

Union Calendar No. 574

116TH CONGRESS
2^D SESSION

H. R. 3417

[Report No. 116–691, Part I]

To amend title XVIII of the Social Security Act to provide for patient improvements and rural and quality improvements under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2019

Mr. NEAL (for himself and Mr. BRADY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

DECEMBER 24, 2020

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

DECEMBER 24, 2020

Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on June 21, 2019]

A BILL

To amend title XVIII of the Social Security Act to provide for patient improvements and rural and quality improvements under the Medicare 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Beneficiary Education Tools, Telehealth, and Extenders*
 6 *Reauthorization Act of 2019” or the “BETTER Act of*
 7 *2019”.*

8 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 9 *this Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—PATIENT IMPROVEMENTS

- Sec. 101. Beneficiary enrollment notification and eligibility simplification.*
Sec. 102. Extension of funding outreach and assistance for low-income programs.
Sec. 103. Medicare coverage of certain mental health telehealth services.
Sec. 104. Requiring prescription drug plan sponsors to include real-time benefit
information as part of such sponsor’s electronic prescription pro-
gram under the Medicare program.
Sec. 105. Transitional coverage and retroactive Medicare part D coverage for cer-
tain low-income beneficiaries.

TITLE II—RURAL AND QUALITY IMPROVEMENTS

- Sec. 201. Medicare GME treatment of hospitals establishing new medical resi-*
dency training programs after hosting medical resident rotators
for short durations.
Sec. 202. Extension of the work geographic index floor under the Medicare pro-
gram.
Sec. 203. Extension of funding for quality measure endorsement, input, and selec-
tion under Medicare program.
Sec. 204. Improving measurements under the skilled nursing facility value-based
purchasing program under the Medicare program.

10 **TITLE I—PATIENT**
 11 **IMPROVEMENTS**

12 **SEC. 101. BENEFICIARY ENROLLMENT NOTIFICATION AND**
 13 **ELIGIBILITY SIMPLIFICATION.**

14 (a) *ELIGIBILITY AND ENROLLMENT NOTICES.*—

1 (1) *AS PART OF SOCIAL SECURITY ACCOUNT*
2 *STATEMENT FOR INDIVIDUALS ATTAINING AGES 63 TO*
3 *65.—Section 1143(a) of the Social Security Act (42*
4 *U.S.C. 1320b–13(a)) is amended by adding at the end*
5 *the following new paragraph:*

6 “(4) *MEDICARE ELIGIBILITY INFORMATION.—*

7 “(A) *IN GENERAL.—In the case of statements*
8 *provided on or after the date that is 2 years after the*
9 *date of the enactment of this paragraph to individ-*
10 *uals who are attaining ages 63, 64, and 65, the state-*
11 *ment shall also include a notice containing the infor-*
12 *mation described in subparagraph (B).*

13 “(B) *CONTENTS OF NOTICE.—The notice re-*
14 *quired under subparagraph (A) shall include a clear,*
15 *simple explanation of—*

16 “(i) *eligibility for benefits under the Medi-*
17 *care program under title XVIII, and in par-*
18 *ticular benefits under part B of such title;*

19 “(ii) *the reasons a late enrollment penalty*
20 *for failure to timely enroll could be assessed and*
21 *how such late enrollment penalty is calculated,*
22 *in particular for benefits under part B;*

23 “(iii) *the availability of relief from the late*
24 *enrollment penalty and retroactive enrollment*
25 *under section 1837(h) (including as such section*

1 is applied under sections 1818(c) and
2 1818A(c)(3)), with examples of circumstances
3 under which such relief may be granted and ex-
4 amples of circumstances under which such relief
5 would not be granted;

6 “(iv) coordination of benefits (including
7 primary and secondary coverage scenarios) pur-
8 suant to section 1862(b), in particular for bene-
9 fits under part B of such title; and

10 “(v) information for populations, such as
11 residents of Puerto Rico and veterans, for whom
12 there are special considerations with respect to
13 enrollment, eligibility, and coordination of bene-
14 fits under title XVIII.

15 “(C) DEVELOPMENT OF NOTICE.—

16 “(i) IN GENERAL.—The Secretary, in co-
17 ordination with the Commissioner of Social Se-
18 curity, and taking into consideration informa-
19 tion collected pursuant to clause (ii), shall, not
20 later than 12 months after the last day of the pe-
21 riod for the request of information described in
22 clause (ii), develop the notice to be provided pur-
23 suant to subparagraph (A).

24 “(ii) REQUEST FOR INFORMATION.—Not
25 later than 6 months after the date of the enact-

1 *ment of this paragraph, the Secretary shall re-*
2 *quest written information, including rec-*
3 *ommendations, from stakeholders (including the*
4 *groups described in subparagraph (D)) on the*
5 *information to be included in the notice.*

6 “(iii) *NOTICE IMPROVEMENT.*—*Beginning 4*
7 *years after the date of enactment of this para-*
8 *graph, and not less than once every two years*
9 *thereafter, the Secretary, in coordination with*
10 *the Commissioner of Social Security, shall—*

11 “(I) *review the content of the notice to*
12 *be provided under subparagraph (A);*

13 “(II) *solicit recommendations on the*
14 *notice through a request for information*
15 *process as described in clause (i); and*

16 “(III) *update and revise such notice as*
17 *the Secretary deems appropriate.*

18 “(D) *GROUPS FOR CONSULTATION.*—*For pur-*
19 *poses of subparagraph (C)(ii), the groups described in*
20 *this clause include the following:*

