

Union Calendar No. 433

114TH CONGRESS
2^D SESSION

H. R. 4978

[Report No. 114-559]

To require the Government Accountability Office to submit to Congress a report on neonatal abstinence syndrome (NAS) in the United States and its treatment under Medicaid.

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2016

Mr. JENKINS of West Virginia (for himself, Mrs. BUSTOS, Mr. COSTELLO of Pennsylvania, Ms. KUSTER, Mrs. WAGNER, Mr. POLIQUIN, and Mr. WOMACK) introduced the following bill; which was referred to the Committee on Energy and Commerce

MAY 10, 2016

Additional sponsors: Mr. ROGERS of Kentucky, Mrs. BLACK, Ms. MCSALLY, Mr. RYAN of Ohio, Ms. KAPTUR, Mrs. HARTZLER, Mr. ROKITA, Mr. KILMER, and Mr. TURNER

MAY 10, 2016

Reported with amendments, 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 *italic*]

[For text of introduced bill, see copy of bill as introduced on April 18, 2016]

A BILL

To require the Government Accountability Office to submit to Congress a report on neonatal abstinence syndrome (NAS) in the United States and its treatment under Medicaid.

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 “Nurturing And Sup-*
5 *porting Healthy Babies Act” or as the “NAS Healthy Ba-*
6 *bies Act”.*

7 **SEC. 2. GAO REPORT ON NEONATAL ABSTINENCE SYN-**
8 **DROME (NAS).**

9 *(a) IN GENERAL.—Not later than one year after the*
10 *date of the enactment of this Act, the Comptroller General*
11 *of the United States shall submit to the Committee on En-*
12 *ergy and Commerce of the House of Representatives and*
13 *the Committee on Finance and the Committee on Health,*
14 *Education, Labor and Pensions of the Senate a report on*
15 *neonatal abstinence syndrome (in this section referred to*
16 *as “NAS”) in the United States.*

17 *(b) INFORMATION TO BE INCLUDED IN REPORT.—*
18 *Such report shall include information on the following:*

19 *(1) The prevalence of NAS in the United States,*
20 *including the proportion of children born in the*
21 *United States with NAS who are eligible for medical*
22 *assistance under State Medicaid programs under title*
23 *XIX of the Social Security Act at birth and the costs*
24 *associated with NAS through such programs.*

1 (2) *The services for which coverage is available*
2 *under State Medicaid programs for treatment of in-*
3 *fant with NAS.*

4 (3) *The settings (including inpatient, outpatient,*
5 *hospital-based, and other settings) for the treatment of*
6 *infants with NAS and the reimbursement methodolo-*
7 *gies and costs associated with such treatment in such*
8 *settings.*

9 (4) *The prevalence of utilization of various care*
10 *settings under State Medicaid programs for treatment*
11 *of infants with NAS and any Federal barriers to*
12 *treating such infants under such programs, particu-*
13 *larly in non-hospital-based settings.*

14 (c) *RECOMMENDATIONS.—Such report also shall in-*
15 *clude such recommendations as the Comptroller General de-*
16 *termines appropriate for improvements that will ensure ac-*
17 *cess to treatment for infants with NAS under State Med-*
18 *icaid programs.*

19 **SEC. 3. EXCLUDING ABUSE-DETERRENT FORMULATIONS OF**
20 **PRESCRIPTION DRUGS FROM THE MEDICAID**
21 **ADDITIONAL REBATE REQUIREMENT FOR**
22 **NEW FORMULATIONS OF PRESCRIPTION**
23 **DRUGS.**

24 (a) *IN GENERAL.—The last sentence of section*
25 *1927(c)(2)(C) of the Social Security Act (42 U.S.C. 1396r—*

1 8(c)(2)(C)) is amended by inserting before the period at the
2 end the following: “, but does not include an abuse-deterrent
3 formulation of the drug (as determined by the Secretary),
4 regardless of whether such abuse-deterrent formulation is an
5 extended release formulation”.

6 (b) *EFFECTIVE DATE.*—The amendment made by sub-
7 section (a) shall apply to drugs that are paid for by a State
8 in calendar quarters beginning on or after the date of the
9 enactment of this Act.

10 **SEC. 4. LIMITING DISCLOSURE OF PREDICTIVE MODELING**
11 **AND OTHER ANALYTICS TECHNOLOGIES TO**
12 **IDENTIFY AND PREVENT WASTE, FRAUD, AND**
13 **ABUSE.**

14 (a) *IN GENERAL.*—Title XI of the Social Security Act
15 is amended by inserting after section 1128J (42 U.S.C.
16 1320a–7k) the following new section:

17 **“SEC. 1128K. DISCLOSURE OF PREDICTIVE MODELING AND**
18 **OTHER ANALYTICS TECHNOLOGIES TO IDEN-**
19 **TIFY AND PREVENT WASTE, FRAUD, AND**
20 **ABUSE.**

21 “(a) *REFERENCE TO PREDICTIVE MODELING TECH-*
22 *NOLOGIES REQUIREMENTS.*—For provisions relating to the
23 use of predictive modeling and other analytics technologies
24 to identify and prevent waste, fraud, and abuse with respect
25 to the Medicare program under title XVIII, the Medicaid

