

116TH CONGRESS  
2D SESSION

# S. 4469

To ensure coverage of a COVID–19 vaccine and treatment.

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IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2020

Ms. SMITH (for herself, Mr. BENNET, and Ms. HARRIS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To ensure coverage of a COVID–19 vaccine and treatment.

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 “COVID–19 Treatment Coverage Act”.

6       (b) **TABLE OF CONTENTS.**—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Coverage at no cost sharing of COVID–19 vaccine and treatment under Medicaid program.

Sec. 3. Coverage of treatment and vaccines at no cost sharing for the uninsured.

Sec. 4. Coverage of COVID–19 treatment at no cost sharing under Medicare program.

Sec. 5. Coverage of COVID–19 treatment at no cost sharing under Medicare Advantage program.

- Sec. 6. Coverage of COVID–19 Drugs at no cost sharing under Medicare prescription drug plans.
- Sec. 7. Coverage of COVID–19 treatment at no cost sharing under private health insurance.
- Sec. 8. Coverage of COVID–19 treatment at no cost sharing for TRICARE recipients.
- Sec. 9. Coverage of COVID–19 treatment at no cost sharing for veterans.
- Sec. 10. Coverage of COVID–19 treatment at no cost sharing for Federal civilian employees.
- Sec. 11. Coverage of COVID–19 treatment at no cost sharing under Indian Health Service.
- Sec. 12. Sense of Congress related to surprise medical bills.
- Sec. 13. Special enrollment period; outreach and enrollment activities.

1 **SEC. 2. COVERAGE AT NO COST SHARING OF COVID–19 VAC-**  
 2 **CINE AND TREATMENT UNDER MEDICAID**  
 3 **PROGRAM.**

4 (a) MEDICAID.—

5 (1) IN GENERAL.—Section 1905(a)(4) of the  
 6 Social Security Act (42 U.S.C. 1396d(a)(4)) is  
 7 amended—

8 (A) by striking “and (D)” and inserting  
 9 “(D)”; and

10 (B) by striking the semicolon at the end  
 11 and inserting “; (E) during the portion of the  
 12 emergency period described in paragraph (1)(B)  
 13 of section 1135(g) beginning on the date of the  
 14 enactment of the COVID–19 Treatment Cov-  
 15 erage Act, a COVID–19 vaccine licensed under  
 16 section 351 of the Public Health Service Act, or  
 17 approved or authorized under section 505 or  
 18 564 of the Federal Food, Drug, and Cosmetic  
 19 Act, and administration of the vaccine; (F) dur-

1 ing such portion of the emergency period de-  
2 scribed in paragraph (1)(B) of section 1135(g),  
3 items or services for the prevention or treat-  
4 ment of COVID–19, including drugs approved  
5 or authorized under such section 505 or such  
6 section 564 or, without regard to the require-  
7 ments of section 1902(a)(10)(B) (relating to  
8 comparability), in the case of an individual who  
9 is diagnosed with or presumed to have COVID–  
10 19, during such portion of such emergency pe-  
11 riod during which such individual is infected (or  
12 presumed infected) with COVID–19, the treat-  
13 ment of a condition that may complicate the  
14 treatment of COVID–19;”.

15 (2) PROHIBITION OF COST SHARING.—

16 (A) IN GENERAL.—Subsections (a)(2) and  
17 (b)(2) of section 1916 of the Social Security  
18 Act (42 U.S.C. 1396o) are each amended—

19 (i) in subparagraph (F), by striking  
20 “or” at the end;

21 (ii) in subparagraph (G), by striking  
22 “; and” and inserting “, or”; and

23 (iii) by adding at the end the fol-  
24 lowing subparagraphs:

1           “(H) during the portion of the emergency  
2 period described in paragraph (1)(B) of section  
3 1135(g) beginning on the date of the enactment  
4 of this subparagraph, a COVID–19 vaccine li-  
5 censed under section 351 of the Public Health  
6 Service Act, or approved or authorized under  
7 section 505 or 564 of the Federal Food, Drug,  
8 and Cosmetic Act, and the administration of  
9 such vaccine, or

10           “(I) during such portion of the emergency  
11 period described in paragraph (1)(B) of section  
12 1135(g), any item or service furnished for the  
13 treatment of COVID–19, including drugs ap-  
14 proved or authorized under such section 505 or  
15 such section 564 or, in the case of an individual  
16 who is diagnosed with or presumed to have  
17 COVID–19, during the portion of such emer-  
18 gency period during which such individual is in-  
19 fected (or presumed infected) with COVID–19,  
20 the treatment of a condition that may com-  
21 plicate the treatment of COVID–19; and”.

22           (B) APPLICATION TO ALTERNATIVE COST  
23 SHARING.—Section 1916A(b)(3)(B) of the So-  
24 cial Security Act (42 U.S.C. 1396o–1(b)(3)(B))  
25 is amended—

1 (i) in clause (xi), by striking “any  
2 visit” and inserting “any service”; and

3 (ii) by adding at the end the following  
4 clauses:

5 “(xii) During the portion of the emer-  
6 gency period described in paragraph (1)(B)  
7 of section 1135(g) beginning on the date of  
8 the enactment of this clause, a COVID–19  
9 vaccine licensed under section 351 of the  
10 Public Health Service Act, or approved or  
11 authorized under section 505 or 564 of the  
12 Federal Food, Drug, and Cosmetic Act,  
13 and the administration of such vaccine.

14 “(xiii) During such portion of the  
15 emergency period described in paragraph  
16 (1)(B) of section 1135(g), an item or serv-  
17 ice furnished for the treatment of COVID–  
18 19, including drugs approved or authorized  
19 under such section 505 or such section 564  
20 or, in the case of an individual who is diag-  
21 nosed with or presumed to have COVID–  
22 19, during such portion of such emergency  
23 period during which such individual is in-  
24 fected (or presumed infected) with  
25 COVID–19, the treatment of a condition

1           that may complicate the treatment of  
2           COVID–19.”.

