

118TH CONGRESS  
1ST SESSION

# H. R. 952

To amend title XIX of the Social Security Act to renew the application of the Medicare payment rate floor to primary care services furnished under the Medicaid program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2023

Ms. SCHRIER (for herself, Mr. FITZPATRICK, and Ms. CASTOR of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XIX of the Social Security Act to renew the application of the Medicare payment rate floor to primary care services furnished under the Medicaid 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 “Kids’ Access to Pri-  
5 mary Care Act of 2023”.

1 **SEC. 2. RENEWAL OF APPLICATION OF MEDICARE PAY-**  
2 **MENT RATE FLOOR TO PRIMARY CARE SERV-**  
3 **ICES FURNISHED UNDER MEDICAID AND IN-**  
4 **CLUSION OF ADDITIONAL PROVIDERS.**

5 (a) RENEWAL OF PAYMENT FLOOR; ADDITIONAL  
6 PROVIDERS.—

7 (1) IN GENERAL.—Section 1902(a)(13) of the  
8 Social Security Act (42 U.S.C. 1396a(a)(13)) is  
9 amended by striking subparagraph (C) and inserting  
10 the following:

11 “(C) payment for primary care services (as  
12 defined in subsection (jj)) at a rate that is not  
13 less than 100 percent of the payment rate that  
14 applies to such services and physician under  
15 part B of title XVIII (or, if greater, the pay-  
16 ment rate that would be applicable under such  
17 part if the conversion factor under section  
18 1848(d) for the year involved were the conver-  
19 sion factor under such section for 2009), and  
20 that is not less than the rate that would other-  
21 wise apply to such services under this title if  
22 the rate were determined without regard to this  
23 subparagraph, and that are—

24 “(i) furnished in 2013 and 2014, by a  
25 physician with a primary specialty designa-

1           tion of family medicine, general internal  
2           medicine, or pediatric medicine; or

3           “(ii) furnished during the period be-  
4           ginning on the first day of the first month  
5           beginning after the date of the enactment  
6           of the Kids’ Access to Primary Care Act of  
7           2023—

8                   “(I) by a physician with a pri-  
9                   mary specialty designation of family  
10                  medicine, general internal medicine,  
11                  pediatric medicine, or obstetrics and  
12                  gynecology, but only if the physician  
13                  self-attests that the physician is  
14                  board-certified in family medicine,  
15                  general internal medicine, pediatric  
16                  medicine, or obstetrics and gynecology,  
17                  respectively;

18                  “(II) by a physician with a pri-  
19                  mary specialty designation of a family  
20                  medicine subspecialty, an internal  
21                  medicine subspecialty, a pediatric sub-  
22                  specialty, or a subspecialty of obstet-  
23                  rics and gynecology, without regard to  
24                  the board that offers the designation  
25                  for such a subspecialty, but only if the

1 physician self-attests that the physi-  
2 cian is board-certified in such a sub-  
3 specialty;

4 “(III) by an advanced practice  
5 clinician, as defined by the Secretary,  
6 that works under the supervision of—

7 “(aa) a physician described  
8 in subclause (I) or (II); or

9 “(bb) a nurse practitioner or  
10 a physician assistant (as such  
11 terms are defined in section  
12 1861(aa)(5)(A)) who is working  
13 in accordance with State law, or  
14 a certified nurse-midwife (as de-  
15 fined in section 1861(gg)(2)) who  
16 is working in accordance with  
17 State law;

18 “(IV) by a rural health clinic,  
19 Federally-qualified health center, or  
20 other health clinic that receives reim-  
21 bursement on a fee schedule applica-  
22 ble to a physician described in sub-  
23 clause (I) or (II), an advanced prac-  
24 tice clinician described in subclause  
25 (III), or a nurse practitioner, physi-

1           cian assistant, or certified nurse-mid-  
2           wife described in subclause (III)(bb),  
3           for services furnished by—

4                   “(aa) such a physician,  
5                   nurse practitioner, physician as-  
6                   sistant, or certified nurse-mid-  
7                   wife, respectively; or

