II

116TH CONGRESS
2D SESSION

S. 4469

To ensure coverage of a COVID–19 vaccine and treatment.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2020

Ms. SMITH (for herself, Mr. BENNET, and Ms. HARRIS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To ensure coverage of a COVID–19 vaccine and treatment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''COVID–19 Treatment Coverage Act''.

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

SEC. 2. COVERAGE AT NO COST SHARING OF COVID–19 VACCINE AND TREATMENT UNDER MEDICAID PROGRAM.

(a) MEDICAID.—

(1) IN GENERAL.—Section 1905(a)(4) of the Social Security Act (42 U.S.C. 1396d(a)(4)) is amended—

(A) by striking ''and (D)'' and inserting ''(D)''; and

(B) by striking the semicolon at the end and inserting ''; (E) during the portion of the emergency period described in paragraph (1)(B) of section 1135(g) beginning on the date of the enactment of the COVID–19 Treatment Coverage Act, a COVID–19 vaccine licensed under section 351 of the Public Health Service Act, or approved or authorized under section 505 or 564 of the Federal Food, Drug, and Cosmetic Act, and administration of the vaccine; (F) dur-

ing such portion of the emergency period described in paragraph (1)(B) of section 1135(g), items or services for the prevention or treatment of COVID–19, including drugs approved or authorized under such section 505 or such section 564 or, without regard to the requirements of section 1902(a)(10)(B) (relating to comparability), in the case of an individual who is diagnosed with or presumed to have COVID–19, during such portion of such emergency period during which such individual is infected (or presumed infected) with COVID–19, the treatment of a condition that may complicate the treatment of COVID–19;''.

(2) PROHIBITION OF COST SHARING.—

(A) IN GENERAL.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are each amended—

(i) in subparagraph (F), by striking ''or'' at the end;

(ii) in subparagraph (G), by striking ''; and'' and inserting '', or''; and

(iii) by adding at the end the following subparagraphs:

''(H) during the portion of the emergency period described in paragraph (1)(B) of section 1135(g) beginning on the date of the enactment of this subparagraph, a COVID–19 vaccine licensed under section 351 of the Public Health Service Act, or approved or authorized under section 505 or 564 of the Federal Food, Drug, and Cosmetic Act, and the administration of such vaccine, or

''(I) during such portion of the emergency period described in paragraph (1)(B) of section 1135(g), any item or service furnished for the treatment of COVID–19, including drugs approved or authorized under such section 505 or such section 564 or, in the case of an individual who is diagnosed with or presumed to have COVID–19, during the portion of such emergency period during which such individual is infected (or presumed infected) with COVID–19, the treatment of a condition that may complicate the treatment of COVID–19; and''.

(B) APPLICATION TO ALTERNATIVE COST SHARING.—Section 1916A(b)(3)(B) of the Social Security Act (42 U.S.C. 1396o–1(b)(3)(B)) is amended—

(i) in clause (xi), by striking ''any visit'' and inserting ''any service''; and

(ii) by adding at the end the following clauses:

''(xii) During the portion of the emergency period described in paragraph (1)(B) of section 1135(g) beginning on the date of the enactment of this clause, a COVID–19 vaccine licensed under section 351 of the Public Health Service Act, or approved or authorized under section 505 or 564 of the Federal Food, Drug, and Cosmetic Act, and the administration of such vaccine.

''(xiii) During such portion of the emergency period described in paragraph (1)(B) of section 1135(g), an item or service furnished for the treatment of COVID–19, including drugs approved or authorized under such section 505 or such section 564 or, in the case of an individual who is diagnosed with or presumed to have COVID–19, during such portion of such emergency period during which such individual is infected (or presumed infected) with COVID–19, the treatment of a condition

that may complicate the treatment of COVID–19.''.

(C) CLARIFICATION.—The amendments made by this subsection shall apply with respect to a State plan of a territory in the same manner as a State plan of one of the 50 States.

