

116TH CONGRESS
1ST SESSION

H. R. 1354

To amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2019

Ms. PLASKETT (for herself, Miss GONZÁLEZ-COLÓN of Puerto Rico, Mrs. RADEWAGEN, Mr. SAN NICOLAS, Mr. SERRANO, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Territories Health Equity Act of 2019”.

1 (b) TABLE OF CONTENTS.—The table of contents of
2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MEDICAID

Sec. 101. Elimination of general Medicaid funding limitations (“cap”) for territories.

Sec. 102. Elimination of specific Federal medical assistance percentage (FMAP) limitation for territories.

Sec. 103. Application of Medicaid waiver authority to all of the territories.

Sec. 104. Permitting Medicaid DSH allotments for territories.

TITLE II—MEDICARE

Subtitle A—Part A

Sec. 201. Calculation of Medicare DSH payments for IPPS hospitals in Puerto Rico.

Sec. 202. Rebasing target amount for hospitals in territories.

Sec. 203. Medicare DSH target adjustment for hospitals in territories.

Subtitle B—Part B

Sec. 211. Application of part B deemed enrollment process to residents of Puerto Rico; special enrollment period and limit on late enrollment penalties.

Subtitle C—Medicare Advantage (Part C)

Sec. 221. Adjustment in benchmark for low-base payment counties in Puerto Rico.

Subtitle D—Part D

Sec. 231. Improved use of allocated prescription drug funds by territories.

Sec. 232. Report on treatment of territories under Medicare part D.

TITLE III—MISCELLANEOUS

Sec. 301. Modified treatment of territories with respect to application of ACA annual health insurance provider fees.

Sec. 302. Medicaid and CHIP territory transparency and information.

Sec. 303. Report on exclusion of territories from Exchanges.

Sec. 304. Access to coverage for individuals in certain areas without any available Exchange plans.

Sec. 305. Extension of family-to-family health information centers program to territories.

TITLE I—MEDICAID

SEC. 101. ELIMINATION OF GENERAL MEDICAID FUNDING

LIMITATIONS (“CAP”) FOR TERRITORIES.

(a) IN GENERAL.—Section 1108 of the Social Security Act (42 U.S.C. 1308) is amended—

(1) in subsection (f), in the matter preceding paragraph (1), by striking “subsection (g)” and inserting “subsections (g) and (h)”;

(2) in subsection (g)(2), in the matter preceding subparagraph (A), by inserting “subsection (h)” after “subject to”; and

(3) by adding at the end the following new subsection:

“(h) SUNSET OF MEDICAID FUNDING LIMITATIONS FOR PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA.—Subsections (f) and (g) shall not apply to Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa beginning with fiscal year 2020.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(j) of the Social Security Act (42 U.S.C. 1396a(j)) is amended by striking “, the limitation in section 1108(f),”.

1 (2) Section 1903(u) of the Social Security Act
 2 (42 U.S.C. 1396b(u)) is amended by striking para-
 3 graph (4).

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply beginning with fiscal year 2020.

6 **SEC. 102. ELIMINATION OF SPECIFIC FEDERAL MEDICAL**
 7 **ASSISTANCE PERCENTAGE (FMAP) LIMITA-**
 8 **TION FOR TERRITORIES.**

9 Section 1905(b) of the Social Security Act (42 U.S.C.
 10 1396d(b)) is amended, in clause (2), by inserting “for fis-
 11 cal years before fiscal year 2020” after “American
 12 Samoa”.

13 **SEC. 103. APPLICATION OF MEDICAID WAIVER AUTHORITY**
 14 **TO ALL OF THE TERRITORIES.**

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

17 (1) by striking “American Samoa and the
 18 Northern Mariana Islands” and inserting “Puerto
 19 Rico, the Virgin Islands, Guam, the Northern Mar-
 20 iana Islands, and American Samoa”;

21 (2) by striking “American Samoa or the North-
 22 ern Mariana Islands” and inserting “Puerto Rico,
 23 the Virgin Islands, Guam, the Northern Mariana Is-
 24 lands, or American Samoa”;

1 (3) by inserting “(1)” before “Notwith-
2 standing”;

3 (4) by inserting “except as otherwise provided
4 in this subsection,” after “Notwithstanding any
5 other requirement of this title”; and

6 (5) by adding at the end the following:

7 “(2) The Secretary may not waive under this sub-
8 section the requirement of subsection (a)(10)(A)(i)(IX)
9 (relating to coverage of adults formerly under foster care)
10 with respect to any territory.”.

