

116TH CONGRESS  
1ST SESSION

# S. 1773

To amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 11, 2019

Mr. SANDERS (for himself, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. BLUMENTHAL, Ms. HARRIS, Mr. BOOKER, Ms. WARREN, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Territories Health Equity Act of 2019”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—MEDICAID

- Sec. 101. Elimination of general Medicaid funding limitations (“cap”) for territories.
- Sec. 102. Elimination of specific Federal medical assistance percentage (FMAP) limitation for territories; temporary increase in FMAP for Puerto Rico and the Virgin Islands to 100 percent.
- Sec. 103. Application of Medicaid waiver authority to all of the territories.
- Sec. 104. Permitting Medicaid DSH allotments for territories.

#### TITLE II—MEDICARE

##### Subtitle A—Part A

- Sec. 201. Calculation of Medicare DSH payments for IPPS hospitals in Puerto Rico.
- Sec. 202. Rebasing target amount for hospitals in territories.
- Sec. 203. Medicare DSH target adjustment for hospitals in territories.

##### Subtitle B—Part B

- Sec. 211. Application of part B deemed enrollment process to residents of Puerto Rico; special enrollment period and limit on late enrollment penalties.

##### Subtitle C—Medicare Advantage (Part C)

- Sec. 221. Adjustment in benchmark for low-base payment counties in Puerto Rico.

##### Subtitle D—Part D

- Sec. 231. Improved use of allocated prescription drug funds by territories.
- Sec. 232. Report on treatment of territories under Medicare part D.

#### TITLE III—MISCELLANEOUS

- Sec. 301. Modified treatment of territories with respect to application of ACA annual health insurance provider fees.
- Sec. 302. Medicaid and CHIP territory transparency and information.
- Sec. 303. Report on exclusion of territories from Exchanges.
- Sec. 304. Access to coverage for individuals in certain areas without any available Exchange plans.
- Sec. 305. Extension of family-to-family health information centers program to territories.

- 1 **TITLE I—MEDICAID**
- 2 **SEC. 101. ELIMINATION OF GENERAL MEDICAID FUNDING**
- 3 **LIMITATIONS (“CAP”) FOR TERRITORIES.**
- 4 (a) IN GENERAL.—Section 1108 of the Social Secu-
- 5 rity Act (42 U.S.C. 1308) is amended—

1           (1) in subsection (f), in the matter preceding  
2 paragraph (1), by striking “subsection (g)” and in-  
3 serting “subsections (g) and (h)”;

4           (2) in subsection (g)(2), in the matter pre-  
5 ceding subparagraph (A), by inserting “subsection  
6 (h)” after “subject to”; and

7           (3) by adding at the end the following new sub-  
8 section:

9           “(h) SUNSET OF MEDICAID FUNDING LIMITATIONS  
10 FOR PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE  
11 NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA.—  
12 Subsections (f) and (g) shall not apply to Puerto Rico,  
13 the Virgin Islands, Guam, the Northern Mariana Islands,  
14 and American Samoa beginning with fiscal year 2020.”.

15           (b) CONFORMING AMENDMENTS.—

16           (1) Section 1902(j) of the Social Security Act  
17 (42 U.S.C. 1396a(j)) is amended by striking “, the  
18 limitation in section 1108(f),”.

19           (2) Section 1903(u) of the Social Security Act  
20 (42 U.S.C. 1396b(u)) is amended by striking para-  
21 graph (4).

22           (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply beginning with fiscal year 2020.

1 **SEC. 102. ELIMINATION OF SPECIFIC FEDERAL MEDICAL**  
 2 **ASSISTANCE PERCENTAGE (FMAP) LIMITA-**  
 3 **TION FOR TERRITORIES; TEMPORARY IN-**  
 4 **CREASE IN FMAP FOR PUERTO RICO AND**  
 5 **THE VIRGIN ISLANDS TO 100 PERCENT.**

6 Section 1905(b) of the Social Security Act (42 U.S.C.  
 7 1396d(b)) is amended—

8 (1) in clause (2), by inserting “for fiscal years  
 9 before fiscal year 2020” after “American Samoa”;  
 10 and

11 (2) by adding at the end the following new sen-  
 12 tence: “Notwithstanding the first sentence of this  
 13 subsection, for each of fiscal years 2020 and 2021,  
 14 the Federal medical assistance percentage for Puerto  
 15 Rico and the Virgin Islands shall be 100 percent.”.

