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116TH CONGRESS
2D SESSION

H. R. 6486

To amend the Patient Protection and Affordable Care Act to require the Secretary of Health and Human Services to establish a special enrollment period during the COVID-19 emergency period, to require the Secretary to carry out outreach and educational activities for such special enrollment period, to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage without any cost sharing for certain items and services furnished during any portion of such emergency period, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2020

Mr. RUIZ (for himself and Ms. UNDERWOOD) 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

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A BILL

To amend the Patient Protection and Affordable Care Act to require the Secretary of Health and Human Services to establish a special enrollment period during the COVID-19 emergency period, to require the Secretary to carry out outreach and educational activities for such special enrollment period, to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage without any cost sharing for certain items and services furnished

during any portion of such emergency period, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Care for COVID-19 Act 2.0''.

SEC. 2. SPECIAL ENROLLMENT PERIOD THROUGH EXCHANGES; FEDERAL EXCHANGE OUTREACH AND EDUCATIONAL ACTIVITIES.

(a) SPECIAL ENROLLMENT PERIOD THROUGH EXCHANGES.—Section 1311(c) of the Patient Protection and Affordable Care Act (42 U.S.C. 18031(c)) is amended—

(1) in paragraph (6)—

(A) in subparagraph (C), by striking at the end ''and'';

(B) in subparagraph (D), by striking at the end the period and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(E) subject to subparagraph (B) of paragraph (8), the special enrollment period described in subparagraph (A) of such paragraph.''; and

(2) by adding at the end the following new paragraph:

"(8) SPECIAL ENROLLMENT PERIOD FOR CERTAIN PUBLIC HEALTH EMERGENCY.—

"(A) IN GENERAL.—The Secretary shall, subject to subparagraph (B), require an Exchange to provide—

"(i) for a special enrollment period during the emergency period described in section 1135(g)(1)(B) of the Social Security Act—

"(I) which shall begin on the date that is one week after the date of the enactment of this paragraph and which, in the case of an Exchange established or operated by the Secretary within a State pursuant to section 1321(c), shall be an 8-week period; and

"(II) during which any individual who is otherwise eligible to enroll in a qualified health plan through the Exchange may enroll in such a qualified health plan; and

"(ii) that, in the case of an individual who enrolls in a qualified health plan through the Exchange during such enroll-

ment period, the coverage period under such plan shall begin, at the option of the individual, on April 1, 2020, or on the first day of the month following the day the individual selects a plan through such special enrollment period.

''(B) EXCEPTION.—The requirement of subparagraph (A) shall not apply to a State-operated or State-established Exchange if such Exchange, prior to the date of the enactment of this paragraph, established or otherwise provided for a special enrollment period to address access to coverage under qualified health plans offered through such Exchange during the emergency period described in section 1135(g)(1)(B) of the Social Security Act.''.

(b) FEDERAL EXCHANGE OUTREACH AND EDUCATIONAL ACTIVITIES.—Section 1321(c) of the Patient Protection and Affordable Care Act (42 U.S.C. 18041(c)) is amended by adding at the end the following new paragraph:

''(3) OUTREACH AND EDUCATIONAL ACTIVITIES.—

''(A) IN GENERAL.—In the case of an Exchange established or operated by the Secretary

within a State pursuant to this subsection, the Secretary shall carry out outreach and educational activities for purposes of informing potential enrollees in qualified health plans offered through the Exchange of the availability of coverage under such plans and financial assistance for coverage under such plans. Such outreach and educational activities shall be provided in a manner that is culturally and linguistically appropriate to the needs of the populations being served by the Exchange (including hard-to-reach populations, such as racial and sexual minorities, limited English proficient populations, and young adults).

''(B) LIMITATION ON USE OF FUNDS.—No funds appropriated under this paragraph shall be used for expenditures for promoting non-ACA compliant health insurance coverage.

''(C) NON-ACA COMPLIANT HEALTH INSURANCE COVERAGE.—For purposes of subparagraph (B):

''(i) The term 'non-ACA compliant health insurance coverage' means health insurance coverage, or a group health plan, that is not a qualified health plan.

''(ii) Such term includes the following:

''(I) An association health plan.

''(II) Short-term limited duration insurance.

''(D) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are hereby appropriated $25,000,000 to carry out this paragraph. Funds appropriated under this subparagraph shall remain available until expended.''.

(c) IMPLEMENTATION.—The Secretary of Health and Human Services may implement the provisions of (including amendments made by) this section through subregulatory guidance, program instruction, or otherwise.

