118TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
118–170

MEDICAID PRIMARY CARE IMPROVEMENT ACT

SEPTEMBER 1, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 3836]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3836) to facilitate direct primary care arrangements under Medicaid, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Primary Care Improvement Act".

SEC. 2. CLARIFYING THAT CERTAIN PAYMENT ARRANGEMENTS ARE ALLOWABLE UNDER THE MEDICAID PROGRAM.

(a) RULE OF CONSTRUCTION.—Nothing in title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) shall be construed as prohibiting a State, under its State plan (or waiver of such plan) under such title (including through a medicaid managed care organization (as defined in section 1903(m)(1)(A) of such Act)), from providing medical assistance consisting of primary care services through a direct primary care arrangement with a health care provider, including as part of a value-based care arrangement established by the State. For purposes of the preceding sentence, the term "direct primary care arrangement" means, with respect to any individual, an arrangement under which such individual is provided medical assistance consisting solely of primary care services provided by primary care practitioners, if the sole compensation for such care is a fixed periodic fee.

(b) GUIDANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall—

(1) convene at least one virtual open door meeting to seek input from stakeholders, including primary care providers who practice under the direct primary care model, state Medicaid agencies, and Medicaid managed care organizations; and

(2) taking into account such input, issue guidance to States on how a State may implement direct primary care arrangements (as defined in subsection (a)) under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report containing—

(1) an analysis of the extent to which States are contracting with independent physicians, independent physician practices, and primary care practices for purposes of furnishing medical assistance under State plans (or waivers of such plans) under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(2) an analysis of quality of care and cost of care furnished to individuals enrolled under such title where such care is paid for under a direct primary care arrangement (as defined in subsection (a)) through a medicaid managed care organization (as so defined).

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter statutory requirements under the State plan (or waiver of such plan) under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for cost-sharing requirements or be construed to limit medical assistance solely to those provided under a direct primary care arrangement.

PURPOSE AND SUMMARY

The bill would enact a rule of construction clarifying permissibility of direct primary care arrangements under Medicaid and direct the Secretary of Health and Human Services to convene at least one virtual open door meeting to seek input from stakeholders and to issue guidance to States on how a State may implement such arrangements.

BACKGROUND AND NEED FOR LEGISLATION

According to the Association of American Medical Colleges, the United States is expected to have a primary care physician shortage ranging from 17,800 to as many as 77,100 by 2034.[1] As the country grapples with the implications of such a shortage on access to care, it has become imperative to identify new avenues for the delivery of primary care to ensure that those in need can receive vital services.

A growing option for the delivery of primary care is "direct primary care," a delivery model where a provider receives a monthly lump sum amount to manage a patient's primary care. Every pa-

[1] Association of American Medical Colleges, *The Complexities of Physician Supply and Demand: Projections from 2019 to* 2034, 2021. https://www.aamc.org/media/54681/download?attachment

tient's needs are unique, and for some, direct primary care has proven to be helpful in managing needs and improving outcomes.

Under current law, Medicaid is permitted to enter into different payment arrangements, including for direct primary care. However, while States have had similar arrangements in the past, no States currently take advantage of such opportunities. As such, the Medicaid Primary Care Improvement Act would clarify current law and increase awareness to State Medicaid programs about the opportunities to utilize direct primary care arrangements for Medicaid beneficiaries.

COMMITTEE ACTION

On June 14, 2023, the Subcommittee on Health held a hearing on H.R. 3836. The hearing was titled "Examining Proposals that Provide Access to Care for Patients and Support Research for Rare Diseases." The Subcommittee received testimony from:

- Dr. Elizabeth Cherot, MD, MBA, Senior Vice President and Chief Medical Health Officer, March of Dimes;
- Dr. Alexis A. Thompson, MD, MPH, Chief of Division of Hematology, Elias Schwartz MD Endowed Chair in Hematology, Children's Hospital of Philadelphia, Professor of Pediatrics, University of Pennsylvania Perelman School of Medicine;
- Dr. Meredithe McNamara, MD, MS, FAAP, Assistant Professor, Yale School of Medicine;
- Dr. Miriam Grossman, MD, Child, Adolescent, and Adult Psychiatrist
- Mr. George Manahan, Parkinson's Advocate and Patient; and,
- Mr. Kevin O'Connor, Assistant to the General President for Government Affairs and Political Action, International Association of Fire Fighters.