3           (C) CLARIFICATION.—The amendments  
4           made by this subsection shall apply with respect  
5           to a State plan of a territory in the same man-  
6           ner as a State plan of one of the 50 States.

7           (b) STATE PEDIATRIC VACCINE DISTRIBUTION PRO-  
8           GRAM.—Section 1928 of the Social Security Act (42  
9           U.S.C. 1396s) is amended—

10           (1) in subsection (a)(1)—

11           (A) in subparagraph (A), by striking “;  
12           and” and inserting a semicolon;

13           (B) in subparagraph (B), by striking the  
14           period and inserting “; and”; and

15           (C) by adding at the end the following sub-  
16           paragraph:

17           “(C) during the portion of the emergency  
18           period described in paragraph (1)(B) of section  
19           1135(g) beginning on the date of the enactment  
20           of this subparagraph, each vaccine-eligible child  
21           (as defined in subsection (b)) is entitled to re-  
22           ceive a COVID–19 vaccine from a program-reg-  
23           istered provider (as defined in subsection  
24           (h)(7)) without charge for—

25           “(i) the cost of such vaccine; or

1                   “(ii) the administration of such vac-  
2                   cine.”;

3                   (2) in subsection (c)(2)—

4                   (A) in subparagraph (C)(ii), by inserting “,  
5                   but, during the portion of the emergency period  
6                   described in paragraph (1)(B) of section  
7                   1135(g) beginning on the date of the enactment  
8                   of the COVID–19 Treatment Coverage Act,  
9                   may not impose a fee for the administration of  
10                  a COVID–19 vaccine” before the period; and

11                  (B) by adding at the end the following sub-  
12                  paragraph:

13                  “(D) The provider will provide and admin-  
14                  ister an approved COVID–19 vaccine to a vac-  
15                  cine-eligible child in accordance with the same  
16                  requirements as apply under the preceding sub-  
17                  paragraphs to the provision and administration  
18                  of a qualified pediatric vaccine to such a  
19                  child.”; and

20                  (3) in subsection (d)(1), in the first sentence,  
21                  by inserting “, including, during the portion of the  
22                  emergency period described in paragraph (1)(B) of  
23                  section 1135(g) beginning on the date of the enact-  
24                  ment of the COVID–19 Treatment Coverage Act,  
25                  with respect to a COVID–19 vaccine licensed under

1 section 351 of the Public Health Service Act, or ap-  
2 proved or authorized under section 505 or 564 of  
3 the Federal Food, Drug, and Cosmetic Act” before  
4 the period.

5 (c) CHIP.—

6 (1) IN GENERAL.—Section 2103(c) of the So-  
7 cial Security Act (42 U.S.C. 1397cc(e)) is amended  
8 by adding at the end the following paragraph:

9 “(11) COVERAGE OF COVID–19 VACCINES AND  
10 TREATMENT.—Regardless of the type of coverage  
11 elected by a State under subsection (a), child health  
12 assistance provided under such coverage for targeted  
13 low-income children and, in the case that the State  
14 elects to provide pregnancy-related assistance under  
15 such coverage pursuant to section 2112, such preg-  
16 nancy-related assistance for targeted low-income  
17 pregnant women (as defined in section 2112(d))  
18 shall include coverage, during the portion of the  
19 emergency period described in paragraph (1)(B) of  
20 section 1135(g) beginning on the date of the enact-  
21 ment of this paragraph, of—

22 “(A) a COVID–19 vaccine licensed under  
23 section 351 of the Public Health Service Act, or  
24 approved or authorized under section 505 or  
25 564 of the Federal Food, Drug, and Cosmetic



1 Act, and the administration of such vaccine;  
2 and

3 “(B) any item or service furnished for the  
4 treatment of COVID–19, including drugs ap-  
5 proved or authorized under such section 505 or  
6 such section 564, or, in the case of an indi-  
7 vidual who is diagnosed with or presumed to  
8 have COVID–19, during the portion of such  
9 emergency period during which such individual  
10 is infected (or presumed infected) with COVID–  
11 19, the treatment of a condition that may com-  
12 plicate the treatment of COVID–19.”

13 (2) PROHIBITION OF COST SHARING.—Section  
14 2103(e)(2) of the Social Security Act (42 U.S.C.  
15 1397cc(e)(2)), as amended by section 6004(b)(3) of  
16 the Families First Coronavirus Response Act, is  
17 amended—

18 (A) in the paragraph header, by inserting  
19 “A COVID–19 VACCINE, COVID–19 TREATMENT,”  
20 before “OR PREGNANCY-RELATED ASSISTANCE”;  
21 and

22 (B) by striking “visits described in section  
23 1916(a)(2)(G), or” and inserting “services de-  
24 scribed in section 1916(a)(2)(G), vaccines de-  
25 scribed in section 1916(a)(2)(H) administered

1 during the portion of the emergency period de-  
2 scribed in paragraph (1)(B) of section 1135(g)  
3 beginning on the date of the enactment of the  
4 COVID–19 Treatment Coverage Act, items or  
5 services described in section 1916(a)(2)(I) fur-  
6 nished during such emergency period, or”.

7 (d) CONFORMING AMENDMENTS.—Section 1937 of  
8 the Social Security Act (42 U.S.C. 1396u–7) is amend-  
9 ed—

10 (1) in subsection (a)(1)(B), by inserting “,  
11 under subclause (XXIII) of section  
12 1902(a)(10)(A)(ii),” after “section  
13 1902(a)(10)(A)(i)”; and

14 (2) in subsection (b)(5), by adding before the  
15 period the following: “, and, effective on the date of  
16 the enactment of the COVID–19 Treatment Cov-  
17 erage Act, must comply with subparagraphs (F)  
18 through (I) of subsections (a)(2) and (b)(2) of sec-  
19 tion 1916 and subsection (b)(3)(B) of section  
20 1916A”.

