

117TH CONGRESS  
1ST SESSION

# S. 408

To require the Secretary of Health and Human Services to publish guidance for States on strategies for maternal care providers participating in the Medicaid program to reduce maternal mortality and severe morbidity with respect to individuals receiving medical assistance under such program.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2021

Mr. TOOMEY (for himself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To require the Secretary of Health and Human Services to publish guidance for States on strategies for maternal care providers participating in the Medicaid program to reduce maternal mortality and severe morbidity with respect to individuals receiving medical assistance under such program.

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 “Supporting Best Prac-  
5       tices for Healthy Moms Act”.

1 **SEC. 2. DEVELOPING GUIDANCE ON MATERNAL MOR-**  
2 **TALITY AND SEVERE MORBIDITY REDUCTION**  
3 **FOR MATERNAL CARE PROVIDERS RECEIV-**  
4 **ING PAYMENT UNDER THE MEDICAID PRO-**  
5 **GRAM.**

6 (a) IN GENERAL.—Subject to the availability of ap-  
7 propriations, not later than 36 months after the date of  
8 enactment of this Act, the Secretary shall publish on a  
9 public website of the Centers for Medicare & Medicaid  
10 Services guidance for States on resources and strategies  
11 for hospitals, freestanding birth centers (as defined in sec-  
12 tion 1905(l)(3)(B) of the Social Security Act (42 U.S.C.  
13 1396d(l)(3)(B))), and other maternal care providers as de-  
14 termined by the Secretary for reducing maternal mortality  
15 and severe morbidity in individuals who are eligible for  
16 and receiving medical assistance under Medicaid or CHIP.

17 (b) UPDATES.—The Secretary shall update the guid-  
18 ance and resources described in subsection (a) at least  
19 once every 3 years.

20 (c) CONSULTATION WITH ADVISORY COMMITTEE.—

21 (1) ESTABLISHMENT.—Subject to the avail-  
22 ability of appropriations, not later than 18 months  
23 after the date of enactment of this Act, the Sec-  
24 retary shall establish an advisory committee to be  
25 known as the “National Advisory Committee on Re-

1       ducing Maternal Deaths” (referred to in this section  
2       as the “Advisory Committee”).

3           (2) DUTIES.—The Advisory Committee shall  
4       provide consensus advice and guidance to the Sec-  
5       retary on the development and compilation of the  
6       guidance described in subsection (a) (and any up-  
7       dates to such guidance).

8           (3) MEMBERSHIP.—

9           (A) IN GENERAL.—The Secretary, in con-  
10       sultation with such other heads of agencies, as  
11       the Secretary deems appropriate and in accord-  
12       ance with this paragraph, shall appoint not  
13       more than 35 members to the Advisory Com-  
14       mittee. In appointing such members, the Sec-  
15       retary shall ensure that—

16           (i) the total number of members of  
17       the Advisory Committee is an odd number;  
18       and

19           (ii) the total number of voting mem-  
20       bers who are not Federal officials does not  
21       exceed the total number of voting Federal  
22       members who are Federal officials.

23           (B) REQUIRED MEMBERS.—

24           (i) FEDERAL OFFICIALS.—The Advi-  
25       sory Committee shall include as voting

1 members the following Federal officials, or  
2 their designees:

3 (I) The Secretary.

4 (II) The Administrator of the  
5 Centers for Medicare & Medicaid  
6 Services.

7 (III) The Director of the Centers  
8 for Disease Control and Prevention.

9 (IV) The Associate Administrator  
10 of the Maternal and Child Health Bu-  
11 reau of the Health Resources and  
12 Services Administration.

13 (V) The Director of the Agency  
14 for Healthcare Research and Quality.

15 (VI) The National Coordinator  
16 for Health Information Technology.

17 (VII) The Director of the Na-  
18 tional Institutes of Health.

19 (VIII) The Secretary of Veterans  
20 Affairs.

21 (IX) The Director of the Indian  
22 Health Service.

23 (X) The Deputy Assistant Sec-  
24 retary for Minority Health.

1 (XI) The Administrator of the  
2 Substance Abuse and Mental Health  
3 Services Administration.

4 (XII) The Deputy Assistant Sec-  
5 retary for Women's Health.

