

116TH CONGRESS  
1ST SESSION

# H. R. 1390

To amend titles XVIII and XIX of the Social Security Act to promote the ability of individuals entitled to benefits under part A or enrolled under part B of the Medicare program and individuals enrolled under a State plan under the Medicaid program to access their personal medical claim data, including their providers, prescriptions, tests, and diagnoses, through a mobile health record application of the individual's choosing, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2019

Mrs. BROOKS of Indiana (for herself and Ms. CLARKE of New York) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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

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## A BILL

To amend titles XVIII and XIX of the Social Security Act to promote the ability of individuals entitled to benefits under part A or enrolled under part B of the Medicare program and individuals enrolled under a State plan under the Medicaid program to access their personal medical claim data, including their providers, prescriptions, tests, and diagnoses, through a mobile health record application of the individual's choosing, and for other purposes.

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 “Mobile Health Record  
5       Act of 2019”.

6       **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

7       (a) FINDINGS.—Congress finds the following:

8               (1) The Centers for Medicare & Medicaid Serv-  
9       ices’ (CMS) Blue Button 2.0 Program was an-  
10       nounced in April 2018 to build upon CMS’s Blue  
11       Button Program.

12              (2) The Blue Button 2.0 Program provides 4  
13       years of Medicare part A, B, and D data for 53 mil-  
14       lion Medicare beneficiaries through an Application  
15       Programming Interface (API). The data contains a  
16       variety of information including, but not limited to,  
17       a list of a patient’s providers, prescriptions, tests,  
18       and diagnoses. The Blue Button 2.0 Program re-  
19       quires the use of CMS-approved applications to  
20       allow beneficiaries to download coded data.

21              (3) Mobile applications currently exist that have  
22       the power to decode the Medicare Blue Button data  
23       and present it in a user-friendly, easy-to-read and  
24       understand format. Prior to Blue Button 2.0, the  
25       Blue Button Program allowed beneficiaries to

1 download such data, but the information was not de-  
2 coded into the easy-to-read and understand format  
3 that a mobile application provides.

4 (4) The Blue Button 2.0 Program was created  
5 to empower patients with the use of these applica-  
6 tions, but additional steps need to be taken in order  
7 to ensure the program reaches its intended purpose  
8 of providing patients with their personal medical  
9 claim information to prevent harmful medical errors  
10 and reducing redundant spending.

11 (5) According to a study published by Johns  
12 Hopkins University in 2016, more than 250,000  
13 deaths per year are due to medical error, making it  
14 the third leading cause of death in the United  
15 States. Further, millions of dollars are wasted on  
16 duplicative or unnecessary tests and procedures.

17 (b) SENSE OF CONGRESS.—It is the sense of Con-  
18 gress that the Centers for Medicare & Medicaid Services’  
19 Blue Button 2.0 Program has the potential to positively  
20 influence patient behavior, improve patient safety and  
21 health outcomes, and help reduce unnecessary health care  
22 expenditures, but action needs to be taken to help the ini-  
23 tiative meet the program’s goals.

1 **SEC. 3. PROMOTING PATIENT ACCESS TO PERSONAL MED-**  
2 **ICAL CLAIM INFORMATION, INCLUDING A PA-**  
3 **TIENT’S PROVIDERS, PRESCRIPTIONS, TESTS,**  
4 **AND DIAGNOSES, THROUGH THE USE OF MO-**  
5 **BILE HEALTH RECORD APPLICATIONS.**

6 (a) MEDICARE.—Title XVIII of the Social Security  
7 Act (42 U.S.C. 1395 et seq.) is amended by adding at  
8 the end the following new section:

9 **“SEC. 1899C. MOBILE ACCESS TO PERSONAL MEDICAL IN-**  
10 **FORMATION PROGRAM.**

11 “(a) ESTABLISHMENT.—

12 “(1) IN GENERAL.—Not later than January 1,  
13 2020, the Secretary shall establish a program to be  
14 known as the ‘Mobile Access to Personal Medical In-  
15 formation Program’ (in this section referred to as  
16 the ‘Program’) for purposes of creating a developer-  
17 friendly, standards-based API that enables individ-  
18 uals entitled to benefits under part A or enrolled  
19 under part B to connect their claims data to the ap-  
20 plications, services, and research programs they  
21 trust while allowing such individuals to retain full  
22 control over how the copy of the data they receive  
23 can be used and by whom. The Program shall pro-  
24 vide such an individual access to the personal med-  
25 ical claim information of the individual through a  
26 mobile health record application of the individual’s