21 (e) EFFECTIVE DATE.—The amendments made by  
22 this section shall take effect on the date of enactment of  
23 this Act and shall apply with respect to a COVID–19 vac-  
24 cine beginning on the date that such vaccine is licensed  
25 under section 351 of the Public Health Service Act (42

1 U.S.C. 262), or approved or authorized under section 505  
2 or 564 of the Federal Food, Drug, and Cosmetic Act.

3 **SEC. 3. COVERAGE OF TREATMENT AND VACCINES AT NO**  
4 **COST SHARING FOR THE UNINSURED.**

5 (a) IN GENERAL.—Section 1902(a)(10) of the Social  
6 Security Act (42 U.S.C. 1396a(a)(10)) is amended, in the  
7 matter following subparagraph (G), by striking “and any  
8 visit described in section 1916(a)(2)(G)” and inserting the  
9 following: “, any COVID–19 vaccine that is administered  
10 during any such portion (and the administration of such  
11 vaccine), any item or service that is furnished during any  
12 such portion for the treatment of COVID–19, including  
13 drugs approved or authorized under section 505 or 564  
14 of the Federal Food, Drug, and Cosmetic Act, or, in the  
15 case of an individual who is diagnosed with or presumed  
16 to have COVID–19, during the period such individual is  
17 infected (or presumed infected) with COVID–19, the  
18 treatment of a condition that may complicate the treat-  
19 ment of COVID–19, the treatment of a COVID–19-re-  
20 lated condition that follows the treatment of, or hos-  
21 pitalization with, COVID–19, and any services described  
22 in section 1916(a)(2)(G)”.

23 (b) DEFINITION OF UNINSURED INDIVIDUAL.—

1           (1) IN GENERAL.—Subsection (ss) of section  
2           1902 of the Social Security Act (42 U.S.C. 1396a)  
3           is amended to read as follows:

4           “(ss) UNINSURED INDIVIDUAL DEFINED.—For pur-  
5           poses of this section, the term ‘uninsured individual’  
6           means, notwithstanding any other provision of this title,  
7           any individual who is not covered by minimum essential  
8           coverage (as defined in section 5000A(f)(1) of the Internal  
9           Revenue Code of 1986).”.

10           (2) EFFECTIVE DATE.—The amendment made  
11           by paragraph (1) shall take effect and apply as if in-  
12           cluded in the enactment of the Families First  
13           Coronavirus Response Act (Public Law 116–127).

14           (c) CLARIFICATION REGARDING EMERGENCY SERV-  
15           ICES FOR CERTAIN INDIVIDUALS.—For purposes of apply-  
16           ing section 1903(v)(2)(A) of the Social Security Act (42  
17           U.S.C. 1396b(v)(2)(A)), the care and services described  
18           in such section shall include the following:

19           (1) In vitro diagnostic products (as defined in  
20           section 809.3(a) of title 21, Code of Federal Regula-  
21           tions), and the administration of such products.

22           (2) A COVID–19 vaccine (and the administra-  
23           tion of such vaccine).

24           (3) Any item or service that is furnished for the  
25           treatment of COVID–19 or a condition that may

1       complicate the treatment of COVID–19, the treat-  
2       ment of a COVID–19-related condition that follows  
3       the treatment of, or hospitalization with, COVID–  
4       19, and any services described in section  
5       1916(a)(2)(G) of such Act (42 U.S.C.  
6       1396o(a)(2)(G)).

7       (d) EMERGENCY MEDICAID FOR INDIVIDUALS WITH  
8       SUSPECTED COVID–19 INFECTIONS.—For purposes of  
9       applying section 1903(v)(3) of the Social Security Act (42  
10      U.S.C. 1396b(v)(3)), the term “emergency medical condi-  
11      tion” (as defined in such section 1903(v)(3)) shall include,  
12      with respect to an individual, any concern that the indi-  
13      vidual may have contracted COVID–19.

14      (e) TREATMENT OF ASSISTANCE AND SERVICES PRO-  
15      VIDED.—Beginning on the date of enactment of this Act—

16              (1) the value of assistance or services provided  
17              to any person under a program with respect to  
18              which a coronavirus response law establishes or ex-  
19              pands eligibility or benefits shall not be considered  
20              income or resources; and

21              (2)(A) any medical coverage or services pro-  
22              vided to an individual under subsection (v) of section  
23              1903 of the Social Security Act (42 U.S.C. 1396b)  
24              shall be considered treatment for an emergency med-  
25              ical condition (as defined in subsection (v)(3) of

1 such section) for any purpose under any Federal,  
2 State, or local law, including law relating to tax-  
3 ation, welfare, and public assistance programs; and

4 (B) a participating State or political subdivision  
5 of a State shall not decrease any assistance other-  
6 wise provided to an individual because of the receipt  
7 of benefits under the Social Security Act (42 U.S.C.  
8 301 et seq.).

9 (f) OTHER DEFINITIONS.—In this section:

10 (1) CORONAVIRUS PUBLIC HEALTH EMER-  
11 GENCY.—The term “coronavirus public health emer-  
12 gency” means—

13 (A) an emergency involving Federal pri-  
14 mary responsibility determined to exist by the  
15 President under section 501(b) of the Robert T.  
16 Stafford Disaster Relief and Emergency Assist-  
17 ance Act (42 U.S.C. 5191(b)) with respect to  
18 COVID–19 or any other coronavirus with pan-  
19 demic potential;

20 (B) an emergency declared by a Federal  
21 official with respect to coronavirus (as defined  
22 in section 506 of the Coronavirus Preparedness  
23 and Response Supplemental Appropriations  
24 Act, 2020 (Public Law 116–123));

1 (C) a national emergency declared by the  
2 President under the National Emergencies Act  
3 (50 U.S.C. 1601 et seq.) with respect to  
4 COVID–19 or any other coronavirus with pan-  
5 demic potential; and

6 (D) a public health emergency declared by  
7 the Secretary of Health and Human Services  
8 pursuant to section 319 of the Public Health  
9 Service Act (42 U.S.C. 247(d)) with respect to  
10 COVID–19 or any other coronavirus with pan-  
11 demic potential.