1 *program under title XIX, and the Children’s Health Insur-*
2 *ance Program under title XXI, see section 4241 of the Small*
3 *Business Jobs Act of 2010 (42 U.S.C. 1320a–7m).*

4 “(b) *LIMITING DISCLOSURE OF PREDICTIVE MOD-*
5 *ELING TECHNOLOGIES.*—*In implementing such provisions*
6 *under such section 4241 with respect to covered algorithms*
7 *(as defined in subsection (c)), the following shall apply:*

8 “(1) *NONAPPLICATION OF FOIA.*—*The covered al-*
9 *gorithms used or developed for purposes of such sec-*
10 *tion (including by the Secretary or a State (or an en-*
11 *tity operating under a contract with a State)) shall*
12 *be exempt from disclosure under section 552(b)(3) of*
13 *title 5, United States Code.*

14 “(2) *LIMITATION WITH RESPECT TO USE AND*
15 *DISCLOSURE OF INFORMATION BY STATE AGENCIES.*—

16 “(A) *IN GENERAL.*—*A State agency may*
17 *not use or disclose covered algorithms used or de-*
18 *veloped for purposes of such section except for*
19 *purposes of administering the State plan (or a*
20 *waiver of the plan) under the Medicaid program*
21 *under title XIX or the State child health plan*
22 *(or a waiver of the plan) under the Children’s*
23 *Health Insurance Program under title XXI, in-*
24 *cluding by enabling an entity operating under a*
25 *contract with a State to assist the State to iden-*

1 *tify or prevent waste, fraud and abuse with re-*
2 *spect to such programs.*

3 “(B) *INFORMATION SECURITY.*—*A State*
4 *agency shall have in effect data security and*
5 *control policies that the Secretary finds adequate*
6 *to ensure the security of covered algorithms used*
7 *or developed for purposes of such section 4241*
8 *and to ensure that access to such information is*
9 *restricted to authorized persons for purposes of*
10 *authorized uses and disclosures described in sub-*
11 *paragraph (A).*

12 “(C) *PROCEDURAL REQUIREMENTS.*—*State*
13 *agencies to which information is disclosed pursu-*
14 *ant to such section 4241 shall adhere to uniform*
15 *procedures established by the Secretary.*

16 “(c) *COVERED ALGORITHM DEFINED.*—*In this section,*
17 *the term ‘covered algorithm’—*

18 “(1) *means a predictive modeling or other ana-*
19 *lytics technology, as used for purposes of section*
20 *4241(a) of the Small Business Jobs Act of 2010 (42*
21 *U.S.C. 1320a–7m(a)) to identify and prevent waste,*
22 *fraud, and abuse with respect to the Medicare pro-*
23 *gram under title XVIII, the Medicaid program under*
24 *title XIX, and the Children’s Health Insurance Pro-*
25 *gram under title XXI; and*

1 “(2) includes the mathematical expressions uti-
2 lized in the application of such technology and the
3 means by which such technology is developed.”.

4 **(b) CONFORMING AMENDMENTS.—**

5 **(1) MEDICAID STATE PLAN REQUIREMENT.—***Sec-*
6 *tion 1902(a) of the Social Security Act (42 U.S.C.*
7 *1396a(a)) is amended—*

8 **(A)** *in paragraph (80), by striking “and”*
9 *at the end;*

10 **(B)** *in paragraph (81), by striking the pe-*
11 *riod at the end and inserting “; and”; and*

12 **(C)** *by inserting after paragraph (81) the*
13 *following new paragraph:*

14 “(82) provide that the State agency responsible
15 for administering the State plan under this title pro-
16 vides assurances to the Secretary that the State agen-
17 cy is in compliance with subparagraphs (A), (B), and
18 (C) of section 1128K(b)(2).”.

19 **(2) STATE CHILD HEALTH PLAN REQUIRE-**
20 **MENT.—***Section 2102(a)(7) of the Social Security Act*
21 *(42 U.S.C. 1397bb(a)(7)) is amended—*

22 **(A)** *in subparagraph (A), by striking “,*
23 *and” at the end and inserting a semicolon;*

24 **(B)** *in subparagraph (B), by striking the*
25 *period at the end and inserting “; and”; and*

1 (C) by adding at the end the following new
2 subparagraph:

3 “(C) to ensure that the State agency in-
4 volved is in compliance with subparagraphs (A),
5 (B), and (C) of section 1128K(b)(2).”.

6 **SEC. 5. MEDICAID IMPROVEMENT FUND.**

7 Section 1941(b)(1) of the Social Security Act (42
8 U.S.C. 1396w-1(b)(1)) is amended to read as follows:

9 “(1) *IN GENERAL.*—There shall be available to
10 the Fund, for expenditures from the Fund for fiscal
11 year 2021 and thereafter, \$5,000,000.”.

Amend the title so as to read: “A bill to require the Government Accountability Office to submit to Congress a report on neonatal abstinence syndrome (NAS) in the United States and its treatment under Medicaid, and for other purposes.”.

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