On July 13, 2023, the Subcommittee on Health met in open markup session and forwarded H.R. 3836, as amended, to the full Committee by a recorded vote of 28 yeas and 0 nays.

On July 19, 2023, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 3836, as amended, favorably reported to the House by a recorded vote of 51 yeas and 0 nays.

COMMITTEE VOTES

The following reflects the record votes taken during the Committee consideration:

COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 8

BILL: H.R. 3836, Medicaid Primary Care Improvement Act

AMENDMENT: A motion by Mrs. Rodgers to order H.R. 3836 favorably reported to the House, as amended (Final Passage).

DISPOSITION: **AGREED TO,** by a roll call vote of 51 yeas to 0 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone	X		
Rep. Burgess	X			Rep. Eshoo	X		
Rep. Latta	X			Rep. DeGette	X		
Rep. Guthrie	X			Rep. Schakowsky	X		
Rep. Griffith	X			Rep. Matsui	X		
Rep. Bilirakis	X			Rep. Castor	X		
Rep. Johnson	X			Rep. Sarbanes	X		
Rep. Bucshon	X			Rep. Tonko	X		
Rep. Hudson	X			Rep. Clarke	X		
Rep. Walberg	X			Rep. Cárdenas	X		
Rep. Carter	X			Rep. Ruiz	X		
Rep. Duncan	X			Rep. Peters	X		
Rep. Palmer	X			Rep. Dingell	X		
Rep. Dunn	X			Rep. Veasey	X		
Rep. Curtis	X			Rep. Kuster	X		
Rep. Lesko	X			Rep. Kelly	X		
Rep. Pence	X			Rep. Barragán	X		
Rep. Crenshaw	X			Rep. Blunt Rochester	X		
Rep. Joyce	X			Rep. Soto	X		
Rep. Armstrong				Rep. Craig	X		
Rep. Weber	X			Rep. Schrier	X		
Rep. Allen	X			Rep. Trahan	X		
Rep. Balderson	X			Rep. Fletcher	X		
Rep. Fulcher	X						
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks	X						
Rep. Cammack	X						
Rep. Obernolte	X						

07/19/2023

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held a hearing and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 3836 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to clarify that current law does not prohibit direct primary care arrangements within the Medicaid program, and to provide guidance for States that wish to incorporate direct primary care into their unique Medicaid system.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3836 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following related hearing was used to develop or consider H.R. 3836:

- On June 14, 2023, the Subcommittee on Health held a hearing titled "Examining Proposals that Provide Access to Care for Patients and Support Research for Rare Diseases." The Subcommittee received testimony from:
  - Dr. Elizabeth Cherot, MD, MBA, Senior Vice President and Chief Medical Health Officer, March of Dimes;
  - Dr. Alexis A. Thompson, MD, MPH, Chief of Division of Hematology, Elias Schwartz MD Endowed Chair in Hematology, Children's Hospital of Philadelphia, Professor of Pediatrics, University of Pennsylvania Perelman School of Medicine;
  - Dr. Meredithe McNamara, MD, MS, FAAP, Assistant Professor, Yale School of Medicine;

- Dr. Miriam Grossman, MD, Child, Adolescent, and Adult Psychiatrist;
- Mr. George Manahan, Parkinson's Advocate and Patient; and,
- Mr. Kevin O'Connor, Assistant to the General President for Government Affairs and Political Action, International Association of Fire Fighters.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 3836 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section provides that this Act may be cited as the "Medicaid Primary Care Improvement Act".

Section 2. Clarifying that certain payment arrangements are allowable under the Medicaid program

Subsection (a) provides a Rule of Construction to clarify that current law permits Medicaid to reimburse for direct primary care arrangements.

Subsection (b) directs the Department of Health and Human Services (HHS) to issue guidance to States on ways to implement direct primary care arrangements in Medicaid. Such guidance shall be based on input from stakeholders.

Subsection (c) requires HHS to write a report to Congress, reviewing the utilization of direct primary care arrangements in Medicaid.

Subsection (d) provides a Rule of Construction.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

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