WAYS AND MEANS

Dr. Todd Graham Pain Management, Treatment, and Recovery Act of 2018

H.R. 6110

Background

The Dr. Todd Graham Pain Management, Treatment, and Recovery Act of 2018 expands access to non-opioid alternatives by ensuring there are no misaligned financial incentives to prescribe opioids over non-opioid alternatives, requires analysis and the development of solutions to close gaps in care for pain management, and provides best practices and educational resources for the expansion of addiction treatment for those suffering from mental or behavioral health issues as well as those in underserved areas, particularly rural ones.

- **Section 2: H.R. 5778, Promoting Outpatient Access to Non-Opioid Treatment Act, Introduced by Rep. Kenny Marchant (R-TX) and Health Subcommittee Ranking Member Sander Levin (D-MI)**
- **Section 3: H.R. 5769, Expanding Access to Treatment (EAT) Act, Introduced by Rep. Keith Rothfus (R-PA) and Rep. Danny Davis (D-IL)**
- **Section 4: H.R. 5725, Benefit Evaluation of Safe Treatment (BEST) Act, Introduced by Health Subcommittee Chairman Peter Roskam (R-IL) and Rep. Linda Sanchez (D-CA)**
- **Section 5: H.R. 5790, Medicare Nurse Hotline Act, Introduced by Rep. Kristi Noem and Rep. Judy Chu (D-CA)**
- **Section 6: H.R. 5722, Dr. Todd Graham Pain Management Improvement Act, Introduced by Rep. Jackie Walorski (R-IN) and Rep. Judy Chu (D-CA)**
- **Section 7: H.R. 5676 Stop Excessive Narcotics in our Retirement Communities Protection Act or the SENIOR Communities Protection Act, Introduced by Rep. MacArthur (R-NJ), Rep. Schweikert (R-AZ), and Rep. Blumenauer (D-OR)**

Section 2: **Review and Adjustment of Payments under the Medicare Outpatient Prospective Payment System to Avoid Financial Incentives to Use Opioids instead of Non-Opioid Alternative Treatments**

Background: Providers often have a choice regarding the types of medicines or other items used in a procedure for a patient. One such choice centers around the type of pain medication

provided to the patient during and after a procedure. Medicare payments should be neutral, encouraging providers to select the items and services most appropriate for a given patient. Sometimes, payment incentives in Medicare become misaligned, potentially providing a financial incentive to choose one item over another.

Summary: The Secretary of the Department of Health and Human Services (HHS) is required to review payments made through the Outpatient Prospective Payment System (OPPS) and payments to ambulatory surgery centers (ASCs) to ensure there are no financial incentives to use opioids instead of evidence-based non-opioid alternatives. Under the OPPS, the Secretary will focus primarily on payments made through Ambulatory Payment Classifications (APCs) and Complex Ambulatory Payment Classification (C-APCs) that primarily include surgical services. If the Secretary identifies financial incentives to use opioids instead of evidence-based non-opioid alternatives, the Secretary will make such revisions to OPPS and ASC payments through rulemaking. The Secretary may also test changes to these payment systems through a demonstration.

Section 3: Expanding Access under the Medicare Program to Addiction Treatment in Federally Qualified Health Centers and Rural Health Clinics

Background: Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) are on the front lines of fighting our nation's drug crisis. In medically underserved areas, these facilities are often the first stop for patients seeking both immediate and ongoing care. Health centers are required to serve all patients regardless of ability to pay or insurance status, and they provide affordable access to substance use disorder treatment. There are more than 10,000 health centers across the nation that deliver care in some of the hardest-to-reach urban and rural areas. Patient visits for behavioral health and substance use disorder treatment have grown by 83 percent since 2016, so helping health centers ensure staff are trained and available to treat these conditions is critical to ensuring those with needs get treatment.

Summary: This section provides payments to FQHCs and RHCs to offset the cost of their providers receiving training to become Drug Addiction Treatment Act of 2000 (DATA 2000) compliant. This means that providers who work in FQHCs and RHCs and receive training to provide MAT – treatment that helps those struggling with substance abuse to remain in the community can get reimbursed for that training.

Section 4: **Studying the Availability of Supplemental Benefits Designed to Treat or Prevent Substance Use Disorders under Medicare Advantage Plans**

Background: Medicare Advantage (MA) plans may provide supplemental benefits beyond those offered in Medicare Fee-for-Service (FFS). However, little is known about how MA plans use this flexibility to address opioid use disorders.

Summary: This section directs the Secretary of HHS to evaluate the extent to which MA plans offer MAT and cover non-opioid alternative treatments not otherwise covered under Medicare

FFS as part of a supplemental benefit. It also directs the Secretary to evaluate potential barriers for plans to use supplemental benefits to cover these types of services.

Section 5: Clinical Psychologist Services Models under the Center for Medicare and Medicaid Innovation; GAO Study and Report

Background: The use of therapy, such as talk and behavioral, is underutilized within the Medicare population. Increasing use of 911 and emergency departments (ED) for care delivered to the elderly and disabled population makes it critical to understand whether the use of 24-hour hotlines and increased psychological services could assist in steering patients away from unnecessary hospital and ED utilization.

Summary: This section directs the Secretary of HHS, under the Center for Medicare & Medicaid Innovation, to educate patients on the availability of psychologist services and explore the use of hotlines to reduce unnecessary hospitalizations in Medicare. This provision also mandates the Comptroller General of the United States to issue a report on mental and behavioral health under the Medicare program with information about services offered by psychiatrists, clinical psychologists, and other professionals.

Section 6: Pain Management Study

Background: Federal guidance on prescribing opioids is fragmented and inconsistent, and there may be coverage gaps or barriers to coverage for certain non-opioid pain management treatments in the Medicare program. While the Centers for Disease Control and Prevention (CDC) published the CDC Guideline for Prescribing Opioids for Chronic Pain in 2016, these were specific to pain care in an outpatient primary care setting and are not necessarily appropriate for management of pain post-surgery by specialists. In 2010, the Department of Veterans Affairs and the Department of Defense established the Clinical Practice Guideline for Management of Opioid Therapy for Chronic Pain, which was subsequently updated in 2017.

Summary: This section would require the Secretary of HHS to issue a report, in consultation with relevant stakeholders, containing options for improving payment and coverage for multi-disciplinary, evidence-based, non-opioid treatments for acute and chronic pain management for Medicare FFS beneficiaries. The report will also include: (1) an assessment of costs and benefits of potential expansion of pain management coverage; (2) options for improving treatment strategies and case management for various high-risk patient populations; and (3) options for improving and disseminating pain management education tools. It will also consider relevant elements of the "VA/DoD Clinical Practice Guideline for Opioid Therapy for Chronic Pain," published in February 2017 by the Department of Veterans Affairs and Department of Defense for updates of HHS guidance.

Section 7: Suspension of Payments by Medicare Prescription Drug Plans and MA-PD Plans Pending Investigations of Credible Allegations of Fraud By Pharmacies

Background: Section 1862(o) of the Social Security Act grants the Secretary of the Department of Health and Human Services (HHS) the authority to suspend payments to a provider or supplier pending an investigation of a credible allegation of fraud against the provider or supplier. The Secretary is required to consult with the Inspector General of HHS in determining whether there is a credible allegation of fraud against a provider of services or a supplier.

Summary: This bill extends the authority of Medicare Advantage and Prescription Drug Plans, in the same manner already provided to HHS under Medicare Fee-for-Service, to suspend payments pending credible allegations of fraud. A fraud hotline tip is excluded from being considered as sufficient evidence for a credible allegation of fraud unless further evidence is provided.