

113TH CONGRESS
2D SESSION

S. 2694

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

JULY 30, 2014

Mr. BROWN (for himself, Mrs. MURRAY, Mr. ROCKEFELLER, and Ms. LANDRIEU) 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”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

1 (1) Medicaid plays a key role in providing cov-
2 erage for millions of working families.

3 (2) Medicaid enrollees include families, preg-
4 nant women, children, individuals with disabilities,
5 and other low-income individuals. Without Medicaid
6 coverage, many enrollees would be uninsured or lack
7 coverage for services they need.

8 (3) In 2013, the Medicaid program covered
9 62,000,000 individuals, or 1 in every 5 Americans.
10 This number will continue to grow, particularly since
11 the Affordable Care Act significantly expanded eligi-
12 bility to millions of uninsured adults. Enrollment in
13 Medicaid and the Children's Health Insurance Pro-
14 gram is projected to increase by 12,800,000 by
15 2016.

16 (4) If all States expand their Medicaid pro-
17 grams, an estimated 7,000,000 women ages 18 to 64
18 would gain coverage under Medicaid.

19 (5) In 47 States and in the District of Colum-
20 bia, Medicaid pays up to 67 percent less than Medi-
21 care for the same primary care services.

22 (6) Multiple studies have concluded that higher
23 Medicaid payment rates would increase the prob-
24 ability of primary care providers accepting new Med-

1 icaid patients, and would further support current
2 Medicaid providers.

3 (7) Congress has recognized that low provider
4 participation in Medicaid decreases access to health
5 care. To address this problem, Congress acted to in-
6 crease Medicaid payments for certain primary care
7 services to be not less than the Medicare payment
8 rates for 2013 and 2014.

9 (8) As more Americans become insured and em-
10 powered participants in their own health care, de-
11 mand for primary care services is expected to in-
12 crease over the next few years.

13 (9) Six in 10 women ages 18 to 44 (58 percent)
14 report they see an obstetrics and gynecology (OB/
15 GYN) physician on a regular basis. They are more
16 likely to see their OB/GYN physician on a regular
17 basis than any other type of provider. Given that
18 women comprise the majority of Medicaid enrollees,
19 it is critical that primary care providers, including
20 OB/GYN physicians, receive sufficient reimburse-
21 ment to participate in Medicaid.

22 (10) Nurse practitioners and other mid-level
23 health professionals deliver many primary care serv-
24 ices. Applying Medicare's rates for nurse practi-
25 tioners and mid-level health professionals encourages

greater participation in Medicaid, thereby increasing access to primary care, particularly in underserved areas.

(11) The enhanced Medicaid reimbursement rate ensures providers have the financial capability to serve their patients' primary care needs. Furthermore, adding nurse practitioners, physician assistants, certified nurse-midwives, and OB/GYN physicians serving in primary care settings increases access to critical health care services for women and children nationwide.

SEC. 3. EXTENSION OF APPLICATION OF MEDICARE PAYMENT RATE FLOOR TO PRIMARY CARE SERVICES FURNISHED UNDER MEDICAID AND APPLICATION TO ADDITIONAL PROVIDERS.

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

“(C) payment for primary care services (as defined in subsection (jj)) at a rate that is not less than 100 percent of the payment rate that applies to such services and physician under part B of title XVIII (or, if greater, the payment rate that would be applicable under such part if the conversion factor under section

1 1848(d) for the year involved were the conver-
2 sion factor under such section for 2009), and
3 that is not less than the rate that would other-
4 wise apply to such services under this title if
5 the rate were determined without regard to this
6 subparagraph, and that are—

7 “(i) furnished in 2013 and 2014, by a
8 physician with a primary specialty designa-
9 tion of family medicine, general internal
10 medicine, or pediatric medicine; or

11 “(ii) furnished in 2015 and 2016—

12 “(I) by a physician with a pri-
13 mary specialty designation of family
14 medicine, general internal medicine,
15 or pediatric medicine, but only if the
16 physician self-attests that—

17 “(aa) the physician is Board
18 certified in family medicine, gen-
19 eral internal medicine, or pedi-
20 atric medicine; or

21 “(bb) with respect to the
22 most recently completed calendar
23 year (or in the case of a newly el-
24 igible physician, the preceding
25 month), 60 percent of all services

1 the physician billed for under the
2 State plan or a waiver under this
3 title, or provided through a med-
4 icaid managed care organization
5 (as defined in section
6 1903(m)(1)(A)), were for services
7 described in subparagraph (A) or
8 (B) of subsection (jj)(1);