12 (2) CORONAVIRUS RESPONSE LAW.—The term  
13 “coronavirus response law” means—

14 (A) the Coronavirus Preparedness and Re-  
15 sponse Supplemental Appropriations Act, 2020  
16 (Public Law 116–123);

17 (B) the Families First Coronavirus Re-  
18 sponse Act (Public Law 116–127);

19 (C) the Coronavirus Aid, Relief, and Eco-  
20 nomic Security Act (Public Law 116–136); and

21 (D) any subsequent law that appropriates  
22 or otherwise makes available funds, establishes,  
23 amends, or expands a program, or authorizes  
24 activities or assistance for a purpose that is ex-  
25 pressly related to responding to, or mitigating

1           the effects of, a coronavirus public health emer-  
2           gency.

3           (g) REIMBURSEMENT FOR ADDITIONAL HEALTH  
4 SERVICES RELATING TO CORONAVIRUS.—Title V of divi-  
5 sion A of the Families First Coronavirus Response Act  
6 (Public Law 116–127) is amended under the heading  
7 “Department of Health and Human Services—Office of  
8 the Secretary—Public Health and Social Services Emer-  
9 gency Fund” by inserting “, or treatment related to  
10 SARS–CoV–2 or COVID–19 for uninsured individuals”  
11 after “or visits described in paragraph (2) of such section  
12 for uninsured individuals”.

13           (h) RULE OF CONSTRUCTION.—Nothing in this sec-  
14 tion shall be construed to limit—

15           (1) the types of care and services that are nec-  
16           essary for the treatment of an emergency condition  
17           for purposes of section 1903(v) of the Social Secu-  
18           rity Act (42 U.S.C. 1396b(v)); or

19           (2) the types of medical conditions that are  
20           “emergency medical conditions” for purposes of such  
21           section.

22 **SEC. 4. COVERAGE OF COVID–19 TREATMENT AT NO COST**  
23 **SHARING UNDER MEDICARE PROGRAM.**

24           (a) IN GENERAL.—Notwithstanding any other provi-  
25 sion of law, in the case of a specified COVID–19 treat-



1 ment service (as defined in subsection (b)) furnished dur-  
2 ing any portion of the emergency period described in para-  
3 graph (1)(B) of section 1135(g) of the Social Security Act  
4 (42 U.S.C. 1320b–5(g)) beginning on or after the date  
5 of the enactment of this Act to an individual entitled to  
6 benefits under part A or enrolled under part B of title  
7 XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)  
8 for which payment is made under such part A or such  
9 part B, the Secretary of Health and Human Services (in  
10 this section referred to as the “Secretary”) shall provide  
11 that—

12           (1) any cost sharing required (including any de-  
13 ductible, copayment, or coinsurance) applicable to  
14 such individual under such part A or such part B  
15 with respect to such item or service is paid by the  
16 Secretary; and

17           (2) the provider of services or supplier (as de-  
18 fined in section 1861 of the Social Security Act (42  
19 U.S.C. 1395x)) does not hold such individual liable  
20 for such requirement.

21           (b) DEFINITION OF SPECIFIED COVID–19 TREAT-  
22 MENT SERVICES.—For purposes of this section, the term  
23 “specified COVID–19 treatment service” means any item  
24 or service furnished to an individual for which payment  
25 may be made under part A or part B of title XVIII of

1 the Social Security Act (42 U.S.C. 1395 et seq.) if such  
2 item or service is included in a claim with an ICD–10–  
3 CM code relating to COVID–19 (as described in the docu-  
4 ment entitled “ICD–10–CM Official Coding Guidelines—  
5 Supplement Coding encounters related to COVID–19  
6 Coronavirus Outbreak” published on February 20, 2020,  
7 or as otherwise specified by the Secretary).

8 (c) RECOVERY OF COST-SHARING AMOUNTS PAID BY  
9 THE SECRETARY IN THE CASE OF SUPPLEMENTAL IN-  
10 SURANCE COVERAGE.—

11 (1) IN GENERAL.—In the case of any amount  
12 paid by the Secretary pursuant to subsection (a)(1)  
13 that the Secretary determines would otherwise have  
14 been paid by a group health plan or health insurance  
15 issuer (as such terms are defined in section 2791 of  
16 the Public Health Service Act (42 U.S.C. 300gg–  
17 91)), a private entity offering a medicare supple-  
18 mental policy under section 1882 of the Social Secu-  
19 rity Act (42 U.S.C. 1395ss), any other health plan  
20 offering supplemental coverage, a State plan under  
21 title XIX of the Social Security Act, or the Secretary  
22 of Defense under the TRICARE program, such  
23 plan, issuer, private entity, other health plan, State  
24 plan, or Secretary of Defense, as applicable, shall  
25 pay to the Secretary, not later than 1 year after

1 such plan, issuer, private entity, other health plan,  
2 State plan, or Secretary of Defense receives a notice  
3 under paragraph (3), such amount in accordance  
4 with this subsection.

5 (2) REQUIRED INFORMATION.—Not later than  
6 9 months after the date of the enactment of this  
7 Act, each group health plan, health insurance issuer,  
8 private entity, other health plan, State plan, and  
9 Secretary of Defense described in paragraph (1)  
10 shall submit to the Secretary such information as  
11 the Secretary determines necessary for purposes of  
12 carrying out this subsection. Such information so  
13 submitted shall be updated by such plan, issuer, pri-  
14 vate entity, other health plan, State plan, or Sec-  
15 retary of Defense, as applicable, at such time and in  
16 such manner as specified by the Secretary.