11 (b) **EFFECTIVE DATE.**—The amendments made by
12 this section shall apply beginning October 1, 2019.

13 **SEC. 104. PERMITTING MEDICAID DSH ALLOTMENTS FOR**
14 **TERRITORIES.**

15 Section 1923(f) of the Social Security Act (42 U.S.C.
16 1396r–4(f)) is amended—

17 (1) in paragraph (6), by adding at the end the
18 following new subparagraph:

19 “(C) **TERRITORIES.**—

20 “(i) **FISCAL YEAR 2020.**—For fiscal
21 year 2020, the DSH allotment for Puerto
22 Rico, the Virgin Islands, Guam, the North-
23 ern Mariana Islands, and American Samoa
24 shall bear the same ratio to \$300,000,000
25 as the ratio of the number of individuals

who are low-income or uninsured and residing in such respective territory (as estimated from time to time by the Secretary) bears to the sums of the number of such individuals residing in all of the territories.

“(ii) SUBSEQUENT FISCAL YEAR.—

For each subsequent fiscal year, the DSH allotment for each such territory is subject to an increase in accordance with paragraph (3).”; and

(2) in paragraph (9), by inserting before the period at the end the following: “, and includes, beginning with fiscal year 2020, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa”.

TITLE II—MEDICARE

Subtitle A—Part A

SEC. 201. CALCULATION OF MEDICARE DSH PAYMENTS FOR IPPS HOSPITALS IN PUERTO RICO.

Section 1886(d)(9)(D)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(9)(D)(iii)) is amended to read as follows:

“(iii) Subparagraph (F) (relating to disproportionate share payments), including application of subsection (r), except that for this purpose—

1 “(I) the sum described in clause (ii) of this
2 subparagraph shall be substituted for the sum
3 referred to in paragraph (5)(F)(ii)(I); and

4 “(II) for discharges occurring on or after
5 October 1, 2019, subclause (I) of paragraph
6 (5)(F)(vi) shall be applied by substituting for
7 the numerator described in such subclause the
8 number of subsection (d) Puerto Rico hospital’s
9 patient days for the cost reporting period in-
10 volved which were made up of patients who (for
11 such days) were entitled to benefits under part
12 A of this title and were—

13 “(aa) entitled to supplementary secu-
14 rity income benefits (excluding any State
15 supplementation) under title XVI of this
16 Act;

17 “(bb) eligible for medical assistance
18 under a State plan under title XIX; or

19 “(cc) receiving aid or assistance under
20 any plan of the State approved under title
21 I, X, XIV, or XVI.”.

1 **SEC. 202. REBASING TARGET AMOUNT FOR HOSPITALS IN**
2 **TERRITORIES.**

3 Section 1886(b)(3) of the Social Security Act (42
4 U.S.C. 1395ww(b)(3)) is amended by adding at the end
5 the following new subparagraph:

6 “(M)(i) For each cost reporting period be-
7 ginning on or after October 1, 2019, in the case
8 of a hospital located in a territory of the United
9 States, there shall be substituted for the target
10 amount otherwise determined under subpara-
11 graph (A) the rebased target amount (as de-
12 fined in clause (ii)), if such substitution results
13 in an amount of payment under this section to
14 the hospital for such period that is greater than
15 the amount of payment that would be made
16 under this section to the hospital for such pe-
17 riod if this subparagraph were not to apply.