16 **SEC. 103. APPLICATION OF MEDICAID WAIVER AUTHORITY**  
 17 **TO ALL OF THE TERRITORIES.**

18 (a) IN GENERAL.—Section 1902(j) of the Social Se-  
 19 curity Act (42 U.S.C. 1396a(j)) is amended—

20 (1) by striking “American Samoa and the  
 21 Northern Mariana Islands” and inserting “Puerto  
 22 Rico, the Virgin Islands, Guam, the Northern Mar-  
 23 iana Islands, and American Samoa”;

24 (2) by striking “American Samoa or the North-  
 25 ern Mariana Islands” and inserting “Puerto Rico,

1 the Virgin Islands, Guam, the Northern Mariana Is-  
2 lands, or American Samoa”;

3 (3) by inserting “(1)” before “Notwith-  
4 standing”;

5 (4) by inserting “except as otherwise provided  
6 in this subsection,” after “Notwithstanding any  
7 other requirement of this title”; and

8 (5) by adding at the end the following:

9 “(2) The Secretary may not waive under this sub-  
10 section—

11 “(A) the requirement of subsection  
12 (a)(10)(A)(i)(IX) (relating to coverage of adults for-  
13 merly under foster care) with respect to any terri-  
14 tory;

15 “(B) the requirement to provide medical assist-  
16 ance for early and periodic screening, diagnostic,  
17 and treatment services (as defined in section  
18 1905(r)) for individuals who are eligible for assist-  
19 ance under the program and who under the age of  
20 21; or

21 “(C) the requirement to provide for payment  
22 for services described in section 1905(a)(2)(C) fur-  
23 nished by a Federally-qualified health center and  
24 services described in section 1905(a)(2)(B) furnished

1 by a rural health clinic in accordance with the provi-  
 2 sions of subsection (bb).”.

3 (b) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply beginning October 1, 2019.

5 **SEC. 104. PERMITTING MEDICAID DSH ALLOTMENTS FOR**  
 6 **TERRITORIES.**

7 Section 1923(f) of the Social Security Act (42 U.S.C.  
 8 1396r-4(f)) is amended—

9 (1) in paragraph (6), by adding at the end the  
 10 following new subparagraph:

11 “(C) TERRITORIES.—

12 “(i) FISCAL YEAR 2020.—For fiscal  
 13 year 2020, the DSH allotment for Puerto  
 14 Rico, the Virgin Islands, Guam, the North-  
 15 ern Mariana Islands, and American Samoa  
 16 shall bear the same ratio to \$300,000,000  
 17 as the ratio of the number of individuals  
 18 who are low-income or uninsured and re-  
 19 siding in such respective territory (as esti-  
 20 mated from time to time by the Secretary)  
 21 bears to the sums of the number of such  
 22 individuals residing in all of the territories.

23 “(ii) SUBSEQUENT FISCAL YEAR.—  
 24 For each subsequent fiscal year, the DSH  
 25 allotment for each such territory is subject

1 to an increase in accordance with para-  
2 graph (3).”; and

3 (2) in paragraph (9), by inserting before the pe-  
4 riod at the end the following: “, and includes, begin-  
5 ning with fiscal year 2020, Puerto Rico, the Virgin  
6 Islands, Guam, the Northern Mariana Islands, and  
7 American Samoa”.

## 8 **TITLE II—MEDICARE**

### 9 **Subtitle A—Part A**

#### 10 **SEC. 201. CALCULATION OF MEDICARE DSH PAYMENTS FOR** 11 **IPPS HOSPITALS IN PUERTO RICO.**

12 Section 1886(d)(9)(D)(iii) of the Social Security Act  
13 (42 U.S.C. 1395ww(d)(9)(D)(iii)) is amended to read as  
14 follows:

15 “(iii) Subparagraph (F) (relating to dispropor-  
16 tionate share payments), including application of  
17 subsection (r), except that for this purpose—

18 “(I) the sum described in clause (ii) of this  
19 subparagraph shall be substituted for the sum  
20 referred to in paragraph (5)(F)(ii)(I); and

21 “(II) for discharges occurring on or after  
22 October 1, 2019, subclause (I) of paragraph  
23 (5)(F)(vi) shall be applied by substituting for  
24 the numerator described in such subclause the  
25 number of subsection (d) Puerto Rico hospital’s

1 patient days for the cost reporting period in-  
 2 volved which were made up of patients who (for  
 3 such days) were entitled to benefits under part  
 4 A of this title and were—

5 “(aa) entitled to supplementary secu-  
 6 rity income benefits (excluding any State  
 7 supplementation) under title XVI of this  
 8 Act;

9 “(bb) eligible for medical assistance  
 10 under a State plan under title XIX; or

11 “(cc) receiving aid or assistance under  
 12 any plan of the State approved under title  
 13 I, X, XIV, or XVI.”.

