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113TH CONGRESS
2D SESSION

H. R. 4930

To amend titles XIX and XXI of the Social Security Act to provide States with the option of providing services to children with medically complex conditions under the Medicaid program and Children's Health Insurance Program through a care coordination program focused on improving health outcomes for children with medically complex conditions and lowering costs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2014

Mr. BARTON (for himself, Ms. CASTOR of Florida, Ms. HERRERA BEUTLER, Mr. GENE GREEN of Texas, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend titles XIX and XXI of the Social Security Act to provide States with the option of providing services to children with medically complex conditions under the Medicaid program and Children's Health Insurance Program through a care coordination program focused on improving health outcomes for children with medically complex conditions and lowering costs, and for other purposes.

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 ''Advancing Care for Exceptional Kids Act of 2014'' or the ''ACE Kids Act of 2014''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Approximately 3,000,000 children in the United States suffer from medically complex conditions and approximately 2,000,000 of such children are enrolled in State plans under the Medicaid program under title XIX of the Social Security Act.

(2) Such children account for an estimated 6 percent of Medicaid enrollees and approximately 40 percent of children's Medicaid spending is due to the severity of the illnesses of such children.

(3) The creation of nationally designated children's hospital networks focused upon better coordination and integration of care for such pediatric population will result in improved health outcomes and savings under the Medicaid program and the Children's Health Insurance Program under title XXI of the Social Security Act.

SEC. 3. ESTABLISHMENT OF MEDICAID AND CHIP CARE COORDINATION PROGRAM FOR CHILDREN WITH MEDICALLY COMPLEX CONDITIONS AS MEDICAID STATE OPTION.

(a) MEDICAID.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) in section 1905(a) (42 U.S.C. 1396d(a))—

(A) by striking ''and'' at the end of paragraph (27);

(B) by redesignating paragraph (29) as paragraph (30); and

(C) by inserting after paragraph (28) the following new paragraph:

''(29) items and services furnished under an MCCC program under section 1947 to eligible children enrolled in an MCCC program under such section.''; and

(2) by adding at the end the following new section:

''SEC. 1947. MEDICAID CHILDREN'S CARE COORDINATION PROGRAMS FOR CHILDREN WITH COMPLEX MEDICAL CONDITIONS.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Beginning January 1, 2015, a State, at its option as a State plan amendment, may elect to provide medical assistance for

items and services furnished to eligible children enrolled in an MCCC program that meets the requirements of this section. As a condition on an eligible child's receipt of medical assistance under this title, the State shall require, under such an amendment, that the eligible child be enrolled in an MCCC program that meets the requirements of this section.

''(b) MCCC PROGRAM REQUIREMENTS.—An MCCC program meets the requirements of this section if the MCCC program—

''(1) coordinates, integrates, and provides for the furnishing of the full range of MCCC program services to eligible children enrolled in the program;

''(2) enrolls eligible children in accordance with subsection (c);

''(3) is operating under a program agreement that meets the requirements of subsection (d); and

''(4) meets the pediatric network adequacy standards developed under subsection (e).

''(c) ELIGIBILITY DETERMINATIONS; ASSIGNMENT.—

''(1) ENROLLMENT.—Subject to the assignment requirements of paragraph (2), the enrollment and disenrollment of eligible children in an MCCC program shall be carried out in accordance with regula-

tions issued by the Secretary and the applicable program agreement.

''(2) NETWORK ASSIGNMENT.—

''(A) IN GENERAL.—Eligible children shall be prospectively enrolled in an MCCC program by initially assigning such eligible children to a nationally designated children's hospital network for a period of not less than 90 days beginning on the date on which the child is initially assigned to such hospital network.

''(B) BASIS FOR INITIAL ASSIGNMENT.—Such an assignment shall be based upon any of the following factors (or a combination thereof):

''(i) The prevalence of visits by the child to a pediatrician or other specialist who is participating in the nationally designated children's hospital network.

''(ii) The selection of the child's family.

''(iii) The location of the primary residence of the child.

''(iv) The proximity of the child to regional referral networks established by the nationally designated children's hospital network.

''(C) LIMITATION ON CERTAIN ASSIGNMENTS.—An assignment of a child under clause (iii) or (iv) of subparagraph (B) may only be made in the case of a nationally designated children's hospital network that offers medical home access within 30 miles of the primary residence of the child.

