

116TH CONGRESS  
1ST SESSION

# H. R. 3253

To provide for certain extensions with respect to the Medicaid program under title XIX of the Social Security Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2019

Mrs. DINGELL (for herself, Mr. GUTHRIE, Mr. PALLONE, Mr. WALDEN, Ms. ESHOO, Mr. BURGESS, Mr. UPTON, Mr. WELCH, Mr. WALBERG, and Mr. KENNEDY) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To provide for certain extensions with respect to the Medicaid program under title XIX of the Social Security Act, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Empowering Beneficiaries, Ensuring Access, and  
6 Strengthening Accountability Act of 2019”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. Extension of Money Follows the Person Rebalancing Demonstration.  
 Sec. 3. Clarifying authority of State Medicaid fraud and abuse control units to investigate and prosecute cases of Medicaid patient abuse and neglect in any setting.  
 Sec. 4. Extension of protection for Medicaid recipients of home and community-based services against spousal impoverishment.  
 Sec. 5. Extension of the Community Mental Health Services Demonstration Program.  
 Sec. 6. Preventing inappropriately low rebates under Medicaid drug rebate program.  
 Sec. 7. Medicaid Improvement Fund.

1 **SEC. 2. EXTENSION OF MONEY FOLLOWS THE PERSON RE-**  
 2 **BALANCING DEMONSTRATION.**

3 (a) IN GENERAL.—

4 (1) FUNDING.—Section 6071(h) of the Deficit  
 5 Reduction Act of 2005 (42 U.S.C. 1396a note) is  
 6 amended—

7 (A) in paragraph (1)—

8 (i) in subparagraph (E), by striking

9 “and” at the end;

10 (ii) in subparagraph (F)—

11 (I) by striking “subject to para-  
 12 graph (3), 132,000,000” and insert-  
 13 ing “\$132,000,000”; and

14 (II) by striking the period at the  
 15 end and inserting a semicolon; and

16 (iii) by adding at the end the fol-  
 17 lowing new subparagraphs:

18 “(G) \$417,000,000 for fiscal year 2020;

19 “(H) \$450,000,000 for each of fiscal years  
 20 2021 through 2023; and

1 “(I) \$225,000,000 for fiscal year 2024.”;

2 (B) in paragraph (2)—

3 (i) by striking “Subject to paragraph  
4 (3), amounts” and inserting “Amounts”;  
5 and

6 (ii) by striking “2021” and inserting  
7 “2024”; and

8 (C) by striking paragraph (3).

9 (2) RESEARCH AND EVALUATION.—Section  
10 6071(g) of the Deficit Reduction Act of 2005 (42  
11 U.S.C. 1396a note) is amended—

12 (A) in paragraph (2), by striking “2016”  
13 and inserting “2024”; and

14 (B) in paragraph (3), by inserting “and  
15 for each of fiscal years 2019 through 2024,”  
16 after “2016.”.

17 (b) CHANGES TO INSTITUTIONAL RESIDENCY PE-  
18 RIOD REQUIREMENT.—

19 (1) IN GENERAL.—Section 6071(b)(2) of the  
20 Deficit Reduction Act of 2005 (42 U.S.C. 1396a  
21 note) is amended—

22 (A) in subparagraph (A)(i), by striking  
23 “90” and inserting “60”; and

24 (B) by striking the flush sentence after  
25 subparagraph (B).

1           (2) EFFECTIVE DATE.—The amendments made  
2           by paragraph (1) shall take effect on the date that  
3           is 30 days after the date of the enactment of this  
4           Act.

5           (c) UPDATES TO STATE APPLICATION REQUIRE-  
6           MENTS.—Section 6071(c) of the Deficit Reduction Act of  
7           2005 (42 U.S.C. 1396a note) is amended—

8           (1) in paragraph (3), by striking “, which shall  
9           include” and all that follows through “2007”;

10          (2) in paragraph (7)—

11           (A) in the paragraph heading, by striking  
12           “REBALANCING” and inserting “EXPENDI-  
13           TURES”;

14           (B) in subparagraph (A), by adding “and”  
15           at the end; and

16           (C) in subparagraph (B)—

17           (i) in clause (i), by striking “and” at  
18           the end;

19           (ii) in clause (ii), by striking the pe-  
20           riod at the end and inserting a semicolon;  
21           and

22           (iii) by adding at the end the fol-  
23           lowing:

1           “(iii) include a work plan that describes  
2 for each Federal fiscal year that occurs during  
3 the proposed MFP demonstration project—

4           “(I) the use of grant funds for each  
5 proposed initiative that is designed to ac-  
6 complish the objective described in sub-  
7 section (a)(1), including a funding source  
8 for each activity that is part of each such  
9 proposed initiative;

10           “(II) an evaluation plan that identi-  
11 fies expected results for each such pro-  
12 posed initiative; and

13           “(III) a sustainability plan for compo-  
14 nents of such proposed initiatives that are  
15 intended to improve transitions, which  
16 shall be updated with actual expenditure  
17 information for each Federal fiscal year  
18 that occurs during the MFP demonstration  
19 project; and

20           “(iv) contain assurances that grant funds  
21 used to accomplish the objective described in  
22 subsection (a)(1) shall be obligated not later  
23 than 24 months after the date on which the  
24 funds are awarded and shall be expended not  
25 later than 60 months after the date on which

1 the funds are awarded (unless the Secretary ap-  
2 proves a waiver of either such requirement).”;  
3 and

4 (3) in paragraph (13)—

5 (A) in subparagraph (A), by striking “;  
6 and” and inserting “, and in such manner as  
7 will meet the reporting requirements set forth  
8 for the Transformed Medicaid Statistical Man-  
9 agement Information System (T-MSIS);”;

10 (B) by redesignating subparagraph (B) as  
11 subparagraph (D); and

12 (C) by inserting after subparagraph (A)  
13 the following:

14 “(B) the State shall report on a quarterly  
15 basis on the use of grant funds by distinct ac-  
16 tivity, as described in the approved work plan,  
17 and by specific population as targeted by the  
18 State;

19 “(C) if the State fails to report the infor-  
20 mation required under subparagraph (B), fails  
21 to report such information on a quarterly basis,  
22 or fails to make progress under the approved  
23 work plan, the State shall implement a correc-  
24 tive action plan and any lack of progress under  
25 the approved work plan may result in with-

1 holding of grant funds made available to the  
2 State; and”.

3 (d) FUNDING FOR QUALITY ASSURANCE AND IM-  
4 PROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.—  
5 Section 6071(f) of the Deficit Reduction Act of 2005 (42  
6 U.S.C. 1396a note) is amended by striking paragraph (2)  
7 and inserting the following:

8 “(2) FUNDING.—From the amounts appro-  
9 priated under subsection (h)(1) for each of fiscal  
10 years 2019 through 2024, \$1,000,000 shall be avail-  
11 able to the Secretary for each such fiscal year to  
12 carry out this subsection.”.

13 (e) BEST PRACTICES EVALUATION.—Section 6071 of  
14 the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note)  
15 is amended by adding at the end the following:

16 “(i) BEST PRACTICES.—

17 “(1) REPORT.—The Secretary, directly or  
18 through grant or contract, shall submit a report to  
19 the President and Congress not later than Sep-  
20 tember 30, 2020, that contains findings and conclu-  
21 sions on best practices from the State MFP dem-  
22 onstration projects carried out with grants made  
23 under this section. The report shall include informa-  
24 tion and analyses with respect to the following:

1           “(A) The most effective State strategies  
2 for transitioning beneficiaries from institutional  
3 to qualified community settings carried out  
4 under the State MFP demonstration projects  
5 and how such strategies may vary for different  
6 types of beneficiaries, such as beneficiaries who  
7 are aged, physically disabled, intellectually or  
8 developmentally disabled, or individuals with se-  
9 rious mental illnesses, and other targeted waiv-  
10 er beneficiary populations.