1 choice approved by the Secretary under subsection  
2 (b). Such information shall be made available  
3 through such application in a manner similar to how  
4 such information is made available under the Blue  
5 Button 2.0 program (or a successor program).

6 “(2) ENCOURAGING USE OF PROGRAM.—In car-  
7 rying out the Program, the Secretary shall consider  
8 establishing methods for encouraging individuals de-  
9 scribed in paragraph (1) to access their personal  
10 medical claim information under the Program. Such  
11 methods may include—

12 “(A) providing individuals described in  
13 paragraph (1) access to a one-time financial in-  
14 centive to download for free or at a discounted  
15 price a CMS-approved mobile health record ap-  
16 plication of their choice that can be used to ac-  
17 cess their personal medical claim information  
18 under the Program;

19 “(B) paying a reasonable fee per download  
20 to the application developer to be capped at a  
21 fair market value; or

22 “(C) other methods determined appro-  
23 priate by the Secretary.

24 For purposes of the previous sentence, the Secretary  
25 shall consult with application developers, insurers,

1 and other appropriate entities determined by the  
2 Secretary, to establish appropriate methods of finan-  
3 cial incentive payment for applications approved to  
4 participate in the program.

5 “(b) MOBILE HEALTH RECORD APPLICATIONS.—

6 “(1) APPROVAL.—The Secretary shall establish  
7 a process under which the Secretary, in consultation  
8 with staff with appropriate technical expertise, ap-  
9 proves mobile health record applications for use  
10 under the Program. Such process shall include re-  
11 quirements providing that such application—

12 “(A) demonstrates the capacity to provide  
13 the personal medical claim information of an in-  
14 dividual described in subsection (a) to such in-  
15 dividual in an easily accessible format;

16 “(B) utilizes a machine-readable, struc-  
17 tured, coded format conforming to a data con-  
18 tent standard approved by the Secretary;

19 “(C) has the ability to aggregate data from  
20 multiple sources;

21 “(D) is encrypted (or contains other data  
22 security safeguards determined appropriate by  
23 the Secretary) and conforms to other cybersecu-  
24 rity standards and best practices determined  
25 appropriate by the Secretary;

1           “(E) provides for a mechanism through  
2           which the Secretary may track the number of  
3           times and frequency with which such individual  
4           accesses the personal medical claim information  
5           of such individual;

6           “(F) does not use a third-party service for  
7           ad revenue or for any other means; and

8           “(G) meets such other requirements as  
9           may be specified by the Secretary.

10          “(2) ANNUAL REVIEW OF APPROVAL.—The  
11          Secretary shall, not less than annually and in con-  
12          sultation with staff with appropriate technical exper-  
13          tise, review each mobile health record application ap-  
14          proved under paragraph (1) to determine whether  
15          such application continues to meet the requirements  
16          specified in such paragraph. The Secretary shall re-  
17          voke the approval of any such application that fails  
18          to meet such requirements.

19          “(c) INFORMATION ON PROGRAM.—The Secretary  
20          shall, through the public website of the Centers for Medi-  
21          care & Medicaid Services, mailed notices, through a notice  
22          at the time of enrollment of an individual in part A or  
23          part B, public awareness campaigns, the notice described  
24          in section 1804(a), the provision of personalized preven-  
25          tion plan services (as defined in section 1861(hhh)), or

1 otherwise (as determined appropriate by the Secretary),  
2 ensure that individuals described in subsection (a) receive  
3 information not less than twice each year regarding the  
4 Program, including a list of mobile health record applica-  
5 tions approved under subsection (b)(1).