(b) STATE PEDIATRIC VACCINE DISTRIBUTION PROGRAM.—Section 1928 of the Social Security Act (42 U.S.C. 1396s) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period and inserting ''; and''; and

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

''(C) during the portion of the emergency period described in paragraph (1)(B) of section 1135(g) beginning on the date of the enactment of this subparagraph, each vaccine-eligible child (as defined in subsection (b)) is entitled to receive a COVID–19 vaccine from a program-registered provider (as defined in subsection (h)(7)) without charge for—

''(i) the cost of such vaccine; or

"(ii) the administration of such vaccine.";

(2) in subsection (c)(2)—

(A) in subparagraph (C)(ii), by inserting ", but, during the portion of the emergency period described in paragraph (1)(B) of section 1135(g) beginning on the date of the enactment of the COVID–19 Treatment Coverage Act, may not impose a fee for the administration of a COVID–19 vaccine" before the period; and

(B) by adding at the end the following subparagraph:

"(D) The provider will provide and administer an approved COVID–19 vaccine to a vaccine-eligible child in accordance with the same requirements as apply under the preceding subparagraphs to the provision and administration of a qualified pediatric vaccine to such a child."; and

(3) in subsection (d)(1), in the first sentence, by inserting ", including, during the portion of the emergency period described in paragraph (1)(B) of section 1135(g) beginning on the date of the enactment of the COVID–19 Treatment Coverage Act, with respect to a COVID–19 vaccine licensed under

section 351 of the Public Health Service Act, or approved or authorized under section 505 or 564 of the Federal Food, Drug, and Cosmetic Act'' before the period.

(c) CHIP.—

(1) IN GENERAL.—Section 2103(c) of the Social Security Act (42 U.S.C. 1397cc(c)) is amended by adding at the end the following paragraph:

''(11) COVERAGE OF COVID–19 VACCINES AND TREATMENT.—Regardless of the type of coverage elected by a State under subsection (a), child health assistance provided under such coverage for targeted low-income children and, in the case that the State elects to provide pregnancy-related assistance under such coverage pursuant to section 2112, such pregnancy-related assistance for targeted low-income pregnant women (as defined in section 2112(d)) shall include coverage, during the portion of the emergency period described in paragraph (1)(B) of section 1135(g) beginning on the date of the enactment of this paragraph, of—

''(A) a COVID–19 vaccine licensed under section 351 of the Public Health Service Act, or approved or authorized under section 505 or 564 of the Federal Food, Drug, and Cosmetic

Act, and the administration of such vaccine; and

''(B) any item or service furnished for the treatment of COVID–19, including drugs approved or authorized under such section 505 or such section 564, or, in the case of an individual who is diagnosed with or presumed to have COVID–19, during the portion of such emergency period during which such individual is infected (or presumed infected) with COVID–19, the treatment of a condition that may complicate the treatment of COVID–19.''.

(2) PROHIBITION OF COST SHARING.—Section 2103(e)(2) of the Social Security Act (42 U.S.C. 1397cc(e)(2)), as amended by section 6004(b)(3) of the Families First Coronavirus Response Act, is amended—

(A) in the paragraph header, by inserting ''A COVID–19 VACCINE, COVID–19 TREATMENT,'' before ''OR PREGNANCY-RELATED ASSISTANCE''; and

(B) by striking ''visits described in section 1916(a)(2)(G), or'' and inserting ''services described in section 1916(a)(2)(G), vaccines described in section 1916(a)(2)(H) administered

during the portion of the emergency period described in paragraph (1)(B) of section 1135(g) beginning on the date of the enactment of the COVID–19 Treatment Coverage Act, items or services described in section 1916(a)(2)(I) furnished during such emergency period, or''.

(d) CONFORMING AMENDMENTS.—Section 1937 of the Social Security Act (42 U.S.C. 1396u–7) is amended—

(1) in subsection (a)(1)(B), by inserting '', under subclause (XXIII) of section 1902(a)(10)(A)(ii),'' after ''section 1902(a)(10)(A)(i)''; and

(2) in subsection (b)(5), by adding before the period the following: '', and, effective on the date of the enactment of the COVID–19 Treatment Coverage Act, must comply with subparagraphs (F) through (I) of subsections (a)(2) and (b)(2) of section 1916 and subsection (b)(3)(B) of section 1916A''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect to a COVID–19 vaccine beginning on the date that such vaccine is licensed under section 351 of the Public Health Service Act (42

U.S.C. 262), or approved or authorized under section 505 or 564 of the Federal Food, Drug, and Cosmetic Act.

