

Calendar No. 265118TH CONGRESS
1ST SESSION**S. 3430****[Report No. 118–121]**

To amend titles XVIII and XIX of the Social Security Act to expand the mental health care workforce and services, reduce prescription drug costs, and extend certain expiring provisions under Medicare and Medicaid, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2023

Mr. WYDEN, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend titles XVIII and XIX of the Social Security Act to expand the mental health care workforce and services, reduce prescription drug costs, and extend certain expiring provisions under Medicare and Medicaid, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Better Mental Health Care, Lower-Cost Drugs, and Ex-
 4 tenders Act of 2023”.

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

Sec. 1. Short title; table of contents.

**TITLE I—EXPANDING MENTAL HEALTH CARE WORKFORCE AND
 SERVICES UNDER MEDICARE AND MEDICAID**

- Sec. 101. Expanding eligibility for incentives under the Medicare health profes-
 sional shortage area bonus program to practitioners furnishing
 mental health and substance use disorder services.
- Sec. 102. Improved access to mental health services under the Medicare pro-
 gram.
- Sec. 103. Clarifying coverage of occupational therapy under the Medicare pro-
 gram.
- Sec. 104. Medicare incentives for behavioral health integration with primary
 care.
- Sec. 105. Establishment of Medicare incident to modifier for mental health
 services furnished through telehealth.
- Sec. 106. Guidance on furnishing behavioral health services via telehealth to in-
 dividuals with limited English proficiency under Medicare pro-
 gram.
- Sec. 107. Ensuring timely communication regarding telehealth and interstate li-
 censure requirements.
- Sec. 108. Facilitating accessibility for behavioral health services furnished
 through telehealth.
- Sec. 109. Requiring Enhanced & Accurate Lists of (REAL) Health Providers
 Act.
- Sec. 110. Guidance to States on strategies under Medicaid and CHIP to in-
 crease mental health and substance use disorder care provider
 capacity.
- Sec. 111. Guidance to States on supporting mental health services and sub-
 stance use disorder care for children and youth.
- Sec. 112. Recurring analysis and publication of Medicaid health care data re-
 lated to mental health services.
- Sec. 113. Guidance to States on supporting mental health services or substance
 use disorder care integration with primary care in Medicaid
 and CHIP.
- Sec. 114. Medicaid State option relating to inmates with a substance use dis-
 order pending disposition of charges.
- Sec. 115. Definition of Certified Community Behavioral Health Clinic Services
 under Medicaid.

**TITLE II—REDUCING PRESCRIPTION DRUG COSTS UNDER
 MEDICARE AND MEDICAID**

- Sec. 201. Assuring pharmacy access and choice for Medicare beneficiaries.
- Sec. 202. Ensuring accurate payments to pharmacies under Medicaid.
- Sec. 203. Protecting seniors from excessive cost-sharing for certain medicines.

TITLE III—MEDICAID EXPIRING PROVISIONS

- Sec. 301. Delaying certain disproportionate share hospital payment reductions under the Medicaid program.
- Sec. 302. Extension of State option to provide medical assistance for certain individuals who are patients in certain institutions for mental diseases.

TITLE IV—MEDICARE EXPIRING PROVISIONS AND PROVIDER PAYMENT CHANGES

- Sec. 401. Extension of funding for quality measure endorsement, input, and selection.
- Sec. 402. Extension of funding outreach and assistance for low-income programs.
- Sec. 403. Extension of the work geographic index floor under the Medicare program.
- Sec. 404. Extending incentive payments for participation in eligible alternative payment models.
- Sec. 405. Payment rates for durable medical equipment under the Medicare Program.
- Sec. 406. Extending the independence at home medical practice demonstration program under the Medicare program.
- Sec. 407. Increase in support for physicians and other professionals in adjusting to Medicare payment changes.
- Sec. 408. Revised phase-in of Medicare clinical laboratory test payment changes.
- Sec. 409. Extension of adjustment to calculation of hospice cap amount under Medicare.

TITLE V—OFFSETS

- Sec. 501. Medicaid Improvement Fund.
- Sec. 502. Medicare Improvement Fund.

1 **TITLE I—EXPANDING MENTAL**
2 **HEALTH CARE WORKFORCE**
3 **AND SERVICES UNDER MEDI-**
4 **CARE AND MEDICAID**

5 **SEC. 101. EXPANDING ELIGIBILITY FOR INCENTIVES**
6 **UNDER THE MEDICARE HEALTH PROFES-**
7 **SIONAL SHORTAGE AREA BONUS PROGRAM**
8 **TO PRACTITIONERS FURNISHING MENTAL**
9 **HEALTH AND SUBSTANCE USE DISORDER**
10 **SERVICES.**

11 Section 1833(m) of the Social Security Act (42
12 U.S.C. 1395l(m)) is amended—

13 (1) by striking paragraph (1) and inserting the
14 following new paragraph:

15 “(1) In the case of—

16 “(A) physicians’ services (other than specified
17 health services that are eligible for the additional
18 payment under subparagraph (B)) furnished in a
19 year to an individual, who is covered under the in-
20 surance program established by this part and who
21 incurs expenses for such services, in an area that is
22 designated (under section 332(a)(1)(A) of the Public
23 Health Service Act) as a health professional short-
24 age area as identified by the Secretary prior to the
25 beginning of such year, in addition to the amount

1 otherwise paid under this part, there also shall be
2 paid to the physician (or to an employer or facility
3 in the cases described in clause (A) of section
4 1842(b)(6)) (on a monthly or quarterly basis) from
5 the Federal Supplementary Medical Insurance Trust
6 Fund an amount equal to 10 percent of the payment
7 amount for the service under this part; and

8 “(B) specified health services (as defined in
9 paragraph (5)) furnished in a year to an individual,
10 who is covered under the insurance program estab-
11 lished by this part and who incurs expenses for such
12 services, in an area that is designated (under such
13 section 332(a)(1)(A)) as a mental health profes-
14 sional shortage area as identified by the Secretary
15 prior to the beginning of such year, in addition to
16 the amount otherwise paid under this part, there
17 also shall be paid to the physician or applicable
18 practitioner (as defined in paragraph (6)) (or to an
19 employer or facility in the cases described in clause
20 (A) of section 1842(b)(6)) (on a monthly or quar-
21 terly basis) from such Trust Fund an amount equal
22 to 15 percent of the payment amount for the service
23 under this part.”;

24 (2) in paragraph (2)—

1 (A) by striking “in paragraph (1)” and in-
2 serting “in subparagraph (A) or (B) of para-
3 graph (1)”;

4 (B) by inserting “or, in the case of speci-
5 fied health services, the physician or applicable
6 practitioner” after “physician”;

7 (3) in paragraph (3), by striking “in paragraph
8 (1)” and inserting “in subparagraph (A) or (B) of
9 paragraph (1)”;

10 (4) in paragraph (4)—

11 (A) in subparagraph (B), by inserting “or
12 applicable practitioner” after “physician”; and

13 (B) in subparagraph (C), by inserting “or
14 applicable practitioner” after “physician”; and

15 (5) by adding at the end the following new
16 paragraphs:

17 “(5) In this subsection, the term ‘specified health
18 services’ means services otherwise covered under this part
19 that are furnished on or after January 1, 2026, by a phy-
20 sician or an applicable practitioner to an individual—

21 “(A) for purposes of diagnosis, evaluation, or
22 treatment of a mental health disorder, as determined
23 by the Secretary; or

24 “(B) with a substance use disorder diagnosis
25 for purposes of treatment of such disorder or co-oc-

1 curring mental health disorder, as determined by the
2 Secretary.

3 “(6) In this subsection, the term ‘applicable practi-
4 tioner’ means the following:

5 “(A) A physician assistant, nurse practitioner,
6 or clinical nurse specialist (as defined in section
7 1861(aa)(5)).

8 “(B) A clinical social worker (as defined in sec-
9 tion 1861(hh)(1)).

10 “(C) A clinical psychologist (as defined by the
11 Secretary for purposes of section 1861(ii)).

12 “(D) A marriage and family therapist (as de-
13 fined in section 1861(lll)(2)).

14 “(E) A mental health counselor (as defined in
15 section 1861(lll)(4)).”.

16 **SEC. 102. IMPROVED ACCESS TO MENTAL HEALTH SERV-**
17 **ICES UNDER THE MEDICARE PROGRAM.**

18 (a) ACCESS TO CLINICAL SOCIAL WORKER SERVICES
19 PROVIDED TO RESIDENTS OF SKILLED NURSING FACILI-
20 TIES.—

21 (1) EXCLUSION OF CLINICAL SOCIAL WORKER
22 SERVICES FROM THE SKILLED NURSING FACILITY
23 PROSPECTIVE PAYMENT SYSTEM.—Section
24 1888(e)(2)(A)(iii) of the Social Security Act (42

1 U.S.C. 1395yy(e)(2)(A)(iii) is amended by adding
2 at the end the following new subclause:

3 “(VII) Clinical social worker
4 services (as defined in section
5 1861(hh)(2)).”.

6 (2) CONFORMING AMENDMENT.—Section
7 1861(hh)(2) of the Social Security Act (42 U.S.C.
8 1395x(hh)(2)) is amended by striking “and other
9 than services furnished to an inpatient of a skilled
10 nursing facility which the facility is required to pro-
11 vide as a requirement for participation”.

12 (b) ACCESS TO THE COMPLETE SCOPE OF CLINICAL
13 SOCIAL WORKER SERVICES.—Section 1861(hh)(2) of the
14 Social Security Act (42 U.S.C. 1395x(hh)(2)), as amended
15 by subsection (a)(2), is amended by striking “for the diag-
16 nosis and treatment of mental illnesses (other than serv-
17 ices furnished to an inpatient of a hospital)” and inserting
18 “, including services for the diagnosis and treatment of
19 mental illnesses or services for health behavior assessment
20 and intervention (identified as of January 1, 2023, by
21 HCPCS codes 96160 and 96161 (and any succeeding
22 codes)), but not including services furnished to an inpa-
23 tient of a hospital,”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to items and services furnished on
3 or after January 1, 2026.

4 **SEC. 103. CLARIFYING COVERAGE OF OCCUPATIONAL**
5 **THERAPY UNDER THE MEDICARE PROGRAM.**

6 Not later than 1 year after the date of enactment
7 of this Act, the Secretary of Health and Human Services
8 shall use existing communication mechanisms to provide
9 education and outreach to stakeholders about the Medi-
10 care Benefit Policy Manual with respect to occupational
11 therapy services furnished to individuals under the Medi-
12 care program for the treatment of a substance use or men-
13 tal health disorder diagnosis using applicable Healthcare
14 Common Procedure Coding System (HCPCS) codes.

15 **SEC. 104. MEDICARE INCENTIVES FOR BEHAVIORAL**
16 **HEALTH INTEGRATION WITH PRIMARY CARE.**

17 (a) INCENTIVES.—

18 (1) IN GENERAL.—Section 1848(b) of the So-
19 cial Security Act (42 U.S.C. 1395w-4(b)) is amend-
20 ed by adding at the end the following new para-
21 graph:

22 “(13) INCENTIVES FOR BEHAVIORAL HEALTH
23 INTEGRATION.—

24 “(A) IN GENERAL.—For services described
25 in subparagraph (B) that are furnished during

1 2026, 2027, or 2028, instead of the payment
2 amount that would otherwise be determined
3 under this section for such year, the payment
4 amount shall be equal to the applicable percent
5 (as defined in subparagraph (C)) of such pay-
6 ment amount for such year.

7 “(B) SERVICES DESCRIBED.—The services
8 described in this subparagraph are services
9 identified, as of January 1, 2023, by HCPCS
10 codes 99484, 99492, 99493, 99494, and G2214
11 (and any successor or similar codes as deter-
12 mined appropriate by the Secretary).

13 “(C) APPLICABLE PERCENT.—In this
14 paragraph, the term ‘applicable percent’ means,
15 with respect to a service described in subpara-
16 graph (A), the following:

17 “(i) For services furnished during
18 2026 , 175 percent.

19 “(ii) For services furnished during
20 2027, 150 percent.

21 “(iii) For services furnished during
22 2028, 125 percent.”.

23 (2) WAIVER OF BUDGET NEUTRALITY.—Section
24 1848(c)(2)(B)(iv) of such Act (42 U.S.C. 1395w-
25 4(c)(2)(B)(iv)) is amended—

1 (A) in subclause (V), by striking “and” at
2 the end;

3 (B) in subclause (VI), by striking the pe-
4 riod at the end and inserting “; and” and

5 (C) by adding at the end the following new
6 subclause:

7 “(VII) the increase in payment
8 amounts as a result of the application
9 of subsection (b)(13) shall not be
10 taken into account in applying clause
11 (ii)(II) for 2026, 2027, or 2028.”.

12 (b) TECHNICAL ASSISTANCE FOR THE ADOPTION OF
13 BEHAVIORAL HEALTH INTEGRATION.—

14 (1) IN GENERAL.—Not later than January 1,
15 2025, the Secretary of Health and Human Services
16 (in this subsection referred to as the “Secretary”)
17 shall enter into contracts or agreements with appro-
18 priate entities to offer technical assistance to pri-
19 mary care practices that are seeking to adopt behav-
20 ioral health integration models in such practices.

21 (2) BEHAVIORAL HEALTH INTEGRATION MOD-
22 ELS.—For purposes of paragraph (1), behavioral
23 health integration models include the Collaborative
24 Care Model (with services identified as of January
25 1, 2023, by HCPCS codes 99492, 99493, 99494,

1 and G2214 (and any successor codes)), the Primary
 2 Care Behavioral Health model (with services identi-
 3 fied as of January 1, 2023, by HCPCS code 99484
 4 (and any successor code)), and other models identi-
 5 fied by the Secretary.

6 (3) IMPLEMENTATION.—Notwithstanding any
 7 other provision of law, the Secretary may implement
 8 the provisions of this subsection by program instruc-
 9 tion or otherwise.

10 (4) FUNDING.—In addition to amounts other-
 11 wise available, there is appropriated to the Secretary
 12 for fiscal year 2024, out of any money in the Treas-
 13 ury not otherwise appropriated, \$5,000,000, to re-
 14 main available until expended, for purposes of car-
 15 rying out this subsection.

16 **SEC. 105. ESTABLISHMENT OF MEDICARE INCIDENT TO**
 17 **MODIFIER FOR MENTAL HEALTH SERVICES**
 18 **FURNISHED THROUGH TELEHEALTH.**

19 Section 1834(m)(7) of the Social Security Act (42
 20 U.S.C. 1395m(m)(7)) is amended by adding at the end
 21 the following new subparagraph:

22 “(C) ESTABLISHMENT OF INCIDENT TO
 23 MODIFIER FOR MENTAL HEALTH SERVICES
 24 FURNISHED THROUGH TELEHEALTH.—Not
 25 later than 2 years after the date of the enact-

1 ment of this subparagraph, the Secretary shall
 2 establish requirements to include a code or
 3 modifier, as determined appropriate by the Sec-
 4 retary, on claims for mental health services fur-
 5 nished through telehealth under this paragraph
 6 that are furnished by auxiliary personnel (as
 7 defined in section 410.26(a)(1) of title 42, Code
 8 of Federal Regulations, or any successor regula-
 9 tion) and billed incident to a physician or prac-
 10 titioner’s professional services.”.