6 (XIII) Such other Federal offi-  
7 cials or their designees as the Sec-  
8 retary determines appropriate.

9 (ii) NON-FEDERAL OFFICIALS.—

10 (I) IN GENERAL.—The Advisory  
11 Committee shall include the following  
12 as voting members:

13 (aa) At least 1 representa-  
14 tive from a professional organiza-  
15 tion representing hospitals and  
16 health systems.

17 (bb) At least 1 representa-  
18 tive from a medical professional  
19 organization representing pri-  
20 mary care providers.

21 (cc) At least 1 representa-  
22 tive from a medical professional  
23 organization representing general  
24 obstetrician-gynecologists.

1 (dd) At least 1 representa-  
2 tive from a medical professional  
3 organization representing cer-  
4 tified nurse-midwives.

5 (ee) At least 1 representa-  
6 tive from a medical professional  
7 organization representing other  
8 maternal fetal medicine pro-  
9 viders.

10 (ff) At least 1 representative  
11 from a medical professional orga-  
12 nization representing anesthesiol-  
13 ogists.

14 (gg) At least 1 representa-  
15 tive from a medical professional  
16 organization representing emer-  
17 gency medicine physicians and  
18 urgent care providers.

19 (hh) At least 1 representa-  
20 tive from a medical professional  
21 organization representing nurses.

22 (ii) At least 1 representative  
23 from a professional organization  
24 representing community health  
25 workers.

1 (jj) At least 1 representative  
2 from a professional organization  
3 representing doulas.

4 (kk) At least 1 representa-  
5 tive from a professional organiza-  
6 tion representing perinatal psy-  
7 chiatrists.

8 (ll) At least 1 representative  
9 from State-affiliated programs or  
10 existing collaboratives with dem-  
11 onstrated expertise or success in  
12 improving maternal health.

13 (mm) At least 1 director of  
14 a State Medicaid agency that has  
15 had demonstrated success in im-  
16 proving maternal health.

17 (nn) At least 1 representa-  
18 tive from an accrediting organi-  
19 zation for maternal health quality  
20 and safety standards.

21 (oo) At least 1 representa-  
22 tive from a maternal patient ad-  
23 vocacy organization with lived ex-  
24 perience of severe maternal mor-  
25 bidity.

1 (II) REQUIREMENTS.—Each in-  
2 dividual selected to be a member  
3 under this clause shall—

4 (aa) have expertise in mater-  
5 nal health;

6 (bb) not be a Federal offi-  
7 cial; and

8 (cc) have experience working  
9 with populations that are at  
10 higher risk for maternal mor-  
11 tality or severe morbidity, such  
12 as populations that experience  
13 racial, ethnic, and geographic  
14 health disparities, pregnant and  
15 postpartum women experiencing  
16 a mental health disorder, or  
17 pregnant or postpartum women  
18 with other comorbidities such as  
19 substance use disorders, hyper-  
20 tension, thyroid disorders, and  
21 sickle cell disease.

22 (C) ADDITIONAL MEMBERS.—

23 (i) IN GENERAL.—In addition to the  
24 members required to be appointed under  
25 subparagraph (B), the Secretary may ap-

1 point to the Advisory Committee such  
2 other individuals with relevant expertise or  
3 experience as the Secretary shall determine  
4 appropriate, which may include individuals  
5 described in clause (ii).

6 (ii) SUGGESTED ADDITIONAL MEM-  
7 BERS.—The individuals described in this  
8 clause are the following:

9 (I) Representatives from State  
10 maternal mortality review committees  
11 and perinatal quality collaboratives.

12 (II) Medical providers who care  
13 for women and infants during preg-  
14 nancy and the postpartum period,  
15 such as family practice physicians,  
16 cardiologists, pulmonology critical  
17 care specialists, endocrinologists, pedi-  
18 atricians, and neonatologists.

19 (III) Representatives from State  
20 and local public health departments,  
21 including State Medicaid Agencies.

22 (IV) Subject matter experts in  
23 conducting outreach to women who  
24 are African American or belong to an-  
25 other minority group.

1 (V) Directors of State agencies  
2 responsible for administering a State's  
3 maternal and child health services  
4 program under title V of the Social  
5 Security Act (42 U.S.C. 701 et seq.).