SEC. 3. COVERAGE OF TREATMENT AND VACCINES AT NO COST SHARING FOR THE UNINSURED.

(a) IN GENERAL.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter following subparagraph (G), by striking ''and any visit described in section 1916(a)(2)(G)'' and inserting the following: '', any COVID–19 vaccine that is administered during any such portion (and the administration of such vaccine), any item or service that is furnished during any such portion for the treatment of COVID–19, including drugs approved or authorized under section 505 or 564 of the Federal Food, Drug, and Cosmetic Act, or, in the case of an individual who is diagnosed with or presumed to have COVID–19, during the period such individual is infected (or presumed infected) with COVID–19, the treatment of a condition that may complicate the treatment of COVID–19, the treatment of a COVID–19-related condition that follows the treatment of, or hospitalization with, COVID–19, and any services described in section 1916(a)(2)(G)''.

(b) DEFINITION OF UNINSURED INDIVIDUAL.—

(1) IN GENERAL.—Subsection (ss) of section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended to read as follows:

''(ss) UNINSURED INDIVIDUAL DEFINED.—For purposes of this section, the term 'uninsured individual' means, notwithstanding any other provision of this title, any individual who is not covered by minimum essential coverage (as defined in section 5000A(f)(1) of the Internal Revenue Code of 1986).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect and apply as if included in the enactment of the Families First Coronavirus Response Act (Public Law 116–127).

(c) CLARIFICATION REGARDING EMERGENCY SERVICES FOR CERTAIN INDIVIDUALS.—For purposes of applying section 1903(v)(2)(A) of the Social Security Act (42 U.S.C. 1396b(v)(2)(A)), the care and services described in such section shall include the following:

(1) In vitro diagnostic products (as defined in section 809.3(a) of title 21, Code of Federal Regulations), and the administration of such products.

(2) A COVID–19 vaccine (and the administration of such vaccine).

(3) Any item or service that is furnished for the treatment of COVID–19 or a condition that may

complicate the treatment of COVID–19, the treatment of a COVID–19-related condition that follows the treatment of, or hospitalization with, COVID–19, and any services described in section 1916(a)(2)(G) of such Act (42 U.S.C. 1396o(a)(2)(G)).

(d) EMERGENCY MEDICAID FOR INDIVIDUALS WITH SUSPECTED COVID–19 INFECTIONS.—For purposes of applying section 1903(v)(3) of the Social Security Act (42 U.S.C. 1396b(v)(3)), the term ''emergency medical condition'' (as defined in such section 1903(v)(3)) shall include, with respect to an individual, any concern that the individual may have contracted COVID–19.

(e) TREATMENT OF ASSISTANCE AND SERVICES PROVIDED.—Beginning on the date of enactment of this Act—

(1) the value of assistance or services provided to any person under a program with respect to which a coronavirus response law establishes or expands eligibility or benefits shall not be considered income or resources; and

(2)(A) any medical coverage or services provided to an individual under subsection (v) of section 1903 of the Social Security Act (42 U.S.C. 1396b) shall be considered treatment for an emergency medical condition (as defined in subsection (v)(3) of

such section) for any purpose under any Federal, State, or local law, including law relating to taxation, welfare, and public assistance programs; and

(B) a participating State or political subdivision of a State shall not decrease any assistance otherwise provided to an individual because of the receipt of benefits under the Social Security Act (42 U.S.C. 301 et seq.).

(f) OTHER DEFINITIONS.—In this section:

(1) CORONAVIRUS PUBLIC HEALTH EMERGENCY.—The term ''coronavirus public health emergency'' means—

(A) an emergency involving Federal primary responsibility determined to exist by the President under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191(b)) with respect to COVID–19 or any other coronavirus with pandemic potential;

(B) an emergency declared by a Federal official with respect to coronavirus (as defined in section 506 of the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Public Law 116–123));

(C) a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to COVID–19 or any other coronavirus with pandemic potential; and

(D) a public health emergency declared by the Secretary of Health and Human Services pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247(d)) with respect to COVID–19 or any other coronavirus with pandemic potential.

