefits they have earned by ensuring Tribal governments have the same opportunity to participate in the Social Security Program that so many others across the country rely on. It was unanimously approved by the Ways and Means Committee in late June.

This bill provides a simple solution to a problem facing Tribal leaders across the country, including in my home State of Washington. In Washington State, many Tribal leaders have been paying into the Social Security system with the expectation of future benefits. However, a Social Security Administration policy ruling issued in 2006 prevented them from continuing to

pay into the program and have their earnings count toward future benefits.

This problem was brought to my attention a few years ago when I met with Virginia Cross. Virginia Cross is the chairwoman of the Muckleshoot Tribal Council in Washington State. After this meeting, we discovered other Tribal leaders in Washington and across the country face the same challenges, including the Snoqualmie Tribe in Washington. Hearing these examples, it just didn’t seem fair that those who wanted to pay into the system could not pay into the system. That is when my staff and I went to work to find a solution.

Thanks to the dedicated advocacy of the Muckleshoot and the Snoqualmie Tribes and the leadership of fellow Washingtonians, Representatives DELBENE and KILMER, as well as Representatives COLE and SCHWEIKERT, we were able to find a bipartisan, comprehensive solution to the problem. I would also like to thank Chairman BRADY and Ranking Member NEAL of the Ways and Means Committee and their staff for all the hard work they have put in on this most important bill.

I urge my colleagues to join me today in righting this wrong so our Tribal leaders can receive the Social Security benefits they deserve.

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

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

Mr. Speaker, I rise in support of H.R. 6124, which closes a longstanding gap in Social Security coverage for members of Indian Tribal councils.

Let me thank Representatives DAVE REICHERT and SUZAN DELBENE for their good work to resolve this issue.

H.R. 6124 allows Indian Tribal councils to voluntarily cover their members under Social Security in a way that is similar to how State and local governments do so today. This would allow individuals employed as members of Tribal councils to contribute to Social Security and Medicare and, therefore, earn benefit protection.

I want to emphasize that the decision to participate would be voluntary. Each Tribal council will have the right to decide for itself.

In addition, because there has been confusion around this issue for many years, the legislation allows Tribal council members to receive benefit credit if they have erroneously paid Social Security taxes in the past, even though they were not required to. This is only fair, and I am pleased that the legislation addresses this problem as well.

Social Security and Medicare coverage are valuable protections for all Americans. I am pleased that this bipartisan legislation is moving forward, and I urge its support.

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

Mr. REICHERT. Mr. Speaker, I yield such time as he may consume to the