

116TH CONGRESS
2D SESSION

H. R. 5816

To amend title XXVII of the Public Health Service Act, the Internal Revenue Code of 1986, the Employee Retirement Income Security Act of 1974, and title XI of the Social Security Act to require group health plans and health insurance issuers to provide for certain coverage in the case of a change in a provider's network status, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2020

Ms. MOORE (for herself and Mr. SCHWEIKERT) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XXVII of the Public Health Service Act, the Internal Revenue Code of 1986, the Employee Retirement Income Security Act of 1974, and title XI of the Social Security Act to require group health plans and health insurance issuers to provide for certain coverage in the case of a change in a provider's network status, 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.**

2 This Act may be cited as the “Continuing Care for
3 Patients Act of 2020”.

4 **SEC. 2. REQUIRING GROUP HEALTH PLANS AND HEALTH**
5 **INSURANCE ISSUERS TO PROVIDE FOR CER-**
6 **TAIN COVERAGE IN THE CASE OF A CHANGE**
7 **IN A PROVIDER’S NETWORK STATUS.**

8 (a) GROUP HEALTH PLAN AND HEALTH INSURANCE
9 ISSUER REQUIREMENTS.—

10 (1) PUBLIC HEALTH SERVICE ACT.—

11 (A) IN GENERAL.—Subpart II of part A of
12 title XXVII of the Public Health Service Act
13 (42 U.S.C. 300gg–11 et seq.) is amended by
14 adding at the end the following new section:

15 **“SEC. 2730. CONTINUITY OF CARE.**

16 **“(a) ENSURING CONTINUITY OF CARE WITH RE-**
17 **SPECT TO TERMINATIONS OF CERTAIN CONTRACTUAL**
18 **RELATIONSHIPS RESULTING IN CHANGES IN PROVIDER**
19 **NETWORK STATUS.—**

20 **“(1) IN GENERAL.—**In the case of an individual
21 with benefits under a group health plan or group or
22 individual health insurance coverage offered by a
23 health insurance issuer and with respect to a health
24 care provider or facility that has a contractual rela-
25 tionship with such plan or such issuer (as applica-
26 ble) for furnishing items and services under such

1 plan or such coverage, if, while such individual is a
2 continuing care patient (as defined in subsection (b))
3 with respect to such provider or facility—

4 “(A) such contractual relationship is termi-
5 nated (as defined in subsection (b));

6 “(B) benefits provided under such plan or
7 such health insurance coverage with respect to
8 such provider or facility are terminated because
9 of a change in the terms of the participation of
10 such provider or facility in such plan or cov-
11 erage; or

12 “(C) a contract between such group health
13 plan and a health insurance issuer offering
14 health insurance coverage in connection with
15 such plan is terminated, resulting in a loss of
16 benefits provided under such plan with respect
17 to such provider or facility,

18 the plan or issuer, respectively, shall meet the re-
19 quirements of paragraph (2) with respect to such in-
20 dividual.

21 “(2) REQUIREMENTS.—The requirements of
22 this paragraph are that the plan or issuer—

23 “(A) notify each individual enrolled under
24 such plan or coverage who is a continuing care
25 patient with respect to a provider or facility at

1 the time of a termination described in para-
2 graph (1) affecting such provider or facility on
3 a timely basis of such termination and such in-
4 dividual’s right to elect continued transitional
5 care from such provider or facility under this
6 section;

7 “(B) provide such individual with an op-
8 portunity to notify the plan or issuer of the in-
9 dividual’s need for transitional care; and

10 “(C) permit the patient to elect to continue
11 to have benefits provided under such plan or
12 such coverage, under the same terms and condi-
13 tions as would have applied and with respect to
14 such items and services as would have been cov-
15 ered under such plan or coverage had such ter-
16 mination not occurred, with respect to the
17 course of treatment furnished by such provider
18 or facility relating to such individual’s status as
19 a continuing care patient during the period be-
20 ginning on the date on which the notice under
21 subparagraph (A) is provided and ending on the
22 earlier of—

23 “(i) the 90-day period beginning on
24 such date; or

1 “(ii) the date on which such individual
2 is no longer a continuing care patient with
3 respect to such provider or facility.