(2) CORONAVIRUS RESPONSE LAW.—The term ''coronavirus response law'' means—

(A) the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Public Law 116–123);

(B) the Families First Coronavirus Response Act (Public Law 116–127);

(C) the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136); and

(D) any subsequent law that appropriates or otherwise makes available funds, establishes, amends, or expands a program, or authorizes activities or assistance for a purpose that is expressly related to responding to, or mitigating

the effects of, a coronavirus public health emergency.

(g) REIMBURSEMENT FOR ADDITIONAL HEALTH SERVICES RELATING TO CORONAVIRUS.—Title V of division A of the Families First Coronavirus Response Act (Public Law 116–127) is amended under the heading ''Department of Health and Human Services—Office of the Secretary—Public Health and Social Services Emergency Fund'' by inserting '', or treatment related to SARS–CoV–2 or COVID–19 for uninsured individuals'' after ''or visits described in paragraph (2) of such section for uninsured individuals''.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit—

(1) the types of care and services that are necessary for the treatment of an emergency condition for purposes of section 1903(v) of the Social Security Act (42 U.S.C. 1396b(v)); or

(2) the types of medical conditions that are ''emergency medical conditions'' for purposes of such section.

SEC. 4. COVERAGE OF COVID–19 TREATMENT AT NO COST SHARING UNDER MEDICARE PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, in the case of a specified COVID–19 treat-

ment service (as defined in subsection (b)) furnished during any portion of the emergency period described in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b–5(g)) beginning on or after the date of the enactment of this Act to an individual entitled to benefits under part A or enrolled under part B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for which payment is made under such part A or such part B, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall provide that—

(1) any cost sharing required (including any deductible, copayment, or coinsurance) applicable to such individual under such part A or such part B with respect to such item or service is paid by the Secretary; and

(2) the provider of services or supplier (as defined in section 1861 of the Social Security Act (42 U.S.C. 1395x)) does not hold such individual liable for such requirement.

(b) DEFINITION OF SPECIFIED COVID–19 TREATMENT SERVICES.—For purposes of this section, the term ''specified COVID–19 treatment service'' means any item or service furnished to an individual for which payment may be made under part A or part B of title XVIII of

the Social Security Act (42 U.S.C. 1395 et seq.) if such item or service is included in a claim with an ICD–10–CM code relating to COVID–19 (as described in the document entitled ''ICD–10–CM Official Coding Guidelines—Supplement Coding encounters related to COVID–19 Coronavirus Outbreak'' published on February 20, 2020, or as otherwise specified by the Secretary).

(c) RECOVERY OF COST-SHARING AMOUNTS PAID BY THE SECRETARY IN THE CASE OF SUPPLEMENTAL INSURANCE COVERAGE.—

(1) IN GENERAL.—In the case of any amount paid by the Secretary pursuant to subsection (a)(1) that the Secretary determines would otherwise have been paid by a group health plan or health insurance issuer (as such terms are defined in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91)), a private entity offering a medicare supplemental policy under section 1882 of the Social Security Act (42 U.S.C. 1395ss), any other health plan offering supplemental coverage, a State plan under title XIX of the Social Security Act, or the Secretary of Defense under the TRICARE program, such plan, issuer, private entity, other health plan, State plan, or Secretary of Defense, as applicable, shall pay to the Secretary, not later than 1 year after

such plan, issuer, private entity, other health plan, State plan, or Secretary of Defense receives a notice under paragraph (3), such amount in accordance with this subsection.

(2) REQUIRED INFORMATION.—Not later than 9 months after the date of the enactment of this Act, each group health plan, health insurance issuer, private entity, other health plan, State plan, and Secretary of Defense described in paragraph (1) shall submit to the Secretary such information as the Secretary determines necessary for purposes of carrying out this subsection. Such information so submitted shall be updated by such plan, issuer, private entity, other health plan, State plan, or Secretary of Defense, as applicable, at such time and in such manner as specified by the Secretary.

