

Union Calendar No. 326

114TH CONGRESS
2^D SESSION

H. R. 3716

[Report No. 114-427]

To amend title XIX of the Social Security Act to require States to provide to the Secretary of Health and Human Services certain information with respect to provider terminations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2015

Mr. BUCSHON (for himself, Mr. WELCH, and Mr. BUTTERFIELD) introduced the following bill; which was referred to the Committee on Energy and Commerce

FEBRUARY 23, 2016

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on October 8, 2015]

A BILL

To amend title XIX of the Social Security Act to require States to provide to the Secretary of Health and Human Services certain information with respect to provider terminations, 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 “Ensuring Removal of*
5 *Terminated Providers from Medicaid and CHIP Act”.*

6 **SEC. 2. INCREASING OVERSIGHT OF TERMINATION OF MED-**
7 **ICAID PROVIDERS.**

8 *(a) INCREASED OVERSIGHT AND REPORTING.—*

9 *(1) STATE REPORTING REQUIREMENTS.—Section*
10 *1902(kk) of the Social Security Act (42 U.S.C.*
11 *1396a(kk)) is amended—*

12 *(A) by redesignating paragraph (8) as*
13 *paragraph (9); and*

14 *(B) by inserting after paragraph (7) the fol-*
15 *lowing new paragraph:*

16 *“(8) PROVIDER TERMINATIONS.—*

17 *“(A) IN GENERAL.—Beginning on January*
18 *1, 2017, in the case of a notification under sub-*
19 *section (a)(41) with respect to a termination for*
20 *a reason specified in section 455.101 of title 42,*
21 *Code of Federal Regulations (as in effect on No-*
22 *vember 1, 2015) or for any other reason specified*
23 *by the Secretary, of the participation of a pro-*
24 *vider of services or any other person under the*
25 *State plan, the State, not later than 21 business*

1 *days after the effective date of such termination,*
2 *submits to the Secretary with respect to any such*
3 *provider or person, as appropriate—*

4 “(i) *the name of such provider or per-*
5 *son;*

6 “(ii) *the provider type of such provider*
7 *or person;*

8 “(iii) *the specialty of such provider’s*
9 *or person’s practice;*

10 “(iv) *the date of birth, Social Security*
11 *number, national provider identifier, Fed-*
12 *eral taxpayer identification number, and*
13 *the State license or certification number of*
14 *such provider or person;*

15 “(v) *the reason for the termination;*

16 “(vi) *a copy of the notice of termi-*
17 *nation sent to the provider or person;*

18 “(vii) *the effective date of such termi-*
19 *nation specified in such notice; and*

20 “(viii) *any other information required*
21 *by the Secretary.*

22 “(B) *EFFECTIVE DATE DEFINED.—For pur-*
23 *poses of this paragraph, the term ‘effective date’*
24 *means, with respect to a termination described*
25 *in subparagraph (A), the later of—*

1 “(i) the date on which such termi-
2 nation is effective, as specified in the notice
3 of such termination; or

4 “(ii) the date on which all appeal
5 rights applicable to such termination have
6 been exhausted or the timeline for any such
7 appeal has expired.”.

8 (2) *REPORTING REQUIREMENTS FOR MANAGED*
9 *CARE ENTITIES.*—Section 1932(d) of the Social Secu-
10 *rity Act (42 U.S.C. 1396u–2(d)) is amended by add-*
11 *ing at the end the following new paragraph:*

12 “(5) *STATE REPORTING REQUIREMENTS FOR*
13 *MANAGED CARE ENTITIES.*—

14 “(A) *IN GENERAL.*—With respect to any
15 *contract with a managed care entity under sec-*
16 *tion 1903(m) or 1905(t)(3) (as applicable), be-*
17 *ginning on the later of the first day of the first*
18 *plan year for such managed care entity that be-*
19 *gins after the date of the enactment of this para-*
20 *graph or January 1, 2017, the State shall re-*
21 *quire that such contract include a provision that*
22 *providers of services or persons terminated (as*
23 *described in section 1902(kk)(8)) from participa-*
24 *tion under this title, title XVIII, or title XXI be*
25 *terminated from participating under this title as*

1 *a provider in any network of such entity that*
2 *serves individuals eligible to receive medical as-*
3 *sistance under this title.*

