

114TH CONGRESS
1ST SESSION

S. 737

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

MARCH 12, 2015

Mr. BROWN (for himself, Mrs. MURRAY, Mr. HEINRICH, Mr. SCHATZ, Ms. BALDWIN, Mr. SANDERS, Ms. STABENOW, Mr. FRANKEN, Mr. BLUMENTHAL, Mrs. BOXER, Mr. LEAHY, Ms. HIRONO, and Mr. MURPHY) 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”.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

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

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

10 (3) In 2014, the Medicaid program covered
11 69,000,000 individuals, or 1 in every 5 Americans.
12 This number will continue to grow, particularly since
13 the Affordable Care Act significantly expanded eligi-
14 bility to millions of uninsured adults.

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

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

21 (6) Congress has recognized that low provider
22 participation in Medicaid decreases access to health
23 care. To address this problem, Congress acted to in-
24 crease Medicaid payments for certain primary care
25 services to be not less than the Medicare payment
26 rates for 2013 and 2014.

1 (7) As more Americans become insured and em-
2 powered participants in their own health care, de-
3 mand for primary care services is expected to in-
4 crease over the next few years.

5 (8) According to a study published earlier this
6 year in the New England Journal of Medicine, high-
7 er Medicaid payment rates have significantly in-
8 creased appointment availability for Medicaid enroll-
9 ees.

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

19 (10) Nurse practitioners and other health pro-
20 fessionals deliver many primary care services. Apply-
21 ing Medicare's rates for nurse practitioners and
22 other health professionals encourages greater partici-
23 pation in Medicaid, thereby increasing access to pri-
24 mary 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. RENEWAL OF APPLICATION OF MEDICARE PAYMENT RATE FLOOR TO PRIMARY CARE SERVICES FURNISHED UNDER MEDICAID AND INCLUSION OF ADDITIONAL PROVIDERS.

(a) RENEWAL OF PAYMENT FLOOR; ADDITIONAL PROVIDERS.—

(1) 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

1848(d) for the year involved were the conversion factor under such section for 2009), and that is not less than the rate that would otherwise apply to such services under this title if the rate were determined without regard to this subparagraph, and that are—

“(i) furnished in 2013 and 2014, by a physician with a primary specialty designation of family medicine, general internal medicine, or pediatric medicine; or

“(ii) furnished in the 2-year period that begins on the first day of the first month that begins after the date of enactment of the Ensuring Access to Primary Care for Women & Children Act—

“(I) by a physician with a primary specialty designation of family medicine, general internal medicine, or pediatric medicine, but only if the physician self-attests that the physician is Board certified in family medicine, general internal medicine, or pediatric medicine;

“(II) by a physician with a primary specialty designation of obstet-

1 rics and gynecology, but only if the
2 physician self-attests that the physi-
3 cian is Board certified in obstetrics
4 and gynecology;

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

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

11 “(bb) a nurse practitioner or
12 a physician assistant (as such
13 terms are defined in section
14 1861(aa)(5)(A)) who is working
15 in accordance with State law, or
16 a certified nurse-midwife (as de-
17 fined in section 1861(gg)) who is
18 working in accordance with State
19 law;

20 “(IV) by a rural health clinic,
21 Federally-qualified health center, or
22 other health clinic that receives reim-
23 bursement on a fee schedule applica-
24 ble to a physician, a nurse practi-
25 tioner or a physician assistant (as

1 such terms are defined in section
2 1861(aa)(5)(A)) who is working in ac-
3 cordance with State law, or a certified
4 nurse-midwife (as defined in section
5 1861(gg)) who is working in accord-
6 ance with State law, for services fur-
7 nished by a physician, nurse practi-
8 tioner, physician assistant, or certified
9 nurse-midwife, or services furnished
10 by an advanced practice clinician su-
11 pervised by a physician described in
12 subclause (I)(aa) or (II)(aa), another
13 advanced practice clinician, or a cer-
14 tified nurse-midwife; or

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

1 ant, or certified nurse-midwife is paid
 2 is not less than the amount that the
 3 nurse practitioner, physician assist-
 4 ant, or certified nurse-midwife would
 5 be paid if the services were provided
 6 under part B of title XVIII;”.