14 **SEC. 202. REBASING TARGET AMOUNT FOR HOSPITALS IN**  
 15 **TERRITORIES.**

16 Section 1886(b)(3) of the Social Security Act (42  
 17 U.S.C. 1395ww(b)(3)) is amended by adding at the end  
 18 the following new subparagraph:

19 “(M)(i) For each cost reporting period be-  
 20 ginning on or after October 1, 2019, in the case  
 21 of a hospital located in a territory of the United  
 22 States, there shall be substituted for the target  
 23 amount otherwise determined under subpara-  
 24 graph (A) the rebased target amount (as de-  
 25 fined in clause (ii)), if such substitution results



1 in an amount of payment under this section to  
2 the hospital for such period that is greater than  
3 the amount of payment that would be made  
4 under this section to the hospital for such pe-  
5 riod if this subparagraph were not to apply.

6 “(ii) For purposes of this subparagraph,  
7 the term ‘rebased target amount’ has the mean-  
8 ing given the term ‘target amount’ in subpara-  
9 graph (A), except that—

10 “(I) there shall be substituted for the  
11 preceding 12-month cost reporting period  
12 the 12-month cost reporting period begin-  
13 ning during fiscal year 2015 (or, at the op-  
14 tion of the hospital, beginning during fiscal  
15 year 2017);

16 “(II) any reference in subparagraph  
17 (A)(i) to the ‘first such cost reporting pe-  
18 riod’ is deemed a reference to the first cost  
19 reporting period following the 12-month  
20 cost reporting period beginning during fis-  
21 cal year 2015 (or, at the option of the hos-  
22 pital, beginning during fiscal year 2017);  
23 and

24 “(III) the applicable percentage in-  
25 crease shall only be applied under subpara-

1 graph (B)(ii) for cost reporting periods be-  
2 ginning on or after October 1, 2019.

3 “(iii) Nothing in this subparagraph shall  
4 affect any pending request by a hospital for a  
5 new target amount for any cost reporting pe-  
6 riod beginning during a fiscal year before fiscal  
7 year 2020.”.

8 **SEC. 203. MEDICARE DSH TARGET ADJUSTMENT FOR HOS-**  
9 **PITALS IN TERRITORIES.**

10 Section 1886(b)(3) of the Social Security Act (42  
11 U.S.C. 1395ww(b)(3)), as amended by section 202, is fur-  
12 ther amended by adding at the end the following new sub-  
13 paragraph:

14 “(N)(i) For each cost reporting period be-  
15 ginning on or after October 1, 2019, in the case  
16 of a hospital that is located in a territory of the  
17 United States other than Puerto Rico and that  
18 would be a subsection (d) hospital if it were lo-  
19 cated in one of the 50 States, the target  
20 amount shall be increased by—

21 “(I) in the case that such hospital has  
22 a disproportionate patient percentage of  
23 not less than 15 percent and not greater  
24 than 40 percent, 10 percent; and

1           “(II) in the case that such hospital  
2           has a disproportionate patient percentage  
3           of greater than 40 percent, 10 percent plus  
4           60 percent of the number of percentage  
5           points by which such hospital’s dispropor-  
6           tionate patient percentage exceeds 40 per-  
7           cent.

8           “(ii) For purposes of this subparagraph,  
9           the term ‘disproportionate patient percentage’  
10          has the meaning given such term in subsection  
11          (d)(5)(F)(vi), except that in applying such  
12          meaning any reference under such subsection to  
13          individuals entitled to supplementary security  
14          income under title XVI shall be deemed for pur-  
15          poses of this subparagraph to include individ-  
16          uals—

17                 “(I) eligible for medical assistance  
18                 under a State plan under title XIX; or

19                 “(II) receiving aid or assistance under  
20                 any plan of the territory approved under  
21                 title I, X, XIV, or XVI.”.



