

116TH CONGRESS
2D SESSION

H. R. 6674

To ensure access to affordable, comprehensive health insurance benefits for certain uninsured individuals during the COVID–19 emergency, and to ensure adequate coverage of treatments for COVID–19 under the Medicare and Medicaid programs and under group health plans and group or individual health insurance coverage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2020

Ms. JAYAPAL (for herself, Mr. KENNEDY, Mr. BLUMENAUER, Ms. CLARKE of New York, Mr. COHEN, Mrs. DINGELL, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. ESPAILLAT, Mr. HASTINGS, Mrs. HAYES, Ms. JACKSON LEE, Mr. KHANNA, Ms. LEE of California, Mr. LOWENTHAL, Mr. MCGOVERN, Ms. MENG, Mrs. NAPOLITANO, Mr. NEGUSE, Ms. NORTON, Ms. OCASIO-CORTEZ, Ms. OMAR, Ms. PINGREE, Ms. PRESSLEY, Mr. RASKIN, Ms. SCHAKOWSKY, Mr. SOTO, Mr. TAKANO, Ms. TLAIB, Mr. VARGAS, Mr. WELCH, Ms. GABBARD, Mr. ENGEL, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and Labor, and Armed Services, 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 ensure access to affordable, comprehensive health insurance benefits for certain uninsured individuals during the COVID–19 emergency, and to ensure adequate coverage of treatments for COVID–19 under the Medicare and Medicaid programs and under group health plans

and group or individual health insurance coverage, 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.**

4 This Act may be cited as the “Medicare Crisis Pro-
 5 gram Act of 2020”.

6 **TITLE I—MEDICARE**

7 **SEC. 101. COVID-19 MEDICARE ENROLLMENT OPTION.**

8 (a) IN GENERAL.—Title XVIII of the Social Security
 9 Act (42 U.S.C. 1395c et seq.) is amended by adding at
 10 the end the following new section:

11 “COVID-19 MEDICARE ENROLLMENT OPTION

12 “SEC. 1899C. (a) OPTION.—

13 “(1) ELIGIBILITY.—Every individual who meets
 14 the requirements described in paragraph (2) shall be
 15 eligible to enroll under this section.

16 “(2) REQUIREMENTS.—For purposes of para-
 17 graph (1), the requirements described in this para-
 18 graph are the following:

19 “(A) The individual—

20 “(i) experienced a loss of, or reduction
 21 in, employment during the specified period
 22 (as defined in subsection (h)) and was ap-
 23 proved for unemployment benefits relating

1 to such loss or reduction in the State in
2 which such individual resides; or

3 “(ii) is the spouse, child, or other de-
4 pendent of an individual described in
5 clause (i).

6 “(B) The individual is not—

7 “(i) otherwise entitled to benefits
8 under part A or eligible to enroll under
9 part A or part B;

10 “(ii) enrolled under a Federal health
11 care program (as defined in section
12 1128B(f)) or the program established
13 under chapter 89 of title 5, United States
14 Code;

15 “(iii) enrolled under an eligible em-
16 ployer-sponsored plan (as defined in sec-
17 tion 5000A(f)(2) of the Internal Revenue
18 Code of 1986), but only if such plan—

19 “(I) includes the essential health
20 benefits package (as defined in section
21 1302(a) of the Patient Protection and
22 Affordable Care Act); and

23 “(II) the employee’s required
24 contribution (within the meaning of
25 section 5000A(e)(1)(B) of such Code,

1 except that such contribution shall be
2 determined with respect to self-only or
3 family coverage, as applicable to the
4 employee) with respect to the plan
5 does not exceed the percentage speci-
6 fied in section 36B(c)(2)(C)(i)(II) of
7 such Code for the applicable year; or
8 “(iv) enrolled under a qualified health
9 plan (as defined in section 1301(a) of such
10 Act).

11 “(3) BENEFITS.—An individual enrolled under
12 this section is entitled to the same benefits under
13 this title as an individual who is entitled to benefits
14 under part A and enrolled under part B and, at the
15 option of the individual, eligible for prescription drug
16 benefits under part D.

17 “(b) ENROLLMENT AND COVERAGE PERIODS.—The
18 Secretary shall establish enrollment and coverage periods
19 for individuals who enroll under this section. A coverage
20 period with respect to an individual enrolled under this
21 section shall be retroactive to the date on which the indi-
22 vidual experienced the loss or reduction described in sub-
23 section (a)(2)(A)(i).

24 “(c) ENROLLMENT PREMIUM.—

1 “(1) AMOUNT OF MONTHLY PREMIUMS.—There
2 shall be no monthly premium for an individual en-
3 rolled under this section except as provided in para-
4 graph (2).

5 “(2) PREMIUM FOR OPTIONAL PART D BENE-
6 FITS.—In the case an individual enrolled under this
7 section elects to receive coverage under a prescrip-
8 tion drug plan under part D, there shall be a month-
9 ly premium with respect to such individual in an
10 amount determined appropriate by the Secretary.

11 “(d) PAYMENT OF PREMIUMS.—

12 “(1) PAYMENT.—Premiums for enrollment
13 under this section shall be paid to the Secretary at
14 such times, and in such manner, as the Secretary
15 determines appropriate.

16 “(2) DEPOSIT.—Amounts collected by the Sec-
17 retary under this section shall be deposited in the
18 Medicare COVID–19 Trust Fund established under
19 subsection (e).

20 “(e) MEDICARE COVID–19 TRUST FUND.—

21 “(1) IN GENERAL.—There is hereby created on
22 the books of the Treasury of the United States a
23 trust fund to be known as the ‘Medicare COVID–19
24 Trust Fund’ (in this subsection referred to as the
25 ‘Trust Fund’). The Trust Fund shall consist of such

1 gifts and bequests as may be made and such
2 amounts as may be deposited in, or appropriated to,
3 such fund as provided in this title.

4 “(2) PREMIUMS.—Premiums collected under
5 subsection (d) shall be transferred to the Trust
6 Fund.

7 “(3) INCORPORATION OF PROVISIONS.—Sub-
8 sections (b) through (i) of section 1841 shall apply
9 with respect to the Trust Fund and this title in the
10 same manner as they apply with respect to the Fed-
11 eral Supplementary Medical Insurance Trust Fund
12 and part B, respectively, except that in applying
13 such section 1841, any reference in such section to
14 ‘this part’ shall be construed to be a reference to
15 this section and any reference in section 1841(h) to
16 section 1840(d) and in section 1841(i) to sections
17 1840(b)(1) and 1842(g) are deemed to be references
18 to comparable authority exercised under this section.

19 “(f) TERMINATION OF COVERAGE.—Coverage of an
20 individual enrolled under this section shall terminate on
21 the earliest of the following:

22 “(1) The date on which the individual becomes
23 entitled to benefits under part A or eligible to enroll
24 under such part A or part B (as determined without
25 regard to this section).

1 “(2) The date on which the individual becomes
2 enrolled in coverage described in any of clauses (ii)
3 through (iv) of subsection (a)(2)(B) (as determined
4 without regard to this section).

5 “(3) The end of the specified period (as defined
6 in subsection (h)) with respect to such individual.

7 “(g) ENROLLMENT INFORMATION.—

8 “(1) GUIDANCE.—The Secretary of Labor shall
9 publish guidance for States with respect to informa-
10 tion to be included by States on unemployment por-
11 tals for purposes of facilitating enrollment of individ-
12 uals under this section.

13 “(2) PROVISION OF INFORMATION TO CMS.—In
14 the case of a claim for unemployment benefits sub-
15 mitted to a State that indicates that the individual
16 may be eligible for enrollment under this section, the
17 State shall provide such information regarding such
18 individual as the Secretary may specify to the Sec-
19 retary.

20 “(3) ONLINE ENROLLMENT.—The Secretary
21 shall create an online application form to facilitate
22 enrollment under this section.

23 “(h) SPECIFIED PERIOD.—

24 “(1) IN GENERAL.—In this section, the term
25 ‘specific period’ means, with respect to an individual

1 residing in a State, the date beginning on the first
2 day of the emergency period (as described in section
3 1135(g)(1)(B)) and ending on the date that is 3
4 months after the first day occurring on or after the
5 date of the enactment of this section that the aver-
6 age unemployment rate for the 12-month period
7 ending on such first day—

8 “(A) in such State is not more than 2 per-
9 centage points higher than the average unem-
10 ployment rate in such State during the period
11 consisting of October 1 through December 31
12 of 2019; and

13 “(B) in the United States is not more than
14 2 percentage points higher than the average un-
15 employment rate in the United States during
16 the period consisting of October 1 through De-
17 cember 31 of 2019.