18 “(ii) For purposes of this subparagraph,
19 the term ‘rebased target amount’ has the mean-
20 ing given the term ‘target amount’ in subpara-
21 graph (A), except that—

22 “(I) there shall be substituted for the
23 preceding 12-month cost reporting period
24 the 12-month cost reporting period begin-
25 ning during fiscal year 2015 (or, at the op-

tion of the hospital, beginning during fiscal year 2017);

“(II) any reference in subparagraph (A)(i) to the ‘first such cost reporting period’ is deemed a reference to the first cost reporting period following the 12-month cost reporting period beginning during fiscal year 2015 (or, at the option of the hospital, beginning during fiscal year 2017); and

“(III) the applicable percentage increase shall only be applied under subparagraph (B)(ii) for cost reporting periods beginning on or after October 1, 2019.

“(iii) Nothing in this subparagraph shall affect any pending request by a hospital for a new target amount for any cost reporting period beginning during a fiscal year before fiscal year 2020.”.

SEC. 203. MEDICARE DSH TARGET ADJUSTMENT FOR HOSPITALS IN TERRITORIES.

Section 1886(b)(3) of the Social Security Act (42 U.S.C. 1395ww(b)(3)), as amended by section 202, is further amended by adding at the end the following new subparagraph:

1 “(N)(i) For each cost reporting period be-
2 ginning on or after October 1, 2019, in the case
3 of a hospital that is located in a territory of the
4 United States other than Puerto Rico and that
5 would be a subsection (d) hospital if it were lo-
6 cated in one of the 50 States, the target
7 amount shall be increased by—

8 “(I) in the case that such hospital has
9 a disproportionate patient percentage of
10 not less than 15 percent and not greater
11 than 40 percent, 10 percent; and

12 “(II) in the case that such hospital
13 has a disproportionate patient percentage
14 of greater than 40 percent, 10 percent plus
15 60 percent of the number of percentage
16 points by which such hospital’s dispropor-
17 tionate patient percentage exceeds 40 per-
18 cent.

19 “(ii) For purposes of this subparagraph,
20 the term ‘disproportionate patient percentage’
21 has the meaning given such term in subsection
22 (d)(5)(F)(vi), except that in applying such
23 meaning any reference under such subsection to
24 individuals entitled to supplementary security
25 income under title XVI shall be deemed for pur-

1 poses of this subparagraph to include individ-
2 uals—

3 “(I) eligible for medical assistance
4 under a State plan under title XIX; or

5 “(II) receiving aid or assistance under
6 any plan of the territory approved under
7 title I, X, XIV, or XVI.”.

8 **Subtitle B—Part B**

9 **SEC. 211. APPLICATION OF PART B DEEMED ENROLLMENT** 10 **PROCESS TO RESIDENTS OF PUERTO RICO;** 11 **SPECIAL ENROLLMENT PERIOD AND LIMIT** 12 **ON LATE ENROLLMENT PENALTIES.**

13 (a) APPLICATION OF PART B DEEMED ENROLLMENT
14 PROCESS TO RESIDENTS OF PUERTO RICO.—Section
15 1837(f)(3) of the Social Security Act (42 U.S.C.
16 1395p(f)(3)) is amended by striking “, exclusive of Puerto
17 Rico”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to individuals whose initial en-
20 rollment period under section 1837(d) of the Social Secu-
21 rity Act begins on or after the first day of the effective
22 month, specified by the Secretary of Health and Human
23 Services under section 1839(j)(1)(C) of such Act, as added
24 by subsection (c)(2).

1 (c) TRANSITION PROVIDING SPECIAL ENROLLMENT
2 PERIOD AND LIMIT ON LATE ENROLLMENT PENALTIES
3 FOR CERTAIN MEDICARE BENEFICIARIES.—Section 1839
4 of the Social Security Act (42 U.S.C. 1395r) is amend-
5 ed—

6 (1) in the first sentence of subsection (b), by in-
7 serting “subject to section 1839(j)(2),” after “sub-
8 section (i)(4) or (l) of section 1837,”; and

9 (2) by adding at the end the following new sub-
10 section:

11 “(j) SPECIAL RULES FOR CERTAIN RESIDENTS OF
12 PUERTO RICO.—

13 “(1) SPECIAL ENROLLMENT PERIOD, COVERAGE
14 PERIOD FOR RESIDENTS WHO ARE ELIGIBLE BUT
15 NOT ENROLLED.—

16 “(A) IN GENERAL.—In the case of a tran-
17 sition individual (as defined in paragraph (3))
18 who is not enrolled under this part as of the
19 day before the first day of the effective month
20 (as defined in subparagraph (C)), the Secretary
21 shall provide for a special enrollment period
22 under section 1837 of 7 months beginning with
23 such effective month during which the indi-
24 vidual may be enrolled under this part.