''(D) REASSIGNMENT.—Following the 90-day period referred to in subparagraph (A), the child may elect—

''(i) to be assigned to the nationally designated children's hospital network of their choice that has an MCCC program agreement in effect with respect to an MCCC program in which the child is eligible to enroll; or

''(ii) to not participate in any MCCC program and receive care through enrollment in the State plan under this title or the State child health plan under title XXI.

''(d) PROGRAM AGREEMENTS.—

''(1) IN GENERAL.—The Secretary, in close cooperation with the State administering agencies electing to provide the medical assistance described

in subsection (a), shall establish procedures for entering into, extending, and terminating program agreements under this section.

''(2) TERMS.—

''(A) IN GENERAL.—A program agreement entered into under this section by the Secretary, a State administering agency, and a nationally designated children's hospital network shall provide for each of the following terms:

''(i) The agreement shall designate the service area of the MCCC program that is the subject of the agreement.

''(ii) The agreement shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate, and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement).

''(iii) The agreement shall require that the nationally designated children's hospital network submit care management network and coverage plans to the Secretary that are centered around medical

home models and that describe the governance of the network.

''(iv) The agreement shall require the hospital network to meet all applicable requirements imposed by State and local laws.

''(v) The agreement shall require such State, in the case of eligible children who are residents of the State, to make payments to the hospital network, regardless of whether MCCC program services are furnished to such eligible children in another State.

''(vi) The agreement shall require that the standards and measures developed under subsection (e) be applied to the hospital network, including measures requiring, with respect to network adequacy standards, that the hospital network establish such provider networks for primary, secondary, and tertiary care as are necessary to ensure the adequate furnishing of MCCC program services to eligible children enrolled in the MCCC program that is the subject of the agreement.

"(vii) The agreement shall require the hospital network to comply with the data collection and recordkeeping requirements of subparagraph (C).

"(viii) The agreement shall require the hospital network to accept as payment any payment made using the risk-based methodology developed under subsection (g).

"(ix) The agreement shall contain such additional terms and conditions as the parties may agree to, so long as such terms and conditions are consistent with this section.

"(B) SERVICE AREA OVERLAP.—In designating a service area under subparagraph (A)(i), the Secretary (in consultation with the relevant State administering agency) shall consider the impacts of designating an area that is already covered under another program agreement, for purposes of avoiding the unnecessary duplication of services and the impairment of the financial and service viability of another MCCC program.

"(C) DATA AND RECORDKEEPING REQUIREMENTS.—The data collection and recordkeeping requirements under this subparagraph, with respect to a nationally designated children's hospital network, are as follows:

"(i) The hospital network shall collect claims data on claims submitted with respect to eligible children who are furnished MCCC program services under an MCCC program. Such data shall be reported in a standardized format and made available to the public for purposes of establishing a national database on such claims.

"(ii) The hospital network shall maintain, and provide the Secretary and the State administering agency access to, the records relating to the MCCC program operated by the hospital network, including pertinent financial, medical, and personnel records.

"(iii) The hospital network shall submit to the Secretary and the State administering agency such reports as the Secretary finds (in consultation with the State administering agency) necessary to monitor

the operation, cost, and effectiveness of the MCCC program operated by the hospital network.

''(3) TERMINATION OF AGREEMENTS.—The Secretary shall issue regulations establishing the circumstances under which—

''(A) the Secretary or a State administering agency may terminate an MCCC program agreement for cause; and

''(B) a nationally designated children's hospital network may terminate such an agreement after appropriate notice to the Secretary, the State administering agency, and enrollees.

''(e) QUALITY ASSURANCE.—

''(1) DEVELOPMENT OF STANDARDS AND MEASURES.—The Secretary shall, in consultation with nationally designated children's hospital networks and national pediatric policy organizations (such as the Children's Hospital Association and the American Academy of Pediatrics)—

''(A) establish a national set of quality assurance and improvement protocols and procedures to apply under MCCC programs;

''(B) develop pediatric quality measures;

''(C) develop pediatric network adequacy standards for access by eligible children to MCCC program services; and

''(D) develop criteria for national pediatric-focused care coordination for eligible children.

