

115TH CONGRESS
1ST SESSION

S. 520

To amend title XIX of the Social Security Act to reform payment to States under the Medicaid program.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 2017

Mr. CASSIDY 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 reform payment to States under the Medicaid program.

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 “Medicaid Account-
5 ability and Care Act of 2017”.

6 **SEC. 2. MEDICAID PAYMENT REFORM.**

7 (a) IN GENERAL.—Title XIX of the Social Security
8 Act (42 U.S.C. 1396 et seq.) is amended by inserting after
9 section 1903 the following section:

1 **“SEC. 1903A. REFORMED PAYMENT TO STATES.**

2 “(a) REFORMED PAYMENT SYSTEM.—

3 “(1) IN GENERAL.—For quarters beginning on
4 or after the implementation date (as defined in sub-
5 section (k)(1)), in lieu of amounts otherwise payable
6 to a State under this title (including any payments
7 attributable to section 1923), except as otherwise
8 provided in this section, the amount payable to such
9 State shall be equal to the sum of the following:

10 “(A) ADJUSTED AGGREGATE BENE-
11 FICIARY-BASED AMOUNT.—The aggregate bene-
12 ficiary-based amount specified in subsection (b)
13 for the quarter and the State, adjusted under
14 subsection (e).

15 “(B) CHRONIC CARE QUALITY BONUS.—
16 The amount (if any) of the chronic care quality
17 bonus payment specified in subsection (f) for
18 the quarter for the State.

19 “(2) REQUIREMENT OF STATE SHARE.—

20 “(A) IN GENERAL.—A State shall make,
21 from non-Federal funds, expenditures in an
22 amount equal to its State share (as determined
23 under subparagraph (B)) for a quarter for
24 items, services, and other costs for which, but
25 for paragraph (1), Federal funds would have
26 been payable under this title.

1 “(B) STATE SHARE.—The State share for
2 a State for a quarter in a fiscal year is equal
3 to the product of—

4 “(i) the aggregate beneficiary-based
5 amount specified in subsection (b) for the
6 quarter and the State; and

7 “(ii) the ratio of—

8 “(I) the State percentage de-
9 scribed in subparagraph (D)(ii) for
10 such State and fiscal year; to

11 “(II) the Federal percentage de-
12 scribed in subparagraph (D)(i) for
13 such State and fiscal year.

14 “(C) NONPAYMENT FOR FAILURE TO PAY
15 STATE SHARE.—

16 “(i) IN GENERAL.—If a State fails to
17 expend the amount required under sub-
18 paragraph (A) for a quarter in a fiscal
19 year, the amount payable to the State
20 under paragraph (1) shall be reduced by
21 the product of the amount by which the
22 State payment is less than the State share
23 and the ratio of—

1 “(I) the Federal percentage de-
2 scribed in subparagraph (D)(i) for
3 such State and fiscal year; to

4 “(II) the State percentage de-
5 scribed in subparagraph (D)(ii) for
6 such State and fiscal year.

7 “(ii) GRACE PERIOD.—A State shall
8 not be considered to have failed to provide
9 payment of its required State share for a
10 quarter under subparagraph (A) if the ag-
11 gregate State payment towards the State’s
12 required State share for the 4-quarter pe-
13 riod beginning with such quarter exceeds
14 the required State share amount for such
15 4-quarter period.

16 “(D) FEDERAL AND STATE PERCENT-
17 AGES.—In this paragraph, with respect to a
18 State and a fiscal year:

19 “(i) FEDERAL PERCENTAGE.—The
20 Federal percentage described in this clause
21 is 75 percent or, if higher, the Federal
22 medical assistance percentage for such
23 State for such fiscal year.

24 “(ii) STATE PERCENTAGE.—The State
25 percentage described in this clause is 100

1 percent minus the Federal percentage de-
2 scribed in clause (i).

3 “(E) RULES FOR CREDITING TOWARD
4 STATE SHARE.—

5 “(i) GENERAL LIMITATION TO MATCH-
6 ABLE EXPENDITURES.—A payment for ex-
7 penditures shall not be counted toward the
8 State share under subparagraph (A) unless
9 Federal payments may be used for such
10 expenditures consistent with paragraph
11 (3)(B).

12 “(ii) FURTHER LIMITATIONS ON AL-
13 LOWABLE EXPENDITURES.—A payment for
14 expenditures shall not be counted towards
15 the State share under subparagraph (A) if
16 the expenditure is for any of the following:

17 “(I) ABORTION.—Expenditures
18 for an abortion.

19 “(II) INTERGOVERNMENTAL
20 TRANSFERS.—An expenditure that is
21 attributable to an intergovernmental
22 transfer.

23 “(III) CERTIFIED PUBLIC EX-
24 PENDITURES.—An expenditure that is

1 attributable to certified public expend-
2 itures.

3 “(iii) CREDITING FRAUD AND ABUSE
4 RECOVERIES.—Amounts recovered by a
5 State through the operation of its Medicaid
6 fraud and abuse control unit described in
7 section 1903(q) shall be fully counted to-
8 ward the State share under subparagraph
9 (A).

10 “(F) CONSTRUCTION.—Nothing in the
11 paragraph shall be construed as preventing a
12 State from expending, from non-Federal funds,
13 an amount under this title in excess of the
14 amount of the State share.

15 “(G) DETERMINATION BASED UPON SUB-
16 MITTED CLAIMS.—In applying this paragraph
17 with respect to expenditures of a State for a
18 quarter, the determination of the expenditures
19 for such State for such quarter shall be made
20 after the end of the period (which, as of the
21 date of the enactment of this section, is 2
22 years) for which the Secretary accepts claims
23 for payment under this title with respect to
24 such quarter.