11           “(B) The most common and the most ef-  
12 fective State uses of grant funds carried out  
13 under the State MFP demonstration projects  
14 for transitioning beneficiaries from institutional  
15 to qualified community settings and improving  
16 health outcomes, including differentiating fund-  
17 ing for current initiatives that are designed for  
18 such purpose and funding for proposed initia-  
19 tives that are designed for such purpose.

20           “(C) The most effective State approaches  
21 carried out under State MFP demonstration  
22 projects for improving person-centered care and  
23 planning.

24           “(D) Identification of program, financing,  
25 and other flexibilities available under the State



1 MFP demonstration projects, that are not  
2 available under the traditional Medicaid pro-  
3 gram, and which directly contributed to suc-  
4 cessful transitions and improved health out-  
5 comes under the State MFP demonstration  
6 projects.

7 “(E) State strategies and financing mecha-  
8 nisms for effective coordination of housing fi-  
9 nanced or supported under State MFP dem-  
10 onstration projects with local housing authori-  
11 ties and other resources.

12 “(F) Effective State approaches for deliv-  
13 ering Money Follows the Person transition serv-  
14 ices through managed care entities.

15 “(G) Other best practices and effective  
16 transition strategies demonstrated by States  
17 with approved MFP demonstration projects, as  
18 determined by the Secretary.

19 “(H) Identification and analyses of oppor-  
20 tunities and challenges to integrating effective  
21 Money Follows the Person practices and State  
22 strategies into the traditional Medicaid pro-  
23 gram.

24 “(2) COLLABORATION.—In preparing the report  
25 required under this subsection, the Secretary shall

1 collect and incorporate information from States with  
2 approved MFP demonstration projects and bene-  
3 ficiaries participating in such projects, and providers  
4 participating in such projects.

5 “(3) FUNDING.—From the amounts appro-  
6 priated under subsection (h)(1) for each of fiscal  
7 years 2020 and 2021, not more than \$300,000 shall  
8 be available to the Secretary for each such fiscal  
9 year to carry out this subsection.”.

10 (f) MACPAC REPORT ON QUALIFIED SETTINGS CRI-  
11 TERIA.—Section 6071 of the Deficit Reduction Act of  
12 2005 (42 U.S.C. 1396a note), as amended by subsection  
13 (e), is further amended by adding at the end the following:

14 “(j) MACPAC REPORT.—Prior to the final imple-  
15 mentation date established by the Secretary for the cri-  
16 teria established for home and community-based settings  
17 in section 441.301(c)(4) of title 42, Code of Federal Regu-  
18 lations, as part of final implementation of the Home and  
19 Community Based Services (HCBS) Final Rule published  
20 on January 16, 2014 (79 Fed. Reg. 2947) (referred to  
21 in this subsection as the ‘HCBS final rule’), the Medicaid  
22 and CHIP Payment and Access Commission (MACPAC)  
23 shall submit to Congress a report that—

24 “(1) identifies the types of home and commu-  
25 nity-based settings and associated services that are

1 available to eligible individuals in both the MFP  
2 demonstration program and sites in compliance with  
3 the HCBS final rule; and

4 “(2) if determined appropriate by the Commis-  
5 sion, recommends policies to align the criteria for a  
6 qualified residence under subsection (b)(6) (as in ef-  
7 fect on October 1, 2017) with the criteria in the  
8 HCBS final rule.”.

9 (g) APPLICATION TO CURRENT PROJECTS.—Not  
10 later than 1 year after the date of the enactment of this  
11 Act, any State with an approved MFP demonstration  
12 project under section 6071 of the Deficit Reduction Act  
13 of 2005 (42 U.S.C. 1396a note) on the date of the enact-  
14 ment of this Act shall submit a revised application to the  
15 Secretary that contains the same information and assur-  
16 ances as are required for any new State applicant under  
17 the amendments made by this section.