8                   “(bb) an advanced practice  
9                   clinician supervised by such a  
10                  physician, nurse practitioner,  
11                  physician assistant, or certified  
12                  nurse-midwife; or

13                  “(V) by a nurse practitioner or a  
14                  physician assistant (as such terms are  
15                  defined in section 1861(aa)(5)(A))  
16                  who is working in accordance with  
17                  State law, or a certified nurse-midwife  
18                  described in subclause (III)(bb) who is  
19                  working in accordance with State law,  
20                  in accordance with procedures that  
21                  ensure that the portion of the pay-  
22                  ment for such services that the nurse  
23                  practitioner, physician assistant, or  
24                  certified nurse-midwife is paid is not  
25                  less than the amount that the nurse

1 practitioner, physician assistant, or  
2 certified nurse-midwife would be paid  
3 if the services were provided under  
4 part B of title XVIII;”.

5 (2) CONFORMING AMENDMENTS.—Section  
6 1905(dd) of the Social Security Act (42 U.S.C.  
7 1396d(dd)) is amended—

8 (A) by striking “Notwithstanding” and in-  
9 serting the following:

10 “(1) IN GENERAL.—Notwithstanding”;

11 (B) by inserting “or furnished during the  
12 additional period specified in paragraph (2),”  
13 after “2015,”; and

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

15 “(2) ADDITIONAL PERIOD.—For purposes of  
16 paragraph (1), the additional period specified in this  
17 paragraph is the period beginning on the first day  
18 of the first month beginning after the date of the en-  
19 actment of the Kids’ Access to Primary Care Act of  
20 2023.”.

21 (b) IMPROVED TARGETING OF PRIMARY CARE.—

22 (1) IN GENERAL.—Section 1902(jj) of the So-  
23 cial Security Act (42 U.S.C. 1396a(jj)) is amend-  
24 ed—

1 (A) by redesignating paragraphs (1) and  
2 (2) as subparagraphs (A) and (B), respectively,  
3 and moving the margin of each such subpara-  
4 graph, as so redesignated, 2 ems to the right;

5 (B) by striking “For purposes of” and in-  
6 serting the following:

7 “(1) IN GENERAL.—For purposes of”; and

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

9 “(2) EXCLUSIONS.—Such term does not include  
10 any services described in subparagraph (A) or (B) of  
11 paragraph (1) if such services are provided in an  
12 emergency department of a hospital.”.

13 (2) EFFECTIVE DATE.—The amendments made  
14 by paragraph (1) shall apply with respect to primary  
15 care services provided on or after the first day of the  
16 period described in subparagraph (C)(ii) of section  
17 1902(a)(13) of the Social Security Act (42 U.S.C.  
18 1396a(a)(13)), as amended by section 2.

19 (c) ENSURING PAYMENT BY MANAGED CARE ENTI-  
20 TIES.—

21 (1) IN GENERAL.—Section 1903(m)(2)(A) of  
22 the Social Security Act (42 U.S.C. 1396b(m)(2)(A))  
23 is amended—

24 (A) in clause (xii), by striking “and” after  
25 the semicolon;

1 (B) in clause (xiii)—

2 (i) by moving the margin of such  
3 clause 2 ems to the left; and

4 (ii) by striking the period at the end  
5 and inserting “; and”; and

6 (C) by inserting after clause (xiii) the fol-  
7 lowing:

8 “(xiv) such contract provides that (I) payments  
9 to health care providers specified in section  
10 1902(a)(13)(C) for furnishing primary care services  
11 defined in section 1902(jj) during a year or period  
12 specified in section 1902(a)(13)(C) are at least equal  
13 to the amounts set forth and required by the Sec-  
14 retary by regulation, (II) the entity shall, upon re-  
15 quest, provide documentation to the State that is  
16 sufficient to enable the State and the Secretary to  
17 ensure compliance with subclause (I), and (III) the  
18 Secretary shall approve payments described in sub-  
19 clause (I) that are furnished through an agreed-  
20 upon capitation, partial capitation, or other value-  
21 based payment arrangement if the agreed-upon capi-  
22 tation, partial capitation, or other value-based pay-  
23 ment arrangement is based on a reasonable method-  
24 ology and the entity provides documentation to the