4 “(b) DEFINITIONS.—In this section:

5 “(1) CONTINUING CARE PATIENT.—For pur-
6 poses of this section, the term ‘continuing care pa-
7 tient’ means an individual who, with respect to a
8 provider or facility—

9 “(A) is undergoing a course of treatment
10 for a serious and complex condition from the
11 provider or facility;

12 “(B) is undergoing a course of institu-
13 tional or inpatient care from the provider or fa-
14 cility;

15 “(C) is scheduled to undergo nonelective
16 surgery from the provider or facility, including
17 receipt of postoperative care from such provider
18 or facility with respect to such a surgery;

19 “(D) is pregnant and undergoing a course
20 of treatment for the pregnancy from the pro-
21 vider or facility; or

22 “(E) is or was determined to be terminally
23 ill (as determined under section 1861(dd)(3)(A)
24 of the Social Security Act) and is receiving

1 treatment for such illness from such provider or
2 facility.

3 “(2) SERIOUS AND COMPLEX CONDITION.—The
4 term ‘serious and complex condition’ means, with re-
5 spect to a participant, beneficiary, or enrollee under
6 a group health plan or health insurance coverage—

7 “(A) in the case of an acute illness, a con-
8 dition that is serious enough to require special-
9 ized medical treatment to avoid the reasonable
10 possibility of death or permanent harm; or

11 “(B) in the case of a chronic illness or con-
12 dition, a condition that—

13 “(i) is life-threatening, degenerative,
14 potentially disabling, or congenital; and

15 “(ii) requires specialized medical care
16 over a prolonged period of time.

17 “(3) TERMINATED.—The term ‘terminated’ in-
18 cludes, with respect to a contract, the expiration or
19 nonrenewal of the contract, but does not include a
20 termination of the contract for failure to meet appli-
21 cable quality standards or for fraud.”.

22 (B) EFFECTIVE DATE.—The amendments
23 made by this paragraph shall apply with respect
24 to plan years beginning on or after January 1,
25 2022.

1 (2) INTERNAL REVENUE CODE OF 1986.—

2 (A) IN GENERAL.—Subchapter B of chap-
3 ter 100 of the Internal Revenue Code of 1986
4 is amended by adding at the end the following
5 new section:

6 **“SEC. 9816. CONTINUITY OF CARE.**

7 “(a) ENSURING CONTINUITY OF CARE WITH RE-
8 SPECT TO TERMINATIONS OF CERTAIN CONTRACTUAL
9 RELATIONSHIPS RESULTING IN CHANGES IN PROVIDER
10 NETWORK STATUS.—

11 “(1) IN GENERAL.—In the case of an individual
12 with benefits under a group health plan and with re-
13 spect to a health care provider or health care facility
14 that has a contractual relationship with such plan
15 for furnishing items and services under such plan, if,
16 while such individual is a continuing care patient (as
17 defined in subsection (b)) with respect to such pro-
18 vider or facility—

19 “(A) such contractual relationship is termi-
20 nated (as defined in paragraph (b));

21 “(B) benefits provided under such plan
22 with respect to such provider or facility are ter-
23 minated because of a change in the terms of the
24 participation of the provider or facility in such
25 plan; or

1 “(C) a contract between such group health
2 plan and a health insurance issuer offering
3 health insurance coverage in connection with
4 such plan is terminated, resulting in a loss of
5 benefits provided under such plan with respect
6 to such provider or facility,
7 the plan shall meet the requirements of paragraph
8 (2) with respect to such individual.