18 “(2) NOTICE.—In the case of an individual en-
19 rolled under this section, if the specified period with
20 respect to such individual ends while such individual
21 is so enrolled, the Secretary shall provide notice to
22 such individual of the end of such period and an ex-
23 planation that coverage under this section shall ter-
24minate with respect to such individual not later than

1 the date that is 3 months after the end of such pe-
2 riod.

3 “(i) FUNDING.—There is appropriated, out of any
4 monies in the Treasury not otherwise obligated, to the
5 Trust Fund described in subsection (e) such sums as may
6 be necessary to carry out this section (including for the
7 payment of part A and part B benefits for individuals en-
8 rolled under this section).”.

9 (b) MEDIGAP.—Section 1882 of the Social Security
10 Act is amended by adding at the end the following new
11 subsection:

12 “(aa) DEVELOPMENT OF NEW STANDARDS FOR CER-
13 TAIN MEDICARE SUPPLEMENTAL POLICIES RELATING TO
14 COVID–19 ENROLLMENT OPTION.—The Secretary shall
15 request the National Association of Insurance Commis-
16 sioners to review and revise the standards for benefit pack-
17 ages described in subsection (p)(1), to otherwise update
18 standards to include requirements for each medicare sup-
19 plemental policy that offers such a policy in a State, with
20 respect to each year, to accept every individual in the
21 State who is enrolled pursuant to section 1899C and who
22 applies for such coverage for such year if the individual
23 applies for enrollment in such policy during the 30-day
24 period following the date of enrollment pursuant to section
25 1899C and to accept every such individual during a period

1 of transition from enrollment pursuant to such section to
2 enrollment under this title pursuant to eligibility other
3 than under such section. Such revisions shall be made con-
4 sistent with the rules applicable under subsection
5 (p)(1)(E) with the reference to the ‘1991 NAIC Model
6 Regulation’ deemed a reference to the NAIC Model Regu-
7 lation as published in the Federal Register on December
8 4, 1998, and as subsequently updated by the National As-
9 sociation of Insurance Commissioners to reflect previous
10 changes in law and the reference to ‘date of enactment
11 of this subsection’ deemed a reference to the date of enact-
12 ment of this subsection (aa).”.

13 **SEC. 102. HOLDING MEDICARE BENEFICIARIES HARMLESS**
14 **FOR SPECIFIED COVID-19 TREATMENT SERV-**
15 **ICES FURNISHED UNDER PART A OR PART B**
16 **OF THE MEDICARE PROGRAM.**

17 (a) IN GENERAL.—Notwithstanding any other provi-
18 sion of law, in the case of a specified COVID-19 treat-
19 ment service (as defined in subsection (b)) furnished to
20 an individual entitled to benefits under part A or enrolled
21 under part B of title XVIII of the Social Security Act (42
22 U.S.C. 1395 et seq.) or enrolled under section 1899C of
23 the Social Security Act for which payment is made under
24 such part A or such part B, the Secretary of Health and

1 Human Services (in this section referred to as the “Sec-
2 retary”) shall provide that—

3 (1) any cost sharing required (including any de-
4 ductible, copayment, or coinsurance) applicable to
5 such individual under such part A or such part B
6 with respect to such item or service is paid by the
7 Secretary;

8 (2) the provider of services or supplier (as de-
9 fined in section 1861 of the Social Security Act (42
10 U.S.C. 1395x)) does not hold such individual liable
11 for such requirement; and

12 (3) no prior authorization or other utilization
13 management requirement is applied with respect to
14 such service.

15 (b) DEFINITION OF SPECIFIED COVID–19 TREAT-
16 MENT SERVICES.—For purposes of this section, the term
17 “specified COVID–19 treatment service” means any item
18 or service—

19 (1) relating to the treatment or diagnosis of
20 COVID–19;

21 (2) furnished to an individual in an emergency
22 department where such individual presents with
23 COVID–19 symptoms; or

24 (3) in the case of an individual furnished a test
25 for COVID–19 or diagnosed with COVID–19, fur-

1 nished during the same episode of care as such test
2 or diagnosis, regardless of setting.

3 (c) RECOVERY OF COST-SHARING AMOUNTS PAID BY
4 THE SECRETARY IN THE CASE OF SUPPLEMENTAL IN-
5 SURANCE COVERAGE.—

6 (1) IN GENERAL.—In the case of any amount
7 paid by the Secretary pursuant to subsection (a)(1)
8 that the Secretary determines would otherwise have
9 been paid by a group health plan or health insurance
10 issuer (as such terms are defined in section 2791 of
11 the Public Health Service Act (42 U.S.C. 300gg–
12 91)), a private entity offering a medicare supple-
13 mental policy under section 1882 of the Social Secu-
14 rity Act (42 U.S.C. 1395ss), any other health plan
15 offering supplemental coverage, a State plan under
16 title XIX of the Social Security Act, or the Secretary
17 of Defense under the TRICARE program, such
18 plan, issuer, private entity, other health plan, State
19 plan, or Secretary of Defense, as applicable, shall
20 pay to the Secretary, not later than 1 year after
21 such plan, issuer, private entity, other health plan,
22 State plan, or Secretary of Defense receives a notice
23 under paragraph (3), such amount in accordance
24 with this subsection.

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

13 (3) REVIEW OF CLAIMS AND NOTIFICATION.—
14 The Secretary shall establish a process under which
15 claims for items and services for which the Secretary
16 has paid an amount pursuant to subsection (a)(1)
17 are reviewed for purposes of identifying if such
18 amount would otherwise have been paid by a plan,
19 issuer, private entity, other health plan, State plan,
20 or Secretary of Defense described in paragraph (1).
21 In the case such a claim is so identified, the Sec-
22 retary shall determine the amount that would have
23 been otherwise payable by such plan, issuer, private
24 entity, other health plan, State plan, or Secretary of
25 Defense and notify such plan, issuer, private entity,

1 other health plan, State plan, or Secretary of De-
2 fense of such amount.

3 (4) ENFORCEMENT.—The Secretary may im-
4 pose a civil monetary penalty in an amount deter-
5 mined appropriate by the Secretary in the case of a
6 plan, issuer, private entity, other health plan, or
7 State plan that fails to comply with a provision of
8 this section. The provisions of section 1128A of the
9 Social Security Act shall apply to a civil monetary
10 penalty imposed under the previous sentence in the
11 same manner as such provisions apply to a penalty
12 or proceeding under subsection (a) or (b) of such
13 section.

14 (d) FUNDING.—The Secretary shall provide for the
15 transfer to the Centers for Medicare & Medicaid Program
16 Management Account from the Federal Hospital Insur-
17 ance Trust Fund and the Federal Supplementary Trust
18 Fund (in such portions as the Secretary determines appro-
19 priate) \$100,000,000 for purposes of carrying out this
20 section.

21 (e) REPORT.—Not later than 3 years after the date
22 of the enactment of this Act, the Inspector General of the
23 Department of Health and Human Services shall submit
24 to Congress a report containing an analysis of amounts

1 paid pursuant to subsection (a)(1) compared to amounts
2 paid to the Secretary pursuant to subsection (c).

3 (f) IMPLEMENTATION.—Notwithstanding any other
4 provision of law, the Secretary may implement the provi-
5 sions of this section by program instruction or otherwise.

6 **SEC. 103. COVERAGE OF TREATMENTS FOR COVID-19 AT NO**
7 **COST SHARING UNDER THE MEDICARE AD-**
8 **VANTAGE PROGRAM.**

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

12 “(vii) SPECIAL COVERAGE RULES FOR
13 SPECIFIED COVID-19 TREATMENT SERV-
14 ICES.—Notwithstanding clause (i), in the
15 case of a specified COVID-19 treatment
16 service (as defined in section 102(b) of the
17 Medicare Crisis Program Act of 2020) that
18 is furnished during a plan year occurring
19 during any portion of the emergency period
20 defined in section 1135(g)(1)(B) beginning
21 on or after the date of the enactment of
22 this clause, a Medicare Advantage plan
23 may not, with respect to such service, im-
24 pose—

1 “(I) any cost-sharing require-
2 ment (including a deductible, copay-
3 ment, or coinsurance requirement);
4 and

5 “(II) any prior authorization or
6 other utilization management require-
7 ment.

