

116TH CONGRESS
2D SESSION

H. R. 6004

To amend title XXVII of the Public Health Service Act to require the Secretary of Health and Human Services to establish a grant program for purposes of facilitating State efforts to establish or maintain all-payer claims databases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2020

Mr. LIPINSKI introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on 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 to require the Secretary of Health and Human Services to establish a grant program for purposes of facilitating State efforts to establish or maintain all-payer claims databases, 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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Transparency and Accountability in Health Care Costs
6 and Prices Act of 2020”.

1 (b) FINDINGS.—Congress finds the following:

2 (1) According to official estimates published by
3 the Centers for Medicare & Medicaid Services,
4 Americans spent a total of \$3.6 trillion on health
5 care in 2018, or \$11,172 per person.

6 (2) Spending on hospital care services reached
7 \$1.2 trillion in 2018 and rose by 4.5 percent from
8 the previous year. This growth occurred even as
9 Americans made fewer hospital visits because of
10 growth in hospital prices.

11 (3) Spending on physician visits and clinical
12 services reached \$725.6 billion in 2018 and rose by
13 4.1 percent from the previous year.

14 (4) Spending on prescription drugs reached
15 \$335 billion in 2018 and rose by 2.5 percent from
16 the previous year.

17 (5) According to a 2019 analysis of a subset of
18 commercial insurance claims by the independent,
19 non-partisan Health Care Cost Institute, prices for
20 common medical services could vary up to 25 times
21 between different metro areas and up to 39 times
22 for the same service within the same metro area.

23 (6) A 2015 analysis of a subset of commercial
24 insurance claims by Yale, University of Pennsyl-
25 vania, Carnegie Mellon, and MIT researchers found

1 that even within one hospital, prices for certain com-
2 mon services like lower limb MRIs, knee replace-
3 ments, and colonoscopies could vary by 23.5 percent
4 on average depending on which insurer covered the
5 patient.

6 (7) Information about contracts between pro-
7 viders and insurers available to researchers, policy-
8 makers, and the public is limited or incomplete be-
9 cause these contracts frequently prohibit disclosure
10 of information about how providers are paid.

11 (8) All-payer claims databases (APCDs) are
12 large-scale databases increasingly adopted by States
13 to collect health care claims data across different
14 payers such as private insurers, government em-
15 ployee health plans, Medicare, and Medicaid.

16 (9) APCD data can be shared with vetted and
17 authorized users to make it easier to track trends in
18 health care prices, create tools for consumers to
19 check price and quality, assist employers and health
20 plans in making more informed decisions when de-
21 veloping employer-sponsored health plans, test new
22 ideas for holding down health care costs, and guide
23 policymakers in developing health care policy.

24 (10) In 2019, the independent, non-partisan
25 RAND Corporation published the first broad-based

1 study reporting prices paid by private health plans
2 to hospitals identified by name. This important
3 study tracked important disparities in price trends
4 across the nation, with relative prices increasing rap-
5 idly from 2015 to 2017 for hospitals in some States,
6 while falling in others. This work was made possible
7 in part through the use of data from APCDs in New
8 Hampshire and Colorado.

9 (11) Since 2015, Oregon has used data from its
10 APCD to review insurers' proposed premium rates,
11 including determining whether or not proposed pre-
12 miums are excessive. Oregon has also used its
13 APCD to create an annual report on hospital reim-
14 bursement variations from different insurers.

15 (12) Minnesota and Virginia have used data
16 from their APCDs to shine a spotlight on spending
17 for low-value—possibly even unnecessary—medical
18 services.

19 (13) Washington State has used data from its
20 APCD to create the Washington
21 HealthCareCompare tool that helps patients learn
22 about local prices for medical services at local doc-
23 tors' offices, hospitals, and outpatient centers, and
24 puts those prices in context by highlighting what
25 kinds of prices can be considered typical, low, or

1 high. Additional States that have developed price
2 transparency tools from their APCDs include New
3 Hampshire, Maine, Massachusetts, Colorado, Mary-
4 land, and Rhode Island.

5 (14) According to the APCD Council, a learn-
6 ing collaborative of public and private organizations
7 working on developing and establishing APCDs, at
8 least 18 States have enacted State laws establishing
9 APCDs.

