

A motion to reconsider was laid on the table.

PAYMENT COMMISSION DATA ACT OF 2019

Ms. SCHAKOWSKY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1781) to amend titles XVIII and XIX of the Social Security Act to provide the Medicare Payment Advisory Commission and the Medicaid and CHIP Payment and Access Commission with access to certain drug payment information, including certain rebate information, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1781

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 “Payment Commission Data Act of 2019”.

SEC. 2. PROVIDING THE MEDICARE PAYMENT ADVISORY COMMISSION AND MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION WITH ACCESS TO CERTAIN DRUG PAYMENT INFORMATION, INCLUDING CERTAIN REBATE INFORMATION.

(a) ACCESS TO CERTAIN PART D PAYMENT DATA.—Section 1860D–15(f) of the Social Security Act (42 U.S.C. 1395w–115(f)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by striking “and” at the end;

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

(C) by inserting at the end the following new subparagraph:

“(C) by the Executive Director of the Medicare Payment Advisory Commission for purposes of monitoring, making recommendations, and analysis of the program under this title and by the Executive Director of the Medicaid and CHIP Payment and Access Commission for purposes of monitoring, making recommendations, and analysis of the Medicaid program established under title XIX and the Children’s Health Insurance Program under title XXI.”; and

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

“(3) ADDITIONAL RESTRICTIONS ON DISCLOSURE OF INFORMATION.—The Executive Directors described in paragraph (2)(C) shall not disclose any of the following information disclosed to such Executive Directors or obtained by such Executive Directors pursuant to such paragraph, with respect to a prescription drug plan offered by a PDP sponsor or an MA–PD plan offered by an MA organization:

“(A) The specific amounts or the identity of the source of any rebates, discounts, price concessions, or other forms of direct or indirect remuneration under such prescription drug plan or such MA–PD plan.

“(B) Information submitted with the bid submitted under section 1860D–11(b) by such PDP sponsor or under section 1854(a) by such MA organization.

“(C) In the case of such information from prescription drug event records, in a form that would not be permitted under section 423.505(m) of title 42, Code of Federal Regulations, or any successor regulation, if made by the Centers for Medicare & Medicaid Services.”.

(b) ACCESS TO CERTAIN REBATE AND PAYMENT DATA UNDER MEDICARE AND MEDICAID.—Section 1927(b)(3)(D) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)) is amended—

(1) in the matter before clause (i), by striking “subsection (a)(6)(A)(ii)” and inserting “subsection (a)(6)(A)”;

(2) in clause (iv), by striking “and” at the end;

(3) in clause (v), by striking the period at the end and inserting “; and”;

(4) by inserting after clause (v) the following new clause:

“(vi) to permit the Executive Director of the Medicare Payment Advisory Commission and the Executive Director of the Medicaid and CHIP Payment and Access Commission to review the information provided.”;

(5) in the matter at the end, by striking “1860D–4(c)(2)(E)” and inserting “1860D–4(c)(2)(G)”; and

(6) by adding at the end the following new sentence: “Any information disclosed to the Executive Director of the Medicare Payment Advisory Commission or the Executive Director of the Medicaid and CHIP Payment and Access Commission pursuant to this subparagraph shall not be disclosed by either such Executive Director in a form which discloses the identity of a specific manufacturer or wholesaler or prices charged for drugs by such manufacturer or wholesaler.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and the gentleman from Texas (Mr. BURGESS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Illinois.

GENERAL LEAVE

Ms. SCHAKOWSKY. 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. 1781.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 1781, the Payment Commission Data Act of 2019.

This bill will provide the Medicare Payment Advisory Commission, otherwise known as MedPAC, and the Medicaid and CHIP Payment and Access Commission, MACPAC, with access to drug pricing and rebate data under Medicare parts B and D, as well as under Medicaid.

MedPAC and MACPAC are independent, nonpartisan commissions that advise Congress on issues affecting the Medicare and Medicaid programs. Currently, MedPAC and MACPAC lack access to this drug pricing data and are limited in their ability to provide information to Congress on the skyrocketing costs of prescription drugs.

H.R. 1781 is a simple but critical fix to ensure that the commissions have access to this data in order to analyze and report to Congress on these urgent issues.

Mr. Speaker, I urge my colleagues to support this bill, and I reserve the balance of my time.

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

Mr. Speaker, I rise in support of H.R. 1781, the Payment Commission Data Act of 2019, which was introduced by my colleague, Representative CARTER of Georgia. This bill provides the Medi-

care Payment Advisory Commission, colloquially known as MedPAC, and the Medicaid and CHIP Payment and Access Commission, affectionately known as MACPAC, with access to certain drug payment information.

