

116TH CONGRESS  
2D SESSION

# H. R. 6539

To amend title XIX of the Social Security Act to increase Federal support to State Medicaid programs during economic downturns, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2020

Mrs. LEE of Nevada introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XIX of the Social Security Act to increase Federal support to State Medicaid programs during economic downturns, 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 “Coronavirus Medicaid  
5 Response Act”.

1 **SEC. 2. INCREASING FEDERAL SUPPORT TO STATE MED-**  
2 **ICAID PROGRAMS DURING ECONOMIC**  
3 **DOWNTURNS.**

4 (a) IN GENERAL.—Section 1905 of the Social Secu-  
5 rity Act (42 U.S.C. 1396d) is amended—

6 (1) in subsection (b), by striking “and (ff)” and  
7 inserting “(ff), and (gg)”; and

8 (2) by adding at the end the following new sub-  
9 section:

10 “(gg) INCREASED FMAP DURING ECONOMIC  
11 DOWNTURNS.—

12 “(1) IN GENERAL.—Notwithstanding subsection  
13 (b), (y), or (z)(2), if a fiscal quarter that begins on  
14 or after January 1, 2020, is an economic downturn  
15 quarter (as defined in paragraph (2)) with respect to  
16 a State, then the Federal medical assistance percent-  
17 age applicable to amounts expended by the State for  
18 medical assistance for services furnished during such  
19 quarter shall be increased in accordance with para-  
20 graphs (3) and (4).

21 “(2) ECONOMIC DOWNTURN QUARTER.—

22 “(A) IN GENERAL.—

23 “(i) IN GENERAL.—In this subsection,  
24 the term ‘economic downturn quarter’  
25 means, with respect to a State, a fiscal  
26 quarter during which the State’s unem-

1           ployment rate for the quarter exceeds the  
2           percentage determined for the State and  
3           quarter under clause (ii).

4           “(ii) THRESHOLD PERCENTAGE.—The  
5           percentage determined under this clause  
6           for a State and fiscal quarter is the per-  
7           centage equal to the lower of—

8                   “(I) the State unemployment  
9                   rate at the 20<sup>th</sup> percentile of the dis-  
10                  tribution of the State’s quarterly un-  
11                  employment rates for the 60-quarter  
12                  period preceding the quarter involved,  
13                  increased by 1 percentage point; and

14                   “(II) the State’s average quar-  
15                   terly unemployment rate for the 12-  
16                   quarter period preceding the quarter  
17                   involved, increased by 1 percentage  
18                   point.

19           “(B) UNEMPLOYMENT DATA.—

20                   “(i) IN GENERAL.—Except as pro-  
21                   vided in clause (ii), for purposes of deter-  
22                   mining unemployment rates for a State  
23                   and a quarter under this paragraph, the  
24                   Secretary shall use data from the Local

1 Area Unemployment Statistics from the  
2 Bureau of Labor Statistics.

3 “(ii) APPLICATION TO CERTAIN TER-  
4 RITORIES.—In the case of the Virgin Is-  
5 lands, Guam, the Northern Mariana Is-  
6 lands, or American Samoa, the Secretary  
7 shall use data from the U–6 unemployment  
8 measure of the Bureau of Labor Statistics  
9 to make any necessary determinations  
10 under subparagraph (A).

11 “(3) FMAP INCREASE DURING ECONOMIC  
12 DOWNTURN QUARTER.—

13 “(A) IN GENERAL.—During a fiscal quar-  
14 ter that is an economic downturn quarter with  
15 respect to a State, the Federal medical assist-  
16 ance percentage otherwise determined for the  
17 State and quarter under subsection (b) and, if  
18 applicable, the Federal medical assistance per-  
19 centage applicable under subsection (y), (z)(2),  
20 or (ff) with respect to medical assistance fur-  
21 nished by the State during such quarter to indi-  
22 viduals described in either such subsection shall  
23 be increased by the number of percentage  
24 points (rounded to the nearest tenth of a per-  
25 centage point) equal to the product of—

1           “(i) the number of percentage points  
2           (rounded to the nearest tenth of a percent-  
3           age point) by which the unemployment  
4           rate for the State and quarter exceeds the  
5           percentage determined for the State and  
6           quarter under paragraph (2)(A)(ii); and

7           “(ii) 4.8.

8           “(B) APPLICATION OF COVID–19 FMAP IN-  
9           CREASE.—Any increase applicable to the Fed-  
10          eral medical assistance percentage of a State  
11          for a fiscal quarter under subparagraph (A)  
12          shall be in addition to any increase to such per-  
13          centage for such quarter made pursuant to sec-  
14          tion 6008(a) of the Families First Coronavirus  
15          Response Act.

16          “(C) LIMITATION.—In no case shall an in-  
17          crease to the Federal medical assistance per-  
18          centage of a State under this paragraph result  
19          in a Federal medical assistance percentage that  
20          exceeds 95 percent.

