

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5723

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.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2014

Ms. CASTOR of Florida introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

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

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

8           (3) In 2013, the Medicaid program covered  
9           62,000,000 individuals, or 1 in every 5 Americans.  
10          This number will continue to grow, particularly since  
11          the Affordable Care Act significantly expanded eligi-  
12          bility to millions of uninsured adults. Enrollment in  
13          Medicaid and the Children’s Health Insurance Pro-  
14          gram is projected to increase by 12,800,000 by  
15          2016.

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

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

22          (6) Multiple studies have concluded that higher  
23          Medicaid payment rates would increase the prob-  
24          ability of primary care providers accepting new Med-

1       icaid patients, and would further support current  
2       Medicaid providers.

3               (7) Congress has recognized that low provider  
4       participation in Medicaid decreases access to health  
5       care. To address this problem, Congress acted to in-  
6       crease Medicaid payments for certain primary care  
7       services to be not less than the Medicare payment  
8       rates for 2013 and 2014.

9               (8) As more Americans become insured and em-  
10      powered participants in their own health care, de-  
11      mand for primary care services is expected to in-  
12      crease over the next few years.

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

22              (10) Nurse practitioners and other mid-level  
23      health professionals deliver many primary care serv-  
24      ices. Applying Medicare's rates for nurse practi-  
25      tioners and mid-level health professionals encourages

1 greater participation in Medicaid, thereby increasing  
2 access to primary care, particularly in underserved  
3 areas.

4 (11) The enhanced Medicaid reimbursement  
5 rate ensures providers have the financial capability  
6 to serve their patients' primary care needs. Further-  
7 more, adding nurse practitioners, physician assist-  
8 ants, certified nurse-midwives, and OB/GYN physi-  
9 cians serving in primary care settings increases ac-  
10 cess to critical health care services for women and  
11 children nationwide.

12 **SEC. 3. EXTENSION OF APPLICATION OF MEDICARE PAY-**  
13 **MENT RATE FLOOR TO PRIMARY CARE SERV-**  
14 **ICES FURNISHED UNDER MEDICAID AND AP-**  
15 **PLICATION TO ADDITIONAL PROVIDERS.**

16 (a) IN GENERAL.—Section 1902(a)(13) of the Social  
17 Security Act (42 U.S.C. 1396a(a)(13)) is amended by  
18 striking subparagraph (C) and inserting the following:

19 “(C) payment for primary care services (as  
20 defined in subsection (jj)) at a rate that is not  
21 less than 100 percent of the payment rate that  
22 applies to such services and physician under  
23 part B of title XVIII (or, if greater, the pay-  
24 ment rate that would be applicable under such  
25 part if the conversion factor under section

1 1848(d) for the year involved were the conver-  
2 sion factor under such section for 2009), and  
3 that is not less than the rate that would other-  
4 wise apply to such services under this title if  
5 the rate were determined without regard to this  
6 subparagraph, and that are—

7 “(i) furnished in 2013 and 2014, by a  
8 physician with a primary specialty designa-  
9 tion of family medicine, general internal  
10 medicine, or pediatric medicine; or

11 “(ii) furnished in 2015 and 2016—

12 “(I) by a physician with a pri-  
13 mary specialty designation of family  
14 medicine, general internal medicine,  
15 or pediatric medicine, but only if the  
16 physician self-attests that—

17 “(aa) the physician is Board  
18 certified in family medicine, gen-  
19 eral internal medicine, or pedi-  
20 atric medicine; or

21 “(bb) with respect to the  
22 most recently completed calendar  
23 year (or in the case of a newly el-  
24 igible physician, the preceding  
25 month), 60 percent of all services

1 the physician billed for under the  
2 State plan or a waiver under this  
3 title, or provided through a med-  
4 icaid managed care organization  
5 (as defined in section  
6 1903(m)(1)(A)), were for services  
7 described in subparagraph (A) or  
8 (B) of subsection (jj)(1);

9 “(II) by a physician with a pri-  
10 mary specialty designation of obstet-  
11 rics and gynecology, but only if the  
12 physician self-attests that—

13 “(aa) the physician is Board  
14 certified in obstetrics and gyne-  
15 cology; and