11 **SEC. 106. GUIDANCE ON FURNISHING BEHAVIORAL**
 12 **HEALTH SERVICES VIA TELEHEALTH TO IN-**
 13 **DIVIDUALS WITH LIMITED ENGLISH PRO-**
 14 **FICIENCY UNDER MEDICARE PROGRAM.**

15 Not later than 1 year after the date of the enactment
 16 of this section, the Secretary of Health and Human Serv-
 17 ices shall issue and disseminate, or update and revise as
 18 applicable, guidance on the following:

19 (1) Best practices for providers to work with in-
 20 terpreters to furnish behavioral health services via
 21 video-based and audio-only telehealth, when video-
 22 based telehealth is not an option.

23 (2) Best practices on integrating the use of
 24 video platforms that enable multi-person video calls

1 into behavioral health services furnished via tele-
2 health.

3 (3) Best practices on teaching patients, espe-
4 cially those with limited English proficiency, to use
5 video-based telehealth platforms.

6 (4) Best practices for providing patient mate-
7 rials, communications, and instructions in multiple
8 languages, including text message appointment re-
9 minders and prescription information.

10 **SEC. 107. ENSURING TIMELY COMMUNICATION REGARDING**
11 **TELEHEALTH AND INTERSTATE LICENSURE**
12 **REQUIREMENTS.**

13 The Secretary of Health and Human Services shall
14 provide information—

15 (1) on licensure requirements for furnishing
16 telehealth services under titles XVIII and XIX of
17 the Social Security Act (42 U.S.C. 1395 et seq.;
18 1396 et seq.); and

19 (2) clarifying the extent to which licenses
20 through an interstate license compact pathway can
21 qualify as valid and full licenses for the purposes of
22 meeting Federal licensure requirements under such
23 titles.

1 **SEC. 108. FACILITATING ACCESSIBILITY FOR BEHAVIORAL**
 2 **HEALTH SERVICES FURNISHED THROUGH**
 3 **TELEHEALTH.**

4 The Secretary of Health and Human Services shall
 5 provide regular updates to guidance to facilitate the acces-
 6 sibility of behavioral health services furnished through
 7 telehealth for the visually and hearing impaired.

8 **SEC. 109. REQUIRING ENHANCED & ACCURATE LISTS OF**
 9 **(REAL) HEALTH PROVIDERS ACT.**

10 (a) IN GENERAL.—Section 1852(c) of the Social Se-
 11 curity Act (42 U.S.C. 1395w–22(c)) is amended—

12 (1) in paragraph (1)(C)—

13 (A) by striking “plan, and any” and insert-
 14 ing “plan, any”; and

15 (B) by inserting the following before the
 16 period: “, and, in the case of a network-based
 17 plan (as defined in paragraph (3)(C)), for plan
 18 year 2026 and subsequent plan years, the infor-
 19 mation described in paragraph (3)(B)”;

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

22 “(3) PROVIDER DIRECTORY ACCURACY.—

23 “(A) IN GENERAL.—For plan year 2026
 24 and subsequent plan years, each MA organiza-
 25 tion offering a network-based plan (as defined

1 in subparagraph (C)) shall, for each network-
2 based plan offered by the organization—

3 “(i) maintain, on a publicly available
4 internet website, an accurate provider di-
5 rectory that includes the information de-
6 scribed in subparagraph (B);

7 “(ii) not less frequently than once
8 every 90 days (or, in the case of a hospital
9 or any other facility determined appro-
10 priate by the Secretary, at a lesser fre-
11 quency specified by the Secretary but in no
12 case less frequently than once every 12
13 months), verify the provider directory in-
14 formation of each provider listed in such
15 directory and, if applicable, update such
16 provider directory information;

17 “(iii) if the organization is unable to
18 verify such information with respect to a
19 provider, include in such directory an indi-
20 cation that the information of such pro-
21 vider may not be up to date;

22 “(iv) remove a provider from such di-
23 rectory within 5 business days if the orga-
24 nization determines that the provider is no

1 longer a provider participating in the net-
2 work of such plan; and

3 “(v) meet such other requirements as
4 the Secretary may specify.

5 “(B) PROVIDER DIRECTORY INFORMA-
6 TION.—The information described in this sub-
7 paragraph is information enrollees may need to
8 access covered benefits from a provider with
9 which such organization offering such plan has
10 an agreement for furnishing items and services
11 covered under such plan such as name, spe-
12 cialty, contact information, primary office or fa-
13 cility address, whether the provider is accepting
14 new patients, accommodations for people with
15 disabilities, cultural and linguistic capabilities,
16 and telehealth capabilities.

17 “(C) NETWORK-BASED PLAN.—In this
18 paragraph, the term ‘network-based plan’ has
19 the meaning given that term in subsection
20 (d)(5)(C), except such term includes a Medicare
21 Advantage private fee-for-service plan, as deter-
22 mined appropriate by the Secretary.”.

23 (b) ACCOUNTABILITY FOR PROVIDER DIRECTORY
24 ACCURACY.—

1 (1) COST SHARING FOR SERVICES FURNISHED
2 BASED ON RELIANCE ON INCORRECT PROVIDER DI-
3 RECTORY INFORMATION.—Section 1852(d) of the
4 Social Security Act (42 U.S.C. 1395w-22(d)) is
5 amended—

6 (A) in paragraph (1)(C)—

7 (i) in clause (ii), by striking “or” at
8 the end;

9 (ii) in clause (iii), by striking the
10 semicolon at the end and inserting “, or”;
11 and

12 (iii) by adding at the end the fol-
13 lowing new clause:

14 “(iv) the services are furnished by a
15 provider that is not participating in the
16 network of a network-based plan (as de-
17 fined in subsection (e)(3)(C)) but is listed
18 in the provider directory of such plan on
19 the date on which the appointment is
20 made, as described in paragraph (7)(A);”;
21 and

22 (B) by adding at the end the following new
23 paragraph:

1 “(7) COST SHARING FOR SERVICES FURNISHED
2 BASED ON RELIANCE ON INCORRECT PROVIDER DI-
3 RECTORY INFORMATION.—

4 “(A) IN GENERAL.—For plan year 2026
5 and subsequent plan years, if an enrollee is fur-
6 nished an item or service by a provider that is
7 not participating in the network of a network-
8 based plan (as defined in subsection (e)(3)(C))
9 but is listed in the provider directory of such
10 plan (as required to be provided to an enrollee
11 pursuant to subsection (e)(1)(C)) on the date
12 on which the appointment is made, and if such
13 item or service would otherwise be covered
14 under such plan if furnished by a provider that
15 is participating in the network of such plan, the
16 MA organization offering such plan shall ensure
17 that the enrollee is only responsible for the
18 amount of cost sharing that would apply if such
19 provider had been participating in the network
20 of such plan.

21 “(B) NOTIFICATION REQUIREMENT.—For
22 plan year 2026 and subsequent plan years, each
23 MA organization that offers a network-based
24 plan shall—

1 “(i) notify enrollees of their cost-shar-
 2 ing protections under this paragraph and
 3 make such notifications, to the extent
 4 practicable, by not later than the first day
 5 of an annual, coordinated election period
 6 under section 1851(e)(3) with respect to a
 7 year;

8 “(ii) include information regarding
 9 such cost-sharing protections in the pro-
 10 vider directory of each network-based plan
 11 offered by the MA organization.; and

12 “(iii) notify enrollees of their cost-
 13 sharing protections under this paragraph
 14 in an explanation of benefits.”.

15 (2) REQUIRED PROVIDER DIRECTORY ACCU-
 16 RACY ANALYSIS AND REPORTS.—

17 (A) IN GENERAL.—Section 1857(e) of the
 18 Social Security Act (42 U.S.C. 1395w-27(e)) is
 19 amended by adding at the end the following
 20 new paragraph:

21 “(6) PROVIDER DIRECTORY ACCURACY ANAL-
 22 YSIS AND REPORTS.—

23 “(A) IN GENERAL.—Beginning with plan
 24 years beginning on or after January 1, 2026,
 25 subject to subparagraph (C), a contract under

1 this section with an MA organization shall re-
2 quire the organization, for each network-based
3 plan (as defined in section 1852(e)(3)(C)) of-
4 fered by the organization, to annually—

5 “(i) conduct an analysis estimating
6 the accuracy of the provider directory of
7 such plan using a sample of providers in-
8 cluded in such provider directory (includ-
9 ing provider specialties with high inaccu-
10 racy rates of provider directory informa-
11 tion, such as providers specializing in men-
12 tal health or substance use disorder treat-
13 ment, as determined by the Secretary); and

14 “(ii) submit a report to the Secretary
15 containing the results of such analysis, in-
16 cluding an accuracy score for such provider
17 directory (as determined using a method-
18 ology specified by the Secretary under sub-
19 paragraph (B)(i)), and other information
20 required by the Secretary.

21 “(B) DETERMINATION OF ACCURACY
22 SCORE.—

23 “(i) IN GENERAL.—The Secretary
24 shall specify methodologies for MA plans
25 to use in estimating the accuracy of the

1 provider directory information of such
2 plans and determining the accuracy score
3 for the plan’s provider directory.

4 “(ii) CONSIDERATIONS.—In carrying
5 out clause (i), the Secretary shall take into
6 consideration—

7 “(I) data sources maintained by
8 MA organizations;

9 “(II) publicly available data sets;

10 “(III) the administrative burden
11 on plans and providers; and

12 “(IV) the relative importance of
13 certain provider directory information
14 on enrollee ability to access care.

15 “(C) EXCEPTION.—The Secretary may
16 waive the requirements of this paragraph in the
17 case of a network-based plan with low enroll-
18 ment (as defined by the Secretary).

19 “(D) TRANSPARENCY.—Beginning with
20 plan years beginning on or after January 1,
21 2027, the Secretary shall post accuracy scores
22 (as reported under subparagraph (A)(ii)), in a
23 machine readable file, on the internet website of
24 the Centers for Medicare & Medicaid Services.

1 “(E) IMPLEMENTATION.—The Secretary
2 shall implement this paragraph through notice
3 and comment rulemaking.”.

4 (B) PROVISION OF INFORMATION TO
5 BENEFICIARIES.—Section 1851(d)(4) of the So-
6 cial Security Act (42 U.S.C. 1395w–21(d)(4))
7 is amended by adding at the end the following
8 new subparagraph:

9 “(F) PROVIDER DIRECTORY.—Beginning
10 with plan years beginning on or after January
11 1, 2027, the accuracy score of the plan’s pro-
12 vider directory (as reported under section
13 1857(e)(6)(A)(ii)) on the plan’s provider direc-
14 tory.”.

15 (C) FUNDING.—In addition to amounts
16 otherwise available, there is appropriated to the
17 Centers for Medicare & Medicaid Services Pro-
18 gram Management Account, out of any money
19 in the Treasury not otherwise appropriated,
20 \$1,000,000 for fiscal year 2025, to remain
21 available until expended, to carry out the
22 amendments made by this paragraph.

23 (3) GAO STUDY AND REPORT.—

24 (A) ANALYSIS.—The Comptroller General
25 of the United States (in this paragraph referred

1 to as the “Comptroller General”) shall conduct
2 study of the implementation of the amendments
3 made by paragraphs (1) and (2). To the extent
4 data are available and reliable, such study shall
5 include an analysis of—

6 (i) the use of protections required
7 under section 1852(d)(7) of the Social Se-
8 curity Act, as added by paragraph (1);

9 (ii) the provider directory accuracy
10 scores trends under section
11 1857(e)(6)(A)(ii) of the Social Security
12 Act (as added by paragraph (2)(A)), both
13 overall and among providers specializing in
14 mental health or substance disorder treat-
15 ment;

16 (iii) provider response rates by plan
17 verification methods; and

18 (iv) other items determined appro-
19 priate by the Comptroller General.

20 (B) REPORT.—Not later than January 15,
21 2031, the Comptroller General shall submit to
22 Congress a report containing the results of the
23 study conducted under subparagraph (A), to-
24 gether with recommendations for such legisla-

1 tion and administrative action as the Comp-
2 troller General determines appropriate.

3 (c) GUIDANCE ON MAINTAINING ACCURATE PRO-
4 VIDER DIRECTORIES.—

5 (1) STAKEHOLDER MEETING.—

6 (A) IN GENERAL.—Not later than 3
7 months after the date of enactment of this Act,
8 the Secretary of Health and Human Services
9 (referred to in this subsection as the “Sec-
10 retary”) shall hold a public stakeholder meeting
11 to receive input on approaches for maintaining
12 accurate provider directories for Medicare Ad-
13 vantage plans under part C of title XVIII of the
14 Social Security Act (42 U.S.C. 1395w–21 et
15 seq.), including input on approaches for reduc-
16 ing administrative burden such as data stand-
17 ardization and best practices to maintain pro-
18 vider directory information.

19 (B) PARTICIPANTS.—Participants of the
20 meeting under subparagraph (A) shall include
21 representatives from the Centers for Medicare &
22 Medicaid Services and the Office of the Na-
23 tional Coordinator for Health Information
24 Technology, health care providers, companies

1 that specialize in relevant technologies, health
2 insurers, and patient advocates.

3 (2) GUIDANCE TO MEDICARE ADVANTAGE OR-
4 GANIZATIONS.—Not later than 12 months after the
5 date of enactment of this Act, the Secretary shall
6 issue guidance to Medicare Advantage organizations
7 offering Medicare Advantage plans under part C of
8 title XVIII of the Social Security Act (42 U.S.C.
9 1395w–21 et seq.) on maintaining accurate provider
10 directories for such plans, taking into consideration
11 input received during the stakeholder meeting under
12 paragraph (1). Such guidance may include the fol-
13 lowing, as determined appropriate by the Secretary:

14 (A) Best practices for Medicare Advantage
15 organizations on how to work with providers to
16 maintain the accuracy of provider directories
17 and reduce provider and Medicare Advantage
18 organization burden with respect to maintaining
19 the accuracy of provider directories .

20 (B) Information on data sets and data
21 sources with information that could be used by
22 Medicare Advantage organizations to maintain
23 accurate provider directories.

24 (C) Approaches for utilizing data sources
25 maintained by Medicare Advantage organiza-

1 tions and publicly available data sets to main-
2 tain accurate provider directories.

3 (D) Information to be included in the pro-
4 vider directory that may be useful for Medicare
5 beneficiaries to assess plan networks when se-
6 lecting a plan and accessing providers partici-
7 pating in plan networks during the plan year.

8 (3) GUIDANCE TO PART B PROVIDERS.—Not
9 later than 12 months after the date of enactment of
10 this Act, the Secretary shall issue guidance to pro-
11 viders of services and suppliers who furnish items or
12 services for which benefits are available under part
13 B of title XVIII of the Social Security Act (42
14 U.S.C. 1395j et seq.) on when to update the Na-
15 tional Plan and Provider Enumeration System re-
16 garding any information changes.