1 “(B) COVERAGE PERIOD.—In the case of
2 such an individual who enrolls during such spe-
3 cial enrollment period, the coverage period
4 under section 1838 shall begin on the first day
5 of the second month after the month in which
6 the individual enrolls.

7 “(C) EFFECTIVE MONTH DEFINED.—In
8 this section, the term ‘effective month’ means a
9 month, not earlier than October 2020 and not
10 later than January 2021, specified by the Sec-
11 retary.

12 “(2) REDUCTION IN LATE ENROLLMENT PEN-
13 ALTIES FOR CURRENT ENROLLEES AND INDIVID-
14 UALS ENROLLING DURING TRANSITION.—

15 “(A) IN GENERAL.—In the case of a tran-
16 sition individual who is enrolled under this part
17 as of the day before the first day of the effec-
18 tive month or who enrolls under this part on or
19 after the date of the enactment of this sub-
20 section but before the end of the special enroll-
21 ment period under paragraph (1)(A), the
22 amount of the late enrollment penalty imposed
23 under section 1839(b) shall be recalculated by
24 reducing the penalty to 15 percent of the pen-
25 alty otherwise established.

1 “(B) APPLICATION.—Subparagraph (A)
2 shall be applied in the case of a transition indi-
3 vidual who—

4 “(i) is enrolled under this part as of
5 the month before the effective month, for
6 premiums for months beginning with such
7 effective month; or

8 “(ii) enrolls under this part on or
9 after the date of the enactment of this Act
10 and before the end of the special enroll-
11 ment period under paragraph (1)(A), for
12 premiums for months during the coverage
13 period under this part which occur during
14 or after the effective month.

15 “(C) LOSS OF REDUCTION IF INDIVIDUAL
16 TERMINATES ENROLLMENT.—Subparagraph
17 (A) shall not apply to a transition individual if
18 the individual terminates enrollment under this
19 part after the end of the special enrollment pe-
20 riod under paragraph (1).

21 “(3) TRANSITION INDIVIDUAL DEFINED.—In
22 this section, the term ‘transition individual’ means
23 an individual who resides in Puerto Rico and who
24 would have been deemed enrolled under this part
25 pursuant to section 1837(f) before the first day of

1 the effective month but for the fact that the indi-
 2 vidual was a resident of Puerto Rico, regardless of
 3 whether the individual is enrolled under this part as
 4 of such first day.”.

5 **Subtitle C—Medicare Advantage** 6 **(Part C)**

7 **SEC. 221. ADJUSTMENT IN BENCHMARK FOR LOW-BASE** 8 **PAYMENT COUNTIES IN PUERTO RICO.**

9 Section 1853(n) of the Social Security Act (42 U.S.C.
 10 1395w–23(n)) is amended—

11 (1) in paragraph (1), by striking “and (5)” and
 12 inserting “(5), and (6)”;

13 (2) in paragraph (4), by striking “In no case”
 14 and inserting “Subject to paragraph (6), in no
 15 case”; and

16 (3) by adding at the end the following new
 17 paragraph:

18 “(6) SPECIAL RULES FOR BLENDED BENCH-
 19 MARK AMOUNT FOR TERRITORIES.—

20 “(A) IN GENERAL.—Subject to paragraph
 21 (2), the blended benchmark amount for an area
 22 in a territory for a year (beginning with 2020)
 23 shall not be less than 80 percent of the national
 24 average of the base payment amounts specified
 25 in subparagraph (2)(E) for such year for areas

1 within the 50 States and the District of Colum-
 2 bia.