6 (VI) Experts in medical edu-  
7 cation or physician training.

8 (VII) Representatives from med-  
9 icaid managed care organizations.

10 (4) APPLICABILITY OF FACA.—The Federal Ad-  
11 visory Committee Act (5 U.S.C. App.) shall apply to  
12 the committee established under this subsection.

13 (d) CONTENTS.—The guidance described in sub-  
14 section (a) shall include, with respect to hospitals, free-  
15 standing birth centers, and other maternal care providers,  
16 the following:

17 (1) Best practices regarding evidence-based  
18 screening and clinician education initiatives relating  
19 to screening and treatment protocols for individuals  
20 who are at risk of experiencing complications related  
21 to pregnancy, with an emphasis on individuals with  
22 preconditions directly linked to pregnancy complica-  
23 tions and maternal mortality and severe morbidity,  
24 including—

1 (A) methods to identify individuals who are  
2 at risk of maternal mortality or severe mor-  
3 bidity, including risk stratification;

4 (B) evidence-based risk factors associated  
5 with maternal mortality or severe morbidity and  
6 racial, ethnic, and geographic health disparities;

7 (C) evidence-based strategies to reduce risk  
8 factors associated with maternal mortality or  
9 severe morbidity through services which may be  
10 covered under Medicaid or CHIP, including,  
11 but not limited to, activities by community  
12 health workers (as such term is defined in sec-  
13 tion 2113(f)(4) of the Social Security Act (42  
14 U.S.C. 1397mm(f)(4))) that are funded by a  
15 grant awarded under such section;

16 (D) resources available to such individuals,  
17 such as nutrition assistance and education,  
18 home visitation, mental health and substance  
19 use disorder services, smoking cessation pro-  
20 grams, prenatal care, and other evidence-based  
21 maternal mortality or severe morbidity reduc-  
22 tion programs;

23 (E) examples of educational materials used  
24 by providers of obstetrics services;

1 (F) methods for improving community cen-  
 2 tralized care, including providing telehealth  
 3 services or home visits to increase and facilitate  
 4 access to and engagement in prenatal and  
 5 postpartum care and collaboration with home  
 6 health agencies, community health centers, local  
 7 public health departments, or clinics;

8 (G) guidance on medical record diagnosis  
 9 codes linked to maternal mortality and severe  
 10 morbidity, including, if applicable, codes related  
 11 to social risk factors, and methods for edu-  
 12 cating clinicians on the proper use of such  
 13 codes;

14 (H) risk appropriate transfer protocols  
 15 during pregnancy, childbirth, and the postpar-  
 16 tum period; and

17 (I) any other information related to pre-  
 18 vention and treatment of at-risk individuals de-  
 19 termined appropriate by the Secretary.

20 (2) Guidance on monitoring programs for indi-  
 21 viduals who have been identified as at risk of com-  
 22 plications related to pregnancy.

23 (3) Best practices for such hospitals, free-  
 24 standing birth centers, and providers to make preg-

1       nant women aware of the complications related to  
2       pregnancy.

3           (4) A fact sheet for providing pregnant women  
4       who are receiving care on an outpatient basis with  
5       a notice during the prenatal stage of pregnancy  
6       that—

7           (A) explains the risks associated with preg-  
8       nancy, birth, and the postpartum period (in-  
9       cluding the risks of hemorrhage, preterm birth,  
10      sepsis, eclampsia, obstructed labor), chronic  
11      conditions (including high blood pressure, dia-  
12      betes, heart disease, depression, and obesity)  
13      correlated with adverse pregnancy outcomes,  
14      risks associated with advanced maternal age,  
15      and the importance of adhering to a personal-  
16      ized plan of care;

17          (B) highlights multimodal and evidence-  
18      based prevention and treatment techniques;

19          (C) provides for a method (through signa-  
20      ture or otherwise) for such an individual, or a  
21      person acting on such individual's behalf, to ac-  
22      knowledge receipt of such fact sheet;

23          (D) is worded in an easily understandable  
24      manner and made available in multiple lan-

1           guages and accessible formats determined ap-  
2           propriate by the Secretary; and

3           (E) includes any other information deter-  
4           mined appropriate by the Secretary.

