

116TH CONGRESS
2D SESSION

S. 3564

To amend title XIX of the Social Security Act to require States to provide medical assistance for COVID–19 treatment services for individuals who are diagnosed with COVID–19, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2020

Mr. CASEY (for himself and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XIX of the Social Security Act to require States to provide medical assistance for COVID–19 treatment services for individuals who are diagnosed with COVID–19, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ensuring Treatment
5 for COVID Act”.

6 **SEC. 2. MANDATORY COVERAGE OF COVID–19 TREATMENT.**

7 (a) IN GENERAL.—Section 1902 of the Social Secu-
8 rity Act (42 U.S.C. 1396a), as amended by section 6004

1 of the Families First Coronavirus Response Act, is amend-
2 ed—

3 (1) in subsection (a)—

4 (A) subparagraph (A)—

5 (i) in clause (i)—

6 (I) in subclause (VIII), by strik-
7 ing “; or” and inserting a semicolon;
8 and

9 (II) by inserting after subclause
10 (IX) the following new subclauses:

11 “(X) during any portion of the
12 emergency period defined in para-
13 graph (1)(B) of section 1135(g) be-
14 ginning on or after the date of the en-
15 actment of this subclause, who are un-
16 insured individuals (as defined in sub-
17 section (ss)); or

18 “(XI) who are uninsured individ-
19 uals who reside in one of the 50
20 States or the District of Columbia and
21 have been diagnosed with COVID-19
22 or the virus that causes COVID-19;”;
23 and

24 (ii) in clause (ii)—

1 (I) in subclause (XXI), by insert-
2 ing “or” at the end;

3 (II) in subclause (XXII), by
4 striking “or” at the end; and

5 (III) by striking subclause
6 (XXIII); and

7 (B) in the matter following subparagraph

8 (G)—

9 (i) by striking “and (XVIII)” and in-
10 sserting “(XVIII)”;

11 (ii) by striking “and (XVIII)” and in-
12 sserting “(XVIII)”;

13 (iii) by striking “who is eligible for
14 medical assistance only because of sub-
15 paragraph (A)(ii)(XXIII)” and inserting
16 “who is eligible for medical assistance only
17 because of subparagraph (A)(i)(X)”;

18 (iv) by striking “and any visit de-
19 scribed in section 1916(a)(2)(G) that is
20 furnished during any such portion” and in-
21 sserting “and any service described in sec-
22 tion 1916(a)(2)(G) that is furnished dur-
23 ing any such portion, and (XIX) the med-
24 ical assistance made available to an indi-
25 vidual who is eligible for medical assistance

1 only because of subclause (XI) of subpara-
 2 graph (A)(i) shall be limited to medical as-
 3 sistance for services that are related to
 4 treating COVID–19, and shall only be
 5 made available to such individual during
 6 the 1-year period following the date of
 7 such individual’s enrollment under the
 8 State plan or waiver (or for such longer
 9 period as the State may elect if the indi-
 10 vidual continues to require treatment for
 11 COVID–19 after the end of such 1-year
 12 period)”; and

13 (2) in subsection (ss)—

14 (A) in paragraph (1), by inserting “sub-
 15 clauses (I) through (IX) of” before “subsection
 16 (a)(10)(A)(i)”; and

17 (B) in paragraph (2), by inserting “(unless
 18 such individual is only enrolled for medical as-
 19 sistance under this title under subclause (X) of
 20 subsection (a)(10)(A)(i))” after “1128B(f)”.

21 (b) COVERAGE OF COVID–19 TREATMENT AS A
 22 MANDATORY SERVICE.—Section 1905(a)(4) of the Social
 23 Security Act (42 U.S.C. 1396d(a)(4)) is amended—

24 (1) by striking “and (D)” and inserting “(D)”;
 25 and

1 (2) by striking the semicolon at the end and in-
2 serting “; and (E) items and services furnished for
3 the treatment of COVID–19;”.

4 (c) PROHIBITION OF COST SHARING.—

5 (1) IN GENERAL.—Subsections (a)(2) and
6 (b)(2) of section 1916 of the Social Security Act (42
7 U.S.C. 1396o), as amended by section
8 6004(a)(2)(A) of the Families First Coronavirus Re-
9 sponse Act, are each amended—

10 (A) in subparagraph (F), by striking “or”
11 at the end;

12 (B) in subparagraph (G), by striking “;
13 and” and inserting “, or”; and

14 (C) by adding at the end the following sub-
15 paragraphs:

16 “(H) a COVID–19 vaccine licensed under
17 section 351 of the Public Health Service Act
18 and the administration of such vaccine, or

19 “(I) any item or service furnished for the
20 treatment of COVID–19; and”.

