



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 6, 2018

Opioid Legislation

As ordered reported by the House Committee on Ways and Means on May 16, 2018

SUMMARY

On May 16, 2018, the House Committee on Ways and Means ordered seven bills to be reported related to the nation's response to the opioid epidemic. Generally, the bills would:

- Expand Medicare coverage of treatment for opioid use disorder;
- Give Medicare providers and health plans additional tools to curtail inappropriate prescribing and use of opioids;
- Require the completion of studies and reports related to opioid use and misuse in Medicare; and
- Require the United States Postal Service and Customs and Border Protection (CBP) to reduce illegal shipment of opioids across international borders.

Because the bills are related, CBO is publishing a single comprehensive document that includes estimates for each piece of legislation.

CBO estimates that enacting four of the bills would affect direct spending; therefore, pay-as-you-go procedures apply for those bills. None of the bills would affect revenues.

CBO estimates that although enacting one bill of the seven included in this document (H.R. 5776) would increase net direct spending and on-budget deficits over the four consecutive 10-year periods beginning in 2029, those effects would not exceed the threshold established by the Congress for long-term costs. CBO estimates that none of the remaining bills would increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

None of the bills contain intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimates in this document do not include the effects of interactions among the bills. If all seven bills were combined and enacted as one piece of legislation, the budgetary effects would be different from the sum of the estimates in this document, although CBO expects that those differences would be small. The effects of this legislation fall within functions 550 (health), 570 (Medicare), and 750 (administration of justice).

BASIS OF ESTIMATE

For this estimate, CBO assumes that all of the legislation will be enacted late in 2018 and that authorized and estimated amounts will be appropriated each year. Outlays for discretionary programs are estimated based on historical spending patterns for similar programs.

Uncertainty

CBO aims to produce estimates that generally reflect the middle of a range of the most likely budgetary outcomes that would result if the legislation was enacted. Because data on the utilization of mental health and substance abuse treatment under Medicaid and Medicare is scarce, CBO cannot precisely predict how patients or providers would respond to some policy changes or what budgetary effects would result. In addition, several of the bills would give the Department of Health and Human Services (HHS) considerable latitude in designing and implementing policies. Budgetary effects could differ from those provided in CBO's analyses depending on those decisions.

Direct Spending

Table 1 lists the four bills included in this estimate that would affect direct spending.

H.R. 5676, the Stop Excessive Narcotics in our Retirement Communities Protection Act of 2018, would allow prescription drug plans to suspend payments to pharmacies while fraud investigations are pending. CBO expects that enacting the legislation would reduce payments by those plans to pharmacies and result in lower premiums for benefits under Medicare's Part D. CBO estimates that the reduction in premiums would lower federal spending for Part D by \$9 million over the 2019-2028 period.

Table 1. Estimated Changes in Mandatory Spending

	By Fiscal Year, in Millions of Dollars												2019-	2019-
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2023	2028	
INCREASES OR DECREASES (-) IN DIRECT SPENDING														
H.R. 5676, Stop Excessive Narcotics in our Retirement Communities Protection Act of 2018														
Budget Authority	0	0	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-9	
Outlays	0	0	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-9	
H.R. 5773, Preventing Addiction for Susceptible Seniors Act of 2018 ^a														
Budget Authority	0	0	0	-6	-7	-7	-7	-8	-9	-9	-11	-20	-64	
Outlays	0	0	0	-6	-7	-7	-7	-8	-9	-9	-11	-20	-64	
H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018 ^a														
Budget Authority	0	8	0	20	20	25	30	30	35	35	40	73	243	
Outlays	0	2	4	22	20	25	30	30	35	35	40	73	243	
H.R. 5788, Securing the International Mail Against Opioids Act of 2018 ^a														
Budget Authority	0	0	*	*	*	*	*	*	*	*	*	*	*	
Outlays	0	0	*	*	*	*	*	*	*	*	*	*	*	

Annual amounts may not sum to totals because of rounding. * = between -\$500,000 and \$500,000

a. This bill also would affect spending subject to appropriation.

H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018, would require Part D prescription drug plans to provide drug management programs for Medicare beneficiaries who are at risk for prescription drug abuse. (Under current law, Part D plans are permitted but not required to establish such programs as of 2019.) Based on an analysis of the number of plans currently providing those programs, CBO estimates that enacting H.R. 5773 would lower federal spending by \$64 million over the 2019-2028 period by reducing the number of prescriptions filled and Medicare’s payments for controlled substances.

Two provisions of H.R. 5773 would have no significant budgetary effect; they are described later in this document.

H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018, would appropriate \$8 million in 2019, which would be available until expended, for Federally Qualified

Health Centers and Rural Health Clinics to support training in the treatment of opioid use disorder. CBO expects that \$8 million would be spent between 2019 and 2021.

H.R. 5776 also would expand the availability of medication-assisted treatment (MAT) for Medicare beneficiaries with opioid use disorder. The bill would allow treatment programs certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) to become Medicare-participating providers.¹ H.R. 5776 also would direct the Secretary of HHS to create a new schedule of bundled payments for MAT through certified programs and grant the Secretary considerable discretion for defining bundles and establishing payment rates.

CBO projects that, beginning in 2021, about 3,000 Medicare beneficiaries who would not be treated for opioid abuse under current law would newly enroll each year in treatment offered by SAMHSA-certified programs and that the annual cost per participant would range from about \$6,000 to about \$10,000, depending largely on the medications dispensed and the period for which beneficiaries adhered to the protocol. CBO's projection of the number of beneficiaries who would receive treatment takes into consideration the number of beneficiaries estimated to have opioid-use disorder, the number already receiving some form of treatment, and the availability of providers to treat those who newly enroll in MAT. To develop a per capita treatment cost, CBO analyzed rates for MAT paid by other payers, as well as Medicare spending for health care services typically used by people receiving MAT. CBO estimates that the new MAT benefit would increase direct spending by \$235 million over the 2019-2028 period.

CBO estimates that enacting H.R. 5776 would increase net Medicare spending by \$243 million over the 2019-2028 period. (If enacted, H.R. 5776 would also affect spending subject to appropriation; CBO has not completed an estimate of that amount.)

H.R. 5788, the Securing the International Mail Against Opioids Act of 2018, would establish a new fee for certain items mailed to the United States from overseas, beginning January 1, 2020. Initially, the fee for most such items would be one dollar, but the amount could be adjusted annually thereafter. Using information provided by CBP, CBO estimates that about \$100 million in new fees would be collected over the 2020-2028 period. The collections would be divided equally between CBP and the Postal Service and spent by those agencies on activities related to the processing of inbound mail. CBO estimates that the net effect on federal spending in each year would be insignificant. (If enacted, H.R. 5788 would also affect spending subject to appropriation; those effects are described below.)

1. MAT combines behavioral therapy and pharmaceutical treatment for substance use disorders. Under current law, methadone (an opioid used to treat and manage dependence on other drugs, such as heroin) can be dispensed only by SAMHSA-certified treatment programs, which do not participate in Medicare. Other drugs used in MAT, including buprenorphine and naltrexone, can be dispensed more widely.

Spending Subject to Appropriation

For this document, CBO has grouped bills with spending that would be subject to appropriation into three general categories:

- Bills with provisions that would have no budgetary effect;
- Bills with provisions for which CBO has estimated an authorization of appropriations (see Table 2); and
- Bills with provisions that would affect spending subject to appropriation for which CBO has not yet completed an estimate.

No Budgetary Effect. CBO estimates that three of the bills have provisions that would not significantly affect direct spending, revenues, or spending subject to appropriation.

H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018, would require health care professionals to submit prior authorization requests electronically, starting on January 1, 2021, for drugs covered under Medicare Part D. Taking into account that many prescribers already use electronic methods to submit such requests, CBO estimates that enacting that Section 3 of H.R. 5773 would not significantly affect direct spending for Part D.

Section 5 of that bill would expand medication therapy management programs under Medicare Part D to include beneficiaries who are at risk for prescription drug abuse. Because relatively few beneficiaries would be affected by this provision, CBO estimates that its enactment would not significantly affect direct spending for Part D.

Section 6 of that bill would require the Secretary of HHS on an annual basis to identify high prescribers of opioids and furnish them with information about proper prescribing methods. Because HHS already has the capacity to meet those requirements, CBO estimates that enacting that provision would not impose additional administrative costs on the agency.

H.R. 5775, the Providing Reliable Options for Patients and Educational Resources Act of 2018, would require prescription drug plans that provide coverage under Medicare Part D to furnish information to beneficiaries about the risks of opioid use and the availability of alternative treatments for pain. The bill also would require Medicare Advantage plans and prescription drug plans to provide information regarding safe disposal of controlled substances in home health risk assessments and medication therapy management programs, respectively. In CBO's estimation, neither proposal would have a budgetary effect because those activities would not impose significant administrative costs on plans or federal agencies.

In addition, H.R. 5775 would restrict the use of certain pain-related questions on the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey, which is administered by the Centers for Medicare & Medicaid Services (CMS). The survey is one measure used in CMS's Hospital Value-Based Purchasing (VBP) Program, which adjusts payments to acute care hospitals on the basis of the quality of care they provide to Medicare beneficiaries. Because the VBP program is funded by reducing base payments to all hospitals, CBO estimates that changing the HCAHPS survey would not affect the total amount paid by Medicare.

H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018, in section 3, would require CMS, beginning on January 1, 2020, to review and possibly modify payments made through Medicare's Hospital Outpatient Prospective Payment System for certain opioid and nonopioid pain management treatments and technologies. CMS could revise payments if the Secretary of HHS determined that there was a financial incentive to use opioids in place of nonopioid medications. The budget neutrality requirement under current law would apply to such revisions, and the rest of the payment rates within the system would be subject to offsetting adjustments. Because the changes would be made in a budget-neutral manner, CBO estimates that this provision would have no budgetary effect.

Section 6 of H.R. 5776 would explicitly authorize the Center for Medicare and Medicaid Innovation (CMMI) to test approaches for expanding beneficiaries' awareness of psychological services and to help those beneficiaries curtail use of hospital-based mental health or behavioral health services. Because CMMI already has that authority, CBO estimates that enacting the legislation would not affect federal spending.

Estimated Authorizations. Table 2 shows CBO's estimates of the authorization of appropriations for provisions in four bills. For those estimates, CBO assumes that appropriated funds would be available to implement those provisions.

H.R. 5723, the Expanding Oversight of Opioid Prescribing and Payment Act of 2018, would require the Medicare Payment Advisory Commission to report to the Congress on payments for pain treatment, incentives for prescribing opioids in inpatient and outpatient settings, and documented tracking of opioid use from Medicare claims data. CBO estimates that producing such a report would cost less than \$500,000 over the 2019-2023 period.

Table 2. Estimated Spending Subject to Appropriation for Bills With Estimated Authorizations

	By Fiscal Year, in Millions of Dollars						
	2018	2019	2020	2021	2022	2023	2019-2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
H.R. 5723, Expanding Oversight of Opioid Prescribing and Payment Act of 2018							
Estimated Authorization Level	0	*	0	0	0	0	*
Estimated Outlays	0	*	0	0	0	0	*
H.R. 5773, Preventing Addiction for Susceptible Seniors Act of 2018 ^a							
Estimated Authorization Level	0	2	2	2	2	2	9
Estimated Outlays	0	2	2	2	2	2	9
H.R. 5776, Medicare and Opioid Safe Treatment Act of 2018 ^a							
Estimated Authorization Level	0	1	0	0	0	0	1
Estimated Outlays	0	1	0	0	0	0	1
H.R. 5788, Securing the International Mail Against Opioids Act of 2018 ^a							
Estimated Authorization Level	0	100	0	0	0	0	100
Estimated Outlays	0	40	40	20	0	0	100

Annual amounts may not sum to totals because of rounding. * = between zero and \$500,000

a. This bill also would affect mandatory spending.

H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018, would require the Secretary of HHS to establish a secure Internet portal to allow HHS, Medicare Advantage plans, and Medicare Part D plans to exchange information about fraud, waste, and abuse among providers and suppliers no later than two years after enactment. H.R. 5773 also would require organizations with Medicare Advantage contracts to submit information on investigations related to providers suspected of prescribing large volumes of opioids through a process established by the Secretary no later than January 2021. Based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 5773 would cost approximately \$9 million over the 2019-2023 period.

H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018, would direct the Secretary of HHS to report to the Congress on the availability of supplemental benefits to pay for treatment or prevention of substance abuse among enrollees in Medicare

Advantage plans. The Secretary also would report on coverage of and payment for pain treatment and substance use disorders under Medicare. CBO estimates that producing those reports would cost \$1 million over five years.

H.R. 5788, the Securing the International Mail Against Opioids Act of 2018, would direct the Postal Service, CBP, and other federal agencies to collaborate to develop technology to detect opioids and other drugs that enter the United States in the mail. Using information provided by CBP, CBO estimates that it would cost roughly \$100 million over the 2019-2021 period to deploy drug detection systems at international mail facilities.

Other Authorizations. CBO has determined that provisions in two bills—H.R. 5774, Combating Opioid Abuse for Care in Hospitals Act of 2018; and H.R. 5776, the Medicare and Safe Opioid Treatment Act of 2018—would increase authorization levels, but has not completed estimates of amounts. Any spending that would result from those authorizations would be subject to future appropriation action.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Four of the bills discussed in this document contain direct spending and are subject to pay-as-you-go procedures. Details about the amount of direct spending in those bills can be found in Table 1.

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that although enacting H.R. 5776, the Medicare and Opioid Safe Treatment Act of 2018, would increase net direct spending and on-budget deficits over the four consecutive 10-year periods beginning in 2029, those effects would not exceed the threshold established by the Congress for long-term costs (\$2.5 billion for net direct spending and \$5 billion for on-budget deficits). CBO estimates that none of the remaining bills would increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

MANDATES

None of the bills contains intergovernmental or private-sector mandates as defined in UMRA.

PREVIOUS CBO ESTIMATE

On June 6, 2018, CBO issued an estimate for 59 opioid-related bills ordered reported by the House Committee on Energy and Commerce on May 9 and May 17, 2018. Several of those bills contain provisions that are identical or similar to those in the legislation ordered reported by the Committee on Ways and Means, and for those provisions, CBO's estimates are the same.

In particular, several sections in H.R. 5773, the Preventing Addiction for Susceptible Seniors Act of 2018, contain provisions that are identical or similar to those in five bills listed in the other estimate:

- Section 2, which would require prescription drug plans to implement drug management programs, is identical to a provision in H.R. 5675.
- Section 3, regarding electronic prior authorization for prescriptions under Medicare's Part D, is similar to a provision in H.R. 4841.
- Section 4, which would mandate the creation of a new Internet portal to allow various stakeholders to exchange information, is identical to a provision in H.R. 5715.
- Section 5, which would expand medication therapy management, is the same as a provision in H.R. 5684.
- Section 6, regarding prescriber notification, is identical to H.R. 5716.

In addition, in this estimate, a provision related to Medicare beneficiary education in section 2 of H.R. 5775, the Providing Reliable Options for Patients and Educational Resources Act of 2018, is the same as a provision in H.R. 5686, the Medicare Clear Health Options in Care for Enrollees Act of 2018, in CBO's estimate for the Committee on Energy and Commerce.

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