

114TH CONGRESS
2D SESSION

H. R. 3716

IN THE SENATE OF THE UNITED STATES

MARCH 3, 2016

Received; read twice and referred to the Committee on Finance

AN ACT

To amend title XIX of the Social Security Act to require States to provide to the Secretary of Health and Human Services certain information with respect to provider terminations, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Ensuring Access to
3 Quality Medicaid Providers Act”.

4 **SEC. 2. INCREASING OVERSIGHT OF TERMINATION OF**
5 **MEDICAID PROVIDERS.**

6 (a) INCREASED OVERSIGHT AND REPORTING.—

7 (1) STATE REPORTING REQUIREMENTS.—Sec-
8 tion 1902(kk) of the Social Security Act (42 U.S.C.
9 1396a(kk)) is amended—

10 (A) by redesignating paragraph (8) as
11 paragraph (9); and

12 (B) by inserting after paragraph (7) the
13 following new paragraph:

14 “(8) PROVIDER TERMINATIONS.—

15 “(A) IN GENERAL.—Beginning on July 1,
16 2018, in the case of a notification under sub-
17 section (a)(41) with respect to a termination for
18 a reason specified in section 455.101 of title 42,
19 Code of Federal Regulations (as in effect on
20 November 1, 2015) or for any other reason
21 specified by the Secretary, of the participation
22 of a provider of services or any other person
23 under the State plan, the State, not later than
24 21 business days after the effective date of such
25 termination, submits to the Secretary with re-

1 spect to any such provider or person, as appro-
2 priate—

3 “(i) the name of such provider or per-
4 son;

5 “(ii) the provider type of such pro-
6 vider or person;

7 “(iii) the specialty of such provider’s
8 or person’s practice;

9 “(iv) the date of birth, Social Security
10 number, national provider identifier, Fed-
11 eral taxpayer identification number, and
12 the State license or certification number of
13 such provider or person;

14 “(v) the reason for the termination;

15 “(vi) a copy of the notice of termi-
16 nation sent to the provider or person;

17 “(vii) the date on which such termi-
18 nation is effective, as specified in the no-
19 tice; and

20 “(viii) any other information required
21 by the Secretary.

22 “(B) EFFECTIVE DATE DEFINED.—For
23 purposes of this paragraph, the term ‘effective
24 date’ means, with respect to a termination de-
25 scribed in subparagraph (A), the later of—

1 “(i) the date on which such termi-
2 nation is effective, as specified in the no-
3 tice of such termination; or

4 “(ii) the date on which all appeal
5 rights applicable to such termination have
6 been exhausted or the timeline for any
7 such appeal has expired.”.

8 (2) CONTRACT REQUIREMENT FOR MANAGED
9 CARE ENTITIES.—Section 1932(d) of the Social Se-
10 curity Act (42 U.S.C. 1396u–2(d)) is amended by
11 adding at the end the following new paragraph:

12 “(5) CONTRACT REQUIREMENT FOR MANAGED
13 CARE ENTITIES.—With respect to any contract with
14 a managed care entity under section 1903(m) or
15 1905(t)(3) (as applicable), no later than July 1,
16 2018, such contract shall include a provision that
17 providers of services or persons terminated (as de-
18 scribed in section 1902(kk)(8)) from participation
19 under this title, title XVIII, or title XXI be termi-
20 nated from participating under this title as a pro-
21 vider in any network of such entity that serves indi-
22 viduals eligible to receive medical assistance under
23 this title.”.

24 (3) TERMINATION NOTIFICATION DATABASE.—
25 Section 1902 of the Social Security Act (42 U.S.C.

1 1396a) is amended by adding at the end the fol-
2 lowing new subsection:

3 “(ll) TERMINATION NOTIFICATION DATABASE.—In
4 the case of a provider of services or any other person
5 whose participation under this title, title XVIII, or title
6 XXI is terminated (as described in subsection (kk)(8)),
7 the Secretary shall, not later than 21 business days after
8 the date on which the Secretary terminates such participa-
9 tion under title XVIII or is notified of such termination
10 under subsection (a)(41) (as applicable), review such ter-
11 mination and, if the Secretary determines appropriate, in-
12 clude such termination in any database or similar system
13 developed pursuant to section 6401(b)(2) of the Patient
14 Protection and Affordable Care Act (42 U.S.C. 1395cc
15 note; Public Law 111–148).”.