MedPAC is an independent congressional agency that serves to advise Congress on issues affecting the Medicare program. And MACPAC is a nonpartisan legislative branch agency that provides policy and data analysis and makes recommendations to Congress on issues affecting Medicaid and the State Children’s Health Insurance Program.

The issue was brought to our attention that despite getting similar data, such as plan bid data, we were surprised to learn that while this data could be shared by the Center for Medicare and Medicaid Services with the Government Accountability Office and the Congressional Budget Office, it could not be shared with MedPAC or MACPAC, leading us to this effort to correct this in a bipartisan way through H.R. 1781.

By providing these entities with drug payment and drug rebate information, MedPAC and MACPAC will be better able to analyze the drug cost data in the Medicare and Medicaid programs. Therefore, these commissions will be able to make better recommendations to Congress on how to address drug pricing based on accurate and factual data.

In a letter from MedPAC to Chairman PALLONE, Chairwoman ESHOO, Republican Leader WALDEN, and myself in March, MedPAC said that “a statutory change giving us access to these data would enhance our capabilities for assisting the Congress on issues relating to prescription drug costs.” The letter further outlines a number of ways that this data would help MedPAC support Congress and serve the commission’s intended purpose.

Mr. Speaker, I include in the RECORD their letter.

MEDICARE PAYMENT ADVISORY
COMMISSION,

Washington, DC, March 26, 2019.

Re: Drug pricing and rebate data

Hon. FRANK PALLONE, Jr.,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

Hon. ANNA G. ESHOO,
Chairman, Subcommittee on Health, Committee
on Energy and Commerce,
House of Representatives, Washington, DC.

Hon. GREG WALDEN,
Ranking Member, Committee on Energy and
Commerce,

House of Representatives, Washington, DC.

Hon. MICHAEL C. BURGESS, M.D.,
Ranking Member, Subcommittee on Health,
Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR CHAIRMEN AND RANKING MEMBERS: The Medicare Payment Advisory Commission (MedPAC) is an independent, legislative branch agency established by the Balanced Budget Act of 1997 (P.L. 105–33) to provide expert policy and technical advice to the Congress on issues affecting the Medicare program. Medicare spending has grown substantially over the last decade, particularly for

prescription drugs, placing an increasing financial burden on the taxpayers and beneficiaries who finance it. Congress plays a vital role in overseeing Medicare and solving these fiscal challenges so that the program remains secure for current and future beneficiaries. MedPAC serves as an important source of information and advice to the Congress as it exercises that oversight. To enable MedPAC to best advise the Congress on how to address the problems stemming from the high and rising costs of prescription drugs, I am writing to request a narrow change in law that would grant MedPAC staff access to important drug pricing and rebate data that other congressional agencies are already able to use. The change in statute is necessary because MedPAC is unable to access the data under existing statutory authority.

MedPAC uses a wide variety of data in order to support the Congress' oversight of Medicare, and the Commission has a strong track record of protecting different types of proprietary and confidential information. For example, MedPAC uses and keeps secure the bids that private insurance plans submit under Medicare Parts C and D, data that Medicare Advantage plans submit on encounters between beneficiaries and their health care providers, and data on beneficiaries' use of prescription drugs.

To ensure that the Congress has comprehensive and up-to-date information, MedPAC strives to use all available data pertinent to our analyses. The Commission uses these data to provide information to the Congress on spending by Medicare and its beneficiaries and to help the Congress develop policies to improve the value of taxpayer dollars used to finance the program. MedPAC delivers this information in mandated reports, congressional testimony, and frequent briefings to congressional staff.

The large growth in drug spending has been a key contributor to the financial strain on Medicare and its beneficiaries. Today, Medicare spends more than \$100 billion annually on prescription drugs under Parts B and D, and beneficiaries are exposed to more than \$20 billion in cost sharing liability. Of particular concern is the growing number of beneficiaries who are exposed to very large cost sharing amounts when they take extremely high-priced drugs.

Despite broad data access under its authorizing statute, MedPAC is unable to access important drug pricing and rebate information under Medicare Parts B and D, and under Medicaid, because of how specific places of the Social Security Act are constructed (for example, MedPAC is not specifically named in Section 1927(b)(3)(D) of the Social Security Act as one of the entities with access to certain data detailing how much the Medicare program and its beneficiaries pay for prescription drugs). Because we lack these important data, we have been limited in the analysis and information we can provide to the Congress as it grapples with how to bring down the prices of drugs for beneficiaries and taxpayers. A statutory change giving us access to these data would enhance our capabilities for assisting the Congress on issues related to prescription drug costs.