17 **SEC. 110. GUIDANCE TO STATES ON STRATEGIES UNDER**
18 **MEDICAID AND CHIP TO INCREASE MENTAL**
19 **HEALTH AND SUBSTANCE USE DISORDER**
20 **CARE PROVIDER CAPACITY.**

21 Not later than 12 months after the date of enactment
22 of this Act, the Secretary of Health and Human Services
23 shall issue guidance to States on strategies under Med-
24 icaid and the Children’s Health Insurance Program
25 (CHIP) to increase access to mental health and substance

1 use disorder care providers that participate in Medicaid
2 or CHIP, which may include education, training, recruit-
3 ment, and retention of such providers, with a focus on im-
4 proving the capacity of the mental health and substance
5 use disorder care workforce in rural and underserved areas
6 by increasing the number, type, and capacity of providers.
7 Such guidance shall include, but not be limited to—

8 (1) best practices from States that have used
9 Medicaid or CHIP waivers and authorities under ti-
10 tles XI, XIX, and XXI of such Act (42 U.S.C. 1301
11 et seq., 1396 et seq., 1397aa et seq.) for such pur-
12 poses;

13 (2) best practices related to expanding the
14 availability of community-based mental health and
15 substance use disorder services under Medicaid and
16 CHIP, including through the participation of para-
17 professionals with behavioral health expertise, and
18 review of State practices for leveraging paraprofes-
19 sionals within State scope of practice requirements
20 as well as State supervision requirements, such as
21 peer support specialists and clinicians with bacca-
22 laurate degrees; and

23 (3) best practices related to financing, sup-
24 porting, and expanding the education and training of
25 providers of mental health and substance use dis-

1 order services to increase the workforce of such pro-
2 viders who participate in Medicaid and CHIP, in-
3 cluding by supporting on-site training in the clinical
4 setting and innovative public-private partnerships.

5 **SEC. 111. GUIDANCE TO STATES ON SUPPORTING MENTAL**
6 **HEALTH SERVICES AND SUBSTANCE USE DIS-**
7 **ORDER CARE FOR CHILDREN AND YOUTH.**

8 (a) GUIDANCE ON INCREASING THE AVAILABILITY
9 AND PROVISION OF MENTAL HEALTH SERVICES AND
10 SUBSTANCE USE DISORDER CARE UNDER MEDICAID AND
11 CHIP.—Not later than 12 months after the date of enact-
12 ment of this Act, the Secretary shall issue guidance to
13 States regarding opportunities to improve the availability
14 and provision of mental health services and substance use
15 disorder care through Medicaid and CHIP for children
16 and youth. Such guidance shall address the following:

17 (1) The design and implementation of a con-
18 tinuum of benefits for children and youth with sig-
19 nificant mental health conditions and substance use
20 disorders covered by Medicaid and CHIP, including
21 the role of EPSDT, how EPSDT requires States to
22 make available a continuum of care across settings,
23 and what is required of States to ensure compliance
24 with EPSDT.

1 (2) Strategies to facilitate access to mental
2 health services and substance use disorder care
3 under Medicaid and CHIP that are delivered in the
4 home or in community-based settings for children
5 and youth. Such guidance shall outline strategies
6 employed by States to expand the availability of
7 such settings and include specific interventions and
8 financing arrangements that could be replicated.

9 (3) Strategies to facilitate access to mental
10 health services and substance use disorder care
11 under Medicaid and CHIP for children and youth
12 who—

13 (A) are at risk for having a significant
14 mental health condition or substance use dis-
15 order;

16 (B) have a significant mental health condi-
17 tion or substance use disorder; or

18 (C) have an intellectual or developmental
19 disability.

20 (4) Strategies to promote screening for mental
21 health and substance use disorder needs of children
22 and youth, including children and youth provided, or
23 at risk for needing, child welfare services, in coordi-
24 nation with providers, managed care organizations
25 (as defined by the Secretary), prepaid inpatient

1 health plans (as defined by the Secretary), prepaid
2 ambulatory health plans (as defined by the Sec-
3 retary), and schools (as defined by the Secretary).

4 (5) Strategies for supporting the provision of
5 culturally competent, developmentally appropriate,
6 and trauma-informed mental health services and
7 substance use disorder care to children and youth.

8 (6) Strategies for providing early prevention,
9 intervention, and screening services, including for
10 children and youth at higher risk for having mental
11 health or substance use disorder needs, children and
12 youth who do not have a mental health or substance
13 use disorder diagnosis, children and youth provided,
14 or at risk for needing, child welfare services, and
15 children at risk of first episode psychosis.

16 (7) Best practices from State Medicaid and
17 CHIP programs in expanding access to mental
18 health services and substance use disorder care for
19 children and youth, including children and youth
20 that are part of underserved communities and chil-
21 dren and youth with co-occurring intellectual dis-
22 ability or autism spectrum disorder, and former fos-
23 ter youth.

24 (8) Strategies to coordinate services and fund-
25 ing provided under parts B and E of title IV of the

1 Social Security Act (42 U.S.C. 621 et seq., 670 et
2 seq.), and other funding sources at the discretion of
3 the Secretary, with services for which Federal finan-
4 cial participation is available under Medicaid or
5 CHIP, to support improved access to comprehensive
6 mental health services and substance use disorder
7 care for children and youth provided, or at risk for
8 needing, child welfare services.

9 (b) CONSULTATION.—The Secretary shall consult
10 with the Administrator of the Centers for Medicare &
11 Medicaid Services, the Assistant Secretary for the Admin-
12 istration for Children and Families, the Assistant Sec-
13 retary for Mental Health and Substance Use, and the Di-
14 rector of the Office of National Drug Control Policy with
15 respect to the guidance issued under subsection (a).

16 (c) DEFINITIONS.—In this section:

17 (1) EPSDT.—The term “EPSDT” means early
18 and periodic screening, diagnostic, and treatment
19 services under Medicaid in accordance with sections
20 1902(a)(43), 1905(a)(4)(B), and 1905(r) of the So-
21 cial Security Act (42 U.S.C. 1396a(a)(43),
22 1396d(a)(4)(B), 1396d(r)).

23 (2) SECRETARY.—The term “Secretary” means
24 the Secretary of Health and Human Services.

1 (3) STATE.—The term “State” has the mean-
2 ing given that term in section 1101(a)(1) of the So-
3 cial Security Act (42 U.S.C. 1301(a)(1)) for pur-
4 poses of titles XIX and XXI of such Act.

5 **SEC. 112. RECURRING ANALYSIS AND PUBLICATION OF**
6 **MEDICAID HEALTH CARE DATA RELATED TO**
7 **MENTAL HEALTH SERVICES.**

8 (a) IN GENERAL.—The Secretary, on a biennial
9 basis, shall link, analyze, and publish on a publicly avail-
10 able website Medicaid data reported by States through the
11 Transformed Medicaid Statistical Information System (T-
12 MSIS) (or a successor system) relating to mental health
13 services provided to individuals enrolled in Medicaid, in-
14 cluding an analysis by age. Such enrollee information shall
15 be de-identified of any personally identifying information,
16 shall adhere to privacy standards established by the De-
17 partment of Health and Human Services, and shall be ag-
18 gregated to protect the privacy of enrollees, as necessary.
19 Each publication of such analysis shall include for each
20 State available data for the following measures:

21 (1) The number and percentage of individuals
22 by age enrolled in the State Medicaid plan or waiver
23 of such plan in each of the major enrollment cat-
24 egories (as defined in a letter, to be made publicly
25 available on the website of the Medicaid and CHIP

1 Payment and Access Commission, from the Medicaid
2 and CHIP Payment and Access Commission to the
3 Secretary) who have been diagnosed with a mental
4 health condition and whether such individuals are
5 enrolled under the State Medicaid plan or waiver of
6 such plan, including the specific waiver authority
7 under which they are enrolled, to the extent avail-
8 able.

9 (2) A list of the mental health treatment serv-
10 ices, including specifying adult and pediatric serv-
11 ices, by each major type of service, such as coun-
12 seling, intensive home-based services, intensive care
13 coordination, crisis services tailored to children and
14 youth, youth peer support services, family-to-family
15 support, inpatient hospitalization, and other appro-
16 priate services as identified by the Secretary, for
17 which beneficiaries in each State received at least 1
18 service under the State Medicaid plan or a waiver of
19 such plan.

20 (3) The number and percentage of individuals
21 by age with a substance use disorder diagnosis en-
22 rolled in the State Medicaid plan or waiver of such
23 plan who received services for a mental health condi-
24 tion under such plan or waiver by each major type
25 of service specified under paragraph (2) within each

1 major setting type, such as outpatient, inpatient,
2 residential, and other home-based and community-
3 based settings.

4 (4) The number of services provided under the
5 State Medicaid plan or waiver of such plan per indi-
6 vidual with a mental health diagnosis, including by
7 age, enrolled in such plan or waiver for each major
8 type of service specified under paragraph (2).

9 (5) The number and percentage of individuals
10 by age enrolled in the State Medicaid plan or waiver
11 by major enrollment category, who received mental
12 health services through—

13 (A) a Medicaid managed care entity (as
14 defined in section 1932(a)(1)(B) of the Social
15 Security Act (42 U.S.C. 1396u-2(a)(1)(B))),
16 including the number of such individuals who
17 received such assistance through a prepaid in-
18 patient health plan (as defined by the Sec-
19 retary) or a prepaid ambulatory health plan (as
20 defined by the Secretary);

21 (B) a fee-for-service payment model; or

22 (C) an alternative payment model, to the
23 extent available.

24 (6) The number and percentage of individuals
25 by age with a mental health diagnosis who received

1 mental health services in an outpatient or home-
2 based and community-based setting after receiving
3 services in an inpatient or residential setting and the
4 number of services received by such individuals in
5 the outpatient or home-based and community-based
6 setting.

7 (7) The number and percentage of inpatient ad-
8 missions by age in which services for a mental
9 health condition were provided to an individual en-
10 rolled in the State Medicaid plan or a waiver of such
11 plan that occurred within 30 days after discharge
12 from a hospital or inpatient facility in which services
13 for a mental health condition previously were pro-
14 vided to such individual, disaggregated by type of fa-
15 cility, to the extent such information is available.

16 (8) The number of emergency department visits
17 by an individual by age enrolled in the State Med-
18 icaid plan or a waiver of such plan for treatment of
19 a mental health condition within 7 days of such indi-
20 vidual being discharged from a hospital inpatient fa-
21 cility in which services for a mental health condition
22 were provided, or from a mental health facility, an
23 independent psychiatric wing of acute care hospital,
24 or an intermediate care facility for individuals with

1 intellectual disabilities, disaggregated by type of fa-
2 cility, to the extent such information is available.

3 (9) The number and percentage of individuals
4 by age enrolled in the State Medicaid plan or a waiv-
5 er of such plan—

6 (A) who received an assessment to diag-
7 nose a mental health condition; and

8 (B) the number of mental health services
9 provided to individuals described in subpara-
10 graph (A) in the 30 days post-assessment.

11 (10) Prescription National Drug Code codes,
12 fill dates, and number of days supply of any covered
13 outpatient drug (as defined in section 1927(k)(2) of
14 the Social Security Act (42 U.S.C. 1396r-8(k)(2)) to
15 treat a mental health condition that were dispensed
16 to an individual by age enrolled in the State Med-
17 icaid plan or waiver with an episode described in
18 paragraph (7) or (8) during any period that occurs
19 after the individual's discharge date defined in para-
20 graph (7) or (8) (as applicable), and before the ad-
21 mission date applicable under paragraph (7) or the
22 date of the emergency department visit applicable
23 under paragraph (8).

24 (b) PUBLICATION.—

1 (1) IN GENERAL.—Not later than 18 months
2 after the date of enactment of this Act, the Sec-
3 retary shall make publicly available the first analysis
4 required by subsection (a).

5 (2) USE OF T-MSIS DATA.—The report required
6 under paragraph (1) and updates required under
7 paragraph (3) shall—

8 (A) use data and definitions from the
9 Transformed Medicaid Statistical Information
10 System (“T-MSIS”) (or a successor system)
11 data set that is no more than 12 months old on
12 the date that the report or update is published;
13 and

14 (B) as appropriate, include a description
15 with respect to each State of the quality and
16 completeness of the data and caveats describing
17 the limitations of the data reported to the Sec-
18 retary by the State that is sufficient to commu-
19 nicate the appropriate uses for the information.

20 (3) REVISED PUBLICATION.—Not later than 3
21 years after the date of enactment of this Act, the
22 Secretary shall publish a revised publication of the
23 analysis required by subsection (a) that allows for a
24 research-ready and publicly accessible interface of
25 the publication that is developed after consultation

1 with stakeholders on the usability of the data con-
2 tained in the publication.

3 (c) MAKING PERMANENT THE REQUIREMENT TO AN-
4 NNUALLY UPDATE THE SUD DATA BOOK.—Section 1015
5 of the SUPPORT for Patients and Communities Act
6 (Public Law 115–271) is amended—

7 (1) in subsection (a)(3), by striking “through
8 2024”; and

9 (2) in subsection (b), by adding at the end the
10 following new paragraph:

11 “(4) PUBLICATION OF DATA.—

12 “(A) IN GENERAL.—The Secretary shall
13 publish in the Federal Register a system of
14 records notice that modifies the system of
15 records notice required under paragraph (1) to
16 provide that—

17 “(i) the data specified in paragraph
18 (2) shall be published on a publicly avail-
19 able website; and

20 “(ii) such data shall be de-identified
21 of any personally identifying information,
22 shall adhere to privacy standards estab-
23 lished by the Department of Health and
24 Human Services, and shall be aggregated

1 to protect the privacy of enrollees, as nec-
 2 essary.

3 “(B) INITIATION OF MODIFIED DATA-
 4 SHARING ACTIVITIES.—Not later than January
 5 1, 2025, the Secretary shall initiate the data
 6 sharing activities outlined in the notice required
 7 under paragraph (1), as modified pursuant to
 8 this paragraph.”.

9 (d) DEFINITIONS.—In this section:

10 (1) SECRETARY.—The term “Secretary” means
 11 the Secretary of Health and Human Services.

12 (2) STATE.—The term “State” has the mean-
 13 ing given that term in section 1101(a)(1) of the So-
 14 cial Security Act (42 U.S.C. 1301(a)(1)) for pur-
 15 poses of title XIX of such Act.

16 **SEC. 113. GUIDANCE TO STATES ON SUPPORTING MENTAL**
 17 **HEALTH SERVICES OR SUBSTANCE USE DIS-**
 18 **ORDER CARE INTEGRATION WITH PRIMARY**
 19 **CARE IN MEDICAID AND CHIP.**

20 (a) ANALYSIS REGARDING CARE INTEGRATION.—
 21 Not later than 18 months after the date of enactment of
 22 this Act, the Secretary shall conduct an analysis of Med-
 23 icaid and CHIP regarding clinical outcomes among dif-
 24 ferent models of integration of mental health services or

1 substance use disorder care within the primary care set-
2 ting. Such analysis shall—

3 (1) consider different models for how mental
4 health services or substance use disorder care is de-
5 livered and integrated within the primary care set-
6 ting, including when providers operating in an inte-
7 grated model are physically located in the same
8 practice or building, when at least 1 provider in an
9 integrated care model is available via telehealth, and
10 when primary care, mental health, or substance use
11 disorder care providers seek education and consulta-
12 tion from other providers through electronic modaliti-
13 ties; and

14 (2) evaluate—

15 (A) the use of different payment meth-
16 odologies, such as bundled payments and value-
17 based payment arrangements; and

18 (B) the use and quality of services to co-
19 ordinate care, including but not limited to case
20 management, care coordination, enhanced care
21 coordination, and enhanced care management,
22 for mental health services and for substance use
23 disorder care.

