118TH CONGRESS
2D SESSION

H. R. 4758

AN ACT

To amend title XIX of the Social Security Act to streamline enrollment under the Medicaid program of certain providers across State lines, and to prevent the use of abusive spread pricing in Medicaid.

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 ‘‘Accelerating Kids’ Ac-
3 cess to Care Act’’.

4 **SEC. 2. STREAMLINED ENROLLMENT PROCESS FOR ELIGI-**
5 **BLE OUT-OF-STATE PROVIDERS UNDER MED-**
6 **ICAID AND CHIP.**

7 (a) IN GENERAL.—Section 1902(kk) of the Social Se-
8 curity Act (42 U.S.C. 1396a(kk)) is amended by adding
9 at the end the following new paragraph:

10 ‘‘(10) STREAMLINED ENROLLMENT PROCESS
11 FOR ELIGIBLE OUT-OF-STATE PROVIDERS.—

12 ‘‘(A) IN GENERAL.—The State—

13 ‘‘(i) adopts and implements a process
14 to allow an eligible out-of-State provider to
15 enroll under the State plan (or a waiver of
16 such plan) to furnish items and services to,
17 or order, prescribe, refer, or certify eligi-
18 bility for items and services for, qualifying
19 individuals without the imposition of
20 screening or enrollment requirements in
21 addition to those imposed by the State in
22 which the eligible out-of-State provider is
23 located; and

24 ‘‘(ii) provides that an eligible out-of-
25 State provider that enrolls as a partici-
26 pating provider in the State plan (or a

1 waiver of such plan) through such process
2 shall be so enrolled for a 5-year period, un-
3 less the provider is terminated or excluded
4 from participation during such period.
5 ''(B) DEFINITIONS.—In this paragraph:
6 ''(i) ELIGIBLE OUT-OF-STATE PRO-
7 VIDER.—The term 'eligible out-of-State
8 provider' means, with respect to a State, a
9 provider—
10 ''(I) that is located in any other
11 State;
12 ''(II) that—
13 ''(aa) was determined by the
14 Secretary to have a limited risk
15 of fraud, waste, and abuse for
16 purposes of determining the level
17 of screening to be conducted
18 under section 1866(j)(2), has
19 been so screened under such sec-
20 tion 1866(j)(2), and is enrolled in
21 the Medicare program under title
22 XVIII; or
23 ''(bb) was determined by the
24 State agency administering or su-
25 pervising the administration of

1 the State plan (or a waiver of
2 such plan) of such other State to
3 have a limited risk of fraud,
4 waste, and abuse for purposes of
5 determining the level of screening
6 to be conducted under paragraph
7 (1) of this subsection, has been
8 so screened under such para-
9 graph (1), and is enrolled under
10 such State plan (or a waiver of
11 such plan); and
12 ‘‘(III) that has not been—
13 ‘‘(aa) excluded from partici-
14 pation in any Federal health care
15 program pursuant to section
16 1128 or 1128A;
17 ‘‘(bb) excluded from partici-
18 pation in the State plan (or a
19 waiver of such plan) pursuant to
20 part 1002 of title 42, Code of
21 Federal Regulations (or any suc-
22 cessor regulation), or State law;
23 or
24 ‘‘(cc) terminated from par-
25 ticipating in a Federal health

1 care program or the State plan
2 (or a waiver of such plan) for a
3 reason described in paragraph
4 (8)(A).
5 "(ii) QUALIFYING INDIVIDUAL.—The
6 term 'qualifying individual' means an indi-
7 vidual under 21 years of age who is en-
8 rolled under the State plan (or waiver of
9 such plan).
10 "(iii) STATE.—The term 'State'
11 means 1 of the 50 States or the District
12 of Columbia.".
13 (b) CONFORMING AMENDMENTS.—
14 (1) Section 1902(a)(77) of the Social Security
15 Act (42 U.S.C. 1396a(a)(77)) is amended by insert-
16 ing "enrollment," after "screening,".
17 (2) The subsection heading for section
18 1902(kk) of such Act (42 U.S.C. 1396a(kk)) is
19 amended by inserting "ENROLLMENT," after
20 "SCREENING,".
21 (3) Section 2107(e)(1)(G) of such Act (42
22 U.S.C. 1397gg(e)(1)(G)) is amended by inserting
23 "enrollment," after "screening,".

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date that is 3 years
3 after the date of enactment of this section.

