

117TH CONGRESS
1ST SESSION

H. R. 3203

To enable certain hospitals that were participating in or applied for the drug discount program under section 340B of the Public Health Service Act prior to the COVID–19 public health emergency to temporarily maintain eligibility for such program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2021

Ms. MATSUI (for herself, Mr. STEWART, Mrs. AXNE, Mr. MCKINLEY, Ms. SPANBERGER, and Mr. JOHNSON of South Dakota) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To enable certain hospitals that were participating in or applied for the drug discount program under section 340B of the Public Health Service Act prior to the COVID–19 public health emergency to temporarily maintain eligibility for such program, 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. ELIGIBILITY EXCEPTION FOR THE DRUG DIS-**
4 **COUNT PROGRAM DUE TO THE COVID-19**
5 **PUBLIC HEALTH EMERGENCY.**

6 (a) IN GENERAL.—

1 (1) DSH ADJUSTMENT PERCENTAGE TREAT-
2 MENT.—Notwithstanding any other provision of law,
3 a hospital described in subsection (b) that, for an
4 applicable calendar quarter, otherwise meets the re-
5 quirements for being a covered entity under sub-
6 paragraph (L), (M), or (O) of subsection (a)(4) of
7 section 340B of the Public Health Service Act (42
8 U.S.C. 256b) but that, for such calendar quarter,
9 does not meet the applicable requirement for the dis-
10 proportionate share adjustment percentage described
11 in subsection (c), shall be deemed to meet such ap-
12 plicable requirement under such respective subpara-
13 graph for such applicable calendar quarter (includ-
14 ing any such quarter occurring before the date of
15 the enactment of this Act).

16 (2) TREATMENT OF CERTAIN ENTITIES.—Not-
17 withstanding any other provision of law, a hospital
18 described in subsection (b) that, on the day before
19 the first day of the COVID–19 public health emer-
20 gency (or at any point during such emergency), was
21 a covered entity described in subparagraph (L) of
22 subsection (a)(4) of section 340B of the Public
23 Health Service Act (42 U.S.C. 256b), but that, for
24 an applicable calendar quarter, did not meet the re-
25 quirement described in subparagraph (L)(ii) of such

1 subsection and, during the COVID–19 public health
2 emergency, registered as a covered entity described
3 in subparagraph (O) of such subsection, may elect to
4 be deemed to be a covered entity described in sub-
5 paragraph (L) of such subsection for such applicable
6 calendar quarter, and for any other quarter occur-
7 ring during such emergency during which such enti-
8 ty was so registered as a covered entity described in
9 subparagraph (O) of such subsection, provided that,
10 for such applicable calendar quarter and any such
11 other quarter, the entity met the requirements de-
12 scribed in subsection (a)(5) of such section and, be-
13 ginning on the date on which the entity makes such
14 election, the entity meets the requirement described
15 in subparagraph (L)(iii) of subsection (a)(4) of such
16 section.

17 (b) HOSPITALS.—A hospital described in this sub-
18 section is—

19 (1) an entity that, on the day before the first
20 day of the COVID–19 public health emergency, was
21 a covered entity described in subparagraph (L), (M),
22 or (O) of subsection (a)(4) of section 340B of the
23 Public Health Service Act participating in the drug
24 discount program under such section; or

25 (2) an entity that—

1 (A) prior to or during the COVID–19 pub-
2 lic health emergency, submitted an application
3 for participation in such program as a covered
4 entity described in subparagraph (L), (M), or
5 (O) of section 340B(a)(4) of the Public Health
6 Service Act;

7 (B) prior to or during such emergency,
8 was approved for such participation; and

9 (C) during such emergency, began partici-
10 pating in such program.

11 (c) APPLICABLE REQUIREMENT FOR DISPROPOR-
12 TIONATE SHARE ADJUSTMENT PERCENTAGE.—The appli-
13 cable requirement for the disproportionate share adjust-
14 ment percentage described in this subsection is—

15 (1) in the case of a hospital described in sub-
16 section (a) that otherwise meets the requirements
17 under subparagraph (L) or (M) of section
18 340B(a)(4) of the Public Health Service Act, the re-
19 quirement under subparagraph (L)(ii) of such sec-
20 tion; and

21 (2) in the case of a hospital described in sub-
22 section (a) that otherwise meets the requirements
23 under subparagraph (O) of such section 340B(a)(4),
24 the requirement with respect to the disproportionate

1 share adjustment percentage described in such sub-
2 paragraph (O).

3 (d) DEFINITIONS.—In this section:

4 (1) APPLICABLE CALENDAR QUARTER.—The
5 term “applicable calendar quarter” means a cal-
6 endar quarter for which eligibility for the drug dis-
7 count program under section 340B of the Public
8 Health Service Act (42 U.S.C. 256b) is based on a
9 cost reporting period for which the COVID–19 pub-
10 lic health emergency is in effect for all or part of
11 such cost reporting period.

12 (2) COVERED ENTITY.—The term “covered en-
13 tity” has the meaning given such term in section
14 340B(a)(4) of the Public Health Service Act (42
15 U.S.C. 256b(a)(4)).

16 (3) COVID–19 PUBLIC HEALTH EMERGENCY.—
17 The term “COVID–19 public health emergency”
18 means the public health emergency declared by the
19 Secretary of Health and Human Services under sec-
20 tion 319 of the Public Health Service Act (42
21 U.S.C. 247d) on January 31, 2020, with respect to
22 COVID–19.

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