9 “(II) by a physician with a pri-
10 mary specialty designation of obstet-
11 rics and gynecology, but only if the
12 physician self-attests that—

13 “(aa) the physician is Board
14 certified in obstetrics and gyne-
15 cology; and

16 “(bb) with respect to the
17 most recently completed calendar
18 year (or in the case of a newly el-
19 igible physician, the preceding
20 month), 60 percent of all services
21 the physician billed for under the
22 State plan or a waiver under this
23 title, or provided through a med-
24 icaid managed care organization
25 (as defined in section

1 1903(m)(1)(A)), were for services
2 described in subparagraph (A) or
3 (B) of subsection (jj)(1);

4 “(III) by an advanced practice
5 clinician, as defined by the Secretary,
6 that works under the supervision of—

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

10 “(bb) a nurse practitioner or
11 a physician assistant (as such
12 terms are defined in section
13 1861(aa)(5)(A)) who is working
14 in accordance with State law, or
15 a certified nurse-midwife (as de-
16 fined in section 1861(gg)) who is
17 working in accordance with State
18 law, but only if the nurse practi-
19 tioner, physician assistant, or
20 certified nurse-midwife self-at-
21 tests that, with respect to the
22 most recently completed calendar
23 year (or in the case of a newly el-
24 igible nurse practitioner, physi-
25 cian assistant, or certified nurse-

1 midwife, the preceding month),
2 60 percent of all services the
3 nurse practitioner, physician as-
4 sistant, or certified nurse-midwife
5 billed for under the State plan or
6 a waiver under this title, or pro-
7 vided through a medicaid man-
8 aged care organization (as de-
9 fined in section 1903(m)(1)(A)),
10 were for services described in
11 subparagraph (A) or (B) of sub-
12 section (jj)(1);

13 “(IV) by a rural health clinic,
14 Federally-qualified health center, or
15 other health clinic that receives reim-
16 bursement on a fee schedule applica-
17 ble to a physician, a nurse practi-
18 tioner or a physician assistant (as
19 such terms are defined in section
20 1861(aa)(5)(A)) who is working in ac-
21 cordance with State law, or a certified
22 nurse-midwife (as defined in section
23 1861(gg)) who is working in accord-
24 ance with State law, for services fur-
25 nished by a physician, nurse practi-

1 tioner, physician assistant, or certified
2 nurse-midwife, or services furnished
3 by an advanced practice clinician su-
4 pervised by a physician described in
5 subclause (I)(aa) or (II)(aa), another
6 advanced practice clinician, or a cer-
7 tified nurse-midwife, but only if the
8 rural health clinic or Federally-quali-
9 fied health center self-attests that 60
10 percent of all services billed for under
11 the State plan or a waiver under this
12 title, or provided through a medicaid
13 managed care organization (as defined
14 in section 1903(m)(1)(A)), were for
15 services described in subparagraph
16 (A) or (B) of subsection (jj)(1); or

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

1 payment for such services that the
2 nurse practitioner, physician assist-
3 ant, or certified nurse-midwife is paid
4 is not less than the amount that the
5 nurse practitioner, physician assist-
6 ant, or certified nurse-midwife would
7 be paid if the services were provided
8 under part B of title XVIII, but only
9 if the nurse practitioner, physician as-
10 sistant, or certified nurse-midwife self-
11 attests that, with respect to the most
12 recently completed calendar year (or
13 in the case of a newly eligible nurse
14 practitioner, physician assistant, or
15 certified nurse-midwife, the preceding
16 month), 60 percent of all services the
17 nurse practitioner, physician assist-
18 ant, or certified nurse-midwife billed
19 for under the State plan or a waiver
20 under this title, or provided through a
21 medicaid managed care organization
22 (as defined in section 1903(m)(1)(A)),
23 were for services described in subpara-
24 graph (A) or (B) of subsection
25 (jj)(1);”.

1 (b) IMPROVED TARGETING OF PRIMARY CARE.—Sec-
2 tion 1902(jj) of the Social Security Act (42 U.S.C.
3 1396a(jj)) is amended—

4 (1) by redesignating paragraphs (1) and (2) as
5 subparagraphs (A) and (B), respectively and realign-
6 ing the left margins accordingly;

7 (2) by striking “For purposes of” and inserting
8 the following:

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

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

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

15 (c) CONFORMING AMENDMENT.—Section 1905(dd)
16 of the Social Security Act (42 U.S.C. 1396d(dd)) is
17 amended by striking “January 1, 2015” and inserting
18 “January 1, 2017”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section take effect on January 1, 2015.

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