3 “(B) LIMITATION.—In no case shall the
 4 blended benchmark amount for an area in a
 5 territory for a year under subparagraph (A) ex-
 6 ceed the lowest blended benchmark amount for
 7 any area within the 50 States and the District
 8 of Columbia for such year.”.

9 **Subtitle D—Part D**

10 **SEC. 231. IMPROVED USE OF ALLOCATED PRESCRIPTION** 11 **DRUG FUNDS BY TERRITORIES.**

12 Section 1935(e) of the Social Security Act (42 U.S.C.
 13 1396u–5(e)) is amended by adding at the end the fol-
 14 lowing new paragraph:

15 “(5) IMPROVED USE OF FUNDS FOR LOW-IN-
 16 COME PART D ELIGIBLE INDIVIDUALS.—This sub-
 17 section shall be applied beginning with fiscal year
 18 2020 as follows, notwithstanding any other provision
 19 of this title:

20 “(A) CLARIFYING STATE FLEXIBILITY TO
 21 COVER NON-DUAL-ELIGIBLE INDIVIDUALS.—In
 22 this title, the term ‘medical assistance’ includes
 23 financial assistance furnished by a State under
 24 this subsection to part D eligible individuals
 25 who, if they were residing in one of the 50

1 States or the District of Columbia, would qual-
 2 ify as subsidy eligible individuals under section
 3 1860D–14(a)(3), and without regard to wheth-
 4 er such individuals otherwise qualify for medical
 5 assistance under this title.

6 “(B) 100 PERCENT FMAP TO REFLECT NO
 7 STATE MATCHING REQUIRED FOR PART D LOW
 8 INCOME SUBSIDIES.—The Federal medical as-
 9 sistance percentage applicable to the assistance
 10 furnished under this subsection is 100 percent.

11 “(C) LIMITED FUNDING FOR SPECIAL
 12 RULES.—Subparagraphs (A) and (B), and the
 13 provision of medical assistance for covered part
 14 D drugs to low-income part D eligible individ-
 15 uals for a State and period under this sub-
 16 section, is limited to the amount specified in
 17 paragraph (3) for such State and period.”.

18 **SEC. 232. REPORT ON TREATMENT OF TERRITORIES**
 19 **UNDER MEDICARE PART D.**

20 Paragraph (4) of section 1935(e) of the Social Secu-
 21 rity Act (42 U.S.C. 1396u–5(e)) is amended to read as
 22 follows:

23 “(4) REPORT ON APPLICATION OF SUB-
 24 SECTION.—

1 “(A) IN GENERAL.—Not later than Feb-
2 ruary 1, 2020, the Secretary shall submit to
3 Congress a report on the application of this
4 subsection during the period beginning fiscal
5 year 2006 and ending fiscal year 2019.

6 “(B) INFORMATION TO BE INCLUDED IN
7 REPORT.—Such report shall include—

8 “(i) program guidance issued by the
9 Secretary to implement this subsection;

10 “(ii) for each territory, information on
11 the increased amount under paragraph (3)
12 and how the territory has applied such
13 amount, including the territory’s program
14 design, expenditures, and number of indi-
15 viduals (and dual-eligible individuals) as-
16 sisted; and

17 “(iii) differences between how such
18 territories are treated under part D of title
19 XVIII and under this title compared with
20 the treatment of the 50 States and the
21 District of Columbia under such part and
22 this title for different fiscal years within
23 the period covered under the report.

24 “(C) RECOMMENDATIONS.—Such report
25 shall include recommendations for improving

prescription drug coverage for low-income individuals in each territory, including recommendations regarding each of the following alternative approaches:

“(i) Adjusting the aggregate amount specified in paragraph (3)(B).

“(ii) Allowing residents of the territories to be subsidy eligible individuals under section 1860D–14, notwithstanding subsection (a)(3)(F) of such section, or providing substantially equivalent low-income prescription drug subsidies to such residents.”.

