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A BILL TO AMEND TITLE XI OF THE SOCIAL SECURITY ACT TO CLARIFY WAIVER AUTHORITY REGARDING PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE PROGRAMS)

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JULY 30, 2015.—Ordered to be printed  
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Mr. HATCH, from the Committee on Finance,  
submitted the following

### R E P O R T

[To accompany S. 1362]

The Committee on Finance, to which was referred the bill (S. 1362) to amend title XI of the Social Security Act to clarify waiver authority regarding programs of all-inclusive care for the elderly (PACE programs), having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

#### I. LEGISLATIVE BACKGROUND

The Committee on Finance, to which was referred the bill (S. 1362) to amend title XI of the Social Security Act to clarify waiver authority regarding programs of all-inclusive care for the elderly (PACE programs), having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

##### *Background and need for legislative action*

The Program of All-Inclusive Care for the Elderly (PACE) is an integrated care program that provides comprehensive long-term services and supports to individuals aged 55 and older who require an institutional level of care, many of whom are eligible for both Medicare and Medicaid and are known as dual-eligible beneficiaries. The PACE program was established in the Social Security Act (SSA) in section 1894 for Medicare and section 1934 for Medicaid. Setting up a PACE program is optional for states under Med-

icaid. In 2014, 31 states had PACE programs. PACE providers receive capitated payments from both Medicaid and Medicare to cover an enrollee's benefits. In many cases, the PACE program enables enrollees to receive services through an adult day health center rather than through an institution such as a nursing facility.

The Committee recognizes the success of the PACE model in providing coordinated health care to a population with high medical and social needs. The Committee believes changes to the PACE model (either through an expansion of eligibility standards and/or changes to administrative requirements that would enable greater enrollment) should be tested by the Centers for Medicare and Medicaid Services. Under current law, such testing is not permitted.

## **II. EXPLANATION OF THE BILL**

### **PRESENT LAW**

Section 1115A of the Social Security Act (SSA) gives the Secretary of the Department of Health and Human Services (the Secretary) the authority to waive certain requirements found in the SSA "as may be necessary" to test "innovative payment and delivery models to reduce program expenditures." Under section 1115A, the Secretary is not authorized to waive any PACE requirements under title XIX of the SSA.

### **REASONS FOR CHANGE**

The Committee recognizes the success of the PACE model in providing coordinated health care to a population with high medical and social needs. The Committee believes changes to the PACE model (either through an expansion of eligibility standards and/or changes to administrative requirements that would enable greater enrollment) should be tested by the Centers for Medicare and Medicaid Services. Under current law, such testing is not permitted.

### **EXPLANATION OF PROVISION**

This bill would amend section 1115A(d)(1) of the SSA to add section 1934 to the waiver authority, authorizing the Department of Health and Human Services to waive applicable general and Medicaid requirements in order to conduct demonstration projects that involve PACE. S. 1362 as amended clarifies that within the Secretary's statutory authority to waive certain requirements, the Secretary cannot waive the requirement to offer "all items and services covered" under Medicare and Medicaid without limitation to PACE program enrollees. Further, under S. 1362 as amended, the Secretary cannot waive certain Medicaid requirements that pertain to enrollment and disenrollment from PACE programs.

## **III. BUDGET EFFECTS OF THE BILL**

### **A. COMMITTEE ESTIMATES**

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the revenue provisions of the "PACE Innovation Act of 2015" as reported.

It is uncertain whether the Secretary would decide to exercise the new authority provided under the legislation to pursue projects through CMMI that differ from those she would have tested using existing authority. However, if the Secretary decided to test a different project under the legislation than she otherwise would have, then in CBO's judgment that project would have roughly the same chances of success or failure. Thus, the decision to use the new authority to test a PACE model instead of some other model would result in no significant change in direct spending, CBO estimates. Because enacting the bill could affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

Source: Estimate provided by the staff of the Congressional Budget Office.

## B. BUDGET AUTHORITY AND TAX EXPENDITURES

### *Budget authority*

In compliance with section 308(a)(1) of the Congressional Budget and Impoundment Control Act of 1974 ("Budget Act"), the Committee states that the bill as reported does not involve increased budget authority.

### *Tax expenditures*

In compliance with section 308(a)(1) of the Budget Act, the Committee states that the bill does not involve increased tax expenditures.

## C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget Office has submitted a statement on the bill.

### *S. 1362—PACE Innovation Act of 2015*

S. 1362 would authorize the Secretary of Health and Human Services (HHS) to waive requirements under section 1934 of the Social Security Act when designing and testing models under the Center for Medicare and Medicaid Innovation (CMMI). Section 1934 authorizes the Program of All-Inclusive Care for the Elderly (PACE), and establishes features of the program including payment rates and conditions of participation. Under current law, CMMI lacks authority to waive those features included in section 1934, and has limited flexibility to test changes to administering the PACE program. The legislation would give the Secretary authority to change features of PACE for the purposes of testing whether they improve the program.

Under current law, CMMI has broad authority to conduct other demonstration projects under the Medicare and Medicaid programs (outside of PACE). CBO expects that some of those projects will succeed in reducing federal spending without reducing quality of care, and others will not, but CBO is unable to predict which projects will succeed.

It is uncertain whether the Secretary would decide to exercise the new authority provided under the legislation to pursue projects through CMMI that differ from those she would have tested using existing authority. However, if the Secretary decided to test a dif-

ferent project under the legislation than she otherwise would have, then in CBO's judgment that project would have roughly the same chances of success or failure. Thus, the decision to use the new authority to test a PACE model instead of some other model would result in no significant change in direct spending, CBO estimates. Because enacting the bill could affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

S. 1362 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Paul Masi. The estimate was approved by Holly Harvey, Deputy Assistant Director for Budget Analysis.

#### **IV. VOTES OF THE COMMITTEE**

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that, with a majority present, the "PACE Innovation Act of 2015," as modified, was ordered favorably reported on June 24, 2015 as follows:

Final Passage of "The PACE Innovation Act of 2015"—approved, as modified, by voice vote.

#### **V. REGULATORY IMPACT AND OTHER MATTERS**

##### **A. REGULATORY IMPACT**

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the bill as amended.

##### *Impact on individuals and businesses, personal privacy and paperwork*

The bill is not expected to impose additional administrative requirements or regulatory burdens on individuals. The bill is expected to reduce administrative requirements and regulatory burdens on some businesses.

The provisions of the bill do not impact personal privacy.

##### **B. UNFUNDED MANDATES STATEMENT**

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain any private sector mandates. The Committee has determined that the bill contains no intergovernmental mandate.

**VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).

