

118TH CONGRESS
2D SESSION

H. R. 9572

To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to increase penalties for group health plans and health insurance issuers for practices that violate balance billing requirements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2024

Mr. MURPHY (for himself, Mr. RUIZ, Mr. JOYCE of Pennsylvania, Ms. SCHRIER, and Mr. PANETTA) 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 the Workforce, 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 title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to increase penalties for group health plans and health insurance issuers for practices that violate balance billing requirements, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Enhanced Enforce-
3 ment of Health Coverage Act”.

4 **SEC. 2. INCREASING PENALTIES FOR GROUP HEALTH**
5 **PLANS AND HEALTH INSURANCE ISSUERS**
6 **FOR PRACTICES THAT VIOLATE BALANCE**
7 **BILLING REQUIREMENTS.**

8 (a) PHSA.—Section 2723(b)(2)(C) of the Public
9 Health Service Act (42 U.S.C. 300gg–22(b)(2)(C)) is
10 amended—

11 (1) in clause (i), by inserting “(or, in the case
12 of such a failure with respect to a provision specified
13 in clause (iv), \$10,000 per failure)” after “\$100”;
14 and

15 (2) by adding at the end the following new
16 clause:

17 “(iv) PROVISIONS SPECIFIED.—For
18 purposes of clause (i), the provisions speci-
19 fied in this clause are the following:

20 “(I) Subparagraphs (A) and (B)
21 of section 2799A–1(a)(1).

22 “(II) Clauses (i), (ii), (iii), and
23 (v) of section 2799A–1(a)(1)(C).

24 “(III) Subparagraphs (A), (B),
25 and (E) of section 2799A–1(b)(1).

1 “(IV) Paragraphs (1) and (2) of
2 section 2799A–2(a).”.

3 (b) ERISA.—Section 502 of the Employee Retire-
4 ment Income Security Act of 1974 (29 U.S.C. 1131) is
5 amended—

6 (1) in subsection (a)(6), by striking “or (9)”
7 and inserting “(9), or (12)”;

8 (2) in subsection (b)(3)—

9 (A) by inserting “, (c)(12),” after “sub-
10 sections (c)(9)”;

11 (B) by inserting “or (c)(12)” after “under
12 subsection (c)(9)”;

13 (3) in subsection (c), by adding at the end the
14 following new paragraph:

15 “(12) The Secretary may assess a civil penalty
16 against any group health plan or health insurance issuer
17 offering group health insurance coverage of not more than
18 \$10,000 for each violation for each individual with respect
19 to which such plan or coverage fails to comply with one
20 of the following provisions:

21 “(A) Subparagraphs (A) and (B) of section
22 716(a)(1).

23 “(B) Clauses (i), (ii), (iii), and (v) of section
24 716(a)(1)(C).

1 “(C) Subparagraphs (A), (B), and (E) of sec-
2 tion 716(b)(1).

3 “(D) Paragraphs (1) and (2) of section
4 717(a).”.

5 (c) IRC.—Section 4980D(b) of the Internal Revenue
6 Code of 1986 is amended—

7 (1) in paragraph (1), by inserting “(or, in the
8 case of such a failure with respect to a provision
9 specified in paragraph (4), \$10,000 per failure)”
10 after “\$100”; and

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

13 “(4) PROVISIONS SPECIFIED.—For purposes of
14 paragraph (1), the provisions specified in this para-
15 graph are the following:

16 “(A) Subparagraphs (A) and (B) of section
17 9816(a)(1).

18 “(B) Clauses (i), (ii), (iii), and (v) of sec-
19 tion 9816(a)(1)(C).

20 “(C) Subparagraphs (A), (B), and (E) of
21 section 9816(b)(1).

22 “(D) Paragraphs (1) and (2) of section
23 9817(a).”.