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

3           “(j) SPECIAL RULES FOR CERTAIN RESIDENTS OF  
4 PUERTO RICO.—

5           “(1) SPECIAL ENROLLMENT PERIOD, COVERAGE  
6 PERIOD FOR RESIDENTS WHO ARE ELIGIBLE BUT  
7 NOT ENROLLED.—

8           “(A) IN GENERAL.—In the case of a tran-  
9 sition individual (as defined in paragraph (3))  
10 who is not enrolled under this part as of the  
11 day before the first day of the effective month  
12 (as defined in subparagraph (C)), the Secretary  
13 shall provide for a special enrollment period  
14 under section 1837 of 7 months beginning with  
15 such effective month during which the indi-  
16 vidual may be enrolled under this part.

17           “(B) COVERAGE PERIOD.—In the case of  
18 such an individual who enrolls during such spe-  
19 cial enrollment period, the coverage period  
20 under section 1838 shall begin on the first day  
21 of the second month after the month in which  
22 the individual enrolls.

23           “(C) EFFECTIVE MONTH DEFINED.—In  
24 this section, the term ‘effective month’ means a  
25 month, not earlier than October 2020 and not

1 later than January 2021, specified by the Sec-  
2 retary.

3 “(2) REDUCTION IN LATE ENROLLMENT PEN-  
4 ALTIES FOR CURRENT ENROLLEES AND INDIVID-  
5 UALS ENROLLING DURING TRANSITION.—

6 “(A) IN GENERAL.—In the case of a tran-  
7 sition individual who is enrolled under this part  
8 as of the day before the first day of the effec-  
9 tive month or who enrolls under this part on or  
10 after the date of the enactment of this sub-  
11 section but before the end of the special enroll-  
12 ment period under paragraph (1)(A), the  
13 amount of the late enrollment penalty imposed  
14 under section 1839(b) shall be recalculated by  
15 reducing the penalty to 15 percent of the pen-  
16 alty otherwise established.

17 “(B) APPLICATION.—Subparagraph (A)  
18 shall be applied in the case of a transition indi-  
19 vidual who—

20 “(i) is enrolled under this part as of  
21 the month before the effective month, for  
22 premiums for months beginning with such  
23 effective month; or

24 “(ii) enrolls under this part on or  
25 after the date of the enactment of this Act

1 and before the end of the special enroll-  
2 ment period under paragraph (1)(A), for  
3 premiums for months during the coverage  
4 period under this part which occur during  
5 or after the effective month.

6 “(C) LOSS OF REDUCTION IF INDIVIDUAL  
7 TERMINATES ENROLLMENT.—Subparagraph  
8 (A) shall not apply to a transition individual if  
9 the individual terminates enrollment under this  
10 part after the end of the special enrollment pe-  
11 riod under paragraph (1).

12 “(3) TRANSITION INDIVIDUAL DEFINED.—In  
13 this section, the term ‘transition individual’ means  
14 an individual who resides in Puerto Rico and who  
15 would have been deemed enrolled under this part  
16 pursuant to section 1837(f) before the first day of  
17 the effective month but for the fact that the indi-  
18 vidual was a resident of Puerto Rico, regardless of  
19 whether the individual is enrolled under this part as  
20 of such first day.”.

1     **Subtitle C—Medicare Advantage**  
2                     **(Part C)**

3     **SEC. 221. ADJUSTMENT IN BENCHMARK FOR LOW-BASE**  
4                     **PAYMENT COUNTIES IN PUERTO RICO.**

5             Section 1853(n) of the Social Security Act (42 U.S.C.  
6     1395w–23(n)) is amended—

7             (1) in paragraph (1), by striking “and (5)” and  
8             inserting “(5), and (6)”;

9             (2) in paragraph (4), by striking “In no case”  
10            and inserting “Subject to paragraph (6), in no  
11            case”; and

12            (3) by adding at the end the following new  
13            paragraph:

14            “(6) SPECIAL RULES FOR BLENDED BENCH-  
15            MARK AMOUNT FOR TERRITORIES.—

16            “(A) IN GENERAL.—Subject to subpara-  
17            graph (B), the blended benchmark amount for  
18            an area in a territory for a year (beginning with  
19            2020) shall not be less than 80 percent of the  
20            national average of the base payment amounts  
21            specified in subparagraph (2)(E) for such year  
22            for areas within the 50 States and the District  
23            of Columbia.