''(2) USE OF PQMP MEASURES.—In carrying out subparagraph (A), the Secretary shall apply, to the extent applicable, child health quality measures and measures for centers of excellence for children with complex needs developed under this title, title XXI, and section 1139A and take into account HEDIS quality measures as required under section 1852(e)(3) and other quality measures.

''(f) STANDARD MEDICAID DATA SET.—

''(1) IN GENERAL.—The Secretary, the States, and the nationally designated children's hospital networks shall collaborate to obtain consistent and verifiable Medicaid Analytic Extract data or a comparable data set and shall establish data-sharing agreements to further support collaborative planning and care coordination for medically complex children.

''(2) CLAIMS ANALYSIS.—The Secretary shall—

''(A) perform claims analysis on the data set developed under paragraph (1) to determine

the utilization of items and services furnished under an MCCC program to eligible children; and

"(B) submit to Congress and make publicly available on the Internet site of the Centers for Medicare and Medicaid services, a report on such claims in a standardized format for purposes of building a national database.

"(3) PAYMENT FOR REPORTING INCENTIVES.—The Secretary may provide for pay-for-reporting incentives during the first two years of any MCCC program agreement entered into under this section to ensure participation and analysis of consistent data under this paragraph to enable the development of an appropriate risk-based payment methodology under subsection (g).

"(g) PAYMENTS TO NATIONALLY DESIGNATED CHILDREN'S HOSPITAL NETWORKS.—

"(1) IN GENERAL.—The State plan shall provide for payment to nationally designated children's hospital networks pursuant to the terms of an MCCC program agreement using a risk-based payment methodology (or methodologies) established by the Secretary in accordance with this subsection.

''(2) TRANSITION FROM FEE-FOR-SERVICE TO RISK-BASED PAYMENT MODEL.—

''(A) IN GENERAL.—Payment to nationally designated children's hospital networks under this subsection shall be based initially on a fee-for-service payment model and shall gradually transition, over a 5-year period, to an equitable, risk-based payment model using a methodology developed under paragraph (3). For the first two years of such period, a nationally designated children's hospital network may receive, in addition to any fee-for-service payments made to such hospital network, per capita care coordination payments with respect to expenditures for items and services furnished to eligible children enrolled in the MCCC program operated by the hospital network through medical home programs and other care coordination activities for which an all-inclusive payment model is more suitable than fee-for-service reimbursement.

''(B) DATA ANALYSIS DURING INITIAL PERIOD.—During the first two years of the implementation of an MCCC program, the Secretary shall analyze data collected under subsection (f)

for purposes of developing a risk-based payment methodology that would be implemented beginning with the third year of implementation of the MCCC program.

''(3) DEVELOPMENT OF RISK-BASED PAYMENT METHODOLOGY.—The Secretary shall develop payment methodologies under this subsection in coordination with the Medicaid and CHIP Payment and Access Commission and the pediatric health care provider community that—

''(A) take into account the data analyzed under paragraph (2)(B);

''(B) are actuarially sound, as determined by the Secretary and the relevant State administering agency, in coordination with National Association of Insurance Commissioners, using an actuarial methodology that is adopted using historic pediatric claims data;

''(C) include—

''(i) a risk adjustment method, re-insurance system, and risk-corridor procedure to account for variations in acuity of the eligible children enrolled in MCCC programs; and

''(ii) a shared-savings component; and

''(D) may provide for an model for making payments other than payments made on a per-member, per-month basis.

''(h) WAIVERS OF REQUIREMENTS.—With respect to carrying out an MCCC program under this section, the following provisions of law shall not apply:

''(1) Section 1902(a)(1), relating to statewideness.

''(2) Section 1902(a)(10), insofar as such section relates to comparability of services among different population groups.

''(3) Sections 1902(a)(23) and 1915(b)(4), relating to freedom of choice of providers.

''(4) Section 1903(m)(2)(A), insofar as such section would prohibit a nationally designated children's hospital network from receiving certain payments.

''(5) Such other provisions of this title, title XVIII, sections 1128A and 1128B, and any provisions of the Federal antitrust laws as the Secretary determines are inapplicable or the waiver of which are necessary for purposes of carrying out an MCCC program under this section.