4 “(B) *NOTIFICATION OF TERMINATION.—For*
5 *the period beginning on January 1, 2017, and*
6 *ending on the date on which the enrollment of*
7 *providers under paragraph (6) is complete for a*
8 *State, the State shall provide for a system for*
9 *notifying managed care entities (as defined in*
10 *subsection (a)(1)) of the termination (as de-*
11 *scribed in section 1902(kk)(8)) of providers of*
12 *services or persons from participation under this*
13 *title, title XVIII, or title XXI.”*

14 (3) *TERMINATION NOTIFICATION DATABASE.—*
15 *Section 1902 of the Social Security Act (42 U.S.C.*
16 *1396a) is amended by adding at the end the following*
17 *new subsection:*

18 “(l) *TERMINATION NOTIFICATION DATABASE.—In the*
19 *case of a provider of services or any other person whose*
20 *participation under this title, title XVIII, or title XXI is*
21 *terminated (as described in subsection (kk)(8)), the Sec-*
22 *retary shall, not later than 21 business days after the date*
23 *on which the Secretary terminates such participation under*
24 *title XVIII or is notified of such termination under sub-*
25 *section (a)(41) (as applicable), review such termination*

1 *and, if the Secretary determines appropriate, include such*
2 *termination in any database or similar system developed*
3 *pursuant to section 6401(b)(2) of the Patient Protection*
4 *and Affordable Care Act (42 U.S.C. 1395cc note; Public*
5 *Law 111–148).”.*

6 (4) *NO FEDERAL FUNDS FOR ITEMS AND SERV-*
7 *ICES FURNISHED BY TERMINATED PROVIDERS.—Sec-*
8 *tion 1903 of the Social Security Act (42 U.S.C.*
9 *1396b) is amended—*

10 (A) *in subsection (i)(2)—*

11 (i) *in subparagraph (A), by striking*
12 *the comma at the end and inserting a semi-*
13 *colon;*

14 (ii) *in subparagraph (B), by striking*
15 *“or” at the end; and*

16 (iii) *by adding at the end the following*
17 *new subparagraph:*

18 *“(D) beginning not later than January 1,*
19 *2018, under the plan by any provider of services*
20 *or person whose participation in the State plan*
21 *is terminated (as described in section*
22 *1902(kk)(8)) after the date that is 60 days after*
23 *the date on which such termination is included*
24 *in the database or other system under section*
25 *1902(ll); or”;* and

1 (B) in subsection (m), by inserting after
2 paragraph (2) the following new paragraph:

3 “(3) No payment shall be made under this title to a
4 State with respect to expenditures incurred by the State for
5 payment for services provided by a managed care entity
6 (as defined under section 1932(a)(1)) under the State plan
7 under this title (or under a waiver of the plan) unless the
8 State—

9 “(A) beginning on the applicable date specified
10 in subparagraph (A) of section 1932(d)(5), has a con-
11 tract with such entity that complies with the require-
12 ment specified in such subparagraph; and

13 “(B)(i) for the period specified in subparagraph
14 (B) of such section, has a system in effect that meets
15 the requirement specified in such subparagraph; and

16 “(ii) after such period, complies with section
17 1932(d)(6).”.

18 (5) *DEVELOPMENT OF UNIFORM TERMINOLOGY*
19 *FOR REASONS FOR PROVIDER TERMINATION.*—Not
20 later than January 1, 2017, the Secretary of Health
21 and Human Services shall, in consultation with the
22 heads of State agencies administering State Medicaid
23 plans (or waivers of such plans), issue regulations es-
24 tablishing uniform terminology to be used with re-
25 spect to specifying reasons under subparagraph (A)(v)

1 of paragraph (8) of section 1902(kk) of the Social Se-
2 curity Act (42 U.S.C. 1396a(kk)), as amended by
3 paragraph (1), for the termination (as described in
4 such paragraph) of the participation of certain pro-
5 viders in the Medicaid program under title XIX of
6 such Act or the Children’s Health Insurance Program
7 under title XXI of such Act.

8 (6) CONFORMING AMENDMENT.—Section
9 1902(a)(41) of the Social Security Act (42 U.S.C.
10 1396a(a)(41)) is amended by striking “provide that
11 whenever” and inserting “provide, in accordance with
12 subsection (kk)(8) (as applicable), that whenever”.