With these data, MedPAC staff could:

Assist Congress in understanding the true costs (net of rebates) of prescription drugs to beneficiaries and taxpayers under the Medicare program.

Evaluate different policy options that aim to bring down the prices of drugs and the cost sharing that beneficiaries face for their medicines at the point of sale.

Provide insight into how Part D plans manage the growth in drug prices.

Analyze the effects of market entry and competition on drug prices.

MedPAC looks forward to continuing to support the Congress in developing approaches to payment that ensure beneficiary access to important therapies, while reducing costs for the Medicare program and its beneficiaries. I very much appreciate your consideration of this request for this statutory change, and I also appreciate the support that the Congress has long given to the Commission.

Sincerely,

FRANCIS J. CROSSON, M.D.,
Chairman.

Mr. BURGESS. Mr. Speaker, this bill continues the work of the Energy and Commerce Committee last Congress where we marked up a discussion draft of this very bill at the Health Subcommittee, which I chaired. Drug pricing remains an issue for patients in the United States and this bill will allow the House to act on factual analysis and recommendations to help lower drug prices for Americans.

Mr. Speaker, I urge fellow Members to support H.R. 1781, and I reserve the balance of my time.

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

Mr. BURGESS. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Georgia (Mr. CARTER), the principal author of this bill and a valuable member of the Health Subcommittee of the Committee on Energy and Commerce.

Mr. CARTER of Georgia. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to speak in support of my bill, H.R. 1781, the Payment Commission Data Act.

Last year, the Medicare Payment Advisory Commission, MedPAC, and the Medicaid and CHIP Payment Advisory Commission, MACPAC, who serve as nonpartisan advisory panels to Congress, came to us with a problem: They did not have the data needed to fully study prescription drug rebates.

This bill ensures MedPAC and MACPAC have access to the data they need to make informed recommendations to Congress. This increase in transparency is extremely helpful in allowing MedPAC and MACPAC to analyze how competition in our drug market is currently working and how part D plans are managing the growth in drug prices. They will be able to turn that new knowledge into improved policy recommendations on how we, as Congress, can bring down the price of drugs for patients.

Simply put, this bill is just good governance.

Importantly, I think this bill, as well as the bill we just spoke about, H.R. 2115, are shining examples of what is possible when Republicans and Democrats are working together to lower the cost of drugs for patients.

In the Energy and Commerce Committee, we have worked all year to advance a number of good, bipartisan drug policies that could make a difference for patients.

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Looking across the Capitol, there are dozens more bipartisan reforms that I

think could get robust support here in the House.

The issue of prescription drug costs is simply too important to be sacrificed in the name of electoral politics. Today is proof that we can, in fact, pass bipartisan drug pricing reforms.

So I call on my colleagues on the other sides of the aisle: Let's build on today and continue advancing the bipartisan policies we know can become law and actually make a difference for patients in the country.

I want to thank my friend and colead, Representative TOM O'HALLERAN, as well as Representatives RICE, PANETTA, GIANFORTE, and WELCH for their leadership on this bill.

I urge my fellow Members to support transparency in our drug supply chain and to support H.R. 1781.

Mr. BURGESS. Mr. Speaker, I urge support of the underlying bill, and I yield back the balance of my time.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would like to point out that this evening, early evening and now, we have passed a total of five pieces of legislation, a couple of which were also out of the Ways and Means Committee. I think it is a tremendous success and a bipartisan success.

So I want to thank Chairman FRANK PALLONE and the chair of the Health Subcommittee, ANNA ESHOO; Ranking Member WALDEN and ranking member of the Health Subcommittee, Mr. BURGESS, for their hard work.

But I also do want to just take a moment to thank the staff on both sides of the aisle. On the Democratic staff we have: Stephen Holland, Jacquelyn Bolen, Kimberlee Trzeciak, Una Lee, Tiffany Guarascio, and Waverly Gordon.

These bills will strengthen our healthcare workforce and increase transparency in prescription drug prices. They are all critical. I am very proud that we were able to work in a bipartisan way to, hopefully, right now, have them pass.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY) that the House suspend the rules and pass the bill, H.R. 1781, 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.

HONORING ANITA CLARK

(Mr. PAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE. Mr. Speaker, I rise today to honor Anita Clark, the 2019 Reverend Fred Handy In-Service Award winner.