



H.R. 2505 — Medicare Advantage Coverage Transparency Act (Kelly, R-PA)

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FLOOR SCHEDULE: JUNE 15, 2015 UNDER A SUSPENSION OF THE RULES WHICH REQUIRES TWO-THIRDS MAJORITY FOR PASSAGE.

TOPLINE SUMMARY: [H.R. 2505](#) would require the Secretary of Health and Human Services to provide additional enrollment data for individuals enrolled in Medicare Part A, Part B, Part C, and Part D programs.

COST: The Congressional Budget Office (CBO) [estimates](#) enacting H.R. 2505 would not affect direct spending or revenues.

CONSERVATIVE CONCERNS: There are no substitutive conservative concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS: This bill would require the Secretary of Health and Human Services (HHS) to submit a report on Medicare Part A, Part B, Part C, and Part D enrollment data to Congress no later than May 1 of each year. This enrollment data would be presented by zip code, congressional district and state.

OUTSIDE GROUPS SUPPORT:

- [The American Hospital Association](#)

COMMITTEE ACTION: This bill was introduced by Representative Kelly on May 21, 2015, and referred to the Committee on Ways and Means, and the Committee on Energy and Commerce. On June 2, 2015, Ways and Means held a mark-up where the bill was reported out, as amended, by voice vote.

ADMINISTRATION POSITION: No statement of administration policy is available at this time.

CONSTITUTIONAL AUTHORITY: According to the sponsor, Congress has the power to enact this legislation pursuant to the following: “The Congress enacts this bill pursuant to Article I Section 8 of the United States Constitution.”

H.R. 2507 — Increasing Regulatory Fairness Act (Brady, R-TX)

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FLOOR SCHEDULE: JUNE 15, 2015 UNDER A SUSPENSION OF THE RULES WHICH REQUIRES TWO-THIRDS MAJORITY FOR PASSAGE.

TOPLINE SUMMARY: [H.R. 2507](#) would expand the annual notice and comment period for Medicare advantage payment policies from 45 days to 60 days.

CONSERVATIVE CONCERNS: There are no substitutive conservative concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

COST: The Congressional Budget Office (CBO) [estimates](#) that enacting H.R. 2507 would not have a significant budgetary effect.

DETAILED SUMMARY AND ANALYSIS: This bill would require the Secretary of Health and Human Services to issue regulations by April 1 of each year to announce: (1) the annual Medicare Advantage (MA) capitation rate for each MA payment area; (2) risks and other factors to be used in adjusting the rates for payments; (3) the MA region-specific non-drug monthly benchmark amount for a region; and, (4) major policy changes to the risk adjustment model, and the 5-star rating system that are determined to have an economic impact. In addition, it would increase the notice given to Medicare Choice organizations to 60 days. Increasing the time period from 45 days to 60 days would allow these organizations additional time to comment on the proposed changes.

OUTSIDE GROUPS SUPPORT:

- [The American Hospital Association](#)

COMMITTEE ACTION: This bill was introduced by Representative Brady on May 21, 2015, and referred to the Committee on Ways and Means, and the Committee on Energy and Commerce. On June 2, 2015, Ways and Means held a mark-up where the bill was reported out, as amended, by voice vote.

ADMINISTRATION POSITION: No statement of administration policy is available at this time.

CONSTITUTIONAL AUTHORITY: According to the sponsor, Congress has the power to enact this legislation pursuant to the following: “The constitutional authority on which this bill rests is the power of Congress to make rules for the government and regulation of the land and naval forces, as enumerated in Article I, Section 8, Clause 14 of the United States Constitution.”

H.R. 2582 — Securing Senior’s Health Care Act of 2015 (Buchanan, R-FL)

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FLOOR SCHEDULE: JUNE 15, 2015 UNDER A SUSPENSION OF THE RULES WHICH REQUIRES TWO-THIRDS MAJORITY FOR PASSAGE.

TOPLINE SUMMARY: [H.R. 2582](#) would delay until 2018 the authority of the secretary of Health and Human Services to terminate a Medicare Advantage (MA) plan contract solely because the plan failed to achieve a minimum quality rating under the 5-star rating system. The secretary would also be given the authority to revise the risk adjustment system used in Medicare Advantage to account for chronic conditions.

COST: A Congressional Budget Office (CBO) cost estimate is not available at this time.

