

116TH CONGRESS  
2D SESSION

# S. 4448

To amend titles XIX and XXI of the Social Security Act to give States the option to extend the Medicaid drug rebate program to the Children’s Health Insurance Program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2020

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

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## A BILL

To amend titles XIX and XXI of the Social Security Act to give States the option to extend the Medicaid drug rebate program to the Children’s Health Insurance Program, 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 “Fair Drug Prices for  
5 Kids Act”.

1 **SEC. 2. REDUCING PRESCRIPTION DRUG COSTS FOR CHIL-**  
 2 **DREN'S MEDICINE.**

3 (a) IN GENERAL.—Section 1927(a) of the Social Se-  
 4 curity Act (42 U.S.C. 1396r–8(a)) is amended by adding  
 5 at the end the following new paragraph:

6 “(8) STATE OPTION TO APPLY REBATE RE-  
 7 QUIREMENTS TO THE STATE CHILD HEALTH  
 8 PLAN.—

9 “(A) IN GENERAL.—A State may elect to  
 10 apply the requirements of this section and regu-  
 11 lations promulgated to carry out this section to  
 12 covered outpatient drugs for which payment is  
 13 available under the State child health plan  
 14 under title XXI in the same manner as such re-  
 15 quirements apply to the State plan under this  
 16 title, subject to such guidance as the Secretary  
 17 shall establish.

18 “(B) APPLICATION RULES.—If a State  
 19 makes an election under subparagraph (A),  
 20 then, in applying this section with respect to  
 21 that State—

22 “(i) paragraph (1) of this subsection  
 23 shall be applied as if ‘or section 2105 (if  
 24 the State has elected to apply this section  
 25 to the State child health plan under title  
 26 XXI)’ were inserted after ‘1903(a)’;

1 “(ii) paragraph (7)(A) of this sub-  
2 section shall be applied—

3 “(I) as if ‘or section 2105 (if the  
4 State has elected to apply this section  
5 to the State child health plan under  
6 title XXI)’ were inserted after  
7 ‘1903(a)’; and

8 “(II) as if ‘(or, if the State has  
9 elected to apply this section to the  
10 State child health plan under title  
11 XXI, on or after the date this section  
12 first applies to the State)’ were in-  
13 serted after ‘January 1, 2006’;

14 “(iii) paragraph (7)(B)(ii) of this sub-  
15 section shall be applied—

16 “(I) as if ‘or section 2105 (if the  
17 State has elected to apply this section  
18 to the State child health plan under  
19 title XXI)’ were inserted after  
20 ‘1903(a)’; and

21 “(II) as if ‘(or, if the State has  
22 elected to apply this section to the  
23 State child health plan under title  
24 XXI, on or after the date this section

1 first applies to the State)’ were in-  
2 serted after ‘January 1, 2008’;

3 “(iv) subsection (b)(1)(A) shall be ap-  
4 plied as if ‘(or, if the State has elected to  
5 apply this section to the State child health  
6 plan under title XXI, on or after the date  
7 this section first applies to the State, to  
8 each State child health plan for which pay-  
9 ment was made under such State child  
10 health plan for such period)’ were inserted  
11 after ‘such period’;

12 “(v) subsection (b)(1)(B) shall be ap-  
13 plied as if ‘(or a reduction in the amount  
14 expended under the State child health plan  
15 in the quarter for child health assistance  
16 or pregnancy-related assistance for pur-  
17 poses of section 2105 if the State has  
18 elected to apply this section to the State  
19 child health plan under title XXI)’ were in-  
20 serted after ‘1903(a)(1)’; and

21 “(vi) paragraphs (2)(A)(i) and  
22 (3)(A)(ii) of subsection (c) shall each be  
23 applied as if ‘(or, if the State has elected  
24 to apply this section to the State child  
25 health plan under title XXI, on or after

1           the date this section first applies to the  
2           State)’ were inserted after ‘December 31,  
3           1990’ each place it appears.”.

4           (b) CONFORMING AMENDMENTS.—

5           (1) Section 2107(e)(1) of the Social Security  
6           Act (42 U.S.C. 1397gg(e)(1)) is amended—

7           (A) by redesignating subparagraphs (D)  
8           through (S) as subparagraphs (E) through (T),  
9           respectively; and

10          (B) by inserting after subparagraph (C)  
11          the following new subparagraph:

12                 “(D) Section 1902(a)(54) (relating to com-  
13                 pliance with the requirements of section 1927  
14                 but only if the State has elected to apply such  
15                 requirements to the State child health plan  
16                 under this title).”.

17          (2) Section 2110(a)(6) of the Social Security  
18          Act (42 U.S.C. 1397jj(a)(6)) is amended by insert-  
19          ing “and, if the State has elected to apply the re-  
20          quirements of section 1927 to the State child health  
21          plan under this title, covered outpatient drugs, as  
22          defined in section 1927(k)(2),” after “Prescription  
23          drugs and biologicals”.

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