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

12 (b) REIMBURSEMENT OF MEDICARE ADVANTAGE
13 PLANS FOR ELIMINATION OF COST SHARING.—Section
14 1853 of the Social Security Act (42 U.S.C. 1395w–23)
15 is amended by adding at the end the following new sub-
16 section:

17 “(p) ADDITIONAL PAYMENT TO ACCOUNT FOR COST
18 SHARING ELIMINATION FOR COVID–19 TREATMENT
19 SERVICES.—

20 “(1) IN GENERAL.—A Medicare Advantage plan
21 shall notify the Secretary of the total dollar amount
22 of cost sharing that, but for the application of sec-
23 tion 1852(a)(1)(B)(vii), would have been required
24 under such plan for specified COVID–19 treatment
25 services (as defined in section 70202(b) of the Take

1 Responsibility for Workers and Families Act) fur-
2 nished during a plan year described in such section
3 to individuals enrolled in the plan. The Secretary
4 shall make periodic and timely payments in accord-
5 ance with this subsection to such plan that, in the
6 aggregate, equal such total dollar amount.

7 “(2) TIMING OF PAYMENT.—Payments by the
8 Secretary under this subsection shall be made begin-
9 ning March 1, 2021, for amounts described in such
10 paragraph that would have been required under such
11 plan for specified COVID–19 treatment services fur-
12 nished during plan year 2020. Payments by the Sec-
13 retary under this subsection for such amounts that
14 would have been so required under such plan for
15 such services furnished during a plan year subse-
16 quent to plan year 2020 shall be made beginning
17 March 1 of the plan year following such subsequent
18 plan year.

19 “(3) NON-APPLICATION.—Section 1853(c)(7)
20 shall not apply with respect to the application of this
21 subsection.

22 “(4) APPROPRIATION.—There are transferred
23 to the Centers for Medicare & Medicaid Program
24 Management Fund, out of any monies in the Treas-
25 ury not otherwise obligated, such sums as may be

1 necessary to the Secretary for purposes of making
2 payments under this subsection.”.

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

7 **SEC. 104. GUARANTEED ISSUE OF CERTAIN MEDIGAP POLI-**
8 **CIES.**

9 (a) GUARANTEED ISSUE OF MEDIGAP POLICIES TO
10 ALL MEDIGAP-ELIGIBLE MEDICARE BENEFICIARIES.—

11 (1) IN GENERAL.—Section 1882(s) of the So-
12 cial Security Act (42 U.S.C. 1395ss(s)) is amend-
13 ed—

14 (A) in paragraph (2)(A), by striking “65
15 years of age or older and is enrolled for benefits
16 under part B” and inserting “entitled to, or en-
17 rolled for, benefits under part A and enrolled
18 for benefits under part B”;

19 (B) in paragraph (2)(D), by striking “who
20 is 65 years of age or older as of the date of
21 issuance and”;

22 (C) in paragraph (3)(B)(ii), by striking “is
23 65 years of age or older and”; and

24 (D) in paragraph (3)(B)(vi), by striking
25 “at age 65”.

1 (2) ADDITIONAL ENROLLMENT PERIOD FOR
2 CERTAIN INDIVIDUALS.—

3 (A) ONE-TIME ENROLLMENT PERIOD.—

4 (i) IN GENERAL.—In the case of a
5 specified individual, the Secretary shall es-
6 tablish a one-time enrollment period de-
7 scribed in clause (iii) during which such an
8 individual may enroll in any medicare sup-
9 plemental policy of the individual's choos-
10 ing.

11 (ii) APPLICATION.—The provisions
12 of—

13 (I) paragraph (2) of section
14 1882(s) of the Social Security Act (42
15 U.S.C. 1395ss(s)) shall apply with re-
16 spect to a specified individual who is
17 described in subclause (I) of subpara-
18 graph (B)(iii) as if references in such
19 paragraph (2) to the 6-month period
20 described in subparagraph (A) of such
21 paragraph were references to the one-
22 time enrollment period established
23 under clause (i); and

24 (II) paragraph (3) of such sec-
25 tion shall apply with respect to a spec-

1 ified individual who is described in
2 subclause (II) of subparagraph
3 (B)(iii) as if references in such para-
4 graph (3) to the period specified in
5 subparagraph (E) of such paragraph
6 were references to the one-time enroll-
7 ment period established under clause
8 (i).

9 (iii) PERIOD.—The enrollment period
10 established under clause (i) shall be the 6-
11 month period beginning on January 1,
12 2024.

13 (B) SPECIFIED INDIVIDUAL.—For pur-
14 poses of this paragraph, the term “specified in-
15 dividual” means an individual who—

16 (i) is entitled to hospital insurance
17 benefits under part A of title XVIII of the
18 Social Security Act (42 U.S.C. 1395c et
19 seq.) pursuant to section 226(b) or section
20 226A of such Act (42 U.S.C. 426(b); 426–
21 1);

22 (ii) is enrolled for benefits under part
23 B of such Act (42 U.S.C. 1395j et seq.);
24 and

1 (iii)(I) would not, but for the amend-
2 ments made by subparagraphs (A) and (B)
3 of paragraph (1) and the provisions of this
4 paragraph (if such provisions applied to
5 such individual), be eligible for the guaran-
6 teed issue of a medicare supplemental pol-
7 icy under paragraph (2) of section 1882(s)
8 of such Act (42 U.S.C. 1395ss(s)); or

9 (II) would not, but for the amend-
10 ments made by subparagraphs (C) and (D)
11 of paragraph (1) and the provisions of this
12 paragraph (if such provisions applied to
13 such individual), be eligible for the guaran-
14 teed issue of a medicare supplemental pol-
15 icy under paragraph (3) of such section.

16 (C) OUTREACH PLAN.—

17 (i) IN GENERAL.—The Secretary shall
18 develop an outreach plan to notify specified
19 individuals of the one-time enrollment pe-
20 riod established under subparagraph (A).

21 (ii) CONSULTATION.—In imple-
22 menting the outreach plan developed under
23 clause (i), the Secretary shall consult with
24 consumer advocates, brokers, insurers, the
25 National Association of Insurance Commis-

1 sioners, and State Health Insurance As-
2 sistance Programs.

3 (3) EFFECTIVE DATE.—The amendments made
4 by paragraph (1) shall apply to medicare supple-
5 mental policies effective on or after the date of the
6 enactment of this Act.

7 (b) GUARANTEED ISSUE OF MEDIGAP POLICIES FOR
8 MEDICARE ADVANTAGE ENROLLEES.—

9 (1) IN GENERAL.—Section 1882(s)(3) of the
10 Social Security Act (42 U.S.C. 1395ss(s)(3)), as
11 amended by subsection (a), is further amended—

12 (A) in subparagraph (B), by adding at the
13 end the following new clause:

14 “(vii) The individual—

15 “(I) was enrolled in a Medicare Advantage
16 plan under part C for not less than 12 months;

17 “(II) subsequently disenrolled from such
18 plan;

19 “(III) elects to receive benefits under this
20 title through the original Medicare fee-for-serv-
21 ice program under parts A and B; and

22 “(IV) has not previously elected to receive
23 benefits under this title through the original
24 Medicare fee-for-service program pursuant to

1 disenrollment from a Medicare Advantage plan
2 under part C.”;

3 (B) by striking subparagraph (C)(iii) and
4 inserting the following:

5 “(iii) Subject to subsection (v)(1), for purposes of an
6 individual described in clause (vi) or (vii) of subparagraph
7 (B), a medicare supplemental policy described in this sub-
8 paragraph shall include any medicare supplemental pol-
9 icy.”; and

10 (C) in subparagraph (E)—

11 (i) in clause (iv), by striking “and” at
12 the end;

13 (ii) in clause (v), by striking the pe-
14 riod at the end and inserting “; and”; and

15 (iii) by adding at the end the fol-
16 lowing new clause—

17 “(vi) in the case of an individual described in
18 subparagraph (B)(vii), the annual, coordinated elec-
19 tion period (as defined in section 1851(e)(3)(B)) or
20 a continuous open enrollment period (as defined in
21 section 1851(e)(2)) during which the individual
22 disenrolls from a Medicare Advantage plan under
23 part C.”.

24 (2) EFFECTIVE DATE.—The amendments made
25 by paragraph (1) shall apply to medicare supple-

1 mental policies effective on or after the date of the
2 enactment of this Act.

