

116TH CONGRESS
1ST SESSION

S. 1497

To amend title XVIII of the Social Security Act to improve cost and quality transparency under the Medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2019

Mr. WYDEN 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 improve cost and quality transparency under the Medicare program, 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 “Health Care Price
5 Check Act of 2019”.

6 **SEC. 2. IMPROVING COST AND QUALITY TRANSPARENCY**

7 **UNDER THE MEDICARE PROGRAM.**

8 (a) SECRETARY.—

9 (1) IN GENERAL.—Section 1804 of the Social
10 Security Act (42 U.S.C. 1395b–2) is amended—

1 (A) in subsection (b), in the first sentence,
 2 by striking “The Secretary” and inserting
 3 “Subject to subsection (e)(1), the Secretary”;
 4 and

5 (B) by adding at the end the following new
 6 subsection:

7 “(e) COST AND QUALITY TRANSPARENCY.—

8 “(1) REQUIREMENTS FOR TOLL-FREE TELE-
 9 PHONE NUMBER.—Not later than 1 year after the
 10 date of the enactment of this Act (except as pro-
 11 vided in subparagraph (A)(iv)), the Secretary shall
 12 ensure that the following information is available to
 13 an individual who calls the toll-free telephone num-
 14 ber under subsection (b):

15 “(A) COSTS.—The following information
 16 regarding costs for items and services under
 17 parts A and B:

18 “(i) The individual’s out-of-pocket
 19 costs for a specific item or service fur-
 20 nished by a specific provider of services or
 21 supplier.

22 “(ii) The payment amount under this
 23 title for such item or service furnished by
 24 such provider or supplier.

1 “(iii) The total allowable charges for
2 such item or service furnished by such pro-
3 vider or supplier.

4 “(iv) Not later than 2 years after the
5 date of the enactment of this Act, the in-
6 formation described in clauses (i) through
7 (iii) for items and services that are fre-
8 quently furnished together with the item or
9 service described in such clauses, as deter-
10 mined by the Secretary.

11 “(v) An explanation of the cost-shar-
12 ing components under parts A and B, in-
13 cluding with respect to—

14 “(I) deductibles;

15 “(II) copayments; and

16 “(III) coinsurance.

17 “(B) QUALITY.—Quality information avail-
18 able through the Medicare Physician Compare,
19 Hospital Compare, Nursing Home Compare,
20 Dialysis Facility Compare, Inpatient Rehabilita-
21 tion Facility Compare, Long-Term Care Hos-
22 pital Compare, and Hospice Compare websites.

23 “(C) ADDITIONAL INFORMATION.—Other
24 cost and quality information determined appro-
25 priate by the Secretary.

1 “(2) INTERNET WEBSITE.—

2 “(A) IN GENERAL.—Not later than 2 years
3 after the date of the enactment of this Act, the
4 Secretary shall ensure that an internet website
5 is in place that meets the following require-
6 ments:

7 “(i) SEARCH FUNCTION.—Subject to
8 clause (iv), the internet website contains a
9 search function that enables an individual
10 to search for an item or service in a geo-
11 graphic area—

12 “(I) by the type of item or serv-
13 ice; and

14 “(II) by providers of services or
15 suppliers, including both a general
16 search and search by a specific name.

17 “(ii) INFORMATION.—The internet
18 website is able to provide the information
19 described in paragraph (1).

20 “(iii) COMPARE FUNCTION.—The
21 internet website contains a compare func-
22 tion that enables an individual to compare
23 the out-of-pocket costs and quality for an
24 item or service furnished by different pro-
25 viders of services or suppliers.

1 “(B) LIMIT.—The Secretary may limit the
2 number of items and services for which infor-
3 mation is available on the website but shall en-
4 sure that items and services which account for
5 at least 50 percent of spending under parts A
6 and B are included.

7 “(C) EXISTING WEBSITE.—The Secretary
8 may comply with the requirements under this
9 paragraph through the use of an internet
10 website that is in place as of the date of the en-
11 actment of this subsection.

12 “(3) ALERT REGARDING ESTIMATES OF
13 COSTS.—The Secretary shall ensure that individuals
14 receiving cost information under paragraph (1) or
15 (2) are alerted that the information provided is an
16 estimate and that the actual costs that the indi-
17 vidual will be responsible for may vary.”.