18 **SEC. 3. CLARIFYING AUTHORITY OF STATE MEDICAID**  
19 **FRAUD AND ABUSE CONTROL UNITS TO IN-**  
20 **VESTIGATE AND PROSECUTE CASES OF MED-**  
21 **ICAID PATIENT ABUSE AND NEGLECT IN ANY**  
22 **SETTING.**

23 (a) IN GENERAL.—Section 1903(q)(4)(A)(ii) of the  
24 Social Security Act (42 U.S.C. 1396b(q)(4)(A)(ii)) is  
25 amended by inserting after “patients residing in board

1 and care facilities” the following: “and of patients (who  
2 are receiving medical assistance under the State plan  
3 under this title) in a noninstitutional or other setting”.

4 (b) AVAILABILITY OF FUNDING.—Section 1903(a)(6)  
5 of the Social Security Act (42 U.S.C. 1396b(a)(6)) is  
6 amended, in the matter following subparagraph (B), by  
7 striking “(as found necessary by the Secretary for the  
8 elimination of fraud in the provision and administration  
9 of medical assistance provided under the State plan)”.

10 **SEC. 4. EXTENSION OF PROTECTION FOR MEDICAID RE-**  
11 **CIPIENTS OF HOME AND COMMUNITY-BASED**  
12 **SERVICES AGAINST SPOUSAL IMPOVERISH-**  
13 **MENT.**

14 Section 2404 of Public Law 111–148 (42 U.S.C.  
15 1396r–5 note) is amended by striking “September 30,  
16 2019” and inserting “March 31, 2024”.

17 **SEC. 5. EXTENSION OF THE COMMUNITY MENTAL HEALTH**  
18 **SERVICES DEMONSTRATION PROGRAM.**

19 Section 223(d) of the Protecting Access to Medicare  
20 Act of 2014 (42 U.S.C. 1396a note) is amended—

21 (1) in paragraph (3), by striking “June 30,  
22 2019” and inserting “December 31, 2021”; and

23 (2) in paragraph (7)(B), by striking “December  
24 31, 2021” and inserting “June 30, 2021”.

1 **SEC. 6. PREVENTING INAPPROPRIATELY LOW REBATES**  
2 **UNDER MEDICAID DRUG REBATE PROGRAM.**

3 (a) PROHIBITING MANUFACTURERS FROM BLEND-  
4 ING AVERAGE MANUFACTURER PRICE OF BRAND DRUG  
5 AND ANY AUTHORIZED GENERIC OF SUCH DRUG.—Sec-  
6 tion 1927(k)(1)(C) of the Social Security Act (42 U.S.C.  
7 1396r–8(k)(1)(C)) is amended—

8 (1) in the subparagraph heading, by striking  
9 “INCLUSION” and inserting “EXCLUSION”;

10 (2) by striking “a new drug application” and  
11 inserting “the manufacturer’s new drug applica-  
12 tion”; and

13 (3) by striking “inclusive” and inserting “exclu-  
14 sive”.

15 (b) ELIMINATING MANUFACTURERS FROM DEFINI-  
16 TION OF WHOLESALER.—Section 1927(k)(11) of the So-  
17 cial Security Act (42 U.S.C. 1396r–8(k)(11)) is amend-  
18 ed—

19 (1) by striking “manufacturers,”; and

20 (2) by striking “manufacturer’s and”.

21 (c) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply with respect to covered outpatient  
23 drugs dispensed on or after January 1, 2020.

1 **SEC. 7. MEDICAID IMPROVEMENT FUND.**

2 Section 1941(b)(1) of the Social Security Act (42  
3 U.S.C. 1396w-1(b)(1)) is amended by striking  
4 “\$6,000,000” and inserting “\$45,500,000”.

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