

118TH CONGRESS  
2D SESSION

# H. R. 7140

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group health plans and health insurance issuers offering group or individual health insurance coverage to disclose the percentage of in-network participation for certain provider types, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2024

Mr. HORSFORD introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, 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

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## A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group health plans and health insurance issuers offering group or individual health insurance coverage to disclose the percentage of in-network participation for certain provider types, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Mental Health Trans-  
3 parency Act”.

4 **SEC. 2. REQUIRING DISCLOSURE OF PERCENTAGE OF IN-**  
5 **NETWORK PARTICIPATION FOR CERTAIN**  
6 **PROVIDER TYPES.**

7 (a) PHSA.—Part D of title XXVII of the Public  
8 Health Service Act (42 U.S.C. 300g–111 et seq.) is  
9 amended by adding at the end the following new section:  
10 **“SEC. 2799A–11. REQUIRED DISCLOSURE OF PERCENTAGE**  
11 **OF IN-NETWORK PARTICIPATION FOR CER-**  
12 **TAIN PROVIDER TYPES.**

13 “(a) IN GENERAL.—A group health plan and a health  
14 insurance issuer offering group or individual health insur-  
15 ance coverage shall, along with any summary of benefits  
16 and coverage provided under section 2715 (and in accord-  
17 ance with the timing and manner specified under such sec-  
18 tion and the implementing regulations of such section),  
19 and on the public website of such plan or issuer, make  
20 available the following information with respect to each  
21 type of provider specified in subsection (b):

22 “(1) The number and percentage of providers  
23 of such type located in the service area of such plan  
24 or coverage that have a contractual relationship (as  
25 defined by the Secretary) in effect with such plan or  
26 coverage for furnishing items and services under

1 such plan or coverage, determined in accordance  
2 with information made available by the Secretary  
3 under subsection (d).

4 “(2) The designation established by the Sec-  
5 retary under subsection (c) corresponding to the per-  
6 centage described in paragraph (1).

7 “(b) SPECIFIED PROVIDERS.—For purposes of this  
8 section, the types of providers and facilities specified in  
9 this subsection are the following (as defined by the Sec-  
10 retary and broken down by subspecialty as specified by  
11 the Secretary):

12 “(1) Behavioral health care providers and facili-  
13 ties.

14 “(2) Substance use disorder treatment pro-  
15 viders and facilities.

16 “(c) ESTABLISHMENT OF DESIGNATIONS OF IN-NET-  
17 WORK PARTICIPATION.—

18 “(1) IN GENERAL.—Not later than 1 year after  
19 the date of the enactment of this section, the Sec-  
20 retary, in consultation with the Secretaries of Labor  
21 and of the Treasury, shall establish a system of des-  
22 ignations (such as ‘high’, ‘medium’, and ‘low’, a star  
23 rating, or such other designation determined appro-  
24 priate by the Secretary) that correspond to ranges of  
25 percentages (from 0 to 100) described in subsection

1 (a)(1) to qualitatively reflect the breadth of the net-  
2 works of group health plans and group and indi-  
3 vidual health insurance coverage with respect to  
4 each type of provider specified in subsection (b).

5 “(2) VARIATION PERMITTED.—Designations  
6 corresponding to percentage ranges established  
7 under paragraph (1) may vary by type of service  
8 area (such as rural or urban), size of service area,  
9 and other factors determined appropriate by the  
10 Secretary in consultation with the Secretaries of  
11 Labor and of the Treasury.

12 “(d) INFORMATION ON PROVIDERS.—

13 “(1) IN GENERAL.—Not later than June 30,  
14 2026, the Secretary, in consultation with the Secre-  
15 taries of Labor and of the Treasury, shall, based on  
16 information submitted under section 2799B–10, post  
17 on the public website of the Department of Health  
18 and Human Services, a list of each specified pro-  
19 vider in the country, including—

20 “(A) the location of each such provider in  
21 which such provider furnishes items and serv-  
22 ices;

23 “(B) each specialty designation (if any) of  
24 each such provider;

1           “(C) whether such provider treats individ-  
2           uals under the age of 19; and

3           “(D) whether such provider accepts tele-  
4           health appointments. The Secretary shall up-  
5           date the information published under the pre-  
6           vious sentence not less frequently than annu-  
7           ally.