TITLE III—MISCELLANEOUS

SEC. 301. MODIFIED TREATMENT OF TERRITORIES WITH RESPECT TO APPLICATION OF ACA ANNUAL HEALTH INSURANCE PROVIDER FEES.

Section 9010 of the Patient Protection and Affordable Care Act (26 U.S.C. 4001 note prec.) is amended—

(1) in subsection (b)(1), by inserting “subject to subsection (k)(1),” after “With respect to each covered entity,”; and

(2) by adding at the end the following:

“(k) SPECIAL RULES FOR TREATMENT OF TERRITORIES.—

1 “(1) IN GENERAL.—In applying this section
2 with respect to United States health risks located
3 outside of the 50 States or the District of Columbia
4 for years beginning with 2020—

5 “(A) the amount of the fee under sub-
6 section (b) shall be 50 percent of the amount
7 of the fee otherwise determined;

8 “(B) the Secretary shall deposit the
9 amount of such fees collected for each territory
10 into a separate account; and

11 “(C) amounts in such an account for a ter-
12 ritory for a year are appropriated and shall be
13 available to the territory in accordance with
14 paragraph (2).

15 “(2) AVAILABILITY OF FUNDS.—Amounts made
16 available to a territory under paragraph (1)(C) with
17 respect to a territory for a year shall be made avail-
18 able to the territory, upon application of the terri-
19 tory to the Secretary of Health and Human Serv-
20 ices, only for the following purposes, as elected by
21 the territory in such application:

22 “(A) INCREASED PRESCRIPTION DRUG AS-
23 SISTANCE FOR LOW-INCOME PART D ELIGIBLE
24 INDIVIDUALS.—For increasing the amount of
25 funds made available to the territory under sec-

tion 1935(e)(3) of the Social Security Act (42 U.S.C. 1396u–5(e)(3)) for assistance for low-income part D eligible individuals in obtaining part D covered drugs.

“(B) SATISFYING STATE MEDICAID MATCHING REQUIREMENT.—For the territory to meet non-Federal matching requirements imposed with respect to obtaining Federal financial participation under title XIX of the Social Security Act.”.

**SEC. 302. MEDICAID AND CHIP TERRITORY TRANSPARENCY
AND INFORMATION.**

(a) PUBLICATION OF INFORMATION ON FEDERAL EXPENDITURES UNDER MEDICAID AND CHIP IN THE TERRITORIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall publish, and periodically update, on the Internet site of the Centers for Medicare & Medicaid Services information on Medicaid and CHIP carried out in the territories of the United States. Such information shall include, with respect to each such territory—

(1) the income levels established by the territory for purposes of eligibility of an individual to receive medical assistance under Medicaid or child health assistance under CHIP;

1 (2) the number of individuals enrolled in Med-
2 icaid and CHIP in such territory;

3 (3) any State plan amendments in effect to
4 carry out Medicaid or CHIP in such territory;

5 (4) any waiver of the requirements of title XIX
6 or title XXI issued by the Secretary to carry out
7 Medicaid or CHIP in the territory, including a waiv-
8 er under section 1115 of the Social Security Act (42
9 U.S.C. 1315), any application for such a waiver, and
10 any documentation related to such application (in-
11 cluding correspondence);

12 (5) the amount of the Federal and non-Federal
13 share of expenditures under Medicaid and CHIP in
14 such territory;

15 (6) the systems in place for the furnishing of
16 health care items and services under Medicaid and
17 CHIP in such territory;

18 (7) the design of CHIP in such territory; and

19 (8) other information regarding the carrying
20 out of Medicaid and CHIP in the territory that is
21 published on such Internet site with respect to car-
22 rying out Medicaid and CHIP in each State and the
23 District of Columbia.

24 (b) DEFINITIONS.—In this section:

1 (1) CHIP.—The term “CHIP” means the
2 State Children’s Health Insurance Program under
3 title XXI of the Social Security Act.

4 (2) MEDICAID.—The term “Medicaid” means
5 the Medicaid program under title XIX of the Social
6 Security Act.