25 “(3) USE OF FEDERAL PAYMENTS.—

1 “(A) APPLICATION OF MEDICAID LIMITA-
2 TIONS.—A State may only use Federal pay-
3 ments received under paragraph (1) for expend-
4 itures for which Federal funds would have been
5 payable under this title but for this section.

6 “(B) LIMITATION FOR CERTAIN ELIGI-
7 BLES.—

8 “(i) APPLICATION OF 100 PERCENT
9 FEDERAL POVERTY LINE LIMIT ON ELIGI-
10 BILITY.—Subject to clause (iii), a State
11 may not use such Federal payments to
12 provide medical assistance for an indi-
13 vidual who has an income (as determined
14 under clause (ii)) that exceeds 100 percent
15 of the poverty line (as defined in section
16 2110(c)(5)) applicable to a family of the
17 size involved.

18 “(ii) DETERMINATION OF INCOME
19 USING MODIFIED ADJUSTED GROSS IN-
20 COME WITHOUT ANY 5 PERCENT IN-
21 CREASE.—In determining income for pur-
22 poses of clause (i) under section
23 1902(e)(14) (relating to modified adjusted
24 gross income), the following rules shall
25 apply:

1 “(I) APPLICATION OF SPEND
2 DOWN.—The State shall take into ac-
3 count the costs incurred for medical
4 care or for any other type of remedial
5 care recognized under State law in the
6 same manner and to the same extent
7 that such State takes such costs into
8 account for purposes of section
9 1902(a)(17).

10 “(II) DISREGARD OF 5 PERCENT
11 INCREASE.—Subparagraph (I) of sec-
12 tion 1902(e)(14) (relating to a 5 per-
13 cent reduction) shall not apply.

14 “(iii) EXCEPTION.—Clause (i) shall
15 not apply to an individual who is—

16 “(I) a woman described in clause
17 (i) of section 1903(v)(4)(A);

18 “(II) a child who is an individual
19 described in clause (i) of section
20 1905(a);

21 “(III) enrolled in a State plan
22 under this title as of the date of the
23 enactment of this section for the pe-
24 riod of continuous enrollment; or

1 “(IV) described in section
2 1902(e)(14)(D) (relating to modified
3 adjusted gross income).

4 “(iv) CLARIFICATION RELATED TO
5 COMMUNITY SPOUSE.—Nothing in this
6 subparagraph shall supersede the applica-
7 tion of section 1924 (related to community
8 spouse income and assets).

9 “(4) EXCEPTIONS FOR PASS-THROUGH PAY-
10 MENTS.—

11 “(A) IN GENERAL.—Paragraph (1) shall
12 not apply, and amounts shall continue to be
13 payable under this title (and not under this
14 subsection), in the case of the following pay-
15 ments (and related administrative costs and ex-
16 penditures):

17 “(i) PAYMENTS TO TERRITORIES.—
18 Payments to a State other than the 50
19 States and the District of Columbia.

20 “(ii) MEDICARE COST SHARING.—
21 Payments attributable to Medicare cost
22 sharing under section 1905(p).

23 “(iii) PEDIATRIC VACCINES.—Pay-
24 ments attributable to section 1928.

1 “(iv) EMERGENCY SERVICES FOR CER-
2 TAIN INDIVIDUALS.—Payments for treat-
3 ment of emergency medical conditions at-
4 tributable to the application of section
5 1903(v)(2).

6 “(v) INDIAN HEALTH CARE FACILI-
7 TIES.—Payments for medical assistance
8 described in the third sentence of section
9 1905(b).

10 “(vi) EMPLOYER-SPONSORED INSUR-
11 ANCE (ESI).—Payments for medical assist-
12 ance attributable to payments to employers
13 for employer-sponsored health benefits cov-
14 erage.

15 “(vii) OTHER POPULATIONS WITH
16 LIMITED BENEFIT COVERAGE.—Other pay-
17 ments that are determined by the Sec-
18 retary to be related to a specified popu-
19 lation for which the medical assistance
20 under this title is limited and does not in-
21 clude any inpatient, nursing facility, or
22 long-term care services.

23 “(B) CERTAIN EXPENSES.—Paragraph (1)
24 shall not apply, and amounts shall continue to

1 be payable under this title (and not under this
2 subsection), in the case of the following:

3 “(i) ADMINISTRATION OF MEDICARE
4 PRESCRIPTION DRUG BENEFIT.—Expendi-
5 tures described in section 1935(b) (relating
6 to administration of the Medicare prescrip-
7 tion drug benefit).

8 “(ii) PAYMENTS FOR HIT BONUSES.—
9 Payments under section 1903(a)(3)(F) (re-
10 lating to payments to encourage the adop-
11 tion and use of certified EHR technology).

12 “(iii) PAYMENTS FOR DESIGN, DEVEL-
13 OPMENT, AND INSTALLATION OF MMIS AND
14 ELIGIBILITY SYSTEMS.—Payments under
15 subparagraphs (A)(i) and (H)(i) of section
16 1903(a)(3) for expenditures for design, de-
17 velopment, and installation of the Medicaid
18 management information systems and
19 mechanized verification and information
20 retrieval systems (related to eligibility).

21 “(5) PAYMENT OF AMOUNTS.—

22 “(A) IN GENERAL.—Except as the Sec-
23 retary may otherwise provide, amounts shall be
24 payable to a State under this subsection in the
25 same manner as amounts are payable under

1 subsection (d) of section 1903 to a State under
2 subsection (a) of such section.

3 “(B) INFORMATION AND FORMS.—

4 “(i) SUBMISSION.—As a condition of
5 receiving payment under this subsection, a
6 State shall submit such information, in
7 such form, and manner, as the Secretary
8 shall specify, including information nec-
9 essary to make the computations under
10 subsections (c)(2)(C) and (e).

