

118TH CONGRESS  
1ST SESSION

# S. 3059

To amend title XVIII of the Social Security Act to establish provider directory requirements, and to provide accountability for provider directory accuracy, under Medicare Advantage.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2023

Mr. BENNET (for himself, Mr. TILLIS, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to establish provider directory requirements, and to provide accountability for provider directory accuracy, under Medicare Advantage.

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 “Requiring Enhanced  
5 & Accurate Lists of Health Providers Act” or the “REAL  
6 Health Providers Act”.

1 **SEC. 2. PROVIDER DIRECTORY REQUIREMENTS.**

2 Section 1852(c) of the Social Security Act (42 U.S.C.  
3 1395w-22(c)) is amended—

4 (1) in paragraph (1)(C)—

5 (A) by striking “plan, and any” and insert-  
6 ing “plan, any”; and

7 (B) by inserting the following before the  
8 period: “, and, in the case of a network-based  
9 MA plan (as defined in paragraph (3)(C)), for  
10 plan year 2026 and subsequent plan years, the  
11 information described in paragraph (3)(B)”;  
12 and

13 (2) by adding at the end the following new  
14 paragraph:

15 “(3) PROVIDER DIRECTORY ACCURACY.—

16 “(A) IN GENERAL.—For plan year 2026  
17 and subsequent plan years, each MA organiza-  
18 tion offering a network-based MA plan shall,  
19 for each network-based MA plan offered by the  
20 organization—

21 “(i) maintain, on a publicly available  
22 internet website, an accurate provider di-  
23 rectory that includes the information de-  
24 scribed in subparagraph (B);

25 “(ii) not less frequently than once  
26 every 90 days, verify in a manner specified

1 by the Secretary the provider directory in-  
2 formation of each provider listed in such  
3 directory and, if applicable, update such  
4 provider directory information;

5 “(iii) if the organization is unable to  
6 verify such information with respect to a  
7 provider, include in such directory an indi-  
8 cation that the information of such pro-  
9 vider may not be up to date;

10 “(iv) remove a provider from such di-  
11 rectory within 5 business days if the orga-  
12 nization determines that the provider is no  
13 longer a provider participating in the net-  
14 work of such plan; and

15 “(v) meet such other requirements as  
16 the Secretary may specify.

17 “(B) PROVIDER DIRECTORY INFORMA-  
18 TION.—The information described in this sub-  
19 paragraph is information enrollees may need to  
20 access covered benefits from a provider with  
21 which such plan has an agreement for fur-  
22 nishing items and services covered under such  
23 plan such as name, specialty, contact informa-  
24 tion, primary office or facility address, avail-  
25 ability, accommodations for people with disabil-

1           ities, cultural and linguistic capabilities, and  
2           telehealth capabilities.

3           “(C) NETWORK-BASED MA PLAN DE-  
4           FINED.—In this paragraph, the term ‘network-  
5           based MA plan’ means an MA plan that has a  
6           network of providers that contract or make ar-  
7           rangements with the MA organization offering  
8           the plan to furnish items and services covered  
9           under such plan.”.

10 **SEC. 3. ACCOUNTABILITY FOR PROVIDER DIRECTORY AC-**  
11 **CURACY.**

12       (a) COST SHARING FOR SERVICES FURNISHED  
13 BASED ON RELIANCE ON INCORRECT PROVIDER NET-  
14 WORK INFORMATION.—Section 1852(d) of the Social Se-  
15 curity Act (42 U.S.C. 1395w–22(d)) is amended by adding  
16 at the end the following new paragraph:

17           “(7) COST SHARING FOR SERVICES FURNISHED  
18       BASED ON RELIANCE ON INCORRECT PROVIDER NET-  
19       WORK INFORMATION.—

20           “(A) IN GENERAL.—For plan year 2026  
21       and subsequent plan years, if an enrollee is fur-  
22       nished an item or service by a provider that is  
23       not participating in the network of a network-  
24       based MA plan (as defined in subsection  
25       (c)(3)(C)) but is listed in the provider directory

1 of such plan (as required to be provided to an  
2 enrollee pursuant to subsection (c)(1)(C)) on  
3 the date on which the appointment is made, the  
4 MA organization offering such plan shall ensure  
5 that the enrollee is only responsible for the  
6 amount of cost sharing that would apply if such  
7 provider had been participating in the network  
8 of such plan.

9 “(B) NOTIFICATION REQUIREMENT.—For  
10 plan year 2026 and subsequent plan years, each  
11 MA organization that offers a network-based  
12 MA plan shall—

13 “(i) notify enrollees of their cost-shar-  
14 ing protections under this paragraph and  
15 make such notifications, to the extent  
16 practicable, by not later than the first day  
17 of an annual, coordinated election period  
18 under section 1851(e)(3) with respect to a  
19 year;

20 “(ii) include information regarding  
21 such cost-sharing protections in the pro-  
22 vider directory of each network-based MA  
23 plan offered by the MA organization; and

1                   “(iii) notify enrollees of their cost-  
 2                   sharing protections under this paragraph  
 3                   in an explanation of benefits.”.