4 **SEC. 3. PREVENTING THE USE OF ABUSIVE SPREAD PRIC-**
5 **ING IN MEDICAID.**

6 (a) IN GENERAL.—Section 1927 of the Social Secu-
7 rity Act (42 U.S.C. 1396r–8) is amended—
8 (1) in subsection (e), by adding at the end the
9 following new paragraph:
10 ''(6) TRANSPARENT PRESCRIPTION DRUG PASS-
11 THROUGH PRICING REQUIRED.—
12 ''(A) IN GENERAL.—A contract between
13 the State and a pharmacy benefit manager (re-
14 ferred to in this paragraph as a 'PBM'), or a
15 contract between the State and a managed care
16 entity or other specified entity (as such terms
17 are defined in section 1903(m)(9)(D) and col-
18 lectively referred to in this paragraph as the
19 'entity') that includes provisions making the en-
20 tity responsible for coverage of covered out-
21 patient drugs dispensed to individuals enrolled
22 with the entity, shall require that payment for
23 such drugs and related administrative services
24 (as applicable), including payments made by a
25 PBM on behalf of the State or entity, is based

1 on a transparent prescription drug pass-
2 through pricing model under which—
3 ‘‘(i) any payment made by the entity
4 or the PBM (as applicable) for such a
5 drug—
6 ‘‘(I) is limited to—
7 ‘‘(aa) ingredient cost; and
8 ‘‘(bb) a professional dis-
9 pensing fee that is not less than
10 the professional dispensing fee
11 that the State would pay if the
12 State were making the payment
13 directly in accordance with the
14 State plan;
15 ‘‘(II) is passed through in its en-
16 tirety (except as reduced under Fed-
17 eral or State laws and regulations in
18 response to instances of waste, fraud,
19 or abuse) by the entity or PBM to the
20 pharmacy or provider that dispenses
21 the drug; and
22 ‘‘(III) is made in a manner that
23 is consistent with sections 447.502,
24 447.512, 447.514, and 447.518 of
25 title 42, Code of Federal Regulations

1 (or any successor regulation) as if
2 such requirements applied directly to
3 the entity or the PBM, except that
4 any payment by the entity or the
5 PBM for the ingredient cost of such
6 drug purchased by a covered entity
7 (as defined in subsection (a)(5)(B))
8 may exceed the actual acquisition cost
9 (as defined in 447.502 of title 42,
10 Code of Federal Regulations, or any
11 successor regulation) for such drug
12 if—

13 ''(aa) such drug was subject
14 to an agreement under section
15 340B of the Public Health Serv-
16 ice Act;

17 ''(bb) such payment for the
18 ingredient cost of such drug does
19 not exceed the maximum pay-
20 ment that would have been made
21 by the entity or the PBM for the
22 ingredient cost of such drug if
23 such drug had not been pur-
24 chased by such covered entity;
25 and

1 "(cc) such covered entity re-
2 ports to the Secretary (in a form
3 and manner specified by the Sec-
4 retary), on an annual basis and
5 with respect to payments for the
6 ingredient costs of such drugs so
7 purchased by such covered entity
8 that are in excess of the actual
9 acquisition costs for such drugs,
10 the aggregate amount of such ex-
11 cess;
12 "(ii) payment to the entity or the
13 PBM (as applicable) for administrative
14 services performed by the entity or PBM is
15 limited to an administrative fee that re-
16 flects the fair market value (as defined by
17 the Secretary) of such services;
18 "(iii) the entity or the PBM (as appli-
19 cable) makes available to the State, and
20 the Secretary upon request in a form and
21 manner specified by the Secretary, all costs
22 and payments related to covered outpatient
23 drugs and accompanying administrative
24 services (as described in clause (ii)) in-
25 curred, received, or made by the entity or

1 the PBM, broken down (as specified by the
2 Secretary), to the extent such costs and
3 payments are attributable to an individual
4 covered outpatient drug, by each such
5 drug, including any ingredient costs, pro-
6 fessional dispensing fees, administrative
7 fees (as described in clause (ii)), post-sale
8 and post-invoice fees, discounts, or related
9 adjustments such as direct and indirect re-
10 muneration fees, and any and all other re-
11 muneration; and

12 "(iv) any form of spread pricing
13 whereby any amount charged or claimed by
14 the entity or the PBM (as applicable) that
15 exceeds the amount paid to the pharmacies
16 or providers on behalf of the State or enti-
17 ty, including any post-sale or post-invoice
18 fees, discounts, or related adjustments
19 such as direct and indirect remuneration
20 fees or assessments (after allowing for an
21 administrative fee as described in clause
22 (ii)) is not allowable for purposes of claim-
23 ing Federal matching payments under this
24 title.

