

115TH CONGRESS
2D SESSION

H. R. 6690

To establish a smart card pilot program to combat fraud, waste, and abuse
and to protect beneficiary identity under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 28, 2018

Mr. ROSKAM (for himself and Mr. BLUMENAUER) 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 establish a smart card pilot program to combat fraud,
waste, and abuse and to protect beneficiary identity
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 “Fighting Fraud to Pro-
5 tect Care for Seniors Act of 2018”.

1 **SEC. 2. MEDICARE SMART CARD PILOT PROGRAM.**

2 Part E of title XVIII of the Social Security Act is
3 amended by inserting after section 1866E the following
4 new section:

5 **“SEC. 1866F. SMART CARD PILOT PROGRAM.**

6 “(a) IMPLEMENTATION.—

7 “(1) IN GENERAL.—Not later than 36 months
8 after the date of the enactment of this section, the
9 Secretary shall establish a pilot program (in this sec-
10 tion referred to as the ‘pilot program’) to evaluate
11 the feasibility of using smart card technology under
12 this title.

13 “(2) SMART CARD TECHNOLOGY DEFINED.—In
14 this section, the term ‘smart card technology’ means
15 the following:

16 “(A) BENEFICIARY SMART CARD.—A ma-
17 chine readable, tamper-resistant card (in this
18 section referred to as a ‘smart card’) that in-
19 cludes an embedded integrated circuit chip with
20 a secure micro-controller (as defined by the Na-
21 tional Institute on Standards and Technology)
22 that enables the verification and secure, elec-
23 tronic authentication of the identity of a Medi-
24 care beneficiary at the point of service through
25 a combination of the smart card and a personal

1 identification number known by or associated
2 with such beneficiary.

3 “(B) CARD READER TECHNOLOGY.—Infor-
4 mation technology that enables a supplier and
5 provider to authenticate the identity of a Medi-
6 care beneficiary through presentation of such a
7 smart card and such components, with such au-
8 thentication to be reflected through the use of
9 a modifier or in another appropriate manner, as
10 determined by the Secretary, in the claims ad-
11 judication process.

12 “(3) PROGRAM DESIGN ELEMENTS.—The pilot
13 program shall be conducted for a period of 3 years
14 consistent with the following:

15 “(A) SELECTION OF AREA.—In consulta-
16 tion with the Inspector General of the Depart-
17 ment of Health and Human Services, the Sec-
18 retary shall select at least 3 geographic areas in
19 which the pilot program will operate.

20 “(B) SELECTION OF SUPPLIER AND PRO-
21 VIDER TYPES.—In consultation with the Inspec-
22 tor General of the Department of Health and
23 Human Services, the Secretary shall select sup-
24 plier and provider types that will be required to
25 participate in the pilot program (referred to in

1 this section as ‘participating suppliers and pro-
2 viders’). In selecting such supplier and provider
3 types, the Secretary shall—

4 “(i) take into account the risk of
5 fraud, waste, and abuse (as described in
6 section 1866(j)(2)(B)) with respect to the
7 category of provider or supplier) and other
8 factors as determined appropriate by the
9 Secretary; and

10 “(ii) limit the pilot program to no
11 more than 2,000 suppliers and providers.

12 “(C) SUPPLIER AND PROVIDER HARDSHIP
13 EXEMPTIONS.—The Secretary shall exempt
14 from participation in the pilot program a sup-
15 plier or provider that either—

16 “(i) does not have access to card read-
17 er technology (as described in paragraph
18 (2)(B));

19 “(ii) does not have sufficient internet
20 access; or

21 “(iii) has a low volume (as determined
22 by the Secretary) of Medicare claims for
23 which payment is made under this title.

24 “(D) SMART CARD AND SMART CARD
25 READER ISSUANCE.—

1 “(i) BENEFICIARY SMART CARD
2 ISSUANCE.—The Secretary shall provide
3 for, at no cost, the issuance (and, if nec-
4 essary, replacement) of beneficiary smart
5 cards described in paragraph (2)(A) to all
6 Medicare beneficiaries residing in a geo-
7 graphic area in which the pilot program is
8 conducted under subparagraph (A). Infor-
9 mation that appears on Medicare cards
10 used outside the pilot program may appear
11 on the face of the beneficiary smart card.

12 “(ii) SUPPLIER AND PROVIDER SMART
13 CARD READER ISSUANCE.—At the request
14 of a participating supplier or provider, the
15 Secretary shall provide for, at no cost, the
16 issuance to such supplier or provider of
17 smart card hardware and software nec-
18 essary to participate in the pilot program.

19 “(E) INFORMATION ON OPERATION OF
20 PILOT PROGRAM.—The Secretary shall provide
21 participating suppliers and providers and Medi-
22 care beneficiaries who are furnished items and
23 services by such suppliers and providers, with
24 information on the operation of the pilot pro-

1 gram, including privacy protections described in
2 subparagraph (I).

3 “(F) ACCESS TO SERVICES OUTSIDE THE
4 PILOT PROGRAM.—

5 “(i) BENEFICIARIES.—Medicare bene-
6 ficiaries who receive beneficiary smart
7 cards may receive items and services from
8 suppliers and providers not participating in
9 the pilot program.

