

112TH CONGRESS
2D SESSION

H. R. 5979

To amend title XIX of the Social Security Act to reform payment to States under the Medicaid program.

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2012

Mr. CASSIDY introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to reform payment to States under the Medicaid 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 “Medicaid Account-
5 ability and Care Act of 2012”.

6 **SEC. 2. MEDICAID PAYMENT REFORM.**

7 (a) IN GENERAL.—Title XIX of the Social Security
8 Act (42 U.S.C. 1396 et seq.) is amended by inserting after
9 section 1903 the following section:

1 **“SEC. 1903A. REFORMED PAYMENT TO STATES.**

2 “(a) REFORMED PAYMENT SYSTEM.—

3 “(1) IN GENERAL.—For quarters beginning on
4 or after July 1, 2014, in lieu of amounts otherwise
5 payable to a State under this title (including any
6 payments attributable to section 1923), except as
7 otherwise provided in this section, the amount pay-
8 able to such State shall be equal to the sum of the
9 following:

10 “(A) ADJUSTED AGGREGATE AMOUNT
11 BASED ON CAPITATION.—The aggregate
12 capitated amount specified in subsection (b) for
13 the quarter and the State, adjusted under sub-
14 section (e).

15 “(B) CHRONIC CARE QUALITY BONUS.—
16 The amount (if any) of the chronic care quality
17 bonus payment specified in subsection (f) for
18 the quarter for the State.

19 “(2) REQUIREMENT OF STATE SHARE.—

20 “(A) IN GENERAL.—A State shall make,
21 from non-Federal funds, expenditures in an
22 amount equal to its State share (as determined
23 under subparagraph (C)) for a quarter for
24 items, services, and other costs for which, but
25 for this section, Federal funds would have been
26 payable under this title.

1 “(B) NONPAYMENT FOR FAILURE TO PAY
2 STATE SHARE.—

3 “(i) IN GENERAL.—If a State fails to
4 expend the amount required under sub-
5 paragraph (A) for a quarter, the amount
6 payable to the State under this section
7 shall be reduced by the product of—

8 “(I) the Federal-to-State ratio
9 described in subparagraph (D)(iii);
10 and

11 “(II) the amount by which the
12 State payment is less than the State
13 share.

14 “(ii) GRACE PERIOD.—A State shall
15 not be considered to have failed to provide
16 payment of its required State share for a
17 quarter under subparagraph (A) if the ag-
18 gregate State payment towards the State’s
19 required State share for the 4-quarter pe-
20 riod beginning with such quarter exceeds
21 the required State share amount for such
22 4-quarter period.

23 “(C) STATE SHARE.—The State share for
24 a State for a quarter is equal to the product
25 of—

1 “(i) the aggregate capitated amount
2 specified in subsection (b) for the quarter
3 and the State; and

4 “(ii) the State-to-Federal ratio de-
5 scribed in subparagraph (D)(iv).

6 “(D) UNIFORM FEDERAL AND STATE PER-
7 CENTAGES AND STATE-TO-FEDERAL AND FED-
8 ERAL-TO-STATE RATIOS.—In this paragraph:

9 “(i) UNIFORM FEDERAL PERCENT-
10 AGE.—The uniform Federal percentage de-
11 scribed in this clause for a fiscal year is
12 the highest Federal medical assistance per-
13 centage (as defined in the first sentence of
14 section 1905(b)) for any State for such fis-
15 cal year.

16 “(ii) UNIFORM STATE PERCENT-
17 AGE.—The uniform State percentage de-
18 scribed in this clause is 100 percent minus
19 the uniform Federal percentage described
20 in clause (i).

21 “(iii) FEDERAL-TO-STATE RATIO.—
22 The Federal-to-State ratio described in
23 this clause is the ratio of—

24 “(I) the uniform Federal percent-
25 age described in clause (i); to

1 “(II) the uniform State percent-
2 age described in clause (ii).

3 “(iv) STATE-TO-FEDERAL RATIO.—
4 The State-to-Federal ratio described in
5 this clause is the ratio of—

6 “(I) the uniform State percent-
7 age described in clause (ii); to

8 “(II) the uniform Federal per-
9 centage described in clause (i).

10 “(E) RULES FOR CREDITING TOWARD
11 STATE SHARE.—

12 “(i) GENERAL LIMITATION TO MATCH-
13 ABLE EXPENDITURES.—A payment for ex-
14 penditures shall not be counted toward the
15 State share under subparagraph (A) unless
16 Federal payments may be used for such
17 expenditures consistent with paragraph
18 (3)(B).

19 “(ii) FURTHER LIMITATIONS ON AL-
20 LOWABLE EXPENDITURES.—A payment for
21 expenditures shall not be counted towards
22 the State share under subparagraph (A) if
23 the expenditure is for any of the following:

24 “(I) ABORTION.—Expenditures
25 for an abortion.

1 “(II) INTERGOVERNMENTAL
2 TRANSFERS.—An expenditure that is
3 attributable to an intergovernmental
4 transfer.

5 “(III) PROVIDER TAXES.—If a
6 provider paid the State health care re-
7 lated taxes (as defined in section
8 1903(w)(3)(A)), expenditures made
9 for services furnished by such provider
10 up to the amount of such taxes paid
11 by such provider.