10 (15) While many States have or are considering
11 establishing APCDs, current APCDs vary in the
12 types of data collected, the types of users allowed to
13 access the data, the types of data that can be pub-
14 lished, and how much authorized users are charged
15 to access the data.

16 (16) A 2016 Supreme Court decision, *Gobeille*
17 *v. Liberty Mutual Insurance Co.*, prohibited States
18 from requiring claim submissions to APCDs from
19 large employers that pay for health benefits directly
20 instead of purchasing health coverage from insur-
21 ance companies. This limited the data that States
22 could mandate for inclusion in an APCD.

23 (17) Supporting the establishment of APCDs is
24 an important way to promote transparency and un-
25 derstanding of overall health care spending.

1 (18) State APCDs should be encouraged to col-
 2 lect data from more types of payers; make it easier
 3 and more affordable for APCD data to be used to
 4 assist patients and providers in making informed
 5 choices about care; make it easier and more afford-
 6 able for APCD data to be used for efforts to bring
 7 health care cost growth under control and improve
 8 insurance coverage; and permit their data to be used
 9 to report provider-level prices.

10 **SEC. 2. REQUIRING THE SECRETARY OF HEALTH AND**
 11 **HUMAN SERVICES TO ESTABLISH A GRANT**
 12 **PROGRAM FOR PURPOSES OF FACILITATING**
 13 **STATE EFFORTS TO ESTABLISH OR MAINTAIN**
 14 **ALL-PAYER CLAIMS DATABASES.**

15 Part C of title XXVII of the Public Health Service
 16 Act (42 U.S.C. 300gg–91 et seq.) is amended by adding
 17 at the end the following new section:

18 **“SEC. 2795. ALL-PAYER CLAIMS DATABASE GRANT PRO-**
 19 **GRAM.**

20 “(a) IN GENERAL.—Not later than 1 year after the
 21 date of the enactment of this section, the Secretary shall
 22 establish a grant program (in this section referred to as
 23 the ‘program’) for purposes of awarding grants to States
 24 to facilitate such States in establishing or maintaining an
 25 all-payer claims database.

1 “(b) USE OF FUNDS.—A State use funds from a
2 grant awarded under the program for any of the following:

3 “(1) To establish a State or regional all-payer
4 claims database or to maintain an existing such
5 database.

6 “(2) To expand the capabilities of an existing
7 such database (such as through improving the collec-
8 tion of data contained in such database or improving
9 the dissemination of such data).

10 “(c) ELIGIBILITY.—To be eligible to receive a grant
11 under the program, a State (or compact of States) shall
12 submit to the Secretary an application at such time, in
13 such manner, and containing such information as the Sec-
14 retary may specify. Such information shall include the fol-
15 lowing:

16 “(1) A specification of how the State (or com-
17 pact of States) will ensure uniform data collection
18 through the all-payer claims database.

19 “(2) A description of privacy and security pro-
20 tections for data submitted to such database, includ-
21 ing a specification of how the State (or compact of
22 States) will ensure that—

23 “(A) no individually identifiable health in-
24 formation is disclosed to the public;

1 “(B) access to such information is limited
2 to staff with appropriate security and privacy
3 training;

4 “(C) effective security standards for trans-
5 ferring such data or making such data available
6 to authorized uses of such database are main-
7 tained;

8 “(D) a process for providing access to such
9 data for such users is secure and maintains the
10 confidentiality of any individually identifiable
11 health information is established;

12 “(E) such database adheres to best secu-
13 rity practices relating to the management and
14 use of such data, consistent with any applicable
15 Federal law; and

16 “(F) users of such database are prohibited
17 from attempting to reidentify such data and pe-
18 nalized for any such attempt.

19 “(3) A specification of whether submission of
20 data to such database is (or will be) mandatory or
21 voluntary.

22 “(4) A specification of which type of entities
23 (such as group health plans, health insurance issues,
24 nonfederal governmental plans, and Federal health

1 care programs) are (or will be) submitting such data
2 to such database.

3 “(5) A description of the types of claims in-
4 cluded in such database (such as medical claims,
5 pharmacy claims, and dental claims).

