

117TH CONGRESS
1ST SESSION

S. 2411

To prevent surprise medical bills with respect to COVID–19 testing.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2021

Ms. SMITH (for herself and Ms. KLOBUCHAR) introduced the following bill;
which was read twice and referred to the Committee on Health, Edu-
cation, Labor, and Pensions

A BILL

To prevent surprise medical bills with respect to COVID–
19 testing.

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 “Stop COVID–19 Test
5 Surprise Medical Bills Act of 2021”.

6 **SEC. 2. MEDICAL MANAGEMENT.**

7 Section 6001 of the Families First Coronavirus Re-
8 sponse Act (Public Law 116–127) is amended by adding
9 at the end the following:

1 “(e) **MEDICAL MANAGEMENT.**—For purposes of this
2 section, the term ‘medical management’ includes deter-
3 minations about why an individual sought testing, the na-
4 ture of the clinical assessment that was associated with
5 the testing, whether the individual was showing symptoms,
6 what provider ordered the testing, the frequency of testing
7 obtained by the individual, and other reviews of the en-
8 counters or events that proceeded or followed a service de-
9 scribed in subsection (a). Such term does not include rea-
10 sonable efforts by a group health plan or health insurance
11 issuer to encourage individuals to obtain tests from lower
12 priced providers (provided that such reasonable efforts do
13 not delay or otherwise impede access to testing).”.

14 **SEC. 3. PRICING OF DIAGNOSTIC TESTING.**

15 Section 3202 of the CARES Act (Public Law 116–
16 136) is amended—

17 (1) in subsection (a)—

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

20 “(1) With respect to such items and services
21 provided by a participating provider, such plan or
22 issuer shall reimburse such provider the rate that
23 the health plan or issuer has negotiated with such
24 provider before the public health emergency declared

1 under section 319 of the Public Health Service Act
2 (42 U.S.C. 247d) with respect to COVID–19.”; and

3 (B) by amending paragraph (2) to read as
4 follows:

5 “(2) With respect to such items and services
6 provided by a nonparticipating provider or facility,
7 such plan or issuer shall reimburse such provider in
8 an amount equal to the lesser of—

9 “(A) the cash price for a diagnostic test
10 for COVID–19; or

11 “(B) 2 times the reimbursement rate for
12 the applicable items and services under the
13 Medicare program under title XVIII of the So-
14 cial Security Act (42 U.S.C. 1395 et seq.).”;

15 (2) in subsection (b)(2), by striking “\$300”
16 and inserting “\$10,000”; and

17 (3) by adding at the end the following:

18 “(c) NO CHARGES FOR COVID–19 TESTING.—A
19 provider shall not bill, and shall not hold liable, any indi-
20 vidual receiving items and services described in section
21 6001(a) of division F of the Families First Coronavirus
22 Response Act (Public Law 116–127) for a payment
23 amount for such an item or service furnished by such pro-
24 vider.”.

1 **SEC. 4. IMPROVEMENTS TO TRANSPARENCY POLICY.**

2 (a) IN GENERAL.—Section 3202 of the CARES Act
3 (Public Law 116–136), as amended by section 3, is fur-
4 ther amended by adding at the end the following:

5 “(d) IMPROVEMENTS TO TRANSPARENCY POLICY.—
6 Not later than 30 days after the date of enactment of this
7 subsection, the Secretary of Health and Human Services
8 shall survey a sample of providers of the items and serv-
9 ices described in section 6001(a) of division F of the Fam-
10 ilies First Coronavirus Response Act (Public Law 116–
11 127) regarding the cash prices for such items and services
12 as listed by the providers on a public internet website. The
13 Secretary shall survey no fewer than 200 providers rep-
14 resenting a diversity of sizes, geographic locations, test
15 types, and care settings (such as hospitals, laboratories,
16 and free-standing emergency rooms).

17 “(e) PUBLIC REPORT.—Not later than 45 days after
18 the date of enactment of this subsection, the Secretary of
19 Health and Human Services shall publish a report on cash
20 prices for items and services published under subsection
21 (b)(1), which shall include—

22 “(1) the compliance rate of providers with the
23 cash price publication requirement under subsection
24 (b)(1);

25 “(2) the average cash price for each item and
26 service described in section 6001(a) of division F of

1 the Families First Coronavirus Response Act (Public
2 Law 116–127) and published under subsection
3 (b)(1);

4 “(3) with respect to each such item and service,
5 a comparison of such average cash price to the reim-
6 bursement rate under the Medicare program under
7 title XVIII of the Social Security Act (42 U.S.C.
8 1395 et seq.); and

9 “(4) any outlier cash prices published under
10 subsection (b)(1) (including the names of the pro-
11 viders charging such prices) that substantially ex-
12 ceed the average cash price.”.

13 **SEC. 5. GUIDANCE ON BILLING FOR PROVIDER VISITS AS-**
14 **SOCIATED WITH COVID-19 TESTING.**

15 The Secretary of Health and Human Services, the
16 Secretary of Labor, and the Secretary of the Treasury,
17 shall jointly issue guidance, not later than 30 days after
18 the date of enactment of this Act, for purposes of clari-
19 fying—

20 (1) the process for submitting claims for items
21 and services described in section 6001(a) of the
22 Families First Coronavirus Response Act (Public
23 Law 116–127) to ensure that individuals enrolled in
24 individual or group health insurance coverage or
25 group health plans to whom such items and services

1 are furnished are not subject to cost-sharing or prior
2 authorization or other medical management require-
3 ments; and

4 (2) that providers should not collect cost-shar-
5 ing amounts from individuals seeking items and
6 services described in section 6001(a) of such Act.

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