12 “(IV) CERTIFIED PUBLIC EX-
13 PENDITURES.—An expenditure that is
14 attributable to certified public expend-
15 itures.

16 “(iii) CREDITING FRAUD AND ABUSE
17 RECOVERIES.—Amounts recovered by a
18 State through the operation of its Medicaid
19 fraud and abuse control unit described in
20 section 1903(q) shall be fully counted to-
21 ward the State share under subparagraph
22 (A).

23 “(F) CONSTRUCTION.—Nothing in the
24 paragraph shall be construed as preventing a
25 State from expending, from non-Federal funds,

1 an amount under this title in excess of the
2 amount of the State share.

3 “(G) DETERMINATION BASED UPON SUB-
4 MITTED CLAIMS.—In applying this paragraph
5 with respect to expenditures of a State for a
6 quarter, the determination of the expenditures
7 for such State for such quarter shall be made
8 after the end of the period (which, as of the
9 date of the enactment of this section, is 2
10 years) for which the Secretary accepts claims
11 for payment under this title with respect to
12 such quarter.

13 “(3) USE OF FEDERAL PAYMENTS.—

14 “(A) APPLICATION OF MEDICAID LIMITA-
15 TIONS.—A State may only use Federal pay-
16 ments received under this section for expendi-
17 tures for which Federal funds would have been
18 payable under this title but for this section.

19 “(B) LIMITATION FOR CERTAIN ELIGI-
20 BLES.—

21 “(i) APPLICATION OF 100 PERCENT
22 FEDERAL POVERTY LINE LIMIT ON ELIGI-
23 BILITY.—Subject to clause (ii), a State
24 may not use such Federal payments to
25 provide medical assistance for an indi-

vidual who has an income (as determined under clause (iii)) that exceeds 100 percent of the poverty line (as defined in section 2110(c)(5)) applicable to a family of the size involved.

“(ii) DETERMINATION OF INCOME USING MODIFIED ADJUSTED GROSS INCOME WITHOUT ANY 5 PERCENT INCREASE.—In determining income for purposes of clause (i) under section 1902(e)(14) (relating to modified adjusted gross income), the following rules shall apply:

“(I) APPLICATION OF SPEND DOWN.—The State shall take into account the costs incurred for medical care or for any other type of remedial care recognized under State law in the same manner and to the same extent that such State takes such costs into account for purposes of section 1902(a)(17).

“(II) DISREGARD OF 5 PERCENT INCREASE.—Subparagraph (I) of sec-

1 tion 1902(e)(14) (relating to a 5 per-
2 cent reduction) shall not apply.

3 “(iii) EXCEPTION.—Clause (i) shall
4 not apply to an individual who is—

5 “(I) a woman described in clause
6 (i) of section 1903(v)(4)(A);

7 “(II) a child who is an individual
8 described in clause (i) of section
9 1905(a);

10 “(III) enrolled in a State plan
11 under this title as of the date of the
12 enactment of this section for the pe-
13 riod of continuous enrollment; or

14 “(IV) described in section
15 1902(e)(14)(D) (relating to modified
16 adjusted gross income).

17 “(iv) CLARIFICATION RELATED TO
18 COMMUNITY SPOUSE.—Nothing in this
19 subparagraph shall supersede the applica-
20 tion of section 1924 (related to community
21 spouse income and assets).

22 “(4) EXCEPTIONS FOR PASS-THROUGH PAY-
23 MENTS.—

24 “(A) IN GENERAL.—Paragraph (1) shall
25 not apply, and amounts shall continue to be

1 payable under this title (and not under this sec-
2 tion), in the case of the following payments
3 (and related administrative costs and expendi-
4 tures):

5 “(i) PAYMENTS TO TERRITORIES.—

6 Payments to a State other than the 50
7 States and the District of Columbia.

8 “(ii) MEDICARE COST SHARING.—

9 Payments attributable to Medicare cost
10 sharing under section 1905(p).

11 “(iii) PEDIATRIC VACCINES.—Pay-

12 ments attributable to section 1928.

13 “(iv) EMERGENCY SERVICES FOR CER-

14 TAIN INDIVIDUALS.—Payments for treat-
15 ment of emergency medical conditions at-
16 tributable to the application of section
17 1903(v)(2).

18 “(v) INDIAN HEALTH CARE FACILI-

19 TIES.—Payments for medical assistance
20 described in the third sentence of section
21 1905(b).

22 “(vi) EMPLOYER-SPONSORED INSUR-

23 ANCE (ESI).—Payments for medical assist-
24 ance attributable to payments to employers

1 for employer-sponsored health benefits cov-
2 erage.

3 “(vii) OTHER POPULATIONS WITH
4 LIMITED BENEFIT COVERAGE.—Other pay-
5 ments that are determined by the Sec-
6 retary to be related to a specified popu-
7 lation for which the medical assistance
8 under this title is limited and does not in-
9 clude any inpatient, nursing facility, or
10 long-term care services.

11 “(B) CERTAIN EXPENSES.—Paragraph (1)
12 shall not apply, and amounts shall continue to
13 be payable under this title (and not under this
14 section), in the case of the following:

15 “(i) ADMINISTRATION OF MEDICARE
16 PRESCRIPTION DRUG BENEFIT.—Expendi-
17 tures described in section 1935(b) (relating
18 to administration of the Medicare prescrip-
19 tion drug benefit).