8           The Secretary shall update the information pub-  
9           lished under this paragraph not less frequently than  
10          annually.

11          “(2) TREATMENT OF GROUP PRACTICES.—For  
12          purposes of the list described in paragraph (1), the  
13          Secretary shall list each individual health care pro-  
14          vider separately, regardless of whether such provider  
15          is part of a group practice.

16          “(e) SERVICE AREA DEFINITION.—For purposes of  
17          this section, the term ‘service area’ means, with respect  
18          to a group health plan and group or individual health in-  
19          surance coverage, the area or areas in which in-person  
20          participants and beneficiaries are covered, as determined  
21          by the plan or issuer of such coverage in accordance with  
22          rules specified by the Secretary in consultation with the  
23          Secretaries of Labor and of the Treasury.”.

24          (b) ERISA.—

1           (1) IN GENERAL.—Subpart B of part 7 of sub-  
2           title B of title I of the Employee Retirement Income  
3           Security Act of 1974 is amended by adding at the  
4           end the following new section:

5   **“SEC. 726. REQUIRED DISCLOSURE OF PERCENTAGE OF IN-**  
6                           **NETWORK PARTICIPATION FOR CERTAIN**  
7                           **PROVIDER TYPES.**

8           “(a) IN GENERAL.—A group health plan and a health  
9           insurance issuer offering group health insurance coverage  
10          shall, along with any summary of benefits and coverage  
11          provided under section 2715 of the Public Health Service  
12          Act (and in accordance with the timing and manner speci-  
13          fied under such section and the implementing regulations  
14          of such section), and on the public website of such plan  
15          or issuer, make available the following information with  
16          respect to each type of provider specified in subsection (b):

17                   “(1) The number and percentage of providers  
18                   of such type located in the service area of such plan  
19                   or coverage that have a contractual relationship (as  
20                   defined by the Secretary) in effect with such plan or  
21                   coverage for furnishing items and services under  
22                   such plan or coverage, determined in accordance  
23                   with information made available by the Secretary  
24                   under subsection (d).

1           “(2) The designation established by the Sec-  
2           retary under subsection (c) corresponding to the per-  
3           centage described in paragraph (1).

4           “(b) SPECIFIED PROVIDERS.—For purposes of this  
5           section, the types of providers and facilities specified in  
6           this subsection are the following (as defined by the Sec-  
7           retary and broken down by subspecialty as specified by  
8           the Secretary):

9           “(1) Behavioral health care providers and facili-  
10          ties.

11          “(2) Substance use disorder treatment pro-  
12          viders and facilities.

13          “(c) ESTABLISHMENT OF DESIGNATIONS OF IN-NET-  
14          WORK PARTICIPATION.—

15          “(1) IN GENERAL.—Not later than 1 year after  
16          the date of the enactment of this section, the Sec-  
17          retary, in consultation with the Secretaries of Health  
18          and Human Services and of the Treasury, shall es-  
19          tablish a system of designations (such as ‘high’, ‘me-  
20          dium’, and ‘low’, a star rating, or such other des-  
21          ignation determined appropriate by the Secretary)  
22          that correspond to ranges of percentages (from 0 to  
23          100) described in subsection (a)(1) to qualitatively  
24          reflect the breadth of the networks of group health  
25          plans and group health insurance coverage with re-

1 spect to each type of provider specified in subsection  
2 (b).

3 “(2) VARIATION PERMITTED.—Designations  
4 corresponding to percentage ranges established  
5 under paragraph (1) may vary by type of service  
6 area (such as rural or urban), size of service area,  
7 and other factors determined appropriate by the  
8 Secretary in consultation with the Secretaries of  
9 Health and Human Services and of the Treasury.

10 “(d) INFORMATION ON PROVIDERS.—

11 “(1) IN GENERAL.—Not later than June 30,  
12 2026, the Secretary, in consultation with the Secre-  
13 taries of Health and Human Services and of the  
14 Treasury, shall, based on information submitted  
15 under section 2799B–10, post on the public website  
16 of the Department of Labor, a list of each specified  
17 provider in the country, including—

18 “(A) the location of each such provider in  
19 which such provider furnishes items and serv-  
20 ices;

21 “(B) each specialty designation (if any) of  
22 each such provider;

23 “(C) whether such provider treats individ-  
24 uals under the age of 19; and



1           “(D) whether such provider accepts tele-  
2           health appointments. The Secretary shall up-  
3           date the information published under the pre-  
4           vious sentence not less frequently than annu-  
5           ally.