11 “(ii) UNIFORM REPORTING.—The
12 Secretary shall develop such forms as may
13 be needed to assure a system of uniform
14 reporting of such information across
15 States.

16 “(C) REQUIRED REPORTING OF INFORMA-
17 TION ON MEDICAL LOSS RATIOS FOR MANAGED
18 CARE.—The information required to be reported
19 under subparagraph (B)(i) shall include infor-
20 mation on the medical loss ratio with respect to
21 coverage provided under each Medicaid man-
22 aged care plan with a contract with the State
23 under section 1903(m) or 1932.

24 “(b) AGGREGATE BENEFICIARY-BASED AMOUNT.—

1 “(1) IN GENERAL.—The aggregate beneficiary-
2 based amount specified in this subsection for a State
3 for a quarter is equal to the sum of the products,
4 for each of the categories of Medicaid beneficiaries
5 specified in paragraph (2), of the following:

6 “(A) BENEFICIARY-BASED QUARTERLY
7 AMOUNT.—The beneficiary-based quarterly
8 amount for such category computed under sub-
9 section (c) for such State for such quarter.

10 “(B) NUMBER OF INDIVIDUALS IN CAT-
11 EGORY.—Subject to subsection (d), the average
12 number of Medicaid beneficiaries enrolled in
13 such category in the State in such quarter.

14 “(2) CATEGORIES.—The categories specified in
15 this paragraph are the following:

16 “(A) ELDERLY.—A category of Medicaid
17 beneficiaries who are 65 years of age or older.

18 “(B) BLIND OR DISABLED.—A category of
19 Medicaid beneficiaries not described in subpara-
20 graph (A) who are described in section
21 1937(a)(2)(B)(ii).

22 “(C) CHILDREN.—A category of Medicaid
23 beneficiaries not described in subparagraph (B)
24 who are under 21 years of age.

1 “(D) OTHER ADULTS.—A category of any
2 Medicaid beneficiaries who are not described in
3 a previous subparagraph of this paragraph.

4 “(c) COMPUTATION OF PER BENEFICIARY, PER CAT-
5 EGORY QUARTERLY AMOUNT.—

6 “(1) IN GENERAL.—For a State, for each cat-
7 egory of beneficiary for a quarter—

8 “(A) FIRST REFORM YEAR.—For quarters
9 in the first reform year (as defined in sub-
10 section (k)(2)), the beneficiary-based quarterly
11 amount is equal to $\frac{1}{4}$ of the base average per
12 beneficiary Federal payments for such State for
13 such category determined under paragraph (2),
14 increased by a factor that reflects the sum of
15 the following:

16 “(i) HISTORICAL MEDICAL CARE COM-
17 PONENT OF CPI THROUGH PREVIOUS RE-
18 FORM YEAR.—The percentage increase in
19 the historical medical care component of
20 the Consumer Price Index for all urban
21 consumers (U.S. city average) from the
22 midpoint of the base fiscal year (as defined
23 in paragraph (6)) to the midpoint of the
24 fiscal year preceding the first reform year.

1 “(ii) PROJECTED MEDICAL CARE COM-
2 PONENT OF CPI FOR THE FIRST REFORM
3 YEAR.—The percentage increase in the
4 projected medical care component of the
5 Consumer Price Index for all urban con-
6 sumers (U.S. city average) from the mid-
7 point of the previous fiscal year referred to
8 in clause (i) to the midpoint of the first re-
9 form year.

10 “(B) SECOND AND THIRD REFORM
11 YEARS.—The beneficiary-based quarterly
12 amount for a State for a category for quarters
13 in the second reform year or the third reform
14 year is equal to the beneficiary-based quarterly
15 amount under this paragraph for such State
16 and category for the previous reform year in-
17 creased by the per beneficiary percentage in-
18 crease (as defined in subparagraph (E)) for
19 such category and reform year.

20 “(C) FOURTH THROUGH TENTH REFORM
21 YEARS.—The beneficiary-based quarterly
22 amount for a State for a category for quarters
23 in a reform year beginning with the fourth re-
24 form year and ending with the tenth reform
25 year is—

1 “(i) in the case of a State that is a
2 high per beneficiary State or a low per
3 beneficiary State (as defined in paragraph
4 (4)(B)(iii)) for the category, the amount
5 determined under clause (i) or (ii) of para-
6 graph (4)(B) for such State, category, and
7 reform year; or

8 “(ii) in the case of any other State,
9 the beneficiary-based quarterly amount
10 under this paragraph for such State and
11 category for the previous reform year in-
12 creased by the per beneficiary percentage
13 increase for such category and reform
14 year.

15 “(D) ELEVENTH REFORM YEAR AND SUB-
16 SEQUENT REFORM YEARS.—The beneficiary-
17 based quarterly amount for a State for a cat-
18 egory for quarters in a reform year beginning
19 with the eleventh reform year is equal to the
20 beneficiary-based quarterly amount under this
21 paragraph for such State and category for the
22 previous reform year increased by the per bene-
23 ficiary percentage increase for such category
24 and reform year.

1 “(E) ANNUAL PERCENTAGE INCREASE BE-
 2 GINNING WITH SECOND REFORM YEAR.—For
 3 purposes of this subsection, the term ‘per bene-
 4 ficiary percentage increase’ means, for a reform
 5 year, the sum of—

6 “(i) the projected percentage change
 7 in nominal gross domestic product from
 8 the midpoint of the previous reform year to
 9 the midpoint of the reform year for which
 10 the percentage increase is being applied;
 11 and

12 “(ii) one percentage point.