20 “(ii) PAYMENTS FOR HIT BONUSES.—
21 Payments under section 1903(a)(3)(F) (re-
22 lating to payments to encourage the adop-
23 tion and use of certified EHR technology).

24 “(iii) PAYMENTS FOR DESIGN, DEVEL-
25 OPMENT, AND INSTALLATION OF MMIS AND

1 ELIGIBILITY SYSTEMS.—Payments under
2 subparagraphs (A)(i) and (H)(i) of section
3 1903(a)(3) for expenditures for design, de-
4 velopment, and installation of the Medicaid
5 management information systems and
6 mechanized verification and information
7 retrieval systems (related to eligibility).

8 “(5) PAYMENT OF AMOUNTS.—

9 “(A) IN GENERAL.—Except as the Sec-
10 retary may otherwise provide, amounts shall be
11 payable to a State under this section in the
12 same manner as amounts are payable under
13 subsection (d) of section 1903 to a State under
14 subsection (a) of such section.

15 “(B) INFORMATION AND FORMS.—

16 “(i) SUBMISSION.—As a condition of
17 receiving payment under this section, a
18 State shall submit such information, in
19 such form, and manner, as the Secretary
20 shall specify, including information nec-
21 essary to make the computations under
22 subsections (c)(2)(C) and (e).

23 “(ii) UNIFORM REPORTING.—The
24 Secretary shall develop such forms as may
25 be needed to assure a system of uniform

1 reporting of such information across
2 States.

3 “(C) REQUIRED REPORTING OF INFORMA-
4 TION ON MEDICAL LOSS RATIOS FOR MANAGED
5 CARE.—The information required to be reported
6 under subparagraph (B)(i) shall include infor-
7 mation on the medical loss ratio with respect to
8 coverage provided under each Medicaid man-
9 aged care plan with a contract with the State
10 under section 1903(m) or 1932.

11 “(b) AGGREGATE CAPITATED AMOUNT.—

12 “(1) IN GENERAL.—The aggregate capitated
13 amount specified in this subsection for a State for
14 a quarter is equal to the sum of the products, for
15 each of the categories of Medicaid beneficiaries spec-
16 ified in paragraph (2), of the following:

17 “(A) PER CAPITA QUARTERLY AMOUNT.—

18 The per capita quarterly amount for such cat-
19 egory computed under subsection (c) for such
20 State for such quarter.

21 “(B) NUMBER OF INDIVIDUALS IN CAT-
22 EGORY.—The average number of Medicaid
23 beneficiaries enrolled in such category in the
24 State in such quarter, as computed under sub-
25 section (d).

1 “(2) CATEGORIES.—The categories specified in
2 this paragraph are the following:

3 “(A) ELDERLY.—A category of individuals
4 who are 65 years of age or older.

5 “(B) BLIND OR DISABLED.—A category of
6 individuals not described in subparagraph (A)
7 who are described in section 1937(a)(2)(B)(ii).

8 “(C) CHILDREN.—A category of individ-
9 uals not described in subparagraph (B) who are
10 under 21 years of age.

11 “(D) OTHER ADULTS.—A category of indi-
12 viduals who are not described in a previous sub-
13 paragraph.

14 “(c) COMPUTATION OF PER CAPITA, PER CATEGORY
15 QUARTERLY AMOUNT.—

16 “(1) IN GENERAL.—For a State, for each cat-
17 egory of beneficiary for a quarter—

18 “(A) FISCAL YEAR 2014.—For quarters in
19 fiscal year 2014, the per capita quarterly
20 amount is equal to $\frac{1}{4}$ of the base average per
21 capita Federal payments for such State for
22 such category determined under paragraph (2),
23 increased by a factor that reflects the sum of
24 the following:

1 “(i) HISTORICAL MEDICAL CARE COM-
2 PONENT OF CPI THROUGH FISCAL YEAR
3 2013.—The percentage increase in the his-
4 torical medical care component of the Con-
5 sumer Price Index for all urban consumers
6 (U.S. city average) from the midpoint of
7 the base fiscal year (as defined in para-
8 graph (6)) to the midpoint of fiscal year
9 2013.

10 “(ii) PROJECTED MEDICAL CARE COM-
11 PONENT OF CPI FOR FISCAL YEAR 2014.—
12 The percentage increase in the projected
13 medical care component of the Consumer
14 Price Index for all urban consumers (U.S.
15 city average) from the midpoint of fiscal
16 year 2013 to the midpoint of fiscal year
17 2014.

18 “(B) FISCAL YEARS 2015 AND 2016.—The
19 per capita quarterly amount for a State for a
20 category for quarters in fiscal year 2015 or fis-
21 cal year 2016 is equal to the per capita quar-
22 terly amount under this paragraph for such
23 State and category for the previous fiscal year
24 increased by the per capita percentage increase

(as defined in subparagraph (E)) for such category and fiscal year.

“(C) FISCAL YEARS 2017 THROUGH 2024.—

The per capita quarterly amount for a State for a category for quarters in a fiscal year beginning with fiscal year 2017 and ending with fiscal year 2024 is—

“(i) in the case of a State that is a high per capita State or a low per capita State (as defined in paragraph (4)(B)(iii)) for the category, the amount determined under clause (i) or (ii) of paragraph (4)(B) for such State, category, and fiscal year; or

“(ii) in the case of any other State, the per capita quarterly amount under this paragraph for such State and category for the previous fiscal year increased by the per capita percentage increase for such category and fiscal year.