6           The Secretary shall update the information pub-  
7           lished under this paragraph not less frequently than  
8           annually.

9           “(2) TREATMENT OF GROUP PRACTICES.—For  
10          purposes of the list described in paragraph (1), the  
11          Secretary shall list each individual health care pro-  
12          vider separately, regardless of whether such provider  
13          is part of a group practice.

14          “(e) SERVICE AREA DEFINITION.—For purposes of  
15          this section, the term ‘service area’ means, with respect  
16          to a group health plan and group health insurance cov-  
17          erage, the area or areas in which in-person participants  
18          and beneficiaries are covered, as determined by the plan  
19          or issuer of such coverage in accordance with rules speci-  
20          fied by the Secretary in consultation with the Secretaries  
21          of Health and Human Services and of the Treasury.”.

22          (2) TECHNICAL AMENDMENT.—The table of  
23          contents in section 1 of such Act is amended by in-  
24          serting after the item relating to section 725 the fol-  
25          lowing new item:

“Sec. 726. Required disclosure of percentage of in-network participation for certain provider types.”.

1 (c) IRC.—

2 (1) IN GENERAL.—Subchapter B of chapter  
3 100 of the Internal Revenue Code of 1986 is amend-  
4 ed by adding at the end the following new section:

5 **“SEC. 9826. REQUIRED DISCLOSURE OF PERCENTAGE OF**  
6 **IN-NETWORK PARTICIPATION FOR CERTAIN**  
7 **PROVIDER TYPES.**

8 “(a) IN GENERAL.—A group health plan shall, along  
9 with any summary of benefits and coverage provided  
10 under section 2715 of the Public Health Service Act (and  
11 in accordance with the timing and manner specified under  
12 such section and the implementing regulations of such sec-  
13 tion), and on the public website of such plan, make avail-  
14 able the following information with respect to each type  
15 of provider specified in subsection (b):

16 “(1) The number and percentage of providers  
17 of such type located in the service area of such plan  
18 that have a contractual relationship (as defined by  
19 the Secretary) in effect with such plan for furnishing  
20 items and services under such plan, determined in  
21 accordance with information made available by the  
22 Secretary under subsection (d).

1           “(2) The designation established by the Sec-  
2           retary under subsection (c) corresponding to the per-  
3           centage described in paragraph (1).

4           “(b) SPECIFIED PROVIDERS.—For purposes of this  
5           section, the types of providers and facilities specified in  
6           this subsection are the following (as defined by the Sec-  
7           retary and broken down by subspecialty as specified by  
8           the Secretary):

9           “(1) Behavioral health care providers and facili-  
10          ties.

11          “(2) Substance use disorder treatment pro-  
12          viders and facilities.

13          “(c) ESTABLISHMENT OF DESIGNATIONS OF IN-NET-  
14          WORK PARTICIPATION.—

15          “(1) IN GENERAL.—Not later than 1 year after  
16          the date of the enactment of this section, the Sec-  
17          retary, in consultation with the Secretaries of Health  
18          and Human Services and of Labor, shall establish a  
19          system of designations (such as ‘high’, ‘medium’,  
20          and ‘low’, a star rating, or such other designation  
21          determined appropriate by the Secretary) that cor-  
22          respond to ranges of percentages (from 0 to 100)  
23          described in subsection (a)(1) to qualitatively reflect  
24          the breadth of the networks of group health plans

1 with respect to each type of provider specified in  
2 subsection (b).

3 “(2) VARIATION PERMITTED.—Designations  
4 corresponding to percentage ranges established  
5 under paragraph (1) may vary by type of service  
6 area (such as rural or urban), size of service area,  
7 and other factors determined appropriate by the  
8 Secretary in consultation with the Secretaries of  
9 Health and Human Services and of Labor.