24 (b) GUIDANCE.—Not later than 12 months after the
25 Secretary completes the analysis required under sub-

1 section (a), the Secretary shall issue guidance to States
2 on supporting integration of mental health services or sub-
3 stance use disorder care with primary care under Medicaid
4 and CHIP. Such guidance shall be informed by the anal-
5 ysis required under subsection (a) and, at minimum, shall
6 do the following:

7 (1) Provide an overview of State options for
8 adopting and expanding value-based payment ar-
9 rangements and alternative payment models, includ-
10 ing accountable care organizations and other shared
11 savings programs, that integrate mental health serv-
12 ices or substance use disorder care with primary
13 care.

14 (2) Describe opportunities for States to use and
15 align existing authorities and resources to finance
16 integration of mental health services or substance
17 use disorder care with primary care, including with
18 respect to the use of electronic health records in
19 mental health care settings and in substance use dis-
20 order care settings.

21 (3) Describe strategies to support integration of
22 mental health services or substance use disorder care
23 with primary care through the use of non-clinical
24 professionals and paraprofessionals, including
25 trained peer support specialists.

1 (4) Provide examples of specific strategies and
2 models designed to support integration of mental
3 health services or substance use disorder care with
4 primary care for differing age groups, including chil-
5 dren and youth, and individuals over the age of 65.

6 (5) Describe options for assessing the clinical
7 outcomes of differing models and strategies for inte-
8 gration of mental health services or substance use
9 disorder care with primary care.

10 (c) INTEGRATION OF MENTAL HEALTH SERVICES OR
11 SUBSTANCE USE DISORDER CARE WITH PRIMARY
12 CARE.—For purposes of subsections (a) and (b), integra-
13 tion of mental health services or substance use disorder
14 care with primary care may include (and shall not be lim-
15 ited to, including when furnished via telehealth, when ap-
16 propriate)—

17 (1) adherence to the collaborative care model or
18 primary care behavioral health model for behavioral
19 health integration;

20 (2) use of behavioral health integration models
21 primarily intended for pediatric populations with
22 non-severe mental health needs that are focused on
23 prevention and early detection and intervention
24 methods through a multidisciplinary collaborative be-
25 havioral health team approach co-managed with pri-

1 mary care, to include same-day access to family-fo-
2 cused mental health treatment services;

3 (3) having mental health providers or substance
4 use disorder providers physically co-located in a pri-
5 mary care setting with same-day visit availability;

6 (4) implementing or maintaining enhanced care
7 coordination or targeted case management which in-
8 cludes regular interactions between and within care
9 teams;

10 (5) providing mental health or substance use
11 disorder screening and follow-up assessments, inter-
12 ventions, or services within the same practice or fa-
13 cility as a primary care or physical service setting;

14 (6) the use of assertive community treatment
15 that is integrated with or facilitated by a primary
16 care practice; and

17 (7) delivery of integrated primary care and
18 mental health services or substance use disorder care
19 in the home or in community-based settings for indi-
20 viduals who choose and are able to receive care in
21 such settings, as authorized under subsections (b),
22 (c), (i), (j), and (k) of section 1915 of the Social Se-
23 curity Act (42 U.S.C. 1396n), under a waiver under
24 section 1115 of such Act (42 U.S.C. 1315), or under

1 section 1937, 1945, or 1945A of such Act (42
2 U.S.C. 1396u-7, 1396w-4, 1396w-4a).

3 (d) DEFINITIONS.—In this section:

4 (1) SECRETARY.—The term “Secretary” means
5 the Secretary of Health and Human Services.

6 (2) STATE.—The term “State” has the mean-
7 ing given that term in section 1101(a)(1) of the So-
8 cial Security Act (42 U.S.C. 1301(a)(1)) for pur-
9 poses of titles XIX and XXI of such Act.

10 **SEC. 114. MEDICAID STATE OPTION RELATING TO INMATES**
11 **WITH A SUBSTANCE USE DISORDER PENDING**
12 **DISPOSITION OF CHARGES.**

13 (a) STATE OPTION.—

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

16 (A) in the subdivision (A) following the
17 last numbered paragraph of subsection (a), by
18 inserting “subject to subsection (jj),” before
19 “any such payments”; and

20 (B) by adding at the end the following new
21 subsection:

22 “(jj) STATE OPTION TO PROVIDE MEDICAL ASSIST-
23 ANCE TO CERTAIN INMATES WITH A SUBSTANCE USE
24 DISORDER PENDING DISPOSITION OF CHARGES.—

1 “(1) IN GENERAL.—Subject to paragraph (2), a
2 State may elect to provide, and, notwithstanding the
3 subdivision (A) following the last numbered para-
4 graph of subsection (a), receive Federal financial
5 participation for, medical assistance for an indi-
6 vidual who—

7 “(A) is an inmate of a public institution
8 (as defined in section 1902(nn)(3)) pending dis-
9 position of charges; and

10 “(B) has been diagnosed with a substance
11 use disorder.

12 “(2) LIMITATION; CONDITIONS.—

13 “(A) LIMITATION.—A State may only re-
14 ceive Federal financial participation for medical
15 assistance provided to an individual described in
16 paragraph (1) during the 7-day period that be-
17 gins on the first day that the individual is an
18 inmate of a public institution.

19 “(B) CONDITIONS.—A State may only re-
20 ceive Federal financial participation for medical
21 assistance provided to an individual described in
22 paragraph (1) if—

23 “(i) the State has elected to not ter-
24 minate eligibility for medical assistance
25 under the State plan for individuals on the

1 basis that they are inmates of public insti-
2 tutions (but may suspend coverage during
3 the period an individual is such an in-
4 mate); and

5 “(ii) the diagnosis that the covered in-
6 dividual has a substance use disorder is
7 made while the individual is an inmate of
8 the public institution by a licensed medical
9 professional using a standardized screening
10 and assessment model approved by the
11 Secretary.”.

12 (2) EFFECTIVE DATE.—The amendments made
13 by this subsection shall take effect on January 1,
14 2026.

15 (b) TECHNICAL CORRECTION AND CONFORMING
16 AMENDMENTS.—

17 (1) TECHNICAL CORRECTION.—Section
18 5122(a)(1) of the Consolidated Appropriations Act,
19 2023 (Public Law 117–328) is amended by striking
20 “after” and all that follows through the period at
21 the end and inserting “after ‘or in the case of an eli-
22 gible juvenile described in section 1902(a)(84)(D)
23 with respect to the screenings, diagnostic services,
24 referrals, and targeted case management services re-
25 quired under such section’.”.

1 (2) OTHER CONFORMING AMENDMENTS.—

2 (A) Section 1902(nn)(3) of the Social Se-
3 curity Act (42 U.S.C. 1396a(nn)(3)), is amend-
4 ed by striking “following” and all that follows
5 through “section 1905(a)” and inserting “fol-
6 lowing the last numbered paragraph of section
7 1905(a)”.

8 (B) The fifth sentence of section 1905(a)
9 of the Social Security Act (42 U.S.C. 1396d(a))
10 is amended by striking “paragraph (30)” and
11 inserting “the last numbered paragraph”.

12 **SEC. 115. DEFINITION OF CERTIFIED COMMUNITY BEHAV-**
13 **IORAL HEALTH CLINIC SERVICES UNDER**
14 **MEDICAID.**

15 (a) DEFINITION OF MEDICAL ASSISTANCE.—Section
16 1905 of the Social Security Act (42 U.S.C. 1396d) is
17 amended—

18 (1) in subsection (a)—

19 (A) in paragraph (30), by striking “; and”
20 and inserting a semicolon;

21 (B) by redesignating paragraph (31) as
22 paragraph (32); and

23 (C) by inserting after paragraph (30) the
24 following new paragraph:

1 “(31) certified community behavioral health
 2 clinic services, as defined in subsection (jj); and”;
 3 and

4 (2) by adding at the end the following new sub-
 5 section:

6 “(jj) CERTIFIED COMMUNITY BEHAVIORAL HEALTH
 7 CLINIC SERVICES.—

8 “(1) IN GENERAL.—The term ‘certified commu-
 9 nity behavioral health services’ means any of the fol-
 10 lowing when furnished to an individual as a patient
 11 of a certified community behavioral health clinic (as
 12 defined in paragraph (2)), in a manner reflecting
 13 person-centered care and which, if not available di-
 14 rectly through a certified community behavioral
 15 health clinic, may be provided or referred through
 16 formal relationships with other providers:

17 “(A) Crisis mental health services, includ-
 18 ing 24-hour mobile crisis teams, emergency cri-
 19 sis intervention services, and crisis stabilization.

20 “(B) Screening, assessment, and diagnosis,
 21 including risk assessment.

22 “(C) Patient-centered treatment planning
 23 or similar processes, including risk assessment
 24 and crisis planning.

1 “(D) Outpatient mental health and sub-
2 stance use services.

3 “(E) Outpatient clinic primary care screen-
4 ing and monitoring of key health indicators and
5 health risk.

6 “(F) Intensive case management.

7 “(G) Psychiatric rehabilitation services.

8 “(H) Peer support and counselor services
9 and family supports.

10 “(I) Intensive, community-based mental
11 health care for members of the armed forces
12 and veterans, particularly those members and
13 veterans located in rural areas, provided the
14 care is consistent with minimum clinical mental
15 health guidelines promulgated by the Veterans
16 Health Administration, including clinical guide-
17 lines contained in the Uniform Mental Health
18 Services Handbook of such Administration.

19 “(2) CERTIFIED COMMUNITY BEHAVIORAL
20 HEALTH CLINIC.—The term ‘certified community be-
21 havioral health clinic’ means an organization that—

22 “(A) is engaged in furnishing to patients
23 all of the services described in paragraph (1);

24 “(B) is legally authorized to furnish such
25 services under State law;

1 “(C) agrees, as a condition of the certifi-
2 cation described in subparagraph (D), to fur-
3 nish to the State or Secretary any data re-
4 quired as part of ongoing monitoring of the or-
5 ganization’s provision of services, including en-
6 counter data, clinical outcomes data, quality
7 data, and such other data as the State or Sec-
8 retary may require; and

9 “(D) has been certified by a State as meet-
10 ing the criteria established by the Secretary
11 pursuant to subsection (a) of section 223 of the
12 Protecting Access to Medicare Act as of Janu-
13 ary 1, 2024, and any subsequent updates to
14 such criteria, regardless of whether the State is
15 carrying out a demonstration program under
16 this title under subsection (d) of such section.”.

17 (b) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply with respect to medical assistance
19 furnished on or after January 1, 2024.

1 **TITLE II—REDUCING PRESCRIP-**
 2 **TION DRUG COSTS UNDER**
 3 **MEDICARE AND MEDICAID**

4 **SEC. 201. ASSURING PHARMACY ACCESS AND CHOICE FOR**
 5 **MEDICARE BENEFICIARIES.**

6 (a) IN GENERAL.—Section 1860D–4(b)(1) of the So-
 7 cial Security Act (42 U.S.C. 1395w–104(b)(1)) is amend-
 8 ed by striking subparagraph (A) and inserting the fol-
 9 lowing:

10 “(A) IN GENERAL.—

11 “(i) PARTICIPATION OF ANY WILLING
 12 PHARMACY.—A PDP sponsor offering a
 13 prescription drug plan shall permit any
 14 pharmacy that meets the standard contract
 15 terms and conditions under such plan to
 16 participate as a network pharmacy of such
 17 plan.

18 “(ii) CONTRACT TERMS AND CONDI-
 19 TIONS.—

20 “(I) IN GENERAL.—For plan
 21 years beginning on or after January
 22 1, 2028, in accordance with clause (i),
 23 contract terms and conditions offered
 24 by such PDP sponsor shall be reason-
 25 able and relevant according to stand-

1 ards established by the Secretary
2 under subclause (II).

3 “(II) STANDARDS.—Not later
4 than the first Monday in April of
5 2027, the Secretary shall establish
6 standards for reasonable and relevant
7 contract terms and conditions for pur-
8 poses of this clause.

9 “(III) REQUEST FOR INFORMA-
10 TION.—Not later than January 1,
11 2025, for purposes of establishing the
12 standards under subclause (II), the
13 Secretary shall issue a request for in-
14 formation to seek input on trends in
15 prescription drug plan and network
16 pharmacy contract terms and condi-
17 tions, current prescription drug plan
18 and network pharmacy contracting
19 practices, whether pharmacy reim-
20 bursement and dispensing fees under
21 this part cover pharmacy ingredient
22 and operational costs, areas in current
23 regulations or program guidance re-
24 lated to contracting between prescrip-
25 tion drug plans and network phar-

1 macies requiring clarification or addi-
 2 tional specificity, factors for consider-
 3 ation in determining the reasonable-
 4 ness and relevance of contract terms
 5 and conditions between prescription
 6 drug plans and network pharmacies,
 7 and other issues determined appro-
 8 priate by the Secretary.”.

9 (b) TREATMENT OF ESSENTIAL RETAIL PHAR-
 10 MACIES.—Section 1860D–4(b)(1)(C) of the Social Secu-
 11 rity Act (42 U.S.C. 1395w–104(b)(1)(C)) is amended by
 12 adding at the end the following new clause:

13 “(v) ESSENTIAL RETAIL PHAR-
 14 MACIES.—

15 “(I) IN GENERAL.—For plan
 16 years beginning on or after January
 17 1, 2028, a PDP sponsor of a prescrip-
 18 tion drug plan that has preferred
 19 pharmacies in its network shall con-
 20 tract with, as preferred pharmacies in
 21 such plan’s network, at least—

22 “(aa) 80 percent of essential
 23 retail pharmacies (as defined in
 24 subclause (III)) in such plan’s
 25 service area that are independent

1 community pharmacies (as de-
2 fined in subclause (V)(bb)); and

3 “(bb) 50 percent of essential
4 retail pharmacies in such plan’s
5 service area not described in item
6 (aa).