3 **SEC. 105. REQUIRING COVERAGE UNDER MEDICARE PDPS**
4 **AND MA-PD PLANS, WITHOUT THE IMPOSI-**
5 **TION OF COST SHARING OR UTILIZATION**
6 **MANAGEMENT REQUIREMENTS, OF DRUGS**
7 **INTENDED TO TREAT COVID-19 DURING CER-**
8 **TAIN EMERGENCIES.**

9 (a) COVERAGE REQUIREMENT.—

10 (1) IN GENERAL.—Section 1860D-4(b)(3) of
11 the Social Security Act (42 U.S.C. 1395w-
12 104(b)(3)) is amended by adding at the end the fol-
13 lowing new subparagraph:

14 “(I) REQUIRED INCLUSION OF DRUGS IN-
15 TENDED TO TREAT COVID-19.—

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

22 “(I) include in any formulary—

23 “(aa) all covered part D
24 drugs with a medically accepted
25 indication (as defined in section

1 1860D–2(e)(4)) to treat COVID–
2 19 that are marketed in the
3 United States; and

4 “(bb) all drugs authorized
5 under section 564 or 564A of the
6 Federal Food, Drug, and Cos-
7 metic Act to treat COVID–19;
8 and

9 “(II) not impose any prior au-
10 thorization or other utilization man-
11 agement requirement with respect to
12 such drugs described in item (aa) or
13 (bb) of subclause (I) (other than such
14 a requirement that limits the quantity
15 of drugs due to safety).

16 “(ii) PERIOD DESCRIBED.—For pur-
17 poses of clause (i), the period described in
18 this clause is the period during which there
19 exists the public health emergency declared
20 by the Secretary pursuant to section 319
21 of the Public Health Service Act on Janu-
22 ary 31, 2020, entitled ‘Determination that
23 a Public Health Emergency Exists Nation-
24 wide as the Result of the 2019 Novel
25 Coronavirus’ (including any renewal of

1 such declaration pursuant to such sec-
2 tion).”.

3 (b) ELIMINATION OF COST SHARING.—

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

9 (A) in subsection (b)—

10 (i) in paragraph (1)(A), by striking
11 “The coverage” and inserting “Subject to
12 paragraph (8), the coverage”;

13 (ii) in paragraph (2)—

14 (I) in subparagraph (A), by in-
15 serting after “Subject to subpara-
16 graphs (C) and (D)” the following:
17 “and paragraph (8)”;

18 (II) in subparagraph (C)(i), by
19 striking “paragraph (4)” and insert-
20 ing “paragraphs (4) and (8)”;

21 (III) in subparagraph (D)(i), by
22 striking “paragraph (4)” and insert-
23 ing “paragraphs (4) and (8)”;

1 (iii) in paragraph (4)(A)(i), by strik-
2 ing “The coverage” and inserting “Subject
3 to paragraph (8), the coverage”; and

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

6 “(8) ELIMINATION OF COST-SHARING FOR
7 DRUGS INTENDED TO TREAT COVID–19.—The cov-
8 erage does not impose any deductible, copayment,
9 coinsurance, or other cost-sharing requirement for
10 drugs described in section 1860D–4(b)(3)(I)(i)(I)
11 with respect to a plan year, any portion of which oc-
12 curs during the period during which there exists the
13 public health emergency declared by the Secretary
14 pursuant to section 319 of the Public Health Service
15 Act on January 31, 2020, entitled ‘Determination
16 that a Public Health Emergency Exists Nationwide
17 as the Result of the 2019 Novel Coronavirus’ (in-
18 cluding any renewal of such declaration pursuant to
19 such section).”; and

20 (B) in subsection (e), by adding at the end
21 the following new paragraph:

22 “(4) SAME ELIMINATION OF COST-SHARING FOR
23 DRUGS INTENDED TO TREAT COVID–19.—The cov-
24 erage is in accordance with subsection (b)(8).”.

1 (2) ELIMINATION OF COST SHARING FOR
2 DRUGS INTENDED TO TREAT COVID-19 DISPENSED
3 TO INDIVIDUALS WHO ARE SUBSIDY ELIGIBLE INDI-
4 VIDUALS.—Section 1860D-14(a) of the Social Secu-
5 rity Act (42 U.S.C. 1395w-114(a)) is amended—

6 (A) in paragraph (1)—

7 (i) in subparagraph (D)—

8 (I) in clause (ii), by striking “In
9 the case of” and inserting “Subject to
10 subparagraph (F), in the case of”;
11 and

12 (II) in clause (iii), by striking
13 “In the case of” and inserting “Sub-
14 ject to subparagraph (F), in the case
15 of”; and

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

18 “(F) ELIMINATION OF COST-SHARING FOR
19 DRUGS INTENDED TO TREAT COVID-19.—Cov-
20 erage that is in accordance with section
21 1860D-2(b)(8).”; and

22 (B) in paragraph (2)—

23 (i) in subparagraph (B), by striking
24 “A reduction” and inserting “Subject to
25 subparagraph (F), a reduction”;

1 (ii) in subparagraph (D), by striking
2 “The substitution” and inserting “Subject
3 to subparagraph (F), the substitution”;

4 (iii) in subparagraph (E), by inserting
5 after “Subject to” the following: “subpara-
6 graph (F) and”; and

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

9 “(F) ELIMINATION OF COST-SHARING FOR
10 DRUGS INTENDED TO TREAT COVID-19.—Cov-
11 erage that is in accordance with section
12 1860D-2(b)(8).”.

13 (c) LIS ELIGIBILITY.—Section 1860D-
14 14(a)(3)(C)(i) of the Social Security Act (42 U.S.C.
15 1395w-114(a)(3)(C)(i)) is amended by inserting “and any
16 amounts received from a State as unemployment benefits”
17 after “furnished in kind”.

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

1 **SEC. 106. MEDICARE SPECIAL ENROLLMENT PERIOD FOR**
2 **INDIVIDUALS RESIDING IN COVID-19 EMER-**
3 **GENCY AREAS.**

4 (a) IN GENERAL.—Section 1837(i) of the Social Se-
5 curity Act (42 U.S.C. 1395p(i)) is amended by adding at
6 the end the following new paragraph:

7 “(5)(A) In the case of an individual who—

8 “(i) is eligible under section 1836 to enroll
9 in the medical insurance program established by
10 this part;

11 “(ii) has elected not to enroll (or to be
12 deemed enrolled) under such section during an
13 enrollment period; and

14 “(iii) during the emergency period (as de-
15 scribed in section 1135(g)(1)(B)), is residing in
16 an emergency area (as described in such sec-
17 tion),

18 there shall be a special enrollment period de-
19 scribed in subparagraph (B).

20 “(B) The special enrollment period re-
21 ferred to in subparagraph (A) is, with respect
22 to an individual residing in a State, the period
23 that begins on the date of the enactment of this
24 paragraph and ends on the date that is 3
25 months after the first day occurring on or after
26 the date of the enactment of this paragraph

1 that the average unemployment rate for the 12-
2 month period ending on such first day—

3 “(i) in such State is not more than 2
4 percentage points higher than the average
5 unemployment rate in such State during
6 the period consisting of October 1 through
7 December 31 of 2019; and

8 “(ii) in the United States is not more
9 than 2 percentage points higher than the
10 average unemployment rate in the United
11 States during the period consisting of Oc-
12 tober 1 through December 31 of 2019.”.

13 (b) COVERAGE PERIOD FOR INDIVIDUALS
14 TRANSITIONING FROM OTHER COVERAGE.—Section
15 1838(e) of the Social Security Act (42 U.S.C. 1395q(e))
16 is amended—

17 (1) by striking “pursuant to section 1837(i)(3)
18 or 1837(i)(4)(B)—” and inserting the following:

19 “pursuant to—

20 “(1) section 1837(i)(3) or 1837(i)(4)(B)—”;

21 (2) by redesignating paragraphs (1) and (2) as
22 subparagraphs (A) and (B), respectively, and mov-
23 ing the indentation of each such subparagraph 2
24 ems to the right;

1 (3) by striking the period at the end of the sub-
2 paragraph (B), as so redesignated, and inserting “;
3 or”; and

4 (4) by adding at the end the following new
5 paragraph:

6 “(2) section 1837(i)(5), the coverage period
7 shall begin on the first day of the month following
8 the month in which the individual so enrolls.”.

9 (c) NO INCREASE IN PREMIUMS.—Section 1839(b) of
10 such Act (42 U.S.C. 1395r(b)) is amended in the first sen-
11 tence, by inserting “, (i)(5),” after “subsection (i)(4)”.