CONSERVATIVE CONCERNS: There are no substitutive conservative concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS: The Medicare Advantage (MA) star rating system provides a relative quality score to Medicare Advantage Organizations (MAO) on a 5-star scale. The score is based on a plan's performance on selected criteria and can be used to determine bonus payments or rebates to enrollees. Some [believe](#) plans that service low income enrollees are at a disadvantage since the metrics used to score the plans can be influenced by a patient's socioeconomic status. This bill would delay until 2018 the authority of the secretary to terminate MA plans solely because the plan failed to achieve a minimum quality rating under the 5-star rating system. This delay would allow for additional time for Congress to work with CMS to ensure the rating system accounts for the socioeconomic status of enrollees.

Under current law the secretary has broad flexibility in deciding how to administer the MA risk adjustment system. This bill would direct the secretary to revise for 2017 and periodically thereafter, the risk adjustment system to account for chronic conditions. It would require the secretary to evaluate the effects of other changes to the risk adjustment system including using two years of diagnosis data and removing certain information related to chronic kidney disease, and report on the results of the evaluation.

COMMITTEE ACTION: This bill was introduced by Representative Buchanan on May 29, 2015, and referred to the Committee on Ways and Means, and the Committee on Energy and Commerce where it awaits further action.

ADMINISTRATION POSITION: No statement of administration policy is available at this time.

CONSTITUTIONAL AUTHORITY: According to the sponsor, Congress has the power to enact this legislation pursuant to the following: "The constitutional authority on which this bill rests is the power of Congress to make rules for the government and regulation of the land and naval forces, as enumerated in Article I, Section 8, Clause 14 of the United States Constitution."

H.R. 2570 — Strengthening Medicare Advantage through Innovation and Transparency for Seniors Act of 2015 (Black, R-TN)

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FLOOR SCHEDULE: JUNE 15, 2015 UNDER A SUSPENSION OF THE RULES WHICH REQUIRES TWO-THIRDS MAJORITY FOR PASSAGE.

TOPLINE SUMMARY: [H.R. 2570](#) would exclude ambulatory surgery centers (ASC) services from being counted towards the 50 percent meaningful use eligibility threshold until certified electronic health record (EHR) systems applicable to the ASC setting are available. The bill would also direct the secretary of Health and Human Services (HHS) to establish a 3-year demonstration program to test the use of value-based insurance design methodologies.

COST: A Congressional Budget Office (CBO) cost estimate is not available at this time.

CONSERVATIVE CONCERNS: There are no substitutive conservative concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS: This bill combines several bills from the Ways and Means committee including H.R. 887 and H.R. 257. First, the bill would exclude ACS from being counted towards the 50 percent meaningful use eligibility threshold until certified electronic health record (EHR) systems applicable to the ASC setting are available. The Health Information Technology for Economic and Clinical Health (HITECH) Act established incentives for adopting EHR systems. These incentives are phased out over time and replaced with penalties for noncompliance. While the law did not deem ASC eligible for the original incentive program, the procedures that physicians furnish in an ASC are factored into the determination of their own meaningful use of EHR. Since there are limited numbers of EHR systems for ASC, it puts physicians who practice at an ASC at a disadvantage to meeting meaningful use.

In addition, this bill takes language from H.R. 2570, as introduced, which would establish a three-year demonstration program to test the use of value-based insurance design methodologies (VBID) for eligible Medicare Advantage plans. VBID methodologies include methodologies for identifying specific prescription medications, and clinical services for which the reduction of copayments, coinsurance, or both would improve the management of specific chronic conditions. Under this demonstration program, it would be prohibited for a Medicare Advantage plan to increase coinsurance or copayments for the purposes of discouraging the use of an item or service.

COMMITTEE ACTION: This bill was introduced by Representative Black on May 22, 2015, and referred to the Committee on Ways and Means, and the Committee on Energy and Commerce where it awaits further action.

ADMINISTRATION POSITION: No statement of administration policy is available at this time.

CONSTITUTIONAL AUTHORITY: According to the sponsor, Congress has the power to enact this legislation pursuant to the following: "Section 8 of the U.S. Constitution which states, ``t)he Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States."

H. Con. Res. 55—Directing the President, pursuant to section 5(c) of the War Powers Resolution, to remove United States Armed Forces deployed to Iraq or Syria on or after August 7, 2014, other than Armed Forces required to protect United States diplomatic facilities and personnel, from Iraq and Syria (Rep. McGovern, D-MA)

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FLOOR SCHEDULE: SCHEDULED FOR CONSIDERATION ON JUNE 17, 2015, SUBJECT TO A RULE.

TOPLINE SUMMARY: [H. Con. Res. 55](#) would direct the president— pursuant to the War Powers Act ([50 U.S.C. 1544\(c\)](#))—to remove United States Armed Forces deployed to Iraq or Syria on or after August 7, 2014, other than armed forces required to protect United States diplomatic facilities and personnel.

