

H.R. 1: ONE BIG BEAUTIFUL BILL ACT ARTIFICIAL INTELLIGENCE TALKING POINTS



Impacts of Two Artificial Intelligence Provisions in H.R. 1

H.R. 1, titled *One Big Beautiful Bill Act* as passed by the House on May 22, 2025, contains two artificial intelligence (AI) related provisions that warrant amendment. LeadingAge urges NO to vote on OBBB in the Senate. The bill's overall negative impacts on older adults and the aging services ecosystem far outweigh its positives.

The AI provisions that warrant amendment are in: Sec. 43201 titled "Artificial Intelligence and Information Technology Modernization Initiative" and Sec. 112204 titled "Implementing Artificial Intelligence Tools for Purposes of Reducing and Recouping Improper Payments Under Medicare."

LeadingAge does not oppose the responsible use of AI to expedite routine tasks, help health care workers in freeing up their time to be spent on more direct care, and analyzing data to improve care delivery and outcomes. However, AI also has a dark side when not appropriately vetted or regulated. Current evidence suggests it can be used to deny medically-necessary care, for example, by building in misinterpretations of Medicare clinical criteria for service coverage and to deny payments to providers based upon inconsistent documentation or use of terms to describe the same situation. AI needs regulatory guardrails to ensure AI inputs are accurate, non-discriminatory, and their use case isn't for the purpose of constructing barriers to accessing Medicare services or creating administrative roadblocks and burden to timely payment of providers.

LeadingAge Recommends the Following Changes to Correct Potential Negative Consequences of two AI Provisions:

- Delete Sec. 43201(c) which seeks to impose a decade-long moratorium on state or local government enactment or enforcement of regulations of laws that would restrict artificial intelligence (AI) in any way.
- Amend Sec. 12204 to add a definition of "improper payment", require the Health and Human Services (HHS) Secretary to establish an appeal process for providers identified by AI as receiving or requesting improper Medicare payments, and add language instructing any recoupments from improper payments to be returned to the appropriate Medicare trust fund to restore funds appropriated for AI implementation and to further sustain the two referenced Medicare trust funds.

Moratorium on State Laws or Regulations Restricting AI

Sec. 43201 titled "Artificial Intelligence and Information technology modernization initiative" appropriates \$500 million to modernize and secure federal information technology systems through the deployment of commercial artificial intelligence but also harbors a far-reaching subparagraph (c) that would impose a 10-year moratorium on state or local governments from enacting new or enforcing any state or local political subdivision laws that restrict artificial intelligence.

To date, the federal government has not enacted a federal framework or guardrails for the use of AI in health care. In the absence of such regulations, AI companies have been able to act with impunity and states have felt the need to step in to protect their citizens by limiting the potential negative consequences of AI while balancing the need for innovation.

For example, the State of Colorado passed the Colorado Artificial Intelligence Act in 2024, which is scheduled to take effect February 1, 2026. H.R.1 if enacted would prevent the State of Colorado from implementing and enforcing this law, which seeks to protect individuals' interests when AI systems are used in making "consequential decisions" including those affecting health care access, employment, housing, education, and financial services.

It also establishes that AI developers have a responsibility to ensure that their algorithms do not discriminate, and individuals have a right to know when AI tools are used to make consequential decisions impacting them and have a right to appeal those decisions through a human review. Technology and AI is not infallible. If inputs are flawed, then it can negatively alter the outcomes of decisions or tasks completed by these AI systems and tools. Federal regulation is essential.

While we acknowledge the challenges to AI businesses complying with myriad state regulations, we disagree that the solution is to give these businesses carte blanche to develop this technology without restraint for a decade in the hopes that Congress can pass bipartisan federal standards or guardrails related to AI use.

LeadingAge Recommends Deletion of SEC. 43201(C) for the Following Reasons:

- It does not impact the federal budget or the proposed spending adjustments in H.R. 1 and therefore it should be removed under the Byrd Rule. Sec. 43201(c) is strictly a policy provision severable from the remainder of Section 43201 of H.R. 1.
- Inaction by Congress to establish federal AI laws and regulations should not inhibit states' rights to act to protect their citizens in the interim.
- AI has already evolved dramatically within the past 1-2 years, a decade-long moratorium on state or local government enforcement of AI law and regulations would equate to creating a wild west environment for AI.
- Congress has a [bipartisan task force report](#) that provides a preliminary road map for establishing a federal AI framework and therefore, Congress should take swift action to implement these steps so there is no need for states to take further action creating a patchwork quilt of AI protections.

Clarify Intent and Direction of Section 112204 on Identification of Improper Medicare Payments

Section 112204 instructs the HHS Secretary to contract with AI contractors to implement an AI tool for identification and recoupment of improper Medicare Part A and B payments by January 1, 2027. LeadingAge is aware of the fraudulent activities of some bad actors in Medicare and we have advocated for [protections](#) to root out bad actors who fraudulently bill the Medicare system. AI could serve as a valuable tool to assist CMS in these efforts. However, we also know that successful AI implementation is contingent upon having validating inputs or directions are accurate— in this case, what is considered or flagged as “improper” – and recognizing that AI doesn’t always understand nuance.

To date, we have witnessed the following negative outcomes from the unconstrained use of AI in health care and in Medicare Advantage:

- **AI Algorithms Deny and Delay Medically Necessary Care for MA Enrollees.** Person-centered care has long been the aspiration in health care regulations. In MA, however, AI tools such as nhPredict (a product of Optum Home & Community Care, formerly known as NaviHealth) is being used to identify an average person’s experience rarely accounting for the unique combination of chronic conditions, diagnoses and supports of an individual. The nhPredict algorithm is a black box. It is unknown what the source of the data is or the logic used to assess the number of days of skilled nursing care needed. However, several [lawsuits](#), [OIG reports](#) and a [2024 Senate Report titled “Refusal of Recovery”](#) demonstrate how this and other MA plan tools are wrongfully denying or delaying medically necessary care and services to MA enrollees with sometimes dire consequences.
- **MA Plans Using AI Tools to Kick Out Payment Claims for Inconsistencies.** LeadingAge members have reported MA plans using AI tools to review documentation related to provider claims payments to identify inconsistencies in terminology used throughout a medical record. This use ignores the likelihood of this occurring when multiple caregivers enter data into a single patient medical record. Provider payments identified with these inconsistencies are being denied for payment.

For these reasons and others, we believe this section warrants further clarification through the following suggested amendments.

Recommendations for Amending SEC. 112204:

- Add section defining what Congress means by “improper payments” versus other situations where a payment made, for example, without sufficient documentation or a missing diagnosis code or other clerical or human error. A definition is needed to guide the appropriate AI tool selection for the prescribed task as well as providing clarification for providers.
- Add a provision instructing the HHS Secretary to establish an appeals process for providers to challenge improper payments identified by the AI.
- Add instruction that all Medicare Part A recoupments to be returned to the Federal Hospital Insurance Trust Fund and Part B recoupments returned to the Federal Supplementary Medical Insurance Trust Fund for two purposes: 1) reimburse the amounts appropriated from these funds for implementing the AI tools; and 2) enhance the sustainability of these funds for future provision of Medicare services.