7 “(II) TOTAL REIMBURSEMENT
8 FOR ESSENTIAL RETAIL PHARMACIES
9 THAT ARE INDEPENDENT COMMUNITY
10 PHARMACIES.—For plan years begin-
11 ning on or after January 1, 2028,
12 total reimbursement (as defined in
13 subclause (V)(dd)) paid by a PDP
14 sponsor to an essential retail phar-
15 macy that is an independent commu-
16 nity pharmacy for a covered part D
17 drug shall not be lower than—

18 “(aa) in the case where Na-
19 tional Average Drug Acquisition
20 Cost information for such drug
21 for retail community pharmacies
22 or applicable non-retail commu-
23 nity pharmacies has been avail-
24 able under section 1927(f) for at
25 least one full plan year—

1 “(AA) if such informa-
2 tion is available for such
3 drug for retail community
4 pharmacies, the average Na-
5 tional Average Drug Acqui-
6 sition Cost for such drug for
7 retail community pharmacies
8 for the most recent plan
9 year for which such informa-
10 tion is available;

11 “(BB) in the case
12 where such information for
13 retail community pharmacies
14 is not available, the average
15 National Average Drug Ac-
16 quisition Cost for such drug
17 for applicable non-retail
18 pharmacies for the most re-
19 cent plan year for which
20 such information is avail-
21 able;

22 “(bb) in the case where Na-
23 tional Average Drug Acquisition
24 Cost information for such drug
25 under section 1927(f) is not

1 available for retail community
2 pharmacies or applicable non-re-
3 tail pharmacies, the wholesale ac-
4 quisition cost (as defined in sec-
5 tion 1847A(c)(6)(B)) for such
6 drug; and

7 “(cc) in the case where Na-
8 tional Average Drug Acquisition
9 Cost information under section
10 1927(f) is available for such drug
11 and ending on the date such sur-
12 vey information has been avail-
13 able for such drug but has not
14 been available for a full plan
15 year—

16 “(AA) the most recent
17 National Average Drug Ac-
18 quisition Cost for such drug
19 for retail community phar-
20 macies, if available; or

21 “(BB) if the informa-
22 tion specified in subitem
23 (AA) is not available, the
24 most recent National Aver-
25 age Drug Acquisition Cost

1 for such drug for applicable
2 non-retail pharmacies.

3 “(III) DEFINITION OF ESSEN-
4 TIAL RETAIL PHARMACY.—In this
5 clause, the term ‘essential retail phar-
6 macy’ means, with respect to a plan
7 year, a retail pharmacy that—

8 “(aa) is not an affiliate of a
9 pharmacy benefit manager or
10 PDP sponsor;

11 “(bb) is located in a medi-
12 cally underserved area (as des-
13 ignated pursuant to section
14 330(b)(3)(A) of the Public
15 Health Service Act); and

16 “(cc) is designated as an es-
17 sential retail pharmacy by the
18 Secretary for such plan year
19 under subclause (IV).

20 “(IV) DESIGNATION OF ESSEN-
21 TIAL RETAIL PHARMACIES.—

22 “(aa) IN GENERAL.—For
23 each plan year (beginning with
24 plan year 2028), the Secretary
25 shall designate pharmacies that

1 meet the requirements specified
2 in items (aa) and (bb) of sub-
3 clause (III) as essential retail
4 pharmacies, in accordance with
5 this subclause.

6 “(bb) REQUIRED SUBMIS-
7 SIONS FROM PDP SPONSORS.—
8 For each plan year beginning
9 with plan year 2028, each PDP
10 sponsor offering a prescription
11 drug plan shall submit to the
12 Secretary, for the purposes of de-
13 termining retail pharmacies that
14 do not meet the requirement
15 specified in item (aa) of sub-
16 clause (III), a list of any retail
17 pharmacy that is an affiliate of
18 such sponsor, subject to time,
19 manner, and form requirements
20 established by the Secretary.

21 “(cc) PUBLICATION.—Not
22 later than one month prior to the
23 start of each plan year (begin-
24 ning with plan year 2028), the
25 Secretary shall list, on a publicly

1 available website of the Centers
2 for Medicare & Medicaid Serv-
3 ices, all pharmacies designated as
4 essential retail pharmacies for
5 such plan year.

6 “(dd) REVOCATION OF DES-
7 IGNATION.—In the case where,
8 during a plan year, the Secretary
9 determines that a pharmacy no
10 longer meets the requirements
11 for designation as an essential re-
12 tail pharmacy, the Secretary may
13 revoke such designation for such
14 pharmacy, as determined appro-
15 priate by the Secretary.

16 “(V) OTHER DEFINITIONS.—In
17 this clause:

18 “(aa) AFFILIATE.—The
19 term ‘affiliate’ means any entity
20 that is owned by, controlled by,
21 or related under a common own-
22 ership structure with a pharmacy
23 benefit manager or PDP sponsor
24 or that acts as a contractor or
25 agent to such pharmacy benefit

1 manager or PDP sponsor, if such
2 contractor or agent performs any
3 of the functions described in item
4 (cc).

5 “(bb) INDEPENDENT COM-
6 MUNITY PHARMACY.—The term
7 ‘independent community phar-
8 macy’ means a retail pharmacy,
9 including a pharmacy that is as-
10 sociated with a franchise or a
11 pharmacy services administrative
12 organization, that has fewer than
13 4 locations and is not affiliated
14 with any person or entity other
15 than its owners.

16 “(cc) PHARMACY BENEFIT
17 MANAGER.—The term ‘pharmacy
18 benefit manager’ means any per-
19 son or entity that, either directly
20 or through an intermediary, acts
21 as a price negotiator or group
22 purchaser on behalf of a PDP
23 sponsor or prescription drug
24 plan, or manages the prescription
25 drug benefits provided by such

1 sponsor or plan, including the
2 processing and payment of claims
3 for prescription drugs, the per-
4 formance of drug utilization re-
5 view, the processing of drug prior
6 authorization requests, the adju-
7 dication of appeals or grievances
8 related to the prescription drug
9 benefit, contracting with network
10 pharmacies, controlling the cost
11 of covered part D drugs, or the
12 provision of related services.
13 Such term includes any person or
14 entity that carries out one or
15 more of the activities described in
16 the preceding sentence, irrespec-
17 tive of whether such person or
18 entity identifies itself as a ‘phar-
19 macy benefit manager’.

20 “(dd) TOTAL REIMBURSE-
21 MENT.—The term ‘total reim-
22 bursement’ means, with respect
23 to a covered part D drug, the ne-
24 gotiated price (as defined in sec-
25 tion 1860D–2(d)(1)(B)) plus any

1 incentive payments paid by the
2 PDP sponsor to such essential
3 retail pharmacy that is an inde-
4 pendent community pharmacy
5 net of any fees, pharmacy price
6 concessions, discounts, or any
7 other forms of remuneration paid
8 by such pharmacy and furnished
9 by such PDP sponsor under sec-
10 tion 1860D–2(f)(4).”.

11 (c) ENFORCEMENT.—

12 (1) IN GENERAL.—Section 1860D–4(b)(1) of
13 the Social Security Act (42 U.S.C. 1395w–
14 104(b)(1)) is amended by adding at the end the fol-
15 lowing new subparagraph:

16 “(F) ENFORCEMENT OF STANDARDS FOR
17 REASONABLE AND RELEVANT CONTRACT TERMS
18 AND CONDITIONS AND ESSENTIAL RETAIL
19 PHARMACY PROTECTIONS.—

20 “(i) ALLEGATION SUBMISSION PROC-
21 ESS.—

22 “(I) IN GENERAL.—Not later
23 than January 1, 2028, the Secretary
24 shall establish a process through
25 which a pharmacy may submit an al-

1 legation of a violation by a PDP spon-
2 sor offering a prescription drug plan
3 of—

4 “ (aa) the standards for rea-
5 sonable and relevant contract
6 terms and conditions under sub-
7 paragraph (A)(ii); or

8 “ (bb) the requirements for
9 total reimbursement for essential
10 retail pharmacies that are inde-
11 pendent community pharmacies
12 under subparagraph (C)(v)(II).

13 “(II) FREQUENCY OF SUBMIS-
14 SION.—

15 “ (aa) VIOLATIONS OF REA-
16 SONABLE AND RELEVANT CON-
17 TRACT TERMS AND CONDI-
18 TIONS.—

19 “(AA) IN GENERAL.—

20 Except as provided in
21 subitem (BB), the allegation
22 submission process under
23 this clause shall allow phar-
24 macies to submit any allega-
25 tions of violations described

1 in item (aa) of subclause (I)
2 not more frequently than
3 once per plan year per con-
4 tract between a pharmacy
5 and a PDP sponsor.

6 “(BB) ALLEGATIONS
7 RELATING TO CONTRACT
8 CHANGES.—In the case
9 where a contract is amended
10 or otherwise updated fol-
11 lowing the submission of al-
12 legations by a pharmacy
13 with respect to such contract
14 and plan year, the allegation
15 submission process under
16 this clause shall allow such
17 pharmacy to submit an addi-
18 tional allegation related to
19 those changes with respect
20 to such contract and plan
21 year.

22 “(CC) SUBMISSIONS.—
23 Submissions of any allega-
24 tions under this item shall
25 be separate from any sub-

1 missions under item (bb)
2 and may include multiple al-
3 legations of such violations.

4 “(bb) VIOLATIONS OF ES-
5 SENTIAL RETAIL PHARMACY PRO-
6 TECTIONS.—

7 “(AA) IN GENERAL.—

8 The allegation submission
9 process under this clause
10 shall allow essential retail
11 pharmacies that are inde-
12 pendent community phar-
13 macies to submit any allega-
14 tions of violations described
15 in item (bb) of subclause (I)
16 once per calendar quarter.

17 “(BB) SUBMISSIONS.—

18 Submissions of any allega-
19 tions under this item shall
20 be separate from any sub-
21 missions under item (aa)
22 and may include multiple al-
23 legations of such violations.

24 “(III) ACCESS TO RELEVANT
25 DOCUMENTS AND MATERIALS.—A

1 PDP sponsor subject to an allegation
2 under this clause—

3 “(aa) shall provide docu-
4 ments or materials, as specified
5 by the Secretary, including con-
6 tract offers made by such spon-
7 sor to such pharmacy or cor-
8 respondence related to such of-
9 fers, to the Secretary at a time
10 and in a form and manner speci-
11 fied by the Secretary; and

12 “(bb) shall not prohibit or
13 otherwise limit the ability of a
14 pharmacy to submit such docu-
15 ments or materials to the Sec-
16 retary for the purpose of submit-
17 ting an allegation or providing
18 evidence for such an allegation
19 under this clause.

20 “(IV) STANDARDIZED TEM-
21 PLATE.—The Secretary shall establish
22 separate standardized templates for
23 pharmacies to use for the submission
24 of allegations described in items (aa)
25 and (bb) of subclause (I). Each such

1 template shall require that the sub-
2 mission include a certification by the
3 pharmacy that the information in-
4 cluded is accurate, complete, and true
5 to the best of the knowledge, informa-
6 tion, and belief of such pharmacy.

7 “(V) PREVENTING FRIVOLOUS
8 ALLEGATIONS.—In the case where the
9 Secretary determines that a pharmacy
10 has submitted frivolous allegations
11 under this clause on a routine basis,
12 the Secretary may temporarily pro-
13 hibit such pharmacy from using the
14 allegation submission process under
15 this clause, as determined appropriate
16 by the Secretary.

17 “(VI) EXEMPTION FROM FREE-
18 DOM OF INFORMATION ACT.—Allega-
19 tions submitted under this clause shall
20 be exempt from disclosure under sec-
21 tion 552 of title 5, United States
22 Code.

23 “(ii) INVESTIGATION.—The Secretary
24 shall investigate, as determined appro-

1 appropriate by the Secretary, allegations sub-
2 mitted pursuant to clause (i).

3 “(iii) ENFORCEMENT.—

4 “(I) REASONABLE AND REL-
5 EVANT CONTRACT TERMS AND CONDI-
6 TIONS.—In the case where the Sec-
7 retary determines that a PDP sponsor
8 offering a prescription drug plan has
9 violated the standards for reasonable
10 and relevant contract terms and con-
11 ditions under subparagraph (A)(ii),
12 the Secretary shall use existing au-
13 thorities under sections 1857(g) and
14 1860D–12(b)(3)(E) to impose civil
15 monetary penalties or take other en-
16 forcement actions.

17 “(II) ESSENTIAL RETAIL PHAR-
18 MACY PROTECTIONS.—In the case
19 where the Secretary determines that a
20 PDP sponsor offering a prescription
21 drug plan has violated the require-
22 ments for total reimbursement for es-
23 sential retail pharmacies that are
24 independent community pharmacies

1 under subparagraph (C)(v)(II), the
2 Secretary shall—

3 “(aa) if the amount of total
4 reimbursement paid by the spon-
5 sor to an essential retail phar-
6 macy that is an independent
7 community pharmacy for a cov-
8 ered part D drug was less than
9 the amount of total reimburse-
10 ment required to be paid to the
11 pharmacy under subparagraph
12 (C)(v)(II) for such drug, require
13 the PDP sponsor to pay to the
14 pharmacy an amount equal to
15 the difference between such
16 amounts; and

17 “(bb) use existing authori-
18 ties under section 1857(g) and
19 1860D–12(b)(3)(E) to impose
20 civil monetary penalties or take
21 other enforcement actions.

22 “(III) APPLICATION OF CIVIL
23 MONETARY PENALTIES.—The provi-
24 sions of section 1128A (other than
25 subsections (a) and (b)) shall apply to

1 a civil monetary penalty under this
2 clause in the same manner as such
3 provisions apply to a penalty or pro-
4 ceeding under section 1128A(a).

5 “(iv) DEFINITIONS.—In this subpara-
6 graph, the terms ‘essential retail phar-
7 macy’, ‘independent community pharmacy’,
8 and ‘total reimbursement’ have the mean-
9 ing given those terms in subparagraph
10 (C)(v).”.

11 (2) CONFORMING AMENDMENT.—Section
12 1857(g)(1) of the Social Security Act (42 U.S.C.
13 1395w–27(g)(1)) is amended—

14 (A) in subparagraph (J), by striking “or”
15 after the semicolon;

16 (B) by redesignating subparagraph (K) as
17 subparagraph (L);

18 (C) by inserting after subparagraph (J),
19 the following new subparagraph:

20 “(K) fails to comply with—

21 “(i) the standards for reasonable and
22 relevant contract terms and conditions
23 under subparagraph (A)(ii) of section
24 1860D–4(b)(1); or

1 “(ii) the requirements for total reim-
 2 bursement for essential retail pharmacies
 3 that are independent community phar-
 4 macies under subparagraph (C)(v)(II) of
 5 such section; or”;

6 (D) in subparagraph (L), as redesignated
 7 by subparagraph (B), by striking “through (J)”
 8 and inserting “through (K)”; and

9 (E) in the flush matter following subpara-
 10 graph (L), as so redesignated, by striking “sub-
 11 paragraphs (A) through (K)” and inserting
 12 “subparagraphs (A) through (L)”.

13 (d) ACCOUNTABILITY OF PHARMACY BENEFIT MAN-
 14 AGERS FOR VIOLATIONS OF REASONABLE AND RELEVANT
 15 CONTRACT TERMS AND CONDITIONS AND ESSENTIAL RE-
 16 TAIL PHARMACY PROTECTIONS.—

17 (1) IN GENERAL.—Section 1860D–12(b) of the
 18 Social Security Act (42 U.S.C. 1395w–112) is
 19 amended by adding at the end the following new
 20 paragraph:

21 “(9) ACCOUNTABILITY OF PHARMACY BENEFIT
 22 MANAGERS FOR VIOLATIONS OF REASONABLE AND
 23 RELEVANT CONTRACT TERMS AND CONDITIONS AND
 24 ESSENTIAL RETAIL PHARMACY PROTECTIONS.—For
 25 plan years beginning on or after January 1, 2028,

1 each contract entered into with a PDP sponsor
2 under this part with respect to a prescription drug
3 plan offered by such sponsor shall provide that any
4 pharmacy benefit manager acting on behalf of such
5 sponsor has a written agreement with the PDP
6 sponsor under which the pharmacy benefit manager
7 agrees to reimburse the PDP sponsor for any
8 amounts paid by such sponsor under subclause (I)
9 or (II) of section 1860D–4(b)(1)(F)(iii) as a result
10 of a violation described in such subclause (I) or (II)
11 if such violation is related to a responsibility dele-
12 gated to the pharmacy benefit manager by such
13 PDP sponsor.”.