CONSERVATIVE CONCERNS: Some conservatives have argued that this resolution presents major national security concerns if adopted, and would inhibit the president’s ability to combat the Islamic State of Iraq and the Levant (ISIL), a radical Salafist organization in control over large swaths of territory in Iraq and Syria. In particular, the resolution would require the removal of the [3,550](#) U.S. ground forces in Iraq currently training Iraqi military forces to combat ISIL. Many national security assessments indicate that left unchecked, ISIL would constitute, if not already, a direct threat to the U.S. homeland. ISIL has already been designated by the State Department as a [foreign terrorist organization](#).

COST: No Congressional Budget Office (CBO) estimate is available.

While criticisms remain regarding the president’s lack of strategy in Iraq and in Syria, the Iraq Train and Equip program through the Department of Defense’s Office of Security Cooperation in Iraq continues to support to the Iraqi military, as well as the Kurdish Peshmerga forces currently engaged against ISIL. The resolution, if adopted, would also inhibit U.S. air power over Iraq and Syria, by removing intelligence assets or forward air control observers on the ground.

Other conservatives have argued that the Authorizations for the Use of Military Force from 2001 and 2002 do not authorize the deployment of ground forces to Iraq since the administration ended Operation Iraqi Freedom/Operation New Dawn in 2011. As a result, the president must obtain congressional authorization to deploy ground forces for more than 60 days.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS: The resolution would direct the president to remove United States Armed Forces from Iraq and Syria: (1) by no later than the end of the period of 30 days beginning on the day on which the concurrent resolution is adopted; or (2) if the president determines that it is not safe to remove U.S.

forces before the end of that period, by no later than December 31, 2015, or on an earlier date that the president determines that the armed forces can safely be removed.

According to section 5(c) of the [War Powers Act of 1973](#), notwithstanding the 60-day period specified in the legislation, “at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.”

However, according to the [Congressional Research Service](#) (CRS), the effectiveness of this section remains uncertain because of [INS v. Chadha](#), a 1983 Supreme Court decision regarding a legislative veto device that was not presented to the president for signature. According to CRS, “since section 5(c) requires forces to be removed by the President if Congress so directs by a concurrent resolution, it is constitutionally suspect under the reasoning applied by the Court. A concurrent resolution is adopted by both chambers, but it does not require presentment to the president for signature or veto.”

According to the [Congressional Research Service](#), the president has stated that the 2001 Authorization for Use of Military Force (AUMF) ([P.L. 107-40](#)) and the 2002 Authorization for Use of Military Force Against Iraq Resolution ([P.L. 107-243](#)) provide authorization for the current U.S. military campaign (Operation Inherent Resolve) against ISIL as well as the [Khorasan Group](#) linked to Al Qaeda in Syria.

In February, 2015, the president submitted to Congress a draft request the [Authorization for the Use of Military Force](#) against the Islamic State of Iraq and Syria. However, no congressional [action](#) on the matter has occurred. Because ISIL’s predecessor, [al Qaeda in Iraq](#), was covered under the 2001 AUMF, some experts have argued that no new resolution would be needed to authorize the use of force. It has also been [reported](#) that numerous former Saddam Hussein-era commanders have held top positions within ISIL. According to some national security [scholars](#), the proposed AUMF draft possesses a series of self-limiting provisions which would hurt the U.S. and coalition efforts to destroy ISIL. In addition, according to an [American Enterprise Institute](#) opinion piece, “even without a new AUMF, the president has constitutional authority as commander-in-chief, supported by congressional funding, to wage the conflict.” The draft AUMF would thus serve as a politically unifying measure.

More information from the National Interest, the Wall Street Journal, and Time Magazine on the threat posed by ISIL can be found [here](#), [here](#), and [here](#). An Institute for the Study of War report on ISIL’s global reach can be found [here](#). A Heritage Foundation framework on for an AUMF against ISIL can be found [here](#). A CRS report on the "Islamic State" Crisis and U.S. Policy can be found [here](#). Reports from CRS on the War Powers Resolution and on Declarations of War and AUMFs can be found [here](#) and [here](#). More information on Operation Inherent Resolve from the Department of Defense can be found [here](#).

COMMITTEE ACTION: This bill was introduced on June 4, 2015, and was referred to the House Committee Foreign Affairs.

ADMINISTRATION POSITION: No statement of administration policy is available.

CONSTITUTIONAL AUTHORITY: No constitutional authority statement is available.

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