''(i) PREEMPTION OF STATE LAW.—A State may not impose any requirement on the nationally qualified chil-

dren's hospital network's operation of an MCCC program under a program agreement that meets the requirements of this section that is inconsistent with or would otherwise impede the satisfaction by such hospital network of the requirements of this section (including the requirements of such program agreement).

''(j) DEFINITIONS.—In this section:

''(1) ELIGIBLE CHILD.—The term 'eligible child' means, with respect to an MCCC program, an individual who is under the age of 18 and who—

''(A) is eligible for medical assistance under the State plan under this title or child health assistance under the State child health plan under title XXI; and

''(B) has, or is at a heightened risk of developing, a chronic, physical, developmental, behavioral, or emotional condition that—

''(i) affects two or more body systems;

''(ii) requires intensive care coordination to avoid excessive hospitalizations or emergency department visits; or

''(iii) meets the criteria for medical complexity using risk adjustment methodologies (such as Clinical Risk Groups) agreed upon by the Secretary in coordina-

tion with a national panel of pediatric experts.

''(2) MCCC PROGRAM.—The term 'MCCC program' means a Medicaid coordinated care program that provides eligible children with MCCC program services through a nationally designated children's hospital network in accordance with a program agreement that meets the requirements of subsection (d).

''(3) MCCC PROGRAM SERVICES.—The term 'MCCC program services' means the full range of items and services for which medical assistance is available under a State plan for children, including pediatric care management services and pediatric-focused care coordination and health promotion, as specified in the program agreement.

''(4) QUALIFIED CHILDREN'S HOSPITAL.—The term 'qualified children's hospital' means a children's hospital that—

''(A) qualifies to receive payment under section 340E of the Public Health Service Act (relating to children's hospitals that operate graduate medical education programs); or

''(B) meets 3 or more of the following criteria:

"(i) MINIMUM PEDIATRIC DISCHARGES.—The hospital has at least 5,000 annual pediatric discharges (including neonates, but excluding obstetrics and normal newborns) for the most recent cost reporting period for which data are available.

"(ii) MINIMUM NUMBER OF BEDS.—The hospital has 100 licensed pediatric beds, not including beds in neonatal intensive care units but including beds in pediatric intensive care units and other acute care beds.

"(iii) ACCESS TO PEDIATRIC EMERGENCY SERVICES.—The hospital has access (through ownership or otherwise) to pediatric emergency services.

"(iv) MEDICAID RELIANT.—At least 30 percent of the pediatric discharges or inpatient days (excluding observation days) in the hospital for the most recent cost reporting period for which data are available were children eligible for medical assistance under this title or for children's health assistance under title XXI.

''(v) AFFILIATION WITH ACCREDITED PEDIATRIC RESIDENCY TRAINING PROGRAM.—The hospital sponsors or is affiliated with a pediatric residency program that is accredited by the Accreditation Council for Graduate Medical Education.

''(vi) PEDIATRIC MEDICAL HOME PROGRAMS.—The hospital has established and implemented demonstrable pediatric medical home programs dedicated to medically complex children.

''(5) NATIONALLY DESIGNATED CHILDREN'S HOSPITAL NETWORK.—The term 'nationally designated children's hospital network' means a network of hospitals and health care providers—

''(A) anchored by a qualified children's hospital or hospitals with principal governance responsibility over the hospital network;

''(B) in which the full complement of health care providers needed to provide the best care for children in the network participate; and

''(C) that represents the interests of physicians, other health care providers, parents of medically complex children, and other relatives of such children.

''(6) PROGRAM AGREEMENT.—The term 'program agreement' means, with respect to a nationally designated children's hospital network, an agreement, between the hospital network, the Secretary, and a State administering agency for the operation of an MCCC program by the hospital network in the State that meets the requirements of this section.

''(7) STATE ADMINISTERING AGENCY.—The term 'State administering agency' means, with respect to the operation of an MCCC program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under this title in the State) responsible for administering program agreements under this section.''.

(b) APPLICATION UNDER CHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following new subparagraph:

''(P) Section 1947 (relating to Medicaid children's care coordination programs for children with complex medical conditions).''.

(c) REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall make rules on the

record, after opportunity for an agency hearing to carry out the amendments made by this section in accordance with sections 556 and 557 of title 5, United States Code.

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