1 **SEC. 3. ADDITIONAL PENALTIES FOR LATE PAYMENT OR**
2 **NON-PAYMENT AFTER IDR ENTITY PAYMENT**
3 **DETERMINATION.**

4 (a) PHSA.—

5 (1) EMERGENCY AND NONEMERGENCY SERV-
6 ICES.—Section 2799A–1(c)(6) of the Public Health
7 Service Act (42 U.S.C. 300gg–111(c)(6)) is amend-
8 ed—

9 (A) in the paragraph heading, by inserting
10 “; PENALTY FOR LATE PAYMENT OR NON-PAY-
11 MENT” after “PAYMENT”;

12 (B) by striking “The total plan” and in-
13 serting the following:

14 “(A) TIMING OF PAYMENT.—The total
15 plan”; and

16 (C) by adding at the end the following new
17 subparagraphs:

18 “(B) NOTIFICATION.—In the case of a
19 plan or coverage required to make a payment
20 pursuant to a determination described in sub-
21 paragraph (A), such plan or coverage shall sub-
22 mit to the Secretary a notification of such pay-
23 ment as of the date such payment is made in
24 a manner specified by the Secretary.

25 “(C) PENALTY FOR LATE PAYMENT OR
26 NON-PAYMENT.—

1 “(i) IN GENERAL.—In the case of a
2 plan or coverage that has not made the re-
3 quired payment described in subparagraph
4 (A) with respect to an item or service in
5 the time period described in such subpara-
6 graph, in addition to making such pay-
7 ment, such plan or coverage shall also pay
8 to the nonparticipating provider or facility
9 an amount that is three times the dif-
10 ference between—

11 “(I) the initial payment (or, in
12 the case of a notice of denial of pay-
13 ment, \$0) described in subsection
14 (a)(1)(C)(iv)(I) or (b)(1)(C), as appli-
15 cable; and

16 “(II) the out-of-network rate (as
17 defined in subsection (a)(3)(K)) for
18 such item or service (less any cost
19 sharing required to be paid by the in-
20 dividual receiving such item or serv-
21 ice).

22 “(ii) INTEREST.—Such late payment
23 or non-payment (as applicable) shall also
24 be subject to interest in a manner specified
25 by the Secretary.”.

1 (2) AIR AMBULANCE SERVICES.—Section
2 2799A–2(b)(6) of the Public Health Service Act (42
3 U.S.C. 300gg–112(b)(6)) is amended—

4 (A) in the paragraph heading, by inserting
5 “; PENALTY FOR LATE PAYMENT OR NON-PAY-
6 MENT” after “PAYMENT”;

7 (B) by striking “The total plan” and in-
8 serting the following:

9 “(A) TIMING OF PAYMENT.—The total
10 plan”; and

11 (C) by adding at the end the following new
12 subparagraphs:

13 “(B) NOTIFICATION.—In the case of a
14 plan or coverage required to make a payment
15 pursuant to a determination described in sub-
16 paragraph (A), such plan or coverage shall sub-
17 mit to the Secretary a notification of such pay-
18 ment as of the date such payment is made in
19 a manner specified by the Secretary.

20 “(C) PENALTY FOR LATE PAYMENT OR
21 NON-PAYMENT.—

22 “(i) IN GENERAL.—In the case of a
23 plan or coverage that has not made the re-
24 quired payment described in subparagraph
25 (A) with respect to an item or service in

1 the time period described in such subpara-
2 graph, in addition to making such pay-
3 ment, such plan or coverage shall also pay
4 to the nonparticipating provider an amount
5 that is three times the difference be-
6 tween—

7 “(I) the initial payment (or, in
8 the case of a notice of denial of pay-
9 ment, \$0) described in subsection
10 (a)(3)(A); and

11 “(II) the out-of-network rate (as
12 defined in section 2799–1(a)(3)(K))
13 for such item or service (less any cost
14 sharing required to be paid by the in-
15 dividual receiving such item or serv-
16 ice).

17 “(ii) INTEREST.—Such late payment
18 or non-payment (as applicable) shall also
19 be subject to interest in a manner specified
20 by the Secretary.”

21 (b) ERISA.—

22 (1) EMERGENCY AND NONEMERGENCY SERV-
23 ICES.—Section 716(c)(6) of the Employee Retirement
24 Income Security Act of 1974 (29 U.S.C.
25 1185e(c)(6)) is amended—

1 (A) in the paragraph heading, by inserting
2 “; PENALTY FOR LATE PAYMENT OR NON-PAY-
3 MENT” after “PAYMENT”;

4 (B) by striking “The total plan” and in-
5 serting the following:

6 “(A) TIMING OF PAYMENT.—The total
7 plan”; and

8 (C) by adding at the end the following new
9 subparagraphs:

10 “(B) NOTIFICATION.—In the case of a
11 plan or coverage required to make a payment
12 pursuant to a determination described in sub-
13 paragraph (A), such plan or coverage shall sub-
14 mit to the Secretary a notification of such pay-
15 ment as of the date such payment is made in
16 a manner specified by the Secretary.