21 (2) APPLICATION TO ALTERNATIVE COST SHAR-
22 ING.—Section 1916A(b)(3)(B) of the Social Security
23 Act (42 U.S.C. 1396o–1(b)(3)(B)), as amended by
24 section 6004(a)(2)(B) of the Families First
25 Coronavirus Response Act, is amended—

1 (A) in clause (xi), by striking “any visit”
 2 and inserting “any service”; and

3 (B) by adding at the end the following
 4 clauses:

5 “(xii) A COVID–19 vaccine licensed
 6 under section 351 of the Public Health
 7 Service Act and the administration of such
 8 vaccine.

9 “(xiii) An item or service furnished
 10 for the treatment of COVID–19.”.

11 (3) CLARIFICATION.—The amendments made
 12 this subsection shall apply with respect to a State
 13 plan of a territory in the same manner as a State
 14 plan of one of the 50 States.

15 (d) RECEIPT AND PROCESSING OF APPLICATIONS AT
 16 CERTAIN LOCATIONS.—Section 1902(a)(55) of the Social
 17 Security Act (42 U.S.C. 1396a(a)(55)), as amended by
 18 section 6004 of the Families First Coronavirus Response
 19 Act, is amended by striking “or (a)(10)(A)(ii)(XXIII)”
 20 and inserting “(a)(10)(A)(i)(X), or (a)(10)(A)(i)(XI)”.

21 (e) FEDERAL MEDICAL ASSISTANCE PERCENT-
 22 AGE.—

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

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

3 (B) by adding at the end the following new
4 subsection:

5 “(gg) ENHANCED FMAP FOR MEDICAL ASSISTANCE
6 FOR COVID–19 TREATMENT.—Notwithstanding sub-
7 section (b), the Federal medical assistance percentage for
8 a State that is one of the 50 States or the District of
9 Columbia, with respect to amounts expended by such
10 State for medical assistance for individuals who are only
11 eligible for such assistance because of section
12 1902(a)(10)(A)(i)(XI) shall be equal to 100 percent.”.

13 (2) CONFORMING AMENDMENT.—Section
14 1905(b) of the Social Security Act (42 U.S.C.
15 1396d(b)), as amended by 6004(a)(3)(D) of the
16 Families First Coronavirus Response Act, is amend-
17 ed by striking “section 1902(a)(10)(A)(ii)(XXIII)”
18 and inserting “section 1902(a)(10)(A)(i)(X)”.

19 (f) ENHANCED PROVIDER PAYMENTS FOR SERVICES
20 TO TREAT COVID–19.—Section 1902(a)(13) of the Social
21 Security Act (42 U.S.C. 1396a(a)(13)) is amended—

22 (1) in subparagraph (B), by striking “; and”
23 and inserting a semicolon;

24 (2) in subparagraph (C), by striking the semi-
25 colon at the end and inserting “; and”; and

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(D) payment for services to treat
4 COVID–19 at a rate not less than 125 percent
5 of the payment rate that would apply to such
6 services if they were provided under title
7 XVIII;”.

8 (g) NONAPPLICATION OF CERTAIN REQUIRE-
9 MENTS.—With respect to medical assistance that is avail-
10 able under a State plan under title XIX of the Social Secu-
11 rity Act (42 U.S.C. 1396 et seq.) or a waiver of such a
12 plan pursuant to subclause (X) or (XI) of section
13 1902(a)(10)(A)(i) of such Act (42 U.S.C.
14 1396a(a)(10)(A)(i))—

15 (1) subsections (a)(1) and (d) of section 1137
16 of such Act (42 U.S.C. 1320b–7) shall not apply to
17 individuals seeking medical assistance under either
18 such subclause;

19 (2) notwithstanding the last sentence of section
20 1902(a) of such Act (42 U.S.C. 1396a(a)) or any
21 other provision of law, payment may be made to the
22 State for expenditures for medical assistance fur-
23 nished to an individual who is enrolled for medical
24 assistance pursuant to either such subclause without

1 regard to whether such individual is lawfully residing
2 in the United States; and

3 (3) the limitations on payment imposed by sub-
4 section (f) of section 1903 of such Act (42 U.S.C.
5 1396b) shall not apply with respect amounts ex-
6 pended by the State for medical assistance furnished
7 to an individual who is enrolled under either such
8 subclause.

9 (h) STATE REQUIREMENT TO STREAMLINE APPLICA-
10 TIONS.—During any portion of the emergency period de-
11 fined in paragraph (1)(B) of section 1135(g) of the Social
12 Security Act beginning on or after the date of enactment
13 of this Act, each State shall permit an individual who is
14 enrolled for medical assistance under the State plan under
15 title XIX of such Act, or a waiver of such plan, under
16 subclause (X) of section 1902(a)(10)(A)(i) of such Act to
17 enroll for medical assistance under subclause (XI) of such
18 section without requiring a new application from the indi-
19 vidual. Nothing in the preceding sentence shall be con-
20 strued as requiring that an individual first be enrolled
21 under subclause of (X) of section 1902(a)(10)(A)(i) of the
22 Social Security Act in order to enroll under subclause (XI)
23 of such section.

○