7 (3) TERRITORY.—The term “territory of the
8 United States” includes Puerto Rico, the Virgin Is-
9 lands of the United States, Guam, the Northern
10 Mariana Islands, and American Samoa.

11 **SEC. 303. REPORT ON EXCLUSION OF TERRITORIES FROM**
12 **EXCHANGES.**

13 (a) IN GENERAL.—Not later than February 1, 2020,
14 the Secretary of Health and Human Services shall submit
15 to Congress a report that details the adverse impacts in
16 each territory from the practical exclusion of the terri-
17 tories from the provisions of part II of subtitle D of title
18 I of the Patient Protection and Affordable Care Act inso-
19 far as such provisions provide for the establishment of an
20 American Health Benefit Exchange or the administration
21 of a federally facilitated Exchange in each State and in
22 the District of Columbia for the purpose of making health
23 insurance more affordable and accessible for individuals
24 and small businesses.

1 (b) INFORMATION IN REPORT.—The report shall in-
2 clude information on the following:

3 (1) An estimate of the total number of unin-
4 sured and underinsured individuals residing in each
5 territory with respect to health insurance coverage.

6 (2) A description of the number of health insur-
7 ance issuers in each territory and the health insur-
8 ance plans these issuers offer.

9 (3) An estimate of the number of individuals re-
10 siding in each territory who are denied premium and
11 cost-sharing assistance that would otherwise be
12 available to them for obtaining health insurance cov-
13 erage through an Exchange if they resided in one of
14 the 50 States or in the District of Columbia.

15 (4) An estimate of the amount of Federal as-
16 sistance described in paragraph (3) that is not being
17 made available to residents of each territory.

18 (5) An estimate of the number of small employ-
19 ers in each territory that would be eligible to pur-
20 chase health insurance coverage through a Small
21 Business Health Options Program (SHOP) Market-
22 place that would operate as part of an Exchange if
23 the employers were in one of the 50 States or in the
24 District of Columbia.

1 **SEC. 304. ACCESS TO COVERAGE FOR INDIVIDUALS IN CER-**
 2 **TAIN AREAS WITHOUT ANY AVAILABLE EX-**
 3 **CHANGE PLANS.**

4 Part 2 of subtitle D of title I of the Patient Protec-
 5 tion and Affordable Care Act (42 U.S.C. 18031 et seq.)
 6 is amended by adding at the end the following:

7 **“SEC. 1314. ACCESS TO COVERAGE FOR INDIVIDUALS IN**
 8 **CERTAIN AREAS WITHOUT ANY AVAILABLE**
 9 **EXCHANGE PLANS.**

10 **“(a) IN GENERAL.—**

11 **“(1) COVERAGE THROUGH DC SHOP EX-**
 12 **CHANGE.—**Not later than 3 months after the date of
 13 enactment of this section, the Secretary, in consulta-
 14 tion with the Secretary of the Treasury and the Di-
 15 rector of the Office of Personnel Management, shall
 16 establish a mechanism to ensure that, for any plan
 17 year beginning on or after the date described in sub-
 18 section (d), any individual described in paragraph
 19 (2) may enroll in health insurance coverage in the
 20 small group market through the Exchange operating
 21 in the District of Columbia, including the health in-
 22 surance coverage that is available to Members of
 23 Congress and congressional staff (as defined in sec-
 24 tion 1312(d)(3)(D)).

25 **“(2) INDIVIDUAL DESCRIBED.—**An individual
 26 described in this paragraph is any individual who—

“(A) is not eligible to enroll in an employer-sponsored health plan (excluding such a plan that would not be considered minimum essential coverage due to the application of subparagraph (C) of section 36B(c)(2) of the Internal Revenue Code of 1986 if such subparagraph applied to such plan); and

“(B) is a bona fide resident of any possession of the United States (as determined under section 937(a) of such Code) in which the Secretary certifies that no qualified health plan is offered through an Exchange established under this title.

“(3) POSSESSION OF THE UNITED STATES.—

For purposes of this section, the term ‘possession of the United States’ shall include such possessions as are specified in section 937(a)(1) of the Internal Revenue Code of 1986.