(3) REVIEW OF CLAIMS AND NOTIFICATION.—The Secretary shall establish a process under which claims for items and services for which the Secretary has paid an amount pursuant to subsection (a)(1) are reviewed for purposes of identifying if such amount would otherwise have been paid by a plan, issuer, private entity, other health plan, State plan, or Secretary of Defense described in paragraph (1). In the case such a claim is so identified, the Sec-

retary shall determine the amount that would have been otherwise payable by such plan, issuer, private entity, other health plan, State plan, or Secretary of Defense and notify such plan, issuer, private entity, other health plan, State plan, or Secretary of Defense of such amount.

(4) ENFORCEMENT.—The Secretary may impose a civil monetary penalty in an amount determined appropriate by the Secretary in the case of a plan, issuer, private entity, other health plan, or State plan that fails to comply with a provision of this section. The provisions of section 1128A of the Social Security Act shall apply to a civil monetary penalty imposed under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under subsection (a) or (b) of such section.

(d) FUNDING.—The Secretary shall provide for the transfer to the Centers for Medicare & Medicaid Program Management Account from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Trust Fund (in such portions as the Secretary determines appropriate) $100,000,000 for purposes of carrying out this section.

(e) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Inspector General of the Department of Health and Human Services shall submit to Congress a report containing an analysis of amounts paid pursuant to subsection (a)(1) compared to amounts paid to the Secretary pursuant to subsection (c).

(f) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement the provisions of this section by program instruction or otherwise.

SEC. 5. COVERAGE OF COVID–19 TREATMENT AT NO COST SHARING UNDER MEDICARE ADVANTAGE PROGRAM.

(a) IN GENERAL.—Section 1852(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–22(a)(1)(B)) is amended by adding at the end the following new clause:

"(vii) SPECIAL COVERAGE RULES FOR SPECIFIED COVID–19 TREATMENT SERVICES.—Notwithstanding clause (i), in the case of a specified COVID–19 treatment service (as defined in section 4(b) of the COVID–19 Treatment Coverage Act) that is furnished during a plan year occurring during any portion of the emergency period defined in section 1135(g)(1)(B) beginning on or after the date of the enactment of

this clause, a Medicare Advantage plan may not, with respect to such service, impose—

"(I) any cost-sharing requirement (including a deductible, copayment, or coinsurance requirement); and

"(II) in the case such service is a critical specified COVID–19 treatment service (including ventilator services and intensive care unit services), any prior authorization or other utilization management requirement.

A Medicare Advantage plan may not take the application of this clause into account for purposes of a bid amount submitted by such plan under section 1854(a)(6).".

(b) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement the amendments made by this section by program instruction or otherwise.

SEC. 6. COVERAGE OF COVID–19 DRUGS AT NO COST SHARING UNDER MEDICARE PRESCRIPTION DRUG PLANS.

(a) COVERAGE REQUIREMENT.—

(1) IN GENERAL.—Section 1860D–4(b)(3) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)) is amended by adding at the end the following new subparagraph:

''(I) REQUIRED INCLUSION OF DRUGS INTENDED TO TREAT COVID–19.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, a PDP sponsor offering a prescription drug plan shall, with respect to a plan year, any portion of which occurs during the period described in clause (ii), be required to—

''(I) include in any formulary—

''(aa) all covered part D drugs with a medically accepted indication (as defined in section 1860D–2(e)(4)) to treat COVID–19 that are marketed in the United States; and

''(bb) all drugs authorized under section 564 or 564A of the Federal Food, Drug, and Cosmetic Act to treat COVID–19; and

"(II) not impose any prior authorization or other utilization management requirement with respect to such drugs described in item (aa) or (bb) of subclause (I) (other than such a requirement that limits the quantity of drugs due to safety).

"(ii) PERIOD DESCRIBED.—For purposes of clause (i), the period described in this clause is the period during which there exists the public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act on January 31, 2020, entitled 'Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus' (including any renewal of such declaration pursuant to such section).".