21 “(i) *Individuals who are 60 years of age or*
22 *older.*

23 “(ii) *Veterans.*

24 “(iii) *Individuals with disabilities.*

1 “(iv) *Individuals with end stage renal dis-*
2 *ease.*

3 “(v) *Low-income individuals and families.*

4 “(vi) *Employers (including human re-*
5 *sources professionals).*

6 “(vii) *States (including representatives of*
7 *State-run Health Insurance Exchanges, Medicaid*
8 *offices, and Departments of Insurance).*

9 “(viii) *State Health Insurance Assistance*
10 *Programs.*

11 “(ix) *Health insurers.*

12 “(x) *Health insurance agents and brokers.*

13 “(xi) *Such other groups as specified by the*
14 *Secretary.*

15 “(E) *POSTING OF NOTICE ON WEBSITES.—The*
16 *Commissioner of Social Security and the Secretary*
17 *shall post the notice required under subparagraph (A)*
18 *in a prominent location on the public Internet*
19 *website of the Social Security Administration and on*
20 *the public Internet website of the Centers for Medicare*
21 *& Medicaid Services, respectively.*

22 “(F) *REIMBURSEMENT OF COSTS.—*

23 “(i) *IN GENERAL.—Effective for fiscal years*
24 *beginning in the year in which the date of enact-*
25 *ment of this paragraph occurs, the Commissioner*

1 *of Social Security and the Secretary shall enter*
2 *into an agreement which shall provide funding*
3 *to cover the administrative costs of the Commis-*
4 *sioner’s activities under this paragraph. Such*
5 *agreement shall—*

6 *“(I) provide funds to the Commissioner*
7 *for the full cost of the Social Security Ad-*
8 *ministration’s work related to the imple-*
9 *mentation of this paragraph, including any*
10 *costs incurred prior to the finalization of*
11 *such agreement;*

12 *“(II) provide such funding quarterly*
13 *in advance of the applicable quarter based*
14 *on estimating methodology agreed to by the*
15 *Commissioner and the Secretary; and*

16 *“(III) require an annual accounting*
17 *and reconciliation of the actual costs in-*
18 *curring and funds provided under this para-*
19 *graph.*

20 *“(i) LIMITATION.—In no case shall funds*
21 *from the Social Security Administration’s Limi-*
22 *tation on Administrative Expenses be used to*
23 *carry out activities related to the implementa-*
24 *tion of this paragraph, except as the Commis-*

1 sioner determines is necessary in developing the
2 agreement under clause (i).

3 “(G) NO EFFECT ON OBLIGATION TO MAIL
4 STATEMENTS.—Nothing in this paragraph shall be
5 construed to relieve the Commissioner of Social Secu-
6 rity from any requirement under subsection (c), in-
7 cluding the requirement to mail a statement on an
8 annual basis to each eligible individual who is not re-
9 ceiving benefits under title II and for whom a mail-
10 ing address can be determined through such methods
11 as the Commissioner determines to be appropriate.”.

12 (2) INDIVIDUALS IN MEDICARE WAITING PE-
13 RIOD.—Title XI of the Social Security Act (42 U.S.C.
14 1301 et seq.) is amended by inserting after section
15 1144 the following new section:

16 “MEDICARE ENROLLMENT NOTIFICATION AND ELIGIBILITY
17 NOTICES FOR INDIVIDUALS IN MEDICARE WAITING PERIOD

18 “SEC. 1144A. (a) NOTICES.—

19 “(1) IN GENERAL.—The Commissioner of Social
20 Security shall distribute the notice to be provided
21 pursuant to section 1143(a)(4), as may be modified
22 under paragraph (2), to individuals in the 24-month
23 waiting period under section 226(b).

24 “(2) AUTHORITY TO MODIFY NOTICE.—The Sec-
25 retary, in coordination with the Commissioner of So-
26 cial Security, may modify the notice to be distributed

1 *under paragraph (1) as necessary to take into ac-*
2 *count the individuals described in such paragraph.*

3 “(3) *POSTING OF NOTICE ON WEBSITES.*—*The*
4 *Commissioner of Social Security and the Secretary*
5 *shall post the notice required to be distributed under*
6 *paragraph (1) in a prominent location on the public*
7 *Internet website of the Social Security Administra-*
8 *tion and on the public Internet website of the Centers*
9 *for Medicare & Medicaid Services, respectively.*

10 “(b) *TIMING.*—*Beginning not later than 2 years after*
11 *the date of the enactment of this section, a notice required*
12 *under subsection (a)(1) shall be mailed to an individual*
13 *no less than two times in accordance with the following:*

14 “(1) *The notice shall be provided to such indi-*
15 *vidual not later than 3 months prior to the date on*
16 *which such individual’s enrollment period begins as*
17 *provided under section 1837.*

18 “(2) *The notice shall subsequently be provided to*
19 *such individual not later than one month prior to*
20 *such date.*

21 “(c) *REIMBURSEMENT OF COSTS.*—

22 “(1) *IN GENERAL.*—*Effective for fiscal years be-*
23 *ginning in the year in which the date of enactment*
24 *of this section occurs, the Commissioner of Social Se-*
25 *curity and the Secretary shall enter into an agree-*

1 *ment which shall provide funding to cover the admin-*
2 *istrative costs of the Commissioner’s activities under*
3 *this section. Such agreement shall—*

4 *“(A) provide funds to the Commissioner for*
5 *the full cost of the Social Security Administra-*
6 *tion’s work related to the implementation of this*
7 *section, including any costs incurred prior to the*
8 *finalization of such agreement;*