“(b) PREMIUM ASSISTANCE TAX CREDITS AND COST-SHARING.—Any individual described in subsection (a)(2) who enrolls in health insurance coverage through the Exchange operating in the District of Columbia pursuant to subsection (a)(1) shall be eligible for any premium tax credit under section 36B of the Internal Revenue Code of 1986, reduced cost-sharing under section 1402, and ad-

1 vance determination and payment of such credits or such
 2 reductions under section 1412, that the individual would
 3 otherwise be eligible for if enrolling as a resident of the
 4 District of Columbia in health insurance coverage in the
 5 individual market through the Exchange operating in the
 6 District of Columbia.

7 “(c) TREATMENT OF POSSESSIONS.—

8 “(1) PAYMENTS TO POSSESSIONS.—

9 “(A) MIRROR CODE POSSESSION.—The
 10 Secretary of the Treasury shall periodically (but
 11 not less frequently than annually) pay to each
 12 possession of the United States with a mirror
 13 code tax system amounts equal to the loss to
 14 that possession by reason of the application of
 15 this section (determined without regard to para-
 16 graph (2)) with respect to taxable years begin-
 17 ning after the date described in subsection (d).
 18 Such amounts shall be determined by the Sec-
 19 retary of the Treasury based on information
 20 provided by the government of the respective
 21 possession.

22 “(B) OTHER POSSESSIONS.—The Sec-
 23 retary of the Treasury shall periodically (but
 24 not less frequently than annually) pay to each
 25 possession of the United States which does not

1 have a mirror code tax system amounts esti-
2 mated by the Secretary of the Treasury as
3 being equal to the aggregate benefits that would
4 have been provided to residents of such posses-
5 sion by reason of the application of this section
6 for any taxable years beginning after the date
7 described in subsection (d) if a mirror code tax
8 system had been in effect in such possession.
9 The preceding sentence shall not apply with re-
10 spect to any possession of the United States un-
11 less such possession has a plan, which has been
12 approved by the Secretary of the Treasury,
13 under which such possession will promptly dis-
14 tribute such payments to the residents of such
15 possession.

16 “(2) COORDINATION WITH CREDIT ALLOWED
17 AGAINST UNITED STATES INCOME TAXES.—No cred-
18 it shall be allowed against United States income
19 taxes for any taxable year under section 36B of the
20 Internal Revenue Code of 1986 to any person—

21 “(A) to whom a credit is allowed against
22 taxes imposed by the possession by reason of
23 this section (determined without regard to this
24 paragraph) for such taxable year, or

1 “(B) who is eligible for a payment under
2 a plan described in paragraph (1)(B) with re-
3 spect to such taxable year.

4 “(3) MIRROR CODE TAX SYSTEM.—For pur-
5 poses of this subsection, the term ‘mirror code tax
6 system’ means, with respect to any possession of the
7 United States, the income tax system of such posses-
8 sion if the income tax liability of the residents of
9 such possession under such system is determined by
10 reference to the income tax laws of the United
11 States as if such possession were the United States.

12 “(4) TREATMENT OF PAYMENTS.—For pur-
13 poses of section 1324(b)(2) of title 31, United
14 States Code, or any similar rule of law, the pay-
15 ments under this subsection shall be treated in the
16 same manner as a refund due from the credit al-
17 lowed under section 36B of the Internal Revenue
18 Code of 1986.

19 “(d) DATE DESCRIBED.—The date described in this
20 subsection is the date on which the Secretary establishes
21 the mechanism described in subsection (a)(1).”.

1 **SEC. 305. EXTENSION OF FAMILY-TO-FAMILY HEALTH IN-**
2 **FORMATION CENTERS PROGRAM TO TERRI-**
3 **TORIES.**

4 Section 501(c)(3)(C) of the Social Security Act (42
5 U.S.C. 701(c)) is amended by striking “years 2018 and
6 2019” and inserting “year 2018 and each fiscal year
7 thereafter”.