12 **SEC. 107. SPECIAL MEDICARE RULES DURING THE COVID-**
13 **19 EMERGENCY.**

14 (a) PREMIUMS.—Notwithstanding any other provi-
15 sion of law, the Secretary shall provide that an individual
16 entitled to benefits under part A or enrolled under part
17 B of title XVIII of the Social Security Act (42 U.S.C.
18 1395 et seq.) is not required to pay any premium under
19 such part A or part B (if any would otherwise be applica-
20 ble) for any month occurring during the emergency period
21 described in section 1135(g)(1)(B) of the Social Security
22 Act (42 U.S.C. 1320b-5(g)(1)(B)).

23 (b) COST-SHARING REQUIREMENTS.—Notwith-
24 standing any other provision of law, with respect to items
25 and services furnished during a month occurring during

1 the emergency period described in section 1135(g)(1)(B)
2 of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B))
3 to an individual entitled to benefits under part A or en-
4 rolled under part B of title XVIII of the Social Security
5 Act (42 U.S.C. 1395 et seq.), including an individual en-
6 rolled under section 1899C of such Act, the Secretary of
7 Health and Human Services shall ensure that the aggre-
8 gate amount of any cost-sharing requirements (including
9 any deductibles, copayments, or coinsurance) applicable
10 under such part A or part B (or, in the case of an indi-
11 vidual enrolled under part C of such title, under such part
12 C if such item or service would have been covered under
13 such part A or B) to such individual with respect to such
14 items and services furnished during such month does not
15 exceed 5 percent of such individual’s income during such
16 month. The Secretary shall pay to the entity furnishing
17 such item or service the amount of any such requirement
18 that would be payable to such entity but for application
19 of the previous sentence.

20 **SEC. 108. NATIONAL CLEARINGHOUSE FOR COVID-19 PER-**
21 **SONAL PROTECTIVE EQUIPMENT AND OTHER**
22 **MEDICAL SUPPLIES.**

23 (a) IN GENERAL.—The Secretary of Health and
24 Human Services (in this section referred to as the “Sec-
25 retary”) shall establish a national clearinghouse for

1 COVID–19 personal protective equipment and other med-
2 ical supplies (in this section referred to as the “clearing-
3 house”) through which the Secretary shall provide for the
4 purchase, in accordance with subsection (b), of personal
5 protective equipment and other medical items necessary
6 for the diagnosis or treatment of COVID–19 (including
7 respirator masks, ventilators, gloves, bodysuits, safety
8 glasses, eye protection, and isolation gowns) and the dis-
9 tribution of such equipment and items in accordance with
10 subsection (c).

11 (b) PURCHASE OF EQUIPMENT AND ITEMS.—The
12 Secretary shall provide for the purchase of equipment and
13 items described in subsection (a) for the clearinghouse
14 through direct negotiations with entities selling such
15 equipment or items. Any such purchase shall be made at
16 a rate not exceeding the amount payable for such equip-
17 ment or items by the Secretary of Veterans Affairs.

18 (c) DISTRIBUTION.—The Secretary shall provide for
19 the distribution of equipment and items purchased for the
20 clearinghouse to health care providers enrolled under sec-
21 tion 1866(j) of the Social Security Act (42 U.S.C.
22 1395cc(j)) based on the demonstrated need of such pro-
23 viders for such equipment and items.

24 (d) REPORT.—The Secretary shall submit to Con-
25 gressional Oversight Commission established under section

1 4020 of division A of the CARES Act and publish on a
2 public website a monthly report on expenditures under this
3 section and distribution of equipment and items made
4 through the clearinghouse. Such report shall include a
5 breakdown of the geographic distribution of such equip-
6 ment and items and a specification of the types of expendi-
7 tures made under this section.

8 **TITLE II—MEDICAID AND CHIP**

9 **SEC. 201. MEDICAID COVERAGE AT NO COST SHARING OF** 10 **COVID-19 VACCINE AND TREATMENT.**

11 (a) MEDICAID.—

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

15 (A) by striking “and (D)” and inserting
16 “(D)”; and

17 (B) by striking the semicolon at the end
18 and inserting “; (E) a COVID-19 vaccine li-
19 censed under section 351 of the Public Health
20 Service Act and the administration of such vac-
21 cine; and (F) specified COVID-19 treatment
22 services (as defined in section 102(b) of the
23 Medicare Crisis Program Act of 2020);”.

24 (2) PROHIBITION OF COST SHARING.—

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

4 (i) in subparagraph (F), by striking
5 “or” at the end;

6 (ii) in subparagraph (G), by striking
7 “; and” and inserting “, or”; and

8 (iii) by adding at the end the fol-
9 lowing subparagraphs:

10 “(H) a COVID–19 vaccine licensed under
11 section 351 of the Public Health Service Act
12 and the administration of such vaccine; or

13 “(I) any specified COVID–19 treatment
14 service (as defined in section 102(b) of the
15 Medicare Crisis Program Act of 2020); and”.

16 (B) APPLICATION TO ALTERNATIVE COST
17 SHARING.—Section 1916A(b)(3)(B) of the So-
18 cial Security Act (42 U.S.C. 1396o–1(b)(3)(B))
19 is amended—

20 (i) in clause (xi), by striking “any
21 visit” and inserting “any service”; and

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

24 “(xii) A COVID–19 vaccine licensed
25 under section 351 of the Public Health

1 Service Act and the administration of such
2 vaccine.

3 “(xiii) A specified COVID–19 treat-
4 ment service (as defined in section 102(b)
5 of the Medicare Crisis Program Act of
6 2020).”.

7 (C) CLARIFICATION.—The amendments
8 made by this subsection shall apply with respect
9 to a State plan of a territory in the same man-
10 ner as a State plan of one of the 50 States.

11 (b) STATE PEDIATRIC VACCINE DISTRIBUTION PRO-
12 GRAM.—Section 1928 of the Social Security Act (42
13 U.S.C. 1396s) is amended—

14 (1) in subsection (a)(1)—

15 (A) in subparagraph (A), by striking “;
16 and” and inserting a semicolon;

17 (B) in subparagraph (B), by striking the
18 period and inserting “; and”; and

19 (C) by adding at the end the following sub-
20 paragraph:

21 “(C) each vaccine-eligible child (as defined
22 in subsection (b)) is entitled to receive a
23 COVID–19 vaccine from a program-registered
24 provider (as defined in subsection (h)(8)) with-
25 out charge for—

1 “(i) the cost of such vaccine; or

2 “(ii) the administration of such vac-
3 cine.”;

4 (2) in subsection (c)(2)—

5 (A) in subparagraph (C)(ii), by inserting “,
6 but may not impose a fee for the administration
7 of a COVID–19 vaccine” before the period; and

8 (B) by adding at the end the following sub-
9 paragraph:

10 “(D) The provider will provide and admin-
11 ister an approved COVID–19 vaccine to a vac-
12 cine-eligible child in accordance with the same
13 requirements as apply under the preceding sub-
14 paragraphs to the provision and administration
15 of a qualified pediatric vaccine to such a
16 child.”; and

17 (3) in subsection (d)(1), in the first sentence,
18 by inserting “, including with respect to a COVID–
19 19 vaccine licensed under section 351 of the Public
20 Health Service Act” before the period.

21 (c) CHIP.—

22 (1) IN GENERAL.—Section 2103(c) of the So-
23 cial Security Act (42 U.S.C. 1397cc(c)), as amended
24 by section 6004(b)(1) of the Families First

1 Coronavirus Response Act, is amended by adding at
2 the end the following paragraph:

3 “(11) COVERAGE OF COVID–19 VACCINES AND
4 TREATMENT.—The child health assistance provided
5 to a targeted low-income child shall include coverage
6 of—

7 “(A) any COVID–19 vaccine licensed
8 under section 351 of the Public Health Service
9 Act and the administration of such vaccine; and

10 “(B) a specified COVID–19 treatment
11 service (as defined in section 102(b) of the
12 Medicare Crisis Program Act of 2020).”.

13 (2) PROHIBITION OF COST SHARING.—Section
14 2103(e)(2) of the Social Security Act (42 U.S.C.
15 1397cc(e)(2)), as amended by section 6004(b)(3) of
16 the Families First Coronavirus Response Act, is
17 amended—

18 (A) in the paragraph header, by inserting
19 “A COVID–19 VACCINE, COVID–19 TREATMENT,”
20 before “OR PREGNANCY-RELATED ASSISTANCE”;
21 and

22 (B) by striking “visits described in section
23 1916(a)(2)(G), or” and inserting “services de-
24 scribed in section 1916(a)(2)(G), vaccines de-

1 scribed in section 1916(a)(2)(H), items or serv-
2 ices described in section 1916(a)(2)(I), or”.