17 “(C) PENALTY FOR LATE PAYMENT OR
18 NON-PAYMENT.—

19 “(i) IN GENERAL.—In the case of a
20 plan or coverage that has not made the re-
21 quired payment described in subparagraph
22 (A) with respect to an item or service in
23 the time period described in such subpara-
24 graph, in addition to making such pay-
25 ment, such plan or coverage shall also pay

1 to the nonparticipating provider or facility
2 an amount that is three times the dif-
3 ference between—

4 “(I) the initial payment (or, in
5 the case of a notice of denial of pay-
6 ment, \$0) described in subsection
7 (a)(1)(C)(iv)(I) or (b)(1)(C), as appli-
8 cable; and

9 “(II) the out-of-network rate (as
10 defined in subsection (a)(3)(K)) for
11 such item or service (less any cost
12 sharing required to be paid by the in-
13 dividual receiving such item or serv-
14 ice).

15 “(ii) INTEREST.—Such late payment
16 or non-payment (as applicable) shall also
17 be subject to interest in a manner specified
18 by the Secretary.”.

19 (2) AIR AMBULANCE SERVICES.—Section
20 717(b)(6) of the Employee Retirement Income Secu-
21 rity Act of 1974 (29 U.S.C. 1185f(b)(6)) is amend-
22 ed—

23 (A) in the paragraph heading, by inserting
24 “; PENALTY FOR LATE PAYMENT OR NON-PAY-
25 MENT” after “PAYMENT”;

1 (B) by striking “The total plan” and in-
2 serting the following:

3 “(A) TIMING OF PAYMENT.—The total
4 plan”; and

5 (C) by adding at the end the following new
6 subparagraphs:

7 “(B) NOTIFICATION.—In the case of a
8 plan or coverage required to make a payment
9 pursuant to a determination described in sub-
10 paragraph (A), such plan or coverage shall sub-
11 mit to the Secretary a notification of such pay-
12 ment as of the date such payment is made in
13 a manner specified by the Secretary.

14 “(C) PENALTY FOR LATE PAYMENT OR
15 NON-PAYMENT.—

16 “(i) IN GENERAL.—In the case of a
17 plan or coverage that has not made the re-
18 quired payment described in subparagraph
19 (A) with respect to an item or service in
20 the time period described in such subpara-
21 graph, in addition to making such pay-
22 ment, such plan or coverage shall also pay
23 to the nonparticipating provider an amount
24 that is three times the difference be-
25 tween—

1 “(I) the initial payment (or, in
2 the case of a notice of denial of pay-
3 ment, \$0) described in subsection
4 (a)(3)(A); and

5 “(II) the out-of-network rate (as
6 defined in section 716(a)(3)(K)) for
7 such item or service (less any cost
8 sharing required to be paid by the in-
9 dividual receiving such item or serv-
10 ice).

11 “(ii) INTEREST.—Such late payment
12 or non-payment (as applicable) shall also
13 be subject to interest in a manner specified
14 by the Secretary.”.

15 (c) IRC.—

16 (1) EMERGENCY AND NONEMERGENCY SERV-
17 ICES.—Section 9816(c)(6) of the Internal Revenue
18 Code of 1986 is amended—

19 (A) in the paragraph heading, by inserting
20 “; PENALTY FOR LATE PAYMENT OR NON-PAY-
21 MENT” after “PAYMENT”;

22 (B) by striking “The total plan” and in-
23 serting the following:

24 “(A) TIMING OF PAYMENT.—The total
25 plan”; and

1 (C) by adding at the end the following new
2 subparagraphs:

3 “(B) NOTIFICATION.—In the case of a
4 plan required to make a payment pursuant to
5 a determination described in subparagraph (A),
6 such plan shall submit to the Secretary a notifi-
7 cation of such payment as of the date such pay-
8 ment is made in a manner specified by the Sec-
9 retary.