14 (2) MA–PD PLANS.—Section 1857(f)(3) of the
15 Social Security Act (42 U.S.C. 1395w–27(f)(3)) is
16 amended by adding at the end the following new
17 subparagraph:

18 “(F) ACCOUNTABILITY OF PHARMACY
19 BENEFIT MANAGERS FOR VIOLATIONS OF REA-
20 SONABLE AND RELEVANT CONTRACT TERMS
21 AND CONDITIONS AND ESSENTIAL RETAIL
22 PHARMACY PROTECTIONS.—For plan years be-
23 ginning on or after January 1, 2028, section
24 1860D–12(b)(9).”.

1 (e) Section 1860D–42 of the Social Security Act (42
2 U.S.C. 1395w–152) is amended by adding at the end the
3 following new subsection:

4 “(e) BRIEFING AND REPORTING REQUIREMENTS RE-
5 LATED TO PHARMACY PRICE CONCESSIONS UNDER THIS
6 PART.—

7 “(1) BRIEFING REQUIREMENTS.—The Sec-
8 retary shall provide periodic briefings to the Com-
9 mittee on Finance of the Senate, the Committee on
10 Ways and Means of the House of Representatives,
11 and the Committee on Energy and Commerce of the
12 House of Representatives, beginning not later than
13 90 days after the date of enactment of this sub-
14 section, on implementation, oversight, data collec-
15 tion, and enforcement activities related to the ad-
16 ministration of the ‘Pharmacy Price Concessions to
17 Drug Prices at the Point of Sale’ provisions codified
18 under sections 423.100 and 423.2305 of title 42,
19 Code of Federal Regulations (or any successor regu-
20 lations), as published in the Federal Register on
21 May 9, 2022, in the final rule entitled ‘Medicare
22 Program; Contract Year 2023 Policy and Technical
23 Changes to the Medicare Advantage and Medicare
24 Prescription Drug Benefit Programs; Policy and
25 Regulatory Revisions in Response to the COVID–19

1 Public Health Emergency; Additional Policy and
2 Regulatory Revisions in Response to the COVID-19
3 Public Health Emergency’.

4 “(2) REPORTING REQUIREMENTS.—Beginning
5 not later than 90 days after the date of enactment
6 of this subsection, and at least once every plan year
7 beginning thereafter (through plan year 2027), the
8 Secretary shall develop and submit to Congress re-
9 ports on the activities specified in paragraph (1).

10 “(3) CONTENTS FOR BRIEFINGS AND RE-
11 PORTS.—The briefings required under paragraph (1)
12 and reports required under paragraph (2) shall in-
13 clude information on—

14 “(A) implementation, oversight, data col-
15 lection, and enforcement activities related to
16 contract terms and conditions among PDP
17 sponsors, MA organizations, and pharmacies for
18 the purpose of establishing or maintaining
19 pharmacy network participation or preferred
20 pharmacy network participation;

21 “(B) patterns and trends in such terms
22 and conditions, to the extent applicable;

23 “(C) implementation, oversight, and en-
24 forcement activities and developments related to
25 assuring pharmacy access under section

1 1860D–4(b)(1), along with applicable regula-
 2 tions and program instruction or guidance;

3 “(D) plans, strategies, initiatives, or pro-
 4 grammatic changes undertaken by the Sec-
 5 retary to prevent, mitigate, or otherwise address
 6 stakeholder feedback and concerns related to
 7 convenient pharmacy access for beneficiaries
 8 under this part; and

9 “(E) other issues determined appropriate
 10 by the Secretary.”.

11 (f) FUNDING.—In addition to amounts otherwise
 12 available, there is appropriated to the Centers for Medi-
 13 care & Medicaid Services Program Management Account,
 14 out of any money in the Treasury not otherwise appro-
 15 priated, \$250,000,000 for fiscal year 2024, to remain
 16 available until expended, to carry out the amendment
 17 made by this section.

18 **SEC. 202. ENSURING ACCURATE PAYMENTS TO PHAR-**
 19 **MACIES UNDER MEDICAID.**

20 (a) IN GENERAL.—Section 1927(f) of the Social Se-
 21 curity Act (42 U.S.C. 1396r–8(f)) is amended—

22 (1) in paragraph (1)(A)—

23 (A) by redesignating clause (ii) as clause
 24 (iii); and

1 (B) by striking “and” after the semicolon
2 at the end of clause (i) and all that precedes it
3 through “(1)” and inserting the following:

4 “(1) DETERMINING PHARMACY ACTUAL ACQUI-
5 SITION COSTS.—The Secretary shall conduct a sur-
6 vey of retail community pharmacy drug prices and
7 applicable non-retail pharmacy drug prices to deter-
8 mine national average drug acquisition cost bench-
9 marks as follows:

10 “(A) USE OF VENDOR.—The Secretary
11 may contract services for—

12 “(i) with respect to retail community
13 pharmacies, the determination of retail
14 survey prices of the national average drug
15 acquisition cost for covered outpatient
16 drugs that represent a nationwide average
17 of consumer purchase prices for such
18 drugs, net of all discounts and rebates (to
19 the extent any information with respect to
20 such discounts and rebates is available)
21 based on a monthly survey of such phar-
22 macies;

23 “(ii) with respect to applicable non-re-
24 tail pharmacies—

1 “(I) the determination of survey
2 prices, separate from the survey prices
3 described in clause (i), of the non-re-
4 tail national average drug acquisition
5 cost for covered outpatient drugs that
6 represent a nationwide average of con-
7 sumer purchase prices for such drugs,
8 net of all discounts and rebates (to
9 the extent any information with re-
10 spect to such discounts and rebates is
11 available) based on a monthly survey
12 of such pharmacies; and

13 “(II) at the discretion of the Sec-
14 retary, for each type of applicable
15 non-retail pharmacy (as identified
16 pursuant to the type indicators estab-
17 lished by the Secretary under sub-
18 section (k)(12)(B)(ii)), the determina-
19 tion of survey prices, separate from
20 the survey prices described in clause
21 (i) or subclause (I) of this clause, of
22 the national average drug acquisition
23 cost for such type of pharmacy for
24 covered outpatient drugs that rep-
25 resent a nationwide average of con-

1 sumer purchase prices for such drugs,
2 net of all discounts and rebates (to
3 the extent any information with re-
4 spect to such discounts and rebates is
5 available) based on a monthly survey
6 of such pharmacies; and”;

7 (2) in subparagraph (D) of paragraph (1), by
8 striking clauses (ii) and (iii) and inserting the fol-
9 lowing:

10 “(ii) The vendor must update the Sec-
11 retary no less often than monthly on the
12 survey prices for covered outpatient drugs.

13 “(iii) The vendor must differentiate,
14 in collecting and reporting survey data, the
15 relevant pharmacy type indicator for all
16 cost information collected, including wheth-
17 er a pharmacy is owned by, operated by, or
18 otherwise affiliated with a pharmacy ben-
19 efit manager and whether a pharmacy is a
20 retail community pharmacy or an applica-
21 ble non-retail pharmacy, and, in the case
22 of an applicable non-retail pharmacy,
23 which type of applicable non-retail phar-
24 macy (as identified pursuant to the type

1 indicators established by the Secretary
2 under subsection (k)(12)(B)(ii) it is.”;

3 (3) by adding at the end of paragraph (1) the
4 following:

5 “(F) SURVEY REPORTING.—In order to
6 meet the requirement of section 1902(a)(54), a
7 State shall require that any retail community
8 pharmacy or applicable non-retail pharmacy in
9 the State that receives any payment, reimburse-
10 ment, administrative fee, discount, or rebate re-
11 lated to the dispensing of covered outpatient
12 drugs to individuals receiving benefits under
13 this title, regardless of whether such payment,
14 reimbursement, administrative fee, discount, or
15 rebate is received from the State or a managed
16 care entity or other specified entity (as such
17 terms are defined in section 1903(m)(9)(D)) di-
18 rectly or from a pharmacy benefit manager or
19 another entity that has a contract with the
20 State or a managed care entity or other speci-
21 fied entity (as so defined), shall respond to sur-
22 veys conducted under this paragraph.

23 “(G) SURVEY INFORMATION.—Information
24 on national drug acquisition prices obtained
25 under this paragraph shall be made publicly

1 available and shall include at least the fol-
2 lowing:

3 “(i) The monthly response rate to the
4 survey including a list of pharmacies not in
5 compliance with subparagraph (F).

6 “(ii) The sampling frame and number
7 of pharmacies sampled monthly.

8 “(iii) Information on price concessions
9 to the pharmacy, including discounts, re-
10 bates, and other price concessions, to the
11 extent that such information may be pub-
12 licly released and has been collected by the
13 Secretary as part of the survey.

14 “(H) PENALTIES.—The Secretary, in con-
15 sultation with the Office of the Inspector Gen-
16 eral of the Department of Health and Human
17 Services, shall enforce the provisions of this
18 paragraph with respect to a pharmacy through
19 the establishment of appropriate civil monetary
20 penalties, which may be assessed with respect
21 to each violation or survey non-response, and
22 with respect to each non-compliant pharmacy
23 (including a pharmacy that is part of a chain),
24 until compliance with this paragraph has been
25 completed. The provisions of section 1128A

1 (other than subsections (a) and (b)) shall apply
2 to a civil money penalty under the preceding
3 sentence in the same manner as such provisions
4 apply to a civil money penalty or proceeding
5 under section 1128A(a).

6 “(I) LIMITATION ON USE OF APPLICABLE
7 NON-RETAIL PHARMACY PRICING INFORMA-
8 TION.—No State shall use pricing information
9 reported by applicable non-retail pharmacies
10 under paragraph (1)(A)(ii) to develop or inform
11 reimbursement rates for retail community phar-
12 macies.”;

13 (4) in paragraph (2)—

14 (A) in subparagraph (A), by inserting “,
15 including payment rates under managed care
16 entities or other specified entities (as such
17 terms are defined in section 1903(m)(9)(D)),”
18 after “under this title”; and

19 (B) in subparagraph (B), by inserting
20 “and the basis for such dispensing fees” before
21 the semicolon;

22 (5) by redesignating paragraph (4) as para-
23 graph (5);

24 (6) by inserting after paragraph (3) the fol-
25 lowing new paragraph:

1 “(4) OVERSIGHT.—

2 “(A) IN GENERAL.—The Inspector General
3 of the Department of Health and Human Serv-
4 ices shall conduct periodic studies of the survey
5 data reported under this subsection, as appro-
6 priate, including with respect to substantial
7 variations in acquisition costs or other applica-
8 ble costs, as well as with respect to how internal
9 transfer prices and related party transactions
10 may influence the costs reported by pharmacies
11 affiliated with pharmacy benefit managers,
12 wholesalers, distributors, and other entities that
13 acquire covered outpatient drugs relative to
14 costs reported by pharmacies not affiliated with
15 such entities. The Inspector General shall pro-
16 vide periodic updates to Congress on the results
17 of such studies, as appropriate, in a manner
18 that does not disclose trade secrets or other
19 proprietary information.

20 “(B) APPROPRIATION.—There is appro-
21 priated to the Inspector General of the Depart-
22 ment of Health and Human Services, out of
23 any money in the Treasury not otherwise ap-
24 propriated, \$5,000,000 for fiscal year 2024, to

1 remain available until expended, to carry out
2 this paragraph.”; and

3 (7) in paragraph (5), as so redesignated, by in-
4 serting “, and \$9,000,000 for fiscal year 2024 and
5 each fiscal year thereafter,” after “2010”.

6 (b) DEFINITIONS.—Section 1927(k) of the Social Se-
7 curity Act (42 U.S.C. 1396r–8(k)) is amended by adding
8 the following—

9 “(12) APPLICABLE NON-RETAIL PHARMACY.—

10 “(A) IN GENERAL.—The term ‘applicable
11 non-retail pharmacy’ means a pharmacy that is
12 licensed as a pharmacy by the State and that
13 is not a retail community pharmacy, including
14 a pharmacy that dispenses prescription medica-
15 tions to patients primarily through mail and
16 specialty pharmacies. Such term does not in-
17 clude nursing home pharmacies, long-term care
18 facility pharmacies, hospital pharmacies, clinics,
19 charitable or not-for-profit pharmacies, govern-
20 ment pharmacies, or low dispensing pharmacies
21 (as defined by the Secretary).

22 “(B) IDENTIFICATION OF APPLICABLE
23 NON-RETAIL PHARMACIES.—

24 “(i) IN GENERAL.—For purposes of
25 subsection (f), the Secretary shall, not

1 later than January 1, 2025, in consulta-
2 tion with stakeholders as appropriate, issue
3 guidance specifying pharmacies that meet
4 the definition of applicable non-retail phar-
5 macies and that will be subject to the sur-
6 vey requirements under subsection (f)(1).

7 “(ii) INCLUSION OF PHARMACY TYPE
8 INDICATORS.—The guidance promulgated
9 under clause (i) shall include pharmacy
10 type indicators to distinguish between dif-
11 ferent types of applicable non-retail phar-
12 macies, such as pharmacies that dispense
13 prescriptions primarily through the mail
14 and pharmacies that dispense prescriptions
15 that require special handling or distribu-
16 tion. An applicable non-retail pharmacy
17 may be identified through multiple phar-
18 macy type indicators.

19 “(13) PHARMACY BENEFIT MANAGER.—The
20 term ‘pharmacy benefit manager’ means any person
21 or entity that, either directly or through an inter-
22 mediary, acts as a price negotiator or group pur-
23 chaser on behalf of a State, managed care entity or
24 other specified entity (as such terms are defined in
25 section 1903(m)(9)(D)), or manages the prescription

1 drug benefits provided by such State, managed care
2 entity, or other specified entity, including the proc-
3 essing and payment of claims for prescription drugs,
4 the performance of drug utilization review, the proc-
5 essing of drug prior authorization requests, the man-
6 aging of appeals or grievances related to the pre-
7 scription drug benefits, contracting with pharmacies,
8 controlling the cost of covered outpatient drugs, or
9 the provision of services related thereto. Such term
10 includes any person or entity that carries out 1 or
11 more of the activities described in the preceding sen-
12 tence, irrespective of whether such person or entity
13 calls itself a ‘pharmacy benefit manager’.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section take effect on the first day of the first quarter
16 that begins on or after the date that is 18 months after
17 the date of enactment of this Act.

