



Summary of the “Medicare Patient Empowerment Act”

The “Medicare Patient Empowerment Act” would establish a Medicare payment option for patients and physicians (and practitioners) to freely contract, without penalty, for Medicare fee-for-service services, while allowing Medicare beneficiaries to use their Medicare benefits and allowing physicians to bill the patient for all amounts not covered by Medicare. Physicians and practitioners could continue to elect Medicare participating (PAR) or non-participating (non-PAR) status for other beneficiaries they treat.

Specifically, the proposed bill would:

- Allow Medicare beneficiaries to contract with any physician (or practitioner) outside of Medicare at rates established between the patient and physician or practitioner.
- Allow Medicare beneficiaries to submit claims to the Medicare program.
- Allow the physician or practitioner to file claims on behalf of the beneficiary, and the beneficiary could assign payment to the physician or practitioner regardless of whether the patient or physician (or practitioner) files the claim.
- Require Medicare claims to be paid directly to the beneficiary in the amount that would apply to a Medicare PAR physician or practitioner in the Medicare payment area where the physician or practitioner resides (payments would not be adjusted to reflect any incentive/penalty payments that might otherwise apply to the physician or practitioner relating to the PQRI, electronic prescribing, health information technology or cost-quality payment modifier programs).
- Establish that Medicare balance billing limits would not apply to Medicare charges by the physician or practitioner.
- Specify that if a physician (or practitioner) contracts with a beneficiary, the physician (or practitioner) is not considered a Medicare PAR or non-PAR physician or practitioner, and therefore Medicare requirements do not apply to the physician or practitioner for purposes of services furnished under the contract. (If the physician or practitioner is PAR or non-PAR for other patients, the physician or practitioner would have to comply with Medicare requirements for services furnished to those patients.)
- Establish beneficiary protections, such as (i) requiring a written, signed contract that specifies the physician or practitioner fees before services are furnished and provides that the beneficiary will be held harmless if the physician or practitioner were to bill any amounts in excess of the fees specified in the contract; (ii) prohibiting the contract from being entered in an emergency or urgent care situation; (iii) prohibiting contracts with Medicare and Medicaid dual-eligible individuals; and (iv) indicating in the contract whether the physician or practitioner is excluded from participation under Medicare.
- Define “emergency medical condition” and “urgent health care situation” using existing Medicare definitions for these terms.
- Allow physicians and practitioners to continue as a Medicare PAR or non-PAR physician or practitioner with respect to any patient not covered under the contract.
- Pre-empt state laws that limit balance billing.