

Committee Print

(SHOWING THE TEXT OF H.R. 5389, AS FAVORABLY FORWARDED BY THE
SUBCOMMITTEE ON HEALTH ON NOVEMBER 15, 2023)

118TH CONGRESS
1ST SESSION

H. R. 5389

To amend title XVIII of the Social Security Act to ensure transparency
in the national coverage determination process under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2023

Mr. GUTHRIE (for himself and Mr. KELLY of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to ensure
transparency in the national coverage determination
process under the Medicare program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Coverage De-
5 termination Transparency Act”.

1 **SEC. 2. ENSURING TRANSPARENCY IN THE NATIONAL COV-**
2 **ERAGE DETERMINATION PROCESS UNDER**
3 **THE MEDICARE PROGRAM.**

4 (a) IN GENERAL.—Section 1862(l) of the Social Se-
5 curity Act (42 U.S.C. 1395y(l)) is amended by adding at
6 the end the following new paragraph:

7 “(7) TRANSPARENCY IN NATIONAL COVERAGE
8 DETERMINATIONS.—

9 “(A) IN GENERAL.—With respect to each
10 document (whether physical or electronic) re-
11 ceived by the Secretary on or after the date
12 that is 90 days after the date of the enactment
13 of this paragraph that identifies itself as a com-
14 plete, formal request for a national coverage de-
15 termination (as described in the notice entitled
16 ‘Medicare Program; Revised Process for Mak-
17 ing National Coverage Determinations’ (78
18 Fed. Reg. 48164) or a successor regulation), in-
19 cluding a request for a reconsideration of such
20 a determination, the Secretary shall, not later
21 than 90 calendar days after receipt of such doc-
22 ument—

23 “(i) determine whether such document
24 is a complete, formal request for a national
25 coverage determination; and

1 “(ii) in the case that the Secretary
2 finds that such document is not a com-
3 plete, formal request for a national cov-
4 erage determination, directly transmit to
5 the entity submitting such document an
6 explanation of such finding that includes a
7 specification of each item of additional in-
8 formation needed to make such document
9 a complete, formal request for a national
10 coverage determination.

11 “(B) RESUBMISSION OF DOCUMENT.—

12 “(i) IN GENERAL.—In the case of a
13 document described in subparagraph (A)
14 with respect to which the Secretary has
15 made a finding described in clause (ii) of
16 such subparagraph, the entity submitting
17 such document may submit to the Sec-
18 retary a revised document that includes the
19 additional information specified in such
20 clause with respect to such document.
21 Such revised document shall be treated as
22 a newly-received document for purposes of
23 subparagraph (A).

24 “(ii) TECHNICAL ASSISTANCE.—The
25 Secretary shall provide such technical as-

1 assistance as is practicable in order to assist
2 entities in submitting revised documents
3 under clause (i).

4 “(C) PUBLICATION.—The Secretary shall
5 make available on a publicly accessible website
6 of the Centers for Medicare & Medicaid Serv-
7 ices or other appropriate means a concise sum-
8 mary of each document that the Secretary has
9 found to be a complete, formal request for a na-
10 tional coverage determination (as described in
11 subparagraph (A)(i)) not later than 7 business
12 days after the date of such finding.”.

13 (b) INCLUSION OF CERTAIN TIME PERIODS IN AN-
14 NUAL REPORTS.—Section 1869(f)(7)(A) of the Social Se-
15 curity Act (42 U.S.C. 1395ff(f)(7)(A)) is amended by add-
16 ing at the end the following new sentence: “Each such re-
17 port submitted on or after the date that is 90 days after
18 the date of the enactment of this sentence shall include
19 in such actual time periods with respect to such a request
20 any intervening time between the receipt of such request
21 by the Secretary and the Secretary’s determination that
22 such request was a complete, formal request (as described
23 in section 1861(l)(7)(B)(i)).”.