

[H.R. 2507, Increasing Regulatory Fairness Act of 2015, as amended](#)

FLOOR SITUATION

On Wednesday, June 17, 2015, the House will consider [H.R. 2507](#), *the Increasing Regulatory Fairness Act of 2015*, under suspension of the rules. H.R. 2507 was introduced on May 21, 2015, by Rep. Kevin Brady (R-TX) and was referred to the Committee on Ways and Means, and in addition, to the Committee on Energy and Commerce. The Ways and Means Committee ordered the bill reported, as amended, by voice vote on June 2, 2015.

SUMMARY

H.R. 2507 amends section 1853(b) of the Social Security Act, regarding the annual announcement of payment rates for Medicare Advantage (MA) plans, to require an annual determination and announcement of the following:

- (1) the annual capitation rate for each MA payment area for such year;
- (2) the risk and other factors to be used in adjusting such rates for payments for months in such year;
- (3) the MA region-specific non-drug monthly benchmark amount for that region for the year involved; and,
- (4) the major policy changes to the risk adjustment model, and to a rating system used to determine quality performance of MA plans, which are determined to have an economic impact.

The bill also extends from 45 days to 60 days the minimum period of advance notice that the Secretary of the Department of Health and Human Services (HHS) must provide to MA plans regarding proposed changes in the methodology used to determine MA payment rates prior to making a final announcement. Starting in 2017, the Secretary would be required to announce payment changes before April 1 for the upcoming year and issue advance notice of those changes at least 60 days before making a final announcement, while also providing a 30-day public comment period.

BACKGROUND

The Medicare Advantage (MA) program is one way for Medicare beneficiaries to receive covered benefits. Under MA, private health plans are paid a per-person monthly amount to provide all Medicare-covered benefits (except hospice) to beneficiaries who enroll in their plan. Unlike traditional fee-for-service Medicare, where providers are paid for each item or service provided to a beneficiary, the same capitated monthly payment is made to an MA plan regardless of how many or few services a beneficiary actually uses. The plan is at-risk if costs for all of its enrollees exceed program payments and beneficiary cost sharing; conversely, in general, the plan can retain savings if aggregate enrollee costs are less than program payments and cost sharing.¹

Under the program, capitated payments to plans are determined, in part, on a benchmark, or maximum payment. Benchmarks are updated each year based on certain measures of the growth in Medicare spending and by other adjustments.² The HHS Secretary determines a plan's payment by comparing its bid to a benchmark. A bid "is the plan's estimated cost of providing Medicare-covered services (excluding hospice, but including the cost of medical services, administration, and profit)."³ A benchmark "is the maximum amount the Federal government will pay for providing those services in the plan's service area."⁴ After the plan payment is determined through a comparison of the bid and the benchmark, "the payment is risk adjusted to account for the health history and demographics of the beneficiaries who actually enroll in a plan."⁵

"Under current law, the Secretary is required to announce final program rules for the following calendar year not later than the first Monday in April. The Secretary also is required to issue an advance notice of proposed changes at least 45 days before making the final announcement."⁶ H.R. 2507 requires the Secretary to provide more detailed information about such changes and provide stakeholders more time to comment on their potential impact.

According to the bill sponsor, "this legislation will require stakeholders to have the necessary time to comment on newly proposed rules to ensure the Medicare Advantage program continues to provide low-cost, competitive health insurance options to our seniors."⁷

COST

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

STAFF CONTACT

For questions or further information please contact [Jerry White](#) with the House Republican Policy Committee by email or at 5-0190.

¹ See CRS Report—"[Medicare Advantage—Proposed Benchmark Update and Other Adjustments for CY2016: In Brief](#)," February 25, 2015, at Summary.

² Id. at 1.

³ Id.

⁴ Id.

⁵ Id.

⁶ See CBO [cost estimate](#)

⁷ See Press Release—"[Ways & Means, Energy & Commerce Members Introduce Bipartisan Bills to Strengthen Medicare Advantage Program](#)," May 21, 2015.