16 (4) NO FEDERAL FUNDS FOR ITEMS AND SERV-
17 ICES FURNISHED BY TERMINATED PROVIDERS.—
18 Section 1903 of the Social Security Act (42 U.S.C.
19 1396b) is amended—

20 (A) in subsection (i)(2)—

21 (i) in subparagraph (A), by striking
22 the comma at the end and inserting a
23 semicolon;

24 (ii) in subparagraph (B), by striking
25 “or” at the end; and

1 (iii) by adding at the end the fol-
2 lowing new subparagraph:

3 “(D) beginning not later than July 1,
4 2018, under the plan by any provider of serv-
5 ices or person whose participation in the State
6 plan is terminated (as described in section
7 1902(kk)(8)) after the date that is 60 days
8 after the date on which such termination is in-
9 cluded in the database or other system under
10 section 1902(ll); or”;

11 (B) in subsection (m), by inserting after
12 paragraph (2) the following new paragraph:

13 “(3) No payment shall be made under this title to
14 a State with respect to expenditures incurred by the State
15 for payment for services provided by a managed care enti-
16 ty (as defined under section 1932(a)(1)) under the State
17 plan under this title (or under a waiver of the plan) unless
18 the State—

19 “(A) beginning on July 1, 2018, has a contract
20 with such entity that complies with the requirement
21 specified in such subparagraph; and

22 “(B) beginning on January 1, 2018, complies
23 with the requirement specified in section
24 1932(d)(6)(A).”.

1 (5) DEVELOPMENT OF UNIFORM TERMINOLOGY
2 FOR REASONS FOR PROVIDER TERMINATION.—Not
3 later than July 1, 2017, the Secretary of Health and
4 Human Services shall, in consultation with the
5 heads of State agencies administering State Med-
6 icaid plans (or waivers of such plans), issue regula-
7 tions establishing uniform terminology to be used
8 with respect to specifying reasons under subpara-
9 graph (A)(v) of paragraph (8) of section 1902(kk)
10 of the Social Security Act (42 U.S.C. 1396a(kk)), as
11 amended by paragraph (1), for the termination (as
12 described in such paragraph) of the participation of
13 certain providers in the Medicaid program under
14 title XIX of such Act or the Children’s Health In-
15 surance Program under title XXI of such Act.

16 (6) CONFORMING AMENDMENT.—Section
17 1902(a)(41) of the Social Security Act (42 U.S.C.
18 1396a(a)(41)) is amended by striking “provide that
19 whenever” and inserting “provide, in accordance
20 with subsection (kk)(8) (as applicable), that when-
21 ever”.

22 (b) INCREASING AVAILABILITY OF MEDICAID PRO-
23 VIDER INFORMATION.—

24 (1) FFS PROVIDER ENROLLMENT.—Section
25 1902(a) of the Social Security Act (42 U.S.C.

1 1396a(a)) is amended by inserting after paragraph
2 (77) the following new paragraph:

3 “(78) provide that, not later than January 1,
4 2017, in the case of a State plan that provides med-
5 ical assistance on a fee-for-service basis, the State
6 shall require each provider furnishing items and
7 services to individuals eligible to receive medical as-
8 sistance under such plan to enroll with the State
9 agency and provide to the State agency the pro-
10 vider’s identifying information, including the name,
11 specialty, date of birth, Social Security number, na-
12 tional provider identifier, Federal taxpayer identi-
13 fication number, and the State license or certifi-
14 cation number of the provider;”.

15 (2) MANAGED CARE PROVIDER ENROLLMENT.—
16 Section 1932(d) of the Social Security Act (42
17 U.S.C. 1396u–2(d)), as amended by subsection
18 (a)(2), is amended by adding at the end the fol-
19 lowing new paragraph:

20 “(6) ENROLLMENT OF PARTICIPATING PRO-
21 VIDERS.—

22 “(A) IN GENERAL.—Beginning not later
23 than January 1, 2018, a State shall require
24 that, in order to participate as a provider in the
25 network of a managed care entity that provides

1 services to, or orders, prescribes, refers, or cer-
2 tifies eligibility for services for, individuals who
3 are eligible for medical assistance under the
4 State plan under this title and who are enrolled
5 with the entity, the provider is enrolled with the
6 State agency administering the State plan
7 under this title. Such enrollment shall include
8 providing to the State agency the provider's
9 identifying information, including the name,
10 specialty, date of birth, Social Security number,
11 national provider identifier, Federal taxpayer
12 identification number, and the State license or
13 certification number of the provider.

14 “(B) RULE OF CONSTRUCTION.—Nothing
15 in subparagraph (A) shall be construed as re-
16 quiring a provider described in such subpara-
17 graph to provide services to individuals who are
18 not enrolled with a managed care entity under
19 this title.”.

