

Union Calendar No. 208

118TH CONGRESS
1ST SESSION

H. R. 4509

[Report No. 118–258]

To amend the Employee Retirement Income Security Act of 1974 to require group health plans and health insurance issuers offering group health insurance coverage to only pay claims submitted by hospitals that have in place policies and procedures to ensure accurate billing practices, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2023

Ms. FOXX (for herself and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on Education and the Workforce

NOVEMBER 1, 2023

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on July 10, 2023]

A BILL

To amend the Employee Retirement Income Security Act of 1974 to require group health plans and health insurance issuers offering group health insurance coverage to only pay claims submitted by hospitals that have in place policies and procedures to ensure accurate billing practices, 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 “Transparency in Billing*
 5 *Act of 2023”.*

6 **SEC. 2. HONEST BILLING REQUIREMENTS.**

7 (a) *IN GENERAL.*—Subpart B of part 7 of subtitle B
 8 *of title I of the Employee Retirement Income Security Act*
 9 *of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at*
 10 *the end the following new section:*

11 **“SEC. 726. HONEST BILLING REQUIREMENTS.**

12 *“A group health plan or health insurance issuer offer-*
 13 *ing group health insurance coverage may not pay a claim*
 14 *for items and services furnished to an individual at an off-*
 15 *campus outpatient department of a provider (as defined in*
 16 *section 901(c)) submitted by a hospital (as defined in sec-*
 17 *tion 1861(e) of the Social Security Act) unless such claim*
 18 *submitted by such hospital includes the separate unique*
 19 *health identifier for the department where items and serv-*
 20 *ices were furnished, in accordance with section 901.”.*

21 (b) *CLERICAL AMENDMENT.*—The table of contents of
 22 *the Employee Retirement Income Security Act of 1974 (29*
 23 *U.S.C. 1001 note) is amended by adding after the item re-*
 24 *lating to section 725 the following:*

“Sec. 726. Honest billing requirements.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall take effect with respect to plan years beginning*
 3 *on or after January 1, 2024.*

4 **SEC. 3. REGULATION OF HONEST BILLING.**

5 (a) *IN GENERAL.*—*Subtitle B of title I of the Employee*
 6 *Retirement Income Security Act of 1974 (29 U.S.C. 1021*
 7 *et seq.) is amended by adding at the end the following new*
 8 *part:*

9 **“PART 9—BILLING REQUIREMENTS WITH RE-**
 10 **SPECT TO GROUP HEALTH PLANS AND COV-**
 11 **ERAGE**

12 **“SEC. 901. HONEST BILLING REQUIREMENTS.**

13 “(a) *IN GENERAL.*—*A hospital may not, with respect*
 14 *to items and services furnished to an individual at an off-*
 15 *campus outpatient department of a provider, submit a*
 16 *claim for such items and services to a group health plan*
 17 *or health insurance issuer, and may not hold such indi-*
 18 *vidual liable for such items and services, unless—*

19 “(1) *such hospital obtains a separate unique*
 20 *health identifier established for such department pur-*
 21 *suant to section 1173(b) of the Social Security Act;*
 22 *and*

23 “(2) *the claim for such items and services in-*
 24 *cludes such separate unique health identifier for such*

1 *department where such items and services were fur-*
 2 *nished.*

3 “(b) *PROCESS FOR REPORTING SUSPECTED VIOLA-*
 4 *TIONS.—Not later than one year after the date of enactment*
 5 *of this section, the Secretary shall establish a process under*
 6 *which a suspected violation of this section may be reported*
 7 *to such Secretary.*

8 “(c) *OFF-CAMPUS OUTPATIENT DEPARTMENT OF A*
 9 *PROVIDER DEFINED.—For purposes of this paragraph, the*
 10 *term ‘off-campus outpatient department of a provider’*
 11 *means a department of a provider (as defined in section*
 12 *413.65 of title 42, Code of Federal Regulations, or any suc-*
 13 *cessor regulation) that is not located—*

14 *“(1) on the campus (as defined in such section)*
 15 *of such provider; or*

16 *“(2) within the distance (described in such defi-*
 17 *inition of campus) from a remote location of a hos-*
 18 *pital facility (as defined in such section).”.*

19 (b) *CLERICAL AMENDMENT.—The table of contents of*
 20 *the Employee Retirement Income Security Act of 1974 (29*
 21 *U.S.C. 1001 note) is amended by inserting after the item*
 22 *relating to section 804 the following new item:*

*“PART 9—BILLING REQUIREMENTS WITH RESPECT TO GROUP HEALTH PLANS
 AND COVERAGE*

“Sec. 901. Honest billing requirements.”.

1 **SEC. 4. ENFORCEMENT.**

2 *Section 502 of the Employee Retirement Income Secu-*
3 *rity Act of 1974 (29 U.S.C. 1132) is amended—*

4 *(1) in subsection (a)(6), by striking “or (9)” and*
5 *inserting “(9), or (13)”;* and

6 *(2) in subsection (c), by adding at the end the*
7 *following new paragraph:*

8 *“(13) The Secretary may assess a civil monetary*
9 *penalty against a hospital for a violation under sec-*
10 *tion 901 in an amount—*

11 *“(A) in the case of a hospital with not more*
12 *than 30 beds (as determined under section*
13 *180.90(c)(2)(ii)(D) of title 45, Code of Federal*
14 *Regulations, as in effect on the date of the enact-*
15 *ment of this paragraph), not to exceed \$300 per*
16 *day that the violation is ongoing, as determined*
17 *by the Secretary; and*

18 *“(B) in the case of a hospital with more*
19 *than 30 beds (as so determined), not to exceed*
20 *\$5,500 per each such day.”.*

21 **SEC. 5. IMPLEMENTATION.**

22 *The Secretary of Labor shall implement the amend-*
23 *ments made by this Act by rulemaking.*

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