

117TH CONGRESS
1ST SESSION

S. 1833

To amend title XIX of the Social Security Act to extend the application of the Medicare payment rate floor to primary care services furnished under Medicaid and to apply the rate floor to additional providers of primary care services.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2021

Mr. BROWN (for himself, Mrs. MURRAY, Mr. BLUMENTHAL, Mr. MURPHY, Ms. BALDWIN, Mr. SCHATZ, Mr. LEAHY, Mr. MERKLEY, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XIX of the Social Security Act to extend the application of the Medicare payment rate floor to primary care services furnished under Medicaid and to apply the rate floor to additional providers of primary care services.

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 “Ensuring Access to
5 Primary Care for Women & Children Act”.

1 **SEC. 2. RENEWAL OF APPLICATION OF MEDICARE PAY-**
 2 **MENT RATE FLOOR TO PRIMARY CARE SERV-**
 3 **ICES FURNISHED UNDER MEDICAID AND IN-**
 4 **CLUSION OF ADDITIONAL PROVIDERS.**

5 (a) RENEWAL OF PAYMENT FLOOR; ADDITIONAL
 6 PROVIDERS.—

7 (1) IN GENERAL.—Section 1902(a)(13) of the
 8 Social Security Act (42 U.S.C. 1396a(a)(13)) is
 9 amended by striking subparagraph (C) and inserting
 10 the following:

11 “(C) payment for primary care services (as
 12 defined in subsection (jj)) at a rate that is not
 13 less than 100 percent of the payment rate that
 14 applies to such services and provider under part
 15 B of title XVIII (or, if greater, the payment
 16 rate that would be applicable under such part
 17 if the conversion factor under section 1848(d)
 18 for the year involved were the conversion factor
 19 under such section for 2009), and that is not
 20 less than the rate that would otherwise apply to
 21 such services under this title if the rate were
 22 determined without regard to this subpara-
 23 graph, and that are—

24 “(i) furnished in 2013 and 2014, by a
 25 physician with a primary specialty designa-

tion of family medicine, general internal medicine, or pediatric medicine; or

“(ii) furnished in the 2-year period that begins on the first day of the first month that begins after the date of enactment of the Ensuring Access to Primary Care for Women & Children Act or during any other additional period specified with respect to the State under section 1905(dd)(2)—

“(I) by a physician with a primary specialty designation of family medicine, general internal medicine, or pediatric medicine, but only if the physician self-attests that the physician is Board certified in family medicine, general internal medicine, or pediatric medicine;

“(II) by a physician with a primary specialty designation of obstetrics and gynecology, but only if the physician self-attests that the physician is Board certified in obstetrics and gynecology;

1 “(III) by an advanced practice
 2 clinician, as defined by the Secretary
 3 (except that the Secretary shall define
 4 such term for purposes of this sub-
 5 paragraph to exclude a provider de-
 6 scribed in subclause (I), (II), or (V)),
 7 that works under the supervision of—

8 “(aa) a physician that satis-
 9 fies the criteria specified in sub-
 10 clause (I) or (II); or

11 “(bb) a nurse practitioner or
 12 a physician assistant (as such
 13 terms are defined in section
 14 1861(aa)(5)(A)) who is working
 15 in accordance with State law, or
 16 a certified nurse-midwife (as de-
 17 fined in section 1861(gg)) who is
 18 working in accordance with State
 19 law;

20 “(IV) by a rural health clinic,
 21 Federally-qualified health center, or
 22 other health clinic that receives reim-
 23 bursement on a fee schedule applica-
 24 ble to a physician, a nurse practi-
 25 tioner or a physician assistant (as

1 such terms are defined in section
2 1861(aa)(5)(A)) who is working in ac-
3 cordance with State law, or a certified
4 nurse-midwife (as defined in section
5 1861(gg)) who is working in accord-
6 ance with State law, for services fur-
7 nished by a physician, nurse practi-
8 tioner, physician assistant, or certified
9 nurse-midwife, or services furnished
10 by an advanced practice clinician su-
11 pervised by a physician described in
12 subclause (I) or (II), another ad-
13 vanced practice clinician, a nurse
14 practitioner, physician assistant, or a
15 certified nurse-midwife; or

16 “(V) by a nurse practitioner or a
17 physician assistant (as such terms are
18 defined in section 1861(aa)(5)(A))
19 who is working in accordance with
20 State law, or a certified nurse-midwife
21 (as defined in section 1861(gg)) who
22 is working in accordance with State
23 law, in accordance with procedures
24 that ensure that the portion of the
25 payment for such services that the

1 nurse practitioner, physician assist-
 2 ant, or certified nurse-midwife is paid
 3 is not less than the amount that the
 4 nurse practitioner, physician assist-
 5 ant, or certified nurse-midwife would
 6 be paid if the services were provided
 7 under part B of title XVIII;”.

8 (2) CONFORMING AMENDMENTS.—Section
 9 1905(dd) of the Social Security Act (42 U.S.C.
 10 1396d(dd)) is amended—

11 (A) by striking “Notwithstanding” and in-
 12 serting the following:

13 “(1) IN GENERAL.—Notwithstanding”;

14 (B) by inserting “or furnished during a pe-
 15 riod that is an additional period with respect to
 16 the State, as specified in paragraph (2),” after
 17 “2015,”; and

18 (C) by adding at the end the following:

19 “(2) ADDITIONAL PERIODS.—For purposes of
 20 paragraph (1):

21 “(A) The 2-year period that begins on the
 22 first day of the first month that begins after
 23 the date of enactment of the Ensuring Access
 24 to Primary Care for Women & Children Act

1 shall be an additional period with respect to all
2 States.