21          “(D) SCOPE OF APPLICATION.—Any in-  
22          crease to the Federal medical assistance per-  
23          centage of a State for a fiscal quarter under  
24          this paragraph shall only apply with respect to  
25          payments for amounts expended by the State

1 for medical assistance for services furnished  
2 during such quarter and shall not apply with  
3 respect to—

4 “(i) disproportionate share hospital  
5 payments described in section 1923;

6 “(ii) payments under title IV or XXI;

7 “(iii) any payments under this title  
8 that are based on the enhanced FMAP de-  
9 scribed in section 2105(b); or

10 “(iv) any payments under this title  
11 that are based on a Federal medical assist-  
12 ance percentage determined for a State  
13 under subsection (aa) (but only to the ex-  
14 tent that such Federal medical assistance  
15 percentage is higher than the economic re-  
16 covery FMAP).

17 “(4) ADVANCE PAYMENT; RETROSPECTIVE AD-  
18 JUSTMENT.—

19 “(A) IN GENERAL.—Prior to the beginning  
20 of each fiscal quarter that begins on or after  
21 July 1, 2020, the Secretary shall, with respect  
22 to each State—

23 “(i) determine the increase (if any)  
24 that is expected to apply to the Federal  
25 medical assistance percentage of such

1 State for such quarter under this sub-  
2 section based on the projections made for  
3 the State and quarter under subparagraph  
4 (B); and

5 “(ii) shall apply such increase to the  
6 Federal medical assistance percentage of  
7 the State for purposes of making payments  
8 to the State for amounts expended during  
9 such quarter as medical assistance under  
10 the State plan.

11 “(B) PROJECTION OF STATE UNEMPLOY-  
12 MENT RATES.—Prior to the beginning of each  
13 fiscal quarter that begins on or after July 1,  
14 2020, the Secretary, acting through the Chief  
15 Actuary of the Centers for Medicare & Medicaid  
16 Services, shall, using the most recently available  
17 data described in paragraph (2)(B), make pro-  
18 jections with respect to—

19 “(i) the unemployment rates for each  
20 State for such quarter;

21 “(ii) the threshold percentages de-  
22 scribed in paragraph (2)(A)(ii) for each  
23 State for such quarter; and

24 “(iii) the national unemployment rate  
25 for such quarter.

1           “(C) RETROSPECTIVE ADJUSTMENT.—As  
2 soon as practicable after final unemployment  
3 data becomes available for a fiscal quarter that  
4 begins on or after July 1, 2020, the Secretary  
5 shall, with respect to each State—

6           “(i) make a final determination of the  
7 increase (if any) applicable to the Federal  
8 medical assistance percentage of the State  
9 for the quarter under this subsection; and

10           “(ii) in accordance with subsection  
11 (d)(2) of section 1903, reduce or increase  
12 the amount payable to the State under  
13 subsection (a) of such section for a subse-  
14 quent fiscal quarter to the extent of any  
15 overpayment or underpayment which the  
16 Secretary determines was made as a result  
17 of a miscalculation of the increase applica-  
18 ble to the Federal medical assistance per-  
19 centage of the State for such prior fiscal  
20 quarter under this subsection.

21           “(5) RETROSPECTIVE APPLICATION OF OVER-  
22 THE-LIMIT FMAP INCREASES.—

23           “(A) IN GENERAL.—If a State has excess  
24 percentage points with respect to an economic  
25 downturn quarter and an applicable FMAP (as



1 determined under subparagraph (B)), the State  
2 may elect to apply such excess percentage  
3 points to increase such applicable FMAP for  
4 one or more quarters during the look-back pe-  
5 riod for the State and economic downturn quar-  
6 ter in accordance with this paragraph.

7 “(B) EXCESS PERCENTAGE POINTS.—For  
8 purposes of this paragraph, the number of ex-  
9 cess percentage points for a State, economic  
10 downturn quarter, and an applicable FMAP  
11 shall be equal to the number of percentage  
12 points by which—

13 “(i) the applicable FMAP for the  
14 State and quarter (after application of  
15 paragraph (3) but without regard to sub-  
16 paragraph (C) of such paragraph); exceeds

17 “(ii) 95 percent.

18 “(C) EFFECT OF APPLICATION OF EXCESS  
19 PERCENTAGE POINTS.—If a State elects to  
20 apply excess percentage points to an applicable  
21 FMAP to a quarter during a look-back period  
22 under this paragraph, the Secretary shall deter-  
23 mine the additional amount of payment under  
24 section 1903(a) to which the State would have  
25 been entitled for such quarter if the applicable

1 FMAP (as so increased) had been in effect for  
2 such quarter, and shall treat such additional  
3 amount as an underpayment for such quarter.

