

115TH CONGRESS
2D SESSION

S. 2905

To amend title XVIII of the Social Security Act to provide for certain program integrity transparency measures under Medicare parts C and D.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2018

Mr. TOOMEY (for himself and Mrs. MCCASKILL) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide for certain program integrity transparency measures under Medicare parts C and D.

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 “Strengthening Part-
5 nerships to Prevent Opioid Abuse Act of 2018”.

6 **SEC. 2. PROGRAM INTEGRITY TRANSPARENCY MEASURES**

7 **UNDER MEDICARE PARTS C AND D.**

8 (a) IN GENERAL.—Section 1859 of the Social Secu-
9 rity Act (42 U.S.C. 1395w–28) is amended by adding at
10 the end the following new subsection:

1 “(i) PROGRAM INTEGRITY TRANSPARENCY MEAS-
2 URES.—

3 “(1) PROGRAM INTEGRITY PORTAL.—

4 “(A) IN GENERAL.—Not later than 2 years
5 after the date of the enactment of this sub-
6 section, the Secretary shall, after consultation
7 with stakeholders, establish a secure Internet
8 website portal that would allow a secure path
9 for communication between the Secretary, MA
10 plans under this part, prescription drug plans
11 under part D, and an eligible entity with a con-
12 tract under section 1893 (such as a Medicare
13 drug integrity contractor or any successor enti-
14 ty to a Medicare drug integrity contractor), in
15 accordance with subsection (j)(3) of such sec-
16 tion, for the purpose of enabling through such
17 portal—

18 “(i) the referral by such plans of sus-
19 picious activities of a provider of services
20 (including a prescriber) or supplier related
21 to fraud, waste, and abuse for initiating or
22 assisting investigations conducted by the
23 eligible entity; and

24 “(ii) data sharing among such MA
25 plans, prescription drug plans, and the

1 Secretary (including with respect to infor-
2 mation for activities under section
3 1893(j)).

4 “(B) REQUIRED USES OF PORTAL.—The
5 Secretary shall disseminate the following infor-
6 mation to MA plans under this part and pre-
7 scription drug plans under part D through the
8 secure Internet website portal established under
9 subparagraph (A):

10 “(i) Providers of services and sup-
11 pliers that have been referred pursuant to
12 subparagraph (A)(i) during the previous
13 12-month period.

14 “(ii) Providers of services and sup-
15 pliers who are the subject of an active ex-
16 clusion under section 1128 or who are sub-
17 ject to a suspension of payment under this
18 title pursuant to section 1862(o) or other-
19 wise.

20 “(iii) Providers of services and sup-
21 pliers who are the subject of an active rev-
22 ocation of participation under this title, in-
23 cluding for not satisfying conditions of par-
24 ticipation.

1 “(iv) In the case of such a plan that
2 makes a referral under subparagraph
3 (A)(i) through the portal with respect to
4 suspicious activities of a provider of serv-
5 ices (including a prescriber) or supplier, if
6 such provider (or prescriber) or supplier
7 has been the subject of an administrative
8 action under this title or title XI with re-
9 spect to similar activities, a notification to
10 such plan of such action so taken.

11 “(C) RULEMAKING.—For purposes of this
12 paragraph, the Secretary shall, through rule-
13 making, specify what constitutes substantiated
14 fraud, waste, and abuse, using guidance such as
15 what is provided in the Medicare Program In-
16 tegrity Manual 4.7.1.

17 “(2) QUARTERLY REPORTS.—Beginning not
18 later than 2 years after the date of the enactment
19 of this subsection, the Secretary shall make available
20 to MA plans under this part and prescription drug
21 plans under part D in a timely manner (but no less
22 frequently than quarterly) and using information
23 submitted to an entity described in paragraph (1)
24 through the portal described in such paragraph or
25 pursuant to section 1893, information on fraud,

1 waste, and abuse schemes and trends in identifying
 2 suspicious activity. Information included in each
 3 such report shall—

4 “(A) include administrative actions, perti-
 5 nent information related to opioid overpre-
 6 scribing, and other data determined appropriate
 7 by the Secretary in consultation with stake-
 8 holders; and

9 “(B) be anonymized information submitted
 10 by plans without identifying the source of such
 11 information.

12 “(3) CLARIFICATION.—Nothing in this sub-
 13 section shall preclude referrals to the Inspector Gen-
 14 eral of the Department of Health and Human Serv-
 15 ices or other law enforcement entities.”.

16 (b) CONTRACT REQUIREMENT TO COMMUNICATE
 17 PLAN CORRECTIVE ACTIONS AGAINST OPIOIDS OVER-
 18 PRESCRIBERS.—Section 1857(e)(4)(C) of the Social Secu-
 19 rity Act (42 U.S.C. 1395w-27(e)(4)(C)) is amended by
 20 adding at the end the following new paragraph:

21 “(5) COMMUNICATING PLAN CORRECTIVE AC-
 22 TIONS AGAINST OPIOIDS OVER-PRESCRIBERS.—

23 “(A) IN GENERAL.—Beginning with plan
 24 years beginning on or after January 1, 2021, a
 25 contract under this section with an MA organi-

1 zation shall require the organization to submit
2 to the Secretary, through the process estab-
3 lished under subparagraph (B), information on
4 credible evidence of suspected fraud and other
5 actions taken by such plans related to inappro-
6 priate prescribing of opioids.

7 “(B) PROCESS.—Not later than January
8 1, 2021, the Secretary shall, in consultation
9 with stakeholders, establish a process under
10 which MA plans and prescription drug plans
11 shall submit to the Secretary information de-
12 scribed in subparagraph (A).

13 “(C) REGULATIONS.—For purposes of this
14 paragraph, including as applied under section
15 1860D–12(b)(3)(D), the Secretary shall, pursu-
16 ant to rulemaking—

17 “(i) specify a definition for the term
18 ‘inappropriate prescribing of opioids’ and a
19 method for determining if a provider of
20 services prescribes such a high volume; and

21 “(ii) establish the process described in
22 subparagraph (B) and the types of infor-
23 mation that may be submitted through
24 such process.”.

1 (c) REFERENCE UNDER PART D TO PROGRAM IN-
2 INTEGRITY TRANSPARENCY MEASURES.—Section 1860D-4
3 of the Social Security Act (42 U.S.C. 1395w-104) is
4 amended by adding at the end the following new sub-
5 section:

6 “(m) PROGRAM INTEGRITY TRANSPARENCY MEAS-
7 URES.—For program integrity transparency measures ap-
8 plied with respect to prescription drug plan and MA plans,
9 see section 1859(i).”.

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