“(D) FISCAL YEAR 2025 AND SUBSEQUENT

FISCAL YEARS.—The per capita quarterly amount for a State for a category for quarters in a fiscal year beginning with fiscal year 2025 is equal to the per capita quarterly amount under this paragraph for such State and cat-

egory for the previous fiscal year increased by the per capita percentage increase for such category and fiscal year.

“(E) ANNUAL PERCENTAGE INCREASE BEGINNING WITH FISCAL YEAR 2015.—For purposes of this subsection, the term ‘per capita percentage increase’ means, for a fiscal year, the sum of—

“(i) the projected percentage change in nominal gross domestic product from the midpoint of the previous fiscal year to the midpoint of the fiscal year for which the percentage increase is being applied; and

“(ii) one percentage point.

“(2) BASE PER CAPITA, PER CATEGORY AMOUNT FOR EACH STATE.—

“(A) AVERAGE PER CATEGORY.—

“(i) IN GENERAL.—The Secretary shall determine, consistent with this paragraph and paragraph (3), a base per capita, per category amount for each of the 50 States and the District of Columbia equal to the average amount, per Medicaid beneficiary, of Federal payments under this

1 title, including payments attributable to
2 disproportionate share hospital payments
3 under section 1923, for each of the cat-
4 egories of beneficiaries under subsection
5 (b)(2) for the base fiscal year for each of
6 the 50 States and the District of Colum-
7 bia.

8 “(ii) BEST AVAILABLE DATA.—The
9 determination under clause (i) shall ini-
10 tially be estimated by the Secretary, based
11 upon the best available data at the time
12 the determination is made.

13 “(iii) UPDATES.—The determination
14 under clause (i) shall be updated by the
15 Secretary on an annual basis based upon
16 improved data. The Secretary shall adjust
17 the amounts under subsection (a)(1)(A) to
18 reflect changes in the amounts so deter-
19 mined based on such updates.

20 “(B) EXCLUSION OF PASS-THROUGH PAY-
21 MENTS.—In computing base per capita, per cat-
22 egory amounts under subparagraph (A)(i) the
23 Secretary shall exclude payments described in
24 subsection (a)(4).

25 “(C) STANDARDIZATION.—

1 “(i) IN GENERAL.—In computing each
2 such amount, the Secretary shall stand-
3 ardize the amount in order to remove the
4 variation attributable to the following:

5 “(I) RISK FACTORS.—Such risk
6 factors as age, health and disability
7 status (including high cost medical
8 conditions), gender, institutional sta-
9 tus, and such other factors as the
10 Secretary determines to be appro-
11 priate, so as to ensure actuarial
12 equivalence.

13 “(II) GEOGRAPHIC.—Variations
14 in costs on a county-by-county basis.

15 “(ii) APPLICATION OF MEDICARE
16 METHODOLOGY.—

17 “(I) METHOD FOR RISK STAND-
18 ARDIZATION.—In carrying out clause
19 (i)(I), the Secretary may apply the
20 hierarchal condition category method-
21 ology under section 1853(a)(1)(C). If
22 the Secretary uses such methodology,
23 the Secretary shall adjust the applica-
24 tion of such methodology to take into
25 account the differences in services

provided under this title compared to title XVIII, such as the coverage of long term care, pregnancy, and pediatric services.

“(II) METHOD FOR GEOGRAPHIC STANDARDIZATION.—The Secretary shall apply the standardization under clause (i)(II) in a manner similar to that applied under section 1853(c)(4)(A)(iii).

“(iii) APPLICATION ON A NATIONAL, BUDGET NEUTRAL BASIS.—The standardization under clause (i) shall be designed and implemented on a uniform national basis and shall be budget neutral so as to not result in any aggregate change in payments under this section.

“(iv) RESPONSE TO NEW RISK.—Subject to clause (iii), the Secretary may adjust the standardization under clause (i) to respond promptly to new instances of communicable diseases and other public health hazards.

“(D) ADJUSTMENT FOR TEMPORARY FMAP INCREASES.—In computing each such amount

1 the Secretary shall disregard portions of pay-
2 ments that are attributable to a temporary in-
3 crease in the Federal matching rates, including
4 those attributable to the following:

5 “(i) PPACA DISASTER FMAP.—Sec-
6 tion 1905(aa).

7 “(ii) ARRA.—Section 5001 of the
8 American Recovery and Reinvestment Act
9 of 2009 (42 U.S.C. 1396d note).

10 “(iii) EXTRAORDINARY EMPLOYER
11 PENSION CONTRIBUTION.—Section 614 of
12 the Children’s Health Insurance Program
13 Reauthorization Act of 2009 (42 U.S.C.
14 1396d note).

15 “(3) ALLOCATION OF NONMEDICAL ASSISTANCE
16 PAYMENTS.—The Secretary shall establish rules for
17 the allocation of payments under this title (other
18 than those payments described in paragraph (1) or
19 (5) of section 1903(a) and including such payments
20 attributable to section 1923)—

21 “(A) among different categories of bene-
22 ficiaries; and

23 “(B) between payments included under
24 this section and payments described in sub-
25 section (a)(4).