24            “(B) LIMITATION.—In no case shall the  
25            blended benchmark amount for an area in a



1 territory for a year under subparagraph (A) ex-  
 2 ceed the lowest blended benchmark amount for  
 3 any area within the 50 States and the District  
 4 of Columbia for such year.”.

5 **Subtitle D—Part D**

6 **SEC. 231. IMPROVED USE OF ALLOCATED PRESCRIPTION**  
 7 **DRUG FUNDS BY TERRITORIES.**

8 Section 1935(e) of the Social Security Act (42 U.S.C.  
 9 1396u–5(e)) is amended by adding at the end the fol-  
 10 lowing new paragraph:

11 “(5) IMPROVED USE OF FUNDS FOR LOW-IN-  
 12 COME PART D ELIGIBLE INDIVIDUALS.—This sub-  
 13 section shall be applied beginning with fiscal year  
 14 2020 as follows, notwithstanding any other provision  
 15 of this title:

16 “(A) CLARIFYING STATE FLEXIBILITY TO  
 17 COVER NON-DUAL-ELIGIBLE INDIVIDUALS.—In  
 18 this title, the term ‘medical assistance’ includes  
 19 financial assistance furnished by a State under  
 20 this subsection to part D eligible individuals  
 21 who, if they were residing in one of the 50  
 22 States or the District of Columbia, would qual-  
 23 ify as subsidy eligible individuals under section  
 24 1860D–14(a)(3), and without regard to wheth-

1 er such individuals otherwise qualify for medical  
2 assistance under this title.

3 “(B) 100 PERCENT FMAP TO REFLECT NO  
4 STATE MATCHING REQUIRED FOR PART D LOW  
5 INCOME SUBSIDIES.—The Federal medical as-  
6 sistance percentage applicable to the assistance  
7 furnished under this subsection is 100 percent.

8 “(C) LIMITED FUNDING FOR SPECIAL  
9 RULES.—Subparagraphs (A) and (B), and the  
10 provision of medical assistance for covered part  
11 D drugs to low-income part D eligible individ-  
12 uals for a State and period under this sub-  
13 section, is limited to the amount specified in  
14 paragraph (3) for such State and period.”.

15 **SEC. 232. REPORT ON TREATMENT OF TERRITORIES**  
16 **UNDER MEDICARE PART D.**

17 Paragraph (4) of section 1935(e) of the Social Secu-  
18 rity Act (42 U.S.C. 1396u–5(e)) is amended to read as  
19 follows:

20 “(4) REPORT ON APPLICATION OF SUB-  
21 SECTION.—

22 “(A) IN GENERAL.—Not later than Feb-  
23 ruary 1, 2021, the Secretary shall submit to  
24 Congress a report on the application of this

1 subsection during the period beginning fiscal  
2 year 2006 and ending fiscal year 2020.

3 “(B) INFORMATION TO BE INCLUDED IN  
4 REPORT.—Such report shall include—

5 “(i) program guidance issued by the  
6 Secretary to implement this subsection;

7 “(ii) for each territory, information on  
8 the increased amount under paragraph (3)  
9 and how the territory has applied such  
10 amount, including the territory’s program  
11 design, expenditures, and number of indi-  
12 viduals (and dual-eligible individuals) as-  
13 sisted; and

14 “(iii) differences between how such  
15 territories are treated under part D of title  
16 XVIII and under this title compared with  
17 the treatment of the 50 States and the  
18 District of Columbia under such part and  
19 this title for different fiscal years within  
20 the period covered under the report.

21 “(C) RECOMMENDATIONS.—Such report  
22 shall include recommendations for improving  
23 prescription drug coverage for low-income indi-  
24 viduals in each territory, including rec-

1           ommendations regarding each of the following  
2           alternative approaches:

3                   “(i) Adjusting the aggregate amount  
4                   specified in paragraph (3)(B).

5                   “(ii) Allowing residents of the terri-  
6                   tories to be subsidy eligible individuals  
7                   under section 1860D–14, notwithstanding  
8                   subsection (a)(3)(F) of such section, or  
9                   providing substantially equivalent low-in-  
10                  come prescription drug subsidies to such  
11                  residents.”.