1 "(B) MAKING CERTAIN INFORMATION
2 AVAILABLE.—The Secretary shall publish, not
3 less frequently than on an annual basis, infor-
4 mation received by the Secretary pursuant to
5 subparagraph (A)(i)(III)(cc). Such information
6 shall be so published in an electronic and
7 searchable format, such as through the 340B
8 Office of Pharmacy Affairs Information System
9 (or a successor system)."; and
10 (2) in subsection (k), by adding at the end the
11 following new paragraph:
12 "(12) PHARMACY BENEFIT MANAGER.—The
13 term 'pharmacy benefit manager' means any person
14 or entity that, either directly or through an inter-
15 mediary, acts as a price negotiator or group pur-
16 chaser on behalf of a State, managed care entity (as
17 defined in section 1903(m)(9)(D)), or other specified
18 entity (as so defined), and may also more broadly
19 manage aspects of the prescription drug benefits
20 provided by a State, managed care entity, or other
21 specified entity, including the processing and pay-
22 ment of claims for prescription drugs, the perform-
23 ance of drug utilization review, the processing of
24 drug prior authorization requests, the managing of
25 appeals or grievances related to the prescription

1 drug benefits, contracting with pharmacies, control-
2 ling the cost of covered outpatient drugs, or the pro-
3 vision of services related thereto. Such term includes
4 any person or entity that acts as a price negotiator
5 (with regard to payment amounts to pharmacies and
6 providers for a covered outpatient drug or the net
7 cost of the drug) or group purchaser on behalf of a
8 State, managed care entity, or other specified entity,
9 including such a person or entity that carries out 1
10 or more of the other activities described in the pre-
11 ceding sentence, irrespective of whether such person
12 or entity calls itself a pharmacy benefit manager.''.
13 (b) CONFORMING AMENDMENTS.—Section 1903(m)
14 of such Act (42 U.S.C. 1396b(m)) is amended—
15 (1) in paragraph (2)(A)(xiii)—
16 (A) by striking ''and (III)'' and inserting
17 ''(III)'';
18 (B) by inserting before the period at the
19 end the following: '', and (IV) if the contract in-
20 cludes provisions making the entity responsible
21 for coverage of covered outpatient drugs, the
22 entity shall comply with the requirements of
23 section 1927(e)(6)''; and
24 (C) by moving the left margin 2 ems to the
25 left; and

1 (2) by adding at the end the following new
2 paragraph:
3 "(10) No payment shall be made under this
4 title to a State with respect to expenditures incurred
5 by the State for payment for services provided by an
6 other specified entity (as defined in paragraph
7 (9)(D)(iii)) unless such services are provided in ac-
8 cordance with a contract between the State and such
9 entity which satisfies the requirements of paragraph
10 (2)(A)(xiii).".
11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to contracts between States and
13 managed care entities, other specified entities, or phar-
14 macy benefit managers that have an effective date begin-
15 ning on or after the date that is 18 months after the date
16 of enactment of this Act.
17 (d) IMPLEMENTATION.—
18 (1) IN GENERAL.—Notwithstanding any other
19 provision of law, the Secretary of Health and
20 Human Services may implement the amendments
21 made by this section by program instruction or oth-
22 erwise.
23 (2) NONAPPLICATION OF ADMINISTRATIVE PRO-
24 CEDURE ACT.—Implementation of the amendments
25 made by this section shall be exempt from the re-

1 quirements of section 553 of title 5, United States
2 Code.

3 (e) NONAPPLICATION OF PAPERWORK REDUCTION
4 ACT.—Chapter 35 of title 44, United States Code, shall
5 not apply to any data collection undertaken by the Sec-
6 retary of Health and Human Services under section
7 1927(e) of the Social Security Act (42 U.S.C. 1396r–8(f)),
8 as amended by this section.

9 **SEC. 4. MEDICAID IMPROVEMENT FUND.**

10 Section 1941(b)(3)(A) of the Social Security Act (42
11 U.S.C. 1396w–1(b)(3)(A)) is amended by striking ''$0''
12 and inserting ''$69,000,000''.

Passed the House of Representatives September 17, 2024.

Attest:

Clerk.

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