6 “(6) A description of the data release policy in
7 effect (or proposed to be put into effect) with respect
8 to data contained in such database, including a de-
9 scription of the type of users who are (or will be) au-
10 thorized to access such data (such as employers, em-
11 ployee organizations, health care providers, research-
12 ers, and policymakers).

13 “(7) Any other information determined appro-
14 priate by the Secretary.

15 “(d) AWARD PRIORITY.—In making grants under the
16 program, the Secretary shall prioritize applications sub-
17 mitted under subsection (c) that demonstrate any of the
18 following (with higher priority being given to applications
19 that demonstrate the greatest number of the following):

20 “(1) The all-payer claims database to be estab-
21 lished, maintained, or expanded through such grant
22 requires mandatory reporting of claims data to such
23 database.

24 “(2) Such database will transition to require
25 such mandatory reporting.

1 “(3) Data contained in such database is (or will
2 be) easily accessible and affordable for users to ac-
3 cess.

4 “(4) Such database permits (or will permit)
5 such data to be viewed in a provider-specific manner.

6 “(5) A history of (or planned) partnerships
7 with users of such database to facilitate the use of
8 such data in—

9 “(A) informing individuals about the cost,
10 quality, and value of health care;

11 “(B) assisting health care providers, in-
12 cluding hospitals, in working with individuals to
13 make informed decisions regarding health care;

14 “(C) enabling health care providers, in-
15 cluding hospitals, and communities to improve
16 the furnishing of items and services and health
17 outcomes for individuals through comparisons
18 of such outcomes with other such providers and
19 hospitals;

20 “(D) enabling entities that pay for items
21 and services, including employers, employee or-
22 ganizations, group health plans, and health in-
23 surance issuers, to develop value-based pur-
24 chasing models and improve the quality and
25 cost of care furnished to employees or enrollees;

1 “(E) enabling group health plans and
2 health insurance issuers to evaluate network de-
3 sign, network construction, and the cost of care
4 furnished to enrollees;

5 “(F) facilitating State-led initiatives to
6 lower health care costs and improve health care
7 quality; or

8 “(G) promoting competition based on qual-
9 ity and cost.

10 “(e) PRIVACY REGULATIONS.—The Secretary shall
11 promulgate regulations specifying the extent and manner
12 to which any applicable Federal law or regulation relating
13 to privacy shall apply to activities carried out pursuant
14 to a grant made under the program and may issue any
15 additional regulation determined necessary by the Sec-
16 retary to ensure appropriate confidentiality of data associ-
17 ated with such activities.

18 “(f) DISCLOSURE OF DATA.—Any State (or compact
19 of States) receiving a grant under the program to estab-
20 lish, maintain, or expand an all-payer claims database
21 shall work to make all information contained in such data-
22 base available to the Director of the Congressional Budget
23 Office, the Comptroller General of the United States, the
24 Executive Director of the Medicare Payment Advisory
25 Commission, and the Executive Director of the Medicaid

1 and CHIP Advisory Committee upon request, subject to
 2 any regulation described in subsection (e) and State law.
 3 Such information may be made available in the form of
 4 raw data, summary reports, or such other format deter-
 5 mined appropriate by the requesting entity and the State
 6 (or compact of States).

7 “(g) DEFINITION.—For purposes of this section, the
 8 term ‘all-payer claims database’ means, with respect to a
 9 State (or compact of States), a State or regional database
 10 operated by (or under contract with) a State (or compact
 11 of States) that may include medical claims, pharmacy
 12 claims, dental claims, member eligibility, and provider files
 13 which are collected from private and public payers.

14 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
 15 are authorized to be appropriated \$100,000,000 to carry
 16 out this section.”.

17 **SEC. 3. ALLOWING FOR COLLECTION OF INFORMATION**
 18 **FROM SELF-INSURED GROUP HEALTH PLANS.**

19 Section 514(b) of the Employee Retirement Income
 20 Security Act of 1974 (29 U.S.C. 1144(b)) is amended by
 21 adding at the end the following new paragraph:

22 “(10) Subsection (a) shall not apply to any State law
 23 requiring a group health plan (including a self-insured
 24 group health plan) to provide claims data to an all-payer

- 1 claims database (as defined in section 2795(g) of the Pub-
- 2 lic Health Service Act).”.