9 *“(B) provide such funding quarterly in ad-*
10 *vance of the applicable quarter based on esti-*
11 *imating methodology agreed to by the Commis-*
12 *sioner and the Secretary; and*

13 *“(C) require an annual accounting and rec-*
14 *onciliation of the actual costs incurred and funds*
15 *provided under this section.*

16 *“(2) LIMITATION.—In no case shall funds from*
17 *the Social Security Administration’s Limitation on*
18 *Administrative Expenses be used to carry out activi-*
19 *ties related to the implementation of this section, ex-*
20 *cept as the Commissioner determines is necessary in*
21 *developing the agreement under paragraph (1).”.*

22 *(b) BENEFICIARY ENROLLMENT SIMPLIFICATION.—*

23 *(1) EFFECTIVE DATE OF COVERAGE.—Section*
24 *1838(a) of the Social Security Act (42 U.S.C.*
25 *1395q(a)) is amended—*

1 (A) by amending paragraph (2) to read as
2 follows:

3 “(2)(A) in the case of an individual who enrolls
4 pursuant to subsection (d) of section 1837 before the
5 month in which he first satisfies paragraph (1) or (2)
6 of section 1836, the first day of such month,

7 “(B) in the case of an individual who first satis-
8 fies such paragraph in a month beginning before Jan-
9 uary 2021 and who enrolls pursuant to such sub-
10 section (d)—

11 “(i) in such month in which he first satis-
12 fies such paragraph, the first day of the month
13 following the month in which he so enrolls,

14 “(ii) in the month following such month in
15 which he first satisfies such paragraph, the first
16 day of the second month following the month in
17 which he so enrolls, or

18 “(iii) more than one month following such
19 month in which he satisfies such paragraph, the
20 first day of the third month following the month
21 in which he so enrolls,

22 “(C) in the case of an individual who first satis-
23 fies such paragraph in a month beginning on or after
24 January 1, 2021, and who enrolls pursuant to such
25 subsection (d) in such month in which he first satis-

1 *fies such paragraph or in any subsequent month of*
2 *his initial enrollment period, the first day of the*
3 *month following the month in which he so enrolls, or*

4 *“(D) in the case of an individual who enrolls*
5 *pursuant to subsection (e) of section 1837 in a month*
6 *beginning—*

7 *“(i) before January 1, 2021, the July 1 fol-*
8 *lowing the month in which he so enrolls, or*

9 *“(ii) on or after January 1, 2021, the first*
10 *day of the month following the month in which*
11 *he so enrolls, or”;* and

12 *(B) by amending paragraph (3) to read as*
13 *follows:*

14 *“(3) in the case of an individual who is deemed*
15 *to have enrolled—*

16 *“(A) on or before the last day of the third*
17 *month of his initial enrollment period, the first*
18 *day of the month in which he first meets the ap-*
19 *plicable requirements of section 1836 or July 1,*
20 *1973, whichever is later, or*

21 *“(B) on or after the first day of the fourth*
22 *month of his initial enrollment period, and*
23 *where such month begins—*

1 “(i) before January 1, 2021, as pre-
2 scribed under subparagraphs (B)(i), (B)(ii),
3 (B)(iii), and (D) of paragraph (2), or

4 “(ii) on or after January 1, 2021, as
5 prescribed under paragraph (2)(C).”.

6 (2) *SPECIAL ENROLLMENT PERIODS FOR EXCEP-*
7 *TIONAL CIRCUMSTANCES.—*

8 (A) *ENROLLMENT.—Section 1837 of the So-*
9 *cial Security Act (42 U.S.C. 1395p) is amended*
10 *by adding at the end the following new sub-*
11 *section:*

12 “(m) Beginning January 1, 2021, the Secretary may
13 establish special enrollment periods in the case of individ-
14 uals who meet such exceptional conditions as the Secretary
15 may provide, such as individuals who reside in an area
16 with an emergency or disaster as determined by the Sec-
17 retary.”.

18 (B) *COVERAGE PERIOD.—Section 1838 of*
19 *the Social Security Act (42 U.S.C. 1395q) is*
20 *amended by adding at the end the following new*
21 *subsection:*

22 “(g) Notwithstanding subsection (a), in the case of an
23 individual who enrolls during a special enrollment period
24 pursuant to section 1837(m), the coverage period shall begin
25 on a date the Secretary provides in a manner consistent

1 *(to the extent practicable) with protecting continuity of*
2 *health benefit coverage.”.*

3 (C) CONFORMING AMENDMENT.—Section
4 1839(b) of the Social Security Act (42 U.S.C.
5 1395r(b)) is amended, in the first sentence, by
6 striking “or (l)” and inserting “, (l), or (m)”.

7 (3) TECHNICAL CORRECTION.—Section 1839(b)
8 of the Social Security Act (42 U.S.C. 1395r(b)) is
9 amended by adding at the end the following new sen-
10 tence: “For purposes of determining any increase
11 under this subsection for individuals whose enroll-
12 ment occurs on or after January 1, 2021, the second
13 sentence of this subsection shall be applied by sub-
14 stituting ‘close of the month’ for ‘close of the enroll-
15 ment period’ each place it appears.”.

16 (4) REPORT.—Not later than January 1, 2021,
17 the Secretary of Health and Human Services shall
18 submit to the Committee on Ways and Means and
19 Committee on Energy and Commerce of the House of
20 Representatives and the Committee on Finance and
21 Special Committee on Aging of the Senate a report
22 including recommendations on how to align existing
23 Medicare enrollment periods under title XVIII of the
24 Social Security Act, including the general enrollment
25 period under part B of such title and the annual elec-

1 (4) *by inserting after clause (ix) the following*
2 *new clause:*

3 “(x) *for each of fiscal years 2020*
4 *through 2022, of \$15,000,000.*”.