18 (2) FUNDING.—There are appropriated to the
19 Secretary of Health and Human Services such sums
20 as the Secretary determines are necessary to carry
21 out subsection (e) of section 1804 of the Social Se-
22 curity Act, as added by paragraph (1).

23 (b) MEDICARE ADVANTAGE.—Section 1852 of the
24 Social Security Act (42 U.S.C. 1395w–22) is amended—

1 (1) in subsection (c), by adding at the end the
2 following new paragraph:

3 “(3) COST AND QUALITY TRANSPARENCY.—For
4 plan year 2021 and subsequent plan years, subject
5 to paragraph (4) of subsection (o), the Medicare Ad-
6 vantage organization shall comply with the require-
7 ments under such subsection).”; and

8 (2) by adding at the end the following new sub-
9 section:

10 “(o) COST AND QUALITY TRANSPARENCY.—

11 “(1) TOLL-FREE TELEPHONE NUMBER.—

12 “(A) IN GENERAL.—Each Medicare Ad-
13 vantage organization offering a Medicare Ad-
14 vantage plan shall have in place a toll-free tele-
15 phone number under which enrollees in the plan
16 that call the telephone number are able to re-
17 ceive the following information:

18 “(i) COSTS FOR ITEMS AND SERV-
19 ICES.—The following information regard-
20 ing costs for items and services under the
21 plan:

22 “(I) The enrollee’s out-of-pocket
23 costs for a specific item or service fur-
24 nished by a specific in-network pro-
25 vider of services or supplier.

1 “(II) The information described
 2 in subclause (I) for items and services
 3 that are frequently furnished together
 4 with the item or service described in
 5 such subclause, as determined by the
 6 Secretary.

7 “(III) An explanation of the cost-
 8 sharing components, both generally
 9 and under the plan specifically, in-
 10 cluding with respect to—

11 “(aa) deductibles;

12 “(bb) copayments; and

13 “(cc) coinsurance.

14 “(ii) COSTS FOR COVERED PART D
 15 DRUGS.—In the case of an MA–PD plan,
 16 the information described in section
 17 1860D–4(o)(1)(A).

18 “(iii) QUALITY.—Information on the
 19 quality of items and services furnished by
 20 providers of services and suppliers under
 21 the plan, as determined appropriate by the
 22 Secretary.

23 “(iv) OUT-OF-NETWORK PRO-
 24 VIDERS.—If an enrollee of the plan re-

1 requests information on an out-of-network
2 provider of services or supplier,—

3 “(I) information on the out-of-
4 network benefits offered under the
5 plan; and

6 “(II) other information, as deter-
7 mined appropriate by the Secretary.

8 “(v) ADDITIONAL INFORMATION.—
9 Other cost and quality information deter-
10 mined appropriate by the Secretary.

11 “(B) ACCESS.—The toll-free telephone
12 number under subparagraph (A) shall be acces-
13 sible by calling a number directly or by charge-
14 free transfer pursuant to section 1804(b).

15 “(C) INTEGRATION WITH EXISTING TELE-
16 PHONE NUMBER.—The requirements for a toll-
17 free telephone number under subparagraph (A)
18 may be provided through an existing enrollee
19 toll-free telephone number.

20 “(2) INTERNET WEBSITE.—

21 “(A) IN GENERAL.—Subject to clause (iv),
22 each Medicare Advantage organization offering
23 a Medicare Advantage plan shall have in place
24 an internet website that meets the following re-
25 quirements:

1 “(i) SEARCH FUNCTION.—The inter-
 2 net website contains a search function that
 3 enables an enrollee to search—

4 “(I) for an item or service in a
 5 geographic area—

6 “(aa) by the type of item or
 7 service; and

8 “(bb) by providers of serv-
 9 ices or suppliers; and

10 “(II) in the case of an MA–PD
 11 plan, for a covered part D drug under
 12 the plan.

13 “(ii) INFORMATION.—The internet
 14 website is able to provide the information
 15 described in—

16 “(I) paragraph (1)(A); and

17 “(II) in the case of an MA–PD
 18 plan, section 1860D–4(o)(1)(A).

19 “(iii) COMPARE FUNCTION.—The
 20 internet website contains a compare func-
 21 tion that enables an enrollee to compare—

22 “(I) the out-of-pocket costs and
 23 quality for an item or service fur-
 24 nished by different providers of serv-
 25 ices or suppliers; and

1 “(II) in the case of an MA–PD
2 plan, each of subclauses (I) and (II)
3 of section 1860D–4(o)(2)(A)(iii) for a
4 covered part D drug.