18 **SEC. 203. PROTECTING SENIORS FROM EXCESSIVE COST-**
19 **SHARING FOR CERTAIN MEDICINES.**

20 Section 1860D–2 of the Social Security Act (42
21 U.S.C. 1395w–102) is amended—

22 (1) in subsection (b)—

23 (A) in paragraph (2)(A), in the matter
24 preceding clause (i), by striking “and (9)” and
25 inserting “, (9), (10), and (11)”; and

1 (B) by adding at the end the following new
2 paragraphs:

3 “(10) TYING COST-SHARING TO NET PRICE FOR
4 CERTAIN MEDICATIONS.—

5 “(A) IN GENERAL.—For plan years begin-
6 ning on or after January 1, 2028, for costs
7 above the annual deductible specified in para-
8 graph (1) and below the annual out-of-pocket
9 threshold specified in paragraph (4), any coin-
10 surance amount for a discount-eligible drug
11 that is included on the plan’s formulary and
12 subject to coinsurance rather than a copayment
13 shall be calculated based on the net price of
14 such discount-eligible drug.

15 “(B) REPORTING TO THE SECRETARY.—
16 For plan years beginning on or after January
17 1, 2028, a PDP sponsor of a prescription drug
18 plan and an MA organization offering an MA-
19 PD plan shall annually submit to the Secretary,
20 in a form and manner determined appropriate
21 by the Secretary—

22 “(i) approximate price concessions
23 and net prices for each discount-eligible
24 drug; and

1 “(ii) a written explanation of the
2 methodology used to calculate such approx-
3 imate price concessions and net prices.

4 “(C) REQUIREMENTS FOR APPROXIMATE
5 PRICE CONCESSIONS.—

6 “(i) IN GENERAL.—Approximate price
7 concessions submitted under subparagraph
8 (B) shall comply with—

9 “(I) the drug-specific threshold
10 under clause (ii) for the applicable
11 plan year; and

12 “(II) the aggregate threshold
13 under clause (iii) for the applicable
14 plan year.

15 “(ii) THRESHOLDS.—

16 “(I) PLAN YEARS 2028 THROUGH
17 2032.—For plan years 2028 through
18 2032—

19 “(aa) the drug-specific
20 threshold is 20 percent; and

21 “(bb) the aggregate thresh-
22 old is 15 percent.

23 “(II) SUBSEQUENT PLAN
24 YEARS.—

1 “(aa) IN GENERAL.—For
2 plan years beginning with 2033,
3 the Secretary may, as determined
4 appropriate by the Secretary, ad-
5 just the drug-specific and aggre-
6 gate thresholds under this clause.

7 “(bb) CONSIDERATIONS.—In
8 making any such adjustments,
9 the Secretary may consider his-
10 torical variations in expected and
11 actual manufacturer price conces-
12 sions for covered part D drugs,
13 factors that may result in manu-
14 facturer price concession uncer-
15 tainty or variation in a given
16 plan year, PDP sponsor and MA
17 organization behavioral re-
18 sponses, effects of precise manu-
19 facturer price concession disclo-
20 sures, beneficiary out-of-pocket
21 costs, expenditures under this
22 part, and other factors deter-
23 mined appropriate by the Sec-
24 retary.

1 “(cc) REQUIREMENTS.—In
2 making any such adjustments,
3 the Secretary shall ensure that
4 the aggregate threshold for an
5 applicable plan year is lower than
6 the drug-specific threshold for
7 such applicable plan year.

8 “(dd) PUBLICATION.—The
9 Secretary shall publish any ad-
10 justments to the drug-specific
11 and aggregate thresholds under
12 this clause no later than the first
13 Monday of April of the year be-
14 fore the start of the plan year for
15 which such adjusted thresholds
16 are applicable.

17 “(D) PUBLICATION OF DISCOUNT-ELIGI-
18 BLE DRUGS.—Not later than 15 months before
19 the start of each plan year (beginning with plan
20 year 2028), the Secretary shall publish on a
21 publicly available website a list of the discount-
22 eligible drugs that apply with respect to such
23 plan year (as determined by the Secretary
24 under subparagraph (F)(iv)).

25 “(E) ENFORCEMENT.—

1 “(i) MONITORING COMPLIANCE.—The
2 Secretary, in consultation with the Office
3 of the Inspector General, shall conduct
4 periodic audits of prescription drug plans
5 and MA–PD plans to monitor compliance
6 with the requirements under this para-
7 graph. All information reported by a PDP
8 sponsor or MA organization under this
9 paragraph may be subject to audit by the
10 Secretary and the Office of the Inspector
11 General.

12 “(ii) PENALTIES.—

13 “(I) IN GENERAL.—A PDP spon-
14 sor or an MA organization that vio-
15 lates the requirements under this
16 paragraph may be subject to civil
17 monetary penalties, consistent with
18 sections 1857(g) and 1860D–
19 12(b)(3)(E), as determined appro-
20 priate by the Secretary.

21 “(II) APPLICATION.—The provi-
22 sions of section 1128A (other than
23 subsections (a) and (b)) shall apply to
24 a civil monetary penalty under this
25 clause in the same manner as such

1 provisions apply to a penalty or pro-
2 ceeding under section 1128A(a).

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

4 “(i) ACTUAL PRICE CONCESSIONS.—

5 The term ‘actual price concessions’ means,
6 with respect to a covered part D drug, the
7 amount of manufacturer price concessions
8 that the PDP sponsor or MA organization
9 reports for such drug in the Detailed DIR
10 Report (or successor report) for the appli-
11 cable plan year.

12 “(ii) AGGREGATE THRESHOLD.—The

13 term ‘aggregate threshold’ means the max-
14 imum percentage by which the total ap-
15 proximate price concessions for all dis-
16 count-eligible drugs may vary from the
17 total actual manufacturer price concessions
18 for all such discount-eligible drugs as re-
19 ported in the Detailed DIR Report (or suc-
20 cessor report) for the applicable plan year.

21 “(iii) APPROXIMATE PRICE CONCES-

22 SIONS.—The term ‘approximate price con-
23 ceSSIONS’ means, with respect to a covered
24 part D drug, the amount of price conces-
25 sions from manufacturers that the PDP

1 sponsor or MA organization estimates it
 2 will receive with respect to an applicable
 3 plan year, subject to the thresholds estab-
 4 lished under subparagraph (C)(ii), and re-
 5 flected in the net price.

6 “(iv) DISCOUNT-ELIGIBLE DRUG.—

7 “(I) IN GENERAL.—The term
 8 ‘discount-eligible drug’ means a cov-
 9 ered part D drug (other than a cov-
 10 ered part D drug described in para-
 11 graph (8) or (9))—

12 “(aa) that is in an applica-
 13 ble category or class described in
 14 subclause (II); and

15 “(bb) for which the aggre-
 16 gate manufacturer price conces-
 17 sions received by PDP sponsors
 18 and MA organizations (or phar-
 19 macy benefit managers acting on
 20 behalf of such sponsors or orga-
 21 nizations) for such drug are
 22 equal to or exceed 50 percent of
 23 aggregate gross covered prescrip-
 24 tion drug costs for such drug in
 25 the most recent plan year for

1 which data is available, as deter-
2 mined by the Secretary based on
3 previous submissions of Detailed
4 DIR Reports (or successor re-
5 ports) or other relevant reporting
6 from PDP sponsors or MA orga-
7 nizations.

8 “(II) APPLICABLE CATEGORY OR
9 CLASS.—The applicable categories and
10 classes described in this subclause are
11 the following, as specified by the
12 United States Pharmacopeia:

13 “(aa) Anti-inflammatories
14 (Inhaled Corticosteroids).

15 “(bb) Bronchodilators, Anti-
16 cholinergic.

17 “(cc) Bronchodilators,
18 Sympathomimetic.

19 “(dd) Respiratory tract
20 agents.

21 “(ee) Anticoagulants.

22 “(ff) Cardiovascular agents.

23 “(v) DRUG-SPECIFIC THRESHOLD.—
24 The term ‘drug-specific threshold’ means
25 the maximum percentage by which approx-

1 imate price concessions with respect to a
2 discount-eligible drug may vary from the
3 actual manufacturer price concessions for
4 such drug, as reported in the Detailed DIR
5 Report (or successor report) for the appli-
6 cable plan year.

7 “(vi) NET PRICE.—The term ‘net
8 price’ means, with respect to a covered
9 part D drug, the negotiated price of such
10 drug, net of all approximate price conces-
11 sions (estimated on an average per-unit
12 basis, as needed) not already reflected in
13 the negotiated price for the applicable plan
14 year.

15 “(vii) MANUFACTURER PRICE CON-
16 CESSIONS.—The term ‘manufacturer price
17 concessions’ means, with respect to a cov-
18 ered part D drug, rebates that the PDP
19 sponsor or MA organization receives from
20 manufacturers.

21 “(G) NONAPPLICATION OF PAPERWORK
22 REDUCTION ACT.—Chapter 35 of title 44,
23 United States Code, shall not apply to any data
24 collection undertaken by the Secretary under
25 this paragraph.

1 “(11) LIMITING COST-SHARING TO NET
2 PRICE.—

3 “(A) IN GENERAL.—For plan years begin-
4 ning on or after January 1, 2028, the cost-
5 sharing (for costs above the annual deductible
6 specified in paragraph (1)) for a covered part D
7 drug (other than a covered part D drug de-
8 scribed in paragraph (8) or (9)) shall not ex-
9 ceed the negotiated price for such covered part
10 D drug net of all price concessions (as defined
11 in paragraph (10)(F)(v)), as reported in the
12 Detailed DIR Report (or successor report) for
13 the applicable plan year.

14 “(B) ENFORCEMENT.—

15 “(i) MONITORING COMPLIANCE.—The
16 Secretary shall monitor compliance with
17 the requirements under subparagraph (A)
18 on an ongoing basis, including through
19 periodic audits.

20 “(ii) RETROACTIVE PENALTIES.—

21 “(I) IN GENERAL.—A PDP spon-
22 sor or an MA organization that vio-
23 lates the requirements under subpara-
24 graph (A) may be subject to civil
25 monetary penalties, consistent with

1 sections 1857(g) and 1860D–
2 12(b)(3)(E), as determined appro-
3 priate by the Secretary. The Secretary
4 may impose such penalties retro-
5 actively upon review of the Detailed
6 DIR Report (or any successor report)
7 with respect to a given plan year.

8 “(II) APPLICATION.—The provi-
9 sions of section 1128A (other than
10 subsections (a) and (b)) shall apply to
11 a civil monetary penalty under this
12 clause in the same manner as such
13 provisions apply to a penalty or pro-
14 ceeding under section 1128A(a).

15 “(12) GAO STUDY AND REPORT ON IMPLEMEN-
16 TATION AND EFFECTS OF COST-SHARING RELIEF
17 PROVISIONS.—

18 “(A) STUDY.—The Comptroller General of
19 the United States (in this paragraph referred to
20 as the ‘Comptroller General’) shall conduct a
21 study on certain effects of the implementation
22 of the requirements specified under the provi-
23 sions of paragraphs (10) and (11).

24 “(B) REPORT.—Once the data and infor-
25 mation needed to conduct the study described

1 in subparagraph (A) has become available and
2 the Comptroller General has had sufficient op-
3 portunity to review and analyze such data and
4 information, the Comptroller General shall de-
5 velop and publish a report on the findings of
6 such study, including with respect to the fol-
7 lowing:

8 “(i) Effects on enrollee cost-sharing,
9 utilization and adherence, formulary cov-
10 erage and placement, and utilization man-
11 agement with respect to affected covered
12 part D drugs (discount-eligible drugs and
13 covered part D drugs for which, prior to
14 implementation of such provisions, cost-
15 sharing exceeded net price for some bene-
16 ficiaries).

17 “(ii) Changes to pharmacy reimburse-
18 ment methodologies and levels, if any, with
19 respect to discount-eligible drugs.

20 “(iii) Changes in manufacturer rebat-
21 ting levels (relative to gross costs) for dis-
22 count-eligible drugs.

23 “(iv) Other behavioral responses by
24 PDP sponsors, enrollees, manufacturers,

1 pharmacies, or other entities related to the
2 implementation of such provisions.

3 “(v) Effects of such provisions on en-
4 rollee premiums and Federal outlays.

5 “(vi) Other issues determined appro-
6 priate by the Comptroller General.

7 “(C) SUBSEQUENT REPORTS.—The Comp-
8 troller General may, as determined appropriate,
9 conduct subsequent studies and produce subse-
10 quent reports with respect to the ongoing imple-
11 mentation and effects of the provisions of para-
12 graphs (10) and (11).”; and

13 (2) in subsection (c), by adding at the end the
14 following new paragraphs:

15 “(7) TYING COST-SHARING TO NET PRICE FOR
16 CERTAIN DRUGS.—The coverage is provided in ac-
17 cordance with subsection (b)(10).

18 “(8) LIMITING COST-SHARING TO NET PRICE.—
19 The coverage is provided in accordance with sub-
20 section (b)(11).”.

1 **TITLE III—MEDICAID EXPIRING**
2 **PROVISIONS**

3 **SEC. 301. DELAYING CERTAIN DISPROPORTIONATE SHARE**
4 **HOSPITAL PAYMENT REDUCTIONS UNDER**
5 **THE MEDICAID PROGRAM.**

6 Section 1923(f)(7)(A) of the Social Security Act (42
7 U.S.C. 1396r-4(f)(7)(A)), as amended by section 2341 of
8 title III of division B of the Continuing Appropriations
9 Act, 2024 and Other Extensions Act (Public Law 118–
10 15), is further amended—

11 (1) in clause (i)—

12 (A) in the matter preceding subclause (I),
13 by striking “For the period beginning” and all
14 that follows through “2027” and inserting “For
15 each of fiscal years 2026 and 2027”; and

16 (B) in subclauses (I) and (II), by striking
17 “or period” each place it appears; and

18 (2) in clause (ii), by striking “for the period be-
19 ginning” and all that follows through “2027” and
20 inserting “for each of fiscal years 2026 and 2027”.

1 **SEC. 302. EXTENSION OF STATE OPTION TO PROVIDE MED-**
2 **ICAL ASSISTANCE FOR CERTAIN INDIVID-**
3 **UALS WHO ARE PATIENTS IN CERTAIN INSTI-**
4 **TUTIONS FOR MENTAL DISEASES.**

5 (a) MAKING PERMANENT STATE PLAN AMENDMENT
6 OPTION TO PROVIDE MEDICAL ASSISTANCE FOR CER-
7 TAIN INDIVIDUALS WHO ARE PATIENTS IN CERTAIN IN-
8 STITUTIONS FOR MENTAL DISEASES.—Section 1915(l)(1)
9 of the Social Security Act (42 U.S.C. 1396n(l)(1)) is
10 amended by striking “With respect to calendar quarters
11 beginning during the period beginning October 1, 2019,
12 and ending September 30, 2023,” and inserting “With re-
13 spect to calendar quarters beginning on or after October
14 1, 2019,”.