## 12           **TITLE III—MISCELLANEOUS**

### 13   **SEC. 301. MODIFIED TREATMENT OF TERRITORIES WITH** 14                   **RESPECT TO APPLICATION OF ACA ANNUAL** 15                   **HEALTH INSURANCE PROVIDER FEES.**

16           Section 9010 of the Patient Protection and Afford-  
17   able Care Act (26 U.S.C. 4001 note prec.) is amended—

18                   (1) in subsection (b)(1), by inserting “subject  
19                   to subsection (k)(1),” after “With respect to each  
20                   covered entity,”; and

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

22                   “(k) SPECIAL RULES FOR TREATMENT OF TERRI-  
23   TORIES.—

24                   “(1) IN GENERAL.—In applying this section  
25                   with respect to United States health risks located

1 outside of the 50 States or the District of Columbia  
2 for years beginning with 2020—

3 “(A) the amount of the fee under sub-  
4 section (b) shall be 50 percent of the amount  
5 of the fee otherwise determined;

6 “(B) the Secretary shall deposit the  
7 amount of such fees collected for each territory  
8 into a separate account; and

9 “(C) amounts in such an account for a ter-  
10 ritory for a year are appropriated and shall be  
11 available to the territory in accordance with  
12 paragraph (2).

13 “(2) AVAILABILITY OF FUNDS.—Amounts made  
14 available to a territory under paragraph (1)(C) with  
15 respect to a territory for a year shall be made avail-  
16 able to the territory, upon application of the terri-  
17 tory to the Secretary of Health and Human Serv-  
18 ices, only for the following purposes, as elected by  
19 the territory in such application:

20 “(A) INCREASED PRESCRIPTION DRUG AS-  
21 SISTANCE FOR LOW-INCOME PART D ELIGIBLE  
22 INDIVIDUALS.—For increasing the amount of  
23 funds made available to the territory under sec-  
24 tion 1935(e)(3) of the Social Security Act (42  
25 U.S.C. 1396u–5(e)(3)) for assistance for low-in-

1           come part D eligible individuals in obtaining  
2           part D covered drugs.

3           “(B)    SATISFYING    STATE    MEDICAID  
4           MATCHING REQUIREMENT.—For the territory to  
5           meet non-Federal matching requirements im-  
6           posed with respect to obtaining Federal finan-  
7           cial participation under title XIX of the Social  
8           Security Act.”.

9   **SEC. 302. MEDICAID AND CHIP TERRITORY TRANSPARENCY**  
10                                   **AND INFORMATION.**

11           (a) PUBLICATION OF INFORMATION ON FEDERAL  
12   EXPENDITURES UNDER MEDICAID AND CHIP IN THE  
13   TERRITORIES.—Not later than 180 days after the date  
14   of the enactment of this Act, the Secretary of Health and  
15   Human Services shall publish, and periodically update, on  
16   the Internet site of the Centers for Medicare & Medicaid  
17   Services information on Medicaid and CHIP carried out  
18   in the territories of the United States. Such information  
19   shall include, with respect to each such territory—

20           (1) the income levels established by the terri-  
21   tory for purposes of eligibility of an individual to re-  
22   ceive medical assistance under Medicaid or child  
23   health assistance under CHIP;

24           (2) the number of individuals enrolled in Med-  
25   icaid and CHIP in such territory;

1           (3) any State plan amendments in effect to  
2 carry out Medicaid or CHIP in such territory;

3           (4) any waiver of the requirements of title XIX  
4 or title XXI issued by the Secretary to carry out  
5 Medicaid or CHIP in the territory, including a waiv-  
6 er under section 1115 of the Social Security Act (42  
7 U.S.C. 1315), any application for such a waiver, and  
8 any documentation related to such application (in-  
9 cluding correspondence);

10          (5) the amount of the Federal and non-Federal  
11 share of expenditures under Medicaid and CHIP in  
12 such territory;

13          (6) the systems in place for the furnishing of  
14 health care items and services under Medicaid and  
15 CHIP in such territory;

16          (7) the design of CHIP in such territory; and

17          (8) other information regarding the carrying  
18 out of Medicaid and CHIP in the territory that is  
19 published on such Internet site with respect to car-  
20 rying out Medicaid and CHIP in each State and the  
21 District of Columbia.