5 “(iv) LIMIT.—A Medicare Advantage
6 organization may limit the number of
7 items and services for which information is
8 available on the website pursuant to the
9 limits established by the Secretary under
10 section 1804(e)(2)(A)(iv).

11 “(B) INTEGRATION WITH EXISTING INTER-
12 NET WEBSITE.—If a Medicare Advantage orga-
13 nization offering a Medicare Advantage plan
14 has in place an internet website for the plan as
15 of the date of the enactment of this subsection,
16 the organization shall integrate the require-
17 ments under subparagraph (A) into such
18 website, including through the same log-in proc-
19 ess as the existing website.

20 “(C) LINK TO AN EXTERNAL INTERNET
21 WEBSITE FOR INFORMATION ON COVERED PART
22 D DRUGS.—A Medicare Advantage organization
23 offering a Medicare Advantage plan may pro-
24 vide the information described subparagraph
25 (A)(ii)(II) for the plan through a link on the

1 plan's internet website to an external internet
2 website.

3 “(3) ALERT REGARDING ESTIMATES OF
4 COSTS.—Each Medicare Advantage organization of-
5 fering a Medicare Advantage plan shall ensure that
6 enrollees of the plan receiving cost information
7 under paragraph (1) or (2) are alerted that the in-
8 formation provided is an estimate and that the ac-
9 tual costs that the enrollee will be responsible for
10 may vary.

11 “(4) EXEMPTION.—The requirements of this
12 subsection shall not apply to a Medicare Advantage
13 organization if the total number of enrollees in all
14 the Medicare Advantage plans offered by the organi-
15 zation is less than a number of enrollees determined
16 appropriate by the Secretary.”.

17 (c) PRESCRIPTION DRUG PLANS.—Section 1860D–4
18 of the Social Security Act (42 U.S.C. 1395w–104) is
19 amended—

20 (1) by redesignating the subsection (m) as
21 added by section 6063(c) of the SUPPORT for Pa-
22 tients and Communities Act (Public Law 115–271)
23 as subsection (n); and

24 (2) by adding at the end the following new sub-
25 section:

1 “(o) COST TRANSPARENCY.—For plan year 2021 and
 2 subsequent plan years, subject to paragraph (4), each
 3 PDP sponsor offering a prescription drug plan shall com-
 4 ply with the following:

5 “(1) TOLL-FREE TELEPHONE NUMBER.—

6 “(A) IN GENERAL.—The PDP sponsor of-
 7 fering the prescription drug plan shall have in
 8 place a toll-free telephone number under which
 9 enrollees in the plan that call the telephone
 10 number are able to receive the following infor-
 11 mation:

12 “(i) The enrollee’s out-of-pocket costs
 13 for a specific covered part D drug filled by
 14 a specific in-network pharmacy.

15 “(ii) An explanation of the cost-shar-
 16 ing components for covered part D drugs,
 17 both generally and under the plan specifi-
 18 cally, including with respect to—

19 “(I) deductibles;

20 “(II) copayments; and

21 “(III) coinsurance.

22 “(B) INTEGRATION WITH EXISTING TELE-
 23 PHONE NUMBER.—The requirements for a toll-
 24 free telephone number under subparagraph (A)

1 may be provided through an existing enrollee
2 toll-free telephone number.

3 “(2) INTERNET WEBSITE.—

4 “(A) IN GENERAL.—Each PDP sponsor
5 offering a prescription drug plan shall have in
6 place an internet website that meets the fol-
7 lowing requirements:

8 “(i) SEARCH FUNCTION.—The inter-
9 net website contains a search function that
10 enables an enrollee to search for a covered
11 part D drug under the plan.

12 “(ii) INFORMATION.—The internet
13 website is able to provide the information
14 described in subparagraph (A) of para-
15 graph (1).

16 “(iii) COMPARE FUNCTION.—The
17 internet website contains a compare func-
18 tion that enables an enrollee to compare
19 each of the following for a covered part D
20 drug:

21 “(I) The out-of-pocket costs for
22 multiple pharmacies, including mail
23 order if available.

24 “(II) The out-of-pocket costs for
25 clinically equivalent therapeutic op-

1 tions, including but not limited to ge-
2 neric alternatives.