3 (d) CONFORMING AMENDMENTS.—Section 1937 of
4 the Social Security Act (42 U.S.C. 1396u–7) is amend-
5 ed—

6 (1) in subsection (a)(1)(B), by inserting “,
7 under subclause (XXIII) of section
8 1902(a)(10)(A)(ii),” after “section
9 1902(a)(10)(A)(i)”;

10 (2) in subsection (b)(5), by adding before the
11 period the following: “, and, effective on the date of
12 the enactment of the Medicare Crisis Program Act
13 of 2020, must comply with subparagraphs (F)
14 through (I) of subsections (a)(2) and (b)(2) of sec-
15 tions 1916 and 1916A”.

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on the date of enactment of
18 this Act and shall apply with respect to a COVID–19 vac-
19 cine beginning on the date that such vaccine is licensed
20 under section 351 of the Public Health Service Act (42
21 U.S.C. 262).

1 **SEC. 202. INCREASING THE TEMPORARY INCREASE OF**
2 **MEDICAID FMAP DURING THE COVID-19**
3 **EMERGENCY.**

4 (a) IN GENERAL.—Section 6008(a) of the Families
5 First Coronavirus Response Act (Public Law 116–127) is
6 amended by striking “6.2” and inserting “13”.

7 (b) EXTENSION OF PERIOD OF APPLICABILITY.—
8 Section 6008 of such Act is amended—

9 (1) in subsection (a), by striking “such emer-
10 gency period” and inserting “the specified period (as
11 defined in subsection (d))”;

12 (2) in subsection (b)(3)—

13 (A) by striking “the emergency period”
14 and inserting “the specified period (as defined
15 in subsection (d))”; and

16 (B) by striking “such emergency period”
17 and inserting “such specified period”; and

18 (3) by adding at the end the following new sub-
19 section:

20 “(d) SPECIFIED PERIOD.—In this section, the term
21 ‘specified period’ means, with respect to a State, including
22 the District of Columbia, American Samoa, Guam, the
23 Commonwealth of the Northern Mariana Islands, Puerto
24 Rico, and the United States Virgin Islands, the period be-
25 ginning on the first day of the emergency period described
26 in subsection (a) and ending on the date that is 3 months

1 after the first day occurring on or after the date of the
 2 enactment of this section that the average unemployment
 3 rate for the 12-month period ending on such first day—

4 “(1) in such State is not more than 2 percent-
 5 age points higher than the average unemployment
 6 rate in such State during the period consisting of
 7 October 1 through December 31 of 2019; and

8 “(2) in the United States is not more than 2
 9 percentage points higher than the average unemploy-
 10 ment rate in the United States during the period
 11 consisting of October 1 through December 31 of
 12 2019.”.

13 **SEC. 203. INCREASING FEDERAL SUPPORT TO STATE MED-**
 14 **ICAID PROGRAMS DURING ECONOMIC**
 15 **DOWNTURNS.**

16 (a) IN GENERAL.—Section 1905 of the Social Secu-
 17 rity Act (42 U.S.C. 1396d) is amended—

18 (1) in subsection (b), by striking “and (ff)” and
 19 inserting “(ff), and (gg)”; and

20 (2) by adding at the end the following new sub-
 21 section:

22 “(gg) **INCREASED FMAP DURING ECONOMIC**
 23 **DOWNTURNS.**—

24 “(1) IN GENERAL.—Notwithstanding subsection
 25 (b), (y), or (z)(2), if a fiscal quarter that begins on

1 or after January 1, 2020, is an economic downturn
2 quarter (as defined in paragraph (2)) with respect to
3 a State, then the Federal medical assistance percent-
4 age applicable to amounts expended by the State for
5 medical assistance for services furnished during such
6 quarter shall be increased in accordance with para-
7 graphs (3) and (4).

8 “(2) ECONOMIC DOWNTURN QUARTER.—

9 “(A) IN GENERAL.—

10 “(i) IN GENERAL.—In this subsection,
11 the term ‘economic downturn quarter’
12 means, with respect to a State, a fiscal
13 quarter during which the State’s unem-
14 ployment rate for the quarter exceeds the
15 percentage determined for the State and
16 quarter under clause (ii).

17 “(ii) THRESHOLD PERCENTAGE.—The
18 percentage determined under this clause
19 for a State and fiscal quarter is the per-
20 centage equal to the lower of—

21 “(I) the State unemployment
22 rate at the 20th percentile of the dis-
23 tribution of the State’s quarterly un-
24 employment rates for the 60-quarter

1 period preceding the quarter involved,
2 increased by 1 percentage point; and

3 “(II) the State’s average quar-
4 terly unemployment rate for the 12-
5 quarter period preceding the quarter
6 involved, increased by 1 percentage
7 point.

8 “(B) UNEMPLOYMENT DATA.—

9 “(i) IN GENERAL.—Except as pro-
10 vided in clause (ii), for purposes of deter-
11 mining unemployment rates for a State
12 and a quarter under this paragraph, the
13 Secretary shall use data from the Local
14 Area Unemployment Statistics from the
15 Bureau of Labor Statistics.

16 “(ii) APPLICATION TO CERTAIN TER-
17 RITORIES.—In the case of the Virgin Is-
18 lands, Guam, the Northern Mariana Is-
19 lands, or American Samoa, the Secretary
20 shall use data from the U–6 unemployment
21 measure of the Bureau of Labor Statistics
22 to make any necessary determinations
23 under subparagraph (A).

24 “(3) FMAP INCREASE DURING ECONOMIC
25 DOWNTURN QUARTER.—

1 “(A) IN GENERAL.—During a fiscal quar-
2 ter that is an economic downturn quarter with
3 respect to a State, the Federal medical assist-
4 ance percentage otherwise determined for the
5 State and quarter under subsection (b) and, if
6 applicable, the Federal medical assistance per-
7 centage applicable under subsection (y), (z)(2),
8 or (ff) with respect to medical assistance fur-
9 nished by the State during such quarter to indi-
10 viduals described in either such subsection shall
11 be increased by the number of percentage
12 points (rounded to the nearest tenth of a per-
13 centage point) equal to the product of—

14 “(i) the number of percentage points
15 (rounded to the nearest tenth of a percent-
16 age point) by which the unemployment
17 rate for the State and quarter exceeds the
18 percentage determined for the State and
19 quarter under paragraph (2)(A)(ii); and

20 “(ii) 4.8.

21 “(B) APPLICATION OF COVID-19 FMAP IN-
22 CREASE.—Any increase applicable to the Fed-
23 eral medical assistance percentage of a State
24 for a fiscal quarter under subparagraph (A)
25 shall be in addition to any increase to such per-

1 centage for such quarter made pursuant to sec-
2 tion 6008(a) of the Families First Coronavirus
3 Response Act.

4 “(C) LIMITATION.—In no case shall an in-
5 crease to the Federal medical assistance per-
6 centage of a State under this paragraph result
7 in a Federal medical assistance percentage that
8 exceeds 95 percent.

9 “(D) SCOPE OF APPLICATION.—Any in-
10 crease to the Federal medical assistance per-
11 centage of a State for a fiscal quarter under
12 this paragraph shall only apply with respect to
13 payments for amounts expended by the State
14 for medical assistance for services furnished
15 during such quarter and shall not apply with
16 respect to—

17 “(i) disproportionate share hospital
18 payments described in section 1923;

19 “(ii) payments under title IV or XXI;

20 “(iii) any payments under this title
21 that are based on the enhanced FMAP de-
22 scribed in section 2105(b); or

23 “(iv) any payments under this title
24 that are based on a Federal medical assist-
25 ance percentage determined for a State

1 under subsection (aa) (but only to the ex-
2 tent that such Federal medical assistance
3 percentage is higher than the economic re-
4 covery FMAP).

5 “(4) ADVANCE PAYMENT; RETROSPECTIVE AD-
6 JUSTMENT.—

7 “(A) IN GENERAL.—Prior to the beginning
8 of each fiscal quarter that begins on or after
9 July 1, 2020, the Secretary shall, with respect
10 to each State—

11 “(i) determine the increase (if any)
12 that is expected to apply to the Federal
13 medical assistance percentage of such
14 State for such quarter under this sub-
15 section based on the projections made for
16 the State and quarter under subparagraph
17 (B); and

18 “(ii) shall apply such increase to the
19 Federal medical assistance percentage of
20 the State for purposes of making payments
21 to the State for amounts expended during
22 such quarter as medical assistance under
23 the State plan.

