

118TH CONGRESS
1ST SESSION

H. R. 5389

To amend title XVIII of the Social Security Act to ensure transparency in the national coverage determination process under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2023

Mr. GUTHRIE (for himself and Mr. KELLY of Pennsylvania) 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

A BILL

To amend title XVIII of the Social Security Act to ensure transparency in the national coverage determination process under the Medicare program.

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 “National Coverage De-
5 termination Transparency Act”.

1 **SEC. 2. ENSURING TRANSPARENCY IN THE NATIONAL COV-**
2 **ERAGE DETERMINATION PROCESS UNDER**
3 **THE MEDICARE PROGRAM.**

4 (a) IN GENERAL.—Section 1862(l) of the Social Se-
5 curity Act (42 U.S.C. 1395y(l)) is amended by adding at
6 the end the following new paragraphs:

7 “(7) TRANSPARENCY IN NATIONAL COVERAGE
8 DETERMINATIONS.—

9 “(A) IN GENERAL.—With respect to each
10 document (whether physical or electronic) re-
11 ceived by the Secretary on or after the date
12 that is 30 days after the date of the enactment
13 of this paragraph that identifies itself as a re-
14 quest for a national coverage determination, the
15 Secretary shall, not later than 30 calendar days
16 after receipt of such document—

17 “(i) determine whether such document
18 is a complete, formal request for a national
19 coverage determination (as described in the
20 rule entitled ‘Medicare Program; Revised
21 Process for Making National Coverage De-
22 terminations’ (78 Fed. Reg. 48164) or a
23 successor regulation); and

24 “(ii) in the case that the Secretary
25 finds that such document is not a com-
26 plete, formal request for a national cov-

1 erage determination, directly transmit to
2 the entity submitting such document an
3 explanation of such finding that includes a
4 specification of each item of additional in-
5 formation needed to make such document
6 a complete, formal request for a national
7 coverage determination.

8 “(B) RESUBMISSION OF DOCUMENT.—

9 “(i) IN GENERAL.—In the case of a
10 document described in subparagraph (A)
11 with respect to which the Secretary has
12 made a finding described in clause (ii) of
13 such subparagraph, the entity submitting
14 such document may submit to the Sec-
15 retary a revised document that includes the
16 additional information specified in such
17 clause with respect to such document.
18 Such revised document shall be treated as
19 a newly-received document for purposes of
20 subparagraph (A).

21 “(ii) TECHNICAL ASSISTANCE.—The
22 Secretary shall provide such technical as-
23 sistance as is practicable in order to assist
24 entities in submitting revised documents
25 under clause (i).

1 “(C) PUBLICATION.—The Secretary shall
2 make available on a publicly accessible website
3 of the Centers for Medicare & Medicaid Serv-
4 ices or other appropriate means each document
5 that the Secretary has determined is a com-
6 plete, formal request for a national coverage de-
7 termination (as described in subparagraph
8 (A)(i)) not later than 2 business days after the
9 date of such determination.

10 “(8) CLARIFICATION ON TIMING REQUIRE-
11 MENTS FOR NATIONAL COVERAGE DETERMINA-
12 TIONS.—For purposes of paragraphs (2) and (3)
13 and with respect to a request for a national coverage
14 determination received on or after the date that is
15 30 days after the date of the enactment of this para-
16 graph, the references to ‘the date of the request’ and
17 ‘the date the request is made’ shall be treated as ref-
18 erences to the date the request was received by the
19 Secretary, regardless of whether the Secretary had
20 determined that such request was a complete, formal
21 request (as described in paragraph (7)(B)(i)) as of
22 such date.”.

23 (b) INCLUSION OF CERTAIN TIME PERIODS IN AN-
24 NUAL REPORTS.—Section 1869(f)(7)(A) of the Social Se-
25 curity Act (42 U.S.C. 1395ff(f)(7)(A)) is amended by add-

1 ing at the end the following new sentence: “Each such re-
2 port submitted on or after the date that is 30 days after
3 the date of the enactment of this sentence shall include
4 in such actual time periods with respect to such a request
5 any intervening time between the receipt of such request
6 by the Secretary and the Secretary’s determination that
7 such request was a complete, formal request (as described
8 in section 1861(l)(7)(B)(i)).”.

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