

105TH CONGRESS  
1ST SESSION

# H. R. 2851

To prohibit application of a payment limit to a drug or biological under part B of the Medicare Program based on a less costly alternative for courses of treatment begun before the change in payment.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 1997

Mrs. KENNELLY of Connecticut introduced the following bill; which was referred to the Committee on 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

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## A BILL

To prohibit application of a payment limit to a drug or biological under part B of the Medicare Program based on a less costly alternative for courses of treatment begun before the change in payment.

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. RESTRICTING CHANGES IN MEDICARE REIM-**  
2 **BURSEMENT RATES FOR DRUGS AND**  
3 **BIOLOGICALS BASED ON A LESS COSTLY AL-**  
4 **TERNATIVE DURING COURSE OF TREAT-**  
5 **MENT.**

6 (a) **IN GENERAL.**—If the Secretary of Health and  
7 Human Services or a carrier reduces a recognized rate for  
8 a drug or biological under part B of title XVIII of the  
9 Social Security Act based solely on the identification of  
10 an alternative drug or biological that is less costly for  
11 treatment of the same condition, the Secretary shall pro-  
12 vide that such reduction shall not apply during a course  
13 of treatment to an individual who, as of the effective date  
14 of the reduction in payment rate, was entitled to benefits  
15 under such part and was in a course of treatment with  
16 such drug or biological for which such benefits are avail-  
17 able.

18 (b) **EXCEPTION FOR GENERIC SUBSTITUTION.**—Sub-  
19 section (a) shall not apply in the case of substitution of  
20 a generic drug for another.

21 (c) **EFFECTIVE DATE.**—This section shall apply to  
22 payment for drugs or biologicals furnished on or after the  
23 date of the enactment of this Act, with respect to courses  
24 of treatment beginning before, on, or after such date.

1 **SEC. 2. REPORT ON MEDICARE CARRIER DETERMINATIONS**  
2 **OF COVERAGE.**

3 The Secretary of Health and Human Services shall  
4 submit to Congress, not later than 1 year after the date  
5 of the enactment of this Act, a report that—

6 (1) describes the types of coverage decisions  
7 that are being made by carriers under part B of title  
8 XVIII of the Social Security Act;

9 (2) describes the legal authority for carriers to  
10 make such decisions; and

11 (3) specifies whether further Federal guidance  
12 is needed to prevent regional disparities in coverage  
13 under part B of such title.

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