1 State that is sufficient to enable the State and the  
2 Secretary to ensure compliance with subclause (I).”.

3 (2) CONFORMING AMENDMENT.—Section  
4 1932(f) of the Social Security Act (42 U.S.C.  
5 1396u–2(f)) is amended by inserting “and clause  
6 (xiv) of section 1903(m)(2)(A)” before the period.

7 (3) EFFECTIVE DATE.—The amendments made  
8 by this subsection shall apply with respect to con-  
9 tracts entered into on or after the date of the enact-  
10 ment of this Act.

11 **SEC. 3. STUDY.**

12 (a) IN GENERAL.—Not later than the date that is  
13 one year and one month after the date of the enactment  
14 of this Act, the Secretary of Health and Human Services  
15 shall conduct a study—

16 (1) comparing the number of children enrolled  
17 in a State plan under title XIX of the Social Secu-  
18 rity Act (42 U.S.C. 1396 et seq.) (or a waiver of  
19 such plan) during the 12-month period preceding the  
20 first day of the period described in subparagraph  
21 (C)(ii) of section 1902(a)(13) of such Act (42  
22 U.S.C. 1396a(a)(13)), as amended by section 2, to  
23 the number of children so enrolled during the 12-  
24 month period beginning on such first day;

1           (2) comparing the number of health care pro-  
2           viders receiving payments for primary care services  
3           under the Medicaid program under such title during  
4           the 12-month period preceding the first day of the  
5           period described in subparagraph (C)(ii) of section  
6           1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)),  
7           as amended by section 2, to the number of health  
8           care providers receiving such payments during the  
9           12-month period beginning on such first day; and

10           (3) comparing health care provider payment  
11           rates for primary care services under the Medicaid  
12           program under such title during the 12-month pe-  
13           riod beginning on the first day of the period de-  
14           scribed in subparagraph (C)(ii) of section  
15           1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)),  
16           as amended by section 2, across States, using the in-  
17           dexes described in subsection (b).

18           (b) INDEXES DESCRIBED.—The indexes described in  
19 this subsection are each of the following:

20           (1) A Medicaid fee index, comparing each  
21           State’s average fee for primary care services under  
22           the Medicaid program under such title to the na-  
23           tional average for such services.

24           (2) A Medicaid-to-Medicare fee index, com-  
25           paring each State’s average fee for primary care

1 services under the Medicaid program under such  
2 title to the fee for such services under the Medicare  
3 program under title XVIII of such Act (42 U.S.C.  
4 1395 et seq.).

5 (3) A Medicaid fee change index, comparing  
6 fees for primary care services under the Medicaid  
7 program under such title during the 12-month pe-  
8 riod preceding the first day of the period described  
9 in subparagraph (C)(ii) of section 1902(a)(13) of  
10 such Act (42 U.S.C. 1396a(a)(13)), as amended by  
11 section 2, to the fees for such services during the  
12 12-month period beginning on such first day.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—For pur-  
14 poses of this section, there is authorized to be appro-  
15 priated \$200,000 for fiscal year 2024, to be available until  
16 expended.

17 **SEC. 4. SENSE OF CONGRESS REGARDING USE OF BRIGHT**  
18 **FUTURES GUIDELINES.**

19 It is the sense of Congress that health care providers  
20 should provide early and periodic screening, diagnostic,  
21 and treatment services (as defined in section 1905(r) of  
22 the Social Security Act (42 U.S.C. 1396d(r))) in accord-  
23 ance with the guidelines of the American Academy of Pe-

- 1 diatrics entitled, “Bright Futures: Guidelines for Health
- 2 Supervision of Infants, Children, and Adolescents”.