10 “(C) PENALTY FOR LATE PAYMENT OR
11 NON-PAYMENT.—

12 “(i) IN GENERAL.—In the case of a
13 plan that has not made the required pay-
14 ment described in subparagraph (A) with
15 respect to an item or service in the time
16 period described in such subparagraph, in
17 addition to making such payment, such
18 plan shall also pay to the nonparticipating
19 provider or facility an amount that is three
20 times the difference between—

21 “(I) the initial payment (or, in
22 the case of a notice of denial of pay-
23 ment, \$0) described in subsection
24 (a)(1)(C)(iv)(I) or (b)(1)(C), as appli-
25 cable; and

1 “(II) the out-of-network rate (as
2 defined in subsection (a)(3)(K)) for
3 such item or service (less any cost
4 sharing required to be paid by the in-
5 dividual receiving such item or serv-
6 ice).

7 “(ii) INTEREST.—Such late payment
8 or non-payment (as applicable) shall also
9 be subject to interest in a manner specified
10 by the Secretary.”.

11 (2) AIR AMBULANCE SERVICES.—Section
12 9817(b)(6) of the Internal Revenue Code of 1986 is
13 amended—

14 (A) in the paragraph heading, by inserting
15 “; PENALTY FOR LATE PAYMENT OR NON-PAY-
16 MENT” after “PAYMENT”;

17 (B) by striking “The total plan” and in-
18 serting the following:

19 “(A) TIMING OF PAYMENT.—The total
20 plan”; and

21 (C) by adding at the end the following new
22 subparagraphs:

23 “(B) NOTIFICATION.—In the case of a
24 plan required to make a payment pursuant to
25 a determination described in subparagraph (A),

1 such plan shall submit to the Secretary a notifi-
2 cation of such payment as of the date such pay-
3 ment is made in a manner specified by the Sec-
4 retary.

5 “(C) PENALTY FOR LATE PAYMENT OR
6 NON-PAYMENT.—

7 “(i) IN GENERAL.—In the case of a
8 plan that has not made the required pay-
9 ment described in subparagraph (A) with
10 respect to an item or service in the time
11 period described in such subparagraph, in
12 addition to making such payment, such
13 plan shall also pay to the nonparticipating
14 provider an amount that is three times the
15 difference between—

16 “(I) the initial payment (or, in
17 the case of a notice of denial of pay-
18 ment, \$0) described in subsection
19 (a)(3)(A); and

20 “(II) the out-of-network rate (as
21 defined in section 9816(a)(3)(K)) for
22 such item or service (less any cost
23 sharing required to be paid by the in-
24 dividual receiving such item or serv-
25 ice).

1 “(ii) INTEREST.—Such late payment
2 or non-payment (as applicable) shall also
3 be subject to interest in a manner specified
4 by the Secretary.”.

5 **SEC. 4. TRANSPARENCY REPORTING REQUIREMENTS.**

6 (a) PHSA.—Section 2799A–1(a)(2)(A)(iii) of the
7 Public Health Service Act (42 U.S.C. 300gg–
8 111(a)(2)(A)(iii)) is amended to read as follows:

9 “(iii) REPORTING.—

10 “(I) INITIAL REPORTING.—Be-
11 ginning for 2022 and ending on De-
12 cember 31 of the calendar year in
13 which the Enhanced Enforcement of
14 Health Coverage Act is enacted, the
15 Secretary shall annually submit to
16 Congress a report on the number of
17 plans and issuers with respect to
18 which audits were conducted during
19 such year pursuant to this subpara-
20 graph.

21 “(II) SUBSEQUENT REPORT-
22 ING.—

23 “(aa) IN GENERAL.—With
24 respect to the first calendar year
25 following the date of the enact-

1 ment of the Enhanced Enforce-
2 ment of Health Coverage Act,
3 not later than February 1 of
4 such year, and every 6 months
5 thereafter, the Secretary, in co-
6 ordination with the Secretary of
7 Labor and the Secretary of the
8 Treasury, shall submit to the
9 Committee on Ways and Means,
10 the Committee on Energy and
11 Commerce, and the Committee
12 on Education and the Workforce
13 of the House of Representatives,
14 and the Committee on Finance
15 and the Committee on Health,
16 Education, Labor and Pensions
17 of the Senate, a report on any
18 audits conducted pursuant to this
19 subparagraph during the applica-
20 ble reporting period, and any en-
21 forcement actions taken during
22 such period in accordance with
23 the provisions of this part, in-
24 cluding—