15 (b) MAINTENANCE OF EFFORT REVISION.—Section
16 1915(l)(3) of the Social Security Act (42 U.S.C.
17 1396n(l)(3)) is amended—

18 (1) in subparagraph (A)—

19 (A) in the matter preceding clause (i), by
20 striking “other than under this title”; and

21 (B) in clause (i), by striking “or, if high-
22 er,” and all that follows through “in accordance
23 with this subsection”; and

24 (2) by adding at the end the following new sub-
25 paragraph:

1 “(D) APPLICATION OF MAINTENANCE OF
2 EFFORT REQUIREMENTS TO CERTAIN
3 STATES.—In the case of a State with a State
4 plan amendment in effect as of September 30,
5 2023, for the 1-year period beginning on the
6 date of enactment of this subparagraph, the
7 provisions of subparagraph (A) shall be applied
8 as if the amendments to that subparagraph
9 made by the Better Mental Health Care,
10 Lower-Cost Drugs, and Extenders Act of 2023
11 had never been made.”.

12 (c) ADDITIONAL REQUIREMENTS.—

13 (1) IN GENERAL.—Section 1915(l)(4) of the
14 Social Security Act (42 U.S.C. 1396n(l)(4)) is
15 amended—

16 (A) in subparagraph (A), by striking
17 “through (D)” and inserting “through (F)”;

18 (B) in subparagraph (D), by adding at and
19 below clause (ii)(II), the following flush sen-
20 tence:

21 “With respect to calendar quarters beginning
22 on or after October 1, 2025, the State shall
23 have in place evidence-based, substance use dis-
24 order-specific individual placement criteria and
25 utilization management approaches to ensure

1 placement of an eligible individual in an appro-
2 priate level of care and, prior to the approval of
3 a State plan amendment for which approval is
4 sought on or after such date, shall notify the
5 Secretary of how the State will ensure that the
6 requirements of clauses (i) and (ii) will be
7 met.”; and

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

10 “(E) REVIEW PROCESS.—With respect to
11 calendar quarters beginning on or after October
12 1, 2025, the State shall have in place a process
13 to review the compliance of eligible institutions
14 for mental diseases with nationally recognized,
15 evidence-based, substance use disorder-specific
16 program standards specified by the State.”.

17 (2) ONE-TIME ASSESSMENT.—Section
18 1915(l)(4) of the Social Security Act (42 U.S.C.
19 1396n(l)(4)), as amended by paragraph (1), is fur-
20 ther amended by adding at the end the following
21 new subparagraph:

22 “(F) ASSESSMENT.—

23 “(i) IN GENERAL.—The State shall,
24 not later than 12 months after the ap-
25 proval of a State plan amendment de-

1 scribed in this subsection (or, in the case
2 such State has such an amendment ap-
3 proved as of September 30, 2023, not later
4 than 12 months after the date of enact-
5 ment of this subparagraph), commence an
6 assessment of—

7 “(I) the availability for individ-
8 uals enrolled under a State plan under
9 this title (or waiver of such plan) of
10 treatment in—

11 “(aa) each level of care de-
12 scribed in clause (i) of subpara-
13 graph (C); and

14 “(bb) each level of care de-
15 scribed in clause (ii) of subpara-
16 graph (C) at which the State pro-
17 vides medical assistance; and

18 “(II) the availability of medica-
19 tion-assisted treatment and medically
20 supervised withdrawal management
21 services for such individuals.

22 “(ii) REQUIRED COMPLETION.—The
23 State shall complete the assessment de-
24 scribed in clause (i) not later than 12

1 months after the date the State com-
 2 mences such assessment.”.

3 (3) CLARIFICATION OF LEVELS OF CARE.—Sec-
 4 tion 1915(l)(7)(A) of the Social Security Act (42
 5 U.S.C. 1396n(l)(7)(A)) is amended by inserting “(or
 6 any successor publication)” before the period.

7 **TITLE IV—MEDICARE EXPIRING**
 8 **PROVISIONS AND PROVIDER**
 9 **PAYMENT CHANGES**

10 **SEC. 401. EXTENSION OF FUNDING FOR QUALITY MEASURE**
 11 **ENDORSEMENT, INPUT, AND SELECTION.**

12 Section 1890(d)(2) of the Social Security Act (42
 13 U.S.C. 1395aaa(d)(2)) is amended—

14 (1) in the first sentence—

15 (A) by striking “and \$20,000,000” and in-
 16 serting “\$20,000,000”; and

17 (B) by inserting the following before the
 18 period at the end: “, and \$20,000,000 for fiscal
 19 year 2024”; and

20 (2) in the third sentence, by striking “and
 21 2023” and inserting “2023, and 2024”.

22 **SEC. 402. EXTENSION OF FUNDING OUTREACH AND ASSIST-**
 23 **ANCE FOR LOW-INCOME PROGRAMS.**

24 (a) STATE HEALTH INSURANCE ASSISTANCE PRO-
 25 GRAMS.—Subsection (a)(1)(B) of section 119 of the Medi-

1 care Improvements for Patients and Providers Act of 2008
2 (42 U.S.C. 1395b–3 note), as amended by section 3306
3 of the Patient Protection and Affordable Care Act (Public
4 Law 111–148), section 610 of the American Taxpayer Re-
5 lief Act of 2012 (Public Law 112–240), section 1110 of
6 the Pathway for SGR Reform Act of 2013 (Public Law
7 113–67), section 110 of the Protecting Access to Medicare
8 Act of 2014 (Public Law 113–93), section 208 of the
9 Medicare Access and CHIP Reauthorization Act of 2015
10 (Public Law 114–10), section 50207 of division E of the
11 Bipartisan Budget Act of 2018 (Public Law 115–123),
12 section 1402 of division B of the Continuing Appropria-
13 tions Act, 2020, and Health Extenders Act of 2019 (Pub-
14 lic Law 116–59), section 1402 of division B of the Further
15 Continuing Appropriations Act, 2020, and Further Health
16 Extenders Act of 2019 (Public Law 116–69), section 103
17 of division N of the Further Consolidated Appropriations
18 Act, 2020 (Public Law 116–94), section 3803 of the
19 CARES Act (Public Law 116–136), section 2203 of the
20 Continuing Appropriations Act, 2021 and Other Exten-
21 sions Act (Public Law 116–159), section 1102 of the Fur-
22 ther Continuing Appropriations Act, 2021, and Other Ex-
23 tensions Act (Public Law 116–215), and section 103 of
24 division CC of the Consolidated Appropriations Act, 2021
25 (Public Law 116–260), is amended—

1 (1) in the matter preceding clause (i), by strik-
2 ing “Centers for Medicare & Medicaid Services Pro-
3 gram Management Account” and inserting “Admin-
4 istration for Community Living”;

5 (2) in clause (xii), by striking “and” at the end;

6 (3) in clause (xiii), by striking the period at the
7 end and inserting “; and”; and

8 (4) by inserting after clause (xiii) the following
9 new clause:

10 “(xiv) for fiscal year 2024,
11 \$15,000,000.”.

12 (b) AREA AGENCIES ON AGING.—Subsection
13 (b)(1)(B) of such section 119, as so amended, is amend-
14 ed—

15 (1) in clause (xii), by striking “and” at the end;

16 (2) in clause (xiii), by striking the period at the
17 end and inserting “; and”; and

18 (3) by inserting after clause (xiii) the following
19 new clause:

20 “(xiv) for fiscal year 2024,
21 \$15,000,000.”.

22 (c) AGING AND DISABILITY RESOURCE CENTERS.—
23 Subsection (c)(1)(B) of such section 119, as so amended,
24 is amended—

25 (1) in clause (xii), by striking “and” at the end;

1 (2) in clause (xiii), by striking the comma at
2 the end and inserting “; and”; and

3 (3) by inserting after clause (xiii) the following
4 new clause:

5 “(xiv) for fiscal year 2024,
6 \$5,000,000.”.

7 (d) COORDINATION OF EFFORTS TO INFORM OLDER
8 AMERICANS ABOUT BENEFITS AVAILABLE UNDER FED-
9 ERAL AND STATE PROGRAMS.—Subsection (d)(2) of such
10 section 119, as so amended, is amended—

11 (1) in clause (xii), by striking “and” at the end;

12 (2) in clause (xiii), by striking the period at the
13 end and inserting “; and”; and

14 (3) by inserting after clause (xiii) the following
15 new clause:

16 “(xiv) for fiscal year 2024,
17 \$15,000,000.”.

18 **SEC. 403. EXTENSION OF THE WORK GEOGRAPHIC INDEX**

19 **FLOOR UNDER THE MEDICARE PROGRAM.**

20 Section 1848(e)(1)(E) of the Social Security Act (42

21 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “Janu-

22 ary 1, 2024” and inserting “January 1, 2025”.

1 **SEC. 404. EXTENDING INCENTIVE PAYMENTS FOR PARTICI-**
2 **PATION IN ELIGIBLE ALTERNATIVE PAYMENT**
3 **MODELS.**

4 (a) IN GENERAL.—Section 1833(z) of the Social Se-
5 curity Act (42 U.S.C. 1395l(z)) is amended—

6 (1) in paragraph (1)(A)—

7 (A) by striking “with 2025” and inserting
8 “with 2026”; and

9 (B) by inserting “, or, with respect to
10 2026, 1.75 percent” after “3.5 percent”.

11 (2) in paragraph (2)—

12 (A) in subparagraph (B)—

13 (i) in the header, by striking “2025”
14 and inserting “2026”; and

15 (ii) in the matter preceding clause (i),
16 by striking “2025” and inserting “2026”;

17 (B) in subparagraph (C)—

18 (i) in the header, by striking “2026”
19 and inserting “2027”; and

20 (ii) in the matter preceding clause (i),
21 by striking “2026” and inserting “2027”;

22 and

23 (C) in subparagraph (D), by striking “and
24 2025” and inserting “2025, and 2026”; and

1 (3) in paragraph (4)(B), by inserting “, or,
2 with respect to 2026, 1.75 percent” after “3.5 per-
3 cent”.

4 (b) CONFORMING AMENDMENTS.—Section
5 1848(q)(1)(C)(iii) of the Social Security Act (42 U.S.C.
6 1395w-4(q)(1)(C)(iii)) is amended—

7 (1) in subclause (II), by striking “2025” and
8 inserting “2026”; and

9 (2) in subclause (III), by striking “2026” and
10 inserting “2027”.

11 **SEC. 405. PAYMENT RATES FOR DURABLE MEDICAL EQUIP-**
12 **MENT UNDER THE MEDICARE PROGRAM.**

13 (a) AREAS OTHER THAN RURAL AND NONCONTIG-
14 UOUS AREAS.—The Secretary shall implement section
15 414.210(g)(9)(v) of title 42, Code of Federal Regulations
16 (or any successor regulation), to apply the transition rule
17 described in the first sentence of such section to all appli-
18 cable items and services furnished in areas other than
19 rural or noncontiguous areas (as such terms are defined
20 for purposes of such section) through December 31, 2024.

21 (b) ALL AREAS.—The Secretary shall not implement
22 section 414.210(g)(9)(vi) of title 42, Code of Federal Reg-
23 ulations (or any successor regulation) until January 1,
24 2025.

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

4 **SEC. 406. EXTENDING THE INDEPENDENCE AT HOME MED-**
5 **ICAL PRACTICE DEMONSTRATION PROGRAM**
6 **UNDER THE MEDICARE PROGRAM.**

7 (a) IN GENERAL.—Section 1866E of the Social Secu-
8 rity Act (42 U.S.C. 1395cc–5) is amended—

9 (1) in subsection (e)—

10 (A) in paragraph (1), by striking “10-
11 year” and inserting “12-year”; and

12 (B) in paragraph (5)—

13 (i) in the second sentence, by striking
14 “tenth” and inserting “twelfth”; and

15 (ii) in the third sentence, by striking
16 “tenth” and inserting “twelfth”; and

17 (2) in subsection (h), by striking “and
18 \$9,000,000 for fiscal year 2021” and inserting “,
19 \$9,000,000 for fiscal year 2021, and \$3,000,000 for
20 fiscal year 2024”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 subsection (a) shall take effect as if included in the enact-
23 ment of Public Law 111–148.

1 **SEC. 407. INCREASE IN SUPPORT FOR PHYSICIANS AND**
2 **OTHER PROFESSIONALS IN ADJUSTING TO**
3 **MEDICARE PAYMENT CHANGES.**

4 Section 1848(t)(1)(D) of the Social Security Act (42
5 U.S.C. 1395w-4(t)(1)(D)) is amended by striking “1.25
6 percent” and inserting “2.5 percent”.

7 **SEC. 408. REVISED PHASE-IN OF MEDICARE CLINICAL LAB-**
8 **ORATORY TEST PAYMENT CHANGES.**

9 (a) REVISED PHASE-IN OF REDUCTIONS FROM PRI-
10 VATE PAYOR RATE IMPLEMENTATION.—Section
11 1834A(b)(3) of the Social Security Act (42 U.S.C.
12 1395m-1(b)(3)) is amended—

13 (1) in subparagraph (A), by striking “through
14 2026” and inserting “through 2027”; and

15 (2) in subparagraph (B)—

16 (A) in clause (ii), by striking “through
17 2023” and inserting “through 2024”; and

18 (B) in clause (iii), by striking “2024
19 through 2026” and inserting “2025 through
20 2027”.

21 (b) REVISED REPORTING PERIOD FOR REPORTING
22 OF PRIVATE SECTOR PAYMENT RATES FOR ESTABLISH-
23 MENT OF MEDICARE PAYMENT RATES.—Section
24 1834A(a)(1)(B) of the Social Security Act (42 U.S.C.
25 1395m-1(a)(1)(B)) is amended—

1 (1) in clause (i), by striking “December 31,
2 2023” and inserting “December 31, 2024”; and

3 (2) in clause (ii)—

4 (A) by striking “January 1, 2024” and in-
5 serting “January 1, 2025”; and

6 (B) by striking “March 31, 2024” and in-
7 serting “March 31, 2025”.

8 **SEC. 409. EXTENSION OF ADJUSTMENT TO CALCULATION**
9 **OF HOSPICE CAP AMOUNT UNDER MEDI-**
10 **CARE.**

11 Section 1814(i)(2)(B) of the Social Security Act (42
12 U.S.C. 1395f(i)(2)(B)) is amended—

13 (1) in clause (ii), by striking “2032” and in-
14 serting “2033”; and

15 (2) in clause (iii), by striking “2032” and in-
16 serting “2033”.

17 **TITLE V—OFFSETS**

18 **SEC. 501. MEDICAID IMPROVEMENT FUND.**

19 Section 1941(b)(3)(A) of the Social Security Act (42
20 U.S.C. 1396w–1(b)(3)(A)), as amended by section 2342
21 of the Continuing Appropriations Act, 2024 and Other
22 Extensions Act (Public Law 118–15), is amended by strik-
23 ing “\$6,357,117,810” and inserting “\$561,000,000”.

1 **SEC. 502. MEDICARE IMPROVEMENT FUND.**

2 Section 1898(b)(1) of the Social Security Act (42
3 U.S.C. 1395iii(b)(1)) is amended by striking
4 “\$180,000,000” and inserting “756,000,000”.

Calendar No. 265

118TH CONGRESS
1ST Session

S. 3430

[Report No. 118-121]

A BILL

To amend titles XVIII and XIX of the Social Security Act to expand the mental health care workforce and services, reduce prescription drug costs, and extend certain expiring provisions under Medicare and Medicaid, and for other purposes.

DECEMBER 7, 2023

Read twice and placed on the calendar