

116TH CONGRESS
2D SESSION

H. R. 6159

To amend title XIX of the Social Security Act to renew the application of the Medicare payment rate floor to primary care services furnished under the Medicaid program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2020

Ms. SCHRIER (for herself, Ms. CASTOR of Florida, and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to renew the application of the Medicare payment rate floor to primary care services furnished under the Medicaid program, 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.**

4 This Act may be cited as the “Kids’ Access to Pri-
5 mary Care Act of 2020”.

1 **SEC. 2. RENEWAL OF APPLICATION OF MEDICARE PAY-**
2 **MENT RATE FLOOR TO PRIMARY CARE SERV-**
3 **ICES FURNISHED UNDER MEDICAID AND IN-**
4 **CLUSION OF ADDITIONAL PROVIDERS.**

5 (a) RENEWAL OF PAYMENT FLOOR; ADDITIONAL
6 PROVIDERS.—

7 (1) IN GENERAL.—Section 1902(a)(13) of the
8 Social Security Act (42 U.S.C. 1396a(a)(13)) is
9 amended by striking subparagraph (C) and inserting
10 the following:

11 “(C) payment for primary care services (as
12 defined in subsection (jj)) at a rate that is not
13 less than 100 percent of the payment rate that
14 applies to such services and physician under
15 part B of title XVIII (or, if greater, the pay-
16 ment rate that would be applicable under such
17 part if the conversion factor under section
18 1848(d) for the year involved were the conver-
19 sion factor under such section for 2009), and
20 that is not less than the rate that would other-
21 wise apply to such services under this title if
22 the rate were determined without regard to this
23 subparagraph, and that are—

24 “(i) furnished in 2013 and 2014, by a
25 physician with a primary specialty designa-

tion of family medicine, general internal medicine, or pediatric medicine; or

“(ii) furnished during the period beginning on the first day of the first month beginning after the date of the enactment of the Kids’ Access to Primary Care Act of 2020—

“(I) by a physician with a primary specialty designation of family medicine, general internal medicine, pediatric medicine, or obstetrics and gynecology, but only if the physician self-attests that the physician is board-certified in family medicine, general internal medicine, pediatric medicine, or obstetrics and gynecology, respectively;

“(II) by a physician with a primary specialty designation of a family medicine subspecialty, an internal medicine subspecialty, a pediatric subspecialty, or a subspecialty of obstetrics and gynecology, without regard to the board that offers the designation for such a subspecialty, but only if the

1 physician self-attests that the physi-
2 cian is board-certified in such a sub-
3 specialty;

4 “(III) by an advanced practice
5 clinician, as defined by the Secretary,
6 that works under the supervision of—

7 “(aa) a physician described
8 in subclause (I) or (II); or

9 “(bb) a nurse practitioner or
10 a physician assistant (as such
11 terms are defined in section
12 1861(aa)(5)(A)) who is working
13 in accordance with State law, or
14 a certified nurse-midwife (as de-
15 fined in section 1861(gg)(2)) who
16 is working in accordance with
17 State law;

18 “(IV) by a rural health clinic,
19 Federally-qualified health center, or
20 other health clinic that receives reim-
21 bursement on a fee schedule applica-
22 ble to a physician described in sub-
23 clause (I) or (II), an advanced prac-
24 tice clinician described in subclause
25 (III), or a nurse practitioner, physi-

1 cian assistant, or certified nurse-mid-
2 wife described in subclause (III)(bb),
3 for services furnished by—

4 “(aa) such a physician,
5 nurse practitioner, physician as-
6 sistant, or certified nurse-mid-
7 wife, respectively; or

8 “(bb) an advanced practice
9 clinician supervised by such a
10 physician, nurse practitioner,
11 physician assistant, or certified
12 nurse-midwife; or

13 “(V) by a nurse practitioner,
14 physician assistant, or certified nurse-
15 midwife described in subclause
16 (III)(bb), in accordance with proce-
17 dures that ensure that the portion of
18 the payment for such services that the
19 nurse practitioner, physician assist-
20 ant, or certified nurse-midwife is paid
21 is not less than the amount that the
22 nurse practitioner, physician assist-
23 ant, or certified nurse-midwife would
24 be paid if the services were provided
25 under part B of title XVIII;”.

1 (2) CONFORMING AMENDMENTS.—Section
2 1905(dd) of the Social Security Act (42 U.S.C.
3 1396d(dd)) is amended—

4 (A) by striking “Notwithstanding” and in-
5 serting the following:

6 “(1) IN GENERAL.—Notwithstanding”;

7 (B) by inserting “or furnished during the
8 additional period specified in paragraph (2),”
9 after “2015,”; and

10 (C) by adding at the end the following:

11 “(2) ADDITIONAL PERIOD.—For purposes of
12 paragraph (1), the additional period specified in this
13 paragraph is the period beginning on the first day
14 of the first month beginning after the date of the en-
15 actment of the Kids’ Access to Primary Care Act of
16 2020.”.

17 (b) IMPROVED TARGETING OF PRIMARY CARE.—

18 (1) IN GENERAL.—Section 1902(jj) of the So-
19 cial Security Act (42 U.S.C. 1396a(jj)) is amend-
20 ed—

21 (A) by redesignating paragraphs (1) and
22 (2) as subparagraphs (A) and (B), respectively,
23 and moving the margin of each such subpara-
24 graph, as so redesignated, 2 ems to the right;

1 (B) by striking “For purposes of” and in-
 2 serting the following:

3 “(1) IN GENERAL.—For purposes of”; and

4 (C) by adding at the end the following:

5 “(2) EXCLUSIONS.—Such term does not include
 6 any services described in subparagraph (A) or (B) of
 7 paragraph (1) if such services are provided in an
 8 emergency department of a hospital.”.