SEC. 3. COVERAGE OF COVID-19 RELATED TREATMENT AT NO COST SHARING.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering group or individual health insurance coverage (including a grandfathered health plan (as defined in section 1251(e) of the Patient Protection and Affordable Care Act)) shall provide coverage, and shall not impose any cost sharing (including deductibles, copayments, and coinsurance) requirements, for the following items and services furnished during any portion of the emergency period defined in paragraph (1)(B) of section

1135(g) of the Social Security Act (42 U.S.C. 1320b–5(g)) beginning on or after the date of the enactment of this Act:

(1) Medically necessary items and services (including in-person or telehealth visits in which such items and services are furnished) that are furnished to an individual who has been diagnosed with (or after provision of the items and services is diagnosed with) COVID-19 to treat or mitigate the effects of COVID-19.

(2) Medically necessary items and services (including in-person or telehealth visits in which such items and services are furnished) that are furnished to an individual who is presumed to have COVID-19 but is never diagnosed as such, if the following conditions are met:

(A) Such items and services are furnished to the individual to treat or mitigate the effects of COVID-19 or to mitigate the impact of COVID-19 on society.

(B) Health care providers have taken appropriate steps under the circumstances to make a diagnosis, or confirm whether a diagnosis was made, with respect to such individual, for COVID-19, if possible.

(b) ITEMS AND SERVICES RELATED TO COVID-19.—For purposes of this section—

(1) not later than one week after the date of the enactment of this section, the Secretary of Health and Human Services, Secretary of Labor, and Secretary of the Treasury shall jointly issue guidance specifying applicable diagnoses and medically necessary items and services related to COVID-19; and

(2) such items and services shall include all items or services that are relevant to the treatment or mitigation of COVID-19, regardless of whether such items or services are ordinarily covered under the terms of a group health plan or group or individual health insurance coverage offered by a health insurance issuer.

(c) REIMBURSEMENT TO PLANS AND COVERAGE FOR WAIVING COST SHARING.—

(1) IN GENERAL.—A group health plan or a health insurance issuer offering group or individual health insurance coverage (including a grandfathered health plan (as defined in section 1251(e) of the Patient Protection and Affordable Care Act)) that does not impose cost sharing requirements as described in subsection (a) shall notify the Secretary of Health

and Human Services, Secretary of Labor, and Secretary of the Treasury (through a joint process established jointly by the Secretaries) of the total dollar amount of cost sharing that, but for the application of subsection (a), would have been required under such plans and coverage for items and services related to COVID-19 furnished during the period to which subsection (a) applies to enrollees, participants, and beneficiaries in the plan or coverage to whom such subsection applies, but which was not imposed for such items and services so furnished pursuant to such subsection and the Secretary of Health and Human Services, in coordination with the Secretary of Labor and the Secretary of the Treasury, shall make payments in accordance with this subsection to the plan or issuer equal to such total dollar amount.

(2) METHODOLOGY FOR PAYMENTS.—The Secretary of Health and Human Services, in coordination with the Secretary of Labor and the Secretary of the Treasury shall establish a payment system for making payments under this subsection. Any such system shall make payment for the value of cost sharing not imposed by the plan or issuer involved.

(3) TIMING OF PAYMENTS.—Payments made under paragraph (1) shall be made no later than May 1, 2021, for amounts of cost sharing waivers with respect to 2020. Payments under this subsection with respect to such waivers with respect to a year subsequent to 2020 that begins during the period to which subsection (a) applies shall be made no later than May of the year following such subsequent year.

(4) APPROPRIATIONS.—There is authorized to be appropriated, and there is appropriated, out of any monies in the Treasury not otherwise appropriated, such funds as are necessary to carry out this subsection.

(d) ENFORCEMENT.—

(1) APPLICATION WITH RESPECT TO PHSA, ERISA, AND IRC.—The provisions of this section shall be applied by the Secretary of Health and Human Services, Secretary of Labor, and Secretary of the Treasury to group health plans and health insurance issuers offering group or individual health insurance coverage as if included in the provisions of part A of title XXVII of the Public Health Service Act, part 7 of the Employee Retirement Income Se-

curity Act of 1974, and subchapter B of chapter 100 of the Internal Revenue Code of 1986, as applicable.

(2) PRIVATE RIGHT OF ACTION.—An individual with respect to whom an action is taken by a group health plan or health insurance issuer offering group or individual health insurance coverage in violation of subsection (a) may commence a civil action against the plan or issuer for appropriate relief. The previous sentence shall not be construed as limiting any enforcement mechanism otherwise applicable pursuant to paragraph (1).

(e) IMPLEMENTATION.—The Secretary of Health and Human Services, Secretary of Labor, and Secretary of the Treasury may implement the provisions of this section through sub-regulatory guidance, program instruction, or otherwise.

(f) TERMS.—The terms ''group health plan'', ''health insurance issuer'', ''group health insurance coverage'', and ''individual health insurance coverage'' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b), and section 9832 of the Internal Revenue Code of 1986, as applicable.

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