24 “(B) PROJECTION OF STATE UNEMPLOY-
25 MENT RATES.—Prior to the beginning of each

1 fiscal quarter that begins on or after July 1,
2 2020, the Secretary, acting through the Chief
3 Actuary of the Centers for Medicare & Medicaid
4 Services, shall, using the most recently available
5 data described in paragraph (2)(B), make pro-
6 jections with respect to—

7 “(i) the unemployment rates for each
8 State for such quarter;

9 “(ii) the threshold percentages de-
10 scribed in paragraph (2)(A)(ii) for each
11 State for such quarter; and

12 “(iii) the national unemployment rate
13 for such quarter.

14 “(C) RETROSPECTIVE ADJUSTMENT.—As
15 soon as practicable after final unemployment
16 data becomes available for a fiscal quarter that
17 begins on or after July 1, 2020, the Secretary
18 shall, with respect to each State—

19 “(i) make a final determination of the
20 increase (if any) applicable to the Federal
21 medical assistance percentage of the State
22 for the quarter under this subsection; and

23 “(ii) in accordance with subsection
24 (d)(2) of section 1903, reduce or increase
25 the amount payable to the State under

1 subsection (a) of such section for a subse-
2 quent fiscal quarter to the extent of any
3 overpayment or underpayment which the
4 Secretary determines was made as a result
5 of a miscalculation of the increase applica-
6 ble to the Federal medical assistance per-
7 centage of the State for such prior fiscal
8 quarter under this subsection.

9 “(5) RETROSPECTIVE APPLICATION OF OVER-
10 THE-LIMIT FMAP INCREASES.—

11 “(A) IN GENERAL.—If a State has excess
12 percentage points with respect to an economic
13 downturn quarter and an applicable FMAP (as
14 determined under subparagraph (B)), the State
15 may elect to apply such excess percentage
16 points to increase such applicable FMAP for
17 one or more quarters during the look-back pe-
18 riod for the State and economic downturn quar-
19 ter in accordance with this paragraph.

20 “(B) EXCESS PERCENTAGE POINTS.—For
21 purposes of this paragraph, the number of ex-
22 cess percentage points for a State, economic
23 downturn quarter, and an applicable FMAP
24 shall be equal to the number of percentage
25 points by which—

1 “(i) the applicable FMAP for the
2 State and quarter (after application of
3 paragraph (3) but without regard to sub-
4 paragraph (C) of such paragraph); exceeds
5 “(ii) 95 percent.

6 “(C) EFFECT OF APPLICATION OF EXCESS
7 PERCENTAGE POINTS.—If a State elects to
8 apply excess percentage points to an applicable
9 FMAP to a quarter during a look-back period
10 under this paragraph, the Secretary shall deter-
11 mine the additional amount of payment under
12 section 1903(a) to which the State would have
13 been entitled for such quarter if the applicable
14 FMAP (as so increased) had been in effect for
15 such quarter, and shall treat such additional
16 amount as an underpayment for such quarter.

17 “(D) DISTRIBUTION OF EXCESS PERCENT-
18 AGE POINTS.—A State that has excess percent-
19 age points with respect to an economic down-
20 turn quarter and applicable FMAP may elect to
21 divide such points among more than 1 quarter
22 during the look-back period for such State and
23 quarter provided that no excess percentage
24 point (or fraction of an excess percentage point)

1 is applied to the applicable FMAP of more than
2 1 quarter.

3 “(E) LIMITATIONS.—

4 “(i) NO INCREASES OVER 100 PER-
5 CENT.—A State may not increase an appli-
6 cable FMAP for any quarter during a look-
7 back period under this paragraph if such
8 increase would result in the applicable
9 FMAP for such quarter exceeding 100 per-
10 cent.

11 “(ii) SCOPE OF APPLICATION.—Any
12 increase to an applicable FMAP of a State
13 for a fiscal quarter under this paragraph—

14 “(I) shall only apply with respect
15 to payments for amounts expended by
16 the State for medical assistance for
17 services furnished during such quarter
18 to which such applicable FMAP is ap-
19 plicable; and

20 “(II) shall not apply with respect
21 to payments described in paragraph
22 (3)(D).

23 “(F) DEFINITIONS.—In this paragraph:

1 “(i) APPLICABLE FMAP.—The term
2 ‘applicable FMAP’ means, with respect to
3 a State and fiscal quarter—

4 “(I) the Federal medical assist-
5 ance percentage determined for the
6 State and quarter under subsection
7 (b);

8 “(II) the Federal medical assist-
9 ance percentage applicable under sub-
10 section (y);

11 “(III) the Federal medical assist-
12 ance percentage applicable under sub-
13 section (z)(2); or

14 “(IV) the Federal medical assist-
15 ance percentage determined for the
16 State and quarter under subsection
17 (ff).

18 “(ii) LOOK-BACK PERIOD.—The term
19 ‘look-back period’ means, with respect to a
20 State and a fiscal quarter that is an eco-
21 nomic downturn quarter for the State, the
22 period of 4 fiscal quarters that ends with
23 the fourth quarter which precedes the most
24 recent fiscal quarters that was not an eco-
25 nomic downturn quarter for the State.

1 “(6) REQUIREMENT FOR ALL STATES.—A State
2 may not receive an increase in the Federal medical
3 assistance percentage for such State under this sub-
4 section, with respect to a fiscal quarter, if—

5 “(A) eligibility standards, methodologies,
6 or procedures under the State plan or a waiver
7 of such plan are more restrictive during such
8 quarter than the eligibility standards, meth-
9 odologies, or procedures, respectively, under
10 such plan (or waiver) as in effect on the last
11 day of the most recent fiscal quarter that was
12 not an economic downturn quarter for the
13 State;

14 “(B) the amount of any premium imposed
15 by the State pursuant to section 1916 or 1916A
16 during such quarter, with respect to an indi-
17 vidual enrolled under such plan (or waiver), ex-
18 ceeds the amount of such premium as of the
19 date described in subparagraph (A); or

20 “(C) the State fails to provide that an in-
21 dividual who is enrolled for benefits under such
22 plan (or waiver) as of the date described in sub-
23 paragraph (A) or enrolls for benefits under
24 such plan (or waiver) during the period begin-
25 ning with such date and ending with the day

1 before the first day of the next quarter that is
2 not an economic downturn quarter for the State
3 shall be treated as eligible for such benefits for
4 not less than 12 months (or, if such period is
5 less than 12 months, throughout such period)
6 unless the individual requests a voluntary ter-
7 mination of eligibility or the individual ceases to
8 be a resident of the State.”.

9 (b) EXCLUSION OF ECONOMIC DOWNTURN FMAP
10 INCREASES FROM TERRITORIAL CAPS.—Section 1108 of
11 the Social Security Act (42 U.S.C. 1308) is amended—

12 (1) in subsection (f), in the matter preceding
13 paragraph (1), by striking “subsection (g) and sec-
14 tion 1935(e)(1)(B)” and inserting “subsections (g)
15 and (h) and section 1935(e)(1)(B)”; and

16 (2) by adding at the end the following:

17 “(h) EXCLUSION FROM CAPS OF AMOUNTS ATTRIB-
18 UTABLE TO ECONOMIC DOWNTURN FMAP.—The portion
19 of any payment made to a territory for a fiscal year that
20 is attributable to an increase in the Federal medical assist-
21 ance percentage for a fiscal quarter during such year
22 under section 1905(gg) shall not be taken into account
23 for purposes of applying payment limits under subsections
24 (f) and (g).”.

1 **SEC. 204. 100 PERCENT FMAP FOR INDIVIDUALS ENROLL-**
2 **ING UNDER MEDICAID DURING THE COVID-19**
3 **EMERGENCY.**

4 (a) **IN GENERAL.**—Notwithstanding any other provi-
5 sion of law, the Federal medical assistance percentage oth-
6 erwise determined under section 1905(b) of the Social Se-
7 curity Act (42 U.S.C. 1396d(b)) with respect to medical
8 assistance furnished during a specified period to a speci-
9 fied individual under a State plan (or waiver of such plan)
10 under title XIX of such Act shall be 100 percent.

11 (b) **DEFINITIONS.**—In this section:

12 (1) **SPECIFIED INDIVIDUAL.**—The term “speci-
13 fied individual” means an individual who enrolls
14 under the State plan (or waiver of such plan) under
15 title XIX of the Social Security Act (42 U.S.C. 1396
16 et seq.) during the emergency period described in
17 section 1135(g)(1)(B) of such Act (42 U.S.C.
18 1320b-5(g)(1)(B)).