1 “(4) TRANSITION TO A CORRIDOR AROUND THE
2 NATIONAL AVERAGE.—

3 “(A) DETERMINATION OF NATIONAL AVER-
4 AGE BASE PER CAPITA, PER CATEGORY
5 AMOUNT.—Subject to subparagraph (C), the
6 Secretary shall determine a national average
7 base per capita, per category amount equal to
8 the average of the base per capita, per category
9 amounts for each of the 50 States and the Dis-
10 trict of Columbia determined under paragraph
11 (2), weighted by the average number of bene-
12 ficiaries in each such category and State as de-
13 termined by the Secretary consistent with sub-
14 section (d) for the base fiscal year.

15 “(B) TRANSITION ADJUSTMENT.—

16 “(i) HIGH PER CAPITA STATES.—In
17 the case of a high per capita State (as de-
18 fined in clause (iii)(I)) for a category, the
19 per capita quarterly amount for such State
20 and category for a quarter in a fiscal year
21 (beginning with fiscal year 2017 and end-
22 ing with fiscal year 2024) is equal to the
23 sum of—

24 “(I) the product of the State-spe-
25 cific factor for such fiscal year (as de-

1 fined in clause (iv)) and the per capita
2 quarterly amount that would other-
3 wise be determined under paragraph
4 (1) for such State and category if
5 clause (i) of paragraph (1)(C) did not
6 apply; and

7 “(II) the product of 1 minus the
8 State-specific factor for such fiscal
9 year and the per capita quarterly
10 amount that would otherwise be deter-
11 mined under paragraph (1) for a
12 State and category if the base per
13 capita, per category amount deter-
14 mined under paragraph (2) for the
15 State and category were equal to 110
16 percent of the national average base
17 per capita, per category amount deter-
18 mined under subparagraph (A) for
19 such category.

20 “(ii) LOW PER CAPITA STATES.—In
21 the case of a low per capita State (as de-
22 fined in clause (iii)(II)) for a category, the
23 per capita quarterly amount for such State
24 and category for a quarter in a fiscal year
25 (beginning with fiscal year 2017 and end-

ing with fiscal year 2024) is equal to the
sum of—

“(I) the product of the State-specific factor for such fiscal year and the per capita quarterly amount that would otherwise be determined under paragraph (1) for such State and category if clause (i) of paragraph (1)(C) did not apply; and

“(II) the product of 1 minus the State-specific factor for such fiscal year and the per capita quarterly amount that would otherwise be determined under paragraph (1) for a State and category if the base per capita, per category amount determined under paragraph (2) for the State and category were equal to 90 percent of the national average base per capita, per category amount determined under subparagraph (A) for such category.

“(iii) HIGH AND LOW PER CAPITA STATES DEFINED.—In this subparagraph:

1 “(I) HIGH PER CAPITA STATE.—

2 The term ‘high per capita State’
3 means, with respect to a category, a
4 State for which the base per capita,
5 per category amount determined
6 under paragraph (2) for such category
7 is greater than 110 percent of the na-
8 tional average base per capita, per
9 category amount determined under
10 subparagraph (A) for such category.

11 “(II) LOW PER CAPITA STATE.—

12 The term ‘low per capita State’
13 means, with respect to a category, a
14 State for which the base per capita,
15 per category amount determined
16 under paragraph (2) for such category
17 is less than 90 percent of the national
18 average base per capita, per category
19 amount determined under subpara-
20 graph (A) for such category.

21 “(iv) STATE-SPECIFIC FACTOR.—In
22 this subparagraph, the term ‘State-specific
23 factor’ means—

24 “(I) for fiscal year 2017, $\frac{7}{8}$; and

1 “(II) for a subsequent fiscal year,
2 the State-specific factor under this
3 clause for the previous fiscal year
4 minus $\frac{1}{8}$.

5 “(C) NO ADDITIONAL EXPENDITURES.—

6 “(i) DETERMINATION OF INCREASE IN
7 FEDERAL EXPENDITURES.—For each cat-
8 egory for each fiscal year (beginning with
9 fiscal year 2017 and ending with fiscal
10 year 2024), the Secretary shall determine
11 whether the application of this para-
12 graph—

13 “(I) to the category for the fiscal
14 year will result in an aggregate in-
15 crease in the aggregate Federal ex-
16 penditures under this section; and

17 “(II) to all the categories for the
18 fiscal year will result in a net aggre-
19 gate increase in the aggregate Federal
20 expenditures under this section.

21 “(ii) ADJUSTMENT.—If the Secretary
22 determines under clause (i)(II) that the
23 application of this paragraph to all the cat-
24 egories for a fiscal year will result in a net
25 aggregate increase in the aggregate Fed-

eral expenditures under this section, the
 Secretary shall reduce the national average
 base per capita, per category amount com-
 puted under subparagraph (A) for each of
 the categories determined under clause
 (i)(I) for which there will be an aggregate
 increase in the aggregate Federal expendi-
 tures under this section by such uniform
 percentage as will ensure that there is no
 net aggregate Federal expenditure increase
 described in clause (i)(II) for the fiscal
 year.

