

Medicare Choices Empowerment and Protection Act – S. 2240

Advance directives are legal documents that allow individuals to provide clear guidance to their medical providers and family members about their health care decisions should they become incapable of speaking for themselves. Such directives can be tremendously helpful to protecting patients' health care choices and in situations that are otherwise difficult for doctors and family members to navigate.

Any patient looking to protect his or her decisions is already able to create an advance directive at any time. Health plans today have shown success in using incentives to motivate positive change. This bill would provide a small incentive for any Medicare beneficiary who voluntarily creates an advance directive, which can be modified or cancelled at any time.

Under the Medicare Choices Empowerment and Protection Act,

- Medicare beneficiaries would be able to voluntarily certify to CMS they have created an advance directive at any time. Advance directives would be created through and maintained by outside organizations certified by CMS, and could be modified or cancelled at any time by the beneficiary.
- An advance directive would include any written or electronically stored statement that outlines the kind of treatment and care a beneficiary wants or does not want under certain conditions, and can include identification of a health care proxy.
- State laws would maintain existing precedent in governing advance directives.
- CMS would not hold a database of these documents, but rather would only keep track of the organization that maintains an advance directive record for a beneficiary.
- Beneficiaries would receive a small, one-time incentive for registering an advance directive.
- Both CMS and outside groups maintaining advance directives would be held to the highest standards for privacy and security protection as well as system functionality.
- Medicare providers and health care proxies would have real-time, digital access to beneficiaries' advance directives.
- Existing or new advance directives are not required to be registered with CMS, but would not qualify for the incentive.
- The annual Medicare & You handbook would include information about the personal benefits of adopting and registering an advance directive.

This bill has not yet been scored by the Congressional Budget Office.