22 (b) DEFINITIONS.—In this section:

23          (1) CHIP.—The term “CHIP” means the  
24 State Children’s Health Insurance Program under  
25 title XXI of the Social Security Act.

1           (2) **MEDICAID.**—The term “Medicaid” means  
2           the Medicaid program under title XIX of the Social  
3           Security Act.

4           (3) **TERRITORY.**—The term “territory of the  
5           United States” includes Puerto Rico, the Virgin Is-  
6           lands of the United States, Guam, the Northern  
7           Mariana Islands, and American Samoa.

8   **SEC. 303. REPORT ON EXCLUSION OF TERRITORIES FROM**  
9                                   **EXCHANGES.**

10          (a) **IN GENERAL.**—Not later than February 1, 2020,  
11          the Secretary of Health and Human Services shall submit  
12          to Congress a report that details the adverse impacts in  
13          each territory from the practical exclusion of the terri-  
14          tories from the provisions of part II or III of subtitle D  
15          of title I of the Patient Protection and Affordable Care  
16          Act insofar as such provisions provide for the establish-  
17          ment of an American Health Benefit Exchange or the ad-  
18          ministration of a federally facilitated Exchange in each  
19          State and in the District of Columbia for the purpose of  
20          making health insurance more affordable and accessible  
21          for individuals and small businesses.

22          (b) **INFORMATION IN REPORT.**—The report shall in-  
23          clude information on the following:

24                  (1) An estimate of the total number of individ-  
25                  uals residing in each territory with health insurance



1 coverage, and the total number of individuals in each  
2 territory without health insurance coverage.

3 (2) The number of health insurance issuers in  
4 each territory and the health insurance coverage  
5 each such issuer offers.

6 (3) An estimate of the number of individuals re-  
7 siding in each territory who are denied premium and  
8 cost-sharing assistance that would otherwise be  
9 available to them for obtaining health insurance cov-  
10 erage through an Exchange if they resided in one of  
11 the 50 States or in the District of Columbia.

12 (4) An estimate of the amount of Federal as-  
13 sistance described in paragraph (3) that is not being  
14 made available to residents of each territory.

15 (5) An estimate of the number of small employ-  
16 ers in each territory that would be eligible to pur-  
17 chase health insurance coverage through a Small  
18 Business Health Options Program (SHOP) Market-  
19 place that would operate as part of an Exchange if  
20 the employers were in one of the 50 States or in the  
21 District of Columbia.

1 **SEC. 304. ACCESS TO COVERAGE FOR INDIVIDUALS IN CER-**  
2 **TAIN AREAS WITHOUT ANY AVAILABLE EX-**  
3 **CHANGE PLANS.**

4 Part 2 of subtitle D of title I of the Patient Protec-  
5 tion and Affordable Care Act (42 U.S.C. 18031 et seq.)  
6 is amended by adding at the end the following:

7 **“SEC. 1314. ACCESS TO COVERAGE FOR INDIVIDUALS IN**  
8 **CERTAIN AREAS WITHOUT ANY AVAILABLE**  
9 **EXCHANGE PLANS.**

10 “(a) IN GENERAL.—

11 “(1) COVERAGE THROUGH DC EXCHANGE.—

12 Not later than 3 months after the date of enactment  
13 of this section, the Secretary, in consultation with  
14 the Secretary of the Treasury and the Director of  
15 the Office of Personnel Management, shall establish  
16 a mechanism to ensure that, for any plan year be-  
17 ginning on or after the date described in subsection  
18 (c), any individual described in paragraph (2) has  
19 access to health insurance coverage which is at least  
20 as broad as the coverage available to Members of  
21 Congress and congressional staff (as defined in sec-  
22 tion 1312(d)(3)(D)) through the Exchange operating  
23 in the District of Columbia. Such individuals shall  
24 be eligible for any premium tax credit under section  
25 36B of the Internal Revenue Code of 1986, reduced  
26 cost sharing under section 1402, and advance deter-

1 mination and payment of such credits or such reduc-  
2 tions under section 1412 to be administered by the  
3 Secretary, in consultation with the Secretary of the  
4 Treasury and the Director of the Office of Personnel  
5 Management. The District of Columbia, its resi-  
6 dents, and small businesses shall be held harmless  
7 from any increased costs resulting from the enact-  
8 ment of this section.

