

113TH CONGRESS
2^D SESSION

H. R. 4676

To amend titles XVIII and XIX of the Social Security Act to apply the Medicare restriction on self-referral to State plan requirements under Medicaid, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2014

Mr. McDERMOTT 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 titles XVIII and XIX of the Social Security Act to apply the Medicare restriction on self-referral to State plan requirements under Medicaid, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicaid Physician
5 Self-Referral Act of 2014”.

1 **SEC. 2. ADJUSTMENTS TO RESTRICTION ON SELF-REFER-**
2 **RAL UNDER MEDICAID.**

3 (a) REPEAL OF RESTRICTION ON RECEIPT OF FED-
4 ERAL FUNDS IN THE CASE OF SELF-REFERRAL.—Sub-
5 section (s) of section 1903 of the Social Security Act (42
6 U.S.C. 1396b(s)) is repealed.

7 (b) REQUIREMENT OF RESTRICTION ON SELF-RE-
8 FERRAL IN STATE PLAN REQUIREMENTS.—Section 1902
9 of such Act (42 U.S.C. 1396a) is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (80) by striking “and” at
12 the end;

13 (B) in paragraph (81) by striking the pe-
14 riod at the end and inserting “; and”;

15 (C) by inserting after paragraph (81) the
16 following:

17 “(82) provide that no payment may be made
18 under the State plan for a Medicaid designated
19 health service furnished to an individual on the basis
20 of a referral by a physician if the physician (or an
21 immediate family member of the physician) has an
22 ownership or investment interest or a compensation
23 arrangement (as defined in section 1877) with the
24 entity furnishing the Medicaid designated health
25 service that would not comply with section 1877 if

1 the referral were for an item or service otherwise
2 payable under title XVIII.”; and

3 (D) by inserting after the matter imme-
4 diately following paragraph (82) the following:

5 “For purposes of paragraph (82), subsections (f) and (g)
6 of section 1877 shall apply to a provider of a Medicaid
7 designated health service in a similar manner as such sub-
8 sections apply to a provider of an item or service for which
9 payment may be made under title XVIII.”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(ll) DEFINITION OF MEDICAID DESIGNATED
13 HEALTH SERVICE.—For purposes of subsection (a) the
14 term ‘Medicaid designated health service’ means an item
15 or service listed in subsection (h)(6) of section 1877 as
16 covered by a State plan and any other service a State may
17 choose to add for purposes of subsection (a)(82).”.

18 (c) APPLICATION OF FALSE CLAIMS ACT TO VIOLA-
19 TIONS OF SELF-REFERRAL.—Section 1877(g) of such Act
20 (42 U.S.C. 1395nn(g)) is amended by adding at the end
21 the following:

22 “(7) FALSE CLAIMS ACT.—A claim that in-
23 cludes an item or service resulting from a violation
24 of this section constitutes a false or fraudulent claim

1 for purposes of sections 3729–3733 of title 31,
2 United States Code.”.

3 (d) EXCEPTIONS FOR VIOLATIONS OF SELF-REFER-
4 RAL LIMITED TO MEDICAID.—Section 1877(h) of such
5 Act (42 U.S.C. 1395nn(h)) is amended by adding at the
6 end the following:

7 “(8) MEDICAID SELF-REFERRAL LIMITA-
8 TIONS.—Any authority of the Secretary to issue reg-
9 ulations under this section shall include the author-
10 ity to issue regulations limited to the application of
11 self-referral limitations to State plan requirements,
12 as described under section 1902(a)(82) of this Act
13 (42 U.S.C. 1396a(a)(82)).”.

14 (e) MEDICAID SELF-REFERRAL DISCLOSURE PRO-
15 TOCOL.—The Secretary of Health and Human Services
16 shall establish a protocol consistent with the requirements
17 of the Medicare self-referral disclosure protocol required
18 under section 6409 of the Patient Protection and Afford-
19 able Care Act (42 U.S.C. 1395nn note) that enables
20 health care providers to disclose an actual or potential vio-
21 lation of section 1877 of the Social Security Act (42
22 U.S.C. 1395nn) as applied to title XIX of such Act, pursu-
23 ant to section 1902(a)(82) of such Act (42 U.S.C.
24 1396a(a)(82)).

1 **SEC. 3. EFFECTIVE DATE.**

2 (1) IN GENERAL.—Subject to paragraph (2),
3 the amendments made by this Act shall apply to
4 items and services furnished after the first day of
5 the first calendar year that begins after date of en-
6 actment of this Act.

7 (2) EXCEPTION FOR STATE LEGISLATION.—In
8 the case of a State plan under title XIX of the So-
9 cial Security Act that the Secretary of Health and
10 Human Services determines requires State legisla-
11 tion in order for the respective plan to meet any re-
12 quirement imposed by amendments made by this
13 Act, the respective plan shall not be regarded as fail-
14 ing to comply with the requirements of such title
15 solely on the basis of its failure to meet such an ad-
16 ditional requirement before the first day of the first
17 calendar quarter beginning after the close of the
18 first regular session of the State legislature that be-
19 gins after the date of enactment of this Act. For
20 purposes of the previous sentence, in the case of a
21 State that has a 2-year legislative session, each year
22 of the session shall be considered to be a separate
23 regular session of the State legislature.

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