5 (b) *ADDITIONAL FUNDING FOR AREA AGENCIES ON*
6 *AGING.—Subsection (b)(1)(B) of such section 119, as so*
7 *amended, is amended—*

8 (1) *in clause (vii), by striking “and” at the end;*

9 (2) *in clause (viii), by striking “and” at the end;*

10 (3) *in clause (ix), by striking the period at the*
11 *end and inserting “; and”; and*

12 (4) *by inserting after clause (ix) the following*
13 *new clause:*

14 “(x) *for each of fiscal years 2020*
15 *through 2022, of \$15,000,000.*”.

16 (c) *ADDITIONAL FUNDING FOR AGING AND DISABILITY*
17 *RESOURCE CENTERS.—Subsection (c)(1)(B) of such section*
18 *119, as so amended, is amended—*

19 (1) *in clause (vii), by striking “and” at the end;*

20 (2) *in clause (viii), by striking “and” at the end;*

21 (3) *in clause (ix), by striking the period at the*
22 *end and inserting “; and”; and*

23 (4) *by inserting after clause (ix) the following*
24 *new clause:*

1 “(x) for each of fiscal years 2020
2 through 2022, of \$5,000,000.”.

3 (d) *ADDITIONAL FUNDING FOR CONTRACT WITH THE*
4 *NATIONAL CENTER FOR BENEFITS AND OUTREACH EN-*
5 *ROLLMENT.*—*Subsection (d)(2) of such section 119, as so*
6 *amended, is amended—*

7 (1) *in clause (vii), by striking “and” at the end;*

8 (2) *in clause (viii), by striking “and” at the end;*

9 (3) *in clause (ix), by striking the period at the*
10 *end and inserting “; and”; and*

11 (4) *by inserting after clause (ix) the following*
12 *new clause:*

13 “(x) for each of fiscal years 2020
14 through 2022, of \$15,000,000.”.

15 **SEC. 103. MEDICARE COVERAGE OF CERTAIN MENTAL**
16 **HEALTH TELEHEALTH SERVICES.**

17 *Section 1834(m) of the Social Security Act (42 U.S.C.*
18 *1395m(m)) is amended—*

19 (1) *in paragraph (2)(B)(i), by striking “and*
20 *paragraph (6)(C)” and inserting “, paragraph*
21 *(6)(C), and paragraph (8)(C)”;*

22 (2) *in paragraph (4)(C)(i), by striking “and*
23 *(7)” and inserting “(7), and (8)”;*

24 (3) *in paragraph (4)(F)(i), by inserting “serv-*
25 *ices identified by CPT codes 90832, 90834, and 90837*

1 *(and as subsequently modified by the Secretary),” be-*
2 *fore “and any additional service”;*

3 *(4) in paragraph (6)(A), by striking “paragraph*
4 *(4)(C)” and inserting “paragraph (4)(C)(i)”;*

5 *(5) in paragraph (7), by striking “The geo-*
6 *graphic requirements” and inserting “Subject to*
7 *paragraph (8)(D), the geographic requirements”;* and

8 *(6) by adding at the end the following new para-*
9 *graph:*

10 *“(8) TREATMENT OF MENTAL HEALTH TELE-*
11 *HEALTH SERVICES.—*

12 *“(A) NON-APPLICATION OF ORIGINATING*
13 *SITE REQUIREMENTS.—The requirements de-*
14 *scribed in paragraph (4)(C)(i) shall not apply*
15 *with respect to telehealth services furnished on or*
16 *after January 1, 2021, that are mental health*
17 *telehealth services. Nothing in the previous sen-*
18 *tence shall waive any applicable State law re-*
19 *quirements.*

20 *“(B) INCLUSION OF CERTAIN SITES.—With*
21 *respect to telehealth services described in sub-*
22 *paragraph (A), the term ‘originating site’ shall*
23 *include the home of the eligible telehealth indi-*
24 *vidual at which the individual is located at the*

1 *time the service is furnished via a telecommuni-*
2 *cations system.*

3 “(C) *NO ORIGINATING SITE FACILITY*
4 *FEE.—No facility fee shall be paid under para-*
5 *graph (2)(B) to an originating site with respect*
6 *to a telehealth service described in subparagraph*
7 *(A) if the originating site does not otherwise*
8 *meet the requirements for an originating site*
9 *under paragraph (4)(C).*

10 “(D) *FACE-TO-FACE INITIAL ASSESSMENT;*
11 *REASSESSMENTS.—Payment may not be made*
12 *for mental health telehealth services under this*
13 *paragraph (if such payment would not otherwise*
14 *be allowed under this subsection without applica-*
15 *tion of this paragraph or paragraph (7)) fur-*
16 *nished to an eligible telehealth individual un-*
17 *less—*

18 “(i) *within the 6-month period prior to*
19 *the provision of such mental health tele-*
20 *health services, the individual receives a*
21 *face-to-face clinical assessment, without the*
22 *use of telehealth, by a physician described*
23 *in subparagraph (F)(i) or a practitioner*
24 *described in subparagraph (F)(ii) of the*

1 *needs of such individual for such services;*
2 *and*

3 “(ii) *the individual receives a reassess-*
4 *ment (at a frequency specified by the Sec-*
5 *retary) by a physician so described or a*
6 *practitioner so described of the needs of such*
7 *individual for such services.*