13 “(2) BASE PER BENEFICIARY, PER CATEGORY
 14 AMOUNT FOR EACH STATE.—

15 “(A) AVERAGE PER CATEGORY.—

16 “(i) IN GENERAL.—The Secretary
 17 shall determine, consistent with this para-
 18 graph and paragraph (3), a base per bene-
 19 ficiary, per category amount for each of
 20 the 50 States and the District of Columbia
 21 equal to the average amount, per Medicaid
 22 beneficiary, of Federal payments under
 23 this title, including payments attributable
 24 to disproportionate share hospital pay-
 25 ments under section 1923, for each of the

1 categories of beneficiaries under subsection
2 (b)(2) for the base fiscal year for each of
3 the 50 States and the District of Colum-
4 bia.

5 “(ii) BEST AVAILABLE DATA.—The
6 determination under clause (i) shall ini-
7 tially be estimated by the Secretary, based
8 upon the best available data at the time
9 the determination is made.

10 “(iii) UPDATES.—The determination
11 under clause (i) shall be updated by the
12 Secretary on an annual basis based upon
13 improved data. The Secretary shall adjust
14 the amounts under subsection (a)(1)(A) to
15 reflect changes in the amounts so deter-
16 mined based on such updates.

17 “(B) EXCLUSION OF PASS-THROUGH PAY-
18 MENTS.—In computing base per beneficiary,
19 per category amounts under subparagraph
20 (A)(i) the Secretary shall exclude payments de-
21 scribed in subsection (a)(4).

22 “(C) STANDARDIZATION.—

23 “(i) IN GENERAL.—In computing each
24 such amount, the Secretary shall stand-

1 ardize the amount in order to remove the
2 variation attributable to the following:

3 “(I) RISK FACTORS.—Such risk
4 factors as age, health and disability
5 status (including high cost medical
6 conditions), gender, institutional sta-
7 tus, and such other factors as the
8 Secretary determines to be appro-
9 priate, so as to ensure actuarial
10 equivalence.

11 “(II) GEOGRAPHIC.—Variations
12 in costs on a county-by-county basis.

13 “(ii) METHOD OF STANDARDIZA-
14 TION.—

15 “(I) CONSULTATION IN DEVEL-
16 OPMENT OF RISK STANDARDIZA-
17 TION.—In developing the methodology
18 for risk standardization for purposes
19 of clause (i)(I), the Secretary shall
20 consult with the Medicaid and CHIP
21 Payment and Access Commission, the
22 Medicare Payment Advisory Commis-
23 sion, and the National Association of
24 Medicaid Directors.

1 “(II) METHOD FOR RISK STAND-
2 ARDIZATION.—In carrying out clause
3 (i)(I), the Secretary may apply the
4 hierarchal condition category method-
5 ology under section 1853(a)(1)(C). If
6 the Secretary uses such methodology,
7 the Secretary shall adjust the applica-
8 tion of such methodology to take into
9 account the differences in services
10 provided under this title compared to
11 title XVIII, such as the coverage of
12 long term care, pregnancy, and pedi-
13 atric services.

14 “(III) METHOD FOR GEOGRAPHIC
15 STANDARDIZATION.—The Secretary
16 shall apply the standardization under
17 clause (i)(II) in a manner similar to
18 that applied under section
19 1853(e)(4)(A)(iii).

20 “(iii) APPLICATION ON A NATIONAL,
21 BUDGET NEUTRAL BASIS.—The standard-
22 ization under clause (i) shall be designed
23 and implemented on a uniform national
24 basis and shall be budget neutral so as to

1 not result in any aggregate change in pay-
2 ments under subsection (a).

3 “(iv) RESPONSE TO NEW RISK.—Sub-
4 ject to clause (iii), the Secretary may ad-
5 just the standardization under clause (i) to
6 respond promptly to new instances of com-
7 municable diseases and other public health
8 hazards.

9 “(v) REFERENCE TO APPLICATION OF
10 RISK ADJUSTMENT.—For rules related to
11 the application of risk adjustment to
12 amounts under subsection (a)(1)(A), see
13 subsection (e).

14 “(D) ADJUSTMENT FOR TEMPORARY FMAP
15 INCREASES.—In computing each base per bene-
16 ficiary, per category amounts under subpara-
17 graph (A)(i) the Secretary shall disregard por-
18 tions of payments that are attributable to a
19 temporary increase in the Federal matching
20 rates, including those attributable to the fol-
21 lowing:

22 “(i) PPACA DISASTER FMAP.—Sec-
23 tion 1905(aa).

1 “(ii) ARRA.—Section 5001 of the
2 American Recovery and Reinvestment Act
3 of 2009 (42 U.S.C. 1396d note).

4 “(iii) EXTRAORDINARY EMPLOYER
5 PENSION CONTRIBUTION.—Section 614 of
6 the Children’s Health Insurance Program
7 Reauthorization Act of 2009 (42 U.S.C.
8 1396d note).

9 “(3) ALLOCATION OF NONMEDICAL ASSISTANCE
10 PAYMENTS.—The Secretary shall establish rules for
11 the allocation of payments under this title (other
12 than those payments described in paragraph (1) or
13 (5) of section 1903(a) and including such payments
14 attributable to section 1923)—

15 “(A) among different categories of bene-
16 ficiaries; and

17 “(B) between payments included under
18 subsection (a)(1) and payments described in
19 subsection (a)(4).

20 “(4) TRANSITION TO A CORRIDOR AROUND THE
21 NATIONAL AVERAGE.—

22 “(A) DETERMINATION OF NATIONAL AVER-
23 AGE BASE PER BENEFICIARY, PER CATEGORY
24 AMOUNT.—Subject to subparagraph (C), the
25 Secretary shall determine a national average

1 base per beneficiary, per category amount equal
2 to the average of the base per beneficiary, per
3 category amounts for each of the 50 States and
4 the District of Columbia determined under
5 paragraph (2), weighted by the average number
6 of beneficiaries in each such category and State
7 as determined by the Secretary consistent with
8 subsection (d) for the base fiscal year.

9 “(B) TRANSITION ADJUSTMENT.—

10 “(i) HIGH PER BENEFICIARY
11 STATES.—In the case of a high per bene-
12 ficiary State (as defined in clause (iii)(I))
13 for a category, the beneficiary-based quar-
14 terly amount for such State and category
15 for a quarter in a reform year (beginning
16 with the fourth reform year and ending
17 with the tenth reform year) is equal to the
18 sum of—

19 “(I) the product of the State-spe-
20 cific factor for such reform year (as
21 defined in clause (iv)) and the bene-
22 ficiary-based quarterly amount that
23 would otherwise be determined under
24 paragraph (1) for such State and cat-
25 egory if the State were a State de-

1 scribed in clause (ii) of paragraph
2 (1)(C), instead of a State described in
3 clause (i) of such paragraph; and

4 “(II) the product of 1 minus the
5 State-specific factor for such reform
6 year and the beneficiary-based quar-
7 terly amount that would otherwise be
8 determined under paragraph (1) for a
9 State and category if the base per
10 beneficiary, per category amount de-
11 termined under paragraph (2) for the
12 State and category were equal to 110
13 percent of the national average base
14 per beneficiary, per category amount
15 determined under subparagraph (A)
16 for such category.

17 “(ii) LOW PER BENEFICIARY
18 STATES.—In the case of a low per bene-
19 ficiary State (as defined in clause (iii)(II))
20 for a category, the beneficiary-based quar-
21 terly amount for such State and category
22 for a quarter in a reform year (beginning
23 with the fourth reform year and ending
24 with the tenth reform year) is equal to the
25 sum of—

1 “(I) the product of the State-spe-
2 cific factor for such reform year and
3 the beneficiary-based quarterly
4 amount that would otherwise be deter-
5 mined under paragraph (1) for such
6 State and category if the State were
7 a State described in clause (ii) of
8 paragraph (1)(C), instead of a State
9 described in clause (i) of such para-
10 graph; and

11 “(II) the product of 1 minus the
12 State-specific factor for such reform
13 year and the beneficiary-based quar-
14 terly amount that would otherwise be
15 determined under paragraph (1) for a
16 State and category if the base per
17 beneficiary, per category amount de-
18 termined under paragraph (2) for the
19 State and category were equal to 90
20 percent of the national average base
21 per beneficiary, per category amount
22 determined under subparagraph (A)
23 for such category.

1 “(iii) HIGH AND LOW PER BENE-
2 FICIARY STATES DEFINED.—In this sub-
3 paragraph:

4 “(I) HIGH PER BENEFICIARY
5 STATE.—The term ‘high per bene-
6 ficiary State’ means, with respect to a
7 category, a State for which the base
8 per beneficiary, per category amount
9 determined under paragraph (2) for
10 such category is greater than 110 per-
11 cent of the national average base per
12 beneficiary, per category amount de-
13 termined under subparagraph (A) for
14 such category.

15 “(II) LOW PER BENEFICIARY
16 STATE.—The term ‘low per bene-
17 ficiary State’ means, with respect to a
18 category, a State for which the base
19 per beneficiary, per category amount
20 determined under paragraph (2) for
21 such category is less than 90 percent
22 of the national average base per bene-
23 ficiary, per category amount deter-
24 mined under subparagraph (A) for
25 such category.

1 “(iv) STATE-SPECIFIC FACTOR.—In
2 this subparagraph, the term ‘State-specific
3 factor’ means—

4 “(I) for the fourth reform year,
5 $\frac{7}{8}$; and

6 “(II) for a subsequent reform
7 year, the State-specific factor under
8 this clause for the previous reform
9 year minus $\frac{1}{8}$.

10 “(C) NO ADDITIONAL EXPENDITURES.—

11 “(i) DETERMINATION OF INCREASE IN
12 FEDERAL EXPENDITURES.—For each cat-
13 egory for each reform year (beginning with
14 the fourth reform year and ending with the
15 tenth reform year), the Secretary shall de-
16 termine whether the application of this
17 paragraph—

18 “(I) to the category for the re-
19 form year will result in an aggregate
20 increase in the aggregate Federal ex-
21 penditures under subsection (a); and

22 “(II) to all the categories for the
23 reform year will result in a net aggre-
24 gate increase in the aggregate Federal
25 expenditures under subsection (a).

1 “(ii) ADJUSTMENT.—If the Secretary
2 determines under clause (i)(II) that the
3 application of this paragraph to all the cat-
4 egories for a reform year will result in a
5 net aggregate increase in the aggregate
6 Federal expenditures under subsection (a),
7 the Secretary shall reduce the national av-
8 erage base per beneficiary, per category
9 amount computed under subparagraph (A)
10 for each of the categories determined
11 under clause (i)(I) for which there will be
12 an aggregate increase in the aggregate
13 Federal expenditures under subsection (a)
14 by such uniform percentage as will ensure
15 that there is no net aggregate Federal ex-
16 penditure increase described in clause
17 (i)(II) for the reform year.

18 “(5) REPORTS ON PER BENEFICIARY RATES;
19 APPEALS.—

20 “(A) REPORT TO STATES.—Not later than
21 8 months after the date of the enactment of
22 this section, the Secretary shall submit to each
23 State the Secretary’s initial determination of—

1 “(i) the base per beneficiary, per cat-
2 egory amounts under paragraph (2) for
3 such State; and

4 “(ii) the national average base per
5 beneficiary, per category amounts under
6 paragraph (4)(A).

7 “(B) OPPORTUNITY TO APPEAL.—Not
8 later than 3 months after the date a State re-
9 ceives notice of the Secretary’s initial deter-
10 mination of such base per beneficiary, per cat-
11 egory amounts for such State under subpara-
12 graph (A)(i), the State may file with the Sec-
13 retary, in a form and manner specified by the
14 Secretary, an appeal of such determination.