3 “(B) INTEGRATION WITH EXISTING INTER-
4 NET WEBSITE.—If a PDP sponsor offering a
5 prescription drug plan has in place an internet
6 website for the plan as of the date of the enact-
7 ment of this subsection, the organization shall
8 integrate the requirements under subparagraph
9 (A) into such website, including through the
10 same log-in process as the existing website.

11 “(C) LINK TO AN EXTERNAL INTERNET
12 WEBSITE.—A PDP sponsor offering a prescrip-
13 tion drug plan may provide the information de-
14 scribed subparagraph (A)(ii) for the plan
15 through a link on the plan’s internet website to
16 an external internet website.

17 “(3) ALERT REGARDING ESTIMATES OF
18 COSTS.—Each PDP sponsor offering a prescription
19 drug plan shall ensure that enrollees of the plan re-
20 ceiving cost information under paragraph (1) or (2)
21 are alerted that the information provided is an esti-
22 mate and that the actual costs that the enrollee will
23 be responsible for may vary.

24 “(4) EXEMPTION.—The requirements of this
25 subsection shall not apply to a PDP sponsor if the

1 total number of enrollees in all the prescription drug
 2 plans offered by the sponsor is less than a number
 3 of enrollees determined appropriate by the Sec-
 4 retary.”.

5 **SEC. 3. IMPROVING COST AND QUALITY TRANSPARENCY**
 6 **UNDER PRIVATE HEALTH INSURANCE.**

7 (a) IN GENERAL.—Title XXVII of the Public Health
 8 Service Act is amended by inserting after section 2715A
 9 (42 U.S.C. 300gg–15a) the following:

10 **“SEC. 2715B. IMPROVING COST AND QUALITY TRANS-**
 11 **PARENCY UNDER PRIVATE HEALTH INSUR-**
 12 **ANCE.**

13 “(a) TOLL-FREE TELEPHONE NUMBER.—

14 “(1) IN GENERAL.—A group health plan and a
 15 health insurance issuer offering group or individual
 16 health insurance coverage shall have in place a toll-
 17 free telephone number under which enrollees in the
 18 plan or coverage calling the telephone number are
 19 able to receive, directly or through charge-free trans-
 20 fer, information regarding the quality of in-network
 21 providers and facilities, as defined by the Secretary,
 22 and the following information regarding out-of-pock-
 23 et costs for benefits under the plan or coverage:

24 “(A) The enrollee’s out-of-pocket costs for
 25 a specific covered benefit provided by a specific

1 in-network provider or facility, and other cov-
2 ered benefits frequently associated with the spe-
3 cific covered benefit, as determined by the Sec-
4 retary.

5 “(B) An explanation of the cost-sharing
6 components under the applicable plan or cov-
7 erage, including with respect to—

8 “(i) deductibles;

9 “(ii) copayments; and

10 “(iii) coinsurance.

11 “(C) With respect to prescription drugs
12 covered by the plan or coverage—

13 “(i) out-of-pocket costs;

14 “(ii) variation in the costs, coverage,
15 and prices described in clause (i) by phar-
16 macy options, including the preferred phar-
17 macy, mail order pharmacy (if applicable),
18 and other pharmacies in the designated ge-
19 ographic area; and

20 “(iii) variation in such costs with re-
21 spect to generic or other therapeutically
22 equivalent alternatives.

23 “(D) With respect to services provided by
24 an out-of-network provider, a summary of the
25 out-of-network benefits offered under the plan

1 or coverage, and other information determined
 2 appropriate by the Secretary; and

3 “(E) Other information determined appro-
 4 priate by the Secretary.

5 “(2) INTEGRATION WITH EXISTING SERV-
 6 ICES.—The requirements for a toll-free telephone
 7 number under paragraph (1) may be provided
 8 through an existing enrollee toll-free telephone num-
 9 ber.

10 “(3) PRESCRIPTION DRUG INFORMATION.—A
 11 group health plan or health insurance issuer that
 12 has a contract with another entity offering prescrip-
 13 tion drug management services with respect to the
 14 plan or applicable health insurance coverage may
 15 satisfy the requirement to provide the information
 16 required under paragraph (1)(C) by connecting en-
 17 rollees to a toll-free telephone service of such entity
 18 where such entity makes such information available.