1 “(AA) the total number
2 of audits conducted under
3 this subparagraph;

4 “(BB) the number of
5 audits conducted pursuant
6 to clause (ii)(I);

7 “(CC) the number of
8 complaints submitted by
9 providers and by partici-
10 pants, beneficiaries, and en-
11 rollees with respect to a vio-
12 lation of this part;

13 “(DD) any enforcement
14 actions taken as a result of
15 a complaint submitted by a
16 provider or by a participant,
17 a beneficiary, or an enrollee,
18 with respect to the provi-
19 sions of this part;

20 “(EE) the total number
21 of, and the aggregate dollar
22 amount of, any civil mone-
23 tary penalties issued in ac-
24 cordance with this part;

1 “(FF) a summary of
2 any non-monetary corrective
3 action taken against a group
4 health plan or health insur-
5 ance issuer offering group or
6 individual health insurance
7 coverage for a violation of
8 this part; and

9 “(GG) a description of
10 the 3 most commonly re-
11 ported violations of this
12 part.

13 “(bb) APPLICABLE REPORT-
14 ING PERIOD.—For purposes of
15 this subclause, the term ‘applica-
16 ble reporting period’ means the 6
17 month period prior to each report
18 submitted under item (aa).”.

19 (b) IRC.—Section 9816(a)(2)(A)(iii) of the Internal
20 Revenue Code of 1986 is amended to read as follows:

21 “(iii) REPORTING.—

22 “(I) INITIAL REPORTING.—Be-
23 ginning for 2022 and ending on De-
24 cember 31 of the calendar year in
25 which the Enhanced Enforcement of

1 Health Coverage Act is enacted, the
2 Secretary shall annually submit to
3 Congress a report on the number of
4 plans with respect to which audits
5 were conducted during such year pur-
6 suant to this subparagraph.

7 “(II) SUBSEQUENT REPORT-
8 ING.—

9 “(aa) IN GENERAL.—With
10 respect to the first calendar year
11 following the date of the enact-
12 ment of the Enhanced Enforce-
13 ment of Health Coverage Act,
14 not later than February 1 of
15 such year, and every 6 months
16 thereafter, the Secretary, in co-
17 ordination with the Secretary of
18 Labor and the Secretary of
19 Health and Human Services,
20 shall submit to the Committee on
21 Ways and Means, the Committee
22 on Energy and Commerce, and
23 the Committee on Education and
24 the Workforce of the House of
25 Representatives, and the Com-

1 committee on Finance and the Com-
2 mittee on Health, Education,
3 Labor and Pensions of the Sen-
4 ate, a report on audits performed
5 pursuant to this subparagraph
6 during the applicable reporting
7 period, and any enforcement ac-
8 tions taken during such period in
9 accordance with the provisions of
10 an applicable section, including—

11 “(AA) the total number
12 of audits conducted under
13 this subparagraph;

14 “(BB) the number of
15 audits conducted pursuant
16 to clause (ii)(I);

17 “(CC) the number of
18 complaints submitted by
19 providers and by partici-
20 pants and beneficiaries with
21 respect to a violation of an
22 applicable section;

23 “(DD) any enforcement
24 actions taken pursuant to a

1 violation of an applicable
2 section;

3 “(EE) the total number
4 of, and the aggregate dollar
5 amount of, any civil mone-
6 tary penalties issued in ac-
7 cordance with an applicable
8 section;

9 “(FF) a summary of
10 any non-monetary corrective
11 action taken against a group
12 health plan for a violation of
13 an applicable section; and

14 “(GG) a description of
15 the 3 most commonly re-
16 ported violations of an appli-
17 cable section.

18 “(bb) DEFINITIONS.—In
19 this subclause:

20 “(AA) APPLICABLE RE-
21 PORTING PERIOD.—The
22 term ‘applicable reporting
23 period’ means the 6 month
24 period prior to each report
25 submitted under item (aa).

1 “(BB) APPLICABLE
2 SECTION.—The term ‘appli-
3 cable section’ means this
4 section and each of sections
5 9817 through 9825.”.

○