6 “(d) CYBERSECURITY AND DATA PRIVACY.—

7 “(1) CONSULTATION.—In carrying out the Pro-  
8 gram, the Secretary shall consult with the National  
9 Coordinator for Health Information Technology and  
10 other Federal agencies determined appropriate by  
11 the Secretary to ensure the compliance of entities  
12 participating in the Program with all applicable pro-  
13 visions of the regulations promulgated by the Sec-  
14 retary under part C of title XI and section 264 of  
15 the Health Insurance Portability and Accountability  
16 Act of 1996.

17 “(2) ADDITIONAL CYBERSECURITY PROTEC-  
18 TIONS.—In carrying out the Program, the Secretary  
19 shall consult with appropriate Federal agencies, in-  
20 cluding the National Institute for Standards and  
21 Technology, and appropriate public-private partner-  
22 ships (such as the Sector Coordinating Councils), in-  
23 cluding the Healthcare and Public Health Sector Co-  
24 ordinating Council, to ensure that relevant and ap-  
25 plicable cybersecurity guidelines are followed when



1 establishing the Program (including when estab-  
2 lishing standards and best practices under sub-  
3 section (b)(1)(D) and standards and criteria under  
4 subsection (e)(1)(C)).

5 “(e) DEFINITIONS.—In this section:

6 “(1) MOBILE HEALTH RECORD APPLICATION.—

7 The term ‘mobile health record application’ means a  
8 software application that—

9 “(A) runs on a mobile device (such as a  
10 mobile phone or handheld computing platform);

11 “(B) allows an individual to access the in-  
12 dividual’s personal medical claim information;  
13 and

14 “(C) meets such cybersecurity and data se-  
15 curity standards and criteria as the Secretary  
16 may specify, which may be similar to such  
17 standards and criteria used under the Blue  
18 Button 2.0 program (or a successor program).

19 “(2) PERSONAL MEDICAL CLAIM INFORMA-  
20 TION.—The term ‘personal medical claim informa-  
21 tion’ means, with respect to an individual—

22 “(A) a list of claims for items and services  
23 furnished to such individual payable under part  
24 A or part B, including any prescriptions or  
25 tests;

1           “(B) a list of providers and suppliers who  
2           furnished such items and services;

3           “(C) any diagnoses made by such providers  
4           and suppliers;

5           “(D) Medicare Advantage encounter data  
6           from an MA or MA–PD plan under part C; and

7           “(E) prescription drug event data.”.

8           (b) MEDICAID.—Section 1903 of the Social Security  
9   Act (42 U.S.C. 1396b) is amended by adding at the end  
10 the following new subsection:

11          “(aa) PAYMENTS FOR MOBILE ACCESS TO PERSONAL  
12 MEDICAL CLAIM INFORMATION.—

13           “(1) PAYMENTS.—In addition to payments oth-  
14 erwise provided under subsection (a), in the case of  
15 a State that elects to develop, or purchase from a  
16 private entity, a mobile health record application  
17 through which an individual enrolled under the State  
18 plan (or a waiver of such plan) may access the per-  
19 sonal medical claim information of such individual,  
20 the Secretary shall pay to such State, for each quar-  
21 ter beginning on or after the date of the enactment  
22 of the Mobile Health Record Act of 2019, an  
23 amount equal to 90 percent of so much of the sums  
24 expended during such quarter as are attributable to

1 the development, or purchase, of such mobile health  
2 record application.

3 “(2) DEFINITIONS.—In this subsection:

4 “(A) MOBILE HEALTH RECORD APPLICA-  
5 TION.—The term ‘mobile health record applica-  
6 tion’ has the meaning given such term in sec-  
7 tion 1899C(e).

8 “(B) PERSONAL MEDICAL CLAIM INFORMA-  
9 TION.—The term ‘personal medical claim infor-  
10 mation’ means, with respect to a State and an  
11 individual enrolled under the State plan (or a  
12 waiver of such plan)—

13 “(i) a list of claims for items and  
14 services furnished to such individual under  
15 the State plan (or waiver), including any  
16 prescriptions or tests;

17 “(ii) a list of providers and suppliers  
18 who furnished such items and services; and

19 “(iii) any diagnoses made by such  
20 providers and suppliers.”.

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