114TH CONGRESS
1ST SESSION

S. 737

To amend title XIX of the Social Security Act to extend the application of the Medicare payment rate floor to primary care services furnished under Medicaid and to apply the rate floor to additional providers of primary care services.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2015

Mr. BROWN (for himself, Mrs. MURRAY, Mr. HEINRICH, Mr. SCHATZ, Ms. BALDWIN, Mr. SANDERS, Ms. STABENOW, Mr. FRANKEN, Mr. BLUMENTHAL, Mrs. BOXER, Mr. LEAHY, Ms. HIRONO, and Mr. MURPHY) introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend title XIX of the Social Security Act to extend the application of the Medicare payment rate floor to primary care services furnished under Medicaid and to apply the rate floor to additional providers of primary care services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ensuring Access to Primary Care for Women & Children Act''.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Medicaid plays a key role in providing coverage for millions of working families.

(2) Medicaid enrollees include families, pregnant women, children, individuals with disabilities, and other low-income individuals. Without Medicaid coverage, many enrollees would be uninsured or lack coverage for services they need.

(3) In 2014, the Medicaid program covered 69,000,000 individuals, or 1 in every 5 Americans. This number will continue to grow, particularly since the Affordable Care Act significantly expanded eligibility to millions of uninsured adults.

(4) If all States expand their Medicaid programs, an estimated 7,000,000 women ages 18 to 64 would gain coverage under Medicaid.

(5) In 47 States and in the District of Columbia, Medicaid pays up to 67 percent less than Medicare for the same primary care services.

(6) Congress has recognized that low provider participation in Medicaid decreases access to health care. To address this problem, Congress acted to increase Medicaid payments for certain primary care services to be not less than the Medicare payment rates for 2013 and 2014.

(7) As more Americans become insured and empowered participants in their own health care, demand for primary care services is expected to increase over the next few years.

(8) According to a study published earlier this year in the New England Journal of Medicine, higher Medicaid payment rates have significantly increased appointment availability for Medicaid enrollees.

(9) Six in 10 women ages 18 to 44 (58 percent) report they see an obstetrics and gynecology (OB/GYN) physician on a regular basis. They are more likely to see their OB/GYN physician on a regular basis than any other type of provider. Given that women comprise the majority of Medicaid enrollees, it is critical that primary care providers, including OB/GYN physicians, receive sufficient reimbursement to participate in Medicaid.

(10) Nurse practitioners and other health professionals deliver many primary care services. Applying Medicare's rates for nurse practitioners and other health professionals encourages greater participation in Medicaid, thereby increasing access to primary care, particularly in underserved areas.

(11) The enhanced Medicaid reimbursement rate ensures providers have the financial capability to serve their patients' primary care needs. Furthermore, adding nurse practitioners, physician assistants, certified nurse-midwives, and OB/GYN physicians serving in primary care settings increases access to critical health care services for women and children nationwide.

SEC. 3. RENEWAL OF APPLICATION OF MEDICARE PAYMENT RATE FLOOR TO PRIMARY CARE SERVICES FURNISHED UNDER MEDICAID AND INCLUSION OF ADDITIONAL PROVIDERS.

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

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

''(C) payment for primary care services (as defined in subsection (jj)) at a rate that is not less than 100 percent of the payment rate that applies to such services and physician under part B of title XVIII (or, if greater, the payment rate that would be applicable under such part if the conversion factor under section

1848(d) for the year involved were the conversion factor under such section for 2009), and that is not less than the rate that would otherwise apply to such services under this title if the rate were determined without regard to this subparagraph, and that are—

''(i) furnished in 2013 and 2014, by a physician with a primary specialty designation of family medicine, general internal medicine, or pediatric medicine; or

''(ii) furnished in the 2-year period that begins on the first day of the first month that begins after the date of enactment of the Ensuring Access to Primary Care for Women & Children Act—

''(I) by a physician with a primary specialty designation of family medicine, general internal medicine, or pediatric medicine, but only if the physician self-attests that the physician is Board certified in family medicine, general internal medicine, or pediatric medicine;

''(II) by a physician with a primary specialty designation of obstet-

rics and gynecology, but only if the physician self-attests that the physician is Board certified in obstetrics and gynecology;

"(III) by an advanced practice clinician, as defined by the Secretary, that works under the supervision of—

"(aa) a physician that satisfies the criteria specified in subclause (I) or (II); or

"(bb) a nurse practitioner or a physician assistant (as such terms are defined in section 1861(aa)(5)(A)) who is working in accordance with State law, or a certified nurse-midwife (as defined in section 1861(gg)) who is working in accordance with State law;