9 “(2) REQUIREMENTS.—The requirements of
10 this paragraph are that the plan—

11 “(A) notify each individual enrolled under
12 such plan who is a continuing care patient with
13 respect to a provider or facility at the time of
14 a termination described in paragraph (1) affect-
15 ing such provider or facility on a timely basis
16 of such termination and such individual’s right
17 to elect continued transitional care from such
18 provider or facility under this section;

19 “(B) provide such individual with an op-
20 portunity to notify the plan of the individual’s
21 need for transitional care; and

22 “(C) permit the patient to elect to continue
23 to have benefits provided under such plan,
24 under the same terms and conditions as would
25 have applied and with respect to such items and

1 services as would have been covered under such
2 plan had such termination not occurred, with
3 respect to the course of treatment furnished by
4 such provider or facility relating to such indi-
5 vidual's status as a continuing care patient dur-
6 ing the period beginning on the date on which
7 the notice under subparagraph (A) is provided
8 and ending on the earlier of—

9 “(i) the 90-day period beginning on
10 such date; or

11 “(ii) the date on which such individual
12 is no longer a continuing care patient with
13 respect to such provider or facility.

14 “(b) DEFINITIONS.—In this section:

15 “(1) CONTINUING CARE PATIENT.—For pur-
16 poses of this section, the term ‘continuing care pa-
17 tient’ means an individual who, with respect to a
18 provider or facility—

19 “(A) is undergoing a course of treatment
20 for a serious and complex condition from the
21 provider or facility;

22 “(B) is undergoing a course of institu-
23 tional or inpatient care from the provider or fa-
24 cility;

1 “(C) is scheduled to undergo nonelective
2 surgery from the provider or facility, including
3 receipt of postoperative care from such provider
4 or facility with respect to such a surgery;

5 “(D) is pregnant and undergoing a course
6 of treatment for the pregnancy from the pro-
7 vider or facility; or

8 “(E) is or was determined to be terminally
9 ill (as determined under section 1861(dd)(3)(A)
10 of the Social Security Act) and is receiving
11 treatment for such illness from such provider or
12 facility.

13 “(2) SERIOUS AND COMPLEX CONDITION.—The
14 term ‘serious and complex condition’ means, with re-
15 spect to a participant or beneficiary under a group
16 health plan—

17 “(A) in the case of an acute illness, a con-
18 dition that is serious enough to require special-
19 ized medical treatment to avoid the reasonable
20 possibility of death or permanent harm; or

21 “(B) in the case of a chronic illness or con-
22 dition, a condition that—

23 “(i) is life-threatening, degenerative,
24 potentially disabling, or congenital; and

1 “(ii) requires specialized medical care
2 over a prolonged period of time.

3 “(3) TERMINATED.—The term ‘terminated’ in-
4 cludes, with respect to a contract, the expiration or
5 nonrenewal of the contract, but does not include a
6 termination of the contract for failure to meet appli-
7 cable quality standards or for fraud.”.

8 (B) CONFORMING AMENDMENT.—Section
9 9815(a) of the Internal Revenue Code of 1986
10 is amended—

11 (i) in paragraph (1), by striking “(as
12 amended by the Patient Protection and Af-
13 fordable Care Act)” and inserting “(other
14 than the provisions of section 2730 of such
15 Act)”; and

16 (ii) in paragraph (2), by inserting
17 “(other than the provisions of section 2730
18 of such Act)” after the first occurrence of
19 “such part A”.

20 (C) CLERICAL AMENDMENT.—The table of
21 sections for such subchapter is amended by
22 adding at the end the following new items:

“Sec. 9815. Additional market reforms.

“Sec. 9816. Continuity of care.”.

23 (D) EFFECTIVE DATE.—The amendments
24 made by this paragraph shall apply with respect

1 to plan years beginning on or after January 1,
2 2022.