9 “(2) INDIVIDUAL DESCRIBED.—An individual  
10 described in this paragraph is any individual who—

11 “(A) is not eligible to enroll in an em-  
12 ployer-sponsored health plan (excluding such a  
13 plan that would not be considered minimum es-  
14 sential coverage due to the application of sub-  
15 paragraph (C) of section 36B(c)(2) of the In-  
16 ternal Revenue Code of 1986 if such subpara-  
17 graph applied to such plan); and

18 “(B) is a bona fide resident of any posses-  
19 sion of the United States (as determined under  
20 section 937(a) of such Code) in which the Sec-  
21 retary certifies that no qualified health plan is  
22 offered through an Exchange established under  
23 this title.

24 “(3) POSSESSION OF THE UNITED STATES.—

25 For purposes of this section, the term ‘possession of

1 the United States' shall include such possessions as  
2 are specified in section 937(a)(1) of the Internal  
3 Revenue Code of 1986.

4 “(b) TREATMENT OF POSSESSIONS.—

5 “(1) PAYMENTS TO POSSESSIONS.—

6 “(A) MIRROR CODE POSSESSION.—The  
7 Secretary of the Treasury shall periodically (but  
8 not less frequently than annually) pay to each  
9 possession of the United States with a mirror  
10 code tax system amounts equal to the loss to  
11 that possession by reason of the application of  
12 this section (determined without regard to para-  
13 graph (2)) with respect to taxable years begin-  
14 ning after the date described in subsection (c).  
15 Such amounts shall be determined by the Sec-  
16 retary of the Treasury based on information  
17 provided by the government of the respective  
18 possession.

19 “(B) OTHER POSSESSIONS.—The Sec-  
20 retary of the Treasury shall periodically (but  
21 not less frequently than annually) pay to each  
22 possession of the United States which does not  
23 have a mirror code tax system amounts esti-  
24 mated by the Secretary of the Treasury as  
25 being equal to the aggregate benefits that would

1           have been provided to residents of such posses-  
2           sion by reason of the application of this section  
3           for any taxable years beginning after the date  
4           described in subsection (c) if a mirror code tax  
5           system had been in effect in such possession.  
6           The preceding sentence shall not apply with re-  
7           spect to any possession of the United States un-  
8           less such possession has a plan, which has been  
9           approved by the Secretary of the Treasury,  
10          under which such possession will promptly dis-  
11          tribute such payments to the residents of such  
12          possession.

13           “(2) COORDINATION WITH CREDIT ALLOWED  
14          AGAINST UNITED STATES INCOME TAXES.—No cred-  
15          it shall be allowed against United States income  
16          taxes for any taxable year under section 36B of the  
17          Internal Revenue Code of 1986 to any person—

18                   “(A) to whom a credit is allowed against  
19                   taxes imposed by the possession by reason of  
20                   this section (determined without regard to this  
21                   paragraph) for such taxable year, or

22                   “(B) who is eligible for a payment under  
23                   a plan described in paragraph (1)(B) with re-  
24                   spect to such taxable year.

1           “(3) MIRROR CODE TAX SYSTEM.—For pur-  
2           poses of this subsection, the term ‘mirror code tax  
3           system’ means, with respect to any possession of the  
4           United States, the income tax system of such posses-  
5           sion if the income tax liability of the residents of  
6           such possession under such system is determined by  
7           reference to the income tax laws of the United  
8           States as if such possession were the United States.

9           “(4) TREATMENT OF PAYMENTS.—For pur-  
10          poses of section 1324(b)(2) of title 31, United  
11          States Code, or any similar rule of law, the pay-  
12          ments under this subsection shall be treated in the  
13          same manner as a refund due from the credit al-  
14          lowed under section 36B of the Internal Revenue  
15          Code of 1986.

16          “(c) DATE DESCRIBED.—The date described in this  
17          subsection is the date on which the Secretary establishes  
18          the mechanism described in subsection (a)(1).”.

19   **SEC. 305. EXTENSION OF FAMILY-TO-FAMILY HEALTH IN-**  
20                           **FORMATION CENTERS PROGRAM TO TERRI-**  
21                           **TORIES.**

22          Section 501(c)(3)(C) of the Social Security Act (42  
23   U.S.C. 701(c)) is amended by striking “years 2018 and

1 2019” and inserting “year 2018 and each fiscal year  
2 thereafter”.

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