(b) ELIMINATION OF COST SHARING.—

(1) ELIMINATION OF COST SHARING FOR DRUGS INTENDED TO TREAT COVID–19 UNDER STANDARD AND ALTERNATIVE PRESCRIPTION DRUG COVERAGE.—Section 1860D–2 of the Social Security Act (42 U.S.C. 1395w–102) is amended—

(A) in subsection (b)—

(i) in paragraph (1)(A), by striking ''The coverage'' and inserting ''Subject to paragraph (8), the coverage'';

(ii) in paragraph (2)—

(I) in subparagraph (A), by inserting after ''Subject to subparagraphs (C) and (D)'' the following: ''and paragraph (8)'';

(II) in subparagraph (C)(i), by striking ''paragraph (4)'' and inserting ''paragraphs (4) and (8)''; and

(III) in subparagraph (D)(i), by striking ''paragraph (4)'' and inserting ''paragraphs (4) and (8)'';

(iii) in paragraph (4)(A)(i), by striking ''The coverage'' and inserting ''Subject to paragraph (8), the coverage''; and

(iv) by adding at the end the following new paragraph:

''(8) ELIMINATION OF COST-SHARING FOR DRUGS INTENDED TO TREAT COVID–19.—The coverage does not impose any deductible, copayment, coinsurance, or other cost-sharing requirement for drugs described in section 1860D–4(b)(3)(I)(i)(I)

with respect to a plan year, any portion of which occurs during the period during which there exists the public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act on January 31, 2020, entitled 'Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus' (including any renewal of such declaration pursuant to such section).''; and

(B) in subsection (c), by adding at the end the following new paragraph:

''(4) SAME ELIMINATION OF COST-SHARING FOR DRUGS INTENDED TO TREAT COVID–19.—The coverage is in accordance with subsection (b)(8).''.

(2) ELIMINATION OF COST SHARING FOR DRUGS INTENDED TO TREAT COVID–19 DISPENSED TO INDIVIDUALS WHO ARE SUBSIDY ELIGIBLE INDIVIDUALS.—Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (D)—

(I) in clause (ii), by striking ''In the case of'' and inserting ''Subject to subparagraph (F), in the case of''; and

(II) in clause (iii), by striking ''In the case of'' and inserting ''Subject to subparagraph (F), in the case of''; and

(ii) by adding at the end the following new subparagraph:

''(F) ELIMINATION OF COST-SHARING FOR DRUGS INTENDED TO TREAT COVID–19.—Coverage that is in accordance with section 1860D–2(b)(8).''; and

(B) in paragraph (2)—

(i) in subparagraph (B), by striking ''A reduction'' and inserting ''Subject to subparagraph (F), a reduction'';

(ii) in subparagraph (D), by striking ''The substitution'' and inserting ''Subject to subparagraph (F), the substitution'';

(iii) in subparagraph (E), by inserting after ''Subject to'' the following: ''subparagraph (F) and''; and

(iv) by adding at the end the following new subparagraph:

''(F) ELIMINATION OF COST-SHARING FOR DRUGS INTENDED TO TREAT COVID–19.—Cov-

erage that is in accordance with section 1860D–2(b)(8).''.

(c) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement the amendments made by this section by program instruction or otherwise.

SEC. 7. COVERAGE OF COVID–19 TREATMENT AT NO COST SHARING UNDER PRIVATE HEALTH INSURANCE.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering group or individual health insurance coverage (including a grandfathered health plan (as defined in section 1251(e) of the Patient Protection and Affordable Care Act)) shall provide coverage, and shall not impose any cost sharing (including deductibles, copayments, and coinsurance) requirements, for the following items and services furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b–5(g)) beginning on or after the date of the enactment of this Act:

(1) Medically necessary items and services (including in-person or telehealth visits in which such items and services are furnished) that are furnished to an individual who has been diagnosed with (or

after provision of the items and services is diagnosed with) COVID–19 to treat or mitigate the effects of COVID–19.

(2) Medically necessary items and services (including in-person or telehealth visits in which such items and services are furnished) that are furnished to an individual who is presumed to have COVID–19 but is never diagnosed as such, if the following conditions are met:

(A) Such items and services are furnished to the individual to treat or mitigate the effects of COVID–19 or to mitigate the impact of COVID–19 on society.

(B) Health care providers have taken appropriate steps under the circumstances to make a diagnosis, or confirm whether a diagnosis was made, with respect to such individual, for COVID–19, if possible.