15 “(C) DETERMINATION ON APPEAL.—Not
16 later than 3 months after receiving such an ap-
17 peal, the Secretary shall make a final deter-
18 mination on such amounts for such State. If no
19 such appeal is received for a State, the Sec-
20 retary’s initial determination under subpara-
21 graph (A)(i) shall become final.

22 “(6) BASE FISCAL YEAR DEFINED.—In this
23 section, the term ‘base fiscal year’ means the latest
24 fiscal year, ending before the date of the enactment
25 of this section, for which the Secretary determines

1 that adequate data are available to make the com-
2 putations required under this subsection.

3 “(d) NOT COUNTING INDIVIDUALS TO ACCOUNT FOR
4 EXCLUDED PAYMENTS.—Under rules specified by the
5 Secretary, individuals shall not be counted as Medicaid
6 beneficiaries for purposes of subsection (b)(1)(B) and sub-
7 section (c)(2)(A) in proportion to the extent that such in-
8 dividuals are receiving medical assistance for which pay-
9 ments described under subsection (a)(4)(A) are made.

10 “(e) RISK ADJUSTMENT.—

11 “(1) IN GENERAL.—The amount under sub-
12 section (a)(1)(A) shall be adjusted under this sub-
13 section in an appropriate manner, specified by the
14 Secretary and consistent with paragraph (2), to take
15 into account—

16 “(A) the factors described in subsection
17 (c)(2)(C)(i)(I) within a category of bene-
18 ficiaries; and

19 “(B) variations in costs on a county-by-
20 county basis for medical assistance and admin-
21 istrative expenses.

22 “(2) METHOD OF ADJUSTMENT.—

23 “(A) IN GENERAL.—The adjustments
24 under paragraph (1) shall be made in a manner
25 similar to the manner in which similar adjust-

1 ments are made under subsection (c)(2)(C) and
2 consistent with the requirements of clause (iii)
3 of such subsection and subparagraph (B).

4 “(B) BIENNIAL UPDATE OF RISK ADJUST-
5 MENT METHODOLOGY.—In applying clause
6 (i)(I) of subsection (c)(2)(C) for purposes of
7 subparagraph (A), the Secretary shall, in con-
8 sultation with the entities described in clause
9 (ii)(I) of such subsection, update the risk ad-
10 justment methodology applied as appropriate
11 not less often than every 2 years.

12 “(f) CHRONIC CARE QUALITY BONUS PAYMENTS.—

13 “(1) DETERMINATION OF BONUS PAYMENTS.—

14 If the Secretary determines that, based on the re-
15 ports under paragraph (5), with respect to cat-
16 egories of chronic disease for which chronic care per-
17 formance targets had been established under para-
18 graph (3) for each category of Medicaid beneficiaries
19 specified under subsection (b)(2) such targets have
20 been met by a State for a reform year, the Secretary
21 shall make an additional payment to such State in
22 the amount specified in paragraph (6) for each quar-
23 ter in the succeeding reform year. Such payments
24 shall be made in a manner specified by the Secretary

1 and may only be used consistent with subsection
2 (a)(3).

3 “(2) IDENTIFICATION OF CATEGORIES OF
4 CHRONIC DISEASE.—The Secretary shall determine
5 the categories of chronic disease for which bonus
6 payments may be available under this subsection for
7 each category of Medicaid beneficiaries.

8 “(3) ADOPTION OF QUALITY MEASUREMENT
9 SYSTEM AND IDENTIFICATION OF PERFORMANCE
10 TARGETS.—

11 “(A) SYSTEM AND DATA.—With respect to
12 the categories of chronic disease under para-
13 graph (2), the Secretary shall adopt a quality
14 measurement system that uses data described
15 in paragraph (4) and is similar to the Five-Star
16 Quality Rating System used to indicate the per-
17 formance of Medicare Advantage plans under
18 part C of title XVIII.

19 “(B) TARGETS.—Using such system and
20 data, the Secretary shall establish for each re-
21 form year the chronic care performance targets
22 for purposes of the payments under paragraph
23 (1). Such performance targets shall be estab-
24 lished in consultation with States, associations
25 representing individuals with chronic illnesses,

1 entities providing treatment to such individuals
2 for such chronic illnesses, and other stake-
3 holders, including the National Association of
4 Medicaid Directors and the National Governors
5 Association.

6 “(4) DATA TO BE USED.—The data to be used
7 under paragraph (3) shall include—

8 “(A) data collected through methods such
9 as—

10 “(i) the ‘Healthcare Effectiveness
11 Data and Information Set’ (also known as
12 ‘HEDIS’) (or an appropriate successor
13 performance measurement tool);

14 “(ii) the ‘Consumer Assessment of
15 Healthcare Providers and Systems’ (also
16 known as ‘CAHPS’) (or an appropriate
17 successor performance measurement tool);
18 and

19 “(iii) the ‘Health Outcomes Survey’
20 (also known as ‘HOS’) (or an appropriate
21 successor performance measurement tool);
22 and

23 “(B) other data collected by the State.

24 “(5) REPORTS.—

1 “(A) IN GENERAL.—Each State shall col-
2 lect, analyze, and report to the Secretary, at a
3 frequency and in a manner to be established by
4 the Secretary, data described in paragraph (4)
5 that permit the Secretary to monitor the State’s
6 performance relative to the chronic care per-
7 formance targets established under paragraph
8 (3).

9 “(B) REVIEW AND VERIFICATION.—The
10 Secretary may review the data collected by the
11 State under subparagraph (A) to verify the
12 State’s analysis of such data with respect to the
13 performance targets under paragraph (3).