17 (3) REVIEW OF CLAIMS AND NOTIFICATION.—  
18 The Secretary shall establish a process under which  
19 claims for items and services for which the Secretary  
20 has paid an amount pursuant to subsection (a)(1)  
21 are reviewed for purposes of identifying if such  
22 amount would otherwise have been paid by a plan,  
23 issuer, private entity, other health plan, State plan,  
24 or Secretary of Defense described in paragraph (1).  
25 In the case such a claim is so identified, the Sec-

1       retary shall determine the amount that would have  
2       been otherwise payable by such plan, issuer, private  
3       entity, other health plan, State plan, or Secretary of  
4       Defense and notify such plan, issuer, private entity,  
5       other health plan, State plan, or Secretary of De-  
6       fense of such amount.

7               (4) ENFORCEMENT.—The Secretary may im-  
8       pose a civil monetary penalty in an amount deter-  
9       mined appropriate by the Secretary in the case of a  
10      plan, issuer, private entity, other health plan, or  
11      State plan that fails to comply with a provision of  
12      this section. The provisions of section 1128A of the  
13      Social Security Act shall apply to a civil monetary  
14      penalty imposed under the previous sentence in the  
15      same manner as such provisions apply to a penalty  
16      or proceeding under subsection (a) or (b) of such  
17      section.

18              (d) FUNDING.—The Secretary shall provide for the  
19      transfer to the Centers for Medicare & Medicaid Program  
20      Management Account from the Federal Hospital Insur-  
21      ance Trust Fund and the Federal Supplementary Trust  
22      Fund (in such portions as the Secretary determines appro-  
23      priate) \$100,000,000 for purposes of carrying out this  
24      section.

1 (e) REPORT.—Not later than 3 years after the date  
 2 of the enactment of this Act, the Inspector General of the  
 3 Department of Health and Human Services shall submit  
 4 to Congress a report containing an analysis of amounts  
 5 paid pursuant to subsection (a)(1) compared to amounts  
 6 paid to the Secretary pursuant to subsection (c).

7 (f) IMPLEMENTATION.—Notwithstanding any other  
 8 provision of law, the Secretary may implement the provi-  
 9 sions of this section by program instruction or otherwise.

10 **SEC. 5. COVERAGE OF COVID-19 TREATMENT AT NO COST**

11 **SHARING UNDER MEDICARE ADVANTAGE**  
 12 **PROGRAM.**

13 (a) IN GENERAL.—Section 1852(a)(1)(B) of the So-  
 14 cial Security Act (42 U.S.C. 1395w-22(a)(1)(B)) is  
 15 amended by adding at the end the following new clause:

16 “(vii) SPECIAL COVERAGE RULES FOR  
 17 SPECIFIED COVID-19 TREATMENT SERV-  
 18 ICES.—Notwithstanding clause (i), in the  
 19 case of a specified COVID-19 treatment  
 20 service (as defined in section 4(b) of the  
 21 COVID-19 Treatment Coverage Act) that  
 22 is furnished during a plan year occurring  
 23 during any portion of the emergency period  
 24 defined in section 1135(g)(1)(B) beginning  
 25 on or after the date of the enactment of

1           this clause, a Medicare Advantage plan  
 2           may not, with respect to such service, im-  
 3           pose—

4                       “(I) any cost-sharing require-  
 5                       ment (including a deductible, copay-  
 6                       ment, or coinsurance requirement);  
 7                       and

8                       “(II) in the case such service is a  
 9                       critical specified COVID–19 treat-  
 10                      ment service (including ventilator  
 11                      services and intensive care unit serv-  
 12                      ices), any prior authorization or other  
 13                      utilization management requirement.

14           A Medicare Advantage plan may not take  
 15           the application of this clause into account  
 16           for purposes of a bid amount submitted by  
 17           such plan under section 1854(a)(6).”.

18           (b) IMPLEMENTATION.—Notwithstanding any other  
 19           provision of law, the Secretary of Health and Human  
 20           Services may implement the amendments made by this  
 21           section by program instruction or otherwise.

22           **SEC. 6. COVERAGE OF COVID–19 DRUGS AT NO COST SHAR-**  
 23                               **ING UNDER MEDICARE PRESCRIPTION DRUG**  
 24                               **PLANS.**

25           (a) COVERAGE REQUIREMENT.—

1           (1) IN GENERAL.—Section 1860D–4(b)(3) of  
2 the Social Security Act (42 U.S.C. 1395w–  
3 104(b)(3)) is amended by adding at the end the fol-  
4 lowing new subparagraph:

5                   “(I) REQUIRED INCLUSION OF DRUGS IN-  
6 TENDED TO TREAT COVID–19.—

7                   “(i) IN GENERAL.—Notwithstanding  
8 any other provision of law, a PDP sponsor  
9 offering a prescription drug plan shall,  
10 with respect to a plan year, any portion of  
11 which occurs during the period described  
12 in clause (ii), be required to—

13                   “(I) include in any formulary—

14                   “(aa) all covered part D  
15 drugs with a medically accepted  
16 indication (as defined in section  
17 1860D–2(e)(4)) to treat COVID–  
18 19 that are marketed in the  
19 United States; and

20                   “(bb) all drugs authorized  
21 under section 564 or 564A of the  
22 Federal Food, Drug, and Cos-  
23 metic Act to treat COVID–19;  
24 and

1 “(II) not impose any prior au-  
2 thorization or other utilization man-  
3 agement requirement with respect to  
4 such drugs described in item (aa) or  
5 (bb) of subclause (I) (other than such  
6 a requirement that limits the quantity  
7 of drugs due to safety).

8 “(ii) PERIOD DESCRIBED.—For pur-  
9 poses of clause (i), the period described in  
10 this clause is the period during which there  
11 exists the public health emergency declared  
12 by the Secretary pursuant to section 319  
13 of the Public Health Service Act on Janu-  
14 ary 31, 2020, entitled ‘Determination that  
15 a Public Health Emergency Exists Nation-  
16 wide as the Result of the 2019 Novel  
17 Coronavirus’ (including any renewal of  
18 such declaration pursuant to such sec-  
19 tion).”.