(b) ITEMS AND SERVICES RELATED TO COVID–19.—For purposes of this section—

(1) not later than one week after the date of the enactment of this section, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury shall jointly issue guidance specifying applicable diagnoses and medi-

cally necessary items and services related to COVID–19; and

(2) such items and services shall include all items or services that are relevant to the treatment or mitigation of COVID–19, regardless of whether such items or services are ordinarily covered under the terms of a group health plan or group or individual health insurance coverage offered by a health insurance issuer.

(c) ENFORCEMENT.—

(1) APPLICATION WITH RESPECT TO PHSA, ERISA, AND IRC.—The provisions of this section shall be applied by the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury to group health plans and health insurance issuers offering group or individual health insurance coverage as if included in the provisions of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.), part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.), and subchapter B of chapter 100 of the Internal Revenue Code of 1986, as applicable.

(2) PRIVATE RIGHT OF ACTION.—An individual with respect to whom an action is taken by a group

health plan or health insurance issuer offering group or individual health insurance coverage in violation of subsection (a) may commence a civil action against the plan or issuer for appropriate relief. The previous sentence shall not be construed as limiting any enforcement mechanism otherwise applicable pursuant to paragraph (1).

(d) IMPLEMENTATION.—The Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury may implement the provisions of this section through sub-regulatory guidance, program instruction or otherwise.

(e) TERMS.—The terms ''group health plan'', ''health insurance issuer'', ''group health insurance coverage'', and ''individual health insurance coverage'' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b), and section 9832 of the Internal Revenue Code of 1986, as applicable.

SEC. 8. COVERAGE OF COVID–19 TREATMENT AT NO COST SHARING FOR TRICARE RECIPIENTS.

(a) IN GENERAL.—Section 6006(a) of the Families First Coronavirus Response Act (Public Law 116–127; 38 U.S.C. 1074 note) is amended by striking ''or visits de-

scribed in paragraph (2) of such section'' and inserting '', visits described in paragraph (2) of such section, or medical care to treat COVID–19''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to medical care furnished on or after the date of the enactment of this Act.

SEC. 9. COVERAGE OF COVID–19 TREATMENT AT NO COST SHARING FOR VETERANS.

(a) IN GENERAL.—Section 6006(b) of the Families First Coronavirus Response Act (Public Law 116–127; 38 U.S.C. 1701 note) is amended by striking ''or visits described in paragraph (2) of such section'' and inserting '', visits described in paragraph (2) of such section, or hospital care or medical services to treat COVID–19''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to hospital care and medical services furnished on or after the date of the enactment of this Act.

SEC. 10. COVERAGE OF COVID–19 TREATMENT AT NO COST SHARING FOR FEDERAL CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Section 6006(c) of the Families First Coronavirus Response Act (Public Law 116–127; 5 U.S.C. 8904 note) is amended by striking ''or visits described in paragraph (2) of such section'' and inserting

‘‘, visits described in paragraph (2) of such section, or hospital care or medical services to treat COVID–19’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to hospital care and medical services furnished on or after the date of the enactment of this Act.

SEC. 11. COVERAGE OF COVID–19 TREATMENT AT NO COST SHARING UNDER INDIAN HEALTH SERVICE.

The Secretary of Health and Human Services shall cover, without the imposition of any cost sharing requirements, the cost of the following on or after the date of the enactment of this Act to Indians (as defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)) receiving health services through the Indian Health Service, regardless of whether such items or services are authorized under the Contract Health Services program funded by the Indian Health Service and operated by the Indian Health Service or operated by an Indian tribe or tribal organization under a contract or compact with the Indian Health Service under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.), or are provided as a health service of the Indian Health Service:

(1) A COVID–19 vaccine licensed under section 351 of the Public Health Service Act, or approved

or authorized under section 505 or 564 of the Federal Food, Drug, and Cosmetic Act, and the administration of such vaccine.

(2) Any item or service furnished for the treatment of COVID–19, including drugs approved or authorized under such section 505 or such section 564, or, in the case of an individual who is diagnosed with or presumed to have COVID–19, during the portion of such emergency period during which such individual is infected (or presumed infected) with COVID–19, the treatment of a condition that may complicate the treatment of COVID–19.