10 “(ii) SUPPLIERS AND PROVIDER
11 CLAIMS.—

12 “(I) SUPPLIERS AND PROVIDERS
13 NOT PARTICIPATING IN PILOT.—Sup-
14 pliers and providers not participating
15 in the pilot program may submit
16 claims under this title for items and
17 services furnished without use of
18 smart card technology to Medicare
19 beneficiaries who receive beneficiary
20 smart cards.

21 “(II) PARTICIPATING SUPPLIERS
22 AND PROVIDERS FURNISHING SERV-
23 ICES TO NON-PARTICIPATING BENE-
24 FIICIARIES.—Supplier and providers
25 participating in the pilot program may

1 submit claims under this title for
2 items and services furnished to Medi-
3 care beneficiaries who do not receive
4 beneficiary smart cards.

5 “(G) CLARIFICATION ON ACCESS TO SERV-
6 ICES WITHOUT SMART CARDS.—In the case of a
7 Medicare beneficiary who receives a beneficiary
8 smart card and does not present such card at
9 the time of receipt of items or services from a
10 participating supplier or provider, the partici-
11 pating supplier or provider—

12 “(i) shall furnish such items or serv-
13 ices to such Medicare beneficiary as if such
14 beneficiary does present such card;

15 “(ii) may submit claims under this
16 title for such items or services; and

17 “(iii) shall provide, in accordance with
18 such manner, process, and timing as speci-
19 fied by the Secretary, information to the
20 Secretary (through the contractor de-
21 scribed in subparagraph (H)) that such
22 beneficiary received such a smart card but
23 did not have the smart card at the time
24 the items or services were furnished.

1 “(H) PRIVATE SECTOR IMPLEMENTA-
2 TION.—The Secretary shall select, by using a
3 competitive procurement process in accordance
4 with the provisions of chapter 1 of title 48,
5 Code of Federal Regulations (or any successor
6 regulations), a private sector contractor to im-
7 plement and operate the pilot program.

8 “(I) PRIVACY PROTECTIONS.—The Sec-
9 retary shall ensure that the pilot program com-
10 plies with applicable Federal laws and regula-
11 tions concerning individually identifiable health
12 information, including the Privacy Act of 1974
13 and regulations promulgated under section
14 264(c) of the Health Insurance Portability and
15 Accountability Act of 1996 and such individ-
16 ually identifiable information shall be exempt
17 from disclosure under section 552(b)(3) of title
18 5, United States Code.

19 “(J) MANDATORY PARTICIPATION.—Sub-
20 ject to subparagraph (C), in the case of items
21 or services furnished by a provider or supplier
22 included in a supplier or provider type selected
23 under subparagraph (B) in a geographic area
24 selected under subparagraph (A), payment may
25 only be made under this title for such items or

1 services during the period of the pilot program
2 if the provider or supplier is participating in the
3 pilot program.

4 “(K) PROHIBITION OF SMART CARD
5 FEES.—No transaction, utilization, or other
6 fees may be imposed on Medicare beneficiaries
7 or participating suppliers and providers with re-
8 spect to the use of smart cards under the pilot
9 program.

10 “(4) STAKEHOLDER INPUT.—

11 “(A) IN GENERAL.—Not later than 6
12 months after the date of the enactment of this
13 section, the Secretary shall convene a panel
14 consisting of stakeholders (including representa-
15 tives of providers, suppliers, Medicare bene-
16 ficiaries, and claims processing contractors) se-
17 lected by the Secretary for purposes of pro-
18 viding input to the Secretary on the implemen-
19 tation of the pilot program (including on the se-
20 lection of areas and participants under subpara-
21 graphs (A) and (B) of paragraph (3) and the
22 development of exemptions and requirements
23 described in such paragraph).

24 “(B) NONAPPLICABILITY OF FACA.—The
25 Federal Advisory Committee Act shall not apply

1 to the panel convened pursuant to subpara-
2 graph (A).

3 “(5) DEFINITIONS.—In this section:

4 “(A) The terms ‘supplier’ and ‘provider’
5 have the meanings given the terms ‘supplier’
6 and ‘provider of services’ in subsections (d) and
7 (u), respectively, of section 1861.

8 “(B) The term ‘Medicare beneficiary’
9 means an individual who is enrolled in the origi-
10 nal Medicare fee-for-service program under
11 parts A and B and is not enrolled in an MA
12 plan under part C, an eligible organization
13 under section 1876, or a PACE program under
14 section 1894.

15 “(b) REPORTS TO CONGRESS.—The Secretary shall
16 submit to Congress the following reports:

17 “(1) INTERIM PERFORMANCE REPORT.—Not
18 later than 2 years after the date the pilot program
19 is implemented, an interim report on the perform-
20 ance of such program.

21 “(2) FINAL PERFORMANCE REPORT.—Not later
22 than 18 months after the date of the completion of
23 the pilot program, a final evaluation on the effective-
24 ness of the pilot program. The report shall include
25 the following:

1 “(A) An evaluation of the extent to which
2 health care fraud schemes were affected by the
3 use of smart card technology.

4 “(B) A description of any barriers to im-
5 plementation of the pilot program.

6 “(C) Participant feedback on the pilot pro-
7 gram.

8 “(D) Recommendations regarding the fu-
9 ture use of smart cards to address fraud under
10 this title.

11 “(E) Data on the information provided
12 under subsection (a)(3)(G)(iii).”.

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