3 (3) EMPLOYEE RETIREMENT INCOME SECURITY
4 ACT OF 1974.—

5 (A) IN GENERAL.—Subpart B of part 7 of
6 subtitle B of title I of the Employee Retirement
7 Income Security Act of 1974 (29 U.S.C. 1185
8 et seq.) is amended by adding at the end the
9 following new section:

10 **“SEC. 716. CONTINUITY OF CARE.**

11 “(a) ENSURING CONTINUITY OF CARE WITH RE-
12 SPECT TO TERMINATIONS OF CERTAIN CONTRACTUAL
13 RELATIONSHIPS RESULTING IN CHANGES IN PROVIDER
14 NETWORK STATUS.—

15 “(1) IN GENERAL.—In the case of an individual
16 with benefits under a group health plan or health in-
17 surance coverage offered by a health insurance
18 issuer in connection with such group health plan and
19 with respect to a health care provider or health care
20 facility that has a contractual relationship with such
21 plan or such issuer (as applicable) for furnishing
22 items and services under such plan or such coverage,
23 if, while such individual is a continuing care patient
24 (as defined in subsection (b)) with respect to such
25 provider or facility—

1 “(A) such contractual relationship is termi-
2 nated (as defined in subsection (b));

3 “(B) benefits provided under such plan or
4 such health insurance coverage with respect to
5 such provider are terminated because of a
6 change in the terms of the participation of such
7 provider or facility in such plan or coverage; or

8 “(C) a contract between such group health
9 plan and a health insurance issuer offering
10 health insurance coverage in connection with
11 such plan is terminated, resulting in a loss of
12 benefits provided under such plan with respect
13 to such provider or facility,

14 the plan or issuer, respectively, shall meet the re-
15 quirements of paragraph (2) with respect to such in-
16 dividual.

17 “(2) REQUIREMENTS.—The requirements of
18 this paragraph are that the plan or issuer—

19 “(A) notify each individual enrolled under
20 such plan or coverage who is a continuing care
21 patient with respect to a provider or facility at
22 the time of a termination described in para-
23 graph (1) affecting such provider or facility on
24 a timely basis of such termination and such in-
25 dividual’s right to elect continued transitional

1 care from such provider or facility under this
2 section;

3 “(B) provide such individual with an op-
4 portunity to notify the plan or issuer of the in-
5 dividual’s need for transitional care; and

6 “(C) permit the patient to elect to continue
7 to have benefits provided under such plan or
8 such coverage, under the same terms and condi-
9 tions as would have applied and with respect to
10 such items and services as would have been cov-
11 ered under such plan or coverage had such ter-
12 mination not occurred, with respect to the
13 course of treatment furnished by such provider
14 or facility relating to such individual’s status as
15 a continuing care patient during the period be-
16 ginning on the date on which the notice under
17 subparagraph (A) is provided and ending on the
18 earlier of—

19 “(i) the 90-day period beginning on
20 such date; or

21 “(ii) the date on which such individual
22 is no longer a continuing care patient with
23 respect to such provider or facility.

24 “(b) DEFINITIONS.—In this section:

1 “(1) CONTINUING CARE PATIENT.—For pur-
2 poses of this section, the term ‘continuing care pa-
3 tient’ means an individual who, with respect to a
4 provider or facility—

5 “(A) is undergoing a course of treatment
6 for a serious and complex condition from the
7 provider or facility;

8 “(B) is undergoing a course of institu-
9 tional or inpatient care from the provider or fa-
10 cility;

11 “(C) is scheduled to undergo nonelective
12 surgery from the provider or facility, including
13 receipt of postoperative care from such provider
14 or facility with respect to such a surgery;

15 “(D) is pregnant and undergoing a course
16 of treatment for the pregnancy from the pro-
17 vider or facility; or

18 “(E) is or was determined to be terminally
19 ill (as determined under section 1861(dd)(3)(A)
20 of the Social Security Act) and is receiving
21 treatment for such illness from such provider or
22 facility.