20 (b) ELIMINATION OF COST SHARING.—

21 (1) ELIMINATION OF COST SHARING FOR  
22 DRUGS INTENDED TO TREAT COVID-19 UNDER  
23 STANDARD AND ALTERNATIVE PRESCRIPTION DRUG  
24 COVERAGE.—Section 1860D-2 of the Social Security  
25 Act (42 U.S.C. 1395w-102) is amended—



1 (A) in subsection (b)—

2 (i) in paragraph (1)(A), by striking  
3 “The coverage” and inserting “Subject to  
4 paragraph (8), the coverage”;

5 (ii) in paragraph (2)—

6 (I) in subparagraph (A), by in-  
7 serting after “Subject to subpara-  
8 graphs (C) and (D)” the following:  
9 “and paragraph (8)”;

10 (II) in subparagraph (C)(i), by  
11 striking “paragraph (4)” and insert-  
12 ing “paragraphs (4) and (8)”;

13 (III) in subparagraph (D)(i), by  
14 striking “paragraph (4)” and insert-  
15 ing “paragraphs (4) and (8)”;

16 (iii) in paragraph (4)(A)(i), by strik-  
17 ing “The coverage” and inserting “Subject  
18 to paragraph (8), the coverage”;

19 (iv) by adding at the end the following  
20 new paragraph:

21 “(8) ELIMINATION OF COST-SHARING FOR  
22 DRUGS INTENDED TO TREAT COVID-19.—The cov-  
23 erage does not impose any deductible, copayment,  
24 coinsurance, or other cost-sharing requirement for  
25 drugs described in section 1860D-4(b)(3)(I)(i)(I)

1 with respect to a plan year, any portion of which oc-  
2 curs during the period during which there exists the  
3 public health emergency declared by the Secretary  
4 pursuant to section 319 of the Public Health Service  
5 Act on January 31, 2020, entitled ‘Determination  
6 that a Public Health Emergency Exists Nationwide  
7 as the Result of the 2019 Novel Coronavirus’ (in-  
8 cluding any renewal of such declaration pursuant to  
9 such section).’; and

10 (B) in subsection (c), by adding at the end

11 the following new paragraph:

12 “(4) SAME ELIMINATION OF COST-SHARING FOR  
13 DRUGS INTENDED TO TREAT COVID–19.—The cov-  
14 erage is in accordance with subsection (b)(8).”.

15 (2) ELIMINATION OF COST SHARING FOR  
16 DRUGS INTENDED TO TREAT COVID–19 DISPENSED  
17 TO INDIVIDUALS WHO ARE SUBSIDY ELIGIBLE INDI-  
18 VIDUALS.—Section 1860D–14(a) of the Social Secu-  
19 rity Act (42 U.S.C. 1395w–114(a)) is amended—

20 (A) in paragraph (1)—

21 (i) in subparagraph (D)—

22 (I) in clause (ii), by striking “In  
23 the case of” and inserting “Subject to  
24 subparagraph (F), in the case of”;  
25 and

1 (II) in clause (iii), by striking  
2 “In the case of” and inserting “Sub-  
3 ject to subparagraph (F), in the case  
4 of”; and

5 (ii) by adding at the end the following  
6 new subparagraph:

7 “(F) ELIMINATION OF COST-SHARING FOR  
8 DRUGS INTENDED TO TREAT COVID-19.—Cov-  
9 erage that is in accordance with section  
10 1860D-2(b)(8).”; and

11 (B) in paragraph (2)—

12 (i) in subparagraph (B), by striking  
13 “A reduction” and inserting “Subject to  
14 subparagraph (F), a reduction”;

15 (ii) in subparagraph (D), by striking  
16 “The substitution” and inserting “Subject  
17 to subparagraph (F), the substitution”;

18 (iii) in subparagraph (E), by inserting  
19 after “Subject to” the following: “subpara-  
20 graph (F) and”; and

21 (iv) by adding at the end the following  
22 new subparagraph:

23 “(F) ELIMINATION OF COST-SHARING FOR  
24 DRUGS INTENDED TO TREAT COVID-19.—Cov-

1 erage that is in accordance with section  
2 1860D–2(b)(8).”.

3 (c) IMPLEMENTATION.—Notwithstanding any other  
4 provision of law, the Secretary of Health and Human  
5 Services may implement the amendments made by this  
6 section by program instruction or otherwise.

7 **SEC. 7. COVERAGE OF COVID-19 TREATMENT AT NO COST**  
8 **SHARING UNDER PRIVATE HEALTH INSUR-**  
9 **ANCE.**

10 (a) IN GENERAL.—A group health plan and a health  
11 insurance issuer offering group or individual health insur-  
12 ance coverage (including a grandfathered health plan (as  
13 defined in section 1251(e) of the Patient Protection and  
14 Affordable Care Act)) shall provide coverage, and shall not  
15 impose any cost sharing (including deductibles, copay-  
16 ments, and coinsurance) requirements, for the following  
17 items and services furnished during any portion of the  
18 emergency period defined in paragraph (1)(B) of section  
19 1135(g) of the Social Security Act (42 U.S.C. 1320b–  
20 5(g)) beginning on or after the date of the enactment of  
21 this Act:

22 (1) Medically necessary items and services (in-  
23 cluding in-person or telehealth visits in which such  
24 items and services are furnished) that are furnished  
25 to an individual who has been diagnosed with (or

1 after provision of the items and services is diagnosed  
2 with) COVID–19 to treat or mitigate the effects of  
3 COVID–19.

4 (2) Medically necessary items and services (in-  
5 cluding in-person or telehealth visits in which such  
6 items and services are furnished) that are furnished  
7 to an individual who is presumed to have COVID–  
8 19 but is never diagnosed as such, if the following  
9 conditions are met:

10 (A) Such items and services are furnished  
11 to the individual to treat or mitigate the effects  
12 of COVID–19 or to mitigate the impact of  
13 COVID–19 on society.