“(5) REPORTS ON PER CAPITA RATES; AP-
 PEALS.—

“(A) REPORT TO STATES.—Not later than
 8 months after the date of the enactment of
 this section, the Secretary shall submit to each
 State the Secretary’s initial determination of—

“(i) the base per capita, per category
 amounts under paragraph (2) for such
 State; and

“(ii) the national average base per
 capita, per category amounts under para-
 graph (4)(A).

1 “(B) OPPORTUNITY TO APPEAL.—Not
2 later than 3 months after the date a State re-
3 ceives notice of the Secretary’s initial deter-
4 mination of such base per capita, per category
5 amounts for such State under subparagraph
6 (A)(i), the State may file with the Secretary, in
7 a form and manner specified by the Secretary,
8 an appeal of such determination.

9 “(C) DETERMINATION ON APPEAL.—Not
10 later than 3 months after receiving such an ap-
11 peal, the Secretary shall make a final deter-
12 mination on such amounts for such State. If no
13 such appeal is received for a State, the Sec-
14 retary’s initial determination under subpara-
15 graph (A)(i) shall become final.

16 “(6) BASE FISCAL YEAR DEFINED.—In this
17 section, the term ‘base fiscal year’ means the latest
18 fiscal year, ending before the date of the enactment
19 of this section, for which the Secretary determines
20 that adequate data are available to make the com-
21 putations required under this subsection.

22 “(d) NOT COUNTING INDIVIDUALS TO ACCOUNT FOR
23 EXCLUDED PAYMENTS.—Under rules specified by the
24 Secretary, individuals shall not be counted as Medicaid
25 beneficiaries for purposes of subsection (b)(1)(B) and sub-

1 section (c)(2)(A) in proportion to the extent that such in-
 2 dividuals are receiving medical assistance for which pay-
 3 ments described under subsection (a)(4)(A) are made.

4 “(e) RISK ADJUSTMENT.—

5 “(1) IN GENERAL.—The amount under sub-
 6 section (a)(1)(A) shall be adjusted under this sub-
 7 section in an appropriate manner, specified by the
 8 Secretary and consistent with paragraph (2), to take
 9 into account—

10 “(A) the factors described in subsection
 11 (c)(2)(C)(i)(I) within a category of bene-
 12 ficiaries; and

13 “(B) variations in costs on a county-by-
 14 county basis for medical assistance and admin-
 15 istrative expenses.

16 “(2) METHOD OF ADJUSTMENT.—The adjust-
 17 ments under paragraph (1) shall be made in a man-
 18 ner similar to the manner in which similar adjust-
 19 ments are made under subsection (c)(2)(C) and con-
 20 sistent with the requirements of clause (iii) of such
 21 subsection.

22 “(f) CHRONIC CARE QUALITY BONUS PAYMENTS.—

23 “(1) DETERMINATION OF BONUS PAYMENTS.—

24 If the Secretary determines that, based on the re-
 25 ports under paragraph (5), with respect to cat-

egories of chronic disease for which chronic care performance targets had been established under paragraph (3) for each category of Medicaid beneficiaries specified under subsection (b)(2) such targets have been met by a State, the Secretary shall make an additional payment to such State in the amount specified in paragraph (6). Such payments shall be made in a manner specified by the Secretary and may only be used consistent with subsection (a)(3).

“(2) IDENTIFICATION OF CATEGORIES OF CHRONIC DISEASE.—The Secretary shall determine the categories of chronic disease for which bonus payments may be available under this subsection for each category of Medicaid beneficiaries.

“(3) ADOPTION OF QUALITY MEASUREMENT SYSTEM AND IDENTIFICATION OF PERFORMANCE TARGETS.—

“(A) SYSTEM AND DATA.—With respect to the categories of chronic disease under paragraph (2), the Secretary shall adopt a quality measurement system that uses data described in paragraph (4) and is similar to the Five-Star Quality Rating System used to indicate the performance of Medicare Advantage plans under part C of title XVIII.

1 “(B) TARGETS.—Using such system and
2 data, the Secretary shall establish the chronic
3 care performance targets for purposes of the
4 payments under paragraph (1). Such perform-
5 ance targets shall be established in consultation
6 with States, associations representing individ-
7 uals with chronic illnesses, entities providing
8 treatment to such individuals for such chronic
9 illnesses, and other stakeholders, including the
10 National Association of Medicaid Directors and
11 the National Governors Association.

12 “(4) DATA TO BE USED.—The data to be used
13 under paragraph (3) shall include—

14 “(A) data collected through methods such
15 as—

16 “(i) the ‘Healthcare Effectiveness
17 Data and Information Set’ (also known as
18 ‘HEDIS’) (or an appropriate successor
19 performance measurement tool);

20 “(ii) the ‘Consumer Assessment of
21 Healthcare Providers and Systems’ (also
22 known as ‘CAHPS’) (or an appropriate
23 successor performance measurement tool);
24 and

1 “(iii) the ‘Health Outcomes Survey’
2 (also known as ‘HOS’) (or an appropriate
3 successor performance measurement tool);
4 and
5 “(B) other data collected by the State.

6 “(5) REPORTS.—

7 “(A) IN GENERAL.—Each State shall col-
8 lect, analyze, and report to the Secretary, at a
9 frequency and in a manner to be established by
10 the Secretary, data described in paragraph (4)
11 that permit the Secretary to monitor the State’s
12 performance relative to the chronic care per-
13 formance targets established under paragraph
14 (3).

