

111TH CONGRESS
1ST SESSION

H. R. 3790

To amend title XVIII of the Social Security Act to repeal the Medicare competitive acquisition program for durable medical equipment and prosthetics, orthotics, and supplies (DMEPOS) in a budget neutral manner.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 13, 2009

Mr. MEEK of Florida (for himself, Mr. MAFFEI, Mrs. EMERSON, Mr. FARR, Mr. THOMPSON of Pennsylvania, Mr. ALTMIRE, Ms. WASSERMAN SCHULTZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BOCCIERI, Mr. KLEIN of Florida, Mr. SHULER, Mr. RYAN of Ohio, Mr. WEXLER, Mr. MURTHA, Mr. HASTINGS of Florida, Mr. TIBERI, and Ms. FUDGE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 repeal the Medicare competitive acquisition program for durable medical equipment and prosthetics, orthotics, and supplies (DMEPOS) in a budget neutral manner.

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

1 **SECTION 1. REPEAL OF MEDICARE DMEPOS COMPETITIVE**
2 **ACQUISITION PROGRAM.**

3 (a) IN GENERAL.—Section 1847 of the Social Secu-
4 rity Act (42 U.S.C. 1395w-3) is repealed.

5 (b) EFFECTIVE DATE.—

6 (1) IN GENERAL.—The repeal made by sub-
7 section (a) shall take effect on the date of the enact-
8 ment of this Act.

9 (2) IMPACT ON CURRENT CONTRACTS.—In the
10 case of any contract awarded under section 1847 of
11 the Social Security Act before the date of the repeal
12 of such section—

13 (A) the contract is terminated;

14 (B) no payment shall be made under title
15 XVIII of such Act on or after the date of the
16 enactment of this Act based on such a contract;
17 and

18 (C) to the extent that any damages may be
19 applicable as a result of the termination of such
20 contracts, such damages shall be payable from
21 the Federal Supplementary Medical Insurance
22 Trust Fund under section 1841 of such Act.

23 (3) CONSTRUCTION.—Nothing in this sub-
24 section shall be construed to provide an independent
25 cause of action or right to administrative or judicial

1 review with regard to the termination provided
2 under this subsection.

3 (c) PAY-FOR THROUGH CHANGE IN COVERED ITEM
4 UPDATE.—Section 1834(a)(14) of the Social Security Act
5 (42 U.S.C. 1395m(a)(14)) is amended by redesignating
6 subparagraph (M) as subparagraph (O) and by striking
7 subparagraphs (K) and (L) and inserting the following:

8 “(K) for 2010, 2011, and 2012—

9 “(i) in the case of complex rehabilita-
10 tive power wheelchairs recognized by the
11 Secretary as classified within group 3 or
12 higher, the percentage increase in the con-
13 sumer price index for all urban consumers
14 (U.S. urban average) for the 12-month pe-
15 riod ending with June of the previous year;
16 and

17 “(ii) in the case of other items and
18 services, –0.25 percentage points;

19 “(L) for 2013, the percentage increase in
20 the consumer price index for all urban con-
21 sumers (U.S. urban average) for the 12-month
22 period ending with June 2012;

23 “(M) for 2014—

24 “(i) in the case of complex rehabilita-
25 tive power wheelchairs recognized by the

1 Secretary as classified within group 3 or
2 higher, the percentage increase in the con-
3 sumer price index for all urban consumers
4 (U.S. urban average) for the 12-month pe-
5 riod ending with June 2013 plus 2.0 per-
6 centage points; and

7 “(ii) in the case of other items and
8 services, the percentage increase in the
9 consumer price index for all urban con-
10 sumers (U.S. urban average) for the 12-
11 month period ending with June 2013;

12 “(N) for 2015—

13 “(i) in the case of complex rehabilita-
14 tive power wheelchairs recognized by the
15 Secretary as classified within group 3 or
16 higher, the percentage increase in the con-
17 sumer price index for all urban consumers
18 (U.S. urban average) for the 12-month pe-
19 riod ending with June of the previous year;
20 and

21 “(ii) in the case of other items and
22 services, -0.5 percentage points; and”.

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