14 (B) Health care providers have taken ap-  
15 propriate steps under the circumstances to  
16 make a diagnosis, or confirm whether a diag-  
17 nosis was made, with respect to such individual,  
18 for COVID–19, if possible.

19 (b) ITEMS AND SERVICES RELATED TO COVID–  
20 19.—For purposes of this section—

21 (1) not later than one week after the date of  
22 the enactment of this section, the Secretary of  
23 Health and Human Services, the Secretary of Labor,  
24 and the Secretary of the Treasury shall jointly issue  
25 guidance specifying applicable diagnoses and medi-

1 cally necessary items and services related to  
2 COVID–19; and

3 (2) such items and services shall include all  
4 items or services that are relevant to the treatment  
5 or mitigation of COVID–19, regardless of whether  
6 such items or services are ordinarily covered under  
7 the terms of a group health plan or group or indi-  
8 vidual health insurance coverage offered by a health  
9 insurance issuer.

10 (c) ENFORCEMENT.—

11 (1) APPLICATION WITH RESPECT TO PHSA,  
12 ERISA, AND IRC.—The provisions of this section  
13 shall be applied by the Secretary of Health and  
14 Human Services, the Secretary of Labor, and the  
15 Secretary of the Treasury to group health plans and  
16 health insurance issuers offering group or individual  
17 health insurance coverage as if included in the provi-  
18 sions of part A of title XXVII of the Public Health  
19 Service Act (42 U.S.C. 300gg et seq.), part 7 of sub-  
20 title B of title I of the Employee Retirement Income  
21 Security Act of 1974 (29 U.S.C. 1181 et seq.), and  
22 subchapter B of chapter 100 of the Internal Rev-  
23 enue Code of 1986, as applicable.

24 (2) PRIVATE RIGHT OF ACTION.—An individual  
25 with respect to whom an action is taken by a group

1 health plan or health insurance issuer offering group  
2 or individual health insurance coverage in violation  
3 of subsection (a) may commence a civil action  
4 against the plan or issuer for appropriate relief. The  
5 previous sentence shall not be construed as limiting  
6 any enforcement mechanism otherwise applicable  
7 pursuant to paragraph (1).

8 (d) IMPLEMENTATION.—The Secretary of Health and  
9 Human Services, the Secretary of Labor, and the Sec-  
10 retary of the Treasury may implement the provisions of  
11 this section through sub-regulatory guidance, program in-  
12 struction or otherwise.

13 (e) TERMS.—The terms “group health plan”, “health  
14 insurance issuer”, “group health insurance coverage”, and  
15 “individual health insurance coverage” have the meanings  
16 given such terms in section 2791 of the Public Health  
17 Service Act (42 U.S.C. 300gg–91), section 733 of the Em-  
18 ployee Retirement Income Security Act of 1974 (29  
19 U.S.C. 1191b), and section 9832 of the Internal Revenue  
20 Code of 1986, as applicable.

21 **SEC. 8. COVERAGE OF COVID-19 TREATMENT AT NO COST**  
22 **SHARING FOR TRICARE RECIPIENTS.**

23 (a) IN GENERAL.—Section 6006(a) of the Families  
24 First Coronavirus Response Act (Public Law 116–127; 38  
25 U.S.C. 1074 note) is amended by striking “or visits de-

1 scribed in paragraph (2) of such section” and inserting  
2 “, visits described in paragraph (2) of such section, or  
3 medical care to treat COVID–19”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 subsection (a) shall apply with respect to medical care fur-  
6 nished on or after the date of the enactment of this Act.

7 **SEC. 9. COVERAGE OF COVID–19 TREATMENT AT NO COST**  
8 **SHARING FOR VETERANS.**

9 (a) IN GENERAL.—Section 6006(b) of the Families  
10 First Coronavirus Response Act (Public Law 116–127; 38  
11 U.S.C. 1701 note) is amended by striking “or visits de-  
12 scribed in paragraph (2) of such section” and inserting  
13 “, visits described in paragraph (2) of such section, or hos-  
14 pital care or medical services to treat COVID–19”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 subsection (a) shall apply with respect to hospital care and  
17 medical services furnished on or after the date of the en-  
18 actment of this Act.

19 **SEC. 10. COVERAGE OF COVID–19 TREATMENT AT NO COST**  
20 **SHARING FOR FEDERAL CIVILIAN EMPLOY-**  
21 **EES.**

22 (a) IN GENERAL.—Section 6006(c) of the Families  
23 First Coronavirus Response Act (Public Law 116–127; 5  
24 U.S.C. 8904 note) is amended by striking “or visits de-  
25 scribed in paragraph (2) of such section” and inserting



1 “, visits described in paragraph (2) of such section, or hos-  
2 pital care or medical services to treat COVID–19”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 subsection (a) shall apply with respect to hospital care and  
5 medical services furnished on or after the date of the en-  
6 actment of this Act.

7 **SEC. 11. COVERAGE OF COVID–19 TREATMENT AT NO COST**  
8 **SHARING UNDER INDIAN HEALTH SERVICE.**

9 The Secretary of Health and Human Services shall  
10 cover, without the imposition of any cost sharing require-  
11 ments, the cost of the following on or after the date of  
12 the enactment of this Act to Indians (as defined in section  
13 4 of the Indian Health Care Improvement Act (25 U.S.C.  
14 1603)) receiving health services through the Indian Health  
15 Service, regardless of whether such items or services are  
16 authorized under the Contract Health Services program  
17 funded by the Indian Health Service and operated by the  
18 Indian Health Service or operated by an Indian tribe or  
19 tribal organization under a contract or compact with the  
20 Indian Health Service under the Indian Self-Determina-  
21 tion and Education Assistance Act (25 U.S.C. 5301 et  
22 seq.), or are provided as a health service of the Indian  
23 Health Service:

24 (1) A COVID–19 vaccine licensed under section  
25 351 of the Public Health Service Act, or approved

1 or authorized under section 505 or 564 of the Fed-  
2 eral Food, Drug, and Cosmetic Act, and the admin-  
3 istration of such vaccine.