20 (e) COORDINATION WITH CHIP.—

21 (1) IN GENERAL.—Section 2107(e)(1) of the
22 Social Security Act (42 U.S.C. 1397gg(e)(1)) is
23 amended—

24 (A) by redesignating subparagraphs (B),
25 (C), (D), (E), (F), (G), (H), (I), (J), (K), (L),

1 (M), (N), and (O) as subparagraphs (D), (E),
2 (F), (G), (H), (I), (J), (K), (M), (N), (O), (P),
3 (Q), and (R), respectively;

4 (B) by inserting after subparagraph (A)
5 the following new subparagraphs:

6 “(B) Section 1902(a)(39) (relating to ter-
7 mination of participation of certain providers).

8 “(C) Section 1902(a)(78) (relating to en-
9 rollment of providers participating in State
10 plans providing medical assistance on a fee-for-
11 service basis).”;

12 (C) by inserting after subparagraph (K)
13 (as redesignated by subparagraph (A)) the fol-
14 lowing new subparagraph:

15 “(L) Section 1903(m)(3) (relating to limi-
16 tation on payment with respect to managed
17 care).”; and

18 (D) in subparagraph (P) (as redesignated
19 by subparagraph (A)), by striking “(a)(2)(C)
20 and (h)” and inserting “(a)(2)(C) (relating to
21 Indian enrollment), (d)(5) (relating to contract
22 requirement for managed care entities), (d)(6)
23 (relating to enrollment of providers partici-
24 pating with a managed care entity), and (h)
25 (relating to special rules with respect to Indian

1 enrollees, Indian health care providers, and In-
2 dian managed care entities)”.

3 (2) EXCLUDING FROM MEDICAID PROVIDERS
4 EXCLUDED FROM CHIP.—Section 1902(a)(39) of the
5 Social Security Act (42 U.S.C. 1396a(a)(39)) is
6 amended by striking “title XVIII or any other State
7 plan under this title” and inserting “title XVIII, any
8 other State plan under this title, or any State child
9 health plan under title XXI”.

10 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion shall be construed as changing or limiting the appeal
12 rights of providers or the process for appeals of States
13 under the Social Security Act.

14 (e) OIG REPORT.—Not later than March 31, 2020,
15 the Inspector General of the Department of Health and
16 Human Services shall submit to Congress a report on the
17 implementation of the amendments made by this section.
18 Such report shall include the following:

19 (1) An assessment of the extent to which pro-
20 viders who are included under subsection (ll) of sec-
21 tion 1902 of the Social Security Act (42 U.S.C.
22 1396a) (as added by subsection (a)(3)) in the data-
23 base or similar system referred to in such subsection
24 are terminated (as described in subsection (kk)(8) of
25 such section, as added by subsection (a)(1)) from

1 participation in all State plans under title XIX of
2 such Act.

3 (2) Information on the amount of Federal fi-
4 nancial participation paid to States under section
5 1903 of such Act in violation of the limitation on
6 such payment specified in subsections (i)(2)(D) and
7 subsection (m)(3) of such section, as added by sub-
8 section (a)(4).

9 (3) An assessment of the extent to which con-
10 tracts with managed care entities under title XIX of
11 such Act comply with the requirement specified in
12 section 1932(d)(5) of such Act, as added by sub-
13 section (a)(2).

14 (4) An assessment of the extent to which pro-
15 viders have been enrolled under section 1902(a)(78)
16 or 1932(d)(6)(A) of such Act (42 U.S.C.
17 1396a(a)(78), 1396u-2(d)(6)(A)) with State agen-
18 cies administering State plans under title XIX of
19 such Act.

20 **SEC. 3. REQUIRING PUBLICATION OF FEE-FOR-SERVICE**
21 **PROVIDER DIRECTORY.**

22 (a) IN GENERAL.—Section 1902(a) of the Social Se-
23 curity Act (42 U.S.C. 1396a(a)) is amended—

24 (1) in paragraph (80), by striking “and” at the
25 end;

1 (2) in paragraph (81), by striking the period at
2 the end and inserting “; and”; and

3 (3) by inserting after paragraph (81) the fol-
4 lowing new paragraph:

5 “(82) provide that, not later than January 1,
6 2017, in the case of a State plan that provides med-
7 ical assistance on a fee-for-service basis or through
8 a primary care case-management system described
9 in section 1915(b)(1) (other than a primary care
10 case management entity (as defined by the Sec-
11 retary)), the State shall publish (and update on at
12 least an annual basis) on the public Website of the
13 State agency administering the State plan, a direc-
14 tory of the physicians described in subsection (mm)
15 and, at State option, other providers described in
16 such subsection that—