8 “(E) *MENTAL HEALTH TELEHEALTH SERV-*
9 *ICES DEFINED.—For purposes of this paragraph,*
10 *the term ‘mental health telehealth service’ means*
11 *services identified by CPT codes 90832, 90834,*
12 *and 90837 (and as subsequently modified by the*
13 *Secretary).*

14 “(F) *PHYSICIAN AND PRACTITIONER DE-*
15 *SCRIBED.—For purposes of subparagraph (D):*

16 “(i) *PHYSICIAN.—A physician de-*
17 *scribed in this clause is a physician, as de-*
18 *finied in section 1861(r)(1).*

19 “(ii) *PRACTITIONER.—A practitioner*
20 *described in this clause is a practitioner de-*
21 *scribed in any of clauses (i), (iv), or (v) of*
22 *section 1842(b)(18)(C).”.*

1 **SEC. 104. REQUIRING PRESCRIPTION DRUG PLAN SPON-**
2 **SORS TO INCLUDE REAL-TIME BENEFIT IN-**
3 **FORMATION AS PART OF SUCH SPONSOR'S**
4 **ELECTRONIC PRESCRIPTION PROGRAM**
5 **UNDER THE MEDICARE PROGRAM.**

6 *Section 1860D-4(e)(2) of the Social Security Act (42*
7 *U.S.C. 1395w-104(e)(2)) is amended—*

8 *(1) in subparagraph (D), by striking “To the ex-*
9 *tent” and inserting “Except as provided in subpara-*
10 *graph (F), to the extent”; and*

11 *(2) by adding at the end the following new sub-*
12 *paragraph:*

13 *“(F) REAL-TIME BENEFIT INFORMATION.—*

14 *“(i) IN GENERAL.—Not later than Jan-*
15 *uary 1, 2021, the program shall implement*
16 *real-time benefit tools that are capable of*
17 *integrating with a prescribing health care*
18 *professional’s electronic prescribing or elec-*
19 *tronic health record system for the trans-*
20 *mission of formulary and benefit informa-*
21 *tion in real time to prescribing health care*
22 *professionals. With respect to a covered part*
23 *D drug, such tools shall be capable of trans-*
24 *mitting such information specific to an in-*
25 *dividual enrolled in a prescription drug*

1 *plan. Such information shall include the*
2 *following:*

3 *“(I) A list of any clinically-ap-*
4 *propriate alternatives to such drug in-*
5 *cluded in the formulary of such plan.*

6 *“(II) Cost-sharing information for*
7 *such drug and such alternatives, in-*
8 *cluding a description of any variance*
9 *in cost sharing based on the pharmacy*
10 *dispensing such drug or such alter-*
11 *natives.*

12 *“(III) Information relating to*
13 *whether such drug is included in the*
14 *formulary of such plan and any prior*
15 *authorization or other utilization man-*
16 *agement requirements applicable to*
17 *such drug and such alternatives so in-*
18 *cluded.*

19 *“(ii) ELECTRONIC TRANSMISSION.—*
20 *The provisions of subclauses (I) and (II) of*
21 *clause (ii) of subparagraph (E) shall apply*
22 *to an electronic transmission described in*
23 *clause (i) in the same manner as such pro-*
24 *visions apply with respect to an electronic*

1 *transmission described in clause (i) of such*
2 *subparagraph.*

3 “(iii) *SPECIAL RULE FOR 2021.—The*
4 *program shall be deemed to be in compli-*
5 *ance with clause (i) for 2021 if the program*
6 *complies with the provisions of section*
7 *423.160(b)(7) of title 42, Code of Federal*
8 *Regulations (or a successor regulation), for*
9 *such year.”.*

10 ***SEC. 105. TRANSITIONAL COVERAGE AND RETROACTIVE***
11 ***MEDICARE PART D COVERAGE FOR CERTAIN***
12 ***LOW-INCOME BENEFICIARIES.***

13 *Section 1860D–14 of the Social Security Act (42*
14 *U.S.C. 1395w–114) is amended—*

15 *(1) by redesignating subsection (e) as subsection*
16 *(f); and*

17 *(2) by adding after subsection (d) the following*
18 *new subsection:*

19 “(e) *LIMITED INCOME NEWLY ELIGIBLE TRANSITION*
20 *PROGRAM.—*

21 “(1) *IN GENERAL.—Beginning not later than*
22 *January 1, 2021, the Secretary shall carry out a pro-*
23 *gram to provide transitional coverage for covered part*
24 *D drugs for LI NET eligible individuals in accord-*
25 *ance with this subsection.*

1 “(2) *LI NET ELIGIBLE INDIVIDUAL DEFINED.*—
2 *For purposes of this subsection, the term ‘LI NET eli-*
3 *gible individual’ means a part D eligible individual*
4 *who—*

5 “(A) *meets the requirements of clauses (ii)*
6 *and (iii) of subsection (a)(3)(A); and*

7 “(B) *has not yet enrolled in a prescription*
8 *drug plan or an MA–PD plan, or, who has so*
9 *enrolled, but with respect to whom coverage*
10 *under such plan has not yet taken effect.*

11 “(3) *TRANSITIONAL COVERAGE.*—*For purposes of*
12 *this subsection, the term ‘transitional coverage’ means*
13 *with respect to an LI NET eligible individual—*

14 “(A) *immediate access to covered part D*
15 *drugs at the point of sale during the period that*
16 *begins on the first day of the month such indi-*
17 *vidual is determined to meet the requirements of*
18 *clauses (ii) and (iii) of subsection (a)(3)(A) and*
19 *ends on the date that coverage under a prescrip-*
20 *tion drug plan or MA–PD plan takes effect with*
21 *respect to such individual; and*

