

116TH CONGRESS
1ST SESSION

H. R. 3253

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2019

Received

AN ACT

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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

5 (b) TABLE OF CONTENTS.—The table of contents for
6 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.
- Sec. 8. Determination of budgetary effects.

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

9 (a) IN GENERAL.—

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

13 (A) in paragraph (1)—

14 (i) in subparagraph (E), by striking
15 “and” at the end;

16 (ii) in subparagraph (F)—

17 (I) by striking “subject to para-
18 graph (3), 132,000,000” and insert-
19 ing “\$132,000,000”; and

1 (II) by striking the period at the
2 end and inserting a semicolon; and

3 (iii) by adding at the end the fol-
4 lowing new subparagraphs:

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

6 “(H) \$450,000,000 for each of fiscal years
7 2021 through 2023; and

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

9 (B) in paragraph (2)—

10 (i) by striking “Subject to paragraph
11 (3), amounts” and inserting “Amounts”;
12 and

13 (ii) by striking “2021” and inserting
14 “2024”; and

15 (C) by striking paragraph (3).

16 (2) RESEARCH AND EVALUATION.—Section
17 6071(g) of the Deficit Reduction Act of 2005 (42
18 U.S.C. 1396a note) is amended—

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

21 (B) in paragraph (3), by inserting “and
22 for each of fiscal years 2019 through 2024,”
23 after “2016,”.

24 (b) CHANGES TO INSTITUTIONAL RESIDENCY PE-
25 RIOD REQUIREMENT.—

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

4 (A) in subparagraph (A)(i), by striking
5 “90” and inserting “60”; and

6 (B) by striking the flush sentence after
7 subparagraph (B).

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

12 (c) UPDATES TO STATE APPLICATION REQUIRE-
13 MENTS.—Section 6071(c) of the Deficit Reduction Act of
14 2005 (42 U.S.C. 1396a note) is amended—

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

17 (2) in paragraph (7)—

18 (A) in the paragraph heading, by striking
19 “REBALANCING” and inserting “EXPENDI-
20 TURES”;

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

23 (C) in subparagraph (B)—

24 (i) in clause (i), by striking “and” at
25 the end;

1 (ii) in clause (ii), by striking the pe-
2 riod at the end and inserting a semicolon;
3 and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(iii) include a work plan that describes
7 for each Federal fiscal year that occurs during
8 the proposed MFP demonstration project—

9 “(I) the use of grant funds for each
10 proposed initiative that is designed to ac-
11 complish the objective described in sub-
12 section (a)(1), including a funding source
13 for each activity that is part of each such
14 proposed initiative;

15 “(II) an evaluation plan that identi-
16 fies expected results for each such pro-
17 posed initiative; and

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

1 “(iv) contain assurances that grant funds
2 used to accomplish the objective described in
3 subsection (a)(1) shall be obligated not later
4 than 24 months after the date on which the
5 funds are awarded and shall be expended not
6 later than 60 months after the date on which
7 the funds are awarded (unless the Secretary ap-
8 proves a waiver of either such requirement).”;
9 and

10 (3) in paragraph (13)—

11 (A) in subparagraph (A), by striking “;
12 and” and inserting “, and in such manner as
13 will meet the reporting requirements set forth
14 for the Transformed Medicaid Statistical Man-
15 agement Information System (T-MSIS);”;

16 (B) by redesignating subparagraph (B) as
17 subparagraph (D); and

18 (C) by inserting after subparagraph (A)
19 the following:

20 “(B) the State shall report on a quarterly
21 basis on the use of grant funds by distinct ac-
22 tivity, as described in the approved work plan,
23 and by specific population as targeted by the
24 State;

1 “(C) if the State fails to report the infor-
2 mation required under subparagraph (B), fails
3 to report such information on a quarterly basis,
4 or fails to make progress under the approved
5 work plan, the State shall implement a correc-
6 tive action plan and any lack of progress under
7 the approved work plan may result in with-
8 holding of grant funds made available to the
9 State; and”.

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

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

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

23 “(i) BEST PRACTICES.—

24 “(1) REPORT.—The Secretary, directly or
25 through grant or contract, shall submit a report to

1 the President and Congress not later than Sep-
2 tember 30, 2020, that contains findings and conclu-
3 sions on best practices from the State MFP dem-
4 onstration projects carried out with grants made
5 under this section. The report shall include informa-
6 tion and analyses with respect to the following:

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

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

1 “(C) The most effective State approaches
2 carried out under State MFP demonstration
3 projects for improving person-centered care and
4 planning.

5 “(D) Identification of program, financing,
6 and other flexibilities available under the State
7 MFP demonstration projects, that are not
8 available under the traditional Medicaid pro-
9 gram, and which directly contributed to suc-
10 cessful transitions and improved health out-
11 comes under the State MFP demonstration
12 projects.

