

116TH CONGRESS
1ST SESSION

H. R. 5242

To amend title XIX of the Social Security Act to prohibit the Secretary of Health and Human Services from treating any Medicaid-related funds recovered from one or more pharmaceutical companies or drug distributors with respect to opioid litigation as an overpayment under such title, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 2019

Mr. MCKINLEY (for himself and Ms. KAPTUR) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to prohibit the Secretary of Health and Human Services from treating any Medicaid-related funds recovered from one or more pharmaceutical companies or drug distributors with respect to opioid litigation as an overpayment under such title, and for other purposes.

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 “Opioid Settlement Ac-
5 countability Act”.

1 **SEC. 2. PROHIBITION ON TREATING ANY MEDICAID-RE-**
2 **LATED FUNDS RECOVERED FROM ONE OR**
3 **MORE PHARMACEUTICAL COMPANIES OR**
4 **DRUG DISTRIBUTORS WITH RESPECT TO**
5 **OPIOID LITIGATION AS AN OVERPAYMENT.**

6 (a) IN GENERAL.—Section 1903(d)(3) of the Social
7 Security Act (42 U.S.C. 1396(d)(3)) is amended by add-
8 ing at the end the following new subparagraph:

9 “(C)(i) Subparagraph (A) and paragraph (2)(B) may
10 not apply to any amount recovered or paid to a State on
11 or after December 31, 2023, as a part of a comprehensive
12 settlement of opioid litigation between pharmaceutical
13 manufacturers (as defined in the second sentence of sec-
14 tion 102(15) of the Controlled Substances Act) or drug
15 distributors (as defined in the second sentence of section
16 102(12) of such Act) and State attorneys general, or as
17 a part of any individual State settlement or judgement
18 reached in such litigation initiated or pursued by a State
19 against one or more such companies or distributors.

20 “(ii) A State shall use amounts recovered or paid to
21 the State as a part of comprehensive or individual settle-
22 ment, or a judgement, described in clause (i) for—

23 “(I) supporting access to treatment (including
24 medication assisted treatment) and health care serv-
25 ices (including services provided by Federally cer-
26 tified opioid treatment programs or other appro-

1 appropriate health care providers to treat individuals with
2 opioid use disorder and subsequent support and
3 wrap around services that encourage employment
4 and reintegration to society);

5 “(II) education related to opioid use disorder;

6 “(III) implementing prevention activities, in-
7 cluding the reduction of the furnishing of opioids by
8 health care practitioners and introduction of non-
9 opioid pain management approaches;

10 “(IV) training for health care practitioners with
11 respect to best practices for prescribing opioids, pain
12 management, educating patients of the risk of opioid
13 use to treat chronic and acute conditions, recog-
14 nizing potential cases of substance abuse, referral of
15 patients to treatment programs, and overdose pre-
16 vention;

17 “(V) supporting State and Federal law enforce-
18 ment actions and first responder capital equipment
19 relating to the illegal distribution of opioids and
20 opioid analogues; and

21 “(VI) any other public health-related activities
22 and social support services (including housing, em-
23 ployment, child-well being, criminal justice, and
24 emergency management) relating to addressing the

1 opioid abuse crisis within such State, as such State
2 determines appropriate; and
3 evaluating at least one of the activities described in this
4 clause to identify effective strategies to prevent opioid
5 abuse and substance abuse disorders.”.

6 (b) **RETROACTIVE EFFECTIVE DATE.**—The amend-
7 ment made by this section shall take effect as if enacted
8 on January 1, 2019.

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