22 “(B) *in the case of an LI NET eligible indi-*
23 *vidual who is a full-benefit dual eligible indi-*
24 *vidual (as defined in section 1935(c)(6)) or a re-*
25 *cipient of supplemental security income benefits*

1 *under title XVI, retroactive coverage (in the form*
2 *of reimbursement of the amounts that would*
3 *have been paid under this part had such indi-*
4 *vidual been enrolled in a prescription drug plan*
5 *or MA–PD plan) of covered part D drugs pur-*
6 *chased by such individual during the period that*
7 *begins on the date that is the later of—*

8 *“(i) the date that such individual was*
9 *first eligible for a low-income subsidy under*
10 *this part; or*

11 *“(ii) the date that is 36 months prior*
12 *to the date such individual enrolls in a pre-*
13 *scription drug plan or MA–PD plan,*
14 *and ends on the date that coverage under such*
15 *plan takes effect.*

16 *“(4) PROGRAM ADMINISTRATION.—*

17 *“(A) SINGLE POINT OF CONTACT.—The Sec-*
18 *retary shall, to the extent feasible, administer the*
19 *program under this subsection through a con-*
20 *tract with a single program administrator.*

21 *“(B) BENEFIT DESIGN.—The Secretary*
22 *shall ensure that the transitional coverage pro-*
23 *vided to LI NET eligible individuals under this*
24 *subsection—*

1 “(i) provides access to all covered part
2 D drugs under an open formulary;

3 “(ii) permits all pharmacies deter-
4 mined by the Secretary to be in good stand-
5 ing to process claims under the program;

6 “(iii) is consistent with such require-
7 ments as the Secretary considers necessary
8 to improve patient safety and ensure appro-
9 priate dispensing of medication; and

10 “(iv) meets such other requirements as
11 the Secretary may establish.

12 “(5) RELATIONSHIP TO OTHER PROVISIONS OF
13 THIS TITLE; WAIVER AUTHORITY.—

14 “(A) IN GENERAL.—The following provi-
15 sions shall not apply with respect to the program
16 under this subsection:

17 “(i) Paragraphs (1) and (3)(B) of sec-
18 tion 1860D–4(a) (relating to dissemination
19 of general information; availability of infor-
20 mation on changes in formulary through
21 the internet).

22 “(ii) Subparagraphs (A) and (B) of
23 section 1860D–4(b)(3) (relating to require-
24 ments on development and application of
25 formularies; formulary development).

1 “(iii) Paragraphs (1)(C) and (2) of
2 section 1860D–4(c) (relating to medication
3 therapy management program).

4 “(B) WAIVER AUTHORITY.—The Secretary
5 may waive such other requirements of title XI
6 and this title as may be necessary to carry out
7 the purposes of the program established under
8 this subsection.”.

9 **TITLE II—RURAL AND QUALITY**
10 **IMPROVEMENTS**

11 **SEC. 201. MEDICARE GME TREATMENT OF HOSPITALS ES-**
12 **TABLISHING NEW MEDICAL RESIDENCY**
13 **TRAINING PROGRAMS AFTER HOSTING MED-**
14 **ICAL RESIDENT ROTATORS FOR SHORT DU-**
15 **RATIONS.**

16 (a) *REDETERMINATION OF APPROVED FTE RESIDENT*
17 *AMOUNT.*—Section 1886(h)(2)(F) of the Social Security Act
18 (42 U.S.C. 1395ww(h)(2)(F)) is amended—

19 (1) by inserting “(i)” before “In the case of”;

20 and

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

22 “(ii) In applying this subparagraph in the
23 case of a hospital that trains residents and has
24 not entered into a GME affiliation agreement (as
25 defined by the Secretary for purposes of para-

1 *graph (4)(H)(ii)), on or after the date of the en-*
2 *actment of this clause, the Secretary shall not es-*
3 *tablish an FTE resident amount until such time*
4 *as the Secretary determines that the hospital has*
5 *trained at least 1.0 full-time-equivalent resident*
6 *in an approved medical residency training pro-*
7 *gram in a cost reporting period.*

8 *“(iii) In applying this subparagraph for*
9 *cost reporting periods beginning on or after the*
10 *date of enactment of this clause, in the case of*
11 *a hospital that, as of such date of enactment, has*
12 *an approved FTE resident amount based on the*
13 *training in an approved medical residency pro-*
14 *gram or programs of—*

15 *“(I) less than 1.0 full-time-equivalent*
16 *resident in any cost reporting period begin-*
17 *ning before October 1, 1997, as determined*
18 *by the Secretary; or*

19 *“(II) no more than 3.0 full-time-equiv-*
20 *alent residents in any cost reporting period*
21 *beginning on or after October 1, 1997, and*
22 *before the date of the enactment of this*
23 *clause, as determined by the Secretary,*
24 *in lieu of such FTE resident amount the Sec-*
25 *retary shall, in accordance with the methodology*

1 *described in section 413.77(e) of title 42 of the*
2 *Code of Federal Regulations (or any successor*
3 *regulation), establish a new FTE resident*
4 *amount if the hospital trains at least 1.0 full-*
5 *time-equivalent resident (in the case of a hos-*
6 *pital described in subclause (I)) or more than 3.0*
7 *full-time-equivalent residents (in the case of a*
8 *hospital described in subclause (II)) in a cost re-*
9 *porting period beginning on or after such date of*
10 *enactment and before the date that is 5 years*
11 *after such date of enactment.*