13 (b) INCREASING AVAILABILITY OF MEDICAID PRO-
14 VIDER INFORMATION.—

15 (1) FFS PROVIDER ENROLLMENT.—Section
16 1902(a) of the Social Security Act (42 U.S.C.
17 1396a(a)) is amended by inserting after paragraph
18 (77) the following new paragraph:

19 “(78) provide that, not later than January 1,
20 2017, in the case of a State plan that provides med-
21 ical assistance on a fee-for-service basis, the State
22 shall require each provider furnishing items and serv-
23 ices to individuals eligible to receive medical assist-
24 ance under such plan to enroll with the State agency
25 and provide to the State agency the provider’s identi-

1 *fy*ing information, including the name, specialty, date
2 of birth, Social Security number, national provider
3 identifier, Federal taxpayer identification number,
4 and the State license or certification number of the
5 provider;”.

6 (2) *MANAGED CARE PROVIDER ENROLLMENT.*—
7 *Section 1932(d) of the Social Security Act (42 U.S.C.*
8 *1396u–2(d)), as amended by subsection (a)(2), is*
9 *amended by adding at the end the following new*
10 *paragraph:*

11 “(6) *ENROLLMENT OF PARTICIPATING PRO-*
12 *VIDERS.*—

13 “(A) *IN GENERAL.*—*Beginning not later*
14 *than January 1, 2018, a State shall require that,*
15 *in order to participate as a provider in the net-*
16 *work of a managed care entity that provides*
17 *services to, or orders, prescribes, refers, or cer-*
18 *tifies eligibility for services for, individuals who*
19 *are eligible for medical assistance under the*
20 *State plan under this title and who are enrolled*
21 *with the entity, the provider is enrolled with the*
22 *State agency administering the State plan under*
23 *this title. Such enrollment shall include pro-*
24 *viding to the State agency the provider’s identi-*
25 *fy*ing information, including the name, specialty,

1 *date of birth, Social Security number, national*
 2 *provider identifier, Federal taxpayer identifica-*
 3 *tion number, and the State license or certifi-*
 4 *cation number of the provider.*

5 “(B) *RULE OF CONSTRUCTION.*—*Nothing in*
 6 *subparagraph (A) shall be construed as requiring*
 7 *a provider described in such subparagraph to*
 8 *provide services to individuals who are not en-*
 9 *rolled with a managed care entity under this*
 10 *title.”.*

11 *(c) COORDINATION WITH CHIP.*—

12 (1) *IN GENERAL.*—*Section 2107(e)(1) of the So-*
 13 *cial Security Act (42 U.S.C. 1397gg(e)(1)) is amend-*
 14 *ed—*

15 *(A) by redesignating subparagraphs (B),*
 16 *(C), (D), (E), (F), (G), (H), (I), (J), (K), (L),*
 17 *(M), (N), and (O) as subparagraphs (D), (E),*
 18 *(F), (G), (H), (I), (J), (K), (M), (N), (O), (P),*
 19 *(Q), and (R), respectively;*

20 *(B) by inserting after subparagraph (A) the*
 21 *following new subparagraphs:*

22 “(B) *Section 1902(a)(39) (relating to termi-*
 23 *nation of participation of certain providers).*

24 “(C) *Section 1902(a)(78) (relating to enroll-*
 25 *ment of providers participating in State plans*

1 *providing medical assistance on a fee-for-service*
2 *basis).’;*

3 *(C) by inserting after subparagraph (K) (as*
4 *redesignated by paragraph (1)) the following*
5 *new subparagraph:*

6 *“(L) Section 1903(m)(3) (relating to limi-*
7 *tation on payment with respect to managed*
8 *care).’; and*

9 *(D) in subparagraph (P) (as redesignated*
10 *by paragraph (1)), by striking “(a)(2)(C) and*
11 *(h)” and inserting “(a)(2)(C) (relating to Indian*
12 *enrollment), (d)(5) (relating to reporting require-*
13 *ments for managed care entities), (d)(6) (relat-*
14 *ing to enrollment of providers participating with*
15 *a managed care entity), and (h) (relating to spe-*
16 *cial rules with respect to Indian enrollees, In-*
17 *dian health care providers, and Indian managed*
18 *care entities)”.*

19 (2) *EXCLUDING FROM MEDICAID PROVIDERS EX-*
20 *CLUDED FROM CHIP.—Section 1902(a)(39) of the So-*
21 *cial Security Act (42 U.S.C. 1396a(a)(39)) is amend-*
22 *ed by striking “title XVIII or any other State plan*
23 *under this title” and inserting “title XVIII, any other*
24 *State plan under this title, or any State child health*
25 *plan under title XXI”.*

1 *(d) RULE OF CONSTRUCTION.—Nothing in this section*
2 *shall be construed as changing or limiting the appeal rights*
3 *of providers or the process for appeals of States under the*
4 *Social Security Act.*

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