15 “(B) REVIEW AND VERIFICATION.—The
16 Secretary may review the data collected by the
17 State under subparagraph (A) to verify the
18 State’s analysis of such data with respect to the
19 performance targets under paragraph (3).

20 “(6) AMOUNT OF BONUS PAYMENTS.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graphs (B) and (C), with respect to each cat-
23 egory of Medicaid beneficiaries, in the case of
24 a State that the Secretary determines, based on

1 the chronic care performance targets set under
2 paragraph (3) for such category, performs—

3 “(i) in the top five States in such cat-
4 egory, subject to subparagraph (C)(ii), the
5 amount of the bonus shall be 10 percent of
6 the payment amount otherwise paid to the
7 State under subsection (a) for individuals
8 enrolled under the plan within such cat-
9 egory;

10 “(ii) in the next five States in such
11 category, subject to subparagraph (C)(ii),
12 the amount of the bonus shall be 5 percent
13 of the payment amount otherwise paid to
14 the State under subsection (a) for individ-
15 uals enrolled under the plan within such
16 category;

17 “(iii) in the next five States in such
18 category, subject to clauses (i) and (iii) of
19 subparagraph (C), the amount of the
20 bonus shall be 3 percent of the payment
21 amount otherwise paid to the State under
22 subsection (a) for individuals enrolled
23 under the plan within such category;

24 “(iv) in the next five States in such
25 category, subject to clauses (i) and (iii) of

subparagraph (C), the amount of the bonus shall be 2 percent of the payment amount otherwise paid to the State under subsection (a) for individuals enrolled under the plan within such category; and

“(v) in the next five States in such category, subject to clauses (i) and (iii) of subparagraph (C), the amount of the bonus shall be 1 percent of the payment amount otherwise paid to the State under subsection (a) for individuals enrolled under the plan within such category.

“(B) AGGREGATE ANNUAL LIMIT FOR EACH CATEGORY OF MEDICAID BENEFICIARIES.—

“(i) IN GENERAL.—In no case may the aggregate amount of bonuses under this subsection for a fiscal year for a category of Medicaid beneficiaries exceed the limit specified in clause (ii) for the fiscal year.

“(ii) LIMIT.—The limit specified in this clause—

“(I) for the fiscal year 2015 is equal to \$250,000,000; or

1 “(II) for a subsequent fiscal year
2 is equal to the limit specified in this
3 clause for the previous fiscal year in-
4 creased by the per capita percentage
5 increase determined under paragraph
6 (1)(E) of subsection (c).

7 “(C) LIMITATION AND PRORATION OF BO-
8 NUSES BASED ON APPLICATION OF AGGREGATE
9 LIMIT.—

10 “(i) NO BONUS FOR THIRD OR SUBSE-
11 QUENT TIERS UNLESS AGGREGATE LIMIT
12 NOT REACHED ON FIRST TWO TIERS.—No
13 bonus shall be payable under clause (iii),
14 (iv), or (v) of subparagraph (A) for a cat-
15 egory of Medicaid beneficiaries for a fiscal
16 year unless the aggregate amount of bo-
17 nuses under clauses (i) and (ii) of such
18 subparagraph for such category and fiscal
19 year is less than the limit specified in sub-
20 paragraph (C)(ii) for the fiscal year.

21 “(ii) PRORATION FOR FIRST TWO
22 TIERS.—If the aggregate amount of bo-
23 nuses under clauses (i) and (ii) of subpara-
24 graph (A) for a category of Medicaid bene-
25 ficiaries for a fiscal year exceeds the limit

1 specified in subparagraph (C)(ii) for the
2 fiscal year, the amount of each such bonus
3 shall be prorated in a manner so the ag-
4 gregate amount of such bonuses is equal to
5 such limit.

6 “(iii) PRORATION FOR NEXT THREE
7 TIERS.—If the aggregate amount of bo-
8 nuses under clauses (i) and (ii) of subpara-
9 graph (A) for a category of Medicaid bene-
10 ficiaries for a fiscal year is less than the
11 limit specified in subparagraph (C)(ii) for
12 the fiscal year, but the aggregate amount
13 of bonuses under clauses (i) through (v) of
14 subparagraph (A) for the category and fis-
15 cal year exceeds the limit specified in sub-
16 paragraph (C)(ii) for the fiscal year, the
17 amount of each bonus in clauses (iii), (iv),
18 and (v) of subparagraph (A) shall be pro-
19 rated in a manner so the aggregate
20 amount of all the bonuses under subpara-
21 graph (A) is equal to such limit.

22 “(g) STATE OPTION FOR RECEIVING MEDICARE PAY-
23 MENTS FOR FULL-BENEFIT DUAL ELIGIBLE INDIVID-
24 UALS.—

1 “(1) IN GENERAL.—Under this subsection a
2 State may elect for a fiscal year—

3 “(A) to provide to full-benefit dual eligible
4 individuals eligible for medical assistance under
5 the State plan, in addition to the medical as-
6 sistance to which such eligible individuals would
7 otherwise be entitled under this title, the items
8 and services which such eligible individuals
9 would otherwise receive under title XVIII; and

10 “(B) to receive payment from the Sec-
11 retary under paragraph (3).