12 *“(iv) For purposes of carrying out this sub-*
13 *paragraph for cost reporting periods beginning*
14 *on or after the date of the enactment of this*
15 *clause, a hospital shall report full-time-equiva-*
16 *lent residents on its cost report for a cost report-*
17 *ing period if the hospital trains at least 1.0 full-*
18 *time-equivalent residents in an approved med-*
19 *ical residency training program or programs in*
20 *such period.*

21 *“(v) As appropriate, the Secretary may*
22 *consider information from any cost reporting pe-*
23 *riod necessary to establish a new FTE resident*
24 *amount as described in clause (iii).”.*

1 (b) *REDETERMINATION OF FTE RESIDENT LIMITA-*
2 *TION.—Section 1886(h)(4)(H)(i) of the Social Security Act*
3 *(42 U.S.C. 1395ww(h)(4)(H)(i)) is amended—*

4 (1) *by inserting “(I)” before “The Secretary”;*
5 *and*

6 (2) *by adding at the end the following:*

7 *“(II) In applying this clause in the*
8 *case of a hospital that, on or after the date*
9 *of the enactment of this subclause, begins*
10 *training residents in a new approved med-*
11 *ical residency training program or pro-*
12 *grams (as defined by the Secretary), the*
13 *Secretary shall not determine a limitation*
14 *applicable to the hospital under subpara-*
15 *graph (F) until such time as the Secretary*
16 *determines that the hospital has trained at*
17 *least 1.0 full-time-equivalent resident in*
18 *such new approved medical residency train-*
19 *ing program or programs in a cost report-*
20 *ing period.*

21 *“(III) In applying this clause in the*
22 *case of a hospital that, as of the date of the*
23 *enactment of this subclause, has a limita-*
24 *tion under subparagraph (F), based on a*
25 *cost reporting period beginning before Octo-*

1 ber 1, 1997, of less than 1.0 full-time-equiv-
2 alent resident, the Secretary shall adjust the
3 limitation in the manner applicable to a
4 new approved medical residency training
5 program if the Secretary determines the
6 hospital begins training at least 1.0 full-
7 time-equivalent residents in a program year
8 beginning on or after such date of enact-
9 ment and before the date that is 5 years
10 after such date of enactment.

11 “(IV) In applying this clause in the
12 case of a hospital that, as of the date of the
13 enactment of this subclause, has a limita-
14 tion under subparagraph (F), based on a
15 cost reporting period beginning on or after
16 October 1, 1997, and before such date of en-
17 actment, of no more than 3.0 full-time-
18 equivalent residents, the Secretary shall ad-
19 just the limitation in the manner applicable
20 to a new approved medical residency train-
21 ing program if the Secretary determines the
22 hospital begins training more than 3.0 full-
23 time-equivalent residents in a program year
24 beginning on or after such date of enact-

1 *ment and before the date that is 5 years*
 2 *after such date of enactment.*

3 “(V) *An adjustment to the limitation*
 4 *applicable to a hospital made pursuant to*
 5 *subclause (III) or (IV) shall be made in a*
 6 *manner consistent with the methodology, as*
 7 *appropriate, in section 413.79(e) of title 42,*
 8 *Code of Federal Regulations (or any suc-*
 9 *cessor regulation). As appropriate, the Sec-*
 10 *retary may consider information from any*
 11 *cost reporting periods necessary to make*
 12 *such an adjustment to the limitation.”.*

13 (c) *TECHNICAL AND CONFORMING AMENDMENTS.—*
 14 *Section 1886 of the Social Security Act (42 U.S.C. 1395ww)*
 15 *is amended—*

16 (1) *in subsection (d)(5)(B)(viii), by striking*
 17 *“subsection (h)(4)(H)” and inserting “paragraphs*
 18 *(2)(F)(iv) and (4)(H) of subsection (h)”;* *and*

19 (2) *in subsection (h)—*

20 (A) *in paragraph (4)(H)(iv), by striking*
 21 *“an rural area” and inserting “a rural area”;*
 22 *and*

23 (B) *in paragraph (7)(E), by striking*
 24 *“under this” and all that follows through the pe-*
 25 *riod at the end and inserting the following:*

1 “under this paragraph, paragraph (8), clause
2 (i), (ii), (iii), or (v) of paragraph (2)(F), or
3 clause (i) or (vi) of paragraph (4)(H).”.

4 (d) *EFFECTIVE DATE.*—The amendments made by this
5 section shall apply to payment under section 1886 of the
6 Social Security Act (42 U.S.C. 1395ww) for cost reporting
7 periods beginning on or after the date of the enactment of
8 this Act.

9 **SEC. 202. EXTENSION OF THE WORK GEOGRAPHIC INDEX**

10 **FLOOR UNDER THE MEDICARE PROGRAM.**

11 Section 1848(e)(1)(E) of the Social Security Act (42
12 U.S.C. 1395w–4(e)(1)(E)) is amended by striking “2020”
13 and inserting “2023”.

14 **SEC. 203. EXTENSION OF FUNDING FOR QUALITY MEASURE**

15 **ENDORSEMENT, INPUT, AND SELECTION**

16 **UNDER MEDICARE PROGRAM.**

17 (a) *IN GENERAL.*—Section 1890(d)(2) of the Social Se-
18 curity Act (42 U.S.C. 1395aaa(d)(2)) is amended—

19 (1) by striking “and \$7,500,000” and inserting
20 “\$7,500,000”; and

21 (2) by striking “and 2019.” and inserting “and
22 2019, and \$30,000,000 for each of fiscal years 2020
23 through 2022.”.