5           (5) A template for a voluntary clinician check-  
6           list that outlines the minimum responsibilities that  
7           clinicians, such as physicians, certified nurse-mid-  
8           wives, emergency room and urgent care providers,  
9           nurses and others, are expected to meet in order to  
10          promote quality and safety in the provision of ob-  
11          stetric services.

12          (6) A template for a voluntary checklist that  
13          outlines the minimum responsibilities that hospital  
14          leadership responsible for direct patient care, such  
15          as the institution's president, chief medical officer,  
16          chief nursing officer, or other hospital leadership  
17          that directly report to the president or chief execu-  
18          tive officer of the institution, should meet to pro-  
19          mote hospital-wide initiatives that improve quality  
20          and safety in the provision of obstetric services.

21          (7) Information on multi-stakeholder quality  
22          improvement initiatives, such as the Alliance for In-  
23          novation on Maternal Health, State perinatal quality  
24          improvement initiatives, and other similar initiatives

1       determined appropriate by the Secretary, includ-  
2       ing—

3               (A) information about such improvement  
4       initiatives and how to join;

5               (B) information about public maternal  
6       data collection centers;

7               (C) information about quality metrics used  
8       and outcomes achieved by such improvement  
9       initiatives;

10              (D) information about data sharing tech-  
11       niques used by such improvement initiatives;

12              (E) information about data sources used  
13       by such improvement initiatives to identify ma-  
14       ternal mortality and severe morbidity risks;

15              (F) information about interventions used  
16       by such improvement initiatives to mitigate  
17       risks of maternal mortality and severe mor-  
18       bidity;

19              (G) information about data collection tech-  
20       niques on race, ethnicity, geography, age, in-  
21       come, and other demographic information used  
22       by such improvement initiatives; and

23              (H) any other information determined ap-  
24       propriate by the Secretary.

1 (e) INCLUSION OF BEST PRACTICES.—Not later than  
2 18 months after the date of the publication of the guid-  
3 ance required under subsection (a), the Secretary shall up-  
4 date such guidance to include best practices identified by  
5 the Secretary for such hospitals, freestanding birth cen-  
6 ters, and providers to track maternal mortality and severe  
7 morbidity trends by clinicians at such hospitals, free-  
8 standing birth centers, and providers including—

9 (1) ways to establish scoring systems, which  
10 may include quality triggers and safety and quality  
11 metrics to score case and patient outcome metrics,  
12 for such clinicians;

13 (2) methods to identify, educate, and improve  
14 such clinicians who may have higher rates of mater-  
15 nal mortality or severe morbidity compared to their  
16 regional or State peers (taking into account dif-  
17 ferences in patient risk for adverse outcomes, which  
18 may include social risk factors);

19 (3) methods for using such data and tracking  
20 to enhance research efforts focused on maternal  
21 health, while also improving patient outcomes, clini-  
22 cian education and training, and coordination of  
23 care; and

24 (4) any other information determined appro-  
25 priate by the Secretary.

1 (f) CULTURAL AND LINGUISTIC APPROPRIATE-  
 2 NESS.—To the extent practicable, the Secretary should de-  
 3 velop the guidance, best practices, fact sheets, templates,  
 4 and other materials that are required under this section  
 5 in a trauma-informed, culturally and linguistically appro-  
 6 priate manner.

7 **SEC. 3. REPORT ON PAYMENT METHODOLOGIES FOR**  
 8 **TRANSFERRING PREGNANT WOMEN BE-**  
 9 **TWEEN FACILITIES BEFORE, DURING, AND**  
 10 **AFTER CHILDBIRTH.**

11 (a) IN GENERAL.—Subject to the availability of ap-  
 12 propriations, not later than 36 months after the date of  
 13 enactment of this Act, the Secretary shall submit to Con-  
 14 gress a report on the payment methodologies under Med-  
 15 icaid for the antepartum, intrapartum, and postpartum  
 16 transfer of pregnant women from one health care facility  
 17 to another, including any potential disincentives or regu-  
 18 latory barriers to such transfers.

19 (b) CONSULTATION.—In developing the report re-  
 20 quired under subsection (a), the Secretary shall consult  
 21 with the advisory committee established under section  
 22 2(c).

○