14 “(6) AMOUNT OF BONUS PAYMENTS.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graphs (B) and (C), with respect to each cat-
17 egory of Medicaid beneficiaries, in the case of
18 a State that the Secretary determines, based on
19 the chronic care performance targets set under
20 paragraph (3) for a reform year for such cat-
21 egory, performs—

22 “(i) in the top five States in such cat-
23 egory, subject to subparagraph (C)(ii), the
24 amount of the bonus for each quarter in
25 the succeeding reform year shall be 10 per-

1 cent of the payment amount otherwise paid
2 to the State under subsection (a) for indi-
3 viduals enrolled under the plan within such
4 category;

5 “(ii) in the next five States in such
6 category, subject to subparagraph (C)(ii),
7 the amount of the bonus for each such
8 quarter shall be 5 percent of the payment
9 amount otherwise paid to the State under
10 subsection (a) for individuals enrolled
11 under the plan within such category;

12 “(iii) in the next five States in such
13 category, subject to clauses (i) and (iii) of
14 subparagraph (C), the amount of the
15 bonus for each such quarter shall be 3 per-
16 cent of the payment amount otherwise paid
17 to the State under subsection (a) for indi-
18 viduals enrolled under the plan within such
19 category;

20 “(iv) in the next five States in such
21 category, subject to clauses (i) and (iii) of
22 subparagraph (C), the amount of the
23 bonus for each such quarter shall be 2 per-
24 cent of the payment amount otherwise paid
25 to the State under subsection (a) for indi-

1 viduals enrolled under the plan within such
2 category; and

3 “(v) in the next five States in such
4 category, subject to clauses (i) and (iii) of
5 subparagraph (C), the amount of the
6 bonus for each such quarter shall be 1 per-
7 cent of the payment amount otherwise paid
8 to the State under subsection (a) for indi-
9 viduals enrolled under the plan within such
10 category.

11 “(B) AGGREGATE ANNUAL LIMIT FOR
12 EACH CATEGORY OF MEDICAID BENE-
13 FICIARIES.—

14 “(i) IN GENERAL.—In no case may
15 the aggregate amount of bonuses under
16 this subsection for quarters in a reform
17 year for a category of Medicaid bene-
18 ficiaries exceed the limit specified in clause
19 (ii) for the reform year.

20 “(ii) LIMIT.—The limit specified in
21 this clause—

22 “(I) for the second reform year is
23 equal to \$250,000,000; or

24 “(II) for a subsequent reform
25 year is equal to the limit specified in

1 this clause for the previous reform
2 year increased by the per beneficiary
3 percentage increase determined under
4 paragraph (1)(E) of subsection (c).

5 “(C) LIMITATION AND PRORATION OF BO-
6 NUSES BASED ON APPLICATION OF AGGREGATE
7 LIMIT.—

8 “(i) NO BONUS FOR THIRD OR SUBSE-
9 QUENT TIERS UNLESS AGGREGATE LIMIT
10 NOT REACHED ON FIRST TWO TIERS.—No
11 bonus shall be payable under clause (iii),
12 (iv), or (v) of subparagraph (A) for a cat-
13 egory of Medicaid beneficiaries for a quar-
14 ter in a reform year unless the aggregate
15 amount of bonuses under clauses (i) and
16 (ii) of such subparagraph for such category
17 and reform year is less than the limit spec-
18 ified in subparagraph (B)(ii) for the re-
19 form year.

20 “(ii) PRORATION FOR FIRST TWO
21 TIERS.—If the aggregate amount of bo-
22 nuses under clauses (i) and (ii) of subpara-
23 graph (A) for a category of Medicaid bene-
24 ficiaries for quarters in a reform year ex-
25 ceeds the limit specified in subparagraph

1 (B)(ii) for the reform year, the amount of
2 each such bonus shall be prorated in a
3 manner so the aggregate amount of such
4 bonuses is equal to such limit.

5 “(iii) PRORATION FOR NEXT THREE
6 TIERS.—If the aggregate amount of bo-
7 nuses under clauses (i) and (ii) of subpara-
8 graph (A) for a category of Medicaid bene-
9 ficiaries for quarters in a reform year is
10 less than the limit specified in subpara-
11 graph (B)(ii) for the reform year, but the
12 aggregate amount of bonuses under clauses
13 (i) through (v) of subparagraph (A) for the
14 category and such quarters in the reform
15 year exceeds the limit specified in subpara-
16 graph (B)(ii) for the reform year, the
17 amount of each bonus in clauses (iii), (iv),
18 and (v) of subparagraph (A) shall be pro-
19 rated in a manner so the aggregate
20 amount of all the bonuses under subpara-
21 graph (A) is equal to such limit.

22 “(g) STATE OPTION FOR RECEIVING MEDICARE PAY-
23 MENTS FOR FULL-BENEFIT DUAL ELIGIBLE INDIVID-
24 UALS.—

1 “(1) IN GENERAL.—Under this subsection a
2 State may elect for quarters beginning on or after
3 the implementation date in a reform year to receive
4 payment from the Secretary under paragraph (3).
5 As a condition of receiving such payment, the State
6 shall agree to provide to full-benefit dual eligible in-
7 dividuals eligible for medical assistance under the
8 State plan—

9 “(A) the medical assistance to which such
10 eligible individuals would otherwise be entitled
11 under this title; and

12 “(B) any items and services which such eli-
13 gible individuals would otherwise receive under
14 title XVIII.

15 “(2) PROVIDER PAYMENT REQUIREMENT.—

16 “(A) IN GENERAL.—A State electing the
17 option under this subsection shall provide pay-
18 ment to health care providers for the items and
19 services described under paragraph (1)(B) at a
20 rate that is not less than the rate at which pay-
21 ments would be made to such providers for such
22 items and services under title XVIII.