4           (b) REQUIRED PROVIDER DIRECTORY ACCURACY  
 5 ANALYSIS AND REPORTS.—

6           (1) IN GENERAL.—Section 1857(e) of the So-  
 7           cial Security Act (42 U.S.C. 1395w-27(e)) is  
 8           amended by adding at the end the following new  
 9           paragraph:

10                   “(6) PROVIDER DIRECTORY ACCURACY ANAL-  
 11                   YSIS AND REPORTS.—

12                   “(A) IN GENERAL.—Beginning with plan  
 13                   years beginning on or after January 1, 2026,  
 14                   subject to subparagraph (C), a contract under  
 15                   this section with an MA organization shall re-  
 16                   quire the organization, for each network-based  
 17                   MA plan (as defined in section 1852(e)(3)(C))  
 18                   offered by the organization, to annually—

19                           “(i) conduct an analysis of the accu-  
 20                           racy of the provider directory of such plan  
 21                           (including provider types with high inaccu-  
 22                           racy rates, such as providers specializing in  
 23                           mental health and substance use disorder  
 24                           treatment, as determined by the Sec-  
 25                           retary); and

1           “(ii) submit a report to the Secretary  
2           containing the results of such analysis and  
3           other information required by the Sec-  
4           retary.

5           “(B) CONSIDERATIONS.—In establishing  
6           requirements with respect to analysis and re-  
7           porting under this paragraph, the Secretary  
8           shall take into account—

9                   “(i) data sources maintained by of  
10           MA organizations;

11                   “(ii) publicly available data sets; and

12                   “(iii) the administrative burden of  
13           maintaining provider directories on plans  
14           and providers.

15           “(C) EXCEPTION.—The Secretary may  
16           waive the requirements of this paragraph in the  
17           case of a network-based MA plan with low en-  
18           rollment (as defined by the Secretary).

19           “(D) TRANSPARENCY.—The Secretary  
20           shall post accuracy scores (as reported under  
21           subparagraph (A)), in a machine readable file,  
22           on the internet website of the Centers for Medi-  
23           care & Medicaid Services.

1           “(E) IMPLEMENTATION.—The Secretary  
2           shall implement this paragraph through notice  
3           and comment rulemaking.”.

4           (2) PROVISION OF INFORMATION TO BENE-  
5           FICIARIES.—Section 1851(d)(4) of the Social Secu-  
6           rity Act (42 U.S.C. 1395w–21(d)(4)) is amended by  
7           adding at the end the following new subparagraph:

8           “(F) PROVIDER DIRECTORY.—Information  
9           regarding the accuracy of the plan’s provider  
10          directory (as reported under section 1857(e)(6))  
11          on the plan’s provider directory.”.

12          (3) FUNDING.—In addition to amounts other-  
13          wise available, there is appropriated to the Centers  
14          for Medicare & Medicaid Services Program Manage-  
15          ment Account, out of any money in the Treasury not  
16          otherwise appropriated, \$1,000,000 for fiscal year  
17          2026, to remain available until expended, to carry  
18          out the amendments made by this subsection.

19          (c) GAO STUDY AND REPORT.—

20          (1) ANALYSIS.—The Comptroller General of the  
21          United States (in this subsection referred to as the  
22          “Comptroller General”) shall conduct study of the  
23          implementation of the amendments made by sub-  
24          sections (a) and (b). Such study shall include an  
25          analysis of—



1 (A) the use of protections required under  
2 section 1852(d)(7) of the Social Security Act,  
3 as added by subsection (a);

4 (B) the provider directory accuracy scores  
5 trends under section 1857(e)(6) of the Social  
6 Security Act (as added by subsection (b)(1)),  
7 both overall and among providers specializing in  
8 mental health and substance disorder treat-  
9 ment; and

10 (C) other items determined appropriate by  
11 the Comptroller General.

12 (2) REPORT.—Not later than January 1, 2031,  
13 the Comptroller General shall submit to Congress,  
14 the Commissioner of Social Security, and the Sec-  
15 retary of Health and Human Services a report con-  
16 taining the results of the study conducted under  
17 paragraph (1), together with recommendations for  
18 such legislation and administrative action as the  
19 Comptroller General determines appropriate.

20 **SEC. 4. GUIDANCE ON BEST PRACTICES FOR MAINTAINING**  
21 **ACCURATE PROVIDER DIRECTORIES.**

22 Not later than 12 months after the date of enactment  
23 of this Act, the Secretary of Health and Human Services  
24 shall issue guidance to Medicare Advantage organizations  
25 offering Medicare Advantage plans under part C of title

1 XVIII of the Social Security Act (42 U.S.C. 1395w-21  
2 et seq.) on maintaining accurate provider directories for  
3 such plans. Such guidance may include the following, as  
4 determined appropriate by the Secretary:

5           (1) Best practices for Medicare Advantage  
6 plans on how to work with providers to maintain the  
7 accuracy of provider directories of such plans and  
8 reduce provider and Medicare Advantage plan bur-  
9 den.

10           (2) Information on data sets and data sources  
11 with information that could be used by such plans  
12 to maintain accurate provider directories.

13           (3) Approaches for utilizing existing informa-  
14 tion assets of plans and publicly available data sets  
15 and data sources to maintain accurate provider di-  
16 rectories.

17           (4) Information that may be useful for bene-  
18 ficiaries to assess plan networks when selecting a  
19 plan and accessing providers participating in plan  
20 networks during the plan year.

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