7 (2) CONFORMING AMENDMENTS.—Section
 8 1905(dd) of the Social Security Act (42 U.S.C.
 9 1396d(dd)) is amended—

10 (A) by striking “Notwithstanding” and in-
 11 serting the following:

12 “(1) IN GENERAL.—Notwithstanding”;

13 (B) by inserting “or furnished during an
 14 additional period specified in paragraph (2),”
 15 after “2015,”; and

16 (C) by adding at the end the following:

17 “(2) ADDITIONAL PERIODS.—For purposes of
 18 paragraph (1), the following are additional periods:

19 “(A) The 2-year period that begins on the
 20 first day of the first month that begins after
 21 the date of enactment of the Ensuring Access
 22 to Primary Care for Women & Children Act.”.

23 (b) IMPROVED TARGETING OF PRIMARY CARE.—Sec-
 24 tion 1902(jj) of the Social Security Act (42 U.S.C.
 25 1396a(jj)) is amended—

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

4 (2) by striking “For purposes of” and inserting
 5 the following:

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

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

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

12 (c) ENSURING PAYMENT BY MANAGED CARE ENTI-
 13 TIES.—

14 (1) IN GENERAL.—Section 1903(m)(2)(A) of
 15 the Social Security Act (42 U.S.C. 1396b(m)(2)(A))
 16 is amended—

17 (A) in clause (xii), by striking “and” after
 18 the semicolon;

19 (B) by realigning the left margin of clause
 20 (xiii) so as to align with the left margin of
 21 clause (xii) and by striking the period at the
 22 end of clause (xiii) and inserting “; and”; and

23 (C) by inserting after clause (xiii) the fol-
 24 lowing:

1 “(xiv) such contract provides that (I) payments
2 to providers specified in section 1902(a)(13)(C) for
3 primary care services defined in section 1902(jj)
4 that are furnished during a year or period specified
5 in section 1902(a)(13)(C) and section 1905(dd) are
6 at least equal to the amounts set forth and required
7 by the Secretary by regulation, (II) the entity shall,
8 upon request, provide documentation to the State,
9 sufficient to enable the State and the Secretary to
10 ensure compliance with subclause (I), and (III) the
11 Secretary shall approve payments described in sub-
12 clause (I) that are furnished through an agreed
13 upon capitation, partial capitation, or other value-
14 based payment arrangement if the capitation, partial
15 capitation, or other value-based payment arrange-
16 ment is based on a reasonable methodology and the
17 entity provides documentation to the State sufficient
18 to enable the State and the Secretary to ensure com-
19 pliance with subclause (I).”.

20 (2) CONFORMING AMENDMENT.—Section
21 1932(f) of the Social Security Act (42 U.S.C.
22 1396u–2(f)) is amended by inserting “and clause
23 (xiv) of section 1903(m)(2)(A)” before the period.

1 **SEC. 4. IMPROVING QUALITY AND VALUE FOR MEDICAID**
2 **BENEFICIARIES.**

3 (a) GAO STUDY.—Not later than 1 year after the
4 date of enactment of this Act, the Comptroller General
5 of the United States shall submit to Congress a report
6 that examines the use of alternative payment models in
7 State Medicaid programs and identifies opportunities for
8 disseminating successful payment models among such pro-
9 grams.

10 (b) FUNDING THE DEVELOPMENT OF QUALITY
11 MEASURES.—The first sentence of section 1139B(e) of
12 the Social Security Act (42 U.S.C. 1320b–9b(e)) is
13 amended by inserting “, and for fiscal year 2016,
14 \$15,000,000,” before “for the purpose”.

15 (c) DEVELOPING QUALITY MEASURES FOR BENE-
16 FICIARIES WITH DISABILITIES.—Section 1139B(b)(5) of
17 the Social Security Act (42 U.S.C. 1320b–9b(b)(5)) is
18 amended by adding at the end the following:

19 “(C) QUALITY MEASURES SPECIFIC TO
20 ADULT INDIVIDUALS WITH DISABILITIES.—The
21 Secretary, acting through the Administrator for
22 the Centers for Medicare & Medicaid Services
23 and the Director of the Agency for Healthcare
24 Research and Quality, shall develop adult
25 health quality measures that are specific to
26 adult individuals with disabilities and shall in-

1 clude those measures in the Medicaid Quality
2 Measurement Program. In developing such
3 measures, priority shall be given to developing
4 quality measures that assess the impact on
5 adult individuals with disabilities of existing
6 programs and to the development of quality
7 measures that assess the impact of new service
8 delivery innovations on such individuals.”.

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