19 (2) **SPECIFIED PERIOD.**—The term “specified
20 period” means, with respect to a State, including the
21 District of Columbia, American Samoa, Guam, the
22 Commonwealth of the Northern Mariana Islands,
23 Puerto Rico, and the United States Virgin Islands,
24 the period beginning on the first day of the emer-
25 gency period described in subsection (a) and ending
26 on the date that is 3 months after the first day oc-

1 curring on or after the date of the enactment of this
2 section that the average unemployment rate for the
3 12-month period ending on such first day—

4 (A) in such State is not more than 2 per-
5 centage points higher than the average unem-
6 ployment rate in such State during the period
7 consisting of October 1 through December 31
8 of 2019; and

9 (B) in the United States is not more than
10 2 percentage points higher than the average un-
11 employment rate in the United States during
12 the period consisting of October 1 through De-
13 cember 31 of 2019.

14 **SEC. 205. MANDATORY APPROVAL OF WAIVERS TO COVER**
15 **CERTAIN INDIVIDUALS UNDER MEDICAID**
16 **DURING THE COVID-19 EMERGENCY.**

17 Section 1115(d) of the Social Security Act (42 U.S.C.
18 1315(d)) is amended by adding at the end the following
19 new paragraph:

20 “(4) Notwithstanding any other provision of this sec-
21 tion, the Secretary shall approve an application for a dem-
22 onstration project under this section to the extent that
23 such project allows an individual whose income (as deter-
24 mined under section 1902(e)(14)) does not exceed 300
25 percent of the poverty line (as defined in section

1 2110(c)(5)) applicable to a family of the size involved, to
 2 enroll under the State plan (or waiver of such plan) under
 3 title XIX of the State submitting such application.”.

4 **TITLE III—MISCELLANEOUS**

5 **SEC. 301. GROUP HEALTH PLAN AND HEALTH INSURANCE**

6 **ISSUER COVERAGE OF COVID-19 RELATED**

7 **TREATMENT AT NO COST SHARING.**

8 (a) IN GENERAL.—A group health plan and a health
 9 insurance issuer offering group or individual health insur-
 10 ance coverage (including a grandfathered health plan (as
 11 defined in section 1251(e) of the Patient Protection and
 12 Affordable Care Act)) shall provide coverage, and shall not
 13 impose any cost sharing (including deductibles, copay-
 14 ments, and coinsurance) requirements, for specified
 15 COVID-19 treatment services (as defined in section
 16 102(b)) furnished during any portion of the emergency pe-
 17 riod defined in paragraph (1)(B) of section 1135(g) of the
 18 Social Security Act (42 U.S.C. 1320b-5(g)) beginning on
 19 or after the date of the enactment of this Act.

20 (b) REIMBURSEMENT TO PLANS AND COVERAGE FOR
 21 WAIVING COST SHARING.—

22 (1) IN GENERAL.—A group health plan or a
 23 health insurance issuer offering group or individual
 24 health insurance coverage (including a grandfathered
 25 health plan (as defined in section 1251(e) of the Pa-

1 tient Protection and Affordable Care Act)) that does
2 not impose cost sharing requirements as described in
3 subsection (a) shall notify the Secretary of Health
4 and Human Services, Secretary of Labor, and Sec-
5 retary of the Treasury (through a joint process es-
6 tablished jointly by the Secretaries) of the total dol-
7 lar amount of cost sharing that, but for the applica-
8 tion of subsection (a), would have been required
9 under such plans and coverage for items and serv-
10 ices related to COVID–19 furnished during the pe-
11 riod to which subsection (a) applies to enrollees, par-
12 ticipants, and beneficiaries in the plan or coverage to
13 whom such subsection applies, but which was not
14 imposed for such items and services so furnished
15 pursuant to such subsection and the Secretary of
16 Health and Human Services, in coordination with
17 the Secretary of Labor and the Secretary of the
18 Treasury, shall make payments in accordance with
19 this subsection to the plan or issuer equal to such
20 total dollar amount.

21 (2) METHODOLOGY FOR PAYMENTS.—The Sec-
22 retary of Health and Human Services, in coordina-
23 tion with the Secretary of Labor and the Secretary
24 of the Treasury shall establish a payment system for
25 making payments under this subsection. Any such

1 system shall make payment for the value of cost
2 sharing not imposed by the plan or issuer involved.

3 (3) TIMING OF PAYMENTS.—Payments made
4 under paragraph (1) shall be made no later than
5 May 1, 2021, for amounts of cost sharing waivers
6 with respect to 2020. Payments under this sub-
7 section with respect to such waivers with respect to
8 a year subsequent to 2020 that begins during the
9 period to which subsection (a) applies shall be made
10 no later than May of the year following such subse-
11 quent year.

12 (4) APPROPRIATIONS.—There is authorized to
13 be appropriated, and there is appropriated, out of
14 any monies in the Treasury not otherwise appro-
15 priated, such funds as are necessary to carry out
16 this subsection.

17 (c) ENFORCEMENT.—

18 (1) APPLICATION WITH RESPECT TO PHSA,
19 ERISA, AND IRC.—The provisions of this section
20 shall be applied by the Secretary of Health and
21 Human Services, Secretary of Labor, and Secretary
22 of the Treasury to group health plans and health in-
23 surance issuers offering group or individual health
24 insurance coverage as if included in the provisions of
25 part A of title XXVII of the Public Health Service

1 Act, part 7 of the Employee Retirement Income Se-
2 curity Act of 1974, and subchapter B of chapter 100
3 of the Internal Revenue Code of 1986, as applicable.

4 (2) PRIVATE RIGHT OF ACTION.—An individual
5 with respect to whom an action is taken by a group
6 health plan or health insurance issuer offering group
7 or individual health insurance coverage in violation
8 of subsection (a) may commence a civil action
9 against the plan or issuer for appropriate relief. The
10 previous sentence shall not be construed as limiting
11 any enforcement mechanism otherwise applicable
12 pursuant to paragraph (1).

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

18 (e) TERMS.—In this section, the terms “group health
19 plan”, “health insurance issuer”, “group health insurance
20 coverage”, and “individual health insurance coverage”
21 have the meanings given such terms in section 2791 of
22 the Public Health Service Act (42 U.S.C. 300gg–91), sec-
23 tion 733 of the Employee Retirement Income Security Act
24 of 1974 (29 U.S.C. 1191b), and section 9832 of the Inter-
25 nal Revenue Code of 1986, as applicable.

1 **SEC. 302. PAYMENT FOR SPECIFIED COVID-19 TREATMENT**
2 **SERVICES FURNISHED TO THE UNINSURED.**

3 (a) IN GENERAL.—The Secretary of Health and
4 Human Services shall pay to a health care provider that
5 furnishes a specified COVID-19 treatment service (as de-
6 fined in section 102) to an uninsured individual (as de-
7 fined in subsection (b)) an amount equal to the amount
8 that would have been payable (including any cost-sharing
9 requirement) under title XVIII of the Social Security Act
10 (42 U.S.C. 1395 et seq.) had such service been furnished
11 to an individual entitled to benefits under part A and en-
12 rolled under part B of such title.

13 (b) UNINSURED INDIVIDUAL.—For purposes of this
14 section, the term “uninsured individual” means an indi-
15 vidual who—

16 (1) is not enrolled in a group health plan or in
17 group or individual health insurance coverage (as de-
18 fined in section 2791 of the Public Health Service
19 Act (42 U.S.C. 300gg-91)); and

20 (2) is not enrolled in a Federal health care pro-
21 gram (as defined in section 1128B(f) of the Social
22 Security Act (42 U.S.C. 1320a-7b(f))) or under the
23 program established under chapter 89 of title 5,
24 United States Code.

25 (c) HOLDING UNINSURED INDIVIDUAL HARMLESS
26 FOR SPECIFIED COVID-19 TREATMENT SERVICES.—

1 (1) IN GENERAL.—A health care provider re-
2 ceiving payment under subsection (a) for a specified
3 COVID–19 treatment service furnished to an indi-
4 vidual may not hold such individual liable for any
5 amount for such service.

6 (2) ENFORCEMENT.—A health care provider
7 who violates subsection (a) shall be subject to a civil
8 monetary penalty determined appropriate by the
9 Secretary of Health and Human Services. The provi-
10 sion of section 1128A of the Social Security Act (42
11 U.S.C. 1320a–7a) (other than subsections (a) and
12 (b)) shall apply with respect to a civil monetary pen-
13 alty imposed under the previous sentence in the
14 same manner as such provisions apply with respect
15 to a penalty or proceeding under subsection (a) of
16 such section.

○