"(IV) by a rural health clinic, Federally-qualified health center, or other health clinic that receives reimbursement on a fee schedule applicable to a physician, a nurse practitioner or a physician assistant (as

such terms are defined in section 1861(aa)(5)(A)) who is working in accordance with State law, or a certified nurse-midwife (as defined in section 1861(gg)) who is working in accordance with State law, for services furnished by a physician, nurse practitioner, physician assistant, or certified nurse-midwife, or services furnished by an advanced practice clinician supervised by a physician described in subclause (I)(aa) or (II)(aa), another advanced practice clinician, or a certified nurse-midwife; or

''(V) by a nurse practitioner or a physician assistant (as such terms are defined in section 1861(aa)(5)(A)) who is working in accordance with State law, or a certified nurse-midwife (as defined in section 1861(gg)) who is working in accordance with State law, in accordance with procedures that ensure that the portion of the payment for such services that the nurse practitioner, physician assist-

ant, or certified nurse-midwife is paid is not less than the amount that the nurse practitioner, physician assistant, or certified nurse-midwife would be paid if the services were provided under part B of title XVIII;''.

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

(A) by striking ''Notwithstanding'' and inserting the following:

''(1) IN GENERAL.—Notwithstanding'';

(B) by inserting ''or furnished during an additional period specified in paragraph (2),'' after ''2015,''; and

(C) by adding at the end the following:

''(2) ADDITIONAL PERIODS.—For purposes of paragraph (1), the following are additional periods:

''(A) The 2-year period that begins on the first day of the first month that begins after the date of enactment of the Ensuring Access to Primary Care for Women & Children Act.''.

(b) IMPROVED TARGETING OF PRIMARY CARE.—Section 1902(jj) of the Social Security Act (42 U.S.C. 1396a(jj)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively and realigning the left margins accordingly;

(2) by striking ''For purposes of'' and inserting the following:

''(1) IN GENERAL.—For purposes of''; and

(3) by adding at the end the following:

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

(c) ENSURING PAYMENT BY MANAGED CARE ENTITIES.—

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

(A) in clause (xii), by striking ''and'' after the semicolon;

(B) by realigning the left margin of clause (xiii) so as to align with the left margin of clause (xii) and by striking the period at the end of clause (xiii) and inserting ''; and''; and

(C) by inserting after clause (xiii) the following:

''(xiv) such contract provides that (I) payments to providers specified in section 1902(a)(13)(C) for primary care services defined in section 1902(jj) that are furnished during a year or period specified in section 1902(a)(13)(C) and section 1905(dd) are at least equal to the amounts set forth and required by the Secretary by regulation, (II) the entity shall, upon request, provide documentation to the State, sufficient to enable the State and the Secretary to ensure compliance with subclause (I), and (III) the Secretary shall approve payments described in subclause (I) that are furnished through an agreed upon capitation, partial capitation, or other value-based payment arrangement if the capitation, partial capitation, or other value-based payment arrangement is based on a reasonable methodology and the entity provides documentation to the State sufficient to enable the State and the Secretary to ensure compliance with subclause (I).''.

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

SEC. 4. IMPROVING QUALITY AND VALUE FOR MEDICAID BENEFICIARIES.

(a) GAO STUDY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that examines the use of alternative payment models in State Medicaid programs and identifies opportunities for disseminating successful payment models among such programs.

(b) FUNDING THE DEVELOPMENT OF QUALITY MEASURES.—The first sentence of section 1139B(e) of the Social Security Act (42 U.S.C. 1320b–9b(e)) is amended by inserting ", and for fiscal year 2016, $15,000,000," before "for the purpose".

(c) DEVELOPING QUALITY MEASURES FOR BENEFICIARIES WITH DISABILITIES.—Section 1139B(b)(5) of the Social Security Act (42 U.S.C. 1320b–9b(b)(5)) is amended by adding at the end the following:

"(C) QUALITY MEASURES SPECIFIC TO ADULT INDIVIDUALS WITH DISABILITIES.—The Secretary, acting through the Administrator for the Centers for Medicare & Medicaid Services and the Director of the Agency for Healthcare Research and Quality, shall develop adult health quality measures that are specific to adult individuals with disabilities and shall in-

clude those measures in the Medicaid Quality Measurement Program. In developing such measures, priority shall be given to developing quality measures that assess the impact on adult individuals with disabilities of existing programs and to the development of quality measures that assess the impact of new service delivery innovations on such individuals.''.

○