12 “(2) PAYMENT REQUIREMENT.—

13 “(A) IN GENERAL.—A State electing the
14 option under this subsection shall provide pay-
15 ment to health care providers for the items and
16 services described under paragraph (1)(A) at a
17 rate that is not less than the rate at which pay-
18 ments would be made to such providers for such
19 items and services under title XVIII.

20 “(B) FLEXIBILITY IN PAYMENT METH-
21 ODS.—Nothing in subparagraph (A) shall be
22 construed as preventing a State from using al-
23 ternative payment methodologies (such as bun-
24 dled payments or the use of accountable care
25 organizations (as such term is used in section

1 1899)) for purposes of making payments to
 2 health care providers for items and services pro-
 3 vided to dual eligible individuals in the State
 4 under the option under this subsection.

5 “(3) RESPONSIBILITIES OF THE SECRETARY.—

6 In the case of a State that elects the option under
 7 paragraph (1) for a fiscal year, the Secretary shall,
 8 in addition to the amounts paid to such State under
 9 subsection (a), pay to a State the amount that the
 10 Secretary would otherwise pay under title XVIII for
 11 items and services provided to full-benefit dual eligi-
 12 ble individuals in such State for such fiscal year.

13 “(4) FULL-BENEFIT DUAL ELIGIBLE INDIVIDUAL
 14 DEFINED.—In this subsection, the term
 15 ‘full-benefit dual eligible individual’ means an indi-
 16 vidual who meets the requirements of section
 17 1935(c)(6)(A)(ii).

18 “(h) AUDITS.—The Secretary shall conduct such au-
 19 dits on the number and classification of Medicaid bene-
 20 ficiaries under such subsections and expenditures under
 21 this section as may be necessary to ensure appropriate
 22 payments under this section.

23 “(i) TREATMENT OF WAIVERS.—

24 “(1) NO IMPACT ON CURRENT WAIVERS.—In
 25 the case of a waiver of requirements of this title pur-

1 suant to section 1115 or other law that is in effect
 2 as of the date of the enactment of this section, noth-
 3 ing in this section shall be construed to affect such
 4 waiver for the period of the waiver as approved as
 5 of such date.

6 “(2) APPLICATION OF BUDGET NEUTRALITY TO
 7 SUBSEQUENT WAIVERS AND RENEWALS TAKING SEC-
 8 TION INTO ACCOUNT.—In the case of a waiver of re-
 9 quirements of this title pursuant to section 1115 or
 10 other law that is approved or renewed after the date
 11 of the enactment of this section, to the extent that
 12 such approval or renewal is conditioned upon a dem-
 13 onstration of budget neutrality, budget neutrality
 14 shall be determined taking into account the applica-
 15 tion of this section.

16 “(j) REPORT TO CONGRESS.—Not later than Janu-
 17 ary 1, 2016, the Secretary shall submit to Congress a re-
 18 port on the implementation of this section.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) CONTINUED APPLICATION OF CLAWBACK
 21 PROVISIONS.—

22 (A) CONTINUED APPLICATION.—Sub-
 23 sections (a) and (c)(1)(C) of section 1935 of
 24 such Act (42 U.S.C. 1396u–5) are each amend-
 25 ed by inserting “or 1903A(a)” after “1903(a)”.

1 (B) TECHNICAL AMENDMENT.—Section
 2 1935(d)(1) of the Social Security Act (42
 3 U.S.C. 1396u–5(d)(1)) is amended by inserting
 4 “except as provided in section 1903A(g)” after
 5 “any other provision of this title”.

6 (2) PAYMENT RULES UNDER SECTION 1903.—

7 (A) Section 1903(a) of such Act (42
 8 U.S.C. 1396b(a)) is amended, in the matter be-
 9 fore paragraph (1), by inserting “and section
 10 1903A” after “except as otherwise provided in
 11 this section”.

12 (B) Section 1903(d) of such Act (42
 13 U.S.C. 1396b(d)) is amended—

14 (i) in paragraph (1), by inserting
 15 “and under section 1903A” after “sub-
 16 sections (a) and (b)”;

17 (ii) in paragraph (2)—

18 (I) in subparagraph (A), by in-
 19 serting “or section 1903A” after “was
 20 made under this section”; and

21 (II) in subparagraph (B), by in-
 22 serting “or section 1903A” after
 23 “under subsection (a)”;

24 (iii) in paragraph (4)—

1 (I) by striking “under this sub-
2 section” and inserting “, with respect
3 to this section or section 1903A,
4 under this subsection”; and

5 (II) by striking “under this sec-
6 tion” and inserting “under the respec-
7 tive section”; and

8 (iv) in paragraph (5), by inserting “or
9 section 1903A” after “overpayment under
10 this section”.

11 (3) CONFORMING WAIVER AUTHORITY.—Section
12 1115(a)(2)(A) of the Social Security Act (42 U.S.C.
13 1315(a)(2)(A)) is amended by striking “or 1903”
14 and inserting “1903, or 1903A”.

15 (4) REPORT ON ADDITIONAL CONFORMING
16 AMENDMENTS NEEDED.—Not later than 6 months
17 after the date of the enactment of this Act, the Sec-
18 retary of Health and Human Services shall submit
19 to Congress a report that includes a description of
20 any additional technical and conforming amend-
21 ments to law that are required to properly carry out
22 this Act.

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