

Union Calendar No. 45

118TH CONGRESS
1ST SESSION

H. R. 485

[Report No. 118–65, Part I]

To amend title XI of the Social Security Act to prohibit the use of quality-adjusted life years and similar measures in coverage and payment determinations under Federal health care programs.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2023

Mrs. RODGERS of Washington (for herself, Mr. SMITH of Missouri, Mr. WENSTRUP, and Mr. BURGESS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MAY 17, 2023

Additional sponsors: Mr. HERN and Mr. CARTER of Georgia

MAY 17, 2023

Reported from the Committee on Energy and Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

MAY 17, 2023

Committee on Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 24, 2023]

A BILL

To amend title XI of the Social Security Act to prohibit the use of quality-adjusted life years and similar measures in coverage and payment determinations under Federal health care programs.

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 “Protecting Health Care*
5 *for All Patients Act of 2023”.*

6 **SEC. 2. PROHIBITING THE USE OF QUALITY-ADJUSTED LIFE**
7 **YEARS AND SIMILAR MEASURES IN COV-**
8 **ERAGE AND PAYMENT DETERMINATIONS**
9 **UNDER FEDERAL HEALTH CARE PROGRAMS.**

10 *(a) IN GENERAL.—Section 1182(e) of the Social Secu-*
11 *rity Act (42 U.S.C. 1320e–1(e)) is amended—*

12 *(1) by inserting “or treats extending the life of*
13 *an elderly, disabled, or terminally ill individual as of*
14 *lower value than extending the life of an individual*
15 *who is younger, non-disabled, or not terminally ill”*
16 *after “because of an individual’s disability”;*

17 *(2) by inserting “described in the preceding sen-*
18 *tence” after “such a similar measure”;*

19 *(3) by striking “The Secretary shall not” and in-*
20 *serting “A Federal agency (including the CMI (as de-*
21 *scribed in section 1115A)) or State may not”;*

22 *(4) by striking “under title XVIII.” and insert-*
23 *ing the following: “under any Federal health care*
24 *program (as defined in section 1128B, except that*
25 *such term shall include the health program established*

1 *under chapter 89 of title 5, United States Code).’;*
2 *and*

3 *(5) by adding at the end the following new sen-*
4 *tence: “Notwithstanding any other provision of law,*
5 *a Federal agency (including the CMI) or State may*
6 *not waive the application of the provisions of this*
7 *subsection (or the provisions of section 1852(o), sec-*
8 *tion 1860D–12(h), section 1902(a)(88), section*
9 *1932(b)(9), or section 2102(e)) under section 1115,*
10 *section 1115A, or any other demonstration or waiver*
11 *authority.”.*

12 *(b) CONFORMING AMENDMENTS.—*

13 *(1) MEDICAID.—*

14 *(A) IN GENERAL.—Section 1902(a) of the*
15 *Social Security Act (42 U.S.C. 1396a(a)) is*
16 *amended—*

17 *(i) in paragraph (86), by striking*
18 *“and” at the end;*

19 *(ii) in paragraph (87)(D), by striking*
20 *the period and inserting “; and”; and*

21 *(iii) by inserting after paragraph (87)*
22 *the following new paragraph:*

23 *“(88) provide for compliance with the require-*
24 *ments of section 1182(e) (relating to prohibiting the*

1 *use of certain measures in coverage determinations,*
2 *reimbursement, and incentive programs).”.*

3 (B) *MANAGED CARE ORGANIZATIONS.*—Section
4 *1932(b) of the Social Security Act (42*
5 *U.S.C. 1396u–2(b)) is amended by adding at the*
6 *end the following new paragraph:*

7 “(9) *PROHIBITION ON USE OF QUALITY-AD-*
8 *JUSTED LIFE YEARS.*—The provisions of section
9 *1182(e) shall apply to the utilization of a dollars-per-*
10 *quality adjusted life year or similar measure (as de-*
11 *scribed in such section) by a medicaid managed care*
12 *organization under this title (or a prepaid inpatient*
13 *health plan or prepaid ambulatory health plan, as de-*
14 *fined in section 438.2 of title 42, Code of Federal Reg-*
15 *ulations (or any successor regulation), under a con-*
16 *tract with the State) in the same manner as such pro-*
17 *visions apply to the utilization of such a year or*
18 *measure by a State under this title.”.*

19 (2) *CHIP.*—Section 2102 of the Social Security
20 *Act (42 U.S.C. 1397bb) is amended by adding at the*
21 *end the following new subsection:*

22 “(e) *PROHIBITION ON THE USE OF QUALITY-AD-*
23 *JUSTED LIFE YEARS AND SIMILAR MEASURES.*—A State
24 *child health plan shall provide for compliance with the re-*
25 *quirements of section 1182(e) (relating to prohibiting the*

1 *use of certain measures in coverage determinations, reim-*
2 *bursement, and incentive programs).”.*

3 (3) *MEDICARE ADVANTAGE.*—Section 1852 of the
4 *Social Security Act (42 U.S.C. 1395w–22) is amend-*
5 *ed by adding at the end the following new subsection:*
6 “(o) *PROHIBITION ON USE OF QUALITY-ADJUSTED*
7 *LIFE YEARS.*—The provisions of section 1182(e) shall apply
8 *to the utilization of a dollars-per-quality adjusted life year*
9 *or similar measure (as described in such section) by an MA*
10 *plan in the same manner as such provisions apply to the*
11 *utilization of such a year or measure by the Secretary*
12 *under this title.”.*

13 (4) *MEDICARE PART D.*—Section 1860D–12 of
14 *the Social Security Act (42 U.S.C. 1395w–112) is*
15 *amended by adding at the end the following new sub-*
16 *section:*

17 “(h) *PROHIBITION ON USE OF QUALITY-ADJUSTED*
18 *LIFE YEARS.*—The provisions of section 1182(e) shall apply
19 *to the utilization of a dollars-per-quality adjusted life year*
20 *or similar measure (as described in such section) by a pre-*
21 *scription drug plan in the same manner as such provisions*
22 *apply to the utilization of such a year or measure by the*
23 *Secretary under this title.”.*

24 (c) *IMPLEMENTATION.*—The amendments made by this
25 *section shall apply beginning on January 1, 2025.*

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