23 “(2) SERIOUS AND COMPLEX CONDITION.—The
24 term ‘serious and complex condition’ means, with re-
25 spect to a participant, beneficiary, or enrollee under

1 a group health plan or health insurance coverage of-
2 fered in connection with such plan—

3 “(A) in the case of an acute illness, a con-
4 dition that is serious enough to require special-
5 ized medical treatment to avoid the reasonable
6 possibility of death or permanent harm; or

7 “(B) in the case of a chronic illness or con-
8 dition, a condition that—

9 “(i) is life-threatening, degenerative,
10 potentially disabling, or congenital; and

11 “(ii) requires specialized medical care
12 over a prolonged period of time.

13 “(3) TERMINATED.—The term ‘terminated’ in-
14 cludes, with respect to a contract, the expiration or
15 nonrenewal of the contract, but does not include a
16 termination of the contract for failure to meet appli-
17 cable quality standards or for fraud.”.

18 (B) CONFORMING AMENDMENT.—Section
19 715(a) of the Employee Retirement Income Se-
20 curity Act of 1974 (29 U.S.C. 1185d(a)) is
21 amended—

22 (i) in paragraph (1), by striking “(as
23 amended by the Patient Protection and Af-
24 fordable Care Act)” and inserting “(other

1 than the provisions of section 2730 of such
2 Act)”; and

3 (ii) in paragraph (2), by inserting
4 “(other than the provisions of section 2730
5 of such Act)” after the first occurrence of
6 “such part A”.

7 (C) CLERICAL AMENDMENT.—The table of
8 contents in section 1 of the Employee Retirement
9 Income Security Act of 1974 is amended
10 by inserting after the item relating to section
11 714 the following new items:

“Sec. 715. Additional market reforms.

“Sec. 716. Continuity of care.”.

12 (D) EFFECTIVE DATE.—The amendments
13 made by this paragraph shall apply with respect
14 to plan years beginning on or after January 1,
15 2022.

16 (b) HEALTH CARE PROVIDERS.—Part A of title XI
17 of the Social Security Act (42 U.S.C. 1301 et seq.), as
18 amended by subsection (a), is further amended by adding
19 at the end the following new sections:

20 **“SEC. 1150C. CONTINUITY OF CARE.**

21 “(a) IN GENERAL.—A health care provider or health
22 care facility shall, in the case of an individual furnished
23 items and services by such provider or facility for which
24 coverage is provided under a group health plan or group

1 or individual health insurance coverage pursuant to sec-
2 tion 2730 of such Act, section 9816 of the Internal Rev-
3 enue Code of 1986, or section 716 of the Employee Retire-
4 ment Income Security Act of 1974—

5 “(1) accept payment from such plan or such
6 issuer (as applicable) (and cost-sharing from such
7 individual, if applicable, in accordance with sub-
8 section (a)(2)(C) of such section 2730, 9817, or
9 717) for such items and services as payment in full
10 for such items and services; and

11 “(2) continue to adhere to all policies, proce-
12 dures, and quality standards imposed by such plan
13 or issuer with respect to such individual and such
14 items and services in the same manner as if such
15 termination had not occurred.

16 “(b) PENALTY.—

17 “(1) IN GENERAL.—Each health care provider
18 or health care facility that violates a provision of
19 subsection (a) shall be subject to a civil monetary
20 penalty in an amount not to exceed \$10,000 for each
21 such violation.

22 “(2) APPLICATION OF PROVISIONS.—The provi-
23 sions of section 1128A (other than subsection (a),
24 subsection (b), the first sentence of subsection
25 (c)(1), and subsection (o)) shall apply with respect

1 to a civil monetary penalty imposed under this sub-
2 section in the same manner as such provisions apply
3 with respect to a penalty or proceeding under sub-
4 section (a) of such section.

5 “(c) DEFINITIONS.—In this section, the terms ‘health
6 insurance issuer’, ‘group health plan’, ‘group health insur-
7 ance coverage’, and ‘individual health insurance coverage’
8 have the meaning given such terms, respectively, in section
9 2791 of the Public Health Service Act.”.

○