

117TH CONGRESS
2D SESSION

H. R. 6851

To amend the Families First Coronavirus Response Act and the CARES Act to establish new coverage and payment rules for certain COVID–19 diagnostic tests and related items and services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2022

Mr. PALLONE (for himself and Mr. SCOTT of Virginia) 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

A BILL

To amend the Families First Coronavirus Response Act and the CARES Act to establish new coverage and payment rules for certain COVID–19 diagnostic tests and related items and services, 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 “No Surprises for
5 COVID–19 Tests Act”.

1 **SEC. 2. ESTABLISHING NEW COVERAGE AND PAYMENT**
2 **RULES FOR CERTAIN COVID-19 DIAGNOSTIC**
3 **TESTS AND RELATED ITEMS AND SERVICES.**

4 (a) **EXTENSION OF COVERAGE REQUIREMENT.**—Sec-
5 tion 6001(a) of the Families First Coronavirus Response
6 Act (42 U.S.C. 1320b–5 note) is amended in the matter
7 preceding paragraph (1) by striking “any portion of the
8 emergency period defined in paragraph (1)(B) of section
9 1135(g) of the Social Security Act (42 U.S.C. 1320b–
10 5(g)) beginning on or after the date of the enactment of
11 this Act” and inserting “the period beginning on the date
12 of the enactment of this Act and ending on December 31,
13 2023”.

14 (b) **PAYMENT AND BILLING RULES FOR ITEMS AND**
15 **SERVICES FURNISHED AFTER END OF PUBLIC HEALTH**
16 **EMERGENCY.**—

17 (1) **IN GENERAL.**—Section 3202 of the CARES
18 Act (42 U.S.C. 42 U.S.C. 256b note) is amended—

19 (A) in subsection (a), in the matter pre-
20 ceding paragraph (1), by inserting “that are
21 furnished before May 1, 2022,” after “(Public
22 Law 116–127)”;

23 (B) in subsection (b)(1), by striking
24 “emergency period declared under section 319
25 of the Public Health Service Act (42 U.S.C.
26 247d)” and inserting “period beginning on the

1 date of the enactment of this subsection and
2 ending on April 31, 2022”; and

3 (C) by adding at the end the following new
4 subsection:

5 “(c) APPLICATION OF SURPRISE BILLING PROVI-
6 SIONS.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), the provisions of sections 2799A–1 and
9 2799B–1 of the Public Health Service Act (42
10 U.S.C. 300gg–111, 300gg–131), 716 of the Em-
11 ployee Retirement Income Security Act of 1974 (29
12 U.S.C. 1185e), and 9816 of the Internal Revenue
13 Code of 1986 shall apply to items and services de-
14 scribed in section 6001(a) of division F of the Fami-
15 lies First Coronavirus Response Act (Public Law
16 116–127) furnished on or after May 1, 2022, and
17 before January 1, 2024, to an enrollee of a group
18 health plan or group or individual health insurance
19 coverage by a provider that does not have a nego-
20 tiated rate in effect with such plan or coverage (as
21 applicable) as if such items and services were emer-
22 gency services furnished by a nonparticipating pro-
23 vider in an emergency department of a hospital.

24 “(2) NONAPPLICATION TO OVER-THE-COUNTER
25 TESTS.—Paragraph (1) shall not apply with respect

1 to any over-the-counter test specified in the guidance
2 document published by the Department of Labor on
3 January 10, 2022, entitled ‘FAQs about Affordable
4 Care Act Implementation Part 51, Families First
5 Coronavirus Response Act and Coronavirus Aid, Re-
6 lief, and Economic Security Act Implementation’ or
7 any other over-the-counter test specified by the Sec-
8 retary pursuant to section 6001(a)(1) of the Fami-
9 lies First Coronavirus Response Act.

10 “(3) DEFINITIONS.—In this subsection, the
11 terms ‘emergency services’ and ‘nonparticipating
12 provider’ have the meanings given such terms in
13 subparagraphs (C)(i) and (G), respectively, of sec-
14 tions 2799A–1(a)(3) of the Public Health Service
15 Act (42 U.S.C. 300gg–111(a)(3)), 716(a)(3) of the
16 Employee Retirement Income Security Act of 1974
17 (29 U.S.C. 1185e(a)(3)), and section 9816(a)(3) of
18 the Internal Revenue Code of 1986.”.

19 (2) IMPLEMENTATION.—Notwithstanding any
20 other provision of law, the Secretaries of Health and
21 Human Services, Labor, and the Treasury may im-
22 plement the amendments made by this subsection by
23 subregulatory guidance or otherwise.

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