9 (2) EFFECTIVE DATE.—The amendments made
 10 by paragraph (1) shall apply with respect to primary
 11 care services provided on or after the first day of the
 12 period described in subparagraph (C)(ii) of section
 13 1902(a)(13) of the Social Security Act (42 U.S.C.
 14 1396a(a)(13)), as amended by section 2.

15 (c) ENSURING PAYMENT BY MANAGED CARE ENTI-
 16 TIES.—

17 (1) IN GENERAL.—Section 1903(m)(2)(A) of
 18 the Social Security Act (42 U.S.C. 1396b(m)(2)(A))
 19 is amended—

20 (A) in clause (xii), by striking “and” after
 21 the semicolon;

22 (B) in clause (xiii)—

23 (i) by moving the margin of such
 24 clause 2 ems to the left; and

1 (ii) by striking the period at the end
2 and inserting “; and”; and

3 (C) by inserting after clause (xiii) the fol-
4 lowing:

5 “(xiv) such contract provides that (I) payments
6 to health care providers specified in section
7 1902(a)(13)(C) for furnishing primary care services
8 defined in section 1902(jj) during a year or period
9 specified in section 1902(a)(13)(C) are at least equal
10 to the amounts set forth and required by the Sec-
11 retary by regulation, (II) the entity shall, upon re-
12 quest, provide documentation to the State that is
13 sufficient to enable the State and the Secretary to
14 ensure compliance with subclause (I), and (III) the
15 Secretary shall approve payments described in sub-
16 clause (I) that are furnished through an agreed-
17 upon capitation, partial capitation, or other value-
18 based payment arrangement if the agreed-upon capi-
19 tation, partial capitation, or other value-based pay-
20 ment arrangement is based on a reasonable method-
21 ology and the entity provides documentation to the
22 State that is sufficient to enable the State and the
23 Secretary to ensure compliance with subclause (I).”.

24 (2) CONFORMING AMENDMENT.—Section
25 1932(f) of the Social Security Act (42 U.S.C.

1 1396u–2(f)) is amended by inserting “and clause
2 (xiv) of section 1903(m)(2)(A)” before the period.

3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply with respect to con-
5 tracts entered into on or after the date of the enact-
6 ment of this Act.

7 **SEC. 3. STUDY.**

8 (a) IN GENERAL.—Not later than the date that is
9 one year and one month after the date of the enactment
10 of this Act, the Secretary of Health and Human Services
11 shall conduct a study—

12 (1) comparing the number of children enrolled
13 in a State plan under title XIX of the Social Secu-
14 rity Act (42 U.S.C. 1396 et seq.) (or a waiver of
15 such plan) during the 12-month period preceding the
16 first day of the period described in subparagraph
17 (C)(ii) of section 1902(a)(13) of such Act (42
18 U.S.C. 1396a(a)(13)), as amended by section 2, to
19 the number of children so enrolled during the 12-
20 month period beginning on such first day;

21 (2) comparing the number of health care pro-
22 viders receiving payments for primary care services
23 under the Medicaid program under such title during
24 the 12-month period preceding the first day of the
25 period described in subparagraph (C)(ii) of section

1 1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)),
2 as amended by section 2, to the number of health
3 care providers receiving such payments during the
4 12-month period beginning on such first day; and

5 (3) comparing health care provider payment
6 rates for primary care services under the Medicaid
7 program under such title during the 12-month pe-
8 riod beginning on the first day of the period de-
9 scribed in subparagraph (C)(ii) of section
10 1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)),
11 as amended by section 2, across States, using the in-
12 dexes described in subsection (b).

13 (b) INDEXES DESCRIBED.—The indexes described in
14 this subsection are each of the following:

15 (1) A Medicaid fee index, comparing each
16 State's average fee for primary care services under
17 the Medicaid program under such title to the na-
18 tional average for such services.

19 (2) A Medicaid-to-Medicare fee index, com-
20 paring each State's average fee for primary care
21 services under the Medicaid program under such
22 title to the fee for such services under the Medicare
23 program under title XVIII of such Act (42 U.S.C.
24 1395 et seq.).

1 (3) A Medicaid fee change index, comparing
2 fees for primary care services under the Medicaid
3 program under such title during the 12-month pe-
4 riod preceding the first day of the period described
5 in subparagraph (C)(ii) of section 1902(a)(13) of
6 such Act (42 U.S.C. 1396a(a)(13)), as amended by
7 section 2, to the fees for such services during the
8 12-month period beginning on such first day.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—For pur-
10 poses of this section, there is authorized to be appro-
11 priated \$200,000 for fiscal year 2021, to be available until
12 expended.

13 **SEC. 4. SENSE OF CONGRESS REGARDING USE OF BRIGHT**
14 **FUTURES GUIDELINES.**

15 It is the sense of Congress that health care providers
16 should provide early and periodic screening, diagnostic,
17 and treatment services (as defined in section 1905(r) of
18 the Social Security Act (42 U.S.C. 1396d(r)) in accord-
19 ance with the guidelines of the American Academy of Pe-
20 diatrics entitled, “Bright Futures: Guidelines for Health
21 Supervision of Infants, Children, and Adolescents”.

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