4 (2) Any item or service furnished for the treat-  
5 ment of COVID–19, including drugs approved or au-  
6 thORIZED under such section 505 or such section 564,  
7 or, in the case of an individual who is diagnosed  
8 with or presumed to have COVID–19, during the  
9 portion of such emergency period during which such  
10 individual is infected (or presumed infected) with  
11 COVID–19, the treatment of a condition that may  
12 complicate the treatment of COVID–19.

13 **SEC. 12. SENSE OF CONGRESS RELATED TO SURPRISE MED-**  
14 **ICAL BILLS.**

15 It is the sense of Congress that no individual should  
16 receive a medical bill, including a balance bill, for the cost  
17 of COVID–19 treatment, office visits related to COVID–  
18 19 treatment, COVID–19 vaccines, or the administration  
19 of those vaccines.

20 **SEC. 13. SPECIAL ENROLLMENT PERIOD; OUTREACH AND**  
21 **ENROLLMENT ACTIVITIES.**

22 (a) SPECIAL ENROLLMENT PERIOD THROUGH EX-  
23 CHANGES.—Section 1311(c) of the Patient Protection and  
24 Affordable Care Act (42 U.S.C. 18031(c)) is amended—

25 (1) in paragraph (6)—

1 (A) in subparagraph (C), by striking at the  
2 end “and”;

3 (B) in subparagraph (D), by striking at  
4 the end the period and inserting “; and”; and

5 (C) by adding at the end the following new  
6 subparagraph:

7 “(E) subject to subparagraph (B) of para-  
8 graph (8), the special enrollment period de-  
9 scribed in subparagraph (A) of such para-  
10 graph.”; and

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

13 “(8) SPECIAL ENROLLMENT PERIOD FOR CER-  
14 TAIN PUBLIC HEALTH EMERGENCY.—

15 “(A) IN GENERAL.—The Secretary shall,  
16 subject to subparagraph (B), require an Ex-  
17 change to provide—

18 “(i) for a special enrollment period  
19 during the emergency period described in  
20 section 1135(g)(1)(B) of the Social Secu-  
21 rity Act—

22 “(I) which shall begin on the  
23 date that is one week after the date of  
24 the enactment of this paragraph and  
25 which, in the case of an Exchange es-

1           tablished or operated by the Secretary  
2           within a State pursuant to section  
3           1321(c), shall be an 8-week period;  
4           and

5                   “(II) during which any individual  
6           who is otherwise eligible to enroll in a  
7           qualified health plan through the Ex-  
8           change may enroll in such a qualified  
9           health plan; and

10                   “(ii) that, in the case of an individual  
11           who enrolls in a qualified health plan  
12           through the Exchange during such enroll-  
13           ment period, the coverage period under  
14           such plan shall begin, at the option of the  
15           individual, on April 1, 2020, or on the first  
16           day of the month following the day the in-  
17           dividual selects a plan through such special  
18           enrollment period.

19                   “(B) EXCEPTION.—The requirement of  
20           subparagraph (A) shall not apply to a State-op-  
21           erated or State-established Exchange if such  
22           Exchange, prior to the date of the enactment of  
23           this paragraph, established or otherwise pro-  
24           vided for a special enrollment period to address  
25           access to coverage under qualified health plans

1           offered through such Exchange during the  
2           emergency period described in section  
3           1135(g)(1)(B) of the Social Security Act.”.

4           (b) FEDERAL EXCHANGE OUTREACH AND EDU-  
5           CATIONAL ACTIVITIES.—Section 1321(c) of the Patient  
6           Protection and Affordable Care Act (42 U.S.C. 18041(c))  
7           is amended by adding at the end the following new para-  
8           graph:

9                   “(3) OUTREACH AND EDUCATIONAL ACTIVI-  
10           TIES.—

11                   “(A) IN GENERAL.—In the case of an Ex-  
12           change established or operated by the Secretary  
13           within a State pursuant to this subsection, the  
14           Secretary shall carry out outreach and edu-  
15           cational activities for purposes of informing po-  
16           tential enrollees in qualified health plans offered  
17           through the Exchange of the availability of cov-  
18           erage under such plans and financial assistance  
19           for coverage under such plans. Such outreach  
20           and educational activities shall be provided in a  
21           manner that is culturally and linguistically ap-  
22           propriate to the needs of the populations being  
23           served by the Exchange (including hard-to-  
24           reach populations, such as racial and sexual mi-

1 norities, limited English proficient populations,  
2 and young adults).

3 “(B) LIMITATION ON USE OF FUNDS.—No  
4 funds appropriated under this paragraph shall  
5 be used for expenditures for promoting non-  
6 ACA compliant health insurance coverage.

7 “(C) NON-ACA COMPLIANT HEALTH IN-  
8 SURANCE COVERAGE.—For purposes of sub-  
9 paragraph (B):

10 “(i) The term ‘non-ACA compliant  
11 health insurance coverage’ means health  
12 insurance coverage, or a group health plan,  
13 that is not a qualified health plan.

14 “(ii) Such term includes the following:

15 “(I) An association health plan.

16 “(II) Short-term limited duration  
17 insurance.

18 “(D) FUNDING.—There are appropriated,  
19 out of any funds in the Treasury not otherwise  
20 appropriated, \$25,000,000, to remain available  
21 until expended—

22 “(i) to carry out this paragraph; and

23 “(ii) at the discretion of the Sec-  
24 retary, to carry out section 1311(i), with  
25 respect to an Exchange established or op-

1                   erated by the Secretary within a State pur-  
2                   suant to this subsection.”.

3           (c) IMPLEMENTATION.—The Secretary of Health and  
4 Human Services may implement the provisions of (includ-  
5 ing amendments made by) this section through subregu-  
6 latory guidance, program instruction, or otherwise.

○