17 “(A) includes—

18 “(i) with respect to each such physi-
19 cian or provider—

20 “(I) the name of the physician or
21 provider;

22 “(II) the specialty of the physi-
23 cian or provider;

1 “(III) the address at which the
2 physician or provider provides serv-
3 ices; and

4 “(IV) the telephone number of
5 the physician or provider; and

6 “(ii) with respect to any such physi-
7 cian or provider participating in such a
8 primary care case-management system, in-
9 formation regarding—

10 “(I) whether the physician or
11 provider is accepting as new patients
12 individuals who receive medical assist-
13 ance under this title; and

14 “(II) the physician’s or provider’s
15 cultural and linguistic capabilities, in-
16 cluding the languages spoken by the
17 physician or provider or by the skilled
18 medical interpreter providing interpre-
19 tation services at the physician’s or
20 provider’s office; and

21 “(B) may include, at State option, with re-
22 spect to each such physician or provider—

23 “(i) the Internet website of such phy-
24 sician or provider; or

1 “(ii) whether the physician or provider
2 is accepting as new patients individuals
3 who receive medical assistance under this
4 title.”.

5 (b) DIRECTORY PHYSICIAN OR PROVIDER DE-
6 SCRIBED.—Section 1902 of the Social Security Act (42
7 U.S.C. 1396a), as amended by section 2(a)(3), is amended
8 by adding at the end the following new subsection:

9 “(mm) DIRECTORY PHYSICIAN OR PROVIDER DE-
10 SCRIBED.—A physician or provider described in this sub-
11 section is—

12 “(1) in the case of a physician or provider of
13 a provider type for which the State agency, as a con-
14 dition on receiving payment for items and services
15 furnished by the physician or provider to individuals
16 eligible to receive medical assistance under the State
17 plan, requires the enrollment of the physician or pro-
18 vider with the State agency, a physician or a pro-
19 vider that—

20 “(A) is enrolled with the agency as of the
21 date on which the directory is published or up-
22 dated (as applicable) under subsection (a)(82);
23 and

1 “(B) received payment under the State
2 plan in the 12-month period preceding such
3 date; and

4 “(2) in the case of a physician or provider of
5 a provider type for which the State agency does not
6 require such enrollment, a physician or provider that
7 received payment under the State plan in the 12-
8 month period preceding the date on which the direc-
9 tory is published or updated (as applicable) under
10 subsection (a)(82).”.

11 (c) RULE OF CONSTRUCTION.—

12 (1) IN GENERAL.—The amendment made by
13 subsection (a) shall not be construed to apply in the
14 case of a State (as defined for purposes of title XIX
15 of the Social Security Act) in which all the individ-
16 uals enrolled in the State plan under such title (or
17 under a waiver of such plan), other than individuals
18 described in paragraph (2), are enrolled with a med-
19 icaid managed care organization (as defined in sec-
20 tion 1903(m)(1)(A) of such Act (42 U.S.C.
21 1396b(m)(1)(A))), including prepaid inpatient health
22 plans and prepaid ambulatory health plans (as de-
23 fined by the Secretary of Health and Human Serv-
24 ices).

1 (2) INDIVIDUALS DESCRIBED.—An individual
2 described in this paragraph is an individual who is
3 an Indian (as defined in section 4 of the Indian
4 Health Care Improvement Act (25 U.S.C. 1603)) or
5 an Alaska Native.

6 (d) EXCEPTION FOR STATE LEGISLATION.—In the
7 case of a State plan under title XIX of the Social Security
8 Act (42 U.S.C. 1396 et seq.), which the Secretary of
9 Health and Human Services determines requires State
10 legislation in order for the respective plan to meet one or
11 more additional requirements imposed by amendments
12 made by this section, the respective plan shall not be re-
13 garded as failing to comply with the requirements of such
14 title solely on the basis of its failure to meet such an addi-
15 tional requirement before the first day of the first calendar
16 quarter beginning after the close of the first regular ses-
17 sion of the State legislature that begins after the date of
18 enactment of this Act. For purposes of the previous sen-
19 tence, in the case of a State that has a 2-year legislative

1 session, each year of the session shall be considered to be
2 a separate regular session of the State legislature.

Passed the House of Representatives March 2,
2016.

Attest:

KAREN L. HAAS,

Clerk.