4 “(D) DISTRIBUTION OF EXCESS PERCENT-  
5 AGE POINTS.—A State that has excess percent-  
6 age points with respect to an economic down-  
7 turn quarter and applicable FMAP may elect to  
8 divide such points among more than 1 quarter  
9 during the look-back period for such State and  
10 quarter provided that no excess percentage  
11 point (or fraction of an excess percentage point)  
12 is applied to the applicable FMAP of more than  
13 1 quarter.

14 “(E) LIMITATIONS.—

15 “(i) NO INCREASES OVER 100 PER-  
16 CENT.—A State may not increase an appli-  
17 cable FMAP for any quarter during a look-  
18 back period under this paragraph if such  
19 increase would result in the applicable  
20 FMAP for such quarter exceeding 100 per-  
21 cent.

22 “(ii) SCOPE OF APPLICATION.—Any  
23 increase to an applicable FMAP of a State  
24 for a fiscal quarter under this paragraph—

1 “(I) shall only apply with respect  
2 to payments for amounts expended by  
3 the State for medical assistance for  
4 services furnished during such quarter  
5 to which such applicable FMAP is ap-  
6 plicable; and

7 “(II) shall not apply with respect  
8 to payments described in paragraph  
9 (3)(D).

10 “(F) DEFINITIONS.—In this paragraph:

11 “(i) APPLICABLE FMAP.—The term  
12 ‘applicable FMAP’ means, with respect to  
13 a State and fiscal quarter—

14 “(I) the Federal medical assist-  
15 ance percentage determined for the  
16 State and quarter under subsection  
17 (b);

18 “(II) the Federal medical assist-  
19 ance percentage applicable under sub-  
20 section (y);

21 “(III) the Federal medical assist-  
22 ance percentage applicable under sub-  
23 section (z)(2); or

24 “(IV) the Federal medical assist-  
25 ance percentage determined for the

1 State and quarter under subsection  
2 (ff).

3 “(ii) LOOK-BACK PERIOD.—The term  
4 ‘look-back period’ means, with respect to a  
5 State and a fiscal quarter that is an eco-  
6 nomic downturn quarter for the State, the  
7 period of 4 fiscal quarters that ends with  
8 the fourth quarter which precedes the most  
9 recent fiscal quarters that was not an eco-  
10 nomic downturn quarter for the State.

11 “(6) REQUIREMENT FOR ALL STATES.—A State  
12 may not receive an increase in the Federal medical  
13 assistance percentage for such State under this sub-  
14 section, with respect to a fiscal quarter, if—

15 “(A) eligibility standards, methodologies,  
16 or procedures under the State plan or a waiver  
17 of such plan are more restrictive during such  
18 quarter than the eligibility standards, meth-  
19 odologies, or procedures, respectively, under  
20 such plan (or waiver) as in effect on the last  
21 day of the most recent fiscal quarter that was  
22 not an economic downturn quarter for the  
23 State;

24 “(B) the amount of any premium imposed  
25 by the State pursuant to section 1916 or 1916A

1 during such quarter, with respect to an indi-  
2 vidual enrolled under such plan (or waiver), ex-  
3 ceeds the amount of such premium as of the  
4 date described in subparagraph (A); or

5 “(C) the State fails to provide that an in-  
6 dividual who is enrolled for benefits under such  
7 plan (or waiver) as of the date described in sub-  
8 paragraph (A) or enrolls for benefits under  
9 such plan (or waiver) during the period begin-  
10 ning with such date and ending with the day  
11 before the first day of the next quarter that is  
12 not an economic downturn quarter for the State  
13 shall be treated as eligible for such benefits for  
14 not less than 12 months (or, if such period is  
15 less than 12 months, throughout such period)  
16 unless the individual requests a voluntary ter-  
17 mination of eligibility or the individual ceases to  
18 be a resident of the State.”.

19 (b) EXCLUSION OF ECONOMIC DOWNTURN FMAP  
20 INCREASES FROM TERRITORIAL CAPS.—Section 1108 of  
21 the Social Security Act (42 U.S.C. 1308) is amended—

22 (1) in subsection (f), in the matter preceding  
23 paragraph (1), by striking “subsection (g) and sec-  
24 tion 1935(e)(1)(B)” and inserting “subsections (g)  
25 and (h) and section 1935(e)(1)(B)”; and

1           (2) by adding at the end the following:

2           “(h) **EXCLUSION FROM CAPS OF AMOUNTS ATTRIB-**  
3 **UTABLE TO ECONOMIC DOWNTURN FMAP.**—The portion  
4 of any payment made to a territory for a fiscal year that  
5 is attributable to an increase in the Federal medical assist-  
6 ance percentage for a fiscal quarter during such year  
7 under section 1905(gg) shall not be taken into account  
8 for purposes of applying payment limits under subsections  
9 (f) and (g).”.

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