SEC. 12. SENSE OF CONGRESS RELATED TO SURPRISE MEDICAL BILLS.

It is the sense of Congress that no individual should receive a medical bill, including a balance bill, for the cost of COVID–19 treatment, office visits related to COVID–19 treatment, COVID–19 vaccines, or the administration of those vaccines.

SEC. 13. SPECIAL ENROLLMENT PERIOD; OUTREACH AND ENROLLMENT ACTIVITIES.

(a) SPECIAL ENROLLMENT PERIOD THROUGH EXCHANGES.—Section 1311(c) of the Patient Protection and Affordable Care Act (42 U.S.C. 18031(c)) is amended—

(1) in paragraph (6)—

(A) in subparagraph (C), by striking at the end ''and'';

(B) in subparagraph (D), by striking at the end the period and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(E) subject to subparagraph (B) of paragraph (8), the special enrollment period described in subparagraph (A) of such paragraph.''; and

(2) by adding at the end the following new paragraph:

''(8) SPECIAL ENROLLMENT PERIOD FOR CERTAIN PUBLIC HEALTH EMERGENCY.—

''(A) IN GENERAL.—The Secretary shall, subject to subparagraph (B), require an Exchange to provide—

''(i) for a special enrollment period during the emergency period described in section 1135(g)(1)(B) of the Social Security Act—

''(I) which shall begin on the date that is one week after the date of the enactment of this paragraph and which, in the case of an Exchange es-

tablished or operated by the Secretary within a State pursuant to section 1321(c), shall be an 8-week period; and

''(II) during which any individual who is otherwise eligible to enroll in a qualified health plan through the Exchange may enroll in such a qualified health plan; and

''(ii) that, in the case of an individual who enrolls in a qualified health plan through the Exchange during such enrollment period, the coverage period under such plan shall begin, at the option of the individual, on April 1, 2020, or on the first day of the month following the day the individual selects a plan through such special enrollment period.

''(B) EXCEPTION.—The requirement of subparagraph (A) shall not apply to a State-operated or State-established Exchange if such Exchange, prior to the date of the enactment of this paragraph, established or otherwise provided for a special enrollment period to address access to coverage under qualified health plans

offered through such Exchange during the emergency period described in section 1135(g)(1)(B) of the Social Security Act.''.

(b) FEDERAL EXCHANGE OUTREACH AND EDUCATIONAL ACTIVITIES.—Section 1321(c) of the Patient Protection and Affordable Care Act (42 U.S.C. 18041(c)) is amended by adding at the end the following new paragraph:

''(3) OUTREACH AND EDUCATIONAL ACTIVITIES.—

''(A) IN GENERAL.—In the case of an Exchange established or operated by the Secretary within a State pursuant to this subsection, the Secretary shall carry out outreach and educational activities for purposes of informing potential enrollees in qualified health plans offered through the Exchange of the availability of coverage under such plans and financial assistance for coverage under such plans. Such outreach and educational activities shall be provided in a manner that is culturally and linguistically appropriate to the needs of the populations being served by the Exchange (including hard-to-reach populations, such as racial and sexual mi-

norities, limited English proficient populations, and young adults).

''(B) LIMITATION ON USE OF FUNDS.—No funds appropriated under this paragraph shall be used for expenditures for promoting non-ACA compliant health insurance coverage.

''(C) NON-ACA COMPLIANT HEALTH INSURANCE COVERAGE.—For purposes of subparagraph (B):

''(i) The term 'non-ACA compliant health insurance coverage' means health insurance coverage, or a group health plan, that is not a qualified health plan.

''(ii) Such term includes the following:

''(I) An association health plan.

''(II) Short-term limited duration insurance.

''(D) FUNDING.—There are appropriated, out of any funds in the Treasury not otherwise appropriated, $25,000,000, to remain available until expended—

''(i) to carry out this paragraph; and

''(ii) at the discretion of the Secretary, to carry out section 1311(i), with respect to an Exchange established or op-

erated by the Secretary within a State pursuant to this subsection.''.

(c) IMPLEMENTATION.—The Secretary of Health and Human Services may implement the provisions of (including amendments made by) this section through subregulatory guidance, program instruction, or otherwise.

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