1 (b) *INPUT FOR REMOVAL OF MEASURES.*—Section
2 1890(b) of the Social Security Act (42 U.S.C. 1395aaa(b))
3 is amended by inserting after paragraph (3) the following:

4 “(4) *REMOVAL OF MEASURES.*—The entity may
5 provide input to the Secretary on quality and effi-
6 ciency measures described in paragraph (7)(B) that
7 could be considered for removal.”.

8 (c) *PRIORITIZATION OF MEASURE ENDORSEMENT.*—
9 Section 1890(b) of the Social Security Act (42 U.S.C.
10 1395aaa(b)) is amended by adding at the end the following:

11 “(9) *PRIORITIZATION OF MEASURE ENDORSE-*
12 *MENT.*—The entity—

13 “(A) during the period beginning on the
14 date of the enactment of this paragraph and end-
15 ing on December 31, 2023, shall prioritize the
16 endorsement of measures relating to maternal
17 morbidity and mortality by the entity with a
18 contract under subsection (a) in connection with
19 endorsement of measures described in paragraph
20 (2); and

21 “(B) on and after January 1, 2024, may
22 prioritize the endorsement of such measures by
23 such entity.”.

1 **SEC. 204. IMPROVING MEASUREMENTS UNDER THE**
 2 **SKILLED NURSING FACILITY VALUE-BASED**
 3 **PURCHASING PROGRAM UNDER THE MEDI-**
 4 **CARE PROGRAM.**

5 (a) *IN GENERAL.*—Section 1888(h) of the Social Secu-
 6 rity Act (42 U.S.C. 1395yy(h)) is amended—

7 (1) in paragraph (1), by adding at the end the
 8 following new subparagraph:

9 “(C) *EXCLUSIONS.*—With respect to pay-
 10 ments for services furnished on or after October
 11 1, 2021, this subsection shall not apply to a fa-
 12 cility for which there are not a minimum num-
 13 ber (as determined by the Secretary) of—

14 “(i) cases for the measures that apply
 15 to the facility for the performance period for
 16 the applicable fiscal year; or

17 “(ii) measures that apply to the facil-
 18 ity for the performance period for the appli-
 19 cable fiscal year.”;

20 (2) in paragraph (2)(A)—

21 (A) by striking “The Secretary shall apply”
 22 and inserting “The Secretary—

23 “(i) shall apply”;

24 (B) by striking the period at the end and
 25 inserting “; and”; and

26 (C) by adding at the end the following:

1 “(ii) may, with respect to payments
2 for services furnished on or after October 1,
3 2022, apply additional measures deter-
4 mined appropriate by the Secretary, which
5 may include measures of functional status,
6 patient safety, care coordination, or patient
7 experience.

8 Subject to the succeeding sentence, in the case
9 that the Secretary applies additional measures
10 under clause (ii), the Secretary shall consider
11 and apply, as appropriate, quality measures
12 specified under section 1899B(c)(1). In no case
13 may the Secretary apply more than 10 measures
14 under this subparagraph.”;

15 (3) in subparagraph (A) of each of paragraphs
16 (3) and (4), by striking “measure” and inserting
17 “measures”; and

18 (4) by adding at the end the following new para-
19 graph:

20 “(12) VALIDATION.—

21 “(A) IN GENERAL.—The Secretary shall
22 apply to the measures applied under this sub-
23 section and the data submitted under subsection
24 (e)(6) a process to validate such measures and
25 data, as appropriate, which may be similar to

1 the process specified in section
2 1886(b)(3)(B)(viii)(XI) for validating inpatient
3 hospital measures.

4 “(B) FUNDING.—For purposes of carrying
5 out this paragraph, the Secretary shall provide
6 for the transfer, from the Federal Hospital In-
7 surance Trust Fund established under section
8 1817, of \$5,000,000 to the Centers for Medicare
9 & Medicaid Services Program Management Ac-
10 count for each of fiscal years 2022 through
11 2024.”.

12 (b) REPORT BY MEDPAC.—Not later than March 15,
13 2021, the Medicare Payment Advisory Commission shall
14 submit to Congress a report on establishing a prototype
15 value-based payment program under a unified prospective
16 payment system for post-acute care services under the Medi-
17 care program under title XVIII of the Social Security Act
18 (42 U.S.C. 1395 et seq.). Such report—

19 (1) shall—

20 (A) consider design elements such as—

21 (i) measures that are important to the
22 Medicare program and to beneficiaries
23 under such program;

24 (ii) methodologies for scoring provider
25 performance and effects on payment; and

1 (iii) other elements determined appro-
2 priate by the Commission; and

3 (B) analyze the effects of implementing such
4 prototype program; and

5 (2) may—

6 (A) discuss the possible effects, with respect
7 to the Medicare program, on program spending,
8 post-acute care providers, patient outcomes, and
9 other effects determined appropriate by the Com-
10 mission; and

11 (B) include recommendations with respect
12 to such prototype program, as determined appro-
13 priate by the Commission, to Congress and the
14 Secretary of Health and Human Services.

Union Calendar No. 574

116TH CONGRESS
2^D SESSION

H. R. 3417

[Report No. 116-691, Part I]

A BILL

To amend title XVIII of the Social Security Act to provide for patient improvements and rural and quality improvements under the Medicare program.

DECEMBER 24, 2020

Reported from the Committee on Ways and Means with
an amendment

DECEMBER 24, 2020

Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed