

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
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**MEMORANDUM**

**September 12, 2017**

**To: Subcommittee on Health, Democratic Members and Staff**

**Fr: Committee on Energy and Commerce Democratic Staff**

**Re: Subcommittee Markup of H.R. 1148, Furthering Access to Stroke Telemedicine (FAST) Act of 2017; H.R. 2465, Steve Gleason Enduring Voices Act of 2017; H.R. 2557, Prostate Cancer Misdiagnosis Elimination Act of 2017; H.R. 3120, To amend title XVIII of the Social Security Act to reduce the volume of future electronic health record-related significant hardship requests; H.R. 3245, Medicare Civil and Criminal Penalties Update Act; H.R. 3263, Extending the Medicare Independence at Home Medical Practice Demonstration Program; and H.R. 3271, Protecting Access to Diabetes Supplies Act of 2017**

On Wednesday, September 13, 2017, at 1:00 p.m. in room 2123 of the Rayburn House Office Building, the Subcommittee on Health will hold a markup of seven bills: H.R. 1148, Furthering Access to Stroke Telemedicine (FAST) Act of 2017; H.R. 2465, Steve Gleason Enduring Voices Act of 2017; H.R. 2557, Prostate Cancer Misdiagnosis Elimination Act of 2017; H.R. 3120, To amend title XVIII of the Social Security Act to reduce the volume of future electronic health record-related significant hardship requests; H.R. 3245, Medicare Civil and Criminal Penalties Update Act; H.R. 3263, Extending the Medicare Independence at Home Medical Practice Demonstration Program; and H.R. 3271, Protecting Access to Diabetes Supplies Act of 2017.

**I. H.R. 1148, FURTHERING ACCESS TO STROKE TELEMEDICINE (FAST) ACT OF 2017**

H.R. 1148, introduced by Representatives Griffith (R-VA) and Beatty (D-OH), would provide Medicare reimbursement for stroke telemedicine services regardless of the patient originating site, and waive the originating site facility fee. Stroke telemedicine (also known as telestroke) refers to a telemedicine service that connects stroke patients to a team of providers, usually including a neurologist and a nurse, for the diagnosis and treatment of strokes.

Telestroke can be an important service to patients who cannot quickly access a stroke specialist. Under current law, Medicare only covers telestroke services provided at rural originating sites.

## **II. H.R. 2465, STEVE GLEASON ENDURING VOICES ACT**

H.R. 2465, introduced by Representatives McMorris Rodgers (R-WA) and Doyle (D-PA), would make permanent the removal of the durable medical equipment (DME) rental cap for speech generating devices (SGDs). SGDs are used for individuals with communications disabilities, such as Amyotrophic Lateral Sclerosis (ALS).

In 2015, CMS decided to cover SGDs via a capped rental payment. Certain items of DME are subject to a rental cap, by which a beneficiary rents an item of DME for 13 (continuous) months, after which the supplier transfers title of the item to the individual. Under the capped rental payment, beneficiaries were negatively impacted, as Medicare payment for SGD stopped during periods of institutionalization, and nursing homes, hospitals, and hospice programs did not supply beneficiaries with appropriate SGD substitutes. In 2015, Congress passed and the President signed the Steve Gleason Act of 2015, which removed SGDs from the capped rental category until October 1, 2018. H.R. 2465 would make this policy permanent.

## **III. H.R. 2557, PROSTATE CANCER MISDIAGNOSIS ELIMINATION ACT**

H.R. 2557, introduced by Representatives Bucshon (R-IN) and Rush (D-IL), would provide coverage under the Medicare program of a DNA Specimen Provenance Assay clinical diagnostic laboratory test (DSPA test). The objective of the bill is to reduce the number of individuals who receive an erroneous positive diagnosis for prostate cancer, and therefore receive unnecessary treatment and interventions. Medical literature indicates that false positives for prostate cancer diagnosis are as high as 1.3 percent, due in part to errors made in the collection, transport, and processing of specimens from biopsies. The DSPA test is a DNA test that would match the biopsied tissue to the individual being tested, ensuring that provenance errors do not result in an erroneous positive result and potentially costly and unnecessary medical treatment.

## **IV. H.R. 3120, TO AMEND TITLE XVIII OF THE SOCIAL SECURITY ACT TO REDUCE THE VOLUME OF FUTURE ELECTRONIC HEALTH RECORD-RELATED SIGNIFICANT HARDSHIP REQUESTS**

H.R. 3120, introduced by Representatives Burgess (R-TX), Dingell (D-MI), Tiberi (R-OH), and Thompson (D-CA), would amend the Health Information Technology for Economic and Clinical Health (HITECH) Act to eliminate the requirement that the Secretary impose “more stringent measures of meaningful use” over time. The objective of the bill would be to reduce the number of providers needing to seek hardship exemptions from the requirements of the meaningful use program, enabling more providers to remain in the program. The Secretary still must “seek to improve the use of electronic health records and health care quality over time.”

## **V. H.R. 3245, A BILL TO UPDATE CIVIL MONEY PENALTIES AND CRIMINAL FINES FOR MEDICARE FRAUD**

H.R. 3245, introduced by Representatives Bilirakis (R-FL) and Castor (D-FL), would update civil and criminal penalties for committing fraud against a federal health care program. It would double civil monetary penalties and double maximum criminal penalties for presenting false claims to the federal government, providing medical items or services known to be not medically necessary, or practicing without an appropriate license.

**VI. H.R. 3263, EXTENSION OF THE INDEPENDENCE AT HOME DEMONSTRATION**

H.R. 3263, introduced by Representatives Burgess (R-TX), Dingell (D-MI), Roskam (R-IL) and Thompson (D-CA), would extend the Medicare Independence at Home (IAH) Demonstration Project for two years. IAH began as a three year demonstration program in 2012. It was later extended for two years under the Medicare Independence at Home Medical Practice Demonstration Improvement Act of 2015. The legislation would also increase the number of beneficiaries participating in the demonstration from 10,000 to 15,000 and allow for participating medical practices to demonstrate savings and receive incentive payments within three years (instead of two years under current law).

The IAH demonstration allows seniors with multiple, advanced and often expensive chronic conditions to receive home based primary care from a team of providers. Home based treatment removes barriers to care for seniors, such as a lack of easy access to a medical facility or physical limitations, and allows for these individuals to be treated in a setting where they are most comfortable. The program rewards providers that deliver quality care while reducing costs. CMS estimates that IAH saved \$25 million in the first performance year and more than \$10 million in the second performance year. Analysis of the demonstration also found that participants had fewer hospital readmissions, better medication management and care planning, and improved follow up.

**VII. H.R. 3271, PROTECTING ACCESS TO DIABETES SUPPLIES ACT OF 2017**

H.R. 3271, introduced by Representatives DeGette (D-CO) and Brooks (R-IN), would make changes to Medicare's competitive bidding program for diabetic testing strips. The bill would require CMS to provide stronger assurances that suppliers provide at least 50 percent of all types of diabetes test supplies on the market before implementation of the competitive bidding program. The bill would also codify a regulatory provision preventing suppliers from coercing beneficiaries to change their choice of testing strips and make it easier for beneficiaries to receive testing supplies should they choose to switch to a different product.