

115TH CONGRESS
1ST SESSION

H. R. 542

To amend title XI of the Social Security Act to require the Secretary of Health and Human Services to follow rulemaking procedures for costly Medicaid subregulatory policies.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2017

Mr. COLLINS of New York (for himself, Mr. MULLIN, Mr. GUTHRIE, Mr. BUCSHON, and Mr. FLORES) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XI of the Social Security Act to require the Secretary of Health and Human Services to follow rulemaking procedures for costly Medicaid subregulatory policies.

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 “Better Accounting for
5 Medicaid Costs Act of 2017”.

1 **SEC. 2. REQUIRING RULEMAKING FOR COSTLY MEDICAID**
2 **SUBREGULATORY POLICIES.**

3 (a) IN GENERAL.—Section 1102 of the Social Secu-
4 rity Act (42 U.S.C. 1302) is amended by adding at the
5 end the following new subsection:

6 “(c) MEDICAID SUBREGULATORY POLICIES.—

7 “(1) EFFECT ON ANNUAL GOVERNMENT EX-
8 PENDITURES.—Before any Medicaid subregulatory
9 policy (as defined in paragraph (4)) may be issued,
10 the Secretary shall determine the extent to which
11 such policy, with respect to each year in the 10-year
12 period beginning on the proposed effective date for
13 such policy, is projected to result in—

14 “(A) an increase in total estimated expend-
15 itures by States under title XIX for such year,
16 as compared to the estimated expenditures by
17 States under such title for such year if such
18 policy were not issued; or

19 “(B) an increase in the estimated expendi-
20 tures by the Federal Government under such
21 title for such year, as compared to the esti-
22 mated expenditures by the Federal Government
23 under such title for such year if such policy
24 were not issued.

25 “(2) RULEMAKING FOR CERTAIN COSTLY POLI-
26 CIES.—If the Secretary determines under paragraph

1 (1) that a Medicaid subregulatory policy, with re-
2 spect to any year for which such determination is
3 made, is projected to result in—

4 “(A) an increase described in subpara-
5 graph (A) of such paragraph of at least
6 \$50,000,000; or

7 “(B) an increase described in subpara-
8 graph (B) of such paragraph of at least
9 \$100,000,000;

10 the Secretary may implement such policy only
11 through notice and comment rulemaking under sec-
12 tion 553 of title 5, United States Code.

13 “(3) INCLUSION OF ESTIMATED EXPENDITURES
14 IN ISSUANCE OF SUBREGULATORY POLICIES.—If the
15 Secretary issues a Medicaid subregulatory policy
16 other than through rulemaking, the Secretary shall
17 include in such issuance a specification of the esti-
18 mated expenditures determined under subpara-
19 graphs (A) and (B) of paragraph (1) with respect to
20 such policy.

21 “(4) MEDICAID SUBREGULATORY POLICY DE-
22 FINED.—

23 “(A) IN GENERAL.—In this subsection, the
24 term ‘Medicaid subregulatory policy’ means,
25 subject to subparagraph (B), any written guid-

1 ance, or other written statement of policy,
2 issued at the discretion of any official of the
3 Department of Health and Human Services
4 with respect to the Medicaid program under
5 title XIX, including a statement of policy in the
6 form of a letter to State Medicaid directors, an
7 Informational Bulletin, and Frequently Asked
8 Questions.

9 “(B) EXCEPTION.—Such term does not in-
10 clude any guidance or other statement of policy
11 that relates to the management or personnel of
12 the Department of Health and Human Serv-
13 ices.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall apply with respect to policies issued
16 on or after the date of the enactment of this Act.

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