16 “(bb) with respect to the  
17 most recently completed calendar  
18 year (or in the case of a newly el-  
19 ible physician, the preceding  
20 month), 60 percent of all services  
21 the physician billed for under the  
22 State plan or a waiver under this  
23 title, or provided through a med-  
24 icaid managed care organization  
25 (as defined in section

1 1903(m)(1)(A)), were for services  
2 described in subparagraph (A) or  
3 (B) of subsection (jj)(1);

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

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

10 “(bb) a nurse practitioner or  
11 a physician assistant (as such  
12 terms are defined in section  
13 1861(aa)(5)(A)) who is working  
14 in accordance with State law, or  
15 a certified nurse-midwife (as de-  
16 fined in section 1861(gg)) who is  
17 working in accordance with State  
18 law, but only if the nurse practi-  
19 tioner, physician assistant, or  
20 certified nurse-midwife self-at-  
21 tests that, with respect to the  
22 most recently completed calendar  
23 year (or in the case of a newly el-  
24 igible nurse practitioner, physi-  
25 cian assistant, or certified nurse-

1 midwife, the preceding month),  
2 60 percent of all services the  
3 nurse practitioner, physician as-  
4 sistant, or certified nurse-midwife  
5 billed for under the State plan or  
6 a waiver under this title, or pro-  
7 vided through a medicaid man-  
8 aged care organization (as de-  
9 fined in section 1903(m)(1)(A)),  
10 were for services described in  
11 subparagraph (A) or (B) of sub-  
12 section (jj)(1);

13 “(IV) by a rural health clinic,  
14 Federally-qualified health center, or  
15 other health clinic that receives reim-  
16 bursement on a fee schedule applica-  
17 ble to a physician, a nurse practi-  
18 tioner or a physician assistant (as  
19 such terms are defined in section  
20 1861(aa)(5)(A)) who is working in ac-  
21 cordance with State law, or a certified  
22 nurse-midwife (as defined in section  
23 1861(gg)) who is working in accord-  
24 ance with State law, for services fur-  
25 nished by a physician, nurse practi-

1           tioner, physician assistant, or certified  
2           nurse-midwife, or services furnished  
3           by an advanced practice clinician su-  
4           pervised by a physician described in  
5           subclause (I)(aa) or (II)(aa), another  
6           advanced practice clinician, or a cer-  
7           tified nurse-midwife, but only if the  
8           rural health clinic or Federally-quali-  
9           fied health center self-attests that 60  
10          percent of all services billed for under  
11          the State plan or a waiver under this  
12          title, or provided through a medicaid  
13          managed care organization (as defined  
14          in section 1903(m)(1)(A)), were for  
15          services described in subparagraph  
16          (A) or (B) of subsection (jj)(1); or

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

1 payment for such services that the  
2 nurse practitioner, physician assist-  
3 ant, or certified nurse-midwife is paid  
4 is not less than the amount that the  
5 nurse practitioner, physician assist-  
6 ant, or certified nurse-midwife would  
7 be paid if the services were provided  
8 under part B of title XVIII, but only  
9 if the nurse practitioner, physician as-  
10 sistant, or certified nurse-midwife self-  
11 attests that, with respect to the most  
12 recently completed calendar year (or  
13 in the case of a newly eligible nurse  
14 practitioner, physician assistant, or  
15 certified nurse-midwife, the preceding  
16 month), 60 percent of all services the  
17 nurse practitioner, physician assist-  
18 ant, or certified nurse-midwife billed  
19 for under the State plan or a waiver  
20 under this title, or provided through a  
21 medicaid managed care organization  
22 (as defined in section 1903(m)(1)(A)),  
23 were for services described in subpara-  
24 graph (A) or (B) of subsection  
25 (jj)(1);”.

1 (b) IMPROVED TARGETING OF PRIMARY CARE.—Sec-  
2 tion 1902(jj) of the Social Security Act (42 U.S.C.  
3 1396a(jj)) is amended—

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

7 (2) by striking “For purposes of” and inserting  
8 the following:

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

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

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

15 (c) CONFORMING AMENDMENT.—Section 1905(dd)  
16 of the Social Security Act (42 U.S.C. 1396d(dd)) is  
17 amended by striking “January 1, 2015” and inserting  
18 “January 1, 2017”.

19 (d) EFFECTIVE DATE.—The amendments made by  
20 this section take effect on January 1, 2015.

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