13 “(E) State strategies and financing mecha-
14 nisms for effective coordination of housing fi-
15 nanced or supported under State MFP dem-
16 onstration projects with local housing authori-
17 ties and other resources.

18 “(F) Effective State approaches for deliv-
19 ering Money Follows the Person transition serv-
20 ices through managed care entities.

21 “(G) Other best practices and effective
22 transition strategies demonstrated by States
23 with approved MFP demonstration projects, as
24 determined by the Secretary.

1 “(H) Identification and analyses of oppor-
2 tunities and challenges to integrating effective
3 Money Follows the Person practices and State
4 strategies into the traditional Medicaid pro-
5 gram.

6 “(2) COLLABORATION.—In preparing the report
7 required under this subsection, the Secretary shall
8 collect and incorporate information from States with
9 approved MFP demonstration projects and bene-
10 ficiaries participating in such projects, and providers
11 participating in such projects.

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

17 (f) MACPAC REPORT ON QUALIFIED SETTINGS CRI-
18 TERIA.—Section 6071 of the Deficit Reduction Act of
19 2005 (42 U.S.C. 1396a note), as amended by subsection
20 (e), is further amended by adding at the end the following:

21 “(j) MACPAC REPORT.—Prior to the final imple-
22 mentation date established by the Secretary for the cri-
23 teria established for home and community-based settings
24 in section 441.301(c)(4) of title 42, Code of Federal Regu-
25 lations, as part of final implementation of the Home and

1 Community Based Services (HCBS) Final Rule published
2 on January 16, 2014 (79 Fed. Reg. 2947) (referred to
3 in this subsection as the ‘HCBS final rule’), the Medicaid
4 and CHIP Payment and Access Commission (MACPAC)
5 shall submit to Congress a report that—

6 “(1) identifies the types of home and commu-
7 nity-based settings and associated services that are
8 available to eligible individuals in both the MFP
9 demonstration program and sites in compliance with
10 the HCBS final rule; and

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

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

1 **SEC. 3. CLARIFYING AUTHORITY OF STATE MEDICAID**
2 **FRAUD AND ABUSE CONTROL UNITS TO IN-**
3 **VESTIGATE AND PROSECUTE CASES OF MED-**
4 **ICAID PATIENT ABUSE AND NEGLECT IN ANY**
5 **SETTING.**

6 (a) IN GENERAL.—Section 1903(q)(4)(A)(ii) of the
7 Social Security Act (42 U.S.C. 1396b(q)(4)(A)(ii)) is
8 amended by inserting after “patients residing in board
9 and care facilities” the following: “and of patients (who
10 are receiving medical assistance under the State plan
11 under this title) in a noninstitutional or other setting”.

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

18 **SEC. 4. EXTENSION OF PROTECTION FOR MEDICAID RE-**
19 **CIPIENTS OF HOME AND COMMUNITY-BASED**
20 **SERVICES AGAINST SPOUSAL IMPOVERISH-**
21 **MENT.**

22 (a) IN GENERAL.—Section 2404 of Public Law 111–
23 148 (42 U.S.C. 1396r–5 note) is amended by striking
24 “September 30, 2019” and inserting “March 31, 2024”.

25 (b) RULE OF CONSTRUCTION.—Nothing in section
26 2404 of Public Law 111–148 (42 U.S.C. 1396r–5 note),

1 section 1924 of the Social Security Act (42 U.S.C. 1396r–
2 5), or section 1902(a)(17) of such Act (42 U.S.C.
3 1396a(a)(17)) shall be construed as prohibiting a State
4 from applying an income or resource disregard authorized
5 under section 1902(r)(2) of such Act (42 U.S.C.
6 1396a(r)(2))—

7 (1) to the income or resources of individuals de-
8 scribed in section 1902(a)(10)(A)(ii)(VI) of such Act
9 (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) (including a
10 disregard of the income or resources of such individ-
11 ual’s spouse); or

12 (2) on the basis of an individual’s need for
13 home and community-based services authorized
14 under subsection (c), (d), (i), or (k) of section 1915
15 of such Act (42 U.S.C. 1396n) or under section
16 1115 of such Act (42 U.S.C. 1315).

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”.

5 **SEC. 8. DETERMINATION OF BUDGETARY EFFECTS.**

6 The budgetary effects of this Act, for the purpose of
7 complying with the Statutory Pay-As-You-Go Act of 2010,
8 shall be determined by reference to the latest statement
9 titled “Budgetary Effects of PAYGO Legislation” for this
10 Act, submitted for printing in the Congressional Record
11 by the Chairman of the House Budget Committee, pro-
12 vided that such statement has been submitted prior to the
13 vote on passage.

Passed the House of Representatives June 18, 2019.

Attest: CHERYL L. JOHNSON,
Clerk.