10 “(d) INFORMATION ON PROVIDERS.—

11 “(1) IN GENERAL.—Not later than June 30,  
12 2026, the Secretary, in consultation with the Secre-  
13 taries of Health and Human Services and of Labor,  
14 shall, based on information submitted under section  
15 2799B–10, post on the public website of the Depart-  
16 ment of the Treasury, a list of each specified pro-  
17 vider in the country, including—

18 “(A) the location of each such provider in  
19 which such provider furnishes items and serv-  
20 ices;

21 “(B) each specialty designation (if any) of  
22 each such provider;

23 “(C) whether such provider treats individ-  
24 uals under the age of 19; and

1           “(D) whether such provider accepts tele-  
2           health appointments. The Secretary shall up-  
3           date the information published under the pre-  
4           vious sentence not less frequently than annu-  
5           ally.

6           The Secretary shall update the information pub-  
7           lished under this paragraph not less frequently than  
8           annually.

9           “(2) TREATMENT OF GROUP PRACTICES.—For  
10          purposes of the list described in paragraph (1), the  
11          Secretary shall list each individual health care pro-  
12          vider separately, regardless of whether such provider  
13          is part of a group practice.

14          “(e) SERVICE AREA DEFINITION.—For purposes of  
15          this section, the term ‘service area’ means, with respect  
16          to a group health plan, the area or areas in which in-per-  
17          son participants and beneficiaries are covered, as deter-  
18          mined by the plan in accordance with rules specified by  
19          the Secretary in consultation with the Secretaries of  
20          Health and Human Services and of Labor.”.

21          (2) TECHNICAL AMENDMENT.—The table of  
22          sections for such subchapter is amended by adding  
23          at the end the following new item:

“Sec. 9826. Required disclosure of percentage of in-network participation for  
certain provider types.”.

1 (d) PROVIDER REQUIREMENTS.—Part E of title  
2 XXVII of the Public Health Service Act (42 U.S.C.  
3 300gg–131 et seq.) is amended by adding at the end the  
4 following new section:

5 **“SEC. 2799B–10. PROVISION OF CERTAIN INFORMATION TO**  
6 **THE SECRETARY.**

7 “(a) IN GENERAL.—Subject to subsection (b), in the  
8 case of a health care provider or health care facility that  
9 is a specified provider (as described in subsection (b) of  
10 section 2799A–11), such provider or facility shall, annu-  
11 ally at a time and in a manner specified by the Secretary,  
12 provide to the Secretary such information as the Secretary  
13 determines necessary to carry out subsection (d) of such  
14 section.

15 “(b) EXCEPTION.—Subsection (a) shall not apply in  
16 the case of a specified provider that has not, during the  
17 1-year period ending on the date that information de-  
18 scribed in subsection (a) would be required to be sub-  
19 mitted to the Secretary by such provider without applica-  
20 tion of this subsection, submitted any claim for an item  
21 or service under a Federal health care program (as defined  
22 in section 1128B of the Social Security Act), the program  
23 established under chapter 89 of title 5, United States  
24 Code, or a group health plan or group or individual health  
25 insurance coverage.”.

1           (e) REPORT.—Not later than December 31, 2027,  
2 and annually thereafter, the Secretary of Health and  
3 Human Services shall submit to Congress a report on the  
4 participation of behavioral health care and substance use  
5 disorder treatment providers in networks established by  
6 group health plan and health insurance issuers offering  
7 group or individual health insurance coverage (as such  
8 terms are defined in section 2791 of the Public Health  
9 Service Act (42 U.S.C. 300gg–91)). Each such report  
10 shall include data and analysis relating to service areas  
11 (as defined in section 2799A–11 of such Act) of such plans  
12 and issuers that the Secretary has identified as having low  
13 participation rates with respect to such providers’ partici-  
14 pation in such networks.

15           (f) IMPLEMENTATION.—The Secretaries of Labor,  
16 Health and Human Services, and the Treasury may imple-  
17 ment the amendments made by this section through in-  
18 terim final rule, subregulatory guidance, program instruc-  
19 tion, or otherwise.

20           (g) FUNDING.—In addition to amounts otherwise  
21 available for such purposes, there is appropriated  
22 \$15,000,000, to remain available until expended, for pur-  
23 poses of carrying out this section.

1       (h) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply with respect to plan years begin-  
3 ning on or after January 1, 2027.

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