23 “(B) FLEXIBILITY IN PAYMENT METH-
24 ODS.—Nothing in subparagraph (A) shall be
25 construed as preventing a State from using al-

1 ternative payment methodologies (such as bun-
2 dled payments or the use of accountable care
3 organizations (as such term is used in section
4 1899)) for purposes of making payments to
5 health care providers for items and services pro-
6 vided to dual eligible individuals in the State
7 under the option under this subsection.

8 “(3) PAYMENTS TO STATES IN LIEU OF MEDI-
9 CARE PAYMENTS.—With respect to a full-benefit
10 dual eligible individual, in the case of a State that
11 elects the option under paragraph (1) for quarters in
12 a reform year—

13 “(A) the Secretary shall not make any pay-
14 ment under title XVIII for items and services
15 furnished to such individual for such quarters;
16 and

17 “(B) the Secretary shall pay to the State,
18 in addition to the amounts paid to such State
19 under subsection (a), the amount that the Sec-
20 retary would, but for this subsection, otherwise
21 pay under title XVIII for items and services
22 furnished to such an individual in such State
23 for such quarters.

24 “(4) FULL-BENEFIT DUAL ELIGIBLE INDI-
25 VIDUAL DEFINED.—In this subsection, the term

1 ‘full-benefit dual eligible individual’ means an indi-
2 vidual who meets the requirements of section
3 1935(c)(6)(A)(ii).

4 “(h) AUDITS.—The Secretary shall conduct such au-
5 dits on the number and classification of Medicaid bene-
6 ficiaries under such subsections and expenditures under
7 this section as may be necessary to ensure appropriate
8 payments under this section.

9 “(i) TREATMENT OF WAIVERS.—

10 “(1) NO IMPACT ON CURRENT WAIVERS.—In
11 the case of a waiver of requirements of this title pur-
12 suant to section 1115 or other law that is in effect
13 as of the date of the enactment of this section, noth-
14 ing in this section shall be construed to affect such
15 waiver for the period of the waiver as approved as
16 of such date.

17 “(2) APPLICATION OF BUDGET NEUTRALITY TO
18 SUBSEQUENT WAIVERS AND RENEWALS TAKING SEC-
19 TION INTO ACCOUNT.—In the case of a waiver of re-
20 quirements of this title pursuant to section 1115 or
21 other law that is approved or renewed after the date
22 of the enactment of this section, to the extent that
23 such approval or renewal is conditioned upon a dem-
24 onstration of budget neutrality, budget neutrality

1 shall be determined taking into account the applica-
2 tion of this section.

3 “(j) REPORT TO CONGRESS.—Not later than Janu-
4 ary 1 of the second reform year, the Secretary shall submit
5 to Congress a report on the implementation of this section.

6 “(k) DEFINITIONS.—In this section:

7 “(1) IMPLEMENTATION DATE.—The term ‘im-
8 plementation date’ means—

9 “(A) July 1, 2018, if this section is en-
10 acted on or before July 1, 2017; or

11 “(B) July 1, 2019, if this section is en-
12 acted after July 1, 2017.

13 “(2) REFORM YEARS.—

14 “(A) The term ‘reform year’ means a fiscal
15 year beginning with the first reform year.

16 “(B) The term ‘first reform year’ means
17 the fiscal year in which the implementation date
18 occurs.

19 “(C) The terms ‘second’, ‘third’, and suc-
20 cessive similar terms mean, with respect to a
21 reform year, the second, third, or successive re-
22 form year, respectively, succeeding the first re-
23 form year.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) CONTINUED APPLICATION OF CLAWBACK
2 PROVISIONS.—

3 (A) CONTINUED APPLICATION.—Sub-
4 sections (a) and (c)(1)(C) of section 1935 of
5 such Act (42 U.S.C. 1396u-5) are each amend-
6 ed by inserting “or 1903A(a)” after “1903(a)”.

7 (B) TECHNICAL AMENDMENT.—Section
8 1935(d)(1) of the Social Security Act (42
9 U.S.C. 1396u-5(d)(1)) is amended by inserting
10 “except as provided in section 1903A(g)” after
11 “any other provision of this title”.

12 (2) PAYMENT RULES UNDER SECTION 1903.—

13 (A) Section 1903(a) of such Act (42
14 U.S.C. 1396b(a)) is amended, in the matter be-
15 fore paragraph (1), by inserting “and section
16 1903A” after “except as otherwise provided in
17 this section”.

18 (B) Section 1903(d) of such Act (42
19 U.S.C. 1396b(d)) is amended—

20 (i) in paragraph (1), by inserting
21 “and under section 1903A” after “sub-
22 sections (a) and (b)”;

23 (ii) in paragraph (2)—

1 (I) in subparagraph (A), by in-
2 serting “or section 1903A” after “was
3 made under this section”; and

4 (II) in subparagraph (B), by in-
5 serting “or section 1903A” after
6 “under subsection (a)”; and

7 (iii) in paragraph (4)—

8 (I) by striking “under this sub-
9 section” and inserting “, with respect
10 to this section or section 1903A,
11 under this subsection”; and

12 (II) by striking “under this sec-
13 tion” and inserting “under the respec-
14 tive section”; and

15 (iv) in paragraph (5), by inserting “or
16 section 1903A” after “overpayment under
17 this section”.

18 (3) CONFORMING WAIVER AUTHORITY.—Section
19 1115(a)(2)(A) of the Social Security Act (42 U.S.C.
20 1315(a)(2)(A)) is amended by striking “or 1903”
21 and inserting “1903, or 1903A”.

22 (4) REPORT ON ADDITIONAL CONFORMING
23 AMENDMENTS NEEDED.—Not later than 6 months
24 after the date of the enactment of this Act, the Sec-
25 retary of Health and Human Services shall submit

1 to Congress a report that includes a description of
2 any additional technical and conforming amend-
3 ments to law that are required to properly carry out
4 this Act.

○