3 “(B) Any public health emergency period
4 (as defined in paragraph (3)) with respect to a
5 State shall be an additional period with respect
6 to such State.

7 “(3) PUBLIC HEALTH EMERGENCY PERIOD.—
8 For purposes of paragraph (2), the term ‘public
9 health emergency period’ means, with respect to a
10 State, a period that—

11 “(A) begins on the date on which a public
12 health emergency is declared with respect to the
13 State by the Secretary pursuant to section 319
14 of the Public Health Service Act; and

15 “(B) ends on the last day of the sixth
16 month that begins on or after the date on which
17 such declaration expires.”.

18 (b) IMPROVED TARGETING OF PRIMARY CARE.—Sec-
19 tion 1902(jj) of the Social Security Act (42 U.S.C.
20 1396a(jj)) is amended—

21 (1) by redesignating paragraphs (1) and (2) as
22 subparagraphs (A) and (B), respectively, and re-
23 aligning the left margins accordingly;

24 (2) by striking “For purposes of” and inserting
25 the following:

1 “(1) IN GENERAL.—For purposes of”; and

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

3 “(2) EXCLUSIONS.—Such term does not include
4 any services described in subparagraph (A) or (B) of
5 paragraph (1) if such services are provided in an
6 emergency department of a hospital.”.

7 (c) ENSURING PAYMENT BY MANAGED CARE ENTI-
8 TIES.—

9 (1) IN GENERAL.—Section 1903(m)(2)(A) of
10 the Social Security Act (42 U.S.C. 1396b(m)(2)(A))
11 is amended—

12 (A) in clause (xii), by striking “and” after
13 the semicolon;

14 (B) in clause (xiii)—

15 (i) by realigning the left margin so as
16 to align with the left margin of clause (xii);
17 and

18 (ii) by striking the period at the end
19 and inserting “; and”; and

20 (C) by inserting after clause (xiii) the fol-
21 lowing:

22 “(xiv) such contract provides that (I) payments
23 to providers specified in section 1902(a)(13)(C) for
24 primary care services defined in section 1902(jj)
25 that are furnished during a year or period specified

1 in section 1902(a)(13)(C) and section 1905(dd) are
 2 at least equal to the amounts set forth and required
 3 by the Secretary by regulation, (II) the entity shall,
 4 upon request, provide documentation to the State,
 5 sufficient to enable the State and the Secretary to
 6 ensure compliance with subclause (I), and (III) the
 7 Secretary shall approve payments described in sub-
 8 clause (I) that are furnished through an agreed
 9 upon capitation, partial capitation, or other value-
 10 based payment arrangement if the capitation, partial
 11 capitation, or other value-based payment arrange-
 12 ment is based on a reasonable methodology and the
 13 entity provides documentation to the State sufficient
 14 to enable the State and the Secretary to ensure com-
 15 pliance with subclause (I).”.

16 (2) CONFORMING AMENDMENT.—Section
 17 1932(f) of the Social Security Act (42 U.S.C.
 18 1396u–2(f)) is amended by inserting “and clause
 19 (xiv) of section 1903(m)(2)(A)” before the period.

20 **SEC. 3. IMPROVING QUALITY AND VALUE FOR MEDICAID**
 21 **BENEFICIARIES.**

22 (a) GAO STUDY.—Not later than 3 years after the
 23 date of enactment of this Act, the Comptroller General
 24 of the United States shall submit to Congress a report
 25 that examines the effects of the payment rate floor for

1 primary care services under Medicaid provided under sec-
 2 tion 1902(a)(13)(C) of the Social Security Act (42 U.S.C.
 3 1396a(a)(13)(C)) on beneficiary access to such services,
 4 including any recommendations for how the payment rate
 5 floor for such services could be more effective.

6 (b) FUNDING THE DEVELOPMENT OF QUALITY
 7 MEASURES.—The first sentence of section 1139B(e) of
 8 the Social Security Act (42 U.S.C. 1320b–9b(e)) is
 9 amended by inserting “, and for fiscal year 2022,
 10 \$15,000,000,” before “for the purpose”.

11 (c) DEVELOPING QUALITY MEASURES FOR BENE-
 12 FICIARIES WITH DISABILITIES.—Section 1139B(b)(5) of
 13 the Social Security Act (42 U.S.C. 1320b–9b(b)(5)) is
 14 amended by adding at the end the following:

15 “(D) QUALITY MEASURES SPECIFIC TO
 16 ADULT INDIVIDUALS WITH DISABILITIES.—The
 17 Secretary, acting through the Administrator for
 18 the Centers for Medicare & Medicaid Services
 19 and the Director of the Agency for Healthcare
 20 Research and Quality, shall develop adult
 21 health quality measures that are specific to
 22 adult individuals with disabilities and shall in-
 23 clude those measures in the Medicaid Quality
 24 Measurement Program. In developing such
 25 measures, priority shall be given to developing

1 quality measures that assess the impact on
2 adult individuals with disabilities of existing
3 programs and to the development of quality
4 measures that assess the impact of new service
5 delivery innovations on such individuals.”.

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