19 “(b) INTERNET WEBSITE.—

20 “(1) IN GENERAL.—A group health plan and a
 21 health insurance issuer offering group or individual
 22 health insurance coverage shall have in place an
 23 internet website that meets the following require-
 24 ments with respect to providing enrollees with infor-
 25 mation regarding the quality of in-network providers

1 and facilities, as defined by the Secretary, and infor-
2 mation on out-of-pocket costs for benefits under the
3 plan or coverage:

4 “(A) SEARCH FUNCTION.—The internet
5 website contains a search function that enables
6 an enrollee to search for a benefit in a geo-
7 graphic area, at minimum—

8 “(i) by the type of benefit; and

9 “(ii) by providers in the area.

10 “(B) COSTS.—The internet website is able
11 to provide the following information:

12 “(i) The enrollee’s out-of-pocket costs
13 for a specific benefit provided by a specific
14 in-network provider, and other covered
15 benefits frequently associated with the spe-
16 cific covered benefit, as determined by the
17 Secretary.

18 “(ii) An explanation of the cost-shar-
19 ing components, under the applicable plan
20 or coverage specifically, including with re-
21 spect to—

22 “(I) deductibles;

23 “(II) copayments; and

24 “(III) coinsurance.

1 “(iii) With respect to prescription
2 drugs covered by the plan or coverage—

3 “(I) out-of-pocket costs;

4 “(II) variation in the costs de-
5 scribed in subclause (I) by pharmacy
6 options, including the preferred phar-
7 macy, mail order pharmacy (if appli-
8 cable), and other pharmacies in the
9 designated geographic area; and

10 “(III) variation in such costs,
11 coverage, and prices with respect to
12 generic or other therapeutically equiv-
13 alent alternatives.

14 “(iv) With respect to services provided
15 by an out-of-network provider, a summary
16 of the out-of-network benefits offered
17 under the plan or coverage, and other in-
18 formation determined appropriate by the
19 Secretary; and

20 “(v) Other information determined
21 appropriate by the Secretary.

22 “(C) COMPARE FUNCTION.—The internet
23 website contains a compare function that en-
24 ables an enrollee to compare the out-of-pocket

1 costs and quality measures for a benefit fur-
2 nished by different providers.

3 “(2) INTEGRATION.—If a group health plan or
4 health insurance issuer has in place an internet
5 website for enrollees in a plan or coverage as of the
6 date of the enactment of this section, the plan or
7 issuer shall integrate the requirements under para-
8 graph (1) into such website, including through the
9 same log-in process as the existing website.

10 “(3) EXTENT OF INFORMATION.—A group
11 health plan or health insurance issuer may limit the
12 number of health care services for which the infor-
13 mation required under paragraph (1)(B) is available
14 on the website to a number determined by the Sec-
15 retary.

16 “(4) PRESCRIPTION DRUG INFORMATION.—A
17 group health plan or health insurance issuer that
18 has a contract with another entity offering prescrip-
19 tion drug management services with respect to the
20 plan or applicable health insurance coverage may
21 satisfy the requirement to provide the information
22 required under paragraph (1)(B)(iii) by providing a
23 link to the internet website of such entity where
24 such entity makes such information available.

1 “(c) DISCLOSURE REQUIREMENT.—A group health
 2 plan or health insurance issuer shall inform enrollees seek-
 3 ing information through the toll-free telephone number
 4 under subsection (a) or the internet website under sub-
 5 section (b) that the cost information provided are esti-
 6 mates and that the actual amount the enrollee will be re-
 7 sponsible for paying may vary.

8 “(d) REGULATIONS.—The Secretary, in consultation
 9 with the Administrator of the Centers for Medicare &
 10 Medicaid Services, shall promulgate regulations to carry
 11 out this section in a manner similar to the requirements
 12 for out-of-pocket cost transparency applicable to Medicare
 13 Advantage organizations under section 1852(o) of the So-
 14 cial Security Act.

15 “(e) EXEMPTION.—The requirements of this section
 16 shall not apply to a small or regional group health plan,
 17 or to a small or regional health insurance issuer with re-
 18 spect to health insurance coverage. The Secretary shall de-
 19 fine ‘small or regional group health plan’ and ‘small or
 20 regional health insurance issuer’ for purposes of this sub-
 21 section.”.

22 (b) EFFECTIVE DATE.—Section 2715A of the Public
 23 Health Service Act, as added by subsection (a), shall take
 24 effect on January 1, 2021